

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



F6a

Click here to go to
original staff report

ADDENDUM

August 10, 2016

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **PERMIT APPLICATION NO. 5-15-1524 (Eugene Alger, Agnes Alger, LLC)
FOR THE COMMISSION MEETING OF FRIDAY, AUGUST 12, 2016.**

LETTER OF OPPOSITION FROM STEPHAN MUNDWILER

Mr. Stephan Mundwiler, the neighbor directly uphill (east) from the project site, submitted the following letter via e-mail on August 8, 2016 at 11:28 p.m. The letter states that:

1. The project site is located 270 feet inland of the beach and not 300 feet inland of the beach as stated in the staff report;
2. Pacific Terrace is a fully built out pedestrian walkway that is heavily used by pedestrians and not a substandard vehicle street;
3. The actual height of the proposed building is 55 feet above finished grade and not 39 – 44 feet above finished grade;
4. The concerns of Mr. Mundwiler regarding the proposed project were wrongly depicted and he has an ongoing appeal regarding the proposed project with the City;
5. The proposed development is not consistent with the character and scale of the surrounding area; and
6. The City of Santa Monica will soon change their zoning code, which will affect the height limit of the proposed structure.

Regarding Mr. Mundwiler's first concern, the distance from a project site to the beach is measured from the property line to the sand not to the park or Ocean Front Walk. The staff report indicates that the project site is located "approximately" 300 feet from the beach. Due to the curvature of Ocean Front Walk, the distance from the property line to the beach varies. However, an exact measurement is not necessary in this case because the distance from the project site to the beach is inconsequential to the proposed project.

Mr. Mundwiler second claim is that Pacific Terrace is not a substandard vehicle street. The picture below is a screen shot of a street view of Pacific Terrace provided by Google Earth. The City's findings regarding this project, characterize Pacific Terrace as an "alley," which can be found in Exhibit 3 of the original staff report. Sufficient pedestrian access does exist on this street, as can be seen with the sidewalk ("fully built out pedestrian walkway") on the right side of the street in the picture below. The street is not considered "substandard" due to lack of pedestrian access, but because it is an alley, with a sidewalk on only one side, instead of both sides, and it is too narrow to allow for two-way traffic and vehicular parking. Regardless of how the street is labeled, the proposed project will not have a negative impact on the public's ability to access the coast via Pacific Terrace.



Third, Mr. Mundwiler has expressed concerns that the proposed structure is perceived as five stories and that it is 55 feet high instead of 39 – 44 feet high, which he claims is inconsistent with the height limit for single-family homes in this area. The project site is located on variable tiered lot that slopes down from east to west and north to south as can be seen in the picture above and the picture below. The Santa Monica certified Land Use Plan (LUP) allows for residential structures to be three stories and to reach a height of 40 feet in this location.

The proposed structure is three stories with a partially subterranean basement and garage that daylight to the street and a roof access structure. City of Santa Monica Zoning Code 9.04.060 does not count basements in the number of stories of a building. A roof access structure is also not considered a story. As such, the proposed structure is three stories, which is consistent with the certified LUP.

Furthermore, City of Santa Monica Municipal Code 9.04.10.02.030 states “the maximum allowable height shall be measured vertically from the average natural grade elevation to the highest point of the roof... the following shall be permitted to exceed the height limit in all zoning districts except the R1 district...elevator shafts, stairwells, or mechanical room enclosures above the roofline if: a. the enclosure is used exclusively for housing the elevator, mechanical room equipment, or stairs; b. the elevator shaft does not exceed fourteen feet in height above the roofline and the stairwell enclosure does not exceed fourteen feet in height above the height permitted for the district...”

Consistent with the City’s Municipal Code, the City measured the height limit of the proposed structure from existing grade, and not from the street front, as Mr. Mundwiler has done. Given the sloping terrain, measuring from existing grade, as the City has done so here, is appropriate and consistent with past Commission permit action for the Santa Monica area. Using the City’s method, the proposed structure will reach a height 36 feet with a 42-foot high roof access structure as depicted in Exhibit 2 of the original staff report. In this case the roof access structure reaches a height of only two feet above the maximum allowable height, as specified in the certified LUP and allowed in the City’s Municipal Code. It appears that Mr. Mundwiler erroneously measure the proposed height of the structure from the alleyway adjacent to the site and not the natural grade. Furthermore, while the proposed structure will very likely impact private coastal views, it will not negatively impact any public coastal views.



Fourth, Mr. Mundwilers has stated that the history of his concerns regarding this project was not accurately represented in the staff report. Mr. Mundwiler submitted a letter to staff received on February 25, 2016, which is included as Exhibit 3 of the original staff report. In that letter, Mr. Mundwiler cited two reasons for his opposition to the proposed project: 1) the project had not

completed City-level discretionary reviews because he had filed an appeal with the City Planning Commission regarding a waiver requested by the applicant concerning a local “unit mix” ordinance, and 2) the height limit of the proposed project is falsely stated. As described above, the proposed project is consistent with the height requirements of the City of Santa Monica certified LUP and with past Commission action. Additionally, on July 19, 2016, Commission staff received an e-mail from the City of Santa Monica Planning Division stating that the City’s Zoning Ordinance had been updated and the applicant no longer needed a waiver for the local “unit mix” ordinance. Additional clarification was provided in a letter from the City Attorney’s Office, which was also including as Exhibit 4 in the original staff report. As such, the local approval-in-concept is valid and the applicant has met the application filing requirements, which allows the Commission to move forward on CDP application 5-15-1524.

Fifth, Mr. Mundwiler has expressed concern that the proposed project is not consistent with the character and scale of the surrounding area. As previously stated in the staff report, the proposed project is consistent with the building standards in the certified LUP and the public access and recreation policies of the Coastal Act. A large hotel that is approximately eight stories high and reaches a height much higher than the proposed project sits directly across the alley (south) from this site. Directly uphill from the site, at 26 Arcadia Terrace (Mr. Mundwiler’s residence), sits a three story single-family residence with a partially subterranean garage, similar to the proposed project. Directly downhill from the site is a single-story, four-unit residential structure. There is a mix of single and multi – story residential and commercial structures in the area. As such, the proposed structure is consistent with the scale and character of the area.

Finally, Mr. Mundwiler has expressed concern that the City will soon change its Zoning Code and the proposed project will not conform to the new Zoning Code. On September 16, 2015, the City of Santa Monica gave an approval-in-concept for the proposed project. After learning that a local appeal of the proposed project was filed, Commission staff held off on scheduling the application for Commission action. On July 15, 2016, the City resolved the underlying reason for the local appeal and the City’s approval-in-concept, once again, became valid. As described above, the applicant has satisfied their filing requirements and all local approvals required by the Commission have been obtained and are valid. In the future, the City may elect to make changes to their Zoning Code but that is not what is before the Commission. The proposed project that is before the Commission now, has local approval and is consistent with the City’s certified LUP and the public access and recreation policies of the Coastal Act. None of the concerns raised by Mr. Mundwiler raise any Coastal Act issues and staff recommends approval of the proposed project.

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

F6a

Staff: S. Vaughn – LB

Date: July 21, 2016

ADMINISTRATIVE PERMIT**Application No.** 5-15-1524**Applicant:** Eugene Alger, Agnes Alger, LLC**Agent:** Gregory H Ginter, Architect

Project Description: Construction of a three-story, approximately 36-foot high, 4,088 square-foot single-family residence with a roof access structure, 1,240 square-foot, six-car garage, and a 738 square-foot basement on a vacant 4,026 square-foot lot.

Project Location: 24 Arcadia Terrace, Santa Monica, Los Angeles County
(APN: 4290-018-017)

EXECUTIVE DIRECTOR'S DETERMINATION:

The findings for this determination, and for any special conditions, appear on subsequent pages.

NOTE: P.R.C. Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission at the following time and place:

9:00 a.m. Friday, August 12, 2016
Hilton Santa Cruz-Scotts Valley
6001 LaMadrona Drive
Santa Cruz, CA 95060

IMPORTANT - Before you may proceed with development, the following must occur:

Pursuant to 14 Cal. Admin. Code Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgement and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.

John Ainsworth
Acting Executive Director

by: Shannon Vaughn
Coastal Program Analyst

STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any term or condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS none.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

The Executive Director hereby determines that the proposed development is a category of development, which, pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an Administrative Permit. Subject to Standard and Special Conditions as attached, said development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976 and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. If located between the nearest public road and the sea, this development is in conformity with the public access and public recreation policies of Chapter 3.

FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION

A. PROJECT LOCATION AND DESCRIPTION

The project site is located on a residentially zoned lot approximately 300 feet inland of the beach at 24 Arcadia Terrace in the City of Santa Monica, County of Los Angeles (**Exhibit 1**). The lot sits between Arcadia Terrace, a walk street, and Pacific Terrace, a substandard vehicle street with no parking. The applicant proposes to construct a three-story, approximately 36-foot high, 4,088 square-foot single-family residence with a ten-foot high roof access structure (that reaches a maximum height of 46 feet above the existing grade), a 1,240 square-foot, six-car garage, and a 738 square-foot basement on a vacant 4,026 square-foot R-3 zoned lot in a developed residential neighborhood (**Exhibit 2**). Garage access will be from the rear of the property on Pacific Terrace. This is consistent with residential vehicular access on this street. No public street parking will be displaced as a result of a new garage access on Pacific Terrace because no public street parking is currently available on that street.

The proposed project is consistent with the City of Santa Monica R3 (Medium Density Residential) zoning designation and the surrounding land uses. Surrounding development includes one- to and three-story single-family homes and multi-family residential structures of varying architectural styles and various commercial developments, such as hotels and restaurants. The City of Santa Monica certified Land Use Plan (LUP) limits residential structures in this area to three stories and 40 feet high. At three stories and 36-feet high, the proposed development is consistent with the height limit of the certified LUP and will not interfere with public coastal views.

The applicant is not proposing any new landscaping at this time. The proposed project includes approximately 1,250 cubic yards of cut and 200 cubic yards of fill for the site preparation and the construction of the basement. All runoff from non-permeable surfaces will be conducted from roof drains and surfaces to an on-site filtration system that complies with the City of Santa Monica Urban Runoff Ordinance. The proposed development incorporates water and energy conservation measures consistent with the 2013 California Green Building Code Standards.

One member of the public, Stephan Mundwiler, has expressed concern regarding the City's "unit mix" ordinance and the height of the structure (**Exhibit 3**). "Unit mix" is a local ordinance that a minimum number of bedrooms a single-family home must have, which is a local issue and does not raise any Coastal Act issues. The project received an approval-in-concept from the City of Santa Monica on September 16, 2015. On February 4, 2016, Mr. Mundwiler filed an appeal with the City of the City's approval-in-concept stating "unit mix" and height restrictions as his concerns. Subsequently the applicant applied to the City for a waiver of the City's "unit mix" requirements. In June 2016, the City adopted new language to further clarify their "unit mix" ordinance, which became effective on July 15, 2016, and the applicant's project was consequently determined to be consistent with the local "unit mix" ordinance (**Exhibit 4**).

Mr. Mundwiler also expressed concern regarding the height of the proposed structure. He questioned whether the structure could be three-stories and 40 feet high, or if it should be limited to two-stories and 30 feet high. As mentioned above, the proposed project is consistent with the height and story limits in the City's certified LUP. Additionally, the project site is surrounded by tall developments, including a four-story hotel to the south and no public views or other coastal resources will be adversely impacted as a result of this project. As such, the proposed project is consistent with the certified LUP and the Coastal Act.

B. PUBLIC ACCESS

The proposed development will not have any new adverse impacts on public access to the coast or to nearby recreational facilities. Thus, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

C. DEVELOPMENT

The development is located within an existing developed area and is designed to be compatible with the character and scale of the surrounding area and will avoid cumulative adverse impacts on public access. Therefore, the Commission finds that the development, as conditioned, conforms with Sections 30250, 30251, 30252, 30253 and the public access provisions of the Coastal Act.

D. WATER QUALITY

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed, incorporates design features to minimize the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, reducing runoff through the use of permeable surfaces, the use of non-invasive drought tolerant vegetation to reduce and treat the runoff discharged from the site, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

E. LOCAL COASTAL PROGRAM

Coastal Act section 30604(a) states that, prior to certification of a local coastal program (LCP), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Santa Monica Land Use Plan was certified by the Commission in August 1992 and is advisory in nature and may provide guidance. As proposed, the development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project as conditioned will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

There are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

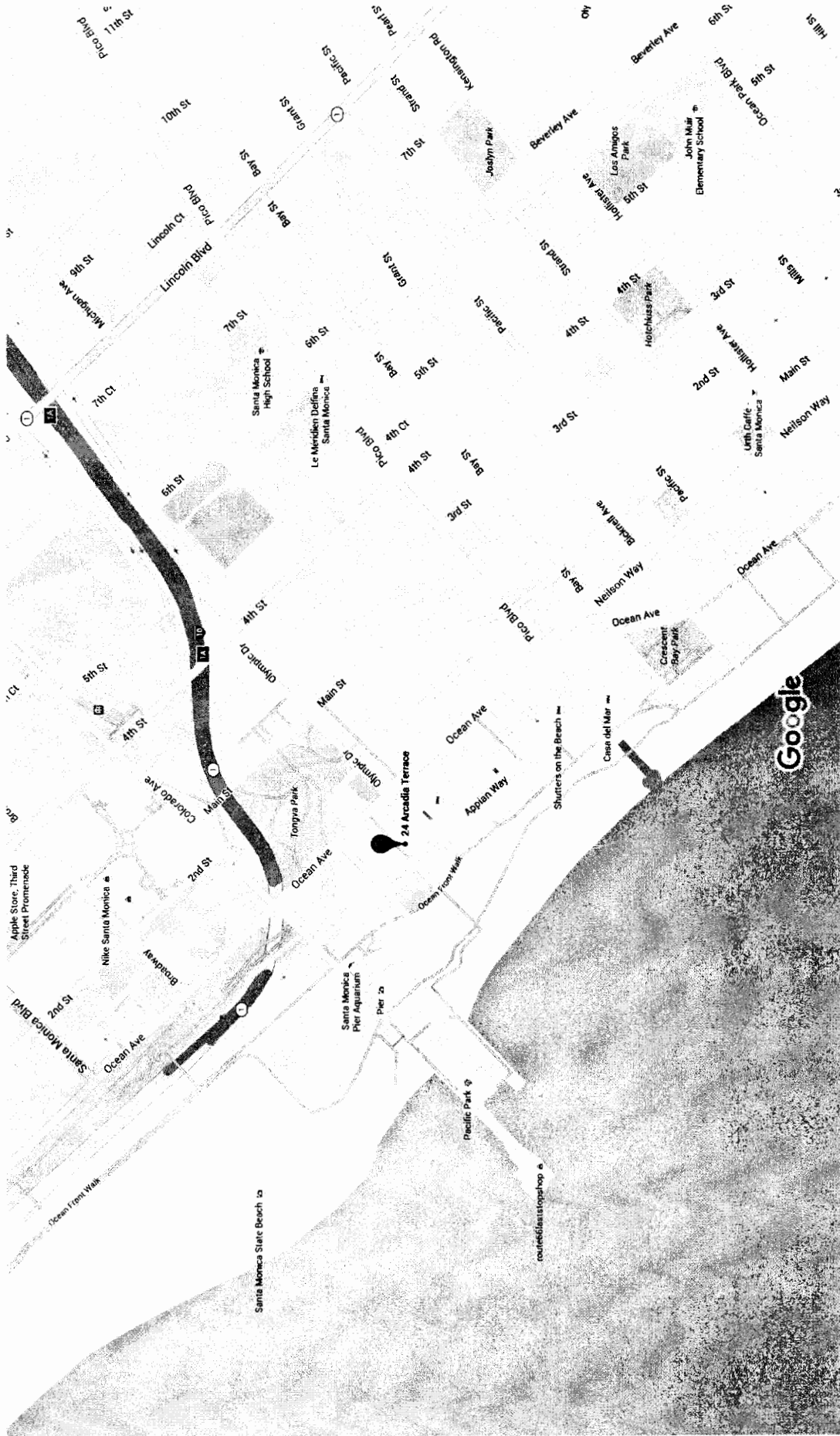
ACKNOWLEDGMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Applicant's Signature

Date of Signing

Google Maps 24 Arcadia Terrace



Map data ©2016 Google 500 ft

COASTAL COMMISSION

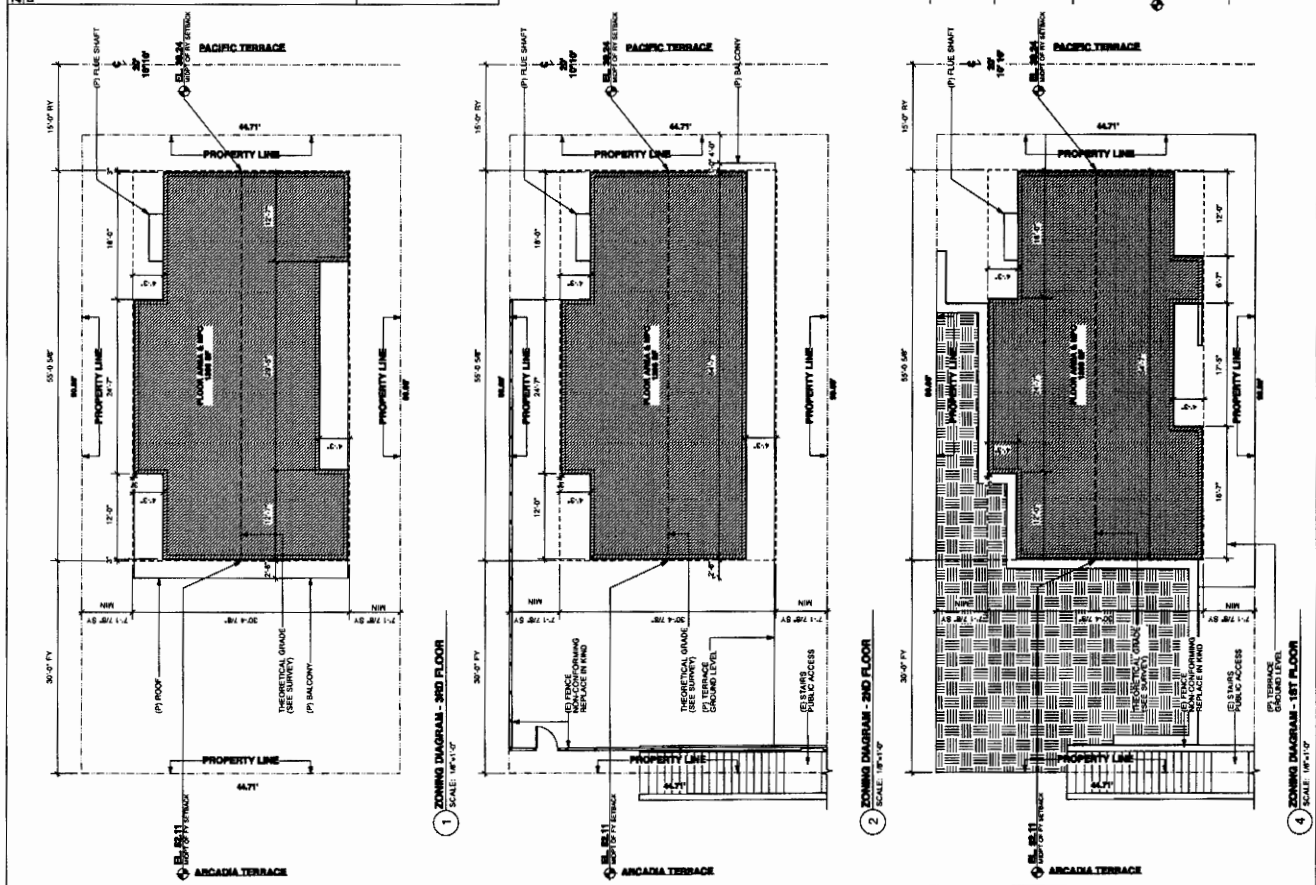
S-15-1524

EXHIBIT # 1

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COASTAL COMMISSION
EXHIBIT # 2
PAGE 1 OF 4
5-15-1524



COASTAL COMMISSION

EXHIBIT # 2
PAGE 2 OF 4

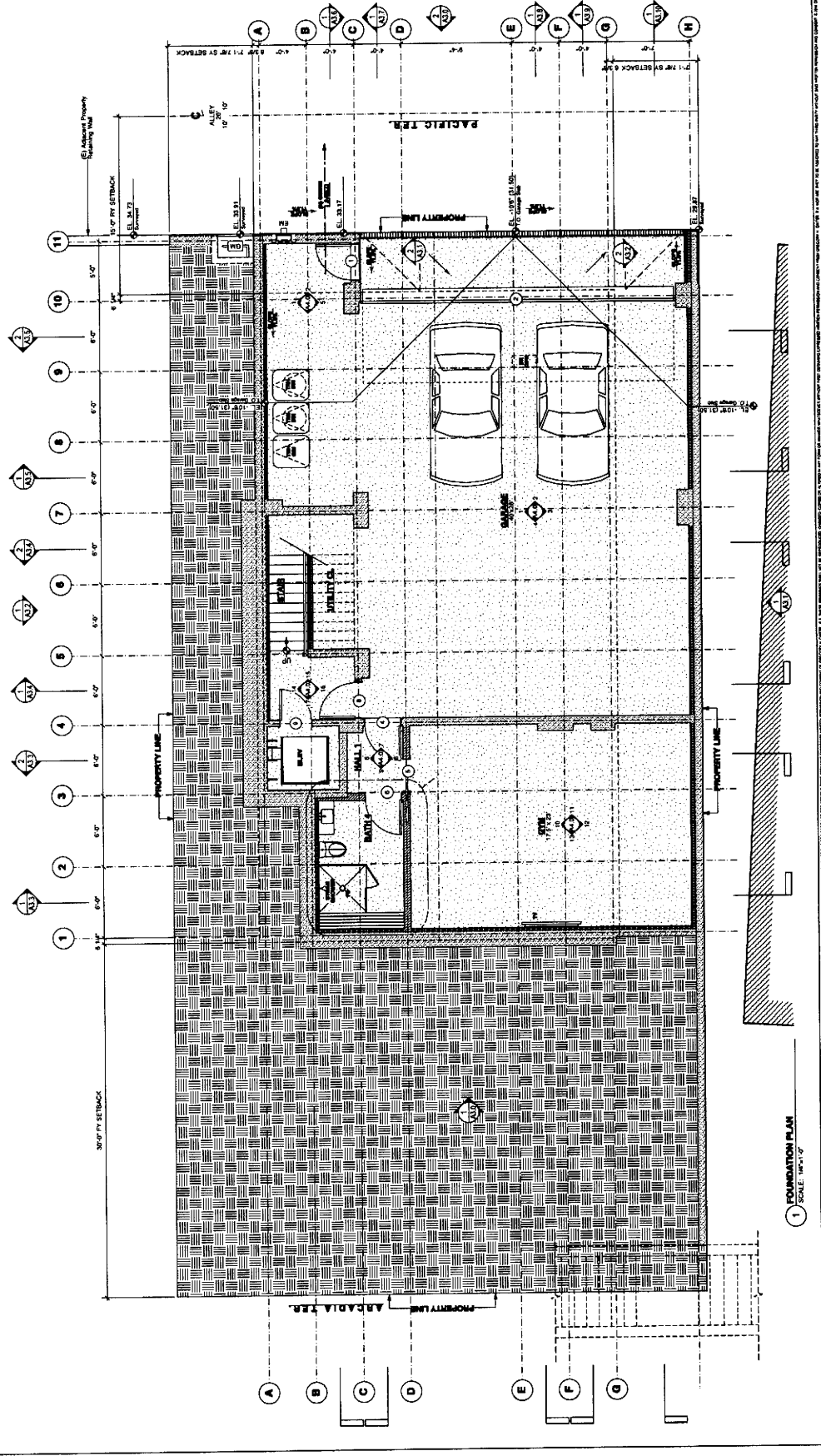




EXHIBIT # 2
PAGE 3 OF 4

COASTAL COMMISSION

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ARCADIA
24 ARCADIA TER, S
Drawing Title
EXTENSION ELEVATIONS

Scale 1-4

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Santa Monica
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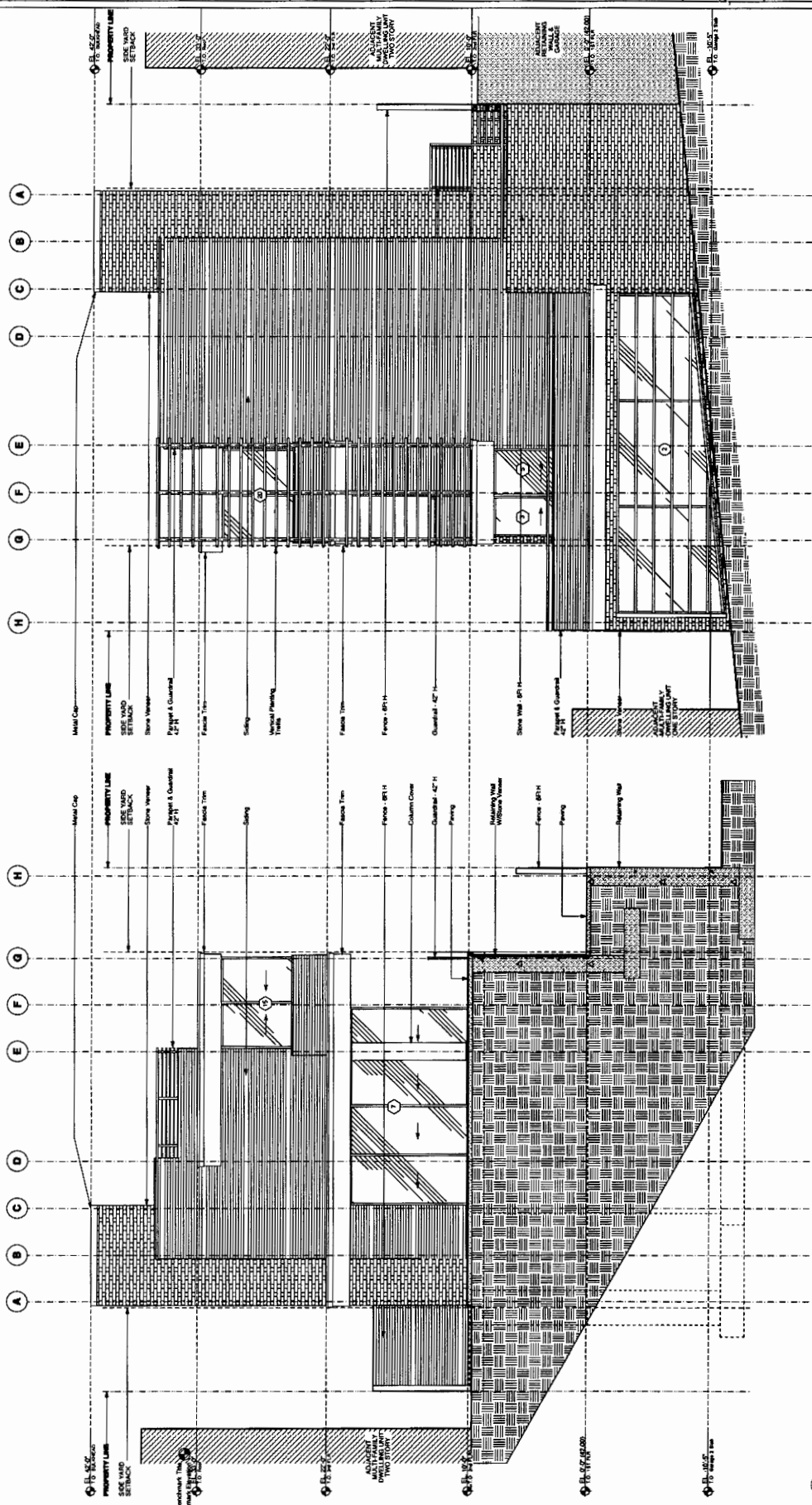
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DIRECT
Street
ca, CA 9040
310.314.1900
garch.com

enter

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2 EXTERIOR ELEVATION - SOUTH

1 EXTERNAL ELEVATION - NORTH



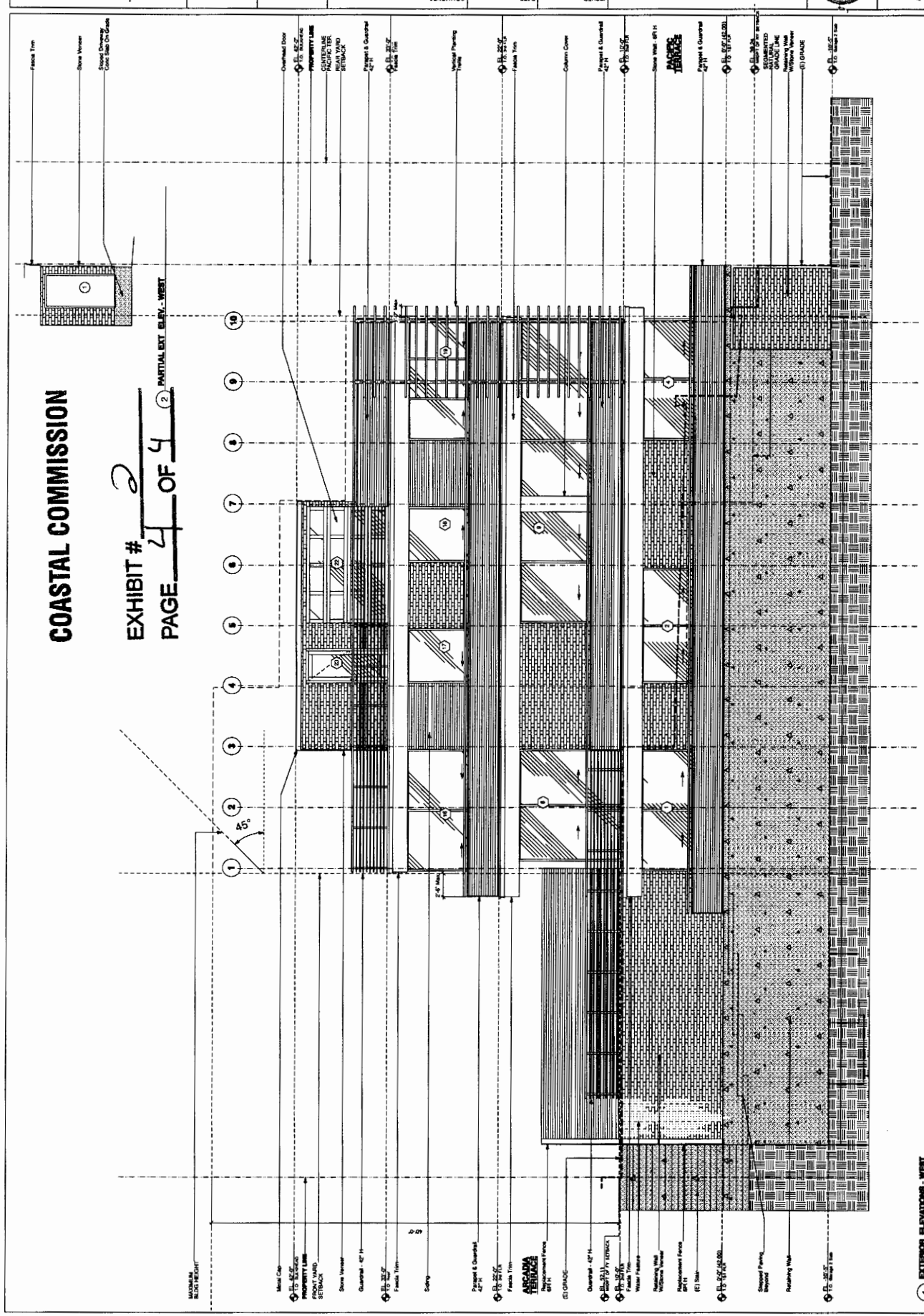
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ARCADIA RESIDENCE
24 ARCADIA TER, SANTA MONICA, CA 90401

ISSUED	DATE	COMMENTS
SM BAS	08-03-18	For BUILDING PERMIT

Gregory H Ginter
ARCHITECT
1525 Piedmont Street
Santa Monica, CA 90405
(Tel) 310.314.1984
greg@ghgarch.com



stephan mundwiler
26 arcadia terrace santa monica ca 90401

RECEIVED
South Coast Region

FEB 25 2016

CALIFORNIA
COASTAL COMMISSION

CALIFORNIA COASTAL COMMISSION
Al Padilla
Shannon Vaughn
South Coast District office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4416

Santa Monica, February 22nd, 2016

**PERMIT APPLICATION 5-15-1524
24 ARCADIA TERRACE SANTA MONICA CA 90401
LOCAL AGENCY REVIEW FORM APPROVAL ERROR/
FALSLY STATED BUILDING HEIGHTS**

Dear Mr. Padilla,

I am the direct neighbor of application 5-15-1524, 24 Arcadia Terrace, Santa Monica CA 90401. **Due process is not followed and our legal rights as directly adjoining neighboring property owner to this project are not given. I would like to address two imperative issues :**

**1. PROJECT HAS NOT COMPLETED CITY LEVEL DISCRETIONARY
REVIEWS**

The applicant submitted the Local Agency Form, with Local Agency approval, to your office on September 28th, 2015. This Local Agency Approval is issued in error as applicant was filing for Santa Monica Zoning Administrator's approval for "unit mix" and a public hearing was held on December 8th 2015 (CASE NUMBER CITY 15-ENT-0312). **Zoning Administrator action was taken on February 3rd, 2016.** On February 4th, 2016, I filed an appeal of this decision to the Santa Monica Planning Commission, local application number 16 ENT-0014. **This appeal is currently pending and can likely take several month until scheduled for hearing with the Santa Monica Planning Commission.** Issue in question is whether the project can have 3 stories and 40 feet height, or 2 stories and 30 feet height, therefore relevant issues to the Coastal Application.

stephan mundwiler

architect m.arch aia sia
26 Arcadia Terrace
Santa Monica CA 90401
p 310 382 00 11
smundwiler@lm-arch.com

COASTAL COMMISSION

5-15-1524

EXHIBIT # 3

PAGE 1 OF 12

Please see:

ATTACHMENT 01: Local Agency Approval Form Dated September 3rd 2015

ATTACHMENT 02: Santa Monica Zoning Administrator Determination, February 3rd 2016

ATTACHMENT 03: Appeal filed by Stephan Mundwiler on February 4th 2016

stephan mundwiler
26 arcadia terrace santa monica ca 90401

2. THE PROJECT'S HEIGHTS ARE FALSELY STATED

Applicant states in Coastal Application on page 3, that project height, max. height of structure, is 35 feet above finished grade and 39-44 feet above centerline of frontage road. **However, actual heights are up to 54 feet above finished grades and road frontage .**

Please see:

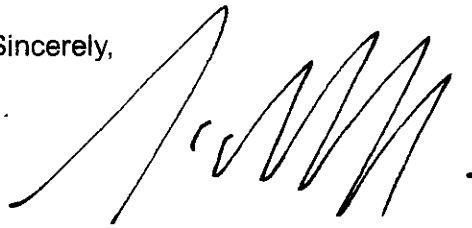
ATTACHMENT 04: Falsely stated Heights on Application page 03

ATTACHMENT 05: Plan copy of street elevation with heights highlighted

For above reasons, this project can not be scheduled for receiving a waiver for Coastal Permit and needs to be put on hold until local discretionary permit situation is cleared.

Please respond to this letter in writing.

Sincerely,



Stephan Mundwiler

COASTAL COMMISSION

EXHIBIT # 3
PAGE 2 OF 12

ATTACHMENT 01: LOCAL AGENCY APPROVAL FORM DATED SEPTEMBER 3RD 2015

RECEIVED
South Coast Region

APPENDIX B

FEB 25 2016

LOCAL AGENCY REVIEW FORM

SECTION A (TO BE COMPLETED BY APPLICANT)

Applicant GREGORY H. GINTER
Project Description (3) STORY SINGLE FAMILY DWELLING UNIT
Location 124 ARCADIA TERRACE, SANTA MONICA CA
Assessor's Parcel Number 4290-D18-017

CALIFORNIA
COASTAL COMMISSION

SECTION B (TO BE COMPLETED BY LOCAL PLANNING OR BUILDING INSPECTION DEPARTMENT)

Zoning Designation R3 Unit per 2000SF du/ac
General or Community Plan Designation Medium Density Housing du/ac

Local Discretionary Approvals

☒ Proposed development meets all zoning requirements and needs no local permits other than building permits.

☐ Proposed development needs local discretionary approvals noted below.

Needed Received

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Design/Architectural review

Variance for

Rezone from

Tentative Subdivision/Parcel Map No.

Grading/Land Development Permit No.

Planned Residential/Commercial Development Approval

Site Plan Review

Condominium Conversion Permit

Conditional, Special, or Major Use Permit No.

Other

CEQA Status

☒ Categorically Exempt Class 3, Sec 15303 Item (a)

☐ Negative Declaration Granted (Date)

☐ Environmental Impact Report Required, Final Report Certified (Date)

☐ Other

Prepared for the City/County of Santa Monica, Los Angeles County by Dennis Banks

Date September 16, 2015 Title Associate Planner

COASTAL COMMISSION

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EXHIBIT # 3
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**ATTACHMENT 02 : SANTA MONICA ZONING ADMINISTRATOR DETERMINATION,
FEBRUARY 3RD, 2016**



CITY OF SANTA MONICA
CITY PLANNING DIVISION

**STATEMENT OF OFFICIAL ACTION
FINDINGS AND DETERMINATION OF THE
ZONING ADMINISTRATOR**

PROJECT INFORMATION

CASE NUMBER: 15ENT-0312

ADDRESS: 24 Arcadia Terrace

LEGAL
DESCRIPTION: Carl F Schader Seaside Terrace, Lot 42

APN: 4290-018-017

ZONING DISTRICT: Medium Density Residential (R3)

LOT AREA /
DIMENSIONS: 4,050 square feet (45 feet x 90 feet)

RENT CONTROL
STATUS: Single Family, Exempt

APPLICANT: Gregory H. Ginter, Architect

PROPERTY
OWNER: Eugene Alger

CASE PLANNER: Russell Bunim, Associate Planner

RELEVANT
PRIOR PERMITS: None

**REQUEST:
COASTAL COMMISSION**

EXHIBIT # 3

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A Waiver from the unit mix requirement of Santa Monica Municipal Code (SMMC) Section 9.23.030(A)(2). The applicant proposes to construct a Tier 2, single-unit dwelling on a property located in the Medium Density Residential (R3) District. Tier 2 residential projects are required to provide certain community benefits including a unit mix that requires an average number of bedrooms

between 1.2 and 1.5 for the entire development. The proposed single-unit dwelling contains four bedrooms, which exceeds the maximum allowable average number of bedrooms. Therefore, the applicant is seeking a waiver from this standard.

Pursuant to SMMC Section 9.23.030(A)(2)(c), the Director may grant a waiver from the unit mix requirement pursuant to the requirements and procedures for Waivers in SMMC Chapter 9.43 (Modifications and Waivers).

CEQA STATUS: The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15303, Class 3 of the State Implementation Guidelines in that the project involves the construction of one single-family dwelling.

ZONING ADMINISTRATOR ACTION

<u>December 8, 2015</u>	Public Hearing Date.
<u>February 3, 2016</u>	Approved based on findings and subject to conditions.
	Denied based on findings.

Effective Date Of Action If Not Appealed:	<u>February 18, 2016</u>
Expiration Date:	<u>August 18, 2017</u>
Length Of Any Possible Extension:	<u>August 18, 2018</u>

WAIVER – FINDINGS

- (a) The requested modification for a unit mix waiver is consistent with the General Plan and any applicable area or specific plan in that the subject property is located in the Medium Density Housing land use designation in the Land Use and Circulation Element (LUCE), and construction of a new four-bedroom single-unit dwelling is consistent with this designation. The LUCE encourages a variety of housing types, and the proposed single-unit dwelling would contribute to the housing stock in the neighborhood. Furthermore, the proposed single-unit dwelling is consistent with the Goals and Policies in the LUCE. Specifically, Goal LU11 (Create Additional Housing Opportunities) supports providing additional opportunities for a diversity of housing options for all income groups and advancing the City's sustainability goals through housing production. Policy 1.1 (Neighborhood Housing) encourages creating healthy, diverse neighborhoods that provide a range of housing choices to meet the needs of residents. The project would add a new four-bedroom single-unit dwelling to an existing vacant property, which will add housing to the neighborhood and is

COASTAL COMMISSION

EXHIBIT # 3
PAGE 5 OF 12

consistent with the goals and policies of the LUCE. Tier 2 development requirements in the Zoning Ordinance limit the home to an average of between 1.2 to 1.5 bedrooms for the development project. Therefore, the granting of this waiver would allow the construction a 4-bedroom, single-unit dwelling which complies with the goals and policies of the LUCE.

- (b) The project as modified meets the intent and purpose of the applicable zone district in that the Medium Density Residential (R3) District allows for a variety of housing types including both multiple-unit and single-unit dwellings. The proposed single-unit dwelling is consistent with other single-unit dwellings located in the immediate neighborhood including single-unit dwellings located at 26 and 27 Arcadia Terrace and 26 and Seaside Terrace. The approval of this unit mix waiver allows for a four-bedroom dwelling where SMMC Chapter 9.23 (Community Benefits) limits the home to have an average of between 1.2 and 1.5 bedrooms. This unit mix requirement is intended to address Tier 2 multi-unit dwelling projects. The waiver provision was established to grant relief from this standard in cases such as a permitted single-unit dwelling development that meets the intent and purpose of the subject zoning district.
- (c) The approval of the requested modification will not be detrimental to the health, safety, or general welfare of persons residing or working on the site or result in a change in land use or density that would be inconsistent with the requirements of this Ordinance. Specifically, the project is a four-bedroom single-unit dwelling located in a residential neighborhood where single- and multiple-unit housing is permitted. The project will have vehicle access provided from Pacific Terrace (alley) to a garage on site and there will be no detrimental impacts to persons in the general vicinity. The driveway and garage comply with the Hazardous View Obstruction (HVO) standards as prescribed in SMMC Section 9.21.180. The project will have pedestrian access from Arcadia Terrace, which is a walk-street where vehicles are prohibited. The requested bedroom mix waiver to allow for a four-bedroom single-unit dwelling would not impact on-street parking in the neighborhood as Pacific Terrace and Arcadia Terrace do not have on-street parking.
- (d) The requested waiver is justified by environmental features, site conditions, location of existing improvements, architecture or sustainability considerations, or retention of historic features or mature trees in that the project site is a vacant property in a residential neighborhood consisting of a variety of single- and multi-unit dwellings with various bedroom averages. Limiting the development of a single-unit dwelling on this vacant parcel to 1.2 to 1.5 bedrooms is not commensurate to the allowable building envelope of three stories and 40 feet in height for a new Tier 2 single-unit residential dwelling.
- (e) The proposed project is a single-family dwelling and is exempt from the Santa Monica Design Guidelines.

COASTAL COMMISSION

EXHIBIT # 3

PAGE 6 of 12
Statement of Official Action
Zoning Administrator Determination

- (f) The proposed project will not significantly affect the properties in the immediate neighborhood as a result of approval of the unit mix Waiver or be incompatible with the neighborhood character. The proposed project is a four-bedroom single-unit dwelling located in a residential neighborhood that is consistent in mass, scale, and character with the surrounding residential buildings. The project incorporates vehicle access from Pacific Terrace (alley), and the project will not significantly affect the properties in the immediate neighborhood as the driveway and garage comply with the Hazardous View Obstruction (HVO) standards as prescribed in SMMC Section 9.21.180.
- (g) The request is not part of a project that preserves a City-Designated Historic Resource. The subject property is currently vacant. The proposed unit mix waiver does not affect a City-Designated Historic Resource.

CONDITIONS OF APPROVAL

Standard Conditions

1. This determination shall not become effective for a period of fourteen days from the determination date or, if appealed, until a final determination has been made on the appeal.
2. This approval applies only to the request for a Unit Mix Waiver to allow construction of a single-unit dwelling with four bedrooms as shown on the plans dated September 2, 2015, and subject to any special conditions. Minor amendments to the plans shall be subject to approval by the Zoning Administrator.
3. Except for allowances granted by this entitlement, the applicant shall comply with all other applicable provisions of Article 9 of the Santa Monica Municipal Code and all other pertinent ordinances and General Plan policies of the City of Santa Monica.
4. This approval shall expire thirty (30) months from the effective date, unless, in the case of a new development, a building permit has been obtained, or in the case of a change of use, a business license has been issued and the use is in operation prior to the expiration date. This approval shall also expire if the building permit expires or if the rights granted under this approval are not exercised within one year of the earliest to occur of the following: issuance of a Certificate of Occupancy or, if no Certificate of Occupancy is required, the last required final inspection for new construction. Upon the written request from the applicant, prior to expiration, the Zoning Administrator may extend this period up to an additional twelve (12) months. Applicant is on notice that extensions may be granted if development standards, the development process, or other requirements relevant to the project have changed since project approval.

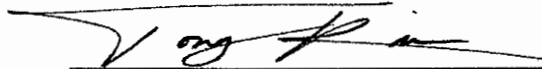
COASTAL COMMISSION

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5. Within ten (10) days of transmittal of this Statement of Official Action, the project applicant shall sign a copy of the determination and return the document to the City Planning Division. The applicant's signature constitutes acceptance of the conditions of approval and understanding that failure to comply with such conditions shall constitute grounds for potential revocation.
6. Applicant is advised that projects in the California Coastal Zone may need approval of the California Coastal Commission prior to issuance of any building permits by the City of Santa Monica. Applicant is responsible for obtaining any such permits.
7. As required by California Government Code Section 66020, the project applicant is hereby notified that the 90-day period has begun as of the date of the approval of this application, in which the applicant may protest any fees, dedications, reservations, or other exactions imposed by the City as part of the approval or as a condition of approval of this development. The fees, dedications, reservations, or other exactions are described in the approved plans, conditions of approval, and/or adopted city fee schedule.

APPLICANT NOTICE

This decision of the Zoning Administrator may be appealed to the Planning Commission during a 14 calendar day appeal period following the decision date. Such an appeal may be made by filing an official appeal form with the City Planning Division, 1685 Main Street, Room 212, Santa Monica, CA 90401, accompanied by a filing fee of \$458.66.



Tony Kim
Acting Zoning Administrator

02.03.16

Date

Acknowledgement by Permit Holder (24 Arcadia Terrace / 15ENT-0312)

I agree to the above conditions of approval and acknowledge that failure to comply with any and all conditions shall constitute grounds for potential revocation of the permit approval.

Signature

Date

Print name here

Driver License Number

COASTAL COMMISSION

EXHIBIT # 3

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Statement of Official Action
Zoning Administrator Determination

ATTACHMENT 03 :

APPEAL FILED BY STEPHAN MUNDWILER ON FEBRUARY 4TH 2016



City of
Santa Monica
Planning and Community Development Department
City Planning Division
(310) 458-8341

APPEAL FORM

(Please Type or Print all Information)

Application Number

16 ENT - 0014

Filed:

Feb 4, 2016

By:

[Signature]

APPELLANT NAME: STEPHAN MUNDWILER

APPELLANT ADDRESS: 26 ARCADIA TERR.

CONTACT PERSON: S. MUNDWILER Phone: (310) 382 0011
(all correspondence will be mailed to this address)

Address: 26 ARCADIA TERRACE
SANTA MONICA CA 90401

PROJECT CASE NUMBER(S): 15 ENT - 0312

PROJECT ADDRESS: 24 ARCADIA TERRACE

APPLICANT: GREGORY H. GINTER, ARCHITECT

ORIGINAL HEARING DATE: DEC 8 2015

ACTION BEING APPEALED: APPROVAL OF WAIVER FROM
COASTAL COMMISSION MIX REQUIREMENT

EXHIBIT #

3

PAGE

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OF

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Please state the specific reason(s) for the appeal (use separate sheet if necessary):

Is the appeal related to the discretionary action and findings issued for the proposed project? ☒ Yes ☐ No If yes, explain:

FINDINGS MADE FOR APPROVAL ARE NOT BASED ON KNOWLEDGE OF SITE & NEIGHBORHOOD. APPELLANT WILL PROVIDE INFO ABOUT SITE TO SUPPORT APPEAL. (ALREADY PROVIDED AT EA HEARING ON 12-8-15)

Is the appeal related to the conditions of approval? ☒ Yes ☐ No If yes, which conditions and why:

S.C. 2 & 3: APPROVAL IS BASED ON A PROJECT THAT IS NOT IN COMPLIANCE WITH MUN. CODE

Is the appeal related to design issues? ☒ Yes ☐ No If yes, explain:

AS IT RELATES TO FINDING LANGUAGE (COMPATIBILITY, SCALE, MASSING ETC.)

Is the appeal related to compatibility issues such as building height, massing, pedestrian orientation, etc.? ☒ Yes ☐ No If yes, explain:

APPELLANT QUESTIONS FINDINGS MADE IN RELATIONS TO HEIGHT, MASSING, PED. ORIENTATION ETC. FINDINGS ARE MADE WITHOUT KNOWLEDGE OF SITE AND SURROUNDINGS.

Is the appeal related to non-compliance with the Santa Monica Municipal Code? ☒ Yes ☐ No If yes, which Code section(s) does the project not comply with and why:

FINDINGS ARE MADE BASED ON A PROJECT THAT DOES NOT COMPLY TO MUN. CODE. CODE INTENT OF TIER 2 PROJECTS IS NOT MET.

Is the appeal related to environmental impacts associated with the project? ☐ Yes ☐ No If yes, explain:

NOT KNOWN AT THIS POINT.

Is the appeal related to other issues? ☒ Yes ☐ No If yes, explain:

THIS IS A ISSUE ABOUT WEATHER FINDINGS CAN BE MADE TO SUPPORT WAIVER. BASED ON NEW ZONING CODE THE WAIVER IS NEEDED FOR UMC MIX. FINDINGS NEED TO BE EVALUATED BY P.C. - STAFF DECIDED TO APPROVE THIS REQUEST FOR PRECEDENCE. THEN, FINDINGS WERE STRUCTURED WITHOUT KNOWLEDGE OR JUDGMENT OF HEIGHTS, PROXIMATE HEIGHTS, ETC.

APPELLANT SIGNATURE: _____

NOTE: A hearing date on the appeal will not be scheduled until sufficient information regarding the basis for the appeal has been received to enable City Planning Division staff to prepare the required analysis for the staff report.

COASTAL COMMISSION

EXHIBIT # 3
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ATTACHMENT 04: MISSTATED HEIGHTS ON APPLICATION PAGE 3

3. Estimated cost of development (not including cost of land) \$1,000,000
4. Project height: Maximum height of structure (ft.)
- | | |
|--|----------|
| ■ above existing (natural) grade | 35ft |
| ■ above finished grade | 35ft |
| ■ as measured from centerline of frontage road | ±39-44ft |
5. Total number of floors in structure, including
subterranean floors, lofts, and mezzanines 3 stories + cellar
6. Gross floor area excluding parking (sq.ft.) 4088 sf
- Gross floor area including covered parking and
accessory buildings (sq.ft.) 6066 sf Incl Subterrean Parking &
Basement
7. Lot area (within property lines) (sq.ft. or acre) 4026.14 sf

Lot coverage	Existing (sq.ft. or acre)	New proposed (sq.ft. or acre)	Total (sq.ft. or acre)
Building	0 sf	1200 sf	1200 sf
Paved area	1105 sf	556 sf	1661 sf
Landscaped area	2921 sf		1165 sf
Unimproved area	0 sf		
Grand Total (should equal lot area as shown in #7 above)			

8. Is any grading proposed? *Note: Current erosion control retained by 100' retaining wall to be replaced. Cut grade is currently being retained by the wall.* ☒ Yes ☐ No

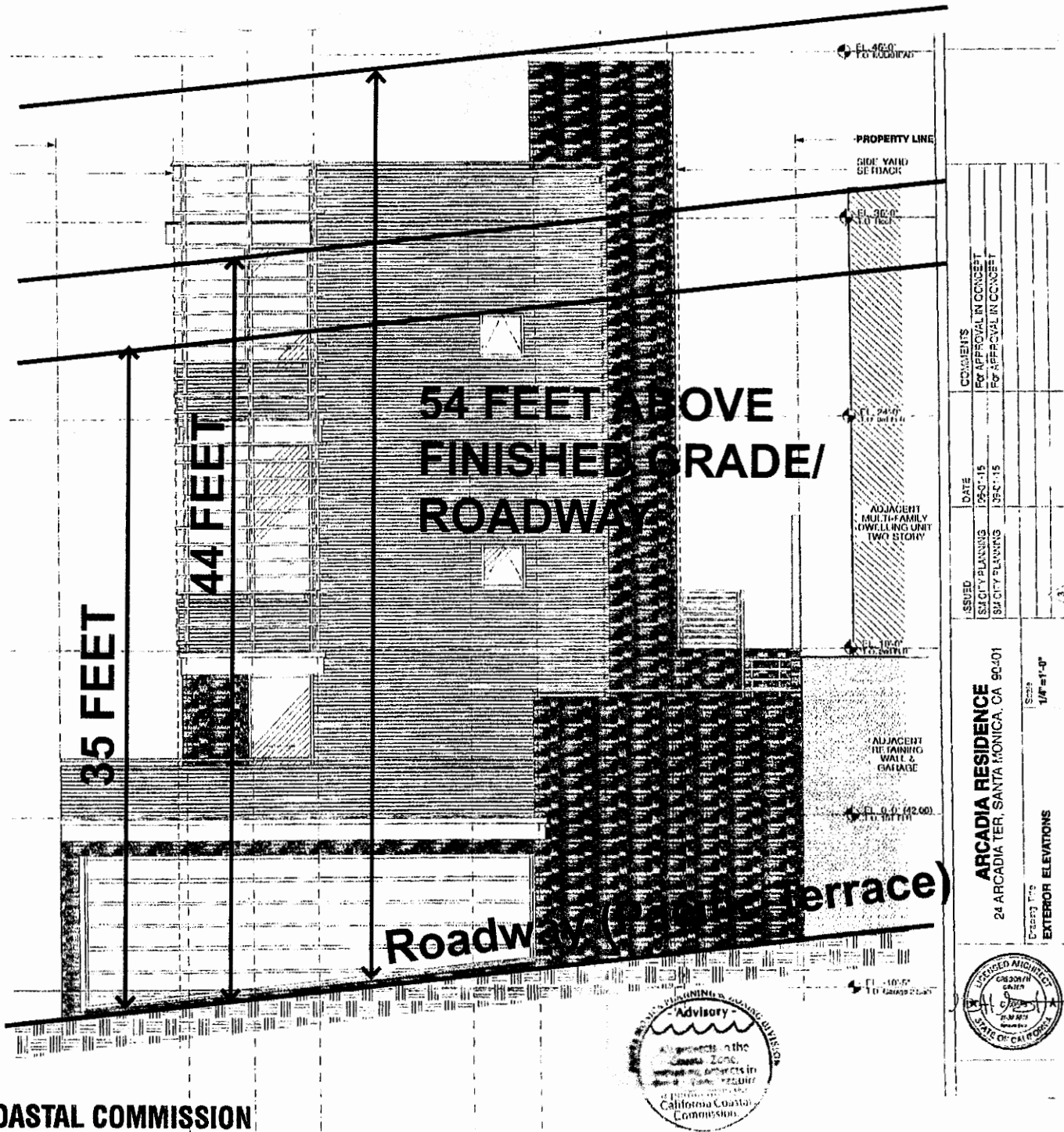
If yes, complete the following.			
a) Amount of cut	1250 cu. yds.	d) Maximum height of cut slope	20 ft.
b) Amount of fill	200 cu. yds.	e) Maximum height of fill slope	13.25 ft.
c) Amount of export	1050 cu. yds.	f) Location of borrow or disposal site	TBD

Grading, drainage, and erosion control plans must be included with this application, if applicable. In certain areas, an engineering geology report must also be included. See page 7, items # 7 and 11.

Please list any geologic or other technical reports of which you are aware that apply to this property:
Soils report being conducted for site.

COASTAL COMMISSION

ATTACHMENT 05 : PLAN COPY OF STREET ELEVATION WITH HEIGHTS HIGHLIGHTED



COASTAL COMMISSION

EXHIBIT # 3
PAGE 12 OF 12



Office of the City Attorney
City Hall
1685 Main Street
Room 310
Santa Monica
CA 90401

Susan Y Cola
susan.col@smgov.net

July 15, 2016

Kevin V. Kozal, Esq.
Harding Larmore Kutcher & Kozal, LLP
1250 Sixth Street, Suite 200
Santa Monica, California 90401-1602

Re: *15ENT-0312 (24 Arcadia Terrace)*

Dear Mr. Kozal:

This letter is in response to your letter, dated June 13, 2016, which was addressed to the City Attorney regarding the above-referenced project. Since I have been working with staff on this project, the City Attorney asked me to respond to your letter.

In essence, your letter threatens litigation if the City does not immediately agree to proceed with an appeal hearing for this project on July 20, 2016. According to your letter, the alleged basis for this threat is that Mr. Alger, the owner of 24 Arcadia Terrace (hereinafter "the Project"), was informed that "the appeal hearing [for the Project] cannot proceed unless and until Planning Staff and the Planning Commission receive input and direction from the City Council on an alleged policy matter about whether Tier 2 single family homes should be allowed in the multi-family residential districts."

While we can agree that the appeal hearing for the Project was delayed from July 20, we do not agree with your characterization that the appeal hearing was delayed for the reasons alleged in your letter. Nor can we agree that the City is required by any law (statutory or otherwise) to proceed with an appeal hearing on a specific date mandated by Mr. Alger. However, due to the adoption on June 14, 2016 of the latest zoning code update, which revised SMMC section 9.23.030(A)(2)(a) by authorizing the average number of bedrooms for all market rate units combined to be 1.2 or greater, we believe that the waiver from the unit mix requirement is no longer required for final approval of the Project. The zoning code update approved by the Council became effective on July 15, 2016. The City will inform the appellant of this latest development.

COASTAL COMMISSION

5-15-1524

EXHIBIT # 4

PAGE 1 OF 2

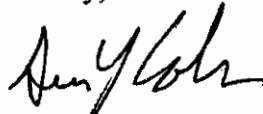
tel: 310 458-8336 • fax: 310 395-6727

Kevin V. Kozal, Esq.
July 15, 2016
Page 2

Please keep in mind that the issues and concerns expressed by the Councilmembers at the May 24, 2016 hearing (which were acknowledged in your letter) may result in further policy discussions and ordinance revisions regarding the applicability of Tier 2 status to single family residential development in the R3 District. Therefore, the ordinance revisions which went into effect on July 15, 2016 do not, by themselves, guarantee any vested rights in the Project.

If you have any questions or concerns about this development, please contact me directly at (310) 452-8342.

Sincerely,



SUSAN Y COLA
Deputy City Attorney

SYC/bcm

cc: Jing Yeo, Planning Manager
Tony Kim, Principal Planner
Russel Bunim, Associate Planner

COASTAL COMMISSION

EXHIBIT # 4
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