

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877
WEB: WWW.COASTAL.CA.GOV



W18a

A-4-VNT-17-0013 (KANCAL)

JUNE 7, 2017

EXHIBITS

Table of Contents

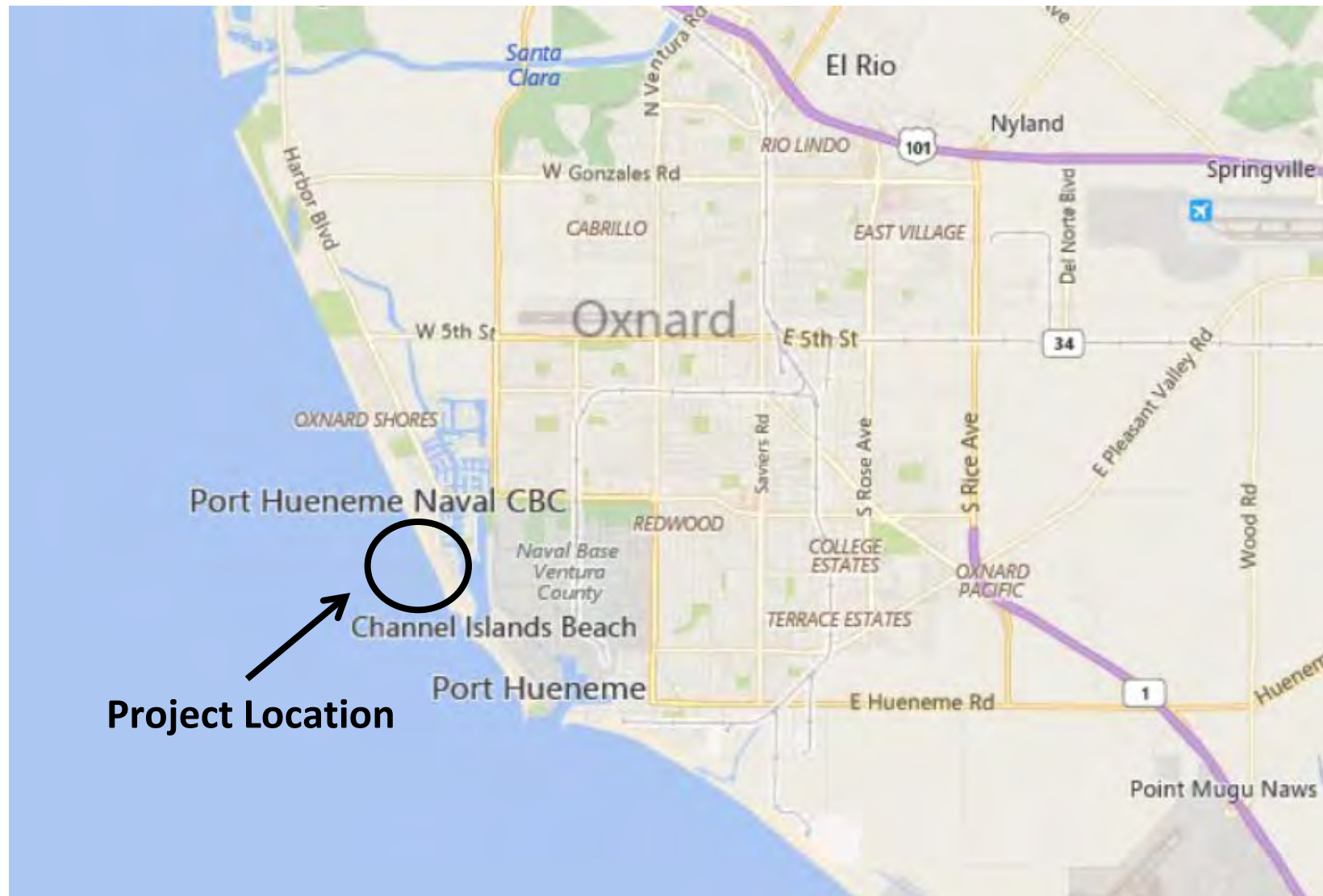
Exhibit 1- Vicinity Map

Exhibit 2- Aerial Photo

Exhibit 3- Project Plans

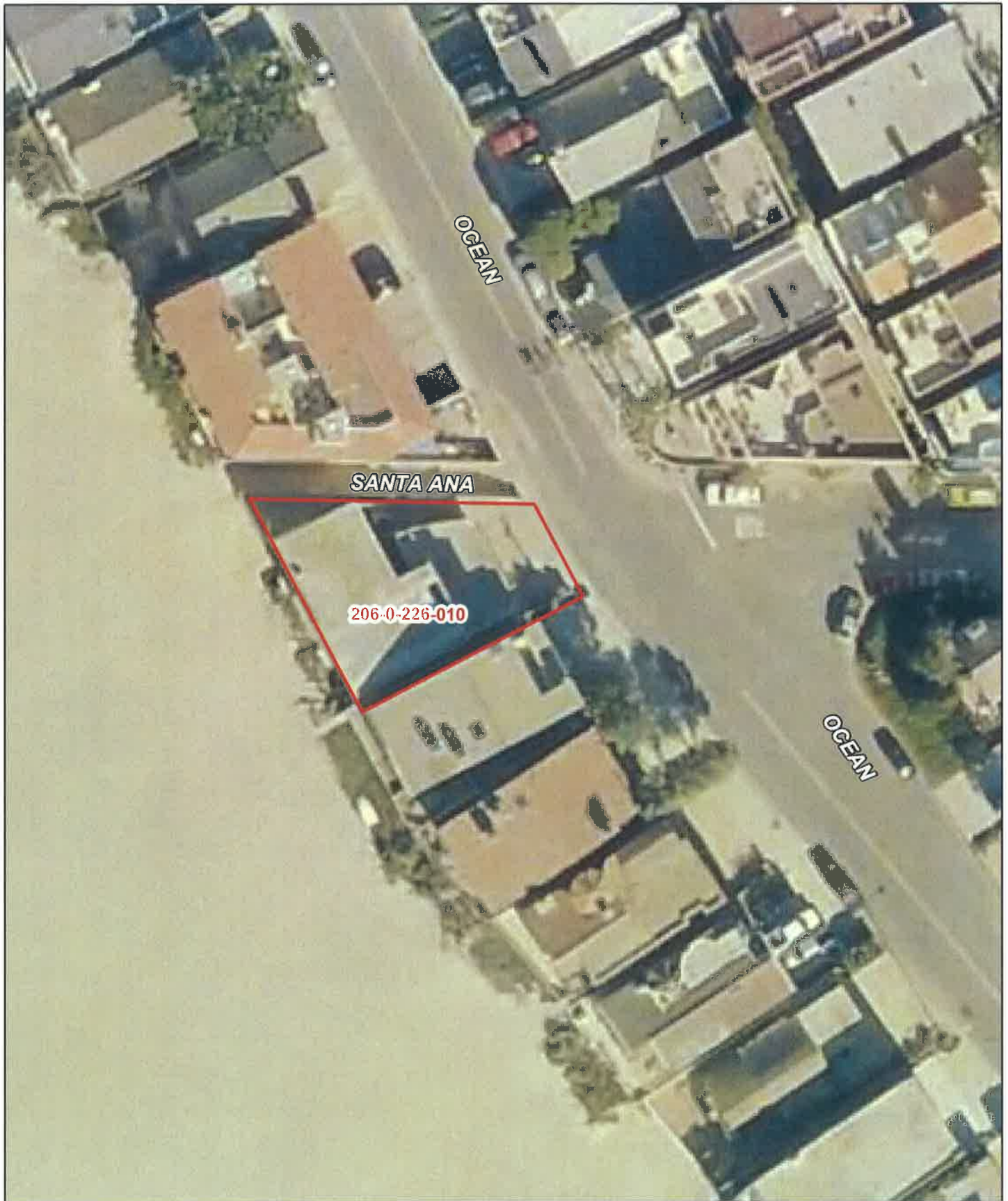
Exhibit 4- Appeal by Marc Benezra

Exhibit 5- Final Local Action Notice



Project Location

Exhibit 1
A-4-VNT-17-0013 (Kancal)
Vicinity Map



Ventura County, California
Resource Management Agency
GIS Development & Mapping Services
Map Created on 12-11-2015
This aerial imagery is under the
copyrights of Pictometry
Source: Pictometry, Jan, 2015



County of Ventura
Planning Director Hearing
PL15-0150
Aerial Photography

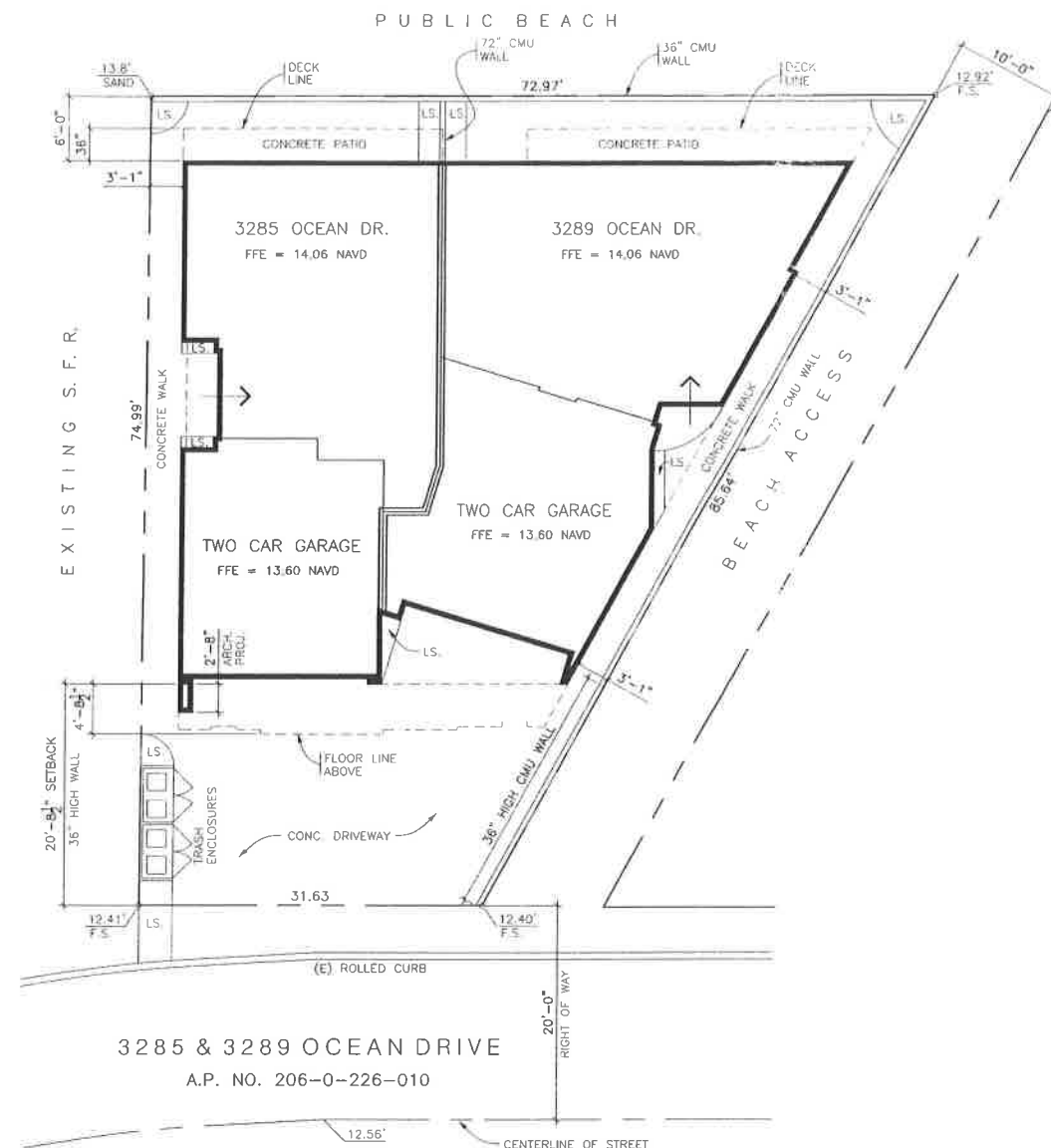


Disclaimer: This Map was created by the Ventura County Resource Management Agency Mapping Services - GIS which is designed and operated solely for the convenience of the County and related public agencies. The County does not warrant the accuracy of this map and no decision involving a risk of economic loss or physical injury should be made in reliance thereon.



RH

Exhibit 2
A-4-VNT-17-0013 (Kancal)
Aerial Photograph of Project Site



SITE PLAN

1/8" = 1'-0"

FLOOD PLAIN CONSTRUCTION REQUIREMENTS

- CENTER LINE OF ADJACENT STREET: 12.56'
- APPROVED FLOOD ELEVATION OF THE LOWEST HABITABLE FLOOR IS 14.06, 1988 NAVD.

Exhibit 3
A-4-VNT-17-0013 (Kancal)
Project Plans

VICINITY MAP

N.T.S.

INDEX

- C. SITE PLAN, PROJECT INFO.
- A3. FIRST FLOOR
- A4. SECOND FLOOR
- A5. THIRD FLOOR
- A6. ROOF PLAN
- A7. ELEVATIONS
- A8. ELEVATIONS
- A9. SECTION

BUILDING ANALYSIS

THREE STORY DUPLEX
TYPE OF OCCUPANCY: R-3
TYPE OF CONSTRUCTION: TYPE V-B
FIRE SPRINKLERS: REQUIRED

AREAS

ADDRESS	3285 O. D.	3289 O. D.
FIRST FLOOR	644 S.F.	725 S.F.
SECOND FLOOR	991 S.F.	1,181 S.F.
THIRD FLOOR	1,006 S.F.	1,137 S.F.
TOTAL FLOOR AREA	2,641 S.F.	3,043 S.F.
GARAGE	407 S.F.	491 S.F.
SECOND FLR. DECK	185 S.F.	237 S.F.
THIRD FLR. DECK	141 S.F.	236 S.F.
LOT		3,967 S.F.
LOT COVERAGE		57 %

CONSULTANTS

CIVIL ENGINEER: LAIMA REEDER P.E.
(805) 985-1700
SOILS ENGINEER: HEATHCOTE GEOTECHNICAL
FRED HEATHCOTE
646-9978
JOB: 05090
SURVEYOR: COAST & VALLEY LAND SURVEYING
GREG WARDEL (805) 642-6246
JOB NO. 05-4068

PC NO. COASTAL REVIEW

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THEY ARE NOT TO BE REPRODUCED OR
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CONSENT OF INTEGRAL DESIGN, INC.

Integral Design, Inc.
AND CONSTRUCTION

WALT PHILIPP
950 COUNTY SQUARE DRIVE, SUITE 116
VENTURA, CALIFORNIA 93003
805 / 644-5594 (OFFICE) 805 / 654-8385 (FAX)

PROPOSED RESIDENTIAL DUPLEX:

KANCAL PROPERTIES, LLC.

3285 & 3289 OCEAN DRIVE
HOLLYWOOD BEACH, OXNARD, CA.
A.P. NO. 206-0-226-010
LOT 54

OWNER

KanCAL PROPERTIES, LLC.
2420 N. WOODLAWN
BLDG. 300
WICHITA, KS. 67220
316-259-0529

SHEET TITLE

SITE PLAN
PROJECT INFORMATION

DATE

08/18/15

SHEET NO

C



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A.P. NO. 206-0-226-010
LOT 54

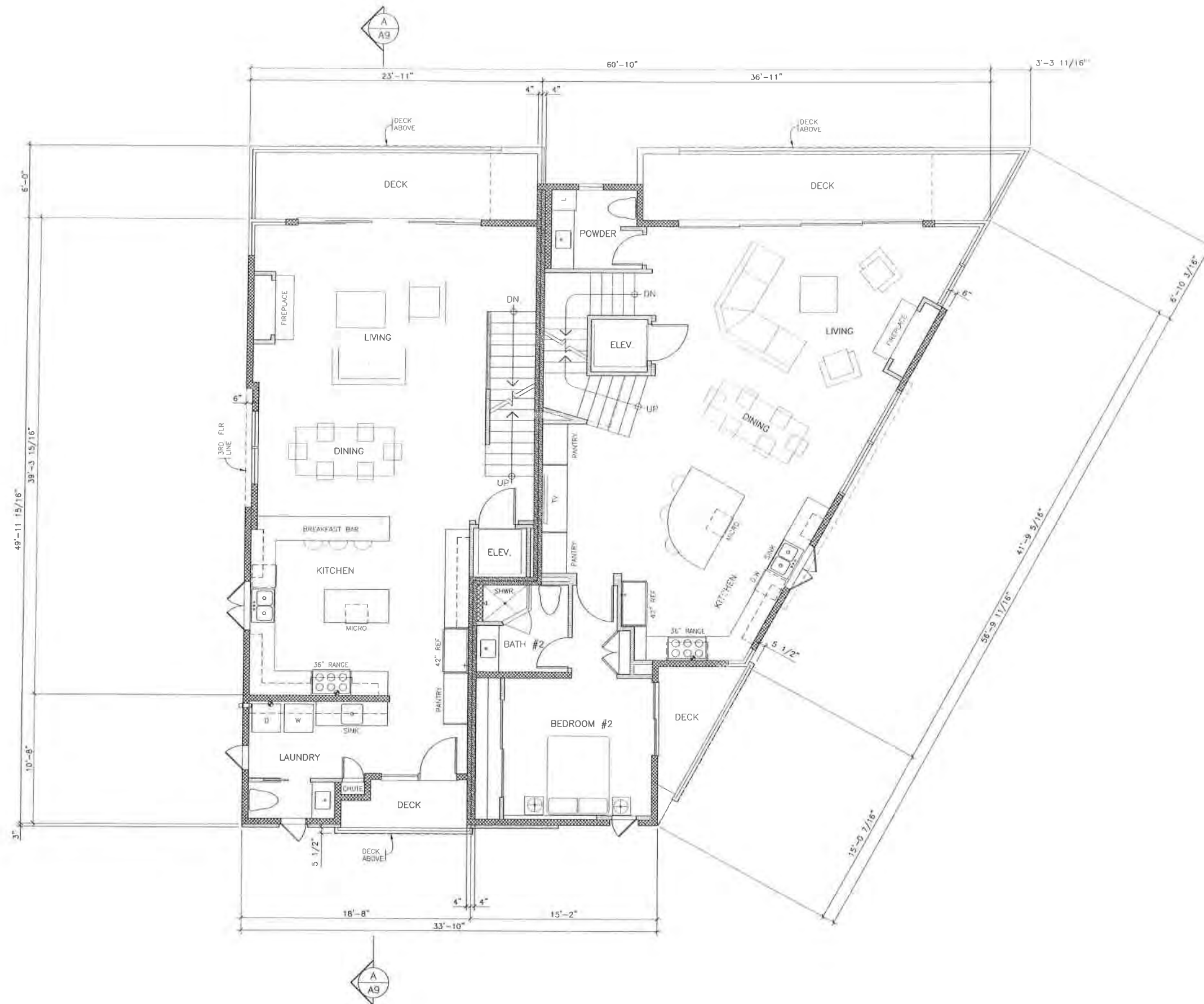
OWNER
KancAL PROPERTIES, LLC
2420 N. WOODLAWN
BLDG. 300
WICHITA, KS. 67220
316-259-0529

SHEET TITLE
FIRST FLOOR

DATE
08/18/15

SHEET NO.

A3



SECOND FLOOR

1/4" = 1'-0"

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3285 & 3289 OCEAN DRIVE
HOLLYWOOD BEACH, OXNARD, CA.
A.P. NO. 206-0-226-010
LOT 54

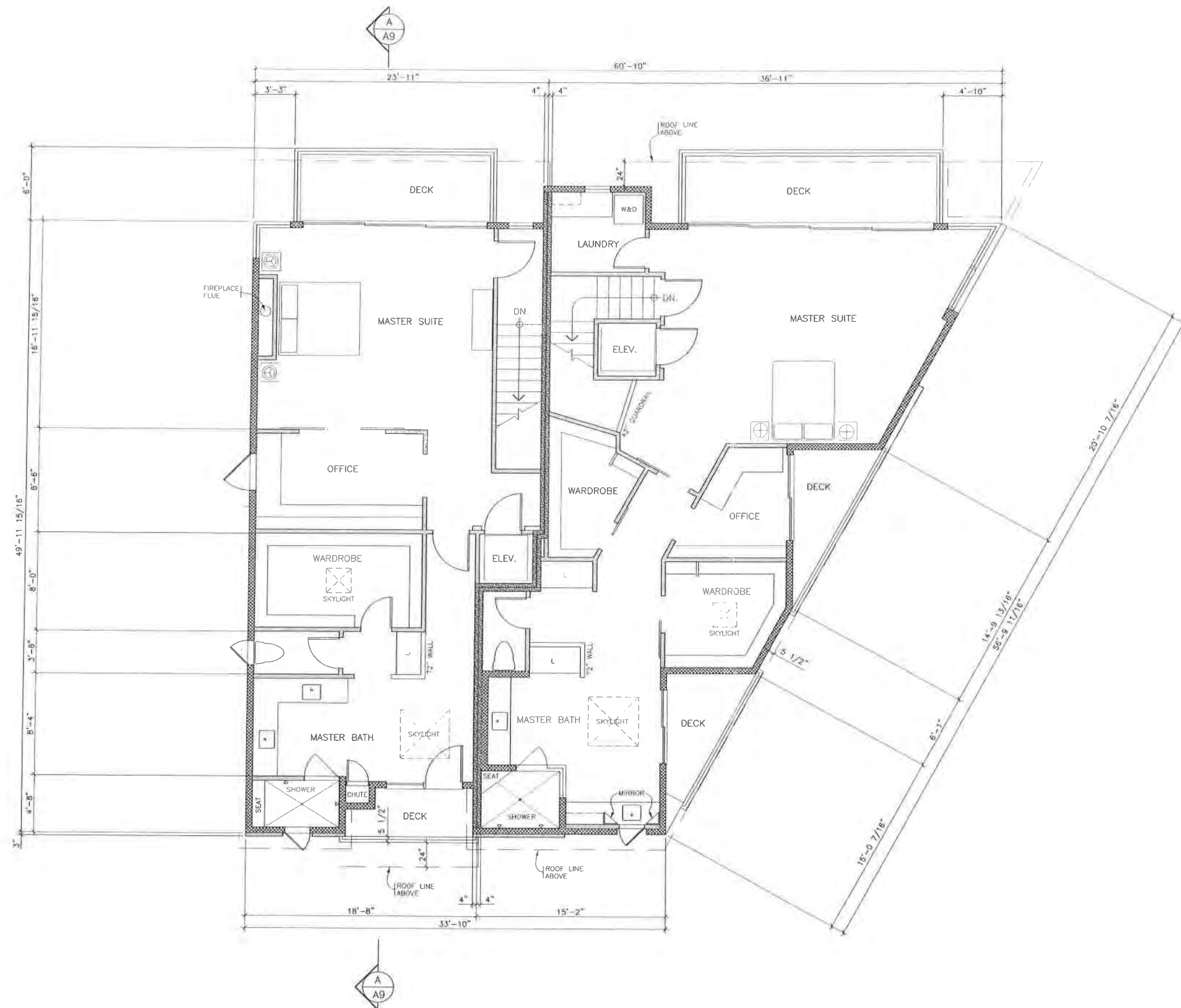
OWNER
KancAL PROPERTIES, LLC
2420 N. WOODLAWN
BLDG. 300
WICHITA, KS. 67220
316-259-0529

SHEET TITLE
SECOND FLOOR

DATE
08/18/15

SHEET NO.

A4



THIRD FLOOR

1/4" = 1'-0"

ATTENTION
THIS IS A PRELIMINARY DESIGN. ANY CHANGES TO THE DESIGN MUST BE MADE BEFORE THE DESIGN IS FINALIZED. THE DESIGNER IS NOT RESPONSIBLE FOR ANY CHANGES MADE AFTER THE DESIGN IS FINALIZED.

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PROPOSED RESIDENTIAL DUPLEX:
KANCAL PROPERTIES, LLC.

3285 & 3289 OCEAN DRIVE
HOLLYWOOD BEACH, OXNARD, CA.
A.P. NO. 206-0-226-010
LOT 54

OWNER
KancAL PROPERTIES, LLC
2420 N. WOODLAWN
BLDG. 300
WICHITA, KS. 67220
316-259-0529

SHEET TITLE
THIRD FLOOR

DATE
08/18/15

SHEET NO.

A5

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HOLLYWOOD BEACH, OXNARD, CA.
A.P. NO. 206-0-226-010
LOT 54

OWNER
KancAL PROPERTIES, LLC.
2420 N. WOODLAWN
BLDG. 300
WICHITA, KS. 67220
316-259-0529

SHEET TITLE
ELEVATIONS

DATE
08/18/15

SHEET NO.

A7



EAST ELEVATION

1/4" = 1'-0"



NORTH ELEVATION

1/4" = 1'-0"

ATTENTION:
THIS PLAN, SPECIFICATION AND SCHEDULE
ARE THE PROPERTY OF THE ARCHITECT.
IT IS TO BE USED ONLY FOR THE PROJECT
AND FOR THE SITE SPECIFIC TO THE
PROJECT. IT IS NOT TO BE REPRODUCED
OR USED FOR ANY OTHER PROJECT
WITHOUT THE WRITTEN PERMISSION OF
THE ARCHITECT.

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AND CONSTRUCTION
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VENTURA, CALIFORNIA 93003
805 / 644-5594 (OFFICE) 805 / 654-8385 (FAX)

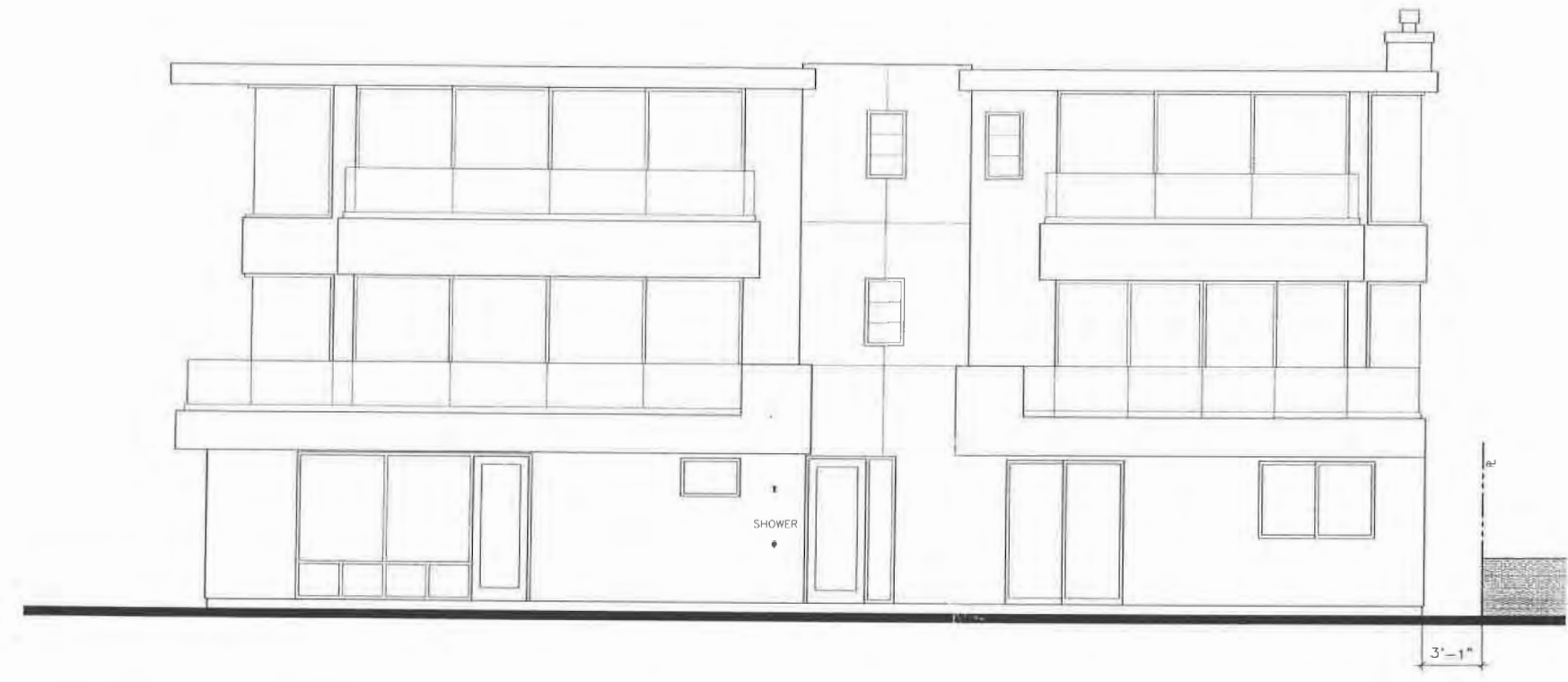
PROPOSED RESIDENTIAL DUPLEX:
KANCAL PROPERTIES, LLC,
3285 & 3289 OCEAN DRIVE
HOLLYWOOD BEACH, OXNARD, CA.
A.P. NO. 206-0-226-010
LOT 54

OWNER
KanCAL PROPERTIES, LLC
2420 N. WOODLAWN
BLDG. 300
WICHITA, KS. 67220
316-259-0529

SHEET TITLE
ELEVATIONS

DATE
08/18/15
SHEET NO.

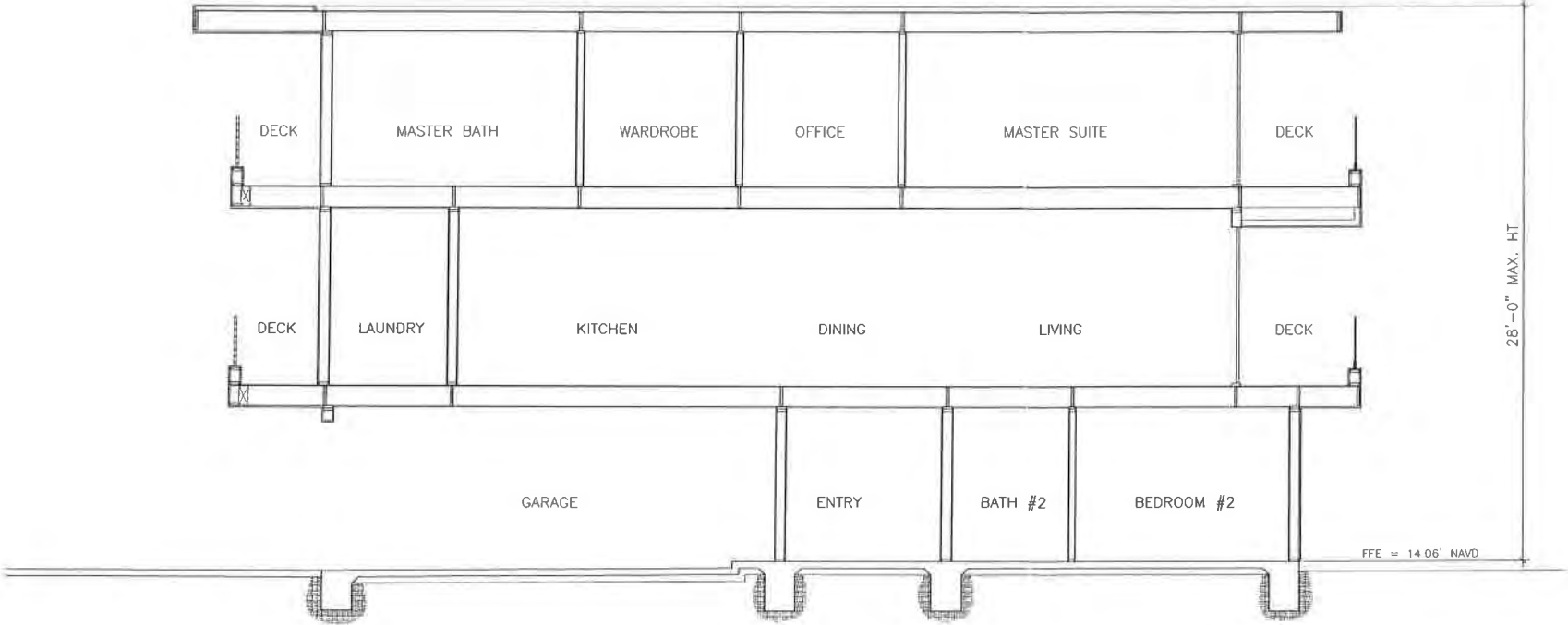
A8



WEST ELEVATION
1/4" = 1'-0"



SOUTH ELEVATION
1/4" = 1'-0"



SECTION A

1/4" = 1'-0"

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A.P. NO. 208-0-226-010
LOT 54

OWNER
KanCAL PROPERTIES, LLC
2420 N. WOODLAWN
BLDG. 300
WICHITA, KS. 67220
316-259-0529

SHEET TITLE
SECTION

DATE
08/18/15
SHEET NO.

A9

Received

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE
89 SOUTH CALIFORNIA STREET, SUITE 200
VENTURA, CA 93001-4508
VOICE (805) 585-1801 FAX (805) 641-1732

California Coastal Commission
South Central Coast District



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Marc L. Benezra

Mailing Address: 11601 Wilshire Boulevard, 14th Floor

City: Los Angeles

Zip Code: 90025

Phone: (310) 442-8840

SECTION II. Decision Being Appealed

1. Name of local/port government:
Ventura County Board of Supervisors
2. Brief description of development being appealed:
PD Permit to demolish an existing triplex and construct a two-family dwelling.
3. Development's location (street address, assessor's parcel no., cross street, etc.):
3289 Ocean Drive, Oxnard, California
A.P.N. 206-0-226-010
4. Description of decision being appealed (check one.):
☒ Approval; no special conditions
☐ Approval with special conditions:
☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-4-VNT-17-0013
DATE FILED: 4/7/17
DISTRICT: So. Central Coast

Exhibit 4
A-4-VNT-17-0013 (Kancal)
Appeal by Marc Benezra

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
☒ City Council/Board of Supervisors
☐ Planning Commission
☐ Other

6. Date of local government's decision: March 21, 2017
Local Permit #PL15-0150

7. Local government's file number (if any): Application No. 4-VNT-17-0283

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Kancal Properties, LLC	Charles Caro
Attn: Charles Caro	2420 N. Woodlawn, Building 300
2420 N. Woodlawn, Building 300	Wichita, Kansas 67200
Wichita, Kansas 67200	

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Marc L. Benezra
11601 Wilshire Boulevard, 14th Floor
Los Angeles, CA 90025

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

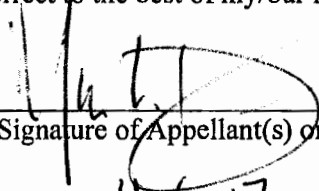
- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

The proposed project does not conform to the Certified Local Coastal Program (particularly the Coastal Zoning Ordinance). Please refer to attachments.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or Authorized Agent

Date:

4-6-17

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize

_____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date:



Appeal Form

County of Ventura • Resource Management Agency • Planning Division
800 South Victoria Avenue, Ventura, CA 93009 • 805 654-2488 • <http://www.ventura.org/rma/planning>

Appeal Number: PL15-0150

To: ☐ Board of Supervisors
☒ Planning Commission

I hereby appeal the decision of the Planning Director, which was given on
February 25, 2016.

The decision was as follows:

See February 25, 2016 Planning Director Decision Regarding Coastal Planned Development (PD) Permit attached hereto.

The grounds of appeal are (attach extra sheets as needed):

See attachment

I request that the appropriate decision making body take the following action:

Either (a) properly reevaluate the application and hold another hearing once such reevaluation has been completed or (b) deny the application.

Name of Appellant: Marc L. Benezra

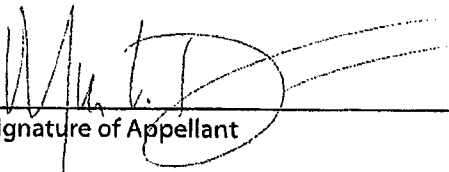
Address of Appellant: 3300 Ocean Drive, Oxnard, CA 93035

Telephone Number of Appellant: (310) 442-8840

Is the appellant a party in the application? ☐ Yes ☒ No . If not, state the basis for filing the appeal as an

"aggrieved person."

Across the street neighbor.



Signature of Appellant

3-1-16

Date

Appeal and deposit fee of \$_____ (pursuant to fee schedule specified by Resolution No. 222
of the Ventura County Board of Supervisors) received by the Planning Division at _____(time) on
_____, 20_____.

Kim L. Prillhart, Director
Ventura County Planning Division

By _____

RESOURCE MANAGEMENT AGENCY

county of ventura

Planning Division

Kimberly L. Prillhart
Director

February 25, 2016

Mr. Walt Phillpp
950 County Square Drive #116
Ventura, CA 93003

Subject: Planning Director Decision Regarding Coastal Planned Development (PD)
Permit
Kancal Properties Duplex
Case No. PL15-0150
3289 Ocean Drive, Oxnard
Assessor's Parcel Number 206-0-226-010

Dear Mr. Phillpp:

By the authority granted to me by the Ventura County Administrative Supplement to the California Environmental Quality Act (CEQA) Guidelines (2010, Chapters 3 and 8), Ventura County Coastal Zoning Ordinance (CZO) (2013, § 8181-3 and § 8181-7 et seq.), and based on the information provided in the staff report and at the January 28, 2016, public hearing on this matter, I hereby:

1. **CERTIFY** that I have reviewed and considered the staff report (Exhibit 1 of the Planning Director hearing on January 28, 2016) and all exhibits thereto, and have considered all comments received during the public comment process;
2. **FIND** that this project is categorically exempt from CEQA pursuant to § 15303 of the CEQA Guidelines;
3. **MAKE** the required findings to grant a Coastal PD Permit (Case No. PL15-0150) pursuant to § 8181-3.5 of the Ventura County CZO, based on the substantial evidence presented in Section E of the staff report (Exhibit 1 of the Planning Director hearing on January 28, 2016), and the entire record;
4. **GRANT** Coastal PD Permit Case No. PL15-0150, subject to the final conditions of approval (enclosed with this letter); and
5. **SPECIFY** that the Clerk of the Planning Division is the custodian, and 800 S. Victoria Avenue, Ventura, CA 93009 is the location, of the documents and materials that constitute the record of proceedings upon which this decision is based.

800 South Victoria Avenue, L# 1740, Ventura, CA 93009 (805) 654-2481 Fax (805) 654-2509



Printed on Recycled Paper

As stated in CZO § 8181-9, by March 7, 2016 (i.e., within 10 calendar days of the conditional approval of the Coastal PD Permit, after accounting for holidays and weekends), any aggrieved person may file an appeal of the conditional approval of this decision with the Planning Division who shall set a hearing date before the Planning Commission to review the matter.

At the conclusion of the local appeal period set forth in CZO § 8181-9.2, or following a final decision on a filed appeal, the Planning Division shall send a Notice of Final Decision to the California Coastal Commission (CCC). The CCC may set another appeal period pursuant to terms and conditions in the California Coastal Act (Pub. Res. Code, § 30000 et seq.). Following the expiration of the CCC's appeal period, if applicable, and if no appeals are filed, the decision regarding the Coastal PD Permit will be considered "effective."

You may file a CEQA Notice of Exemption. The filing of a Notice of Exemption is subject to a \$50.00 fee and will reduce the statute of limitations period (from 180 days to 35 days) on legal challenges to the Planning Director's determination that the project is exempt from environmental review. Please contact the case planner in order to submit the required fee to file the Notice.

Upon satisfying the "prior to Zoning Clearance" conditions, you may obtain a Zoning Clearance from the Planning Division and apply for a Building Permit with the Resource Management Agency, Building and Safety Division. Approval of the Coastal PD Permit does not constitute approval of a Building Permit; you must submit a separate application for a Building Permit with the Building and Safety Division, following the issuance of the Zoning Clearance.

Please refer to the County of Ventura's One Stop Permitting website for further information and guidance with completion of the "prior to Zoning Clearance" conditions. This website can be accessed at: <http://onestoppermit.ventura.org/>.

Public Comments

Mr. Marc Benezra, owner of the neighboring property located at 3300 Ocean Drive, submitted comments to Mr. Matthew Sauter, the case planner, via email and in person prior to, and on, January 28, 2016 (i.e., the Planning Director hearing date). Mr. Benezra's comments, as well as Planning Division staff's responses to each comment, are set forth below.

Benezra Comment 1: *Notwithstanding your efforts, due to the delayed availability of the staff report and project plans, there has been insufficient time to evaluate the proposed project.*

Planning Division Response 1: There is nothing in the CZO (or, for that matter, any other regulation that applies to the project) that requires Planning Division staff to prepare and publish a staff report that sets forth Planning Division staff's recommendation to the Planning Director, regarding the decision the Planning Director should make on a project. Regardless, it is the Planning Division's administrative policy to prepare a staff report and publish the staff report no later than one week prior to the scheduled Planning Director hearing for the project.

Planning Division staff published the staff report for the project (Exhibit 1 of the Planning Director Hearing on January 28, 2016) on January 21, 2016, on the Planning Division's website (<http://www.ventura.org/rma/planning/hearings-agendas/planning-director.html>).

Benezra Comment 2: *The proposed project appears to involve the demolition of 3 apparently "affordable" rental units in favor of 2 expensive for sale and/or rental units. The staff report does not reflect any evaluation of the project relative to any General Plan and/or Coastal Plan access to and/or [sic] affordable housing element.*

Planning Division Response 2: Ventura General Plan Policy 3.3.2-2(2) states, "Lower- and moderate-income rental housing located in the Coastal Zone shall be concurrently replaced within three miles, if feasible, when two or more such units are converted or demolished." A survey of rental estimates for beachfront, multi-unit housing in the vicinity of the project site, including the structure immediately across the beach accessway from the project site, was conducted in order to estimate an average monthly rent value for this type of rental unit. The average estimated monthly rent of these units were approximately \$5,450 per month (Zillow, www.zillow.com accessed February 23, 2016). The current definition of a moderate-income rental property for Ventura County is \$1,787 to \$2,679 per month (Ventura County General Plan Annual Report for 2015, available at: <http://www.ventura.org/rma/planning/plans/general-plan/annual-report.html>). Therefore, the demolition of the triplex will not result in the loss of moderate-income rental units.

Benezra Comment 3: *Based upon my ability to read the plans and our discussion, I am still unable to confirm that the proposed project does not improperly encroach on setback requirements, including the 3-foot setback adjacent to the beach accessway, or that the height does not exceed the code requirements. More time is essential.*

Response 3: As set forth in the staff report and site plans (Exhibits 1 and 3 of the Planning Director Hearing on January 28, 2016), the two-family dwelling complies with the setback and height limits set forth in CZO § 8175-2.

Comment 4: *The conditions of approval do not appear to address sand control/mitigation during construction. As you no doubt know/can appreciate, sand accumulates on streets causing significant safety hazards and nuisance. Additionally,*

the sand creates damage to neighboring structures and additional expense for the property owners thereof.

Planning Division Response 4: The Site Maintenance condition (Condition No. 3, Exhibit 4 of the public hearing held January 28, 2016) has been modified to include the requirement for the installation of temporary construction fencing—see Condition No. 3 of the final conditions of approval that are enclosed with this letter. The temporary construction fencing will include cloth material from the bottom to the top of the fencing, and along the entire length of the fencing. The temporary fencing will screen unsightly construction debris and will ameliorate the potential effects of blowing sand.

Benezra Comment 5: *The Hollywood Beach community contains a significant number of second home owners, including myself, with a concentration of use on weekends and holidays. The conditions of approval appear to allow construction on weekends and holidays between the hours of 9 – 7. Construction during weekends and holidays should be limited in a much more significant manner. In many other cities/counties, I believe that construction is prohibited on Sundays and holidays and limited to 5pm on Saturdays.*

Planning Division Response 5: This is a standard condition applied to construction activities, including residential construction, throughout the unincorporated part of the County. The application of this condition is consistent with the Goals, Policies and Programs of the Ventura County General Plan and Ventura County Noise Threshold Criteria and Control Plan.


Benezra Comment 6: *The analysis in the staff report may be flawed. It evaluates the project in terms of a "net reduction" in dwelling units. In fact, it appears that the proposed project could result in a net increase in usage of all resources inasmuch as the proposed project contains 6 bedrooms (and 2 laundry rooms). Although I'm unaware of the total number of bedrooms in the current 3-unit building, I venture to guess that it is not more than 6. Consequently, it does not appear appropriate to conclude that the new project would result in a net reduction in the use of various resources.*

Planning Division Response 6: Pursuant to the Ventura County Waterworks Manual Section 2.3.4.1 (Residential Areas), each unit of an apartment, duplex, or triplex building shall be counted as one-half service. Therefore, with regard to water resources the proposed project will result in a net reduction of one half service.

If you have any questions about the information presented above, please contact Matt Sauter, the case planner, at (805) 654-2492 or matthew.sauter@ventura.org.

Mr. Walt Phillipp
Case No. PL15-0150
February 25, 2016
Page 5 of 5

Sincerely,



Daniel Klemann, Manager
Residential Permits Section
Ventura County Planning Division

Encl.: Approved Plans
Final Conditions of Approval

c: Kancal Properties, LLC, 2420 N. Woodlawn, Building 300, Wichita, Kansas 67200
California Coastal Commission – Ventura Office, Steve Hudson or Jacqueline Phelps
Case File

Attachment – Grounds of Appeal

Planning Division Response 2 is inadequate. Among other things, (A) the response does not (1) state the relevance of a survey of beachfront, multi-family housing in the vicinity to the actual monthly rental value for the units in question (i.e., estimates and averages are irrelevant), (2) justify the relevance of beachfront units as the basis for its averages and/or estimates (to the extent they are relevant) for lower- and moderate-income units in the County overall, (3) identify the “vicinity”, (4) identify the search parameters (to the extent such search is relevant), and (5) justify the use/accuracy of Zillow as an estimation mechanism (the Ventura County General Plan Annual Report for 2015 uses actual data when it can be “attained”), and (B) the conclusion (i.e., that demolition will not result in the loss of lower- and moderate-income rental units) does not follow and is in error. As set forth in the Ventura-County General Plan Annual Report for 2015, Ventura County is significantly below its RHNA goals for the 2014-2021 Housing Element and can ill afford to allow for the demolition of lower- and moderate-income housing stock.

Planning Division Response 6 is inadequate. The original staff analyses was flawed as set forth in my initial comment #6 (which addressed all/various resource use). Planning Division’s Response refers to the Ventura County Waterworks Manual and concludes that “water resources...will result in a net reduction of one half service” without addressing any other resources. Such conclusion neglects to address any other resources and is, therefore, in error.



Appeal Form

County of Ventura • Resource Management Agency • Planning Division

800 South Victoria Avenue, Ventura, CA 93009 • 805 654-2488 • www.vcrma.org/planning

Appeal Number: PL 15-0150

To: ☒ Board of Supervisors
☐ Planning Commission
☐ PWA Advisory Agency

I hereby appeal the decision of the Planning Commission, which was given on
December 1, 2016.

The decision was as follows:

To approve PL 15-0150 - A Planned Development Permit for the demolition of a multi-family dwelling and construction of a two-family dwelling - project location 3289 Ocean Drive, Oxnard APN: 206-0-226-010

The grounds of appeal are (attach extra sheets as needed):

As set forth in the attachments, the supporting evidence/analysis/evaluation of the (proposed) project contain numerous fundamental flaws/errors (both legally and factually) and, in any event, do not justify the required findings to grant a Planned Development Permit (whether pursuant to Section 8181-3.5 of the Ventura County CZO or otherwise) with respect to the (proposed) project, and the (proposed) conditions of approval are inadequate to address such issues. The Planning Commission abused its discretion in approving the subject application/project.

I request that the appropriate decision making body take the following action:

Either (a) properly reevaluate the application and hold another hearing once such reevaluation has been completed or (b) deny the application.

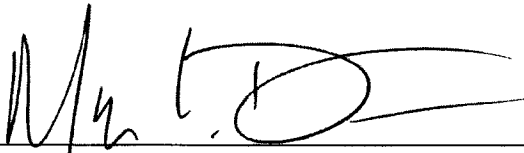
Name of Appellant: Marc L. Benezra

Address of Appellant: 3300 Ocean Drive, Oxnard, CA 93035

Telephone Number of Appellant: (310) 442-8840

Is the appellant a party in the application? ☐ No ☐ Yes. If not, state the basis for filing the appeal as an "aggrieved person."

Across the street neighbor.



Signature of Appellant

12-6-16

Date

Appeal and deposit fee of \$_____ (pursuant to fee schedule specified by Resolution No. 222 of the Ventura County Board of Supervisors) received by the Planning Division at _____ (time) on _____, 20_____.

Kimberly L. Prillhart, Director
Planning Division

By _____

Thompson, Michelle

From: Benezra, Marc L.
Sent: Wednesday, November 30, 2016 2:28 PM
To: Sauter, Matthew
Subject: RE: Planning Commission Hearing for PL15-0150 - Agenda and Staff Report Available
Attachments: 20161130142047222.pdf

With the referenced attachment.

From: Benezra, Marc L.
Sent: Wednesday, November 30, 2016 2:26 PM
To: 'Sauter, Matthew'
Subject: RE: Planning Commission Hearing for PL15-0150 - Agenda and Staff Report Available

Matt,

Since the foregoing hearing is De Novo, this e-mail shall serve to memorialize my resubmission of all of my prior comments (other than the ones I have stricken on the attached) (please note that, inasmuch as the grounds for my appeal have been quoted verbatim in the staff report, I have not attached such appeal).

Additionally, I note the following:

1. In reviewing the Planning Commission Agenda and the Planning Commission Staff Report for the December 1, 2016 hearing, it is unclear as to whether the applicant is Charles Caro (as stated in the agenda) or Kancal Properties LLC (as stated in the staff report).

2. The staff report misapplies the relevant law and contains fatal flaws and/or omits fundamental information.

a. The relevant inquiry for the Mello Act (as defined in the staff report) is "existing residential dwelling units occupied by persons and families of low or moderate income" (i.e., a tenant-specific income determination for each of the residents of the project). The relevant inquiry for the Coastal Affordable Housing Policy (as defined in the staff report) is "lower- and moderate-income rental housing" (i.e., a site-specific rental rate determination for each of the existing 3 units). Therefore, contrary to the staff report conclusion, the Coastal Affordable Housing Policy is NOT taken directly from the Mello Act. And, to the extent that there are differences, (i) as to any inconsistencies, the Mello Act (*a California state statute*) would control over the Coastal Affordable Housing Policy (*a Ventura County policy*) and (ii) otherwise, both must be followed. Subject to the exception set forth in the staff report (which exception is addressed below), the Mello Act prohibits the demolition of qualifying existing residential units "unless

provision has been made for the replacement of those dwelling units with units for persons and families of low or moderate income. Replacement dwelling units shall be located within the same city or county as the dwelling units proposed to be ... demolished." This is an ABSOLUTE requirement.

b. With respect to the Mello Act, the staff report concludes that "[e]ach of the three residential units on the subject property are [sic] currently inhabited by single-person households". And, the proof for such conclusion is that "Planning Division Staff contacted the three residents of the subject property to request relevant income information to determine whether the residents qualified as low- or moderate-income."

Fatal flaws/fundamental omissions:

i. The staff report fails to identify who among the "Planning Division staff" actually made such contacts, thereby denying the public the opportunity to make reasonable inquiry of such staff.

ii. The staff report fails to identify the residents, thereby denying the public the opportunity to make reasonable inquiry relative to such residents (including whether "each of the three residential units on the subject property are [sic] currently inhabited by single-person households", "Resident No. 1" does, in fact, "own two residences" – the basis upon which staff concludes that such resident "does not qualify as a displaced low- or moderate-income resident", and whether Resident No. 3's income level "exceeds the maximum moderate income level for a single-person household in Ventura County").

iii. The staff report fails to identify "the relevant income information" such staff requested, thereby denying the public the opportunity to make reasonable inquiry to whether the low- to moderate-income determination was properly made.

iv. The staff report fails to identify the relevance of "eligibility for affordable housing" or "displacement" (as used for Resident No. 1).

v. The staff report fails to identify how long each such resident has resided at the property, thereby denying the public the opportunity to make reasonable inquiry into whether the applicant has improperly attempted to circumvent the law.

vi. The staff report fails to recognize the applicant's burden of proof and/or explain, in light of such burden, why staff (A) undertook such inquiry and/or (B) assumed facts based upon inconclusive evidence (both Residents No. 1 and No. 2 declined to provide financial information; the staff report does not provide any analysis whatsoever for Resident No. 2) when the burden of proof is on the applicant. If the information is inconclusive, the applicant CANNOT meet his/its burden of proof (and the County may NOT assume that he/it has).

c. The exception to the Mello Act requirement for replacement dwellings set forth in Subdivision (1) of section 65590(b) requires 2 determinations, to wit,

(i) "[t]he ... demolition of a residential structure which contains less than three dwelling units" AND (ii) "unless the local government determines that replacement of all or any portion of the converted or demolished dwelling units is feasible". If the project does not satisfy both such determinations, the project does not qualify for the exception and the Mello Act **REQUIRES** replacement dwellings.

Fatal flaws:

i. The staff report recognizes that the proposed project involves the demolition of a residential structure that contains 3 dwelling units (which is not "less than three dwelling units"). Therefore, the project **CANNOT** satisfy both determinations and the applicant must provide replacement dwellings.

ii. The staff report's conclusion that "[b]ased on the resident income-level assessment, the Mello Act requirements for replacement are not triggered for this project because less than three dwelling units that are occupied by low- or moderate-income residents would be converted or demolished" demonstrates a fundamental misreading/misunderstanding of the law. The staff report conflates the section 65590(b) test of "occupancy by persons and families of low or moderate income" with the subdivision (1) exception that the demolition ... contains *less than* [bolding and italics added] three dwelling units". The "fact" that less than 3 of such residents may be low or moderate income is of no consequence as long as any rental unit is occupied by a person or family of low or moderate income.

iii. The staff reports concludes that "replacing the existing triplex with another triplex or multi-family unit" and "replacing the dwelling units" would be infeasible. The staff report is devoid of any meaningful analysis and/or support for such conclusions. Additionally, it's important to note that the Mello Act exception requires that the local government determine that replacement of all or any portion [bolding and underlining added] of the demolished units is infeasible". Yet, the staff report fails to identify any consideration/determination staff may have made regarding replacing "any portion of the demolished dwelling units".

d. With respect to the Coastal Affordable Housing Policy, the staff report concludes that the project does not trigger the requirements "for several reasons". It's worth reiterating that the relevant inquiry for the Coastal Affordable Housing Policy involves project site-specific rental rate determinations for each of the existing 3 units.

Fatal flaws/fundamental omissions

i. My "Ground of Appeal No. 1" as set forth in the staff report is hereby incorporated in full. The staff report is totally devoid of project site-specific rental information/determinations for the existing 3 dwelling units proposed to be demolished.

ii. The staff report is devoid of any meaningful analysis and/or support for its conclusions that concurrently replacing such units within 3 miles is infeasible.

iii. Palmer (as defined in the staff report) is inapplicable to the situation at hand.

iv. While the Mello Act refers to replacement units being within the same city or county as the demolished units, the Coastal Affordable Housing Policy has no such requirement. It simply states that the replacement shall be "within three miles". Therefore, the staff report's exclusion of the Cities of Oxnard and Port Hueneme is improper. Moreover, staff only appears to have evaluated the construction of new units as opposed to the conversion of existing market units.

It's worth reminding the County decision makers that the applicant is requesting a discretionary approval. The project is not entitled by right. For all of the reasons set forth and/or referenced above, it would be an abuse of discretion to approve such project. Respectfully, the project must be denied.

Thank you.

Marc L. Benezra

From: Sauter, Matthew [<mailto:Matthew.Sauter@ventura.org>]
Sent: Wednesday, November 23, 2016 12:25 PM
To: Benezra, Marc L.
Subject: Planning Commission Hearing for PL15-0150 - Agenda and Staff Report Available

Good afternoon Marc,

The staff report and exhibits for the Planning Commission hearing of PL15-0150 are available now. You will be able to download the documents by going to this [link](#). Scroll down and you will see "Upcoming RMA Planning Commission Events" and click the Agenda link. If you have any issues, please let me know and I will do my best to assist you.

Thank you and have a great Thanksgiving,

Matt Sauter | Planner
Residential Permitting Section
matthew.sauter@ventura.org

Ventura County Resource Management Agency | Planning Division
P. 805.654.2492 | F. 805.654.2509
800 S. Victoria Ave., L #1740 | Ventura, CA 93009-1740
www.ventura.org/rma/planning
For online permits and property information, visit [VC Citizen Access](#)



Benezra, Marc L.

From: Benezra, Marc L.
Sent: Thursday, January 28, 2016 9:11 AM
To: Sauter, Matthew
Subject: Re: PL15-0150 Planning Director Hearing Posting

Matt,

In my haste to send the foregoing, I neglected to mention another concern/observation:

6. The analysis in the staff report may be flawed. It evaluates the project in terms of a "net reduction" in dwelling units. In fact, it appears that the proposed project could result in a net increase in usage of all resources inasmuch as the proposed project contains 6 bedrooms (and 2 laundry rooms). Although I'm unaware of the total number of bedrooms in the current 3-unit building, I venture to guess that it is not more than 6. Consequently, it does not appear appropriate to conclude that the new project would result in a net reduction in the use of various resources.

Thank you.

Marc

Sent from my iPhone

On Jan 28, 2016, at 8:41 AM, Benezra, Marc L. <mbenezra@bakerlaw.com> wrote:

Matt,

Thank you for your assistance in my attempts to evaluate the proposed project. As I believe you know, I own the property located at 3300 Ocean Drive, immediately across the street from the proposed project, and I have the following observations and concerns:

1. ~~Notwithstanding your efforts, due to the delayed availability of the staff report and project plans, there has been insufficient time to evaluate the proposed project.~~
2. The proposed project appears to involve the demolition of 3 apparently "affordable" rental units in favor of 2 expensive for sale and/or rental units. The staff report does not reflect any evaluation of the project relative to any General Plan and/or Coastal Plan access to and/or affordable housing element.
3. ~~Based upon my ability to read the plans and our discussions, I am still unable to confirm that the proposed project does not improperly encroach on setback requirements, including the 3-foot setback adjacent to the beach accessway, or that the height does not exceed the code requirements. More time is essential.~~
4. The conditions of approval do not appear to address sand control/mitigation during construction. As you no doubt know/can appreciate, sand accumulates on streets causing significant safety hazards and nuisance. Additionally, the sand creates damage to neighboring structures and additional expense for the property owners thereof.
5. The Hollywood Beach community contains a significant number of second home owners, including myself, with a concentration of use on weekends and holidays. The conditions of approval appear to allow construction on weekends and holidays between the hours of 9 - 7. Construction during weekends and holidays should be limited in a much more significant manner. In many other cities/counties, I believe that construction is prohibited on Sundays and holidays and limited to 5 pm on Saturdays.

Thank you in advance for your consideration.

Marc Benezra
3300 Ocean Drive
Oxnard, CA

Sent from my iPhone

On Jan 25, 2016, at 9:26 AM, Sauter, Matthew <Matthew.Sauter@ventura.org> wrote:

Good morning Marc,

The definition of a Reverse Corner Lot is found in Section 8172-1 of the Ventura County Coastal Zoning Ordinance and reads:

Lot, Reverse-Corner – A corner lot, the rear of which abuts the side of another lot. Interior lots adjacent to flag lots are not considered reverse-corner lots.

Thank you and have a pleasant day,

Matt

From: Benezra, Marc L. [<mailto:mbenezra@bakerlaw.com>]
Sent: Monday, January 25, 2016 8:09 AM
To: Sauter, Matthew <Matthew.Sauter@ventura.org>
Subject: RE: PL15-0150 Planning Director Hearing Posting

Matt,

The code refers to a Reverse Corner Lot and yet I was unable to find a definition. What is a Reverse Corner Lot?

Thank you.

Marc

From: Sauter, Matthew [<mailto:Matthew.Sauter@ventura.org>]
Sent: Thursday, January 21, 2016 11:20 AM
To: Benezra, Marc L.
Subject: PL15-0150 Planning Director Hearing Posting

Good morning Marc,

Please find the Planning Director hearing agenda for January 28, 2016 along with the staff report and exhibits for PL15-0150 at this link:

<http://www.ventura.org/rma/planning/hearings-agendas/planning-director.html>

Thank you,

Matt Sauter | Planner

Residential Permitting Section
<image002.png>matthew.sauter@ventura.org

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Benezra, Marc L.

From: Benezra, Marc L.
Sent: Monday, March 20, 2017 12:48 PM
To: matthew.sauter@ventura.org
Cc: Thompson, Michelle
Subject: Board of Supervisors Hearing for PL15-0150

Importance: High

Matt,

Since the foregoing hearing is De Novo, **this e-mail shall serve to memorialize my resubmission of all of my prior comments.**

Additionally, I note the following:

A. The staff report relating to this matter (which staff has had months to prepare) was issued 3 business days before the March 21 hearing. Providing 2 business days (in that written comments must be submitted the day before the hearing in order to be included in the Supervisors' pre-hearing package) to attempt to thoroughly review, digest, research and respond to a report many months in the making is patently unreasonable and, in any event, afforded me insufficient time. Consequently, I request that the hearing be continued to a later date so as to allow a reasonable period for me and the rest of the public to thoroughly review, digest, research and respond to such report. To the extent that the Board elects to move forward on (or shortly after) March 21, the balance of my comments are made under protest and subject to the foregoing limitation.

B. The staff report continues to misapply the relevant law and to contain fatal flaws and/or to omit fundamental information.

1. Mello Act – As stated in the staff report, “[t]he Mello Act seeks to preserve housing for low- and moderate-income residents in California’s Coastal Zone” and requires that demolition of existing residential units occupied by low or moderate income persons or families in such zone **SHALL NOT be authorized unless provision has been made for replacement thereof.** Replacement dwellings shall be located on the site of the demolished structure or elsewhere within the coastal zone if feasible, or, if the location on the site or elsewhere in the coastal zone is not feasible, then located within 3 miles of the coastal zone.

a. The Mello Act provides that “a residential dwelling unit shall be deemed occupied by a person or family of low or moderate income if the person or family was evicted from that dwelling unit within one year prior to the filing of the application to convert or demolish the unit and if the eviction was for the purpose of avoiding the requirements of [the Act]. If a substantial number of persons or families of low or moderate income were evicted from a single residential development within one year prior to the filing of [such an application], the evictions shall be presumed to have been for the purpose of avoiding the requirements” **The staff report is wholly devoid of any investigation and/or analysis as to such issues. The planning division simply “contacted the three households” and limited its inquiry to those persons or families “currently inhabiting” the property.**

b. Resident No. 1 - The staff report confirms that “Resident No. 1 declined to provide income information to Planning Division staff”. Yet, staff concludes that such resident is not low- to moderate-income because he “owns other property within the same community and in another state”. **However, the legal burden of proof is on the applicant and, based upon the resident’s refusal to provide financial information, the applicant has not carried his/its burden that the unit is not occupied by a person or family of low or moderate income.** Any intuiting by staff is inappropriate (and begs the question of why staff has undertaken proving the “facts” rather than verifying “facts” proffered by applicant) and potentially fallacious (if staff’s conclusion is correct that such resident owns such two residences (which, for reasons stated in my previous communications, cannot be verified), it is possible that such resident inherited such

properties and/or acquired them before retirement and yet still currently qualifies as a person of low or moderate income – which is not a net worth test).

c. The staff report concludes that “the available evidence does not establish that the occupants ... are low- or moderate-income residents. Therefore, the Mello Act requirement to replace those demolished units is not triggered.”

i. However, the staff report could have concluded that “the available evidence does not establish that the occupants ... are NOT low- or moderate-income residents. Therefore, the Mello Act requirement to replace those demolished units IS triggered.” **The appropriate and legally-mandated conclusion is dictated by who has the burden of proof (i.e., the applicant or the appellant).** And, clearly, it is not the planning department’s burden to prove such facts. **The burden is clearly and legally upon the applicant. And, the applicant has not carried its burden.** Therefore, since neither Resident No. 1 nor Resident No. 2 provided any income information, **the law requires the presumption that such residents are low- or moderate-income persons for purposes of the Mello Act analysis.**

ii. The staff report states that, “if Resident No. 2’s unknown income status somehow triggered the Mello Act replacement requirement, the one unit will be replaced as part of the Proposed Project”. The staff report further states that “[t]he Mello Act does not mandate rental rates, just replacement units.” **However, staff report clearly misreads and misapplies the law.** As stated earlier in the staff report, **the Mello Acts states that “[t]he ... demolition of existing residential dwelling units occupied by persons and families of low or moderate income ... shall not be authorized unless provision has been made for the replacement of those dwelling units with units for persons or families of low or moderate income.”** The staff reports fails to mention (and I am confident that the applicant has failed to agree to) **any low to moderate income limitation on his/its multi-million duplexes.** Therefore, staff’s analysis is fundamentally flawed.

d. The staff report purports to (i) set forth an exception to the absolute replacement requirement imposed by the Mello Act and (ii) analyze its application. As most currently set forth in this staff report, any exception requires 2 determinations, to wit: (A) the local government’s determination as to whether replacement of all or any portion of the demolished units is feasible and (B) that there is less than 50 acres in the aggregate of land which is vacant, privately owned and available **for residential use within the area encompassing the coastal zone and three miles inland therefrom.**

i. Less than 50 acres - The staff report states that “there is less than 50 acres of vacant, privately owned land available for residential use within the Coastal Zone and three miles inland therefrom within the unincorporated area of the County” and that “staff analyzed vacant parcels within those areas based on the County of Ventura Assessor’s Office database of parcel site codes”. First, while staff appears to have limited its analysis to property “within the unincorporated area of the County”, the Mello Act exception has no such limitation. The exception is “within the area encompassing the coastal zone, and three miles inland therefrom” and, **thereby, requires inclusion of parcels within the incorporated area of Oxnard.** Therefore, staff’s analysis is fundamentally flawed. Second, staff limits its analysis to only multi-family land (“[o]f the four site codes, only site code 1013 (Vacant land zoned for multi-family, R2 and up), would support a replacement multi-family structure that would not require a zoning amendment or a subdivision of land.”) However, the Mello Act exception has no such limitation. The exception is “vacant, privately owned and **available for residential use**”. **That is any kind of residential use (not just zoned multi-family property).** Therefore, staff’s analysis is fundamentally flawed. Finally, given the extremely short and unreasonable timeframe given to review, digest, research and respond to the report before the hearing, I have not been able to verify the alleged facts set forth in the staff report.

ii. Feasibility of Replacement - The staff report misreads and misapplies the relevance of the local government’s determination that replacement of all or any portion of the demolished units is feasible. The staff reports states that “staff reviewed the feasibility of replacement of the existing Triplex onsite with a new, multi-family dwelling, within the Coastal Zone, and three miles inland of the Coastal Zone within the County of Ventura’s jurisdiction and has determined replacement is not feasible.” First, as noted above, the analysis must not be limited to the unincorporated areas. Second, the Mello Act does not limit the analysis to replacing the “existing Triplex onsite with a new, multi-family dwelling”. The legally mandated determination is to “replacement of all or any portion of the ... demolished dwelling units ... in which event replacement dwelling units shall be required”. Yet, the staff reports only evaluates “replacing the existing Triplex with another triplex on the subject property” and “there are no available vacant sites ... zoned CRPD”, and concludes that “[t]herefore, it is not feasible to replace the Triplex with another triplex multiunit dwelling”. **However, the staff report entirely neglects to evaluate any options other than replacement of the existing triplex with a new triplex and, consequently, the evaluation is fundamentally flawed.** Finally, the staff report

misapplies (A) the replacement standard ("the one unit will be replaced as part of the Proposed Project") which requires replacement of low- to moderate-income housing (not multi-million dollar housing) so as to "preserve housing for low- and moderate-income residents in California's Coastal Zone" and (B) and misreads the Palmer case.

2. Ventura County General Plan Policy

a. Mello Act Analysis – As detailed in my earlier communications, while the Mello Act inquiries relate to low- to moderate-income persons, the County General Plan Policy requires analysis of the price of the housing ("lower- and moderate-income rental housing").

b. Project's Existing Rental Rates – The staff report acknowledges that the rental rates charged the existing occupants of the triplex are at rates deemed affordable to moderate-income people per CADHCD, but states that "the Triplex units are not legally enforceable low- and moderate-income rental housing". **However, the absence of any rental restriction is wholly irrelevant.** If the market would have allowed for rental increases, the applicant (i) no doubt would have raised such rates (inasmuch as there is no restriction on such increases) and/or (ii) failed to do so at this peril. **The bottom line is that (as acknowledged by the staff report), the units are moderate-income rental housing and the legally required analysis must be made relative to the existing rental rates at the time of the 2015 application (and, possibly, for some time in advance of such application).**

c. Palmer Case – If the Palmer case is relevant (see my previous communications), the County's inability to impose low or moderate income rental housing restrictions on such project mandates a refusal to exercise the necessary discretionary approval for the proposed project.

Thank you in advance for your thoughtful consideration.

Marc

Marc Benezra

11601 Wilshire Boulevard | Suite 1400
Los Angeles, CA 90025-0509
T 310.442.8840

mbenezra@bakerlaw.com

county of ventura

Received

MAR 24 2017

NOTICE OF FINAL DECISION

California Coastal Commission
South Central Coast District

March 22, 2017

California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001

Appealable

On March 21, 2017, the Board of Supervisors approved Planned Development (PD) Permit Case No. PL15-0150 for the demolition of an existing multi-family dwelling (triplex) and construction of a new two-family dwelling (duplex). The Project was approved by the Ventura County Planning Director on February 25, 2016 and subsequently appealed to the Ventura County Planning Commission on March 3, 2016. The Project was then approved by the Planning Commission on December 1, 2016 and an appeal to the Ventura County Board of Supervisors was filed on December 6, 2016. The decision to approve the project will be final and effective at the end of the Coastal Commission Appeal period if no Appeals are filed. The project information is as follows:

Applicant's Name and Address: Charles Caro, Kancal Properties LLC, 2420 N. Woodlawn, Building 300, Wichita KS 67200

Project Location: 3289 Ocean Drive, Oxnard, CA

Assessor Parcel No.: 206-0-226-010

Project Description: The request is for approval of a PD Permit to demolish an existing triplex and then construct a two-family dwelling (Ventura County Coastal Zoning Ordinance (CZO), Section 8174-5 and Section 8172-1, definition of "Dwelling, Two-Family").

The proposed two-family dwelling will include 5,684 square feet of floor space with an additional 898 square feet of garage space, and 799 square feet of deck space split between the two dwelling units. The proposed two-family dwelling will be 28 feet tall as measured from the established flood clearance elevation. Each of the proposed dwelling units will have access to a two-car garage to accommodate a total of four parking spaces. Access to the proposed two-family dwelling from Ocean Drive will be provided by a 20-foot-long, 30-foot-wide driveway. No native vegetation will be removed as part of the proposed project. The proposed two-family dwelling, as well as



construction activities associated with the two-family dwelling, will not extend beyond the subject property.

The Channel Islands Beach Community Services District will continue to provide water and the City of Oxnard will continue to provide sewage disposal service for the continued residential use of the property. Ocean Drive will continue to provide access to the site.

Date Project Application Filed: September 15, 2015

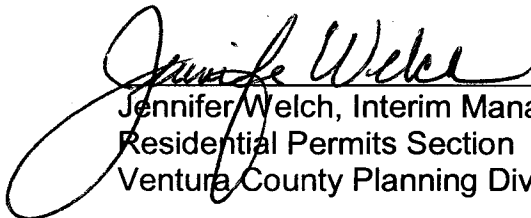
Project Approval Date: March 21, 2017

End of County Appeal Period: March 21, 2017

Findings and Conditions: Please see the attached Board of Supervisors board letter, Planning Commission staff report, Planning Director staff report, and associated exhibits for the findings and conditions that apply to the project.

Appeals: After receipt of this Notice, the Coastal Commission will establish its Appeal period. At the conclusion of that Appeal period, if no Appeals are filed, this decision will be final.

Any inquiries regarding this Notice of Final Decision should be directed to Matt Sauter, the Case Planner, at (805) 654-2492 or matthew.sauter@ventura.org.



Jennifer Welch, Interim Manager
Residential Permits Section
Ventura County Planning Division

Attachment: Board of Supervisors Board Letter (dated March 21, 2017)
Planning Commission Staff Report (dated December 1, 2017)
Planning Director Staff Report (dated January 28, 2016)
CD Containing Exhibits Associated with Board Letter/Staff Reports

c: Charles Caro, Kancal Properties, LLC, 2420 N. Woodlawn, Building 300, Wichita, KS 67200 (without attachments)
Marc Benezra, 3300 Ocean Drive, Oxnard, CA 93035 (without attachments)

March 21, 2017

Board of Supervisors
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

SUBJECT: De Novo Hearing to Consider the Granting of a Coastal Planned Development Permit to Authorize the Demolition of a Multi-family Dwelling (Triplex) and Construction of a Two-family Dwelling (Case No. PL15-0150) on Appeal from Planning Commission Decision; Supervisor District No. 5.

A. STAFF RECOMMENDATIONS:

Planning staff recommends that the Board of Supervisors take the following actions:

1. **CERTIFY** that the Board of Supervisors has reviewed and considered this staff report and all exhibits thereto, and has considered all comments received during the public comment process;
2. **FIND** that this project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 of the CEQA Guidelines;
3. **MAKE** the required findings to grant Coastal Planned Development Permit PL15-0150 (PD Permit) pursuant to Section 8181-3.5 of the Ventura County Coastal Zoning Ordinance (CZO), based on the substantial evidence presented in this staff report, the Planning Director staff report (Exhibit 1), the Planning Commission staff report (Exhibit 2), and the entire record;
4. **GRANT** the PD Permit, subject to the conditions of approval (Exhibit 3);
5. **DENY** the appeal submitted by Marc Benezra (the Appellant) in its entirety (Exhibit 4); and
6. **SPECIFY** that the Clerk of the Board of Supervisors is the custodian, and 800 S. Victoria Avenue, Ventura, CA 93009 is the location, of the documents and materials that constitute the record of proceedings upon which these decisions are based.

B. FISCAL/MANDATES IMPACT AND APPEAL FEES:

Pursuant to the current Board of Supervisors-adopted Planning Division Fee Schedule, if a project is appealable to the Coastal Commission, and unless the Coastal



Commission approves an ordinance amendment authorizing a fee, no fee is required to appeal a project. To date, the Coastal Commission has not approved any such ordinance amendment authorizing a fee. Therefore, no fee was required to process the appeal of the Planning Director and Planning Commission determinations.

To date, the County cost to process the appeal of the Planning Director and Planning Commission decisions is \$14,315.38.

C. PROJECT INFORMATION

1. **Request:** The applicant requests approval of the PD Permit for the demolition of a triplex, multi-family dwelling (Triplex) and construction of a two-family dwelling unit in the Coastal Zone (Proposed Project). The Appellant requests that the Board of Supervisors either "(a) properly reevaluate the [Proposed Project] application and hold another hearing once such reevaluation has been completed or (b) deny the [Proposed Project] application."
2. **Appellant:** Marc Benezra, 3300 Ocean Drive, Oxnard, CA 93035
3. **Applicant/Property Owner:** Charles Caro, Kancal Properties LLC (Applicant), 2420 N. Woodlawn, Building 300, Wichita, KS 67200
4. **Decision-Making Authority:** Pursuant to the CZO (Section 8174-5 and Section 8181-3 *et seq.*), the Planning Director is the decision-maker for the requested PD Permit. Pursuant to CZO Section 8181-9 *et seq.*, the Planning Commission considers appeals of the Planning Director decision and the Board of Supervisors considers appeals of the Planning Commission decision.
5. **Project Site Size, Location, and Parcel Number:** The Proposed Project is located on a 0.09-acre property at 3289 Ocean Drive, near the intersection of Ocean Drive and Santa Ana Avenue, near the City of Oxnard, in the unincorporated area of Ventura County (Project Site or Property). The Tax Assessor's Parcel number for the Property is 206-0-226-010 (Exhibit 5).
6. **Project Site Land Use and Zoning Designation:**
 - a. Countywide General Plan Land Use Map Designation: Existing Community – Urban Reserve (Exhibit 5)
 - b. Coastal Area Plan Land Use Map Designation: Residential High 6.1-36 dwelling units per acre (DU/ac) (Exhibit 5)
 - c. Zoning Designation: RBH (Residential Beach Harbor) (Exhibit 5)

7. Adjacent Zoning and Land Uses/Development (Exhibit 5):

Location in Relation to the Project Site	Zoning	Land Uses/Development
North	CRPD-25 du/ac (Coastal Residential Planned Development, 25 dwelling units per acre)	Residential (Multi-family)
East	RBH	Residential
South	RBH	Residential
West	COS-10 ac-sdf (Coastal Open Space, 10-acre minimum lot size-slope density formula)	Beach

- 8. History:** Planning Division staff reviewed the permitting and violation history of the existing Triplex and Property. The Triplex has existed on the Property since at least 1975. It is unclear when it was built, but it was prior to the oldest Building and Safety inspection record on file with the Resource Management Agency, dated May 20, 1975. The oldest Planning Division document associated with the Property is Zoning Clearance 33637, dated November 9, 1977, for the addition of a second story including an additional bathroom to the triplex. No open or closed violation cases are associated with the subject Property.

- 9. Project Description:** The Applicant is requesting approval of a PD Permit to demolish an existing Triplex and then construct a two-family dwelling (CZO, Section 8174-5 and Section 8172-1, definition of "Dwelling, Two-Family").

The proposed two-family dwelling will include 5,684 square feet of floor space with an additional 898 square feet of garage space, and 799 square feet of deck space split between the two dwelling units. The proposed two-family dwelling will be 28 feet tall as measured from the established flood clearance elevation. Each of the proposed dwelling units will have access to a two-car garage to accommodate a total of four parking spaces. Access to the proposed two-family dwelling from Ocean Drive will be provided by a 20-foot-long, 30-foot-wide driveway. No native vegetation will be removed as part of the proposed Project. The proposed two-family dwelling, as well as construction activities associated with the two-family dwelling, will not extend beyond the Property.

The Channel Islands Beach Community Services District will continue to provide water and the City of Oxnard will continue to provide sewage disposal service for the continued residential use of the property. Ocean Drive will continue to provide access to the site.

D. DISCUSSION OF DE NOVO HEARING TO CONSIDER CASE NO. PL15-0150

Standard of Review and Authority of Your Board

This land use matter comes before your Board as an appeal of the Planning Commission's December 1, 2016, decision to grant the Applicant the PD Permit.

Under the CZO, although this comes to your Board on appeal of the approval of the PD Permit by the Planning Commission, your Board will be reviewing the Applicant's request for a PD Permit *de novo*, or anew. This means your Board is required to conduct a public hearing on the requested land use entitlement just as if the matter came to your Board in the first instance pursuant to Sections 8181-9 *et seq.* of the CZO. In this regard, your Board has the authority to approve, deny, or approve with modifications the requested PD Permit.

Your Board is not required to give any deference to the Planning Director's or Planning Commission's findings or decisions regarding the proposed project, or to the above-stated recommendations. Of course, your Board is free to make the same findings and decisions as the Planning Commission if, based on your Board's independent judgment, your Board finds them to be persuasive and supported by substantial evidence in the record. While your Board should consider the appeal points raised by the Appellant, your Board is not limited by them. Whether or not the appeal should be granted is a consequence of your Board's final decision on the merits of the land use entitlement request, and not on the merits of the appeal points.

E. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE

Pursuant to CEQA (Public Resources Code Section 21000 *et seq.*) and the CEQA Guidelines (Title 14, California Code of Regulations, Division 6, Chapter 3, Section 15000 *et seq.*), the Proposed Project is subject to environmental review.

However, the Proposed Project qualifies for a Class 3 (New Construction or Conversion of Small Structures) Categorical Exemption pursuant to Section 15303 of the CEQA Guidelines. The Class 3 exemption applies to projects that involve the construction and location of limited numbers of new, small facilities or structures, such as a duplex or similar multi-family residential structure totaling not more than four dwelling units. The Proposed Project consists of the demolition of an existing multi-family dwelling (Triplex) and construction and use of a new two-family dwelling. Furthermore, none of the exceptions set forth in Section 15300.2 apply to the proposed project. Therefore, this project is categorically exempt pursuant to Section 15303 of the CEQA Guidelines.

F. LAW AND POLICY GOVERNING DECISION

The Proposed Project involves the demolition of residential housing in the Coastal Zone

and, therefore, it must be analyzed under Government Code Section 65590 et seq. known as the Mello Act. In addition, because the Proposed Project involves the demolition of rental housing in the Coastal Zone, it must also be analyzed under Ventura County General Plan Goals, Policies and Programs Coastal Housing Preservation Policy 3.3.2-2(2) (GPP Policy 3.3.2-2(2)). As explained below, the Proposed Project does not trigger the requirements of the Mello Act or GPP Policy 3.3.2-2(2).

Mello Act

The Mello Act seeks to preserve housing for low- and moderate-income residents in California's Coastal Zone (Exhibit 6). Government Code Section 65590, subdivision (b) establishes the standard of review for compliance with the Mello Act in this case. It provides in part:

"The conversion or demolition of existing residential dwelling units occupied by persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, shall not be authorized unless provision has been made for the replacement of those dwelling units with units for persons and families of low or moderate income."

The Proposed Project includes the demolition of existing residential dwelling units – namely, the Triplex. However, application of the Mello Act is also based on the income status of the persons and families occupying the dwelling units.

To determine whether the Mello Act replacement requirements apply, the Planning Division staff first determined the low- and moderate-income ranges for the area. The income ranges for low- and moderate-income are based on the Area Median Income level for a 4-person household as provided by the California Department of Housing and Community Development (CADHCD) and defined in Section 50093 of the Health and Safety Code (Exhibit 7). For Ventura County, the 2016 Area Median Income value for a 4-person household is \$89,300. The moderate-income category is defined as 80% to 120% of the Area Median Income value which results in an upper amount of moderate-income for Ventura County of \$107,160 annually (\$89,300 x 120%).

Next, to comply with the Mello Act, County staff undertook an investigation of the income status of the occupants of each unit of the Triplex to determine whether demolition of the Triplex would result in the demolition of a residential dwelling unit occupied by a low- or moderate-income household. Planning Division contacted the three households of the Triplex and requested relevant income information in order to determine whether the residents qualified as low- or moderate-income. The investigation revealed that each of the three residential units on the Property are currently inhabited by single-person households (referred to hereinafter as Resident No. 1, Resident No. 2, and Resident No. 3 to protect their privacy). In order to convert the

moderate-income value for a 4-person household (above) to that of single-person household, the 4-person household value is multiplied by an adjustment factor of 70 percent. (CADHCD, 2016.) In the case of Ventura County, the upper boundary of moderate-income for single-person households is \$75,000 annual gross income (\$107,160 X 70%).

Resident No. 1 declined to provide income information to Planning Division staff. However, Resident No. 1 stated that Resident No. 1 is the owner of two residences, one in the same neighborhood as the Project site and another in Oregon. Resident No. 1 maintains a rental at the subject Property in order to have a space immediately on the beach. Planning Division staff confirmed that Resident No. 1 does in fact own the local residence as described. Considering that Resident No. 1: (A) did not provide financial information to establish that Resident No. 1 is a person of low- or moderate-income; and (B) would not be eligible for affordable housing because Resident No. 1 owns other property within the same community and in another state, Resident No. 1 does not qualify as a displaced low- or moderate-income occupant of the Triplex.

Resident No. 2 also elected not to provide any financial information.

Resident No. 3 provided financial information that demonstrates that Resident No. 3's gross income level exceeds the upper boundary of moderate-income for a single-person household in Ventura County.

In sum, the available evidence does not establish that the occupants of the Triplex are low- or moderate-income residents. Therefore, the Mello Act requirement to replace those demolished units is not triggered.

However, even if an occupant qualified as low or moderate income, the Proposed Project is nonetheless subject to an exception from the Mello Act. The Mello Act establishes four exceptions and the third exception applies to the Proposed Project. Government Code Section 65590, subdivision (b)(3) provides in relevant part:

"The requirements of this subdivision for replacement dwelling units shall not apply to the following types of conversion or demolition unless the local government determines that replacement of all or any portion of the converted or demolished dwelling units is feasible, in which event replacement dwelling units shall be required:

...

"(3) The conversion or demolition of a residential structure located within the jurisdiction of a local government which has within the area encompassing the coastal zone, and three miles inland therefrom, less than 50 acres, in aggregate, of land which is vacant, privately owned and available for residential use." (The

Replacement Unit Exception.)

The Proposed Project comes within the Replacement Unit Exception because there is less than 50 acres of vacant, privately owned land available for residential use within the Coastal Zone and three miles inland therefrom within the unincorporated area of the County. Planning Division staff analyzed vacant parcels within those areas based on the County of Ventura Assessor's Office database of parcel site codes (Exhibit 8). The applicable vacant land site codes analyzed include the following:

- 1011: Vacant land to 5 acres (not zoned for multi-family & not tract)
- 1012: Vacant land over 5 acres (not zoned for multi-family)
- 1013: Vacant land zoned for multi-family, R2 and up
- 1014: Vacant land to 5 acres, residential tract only (not zoned for multi-family)

Of the four site codes, only site code 1013 (Vacant land zoned for multi-family, R2 and up), would support a replacement multi-family structure that would not also require a zoning amendment or a subdivision of land. But there are only 1.39 acres within the site code 1013 and it is already developed (Exhibit 8). Therefore, there is less than 50 acres, in aggregate, of land which is vacant, privately owned, and available for residential use.

Nor is the Proposed Project subject to the exception to the Replacement Unit Exception. As quoted above, pursuant to the Mello Act, even if the Replacement Unit Exception applies to the Proposed Project, if the local government determines that replacement is nonetheless feasible, the Replacement Exception does not apply and replacement units are required.

Government Code Section 65590, subdivision (g)(3) of the Mello Act defines "feasible" as follows:

"Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technical factors."

Planning Division staff reviewed the feasibility of replacement of the existing Triplex onsite with a new, multi-family dwelling, within the Coastal Zone, and three miles inland of the Coastal Zone within the County of Ventura's jurisdiction and has determined replacement is not feasible.

First, replacing the existing Triplex with another triplex on the subject property would require a Board of Supervisors-approved zone change from the RBH zoning designation to Coastal Residential Planned Development (CRPD), the only current coastal zoning designation that supports multi-family dwellings. The existing Triplex is a legal, nonconforming use as it was constructed prior to the creation of the existing RBH

zone designation which does not allow multi-family units. Furthermore, under the CRPD standards, including requirements for additional common open space, it would not be feasible to accommodate a new multi-family dwelling structure on the subject property.

Second, there are no available vacant sites within the Coastal Zone and within three miles inland zoned CRPD. The two properties within that area that are currently zoned CRPD are currently developed with a multi-family dwelling. Therefore, it is not feasible to replace the Triplex with another triplex multiunit dwelling.

Finally, because Resident Nos. 1 and 3 are clearly not low- or moderate-income occupants, if Resident No. 2's unknown income status somehow triggered the Mello Act replacement requirement, the one unit will be replaced as part of the Proposed Project. Government Code Section 65590, subdivision (b) requires replacement on the existing site as the first choice. The Proposed Project includes the construction of two dwelling units, one more than required to accommodate Resident No. 2. The Mello Act does not mandate rental rates, just replacement units. Nor could the rental rate of the new proposed two dwelling units be restricted to the same rent (or any level of rent) under the decision of *Palmer/Sixth St. Properties, L.P. v. City of Los Angeles* (2009) 175 Cal.App.4th 1396 ("*Palmer*"), discussed below.

In summary, the Mello Act is not triggered because the evidence does not establish that any of the occupants of the triplex are moderate or low income. Furthermore, even if it were triggered, the Replacement Unit Exception applies and, in any event, the replacement requirement is met.

Ventura County General Plan Policy 3.3.2-2(2)

GPP Policy 3.3.2-2(2) provides in pertinent part:

"Lower- and moderate-income rental housing located in the Coastal Zone shall be concurrently replaced within three miles, if feasible, when two or more such units are converted or demolished."

Given that the Proposed Project would result in the demolition of three rental housing units located in the Coastal Zone, the Proposed Project was reviewed under GPP Policy 3.3.2-2(2). However, the Proposed Project does not trigger the replacement requirements of Policy 3.3.2-2(2) for the following reasons.

First, as explained above under the Mello Act analysis, the evidence does not establish that the occupants of the rental Triplex units are low- or moderate-income.

Second, although the rental rates presently charged the existing occupants of the Triplex may be at rates deemed affordable to moderate-income people per CADHCD, the Triplex units are not legally enforceable low- and moderate-income rental housing.

The rental rates of the existing Triplex dwelling units are unrestricted and can be rented at market rates regardless of existing rental levels. The Triplex dwelling units are not subject to any rental rate restrictions such as rent control, mobile home park laws, inclusionary housing ordinance, subject to a density bonus, etc. The owner is not restricted by law from charging market rate for the existing Triplex units.

Third, implementation of Policy 3.3.2-2(2) (i.e., restricting the proposed new units to low- or moderate-income) is not legally feasible pursuant to *Palmer*. The court in *Palmer* held that the Costa-Hawkins Rental Housing Act – which authorizes developers to establish the initial rate for rental dwellings or units – preempts local laws which require affordable rental units. (Costa-Hawkins does not apply if the developer receives certain types of governmental financial assistance for the project, which is not the case here.) In other words, local governments may not mandate privately-funded developers to include affordable units in their rental projects.

Fourth, as explained above, replacing the existing Triplex residential units with another triplex or multi-family on the subject property would require a zone change to CRPD. As noted above, the Property cannot accommodate the requirements of the CRPD zone. Furthermore, under the CRPD standards, a new multi-family dwelling structure is not feasible and market rental rates could be charged anyway.

Fifth, there are no available sites. Planning Division staff assessed the feasibility of replacing the existing residential dwelling units within three miles of the Property (excluding the Cities of Oxnard and Port Hueneme). As noted, two properties are currently zoned CRPD but both are currently developed with a multi-family dwelling. Therefore, replacing the existing residential dwelling units is infeasible and the Proposed Project is consistent with GPP Policy 3.3.2-2(2).

Ventura County General Plan Goals, Policies and Programs

The Ventura County General Plan *Goals, Policies and Programs* (2015, page 4) states:

“...in the unincorporated area of Ventura County, zoning and any permits issued thereunder, any subdivision of land, any public works Project, any public (County, Special District, or Local Government) land acquisition or disposition, and any specific plan, must be consistent with the Ventura County General Plan Goals, Policies and Programs, and where applicable, the adopted Area Plan.”

The CZO (Section 8181-3.5.a) states that in order to be approved, a Coastal Planned Development Permit must be found consistent with all applicable policies of the Ventura County Coastal Area Plan.

Planning Division staff's analysis of the Proposed Project's consistency with the applicable policies of the Ventura County General Plan and Coastal Area Plan is set

forth in Section C of the staff report for the January 28, 2016, Planning Director hearing (Exhibit 1). With the adoption of Planning Division staff's recommended conditions of approval (Exhibit 3), the Proposed Project will comply with the policies of the Ventura County General Plan and Coastal Area Plan

Ventura County Coastal Zoning Ordinance

The Proposed Project is subject to the requirements of the CZO. See Section D of the staff report for the January 28, 2016, Planning Director hearing (Exhibit 1) for Planning Division staff's analysis of the Proposed Project's consistency with the applicable permitting requirements and development standards of the CZO. As explained and analyzed in the staff report, the Proposed Project will comply with the applicable permitting requirements and development standards of the CZO.

G. PREVIOUS HEARINGS AND ACTIONS BY COUNTY DECISION MAKERS

Planning Director Hearing of January 28, 2016 and Decision of February 25, 2016:

In accordance with Section 8174-5 of the CZO, the Planning Director is the County's initial decision-making authority for the requested PD Permit. On January 28, 2016, a Planning Director public hearing was conducted regarding the Proposed Project. Written and oral public testimony was presented at this hearing. The Planning Director approved the project on February 25, 2016 (Exhibit 9). On March 3, 2016, the Planning Director's decision was timely appealed by the Appellant to the Planning Commission (Exhibit 10).

Planning Commission Hearing and Decision of December 1, 2016

On December 1, 2016, a public hearing was held by the Planning Commission to consider the proposed project (Case No. PL15-0150). At the conclusion of the hearing, the Planning Commission voted 5-0 to grant the requested PD Permit. The Planning Commission heard approximately one hour of public testimony by staff and the Applicant's representative. The Planning Commission staff report, exhibits, public comment letters, and staff presentation are attached as Exhibit 2. Prior to the Planning Commission hearing, one written comment email was submitted by the appellant (Exhibit 11).

Public Comments

During the Planning Commission hearing, two public comment cards were turned in expressing opposition to the proposed project due to the height of the proposed structure. As stated in Section D of the Planning Director hearing staff report (Exhibit 1), the proposed structure is consistent with the permissible 28-foot tall maximum height as prescribed by the CZO.

H. APPEAL OF PLANNING COMMISSION DECISION

Grounds of Appeal and Staff Analysis:

The grounds of appeal listed in the appeal form for your Board's consideration raise the same issues that were the subject of the previous appeal to the Planning Commission. The grounds of appeal that are before your Board are listed below and in Exhibit 11 along with staff's analysis.

As set forth in the attachments, the supporting evidence/analysis/evaluation of the (proposed) project contain numerous fundamental flaws/errors (both legally and factually) and, in any event, do not justify the required findings to grant a Planned Development Permit (whether pursuant to Section 8181-3.5 of the Ventura County CZO or otherwise) with respect to the (proposed) project, and the (proposed) conditions of approval are inadequate to address such issues. The Planning Commission abused its discretion in approving the subject application/project.

As stated in Section D (above) of this staff report, the Planning Division has evaluated the Proposed Project's compliance with the Mello Act and GPP Policy 3.3.2-2(2) and determined the Proposed Project complies with both.

I. APPELLANT'S RECOMMENDATIONS:

The Appellant requests that your Board take the following actions:

- 1. Properly reevaluate the application and hold another hearing once such reevaluation has been completed; or*
- 2. Deny the application.*

J. NOTICE AND PUBLIC COMMENTS

The Planning Division provided public notice regarding the Board of Supervisors hearing in accordance with Government Code Section 65091 and the Ventura County CZO (§ 8181-6.2.1). The Planning Division mailed 67 notices to owners of property located within 300 feet of the project site and residents within 100 feet of the project site. The notice was posted on the Planning Division website and on March 11, 2017, a legal ad was placed in the *Ventura County Star*.

This Board item was reviewed by County Counsel, the Auditor-Controller and the County Executive Office. If you have any questions regarding this matter, please contact me at (805) 654-2481, or Matt Sauter at (805) 654-2492.



Kim L. Prillhart, Director
Ventura County Planning Division

Attachments:

- | | |
|------------|--|
| Exhibit 1 | Staff Report for the January 28, 2016 Planning Director hearing |
| Exhibit 2 | Staff Report for the December 1, 2016 Planning Commission hearing |
| Exhibit 3 | Conditions of Approval |
| Exhibit 4 | Appellant-submitted documents for appeal of Planning Commission decision |
| Exhibit 5 | Aerial Location, General Plan and Zoning Designations, and Land Use Maps |
| Exhibit 6 | California Government Code Section 65590 ("Mello Act") |
| Exhibit 7 | CADHCD 2016 Income Category Memo |
| Exhibit 8 | Assessor's Office Site Code Map |
| Exhibit 9 | Planning Director Approval Letter |
| Exhibit 10 | Appellant-submitted documents for appeal of Planning Director decision |
| Exhibit 11 | Email from Appellant to case planner prior to Planning Commission appeal hearing |



Planning Commission Staff Report – Hearing on December 1, 2016

County of Ventura • Resource Management Agency • Planning Division

800 S. Victoria Avenue, Ventura, CA 93009-1740 • (805) 654-2478 • ventura.org/rma/planning

KANCAL PROPERTIES PLANNED DEVELOPMENT (PD) PERMIT CASE NUMBER PL15-0150 – APPEAL OF THE PLANNING DIRECTOR DECISION REGARDING PD CASE NUMBER PL15-0150

A. PROJECT INFORMATION

1. **Request:** The Applicant requests approval of a PD Permit (Case No. PL15-0150) for the demolition of a multi-family dwelling (triplex) and construction of a two-family dwelling ("Project"). The Appellant requests that the Planning Commission require "(a) the Planning Division reevaluate the application and hold another hearing once such reevaluation has been completed or (b) deny the application," as stated in the Appellant's application (Exhibit 6).
2. **Appellant:** Marc Benezra, 3300 Ocean Drive, Oxnard, CA 93035
3. **Applicant/Property Owner:** Kancal Properties LLC, 2420 N. Woodlawn, Building 300, Wichita, KS 67200
4. **Applicant's Representative:** Walt Philipp, 950 County Square Drive #116, Ventura, CA 93003
5. **Decision-Making Authority:** Pursuant to the Ventura County Coastal Zoning Ordinance (CZO) (Section 8174-5 and Section 8181-3 *et seq.*), the Planning Director is the decision-maker for the requested PD Permit. Pursuant to CZO Section 8181-9.1(a), the Planning Commission shall consider appeals of Planning Director decisions.
6. **Project Site Size, Location, and Parcel Number:** The 0.09-acre property is located at 3289 Ocean Drive, near the intersection of Ocean Drive and Santa Ana Avenue, near the city of Oxnard, in the unincorporated area of Ventura County. The Tax Assessor's parcel number for the parcel that constitutes the Project site is 206-0-226-010 (Exhibit 2).
7. **Project Site Land Use and Zoning Designations:**
 - a. Countywide General Plan Land Use Map Designation: Existing Community – Urban Reserve (Exhibit 2)
 - b. Coastal Area Plan Land Use Map Designation: Residential High 6.1-36 dwelling units per acre (DU/ac) (Exhibit 2)
 - c. Zoning Designation: RBH (Residential Beach Harbor) (Exhibit 2)

8. Adjacent Zoning and Land Uses/Development (Exhibit 2):

Location in Relation to the Project Site	Zoning	Land Uses/Development
North	CRPD-25 du/ac (Coastal Residential Planned Development, 25 dwelling units per acre)	Residential (Multi-family)
East	RBH	Residential
South	RBH	Residential
West	COS-10 ac-sdf (Coastal Open Space, 10-acre minimum lot size-slope density formula)	Beach

- 9. History:** Planning Division staff reviewed the permitting and violation history of the existing triplex and subject property. The existing triplex has existed on the subject property since at least 1975; however, it is unclear as to exactly when the existing triplex was built prior to the oldest Building and Safety inspection record on file with the Resource Management Agency, dated May 20, 1975. The oldest Planning Division document associated with the subject property is Zoning Clearance 33637, dated November 9, 1977, for the addition of a second story including an additional bathroom to the triplex. No open or closed violation cases are associated with the subject property.

On February 25, 2016, the Planning Director approved the requested PD Permit subject to conditions of approval following the Planning Director hearing held on January 28, 2016. See the letter from Dan Klemann to Walt Philipp, dated February 25, 2016 ("Approval Letter") (Exhibit 3), staff report for the Planning Director hearing on January 28, 2016 (Exhibit 5), and conditions of approval that the Planning Director imposed on the PD Permit (Exhibit 4), which set forth the rationale for the Planning Director's decision to approve the requested PD Permit.

On March 3, 2016, Marc Benezra, the appellant, filed an appeal of the Planning Director's decision to approve the requested PD Permit for the reasons set forth in the appellant's appeal application (Exhibit 6) and discussed in Section C of this staff report (below).

- 10. Project Description:** The applicant is requesting approval of a PD Permit to demolish an existing triplex and then construct a two-family dwelling (Ventura CZO, Section 8174-5 and Section 8172-1, definition of "Dwelling, Two-Family").

The proposed two-family dwelling will include 5,684 square feet of floor space with an additional 898 square feet of garage space, and 799 square feet of deck space split between the two dwelling units. The proposed two-family dwelling will

be 28 feet tall as measured from the established flood clearance elevation. Each of the proposed dwelling units will have access to a two-car garage to accommodate a total of four parking spaces. Access to the proposed two-family dwelling from Ocean Drive will be provided by a 20-foot-long, 30-foot-wide driveway. No native vegetation will be removed as part of the proposed Project. The proposed two-family dwelling, as well as construction activities associated with the two-family dwelling, will not extend beyond the subject property.

The Channel Islands Beach Community Services District will continue to provide water and the City of Oxnard will continue to provide sewage disposal service for the continued residential use of the property. Ocean Drive will continue to provide access to the site (Exhibit 7).

B. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE

Pursuant to CEQA (Public Resources Code Section 21000 et seq.) and the CEQA Guidelines (Title 14, California Code of Regulations, Division 6, Chapter 3, Section 15000 et seq.), the proposed Project is subject to environmental review.

However, the proposed Project qualifies for a Class 3 (New Construction or Conversion of Small Structures) Categorical Exemption pursuant to Section 15303 of the CEQA Guidelines. The Class 3 exemption applies to Projects that involve the construction and location of limited numbers of new, small facilities or structures, such as a duplex or similar multi-family residential structure totaling not more than four dwelling units. As stated in Section A.9 of this staff report (above), the proposed Project consists of the demolition of an existing triplex and construction and use of a new two-family dwelling. Furthermore, none of the exceptions set forth in Section 15300.2 apply to the proposed Project. Therefore, this Project is categorically exempt pursuant to Section 15303 of the CEQA Guidelines.

C. APPELLANT'S GROUNDS OF APPEAL AND PLANNING DIVISION STAFF RESPONSES

The Appellant's request and two grounds of appeal are set forth in the appeal application materials that are attached to this staff report (Exhibit 6). As stated in the appeal application, the Appellant is requesting the Planning Commission to require "(a) the Planning Division reevaluate the application and hold another hearing once such reevaluation has been completed or (b) deny the application. The Appellant contends that the proposed Project does not comply with Ventura County General Plan Housing Preservation Policy 3.3.2-2(2) (Ground of Appeal No. 1), as well as the Ventura County General Plan Resources Policies 1.3.2-2 and 1.3.2-4 and Public Facilities and Services Policies 4.1.2-2 and 4.4.2-2 (Ground of Appeal No. 2).

The two grounds of appeal are reproduced verbatim below along with the Planning Division staff response. Some of the Appellant's grounds of appeal refer to comments that the Appellant provided to Planning Division staff prior to the Planning Director's

decision on the proposed Project, which are set forth in the Approval Letter (Exhibit 3) and repeated below, as applicable.

Ground of Appeal No. 1

Appellant's Statement: *Planning Division Response 2 [set forth in the Approval Letter (Exhibit 3) and repeated below] is inadequate. Among other things, (A) the response does not (1) state the relevance of a survey of beachfront, multi-family housing in the vicinity to the actual monthly rental value for the units in question (i.e., estimates and averages are irrelevant), (2) justify the relevance of beachfront units as the basis for its averages and/or estimates (to the extent they are relevant) for lower- and moderate-income units in the County overall, (3) identify the "vicinity", (4) identify the search parameters (to the extent such search is relevant), and (5) justify the use/accuracy of Zillow as an estimation mechanism (the Ventura County General Plan Annual Report for 2015 uses actual data when it can be "attained"), and (B) the conclusion (i.e., that demolition will not result in the loss of lower- and moderate-income rental units) does not follow and is in error. As set forth in the Ventura County General Plan Annual Report for 2015, Ventura County is significantly below its RHNA goals for the 2014-2021 Housing Element and can ill afford to allow for the demolition of lower- and moderate-income housing stock.*

Related Appellant Comment and Planning Division Response 2 from the Approval Letter:

Appellant Comment: The proposed Project appears to involve the demolition of 3 apparently "affordable" rental units in favor of 2 expensive for sale and/or rental units. The staff report does not reflect any evaluation of the Project relative to any General Plan and/or Coastal Plan access to and/or [sic] affordable housing element.

Planning Division Response 2: Ventura [County] General Plan Policy 3.3.2-2(2) states, "Lower- and moderate-income rental housing located in the Coastal Zone shall be concurrently replaced within three miles, if feasible, when two or more such units are converted or demolished." A survey of rental estimates for beachfront, multi-unit housing in the vicinity of the Project site, including the structure immediately across the beach accessway from the Project site, was conducted in order to estimate an average monthly rent value for this type of rental unit. The average estimated monthly rent of these units were approximately \$5,450 per month (Zillow, www.zillow.com accessed February 23, 2016). The current definition of a moderate-income rental property for Ventura County is \$1,787 to \$2,679 per month (Ventura County General Plan Annual Report for 2015, available at: <http://www.ventura.org/rma/planning/plans/general-plan/annual-report.html>). Therefore, the demolition of the triplex will not result in the loss of moderate-income rental units.

Staff Response to Ground of Appeal No. 1

The *Ventura County General Plan Goals, Policies and Programs* Housing Preservation Policy 3.3.2-2(2) states (in pertinent part): "Lower- and moderate-income rental housing located in the Coastal Zone shall be concurrently replaced within three miles, if feasible, when two or more such units are converted or demolished..." ("Coastal Affordable Housing Policy").

Housing Preservation Policy 3.3.2-2(2) is derived from Government Code §65590 *et seq.* (Mello Act) which states in part (Exhibit 8 - § 65590 Mello Act):

- (b) The conversion or demolition of existing residential dwelling units occupied by persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, shall not be authorized unless provision has been made for the replacement of those dwelling units with units for persons and families of low or moderate income. Replacement dwelling units shall be located within the same city or county as the dwelling units proposed to be converted or demolished. The replacement dwelling units shall be located on the site of the converted or demolished structure or elsewhere within the coastal zone if feasible, or, if location on the site or elsewhere within the coastal zone is not feasible, they shall be located within three miles of the coastal zone. The replacement dwelling units shall be provided and available for use within three years from the date upon which work commenced on the conversion or demolition of the residential dwelling unit. In the event that an existing residential dwelling unit is occupied by more than one person or family, the provisions of this subdivision shall apply if at least one such person or family, excluding any dependents thereof, is of low or moderate income.

Section subdivision (1) of section 65590 (b) then states exceptions:

"The requirements of this subdivision [(b)] for replacement dwelling units shall not apply to the following types of conversion or demolition unless the local government determines that replacement of all or any portion of the converted or demolished dwelling units is feasible, in which event replacement dwelling units shall be required: . .

- (1) The conversion or demolition of a residential structure which contains less than three dwelling units, or, in the event that a proposed conversion or demolition involves more than one residential structure, the conversion or demolition of 10 or fewer dwelling units."

Thus, the Coastal Affordable Housing Policy is taken directly from the Mello Act.

The first question under the Mello Act is whether the triplex units subject to demolition as part of the Project were "occupied by persons and families of low or moderate

income, as defined in Section 50093 of the Health and Safety Code". Planning Division staff reviewed the income categories of the existing triplex residents. The income limits for low- and moderate-income are based on the Area Median Income level for a 4-person household as provided by the California Department of Housing and Community Development (CADHCD) and defined in Section 50093 of the Health and Safety Code (CADHCD, 2016) (Exhibit 9). For Ventura County, the 2016 Area Median Income value for a 4-person household is \$89,300. The moderate-income category is defined as 80% to 120% of the Area Median Income value which results in an upper moderate-income limit for Ventura County of \$107,150.

Each of the three residential units on the subject property are currently inhabited by single-person households (i.e., Resident No. 1, Resident No. 2, and Resident No. 3). In order to convert the moderate-income value for a 4-person household (above) to that of single-person household, the 4-person household value is multiplied by an adjustment factor of 70% (California Department of Housing and Community Development, 2016). In the case of Ventura County, the maximum level of moderate-income for single-person households is \$75,000 annual gross income.

Planning Division staff contacted the three residents of the subject property to request relevant income information in order to determine whether the residents qualified as low- or moderate-income.

Resident No. 1 declined to provide income information to Planning Division staff. However, Resident No. 1 stated that he/she is the owner of two residences, one in the same neighborhood as the Project site and another in Oregon. Resident 1 maintains a rental at the subject Property in order to have a space immediately on the beach. Planning Division staff confirmed that Resident No. 1 does in fact own the local residence as described. Considering that Resident No. 1: (A) did not provide financial information to establish he/she is a person of low/moderate income; and, (B) would not be eligible for affordable housing because he/she owns other residences within the same community and in another state, Resident No. 1 does not qualify as a displaced low- or moderate-income resident.

Resident No. 2 also elected not to provide financial information.

Resident No. 3 provided financial information that demonstrates that his/her gross income level exceeds the maximum moderate-income level for a single-person household in Ventura County.

Based on the resident income-level assessment, the Mello Act requirements for replacement are not triggered for this Project because less than three dwelling units that are occupied by low- or moderate-income residents would be converted or demolished. Therefore, the proposed Project is in compliance with the Mello Act.

Given that the proposed Project includes the demolition of three housing units located within the Coastal Zone, the Project must also be reviewed for compliance with Coastal Affordable Housing Preservation Policy. However, the Project does not trigger the requirements of the Coastal Affordable Housing Preservation Policy for several reasons. First, as stated above, the evidence does not establish that the units to be demolished as part of the proposed Project are occupied by persons of low- or moderate-income.

Second, triplex units are not restricted/ rent control units and could be rented at market rates. The triplex unit is not subject to any rental rate restrictions such as rent control, mobile home park, inclusionary housing ordinance, a density bonus, etc. The owner is legally entitled to charge market rate for the triplex units. As noted above, rentals of ocean front units average \$5,450 per month, far above the low- or moderate-income rental rates.

Third, implementation of this policy (i.e., restricting the new units to low- or moderate-income) is not legally feasible vis a vis rental units. Pursuant to *Palmer/Sixth St. Properties, L.P. v. City of Los Angeles* (2009) 175 Cal. App. 4th 1396 ("*Palmer*"), local governments may not mandate privately-funded developers to include affordable units in their rental Projects. *Palmer* held that the Costa-Hawkins Rental Housing Act - which authorizes developers to establish the initial rate for rental dwellings or units - preempts local laws which require affordable rental units. (Costa-Hawkins does not apply if the developer receives certain types of governmental financial assistance for the Project, which is not the case here).

Fourth, replacing the existing triplex units with another triplex or multi-family unit would require a board approved zone change from the existing RBH zoning designation to Coastal Residential Planned Development (CRPD), the only coastal zoning designation that supports multi-family housing. The existing triplex is a legal, nonconforming use as it was constructed prior to the creation of the RBH zone designation. Furthermore, under the CRPD standards, it would be difficult to fit a multifamily structure on the property. And even if it could fit, the units could not be required to be affordable per *Palmer*.

Planning Division staff also assessed the feasibility of replacing the dwelling units within three miles of the Project within the County's jurisdiction (excluding the Cities of Oxnard and Port Hueneme). There are two locations currently zoned CRPD and both are currently developed with a multi-family dwelling. Therefore, replacing the dwelling units is infeasible and the proposed Project is consistent with Ventura County General Plan Policy 3.3.2-2(2).

Ground of Appeal No. 2

Appellant's Statement: *Planning Division Response 6 is inadequate. The original staff analyses was flawed as set forth in my initial comment #6 (which addressed all/various resource use). Planning Division's Response refers to the Ventura County Waterworks Manual and concludes that "water resources...will result in a net reduction of one half*

service" without addressing any other resources. Such conclusion neglects to address any other resources and is, therefore, in error.

Related Appellant Comment and Planning Division Response 6 from the Approval Letter:

Appellant Comment: The analysis in the staff report may be flawed. It evaluates the Project in terms of a "net reduction" in dwelling units. In fact it appears that the proposed Project could result in a net increase in usage of all resources inasmuch as the proposed Project contains 6 bedrooms (and 2 laundry rooms). Although, I'm unaware of the total number of bedrooms in the current 3-unit building, I venture to guess that it is not more than 6. Consequently, it does not appear appropriate to conclude that the new Project would result in a net reduction in the use of various resources.

Planning Division Response 6: Pursuant to the Ventura County Waterworks Manual Section 2.3.4.1 (Residential Areas), each unit of an apartment, duplex, or triplex building shall be counted as one-half service. Therefore, with regard to water resources the proposed Project will result in a net reduction of one half service.

Staff Response No. 2

The Appellant's statement refers (in part) to the "net reduction" in dwelling units analyzed in Section C.2 of the Planning Director hearing staff report (Exhibit 5). Section C.2 of the Planning Director hearing staff report analyzed the proposed Project's consistency with Ventura County General Plan Resources Policies 1.3.2-2 and 1.3.2-4 which are as follows:

- Resources Policy 1.3.2-2: *Discretionary development shall comply with all applicable County and State water regulations.*
- Resources Policy 1.3.2-4: *Discretionary development shall not significantly impact the quantity or quality of water resources within watershed, groundwater recharge areas or groundwater basins.*

Planning Division staff referred to the Ventura County Waterworks Manual and the County-approved water availability letter for the Channel Islands Beach Community Services District, to determine the net effect of the proposed Project with regard to water usage. The Waterworks Manual establishes uniform policies and procedures for the design and construction of water supply facilities including the determination of the water purveyor's ability to supply water to a given Project. Therefore, Planning Division staff's reliance on the Ventura County Waterworks Manual's definition of a "service connection"¹ was appropriate for determining the net effect—in this case, a net reduction—of the proposed Project with regard to water usage.

¹ "Each unit of an apartment, duplex, or triplex building and each mobile home space under 3,000 square feet shall be counted as one-half service." Ventura County Waterworks Manual, pg. 10, 2014.

Furthermore, Planning Division staff did, in fact, evaluate the proposed Project's impacts with regard to resources besides water. See Section C of the Planning Director hearing staff report for the January 28, 2016, hearing (Exhibit 5) that sets forth Planning Division staff's analysis of the proposed Project's consistency with the applicable General Plan and Coastal Area Plan policies regarding air quality, water resources, coastal beaches, sand dunes, coastal access, and environmentally sensitive habitat areas. As stated in the Planning Director hearing staff report and the Approval Letter, with the adoption of Planning Division staff's recommended conditions of approval (Exhibit 4), the proposed Project will comply with all of the applicable resource protection policies of the Ventura County General Plan and Coastal Area Plan.

Based on the above discussion, this ground of appeal is without merit.

D. CONSISTENCY WITH THE GENERAL PLAN

The Ventura County General Plan *Goals, Policies and Programs* (2015, page 4) states:

...in the unincorporated area of Ventura County, zoning and any permits issued thereunder, any subdivision of land, any public works Project, any public (County, Special District, or Local Government) land acquisition or disposition, and any specific plan, must be consistent with the Ventura County General Plan Goals, Policies and Programs, and where applicable, the adopted Area Plan.

Furthermore, the Ventura County CZO (Section 8181-3.5.a) states that in order to be approved, a Coastal PD Permit must be found consistent with all applicable policies of the Ventura County Coastal Area Plan.

Planning Division staff's analysis of the proposed Project's consistency with the applicable policies of the Ventura County General Plan and Coastal Area Plan is set forth in: Section C of the staff report for the January 28, 2016, Planning Director hearing (Exhibit 5); the Approval Letter (Exhibit 3); and Section D – Grounds of Appeal No. 1 of this staff report (above). With the adoption of Planning Division staff's recommended conditions of approval (Exhibit 4), the proposed Project will comply with the policies of the Ventura County General Plan and Coastal Area Plan.

E. ZONING ORDINANCE COMPLIANCE

The proposed Project is subject to the requirements of the Ventura County CZO. See Section D of the staff report for the January 28, 2016, Planning Director hearing (Exhibit 5) for Planning Division staff's analysis of the proposed Project's consistency with the applicable permitting requirements and development standards of the Ventura County CZO. As stated in the staff report, the proposed Project will comply with the applicable permitting requirements and development standards of the Ventura County CZO.

F. PD PERMIT FINDINGS AND SUPPORTING EVIDENCE

The Planning Commission must make certain findings in order to determine that the proposed Project is consistent with the permit approval standards of the Ventura County CZO (Section 8181-3.5 et seq.). The proposed findings and supporting evidence are as follows:

- 1. The proposed development is consistent with the intent and provisions of the County's Certified Local Coastal Program [Section 8181-3.5.a].**

Based on the information and analysis presented in Sections D and E of this staff report and, by reference, Sections C and D of the staff report for the January 28, 2016, Planning Director hearing (Exhibit 5), the finding that the proposed development is consistent with the intent and provisions of the County's Certified Local Coastal Program can be made.

- 2. The proposed development is compatible with the character of surrounding development [Section 8181-3.5.b].**

The proposed Project consists of a request to allow the demolition of an existing triplex and construction of a new two-family dwelling. The immediately surrounding parcels to the north, east, and south support similar residential development, whereas to the west of the Project site is the beach.

As discussed in Sections C and D of this staff report (above) and, by reference, Section C of the staff report for the January 28, 2016, Planning Director hearing (Exhibit 5), the proposed Project does not include a change of use that has the potential to create land use conflicts with surrounding residential and beach development, generate new traffic, or introduce physical development that is incompatible with the surrounding, legally established development. Furthermore, with the adoption of the recommended condition of approval to limit the days and times of noise-generating construction activities, the proposed Project will not generate noise that is incompatible with surrounding residential and beach uses. Therefore, the demolition of the existing triplex and construction of the proposed two-family dwelling will be consistent with the character of the surrounding, legally established development.

Based on the discussion above, this finding can be made.

- 3. The proposed development, if a conditionally permitted use, is compatible with planned land uses in the general area where the development is to be located [Section 8181-3.5.c].**

The proposed Project consists of a request for approval of a PD Permit to demolish an existing triplex and construct a new two-family dwelling. This use is

not a conditionally permitted use and, therefore, the requirement of this finding does not apply.

4. The proposed development would not be obnoxious or harmful, or impair the utility of neighboring property or uses [Section 8181-3.5.d].

The proposed demolition of the existing triplex and construction of a new two-family dwelling will not expand the current permitted use of the subject property. As discussed in Section C of the staff report for the January 28, 2016, Planning Director hearing (Exhibit 5), the proposed Project does not include any new physical development that may interfere with surrounding residential and beach uses on other properties located within the vicinity of the subject property. The proposed Project will result in a net reduction in traffic generation, water demand, and demand for sewage disposal services, and existing public services are adequate to serve the proposed development along with existing residential development on neighboring property. Furthermore, as discussed in Section C of the staff report for the January 28, 2016, Planning Director hearing (Exhibit 5), the proposed Project will comply with the maximum building height, minimum building setback, and maximum building coverage standards of the RBH zone. Therefore, the demolition of the existing triplex and construction of the new two-family dwelling will not be obnoxious or harmful, or impair the utility of neighboring properties or uses.

Based on the discussion above, this finding can be made.

5. The proposed development would not be detrimental to the public interest, health, safety, convenience, or welfare [Section 8181-3.5.e].

The proposed demolition of the existing triplex and construction of a new two-family dwelling will not expand the current permitted use of the subject property. As discussed in Section C of the staff report for the January 28, 2016, Planning Director hearing (Exhibit 5), adequate public resources and infrastructure exist to serve the new two-family dwelling. The Channel Islands Beach Community Services District will continue to provide water, and the City of Oxnard Sewer Service will continue to provide sewage disposal to the subject property. Furthermore, the proposed Project will not generate new traffic, and Ocean Drive and the surrounding public road network are adequate to continue serving the new, two-family dwelling. Therefore, the proposed demolition of the existing triplex and construction of the two-family dwelling will not be detrimental to the public interest, health, safety, convenience, or welfare.

Based on the discussion above, this finding can be made.

G. PLANNING COMMISSION HEARING NOTICE, PUBLIC COMMENTS, AND JURISDICTIONAL COMMENTS

The Planning Division provided public notice regarding the Planning Commission hearing in accordance with the Government Code (Section 65091) and Ventura County CZO (Section 8181-6.2 et seq.). The Planning Division mailed notice to owners of property within 300 feet and residents within 100 feet of the property on which the Project site is located and placed a legal ad in the *Ventura County Star*. Planning Division staff received a total of six comments, all from the appellant, on the day of the January 28, 2016, Planning Director hearing. See the Approval Letter (Exhibit 3) and Section C of this staff report (above) for the appellant's comments and Planning Division staff's responses to the appellant's comments. As of the date of this document, Planning Division staff has not received any other comments regarding the proposed Project.

H. APPEAL FEES

Pursuant to the current Board of Supervisors-adopted Planning Division Fee Schedule, if a project is appealable to the Coastal Commission, and unless the Coastal Commission approves an ordinance amendment authorizing a fee, no fee is required to appeal a Project. To date, the Coastal Commission has not approved any such ordinance amendment authorizing a fee. Therefore, no fee is required to process the appeal of the Planning Director's determination to approve the requested PD Permit.

I. APPELLANT'S RECOMMENDED ACTIONS

The Appellant requests that the Planning Commission take the following action:

Either (a) properly reevaluate the application and hold another hearing once such reevaluation has been completed or (b) deny the application.

By considering the PD Permit application and conducting the Planning Commission hearing on December 1, 2016, the Planning Commission will have satisfied Appellant's request in option "(a)". Because your Commission can make the findings necessary to approve the Project, the Project application should not be denied as requested by Appellant in option "(b)".

J. STAFF RECOMMENDED ACTIONS

Based upon the analysis and information provided above, Planning Division Staff recommends that the Planning Commission take the following actions:

1. **CERTIFY** that the Planning Commission has reviewed and considered this staff report and all exhibits thereto, and has considered all comments received during the public comment process;

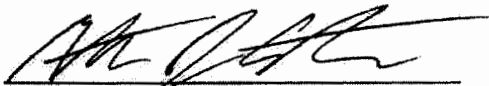
2. **FIND** that this Project is categorically exempt from CEQA pursuant to Section 15303 of the CEQA Guidelines;
3. **MAKE** the required findings to grant a PD Permit pursuant to Section 8181-3.5 of the Ventura County CZO, based on the substantial evidence presented in Section F of this staff report and the entire record;
4. **GRANT** PD Permit PL15-0150, subject to the conditions of approval (Exhibit 4);
5. **DENY** the Appellant's appeal; and
6. **SPECIFY** that the Clerk of the Planning Commission is the custodian, and 800 S. Victoria Avenue, Ventura, CA 93009 is the location, of the documents and materials that constitute the record of proceedings upon which this decision is based.

The decision of the Planning Commission is final unless appealed to the Board of Supervisors within 10 calendar days after the PD permit has been approved, conditionally approved, or denied (or on the following workday if the 10th day falls on a weekend or holiday). Any aggrieved person may file an appeal of the decision with the Planning Division. The Planning Division shall then set a hearing date before the Board of Supervisors to review the matter at the earliest convenient date.

County Counsel has reviewed this Staff Report.

If you have any questions concerning the information presented above, please contact Matt Sauter at (805) 654-2492 or matthew.sauter@ventura.org.

Prepared by:


Matt Sauter, Case Planner
Residential Permits Section
Ventura County Planning Division

Reviewed by:


Kim L. Prillhart, Director
Ventura County Planning Division

EXHIBITS

- Exhibit 2 – Aerial Location, General Plan and Zoning Designations, and Land Use Maps
- Exhibit 3 – PL15-0150 Approval Letter, dated February 25, 2016
- Exhibit 4 – PL15-0150 Conditions of Approval
- Exhibit 5 – PL15-0150 Staff Report for Planning Director Hearing on January 28, 2016
- Exhibit 6 – Appellant's Appeal Application
- Exhibit 7 – Proposed Plans
- Exhibit 8 – Mello Act (Government Code § 65590)
- Exhibit 9 – California Department of Housing and Community Development memo, 2016



Planning Director Staff Report – Hearing on January 28, 2016

County of Ventura • Resource Management Agency • Planning Division

800 S. Victoria Avenue, Ventura, CA 93009-1740 • (805) 654-2478 • ventura.org/rma/planning

KANCAL PROPERTIES DUPLEX PLANNED DEVELOPMENT (PD) PERMIT, PL15-0150

A. PROJECT INFORMATION

1. **Request:** The applicant requests approval of a PD Permit (Case No. PL15-0150) for the demolition of a multi-family dwelling (triplex) and construction of a two-family dwelling.
2. **Applicant/Property Owner:** Kancal Properties, LLC, 2420 N. Woodlawn, Building 300, Wichita, Kansas, 67200
3. **Applicant's Representative:** Mr. Walt Philipp, 950 County Square Drive #116, Ventura, CA 93003
4. **Decision-Making Authority:** Pursuant to the Ventura County Coastal Zoning Ordinance (CZO) (Section 8174-5 and Section 8181-3 et seq.), the Planning Director is the decision-maker for the requested PD Permit.
5. **Project Site Size, Location, and Parcel Number:** The 0.09 acre property is located at 3289 Ocean Drive, near the intersection of Ocean Drive and Santa Ana Avenue, near the city of Oxnard, in the unincorporated area of Ventura County. The Tax Assessor's parcel number for the parcel that constitutes the project site is 206-0-226-010 (Exhibit 2).
6. **Project Site Land Use and Zoning Designations:**
 - a. Countywide General Plan Land Use Map Designation: Existing Community – Urban Reserve (Exhibit 2)
 - b. Coastal Area Plan Land Use Map Designation: Residential High 6.1-36 dwelling units/acre (DU/ac) (Exhibit 2)
 - c. Zoning Designation: RBH (Residential Beach Harbor) (Exhibit 2)

7. Adjacent Zoning and Land Uses/Development (Exhibit 2):

Location in Relation to the Project Site	Zoning	Land Uses/Development
North	CRPD-25 du/ac (Coastal Residential Planned Development, 25 dwelling units)	Residential (Multi-Family)

Location in Relation to the Project Site	Zoning	Land Use/Development
	per acre)	
East	RBH	Residential
South	RBH	Residential
West	COS-10 ac-sdf (Coastal Open Space, 10 acre minimum lot size-slope density formula)	Beach

8. History: Planning Division staff reviewed the permitting and violation history of the existing triplex and subject property. The existing triplex has existed on the subject property since at least 1975; however, it is unclear as to exactly when the existing triplex was built prior to oldest Building and Safety inspection record, dated May 20, 1975. The oldest Planning Division document associated with the subject property is Zoning Clearance 33637, dated November 9, 1977, for the addition of a second story including an additional bathroom to the triplex. No open or closed violation cases are associated with the subject property.

9. Project Description: The applicant is requesting approval of a PD Permit to demolish an existing triplex and then construct a two-family dwelling (Ventura CZO, Section 8174-5 and Section 8172-1, definition of "Dwelling, Two-Family").

The proposed two-family dwelling will include 5,684 square feet of floor space with an additional 898 square feet of garage space, and 799 square feet of deck space split between the two dwelling units. The proposed two-family dwelling will be 28 feet tall as measured from the established flood clearance elevation. Each of the proposed dwelling units will have access to a two-car garage to accommodate a total of four parking spaces. Access to the proposed two-family dwelling from Ocean Drive will be provided by a 20 foot long, 30 foot wide driveway. No native vegetation will be removed as part of the proposed project. The proposed two-family dwelling, as well as construction activities associated with the two-family dwelling, will not extend beyond the subject property.

The Channel Islands Beach Community Services District will continue to provide water and the City of Oxnard will continue to provide sewage disposal service for the continued residential use of the property. Ocean Drive will continue to provide access to the site (Exhibit 3).

B. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE

Pursuant to CEQA (Public Resources Code Section 21000 et seq.) and the CEQA Guidelines (Title 14, California Code of Regulations, Division 6, Chapter 3, Section 15000 et seq.), the subject application is a "project" that is subject to environmental review.

The State Legislature through the Secretary for Resources has found that certain classes of projects are exempt from CEQA environmental impact review because they

do not have a significant effect on the environment. These projects are declared to be categorically exempt from the requirement for the preparation of environmental impact documents.

The proposed project qualifies for a Class 3 (New Construction or Conversion of Small Structures) Categorical Exemption pursuant to Section 15303 of the CEQA Guidelines. The Class 3 exemption applies to projects that involve the construction and location of limited numbers of new, small facilities or structures, specifically in this case, a duplex or similar multi-family residential structure totaling not more than four dwelling units. As stated in Section A.9 of this staff report (above), the proposed project consists of the demolition of an existing triplex and construction and use of a new two-family dwelling. Furthermore, none of the exceptions set forth in Section 15300.2 apply to the proposed project. Therefore, this project is categorically exempt pursuant to Section 15303 of the CEQA Guidelines.

C. CONSISTENCY WITH THE GENERAL PLAN

The Ventura County General Plan *Goals, Policies and Programs* (2015, page 4) states:

...in the unincorporated area of Ventura County, zoning and any permits issued thereunder, any subdivision of land, any public works project, any public (County, Special District, or Local Government) land acquisition or disposition, and any specific plan, must be consistent with the Ventura County General Plan Goals, Policies and Programs, and where applicable, the adopted Area Plan.

Furthermore, the Ventura County CZO (Section 8181-3.5.a) states that in order to be approved, a Coastal PD Permit must be found consistent with all applicable policies of the Ventura County Coastal Area Plan.

Evaluated below is the consistency of the proposed project with the applicable policies of the General Plan *Goals, Policies and Programs* and Coastal Area Plan.

- 1. Resources Policy 1.1.2-1:** *All General Plan amendments, zone changes and discretionary development shall be evaluated for their individual and cumulative impacts on resources in compliance with the California Environmental Quality Act.*

Resources Policy 1.1.2-2: *Except as otherwise covered by a more restrictive policy within the Resources Chapter, significant adverse impacts on resources identified in environmental assessments and reports shall be mitigated to less than significant levels or, where no feasible mitigation measures are available, a statement of overriding considerations shall be adopted.*

As discussed in Section B of this staff report (above), the proposed project's individual impacts and contribution to cumulative impacts to resources have been reviewed by the Lead Agency in compliance with CEQA. The proposed project is categorically exempt from environmental review pursuant to Section 15303 (New

Construction or Conversion of Small Structures) of the CEQA Guidelines, and will not create a significant adverse impact to resources.

Based on the discussion above, the proposed project is consistent with Policies 1.1.2-1 and 1.1.2-2.

2. **Resources Policy 1.3.2-2:** *Discretionary development shall comply with all applicable County and State water regulations.*

Resources Policy 1.3.2-4: *Discretionary development shall not significantly impact the quantity or quality of water resources within watershed, groundwater recharge areas or groundwater basins.*

The proposed project includes the demolition of an existing triplex and construction and use of a two-family dwelling. The net reduction in number of dwelling units would reduce the water supply service connections to the property. The Channel Islands Beach Community Services District will continue to provide water for the property, and the City of Oxnard will continue to provide sewage disposal service for the continued residential use of the subject property. Therefore, the proposed project will not significantly impact the quantity or quality of water resources.

Based on the discussion above, the proposed project is consistent with Policies 1.3.2-2 and 1.3.2-4.

3. **Resources Policy 1.10.2-1:** *Discretionary development which would cause significant impacts to coastal beaches or sand dunes shall be prohibited unless the development is conditioned to mitigate the impacts to less than significant levels.*

Resources Policy 1.10.2-2: *Discretionary developments which would result in the removal of dune vegetation shall be conditioned to replace the vegetation.*

The proposed demolition of the existing triplex and construction of a two-family dwelling does not include ground disturbance or grading impacts that would extend beyond the boundaries of the subject property (Exhibit 4, Condition No. 3), on the adjacent beach, or within areas that have dune vegetation. Therefore, the proposed project will not cause significant impacts to coastal beaches or result in the removal of dune vegetation.

Based on the discussion above, the proposed project is consistent with Policies 1.10.2-1 and 1.10.2-2.

4. **Hazards Policy 2.12.2-2:** *Discretionary development in areas adjacent to coastal beaches shall be allowed only if the Public Works Agency with technical support from the Ventura County Watershed Protection District, determines from the applicant's submitted Wave Run-Up Study that wave action and beach erosion are not hazards to the proposed development, or that the hazard would be mitigated to a less-than-significant level, and that the project will not contribute significantly to beach erosion.*

Pursuant to the California Coastal Commission's Coastal Sea Level Rise Policy Guidance, the provided Coastal Hazard and Wave Runup Study (GeoSoils Inc., September 2015) analyzed sea level rise in the area of the project, impacts that sea level rise may have on the project area, and how the project may impact coastal resources in the context of sea level rise.

Sea level rise in the project area, defined as the Santa Barbara Littoral Cell, was assessed based on the Highest Water recorded on January 19, 1992, of 8.10 feet above the North American Vertical Datum 1988 (NAVD88) and in 50 year increments. The projected high sea level rise estimate is +2.2 above NAVD88 feet in 50 years and in 100 years about +5.5 feet above NAVD88. Incorporating the highest water level of 8.10 feet results in a future design maximum sea level of +10.3 feet above NAVD88 in 50 years and a future design maximum sea level of +13.6 feet above NAVD88 in 100 years. The Coastal Hazard and Wave Runup Study used these values for assessing impacts associated with sea level rise and the proposed project.

Impacts associated with sea level rise identified in the Coastal Hazard and Wave Runup Study include shoreline erosion, flooding, and wave runup. The current beach is stabilized by the Channel Island Harbor jetty to the southeast and the periodic placement of sand on the nearby beaches from channel dredging and the breakwater for the harbor entrance shelters a portion of the shoreline from incoming ocean swells (GeoSoils, 2015). The study determined that the current beach is wide enough (over 500 feet, as measured from the subject property to the Mean High Tide line) is sufficient to allow for significant short term erosion without eroding to the point where the residence will be subject to wave or wave runup attack. The study analyzed the potential for long-term beach erosion by assuming an erosion rate of 1.0 feet per year, the shoreline may narrow about 75 to 100 feet over the 75 to 100 year life of the project. The beach can migrate about 100 feet landward in the future and still not result in any inundation of the project site. The proposed project is located outside the 100-year floodplain and would be reasonably safe from flooding because of the very wide beach and existing drainage paths away from the proposed project. With respect to wave attack and wave runup, the proposed two-family residence is safe from wave attack and wave runup (GeoSoils, 2015).

The proposed project will not extend beyond the boundaries of the subject property (Exhibit 4, Condition No. 3) and, therefore, does not have the potential to contribute to beach erosion or impact sensitive biological habitats by, for example, construction of a new structure on the beach or the construction of a shoreline protection structure.

Based on the discussion above, the proposed project is consistent with Policy 2.12.2-2.

5. **Hazards Policy 2.13.2-1:** *All applicants for discretionary permits shall be required, as a condition of approval to provide adequate water supply and access for fire protections and evacuation purposes.*

As stated in this staff report (above), the Channel Islands Beach Community Services District will continue to provide water to the subject property. The Ventura County Fire Protection District (VCFPD) reviewed the proposed project, and determined that the existing water supply and Ocean Drive are adequate for fire protection purposes.

Based on the discussion above, the proposed project is consistent with Policy 2.13.2-1.

- 6. Hazards Policy 2.16.2-1:** *All discretionary development shall be reviewed for noise compatibility with surrounding uses> noise compatibility shall be determined from a consistent set of criteria based on the standards listed below. An acoustical analysis by a qualified acoustical engineer shall be required of discretionary developments involving noise exposure or noise generation in excess of the established standards. The analysis shall provide documentation of existing and projected noise levels at on-site and off-site receptors, and shall recommend noise control measures for mitigating adverse impacts.*

- (1) Noise sensitive uses proposed to be located near highways, truck routes, heavy industrial activities and other relatively continuous noise sources shall incorporate noise control measures so that:*

- a. Indoor noise levels in habitable rooms do not exceed CNEL 45.*
- b. Outdoor noise levels do not exceed CNEL 60 or $L_{eq}1H$ of 65dB(A) during any hour.*

- (2) Noise sensitive uses proposed to be located near railroads shall incorporate noise control measures so that:*

- a. Guidelines (1)a. and (1)b. above are adhered to.*
- b. Outdoor noise levels do not exceed L_{10} of 60dB(A).*

- (3) Noise sensitive uses proposed to be located near airports:*

- a. Shall be prohibited if they are in a CNEL 65 or greater, noise contour.*
- b. Shall be permitted in the CNEL 60 to CNEL 65 noise contour area only if means will be taken to ensure interior noise levels of CNEL 45 or less.*

- (4) Noise generators, proposed to be located near any noise sensitive use, shall incorporate noise control measures so that ongoing outdoor noise levels received by the noise sensitive receptor, measured at the exterior wall of the building, does not exceed any of the following standards:*

- a. $L_{eq}1H$ of 55dB(A) or ambient noise level plus 3dB(A), whichever is greater, during any hour from 6:00 a.m. to 7:00 p.m.*
- b. $L_{eq}1H$ of 50dB(A) or ambient noise level plus 3dB(A), whichever is greater, during any hour from 7:00 p.m. to 10:00 p.m.*
- c. $L_{eq}1H$ of 45dB(A) or ambient noise level plus 3dB(A), whichever is greater, during any hour from 10:00 p.m. to 6:00 a.m.*

Section 2.16.2(4) is not applicable to increased traffic noise along any of the roads identified within the 2020 Regional Roadway Network (Figure 4.2.3) Public Facilities Appendix of the Ventura County General Plan (see 2.16.2-1(1)). In addition, State and Federal highways, all railroad line operations, aircraft in flight, and public utility facilities are noise generators having Federal and State regulations that preempt local regulations.

- (5) *Construction noise shall be evaluated and, if necessary, mitigated in accordance with the County Construction Noise Threshold Criteria and Control Plan.*

The proposed two-family dwelling will be a noise sensitive use but is not located near: highways, truck routes, heavy industrial activities, or other relatively continuous noise sources; railroads; or airports. Additionally, the residential use of the property is not considered a noise generator that will adversely affect any nearby noise sensitive uses (e.g., existing, surrounding residences). However, the proposed project will involve noise-generating construction activities that have the potential to adversely affect surrounding residential uses. Therefore, pursuant to the requirements of the Ventura County *Construction Noise Threshold Criteria and Control Plan*, the proposed project will be subject to a condition of approval to limit noise-generating activities to the days and times when construction noise is least likely to adversely affect surrounding residential uses (Exhibit 4, Condition No. 15).

Based on the discussion above, the proposed project is consistent with Policy 2.16.2-1.

- 7. Public Facilities and Services Policy 4.1.2-1:** *Discretionary development shall be conditioned to contribute land, improvements or funds toward the cost of needed public improvements and services related to the proposed development.*

The proposed project consists of the demolition of an existing triplex and construction of a new two-family dwelling. As discussed in the proposed project description (Section A.9 of this staff report, above), the Channel Islands Beach Community Services District provides water and the City of Oxnard Sewer Service provides sewage disposal service for the subject property. Furthermore, an existing, private driveway to Ocean Drive will continue to provide access to the site. No expansion of public facilities is required in order to allow the use of the proposed two-family dwelling.

In addition, the proposed project does not include an expansion of the residential use of the subject property beyond what is currently allowed. Therefore, the proposed project will not require any public improvements and services beyond what currently exists for the current residential use of the subject property.

Based on the discussion above, the proposed project is consistent with Policy 4.1.2-1.

- 8. Public Facilities and Services Policy 4.1.2-2:** *Development shall only be permitted in those locations where adequate public services are available (functional), under physical construction or will be available in the near future.*

As discussed in Section C.2 of this staff report (above), adequate public services are currently available (functional) for the proposed project. The Channel Islands Beach Community Services District and City of Oxnard Sewer Service provides sewage disposal, for the subject property. The proposed project will not increase water or sewage demand. Furthermore, the proposed project will not increase traffic along Ocean Drive or other roads that afford public access to the project site. Therefore, no improvements to the existing public roadway system are required for the proposed use of the two-family dwelling.

Based on the discussion above, the proposed project is consistent with Policy 4.1.2-2.

- 9. Public Facilities and Services Policy 4.3.2-1:** *Development that requires potable water shall be provided a permanent potable water supply of adequate quantity and quality that compiles with applicable County and State water regulations. Water systems operated by or receiving water from Casitas Municipal Water District, the Calleguas Municipal Water District or the United Water Conservation District will be considered permanent supplies unless an Urban Water Management Plan (prepared pursuant to Part 2.6 of Division 6 of the Water Code) or a water supply and demand assessment (prepared pursuant to Part 2.10 of Division 6 of the Water Code) demonstrates that there is insufficient water supply to serve cumulative development within the district's service area. When the proposed water supply is to be drawn exclusively from wells in areas where groundwater supplies have been determined by the Environmental Health Division or the Public Works Agency to be questionable or inadequate, the developer shall be required to demonstrate the availability of a permanent potable water supply for the life of the project.*

The Channel Islands Beach Community Services District currently serves, and will continue to serve, the project site. The proposed demolition of the existing triplex and construction of a two-family dwelling will reduce, rather than increase, water demand.

Based on the discussion above, the proposed project is consistent with Policy 4.3.2-1.

- 10. Public Facilities and Services Policy 4.4.2-2:** *Any subdivision, or discretionary change in land use having a direct effect upon the volume of sewage, shall be required to connect to a public sewer system. Exceptions to this policy to allow the use of septic systems may be granted in accordance with County Sewer Policy. Installation and maintenance of septic systems shall be regulated by the County Environmental Health Division in accordance with the County's Sewer Policy, County Building Code, and County Service Area 32.*

The proposed project includes the demolition of an existing triplex and construction of a new two-family dwelling. The City of Oxnard Sewer Service

currently provides sewer service for the subject property, and will continue to do so for the proposed project. The proposed project will not increase the volume of sewage as the proposed project will result in a net decrease of one dwelling unit on the subject property. Furthermore, the Resource Management Agency, Environmental Health Division staff reviewed the proposed project and determined that the existing sewer connection is adequate to continue to serve the proposed duplex.

Based on the discussion above, the proposed project is consistent with Policy 4.4.2-2.

- 11. Public Facilities and Services Policy 4.8.2-1:** *Discretionary development shall be permitted only if adequate water supply, access and response time for fire protection can be made available.*

As discussed in this staff report (above), the Channel Islands Beach Community Services District will continue to provide water to the project site. The nearest full-time fire station to the project site is City of Oxnard Station #6 which is located approximately 1.5 miles away from the project site via Channel Islands Boulevard, Harbor Boulevard, and Santa Ana Avenue. The VCFPD reviewed the proposed project, and found that adequate water supply, access, and response time exist to serve the proposed project.

Based on the discussion above, the proposed project is consistent with Policy 4.8.2-1.

- 12. Coastal Area Plan – Shoreline Access Section 30211:** *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Coastal Area Plan – Shoreline Access Section 30212: *Public access from the nearest public roadway to the shoreline along the coast shall be provided in new development projects except where (a) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

An existing, dedicated accessway exists adjacent to the subject property, between the subject property and the nearest neighbor to the north, that provides access from Ocean Drive to the nearest public beach located immediately adjacent to the subject property. The proposed development will not extend beyond the boundaries of the subject property, such that it would impede any shoreline access routes (Exhibit 4, Condition No. 3). Therefore, the proposed development will not interfere with the public's right of access to the sea and will not require development of new, dedicated accessways to the public beach.

Based on the discussion above, the proposed project is consistent with Sections 30211 and 30212 of the Coastal Act.

13. Coastal Area Plan – Environmentally Sensitive Habitat Areas Section 30240:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.*
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*

The subject property is located approximately 230 feet landward from beach dunes that are mapped as potential western snowy plover habitat. The proposed development and associated construction activities and materials will not extend beyond the boundaries of the subject property (Exhibit 4, Condition No. 3), such that it would disrupt habitat values or significantly degrade these environmentally sensitive habitat areas.

Based on the discussion above, the proposed project is consistent with Section 30240 of the Coastal Act.

13. Coastal Area Plan – Beach Erosion and Shoreline Structures Section 30253: New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazards.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

The subject property is not located within any high fire hazard areas or near any active geologic faults. Additionally, as discussed in this staff report (above), the subject property is not located within the 100-year floodplain. The proposed development will not include development beyond the existing boundaries of the subject property (Exhibit 4, Condition No. 3). Furthermore, the proposed development will not require the construction of shoreline protective devices (Exhibit 6). Therefore, the proposed development will not contribute to beach erosion or alteration of natural landforms along the adjacent shoreline or require construction of shoreline protection devices.

Based on the discussion above, the proposed project is consistent with Section 30253 of the Coastal Act.

14. Coastal Area Plan Housing Section 30250(a): New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas

able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

The proposed project is sited within the Existing Community – Urban Reserve General Plan designation and is surrounded on all sides, excluding the adjacent beach, by residential development. As discussed in this staff report (above), the proposed project will result in a net reduction of one dwelling unit on the subject property and, therefore, will reduce water demand, sewage generation, and traffic generation, when compared to existing conditions. Furthermore, the existing public services, including public roadways, are adequate to serve the proposed development.

Based on the discussion above, the proposed project is consistent with Section 30250(a) of the Coastal Act.

D. ZONING ORDINANCE COMPLIANCE

The proposed project is subject to the requirements of the Ventura County CZO.

Pursuant to the Ventura County Ventura County CZO (Section 8174-4), the proposed use is allowed in the RBH zone district with the granting of a PD Permit. Upon the granting of the PD Permit, the proposed project will comply with this requirement.

The proposed project includes the construction and use of buildings and structures that are subject to the development standards of the Ventura County CZO (Section 8175-2). Table 1 lists the applicable development standards and a description of whether the proposed project complies with the development standards.

Table 1 – Development Standards Consistency Analysis

Type of Requirement	Zoning Ordinance Requirement	Complies?
Minimum Lot Area (Gross)	3,000 square feet per two-family dwelling	Yes, the subject property is 3,967 square feet
Maximum Percentage of Building Coverage	65%	Yes, the proposed two-family dwelling will cover 57 percent of the subject property.
Front Setback	20 feet	Yes, the proposed two-family dwelling will be set back 20 feet – 8.5 inches from Ocean Drive.
Side Setback	3 feet	Yes, the proposed two-family dwelling will be set back 3 feet – 1 inch from

Table 1 – Development Standards Consistency Analysis

Type of Requirement	Zoning Ordinance Requirement	Complies?
Rear Setback	6 feet	each side property line. Yes, the proposed two-family dwelling will be set back 6 feet from the rear property line.
Maximum Building Height	28 feet	Yes, the proposed two-family dwelling will be 28 feet tall measured from the 14.06 foot flood clearance level.

E. PD PERMIT FINDINGS AND SUPPORTING EVIDENCE

The Planning Director must make certain findings in order to determine that the proposed project is consistent with the permit approval standards of the Ventura County CZO (Section 8181-3.5 et seq.). The proposed findings and supporting evidence are as follows:

1. The proposed development is consistent with the intent and provisions of the County's Certified Local Coastal Program [Section 8181-3.5.a].

Based on the information and analysis presented in Sections C and D of this staff report, the Planning Director can make the finding that the proposed development is consistent with the intent and provisions of the County's Certified Local Coastal Program.

2. The proposed development is compatible with the character of surrounding development [Section 8181-3.5.b].

The proposed project consists of a request to allow the demolition of an existing triplex and construction of a new two-family dwelling. The immediately surrounding parcels to the north, east, and south support similar residential development, whereas to the west of the project site is beach.

As discussed in Section C of this staff report (above), the proposed project does not include a change of use that has the potential to create any land use conflicts with surrounding residential and beach development, generate new traffic, or introduce physical development that is incompatible with the surrounding, legally established development. Furthermore, as discussed in Section C.5 of this staff report (above)—with the adoption of the recommended condition of approval to limit the days and times of noise-generating construction activities—the proposed project will not generate noise that is incompatible with surrounding residential and beach uses. Therefore, the demolition of the existing triplex and construction of the proposed two-family dwelling will be consistent with the character of the surrounding, legally established development.

Based on the discussion above, this finding can be made.

3. **The proposed development, if a conditionally permitted use, is compatible with planned land uses in the general area where the development is to be located [Section 8181-3.5.c].**

The proposed project consists of a request for approval of a PD Permit to demolish an existing triplex and construct a new two-family dwelling. This use is not a conditionally permitted use and, therefore, the requirement of this finding does not apply.

4. **The proposed development would not be obnoxious or harmful, or impair the utility of neighboring property or uses [Section 8181-3.5.d].**

The proposed demolition of an existing triplex and construction of a new two-family dwelling will not expand the current permitted use of the subject property. As discussed in Section C of this staff report (above), the proposed project does not include any new physical development that may interfere with surrounding residential and beach uses on other properties located within the vicinity of the subject property. The proposed project will result in a net reduction in traffic generation, water demand, and demand for sewage disposal services, and existing public services are adequate to serve the proposed development along with existing residential development on neighboring property. Furthermore, as discussed in Section D of this staff report (above), the proposed project will comply with the maximum building height, minimum building setback, and maximum building coverage standards of the RBH zone. Therefore, the demolition of the existing triplex and construction of the new two-family dwelling will not be obnoxious or harmful, or impair the utility of neighboring properties or uses.

Based on the discussion above, this finding can be made.

5. **The proposed development would not be detrimental to the public interest, health, safety, convenience, or welfare [Section 8181-3.5.e].**

The proposed demolition of the existing triplex and construction of a new two-family dwelling will not expand the current permitted use of the subject property. As discussed in Section C of this staff report (above), adequate public resources and infrastructure exist to serve the new two-family dwelling. The Channel Islands Beach Community Services District will continue to provide water, and the City of Oxnard Sewer Service will continue to provide sewage disposal to the subject property. Furthermore, the proposed project will not generate new traffic, and Ocean Drive and the surrounding public road network are adequate to continue serving the new, two-family dwelling. Therefore, the proposed

demolition of the existing triplex and construction of the two-family dwelling will not be detrimental to the public interest, health, safety, convenience, or welfare.

Based on the discussion above, this finding can be made.

F. PLANNING DIRECTOR HEARING NOTICE, PUBLIC COMMENTS, AND JURISDICTIONAL COMMENTS

The Planning Division provided public notice regarding the Planning Director hearing in accordance with the Government Code (Section 65091) and Ventura County CZO (Section 8181-6.2 et seq.). The Planning Division mailed notice to owners of property within 300 feet and residents within 100 feet of the property on which the project site is located and placed a legal ad in the *Ventura County Star*. As of the date of this document, the Planning Division has not received any comments.

G. RECOMMENDED ACTIONS

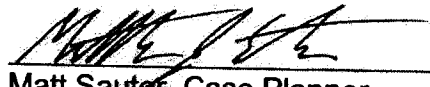
Based upon the analysis and information provided above, Planning Division Staff recommends that the Planning Director take the following actions:

1. **CERTIFY** that the Director has reviewed and considered this staff report and all exhibits thereto, and has considered all comments received during the public comment process;
2. **FIND** that this project is categorically exempt from CEQA pursuant to Section 15303 of the CEQA Guidelines;
3. **MAKE** the required findings to grant a PD Permit (Case No. PL15-0033) pursuant to Section 8181-3.5 of the Ventura County CZO, based on the substantial evidence presented in Section E of this staff report and the entire record;
4. **GRANT** PD Permit Case No. PL15-0150, subject to the conditions of approval (Exhibit 4); and
5. **SPECIFY** that the Clerk of the Planning Division is the custodian, and 800 S. Victoria Avenue, Ventura, CA 93009 is the location, of the documents and materials that constitute the record of proceedings upon which this decision is based.


The decision of the Planning Director is final unless appealed to the Planning Commission within 10 calendar days after the PD Permit has been approved, conditionally approved, or denied (or on the following workday if the 10th day falls on a weekend or holiday). Any aggrieved person may file an appeal of the decision with the Planning Division. The Planning Division shall then set a hearing date before the Planning Commission to review the matter at the earliest convenient date.

If you have any questions concerning the information presented above, please contact Matt Sauter at (805) 654-2492 or matthew.sauter@ventura.org.

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Reviewed by:


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EXHIBITS

- Exhibit 2 – Aerial Location, General Plan and Zoning Designations, and Land Use Maps
- Exhibit 3 – Site Plans
- Exhibit 4 – Conditions of Approval
- Exhibit 5 – Soil Engineering Study (Heathcote Geotechnical, 2015)
- Exhibit 6 – Coastal Hazard and Wave Run-Up Study (GeoSoils Inc., 2015)