

**CALIFORNIA COASTAL COMMISSION**

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# W25a

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 Staff: T. Ross-SD  
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 Hearing Date: 04/11/18

## STAFF REPORT AND RECOMMENDATION ON APPEAL SUBSTANTIAL ISSUE DETERMINATION

**Local Government:** City of Oceanside

**Decision:** Approved with Conditions

**Appeal Number:** A-6-OCN-17-0075

**Applicant:** Dan Matlach and Candace Cross

**Location:** 1709 South Pacific Street, Oceanside, San Diego County (APN No. 153-091-48)

**Project Description:** The construction of a 1,243 sq. ft. addition to an existing 4,331 sq. ft. three-level home. The addition will include a new, fourth mezzanine level and the reconfiguration and replacement of deck/balcony space from 1,550 sq. ft. to 558 sq. ft.

**Appellants:** Association of Concerned Oceanfront Homeowners of South Pacific Street

**Staff Recommendation:** No Substantial Issue

### **IMPORTANT HEARING PROCEDURE NOTE**

This is a substantial issue only hearing. Testimony will be taken only on the question of whether the appeal raises a substantial issue. Generally and at the discretion of the Chair, testimony is limited to 3 minutes total per side. Please plan your testimony accordingly. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify. Others may submit comments in writing. If the Commission determines that the appeal does raise a substantial issue, the de novo phase of the hearing will occur at a future Commission meeting, during which it will take public testimony.

## **SUMMARY OF STAFF RECOMMENDATION**

Staff recommends that the Commission, after public hearing, determine that NO substantial issue exists with respect to the grounds on which the appeal has been filed.

The project approved by the City includes the addition of 1,243 sq. ft. including a new 408 sq. ft. mezzanine level on the western side of the second and third levels of the existing 4,331 sq. ft. single family home ([ref. Exhibit No. 3](#)). The appellants raise several issues, but the focus of the appeal is that the approved development is inconsistent with the City's LCP because the addition will create a structure inconsistent with the surrounding community character and will result in impacts to public views from an elevated public walkway located on the east side of Pacific Street. The addition will obstruct a small portion of existing views from the elevated walkway, however these impacts are nominal and mostly because the adjacent lots are either vacant or developed with a lower profile structure. Views of the ocean between the existing structures, which are typical along Pacific Street, are not obstructed.

The proposed addition will result in a home that is larger than the majority of surrounding homes; however, the approved addition will not change the development footprint of the existing home, and will be consistent with the all of the required setbacks, height, and design guidelines of the LCP.

The appellants assert that the City misinterpreted the LCP definitions of "basement" and "building height," which allowed for a larger development envelope than allowed by the LCP. Staff has reviewed the appellants' contentions in detail, and while the definitions for basement and building height are problematic, the development can be found consistent with the City's LCP because: 1) the City and the Commission have previously interpreted the above stated definitions in the same manner for numerous other shorefront development proposals; 2) the overall development, while large in size, is not out of character with the surrounding community.

Based on review of the City's file and information provided by the appellants and applicant, staff has concluded that the development, as approved by the City, is consistent with all applicable LCP provisions as it is in character with the overall surrounding community and will not result in any significant adverse impacts to public views or public access and recreation. Because there are no identified inconsistencies with the LCP and the Coastal Act, staff recommends that the Commission determine that the project raises no substantial issue regarding conformance with the certified LCP and the Chapter 3 policies of the Coastal Act.

### **Staff Notes:**

The City of Oceanside's LCP was certified by the Commission in 1986 and the City has been issuing coastal development permits for development in the City's Coastal Zone since that time. In 2007, through a joint review process between the City of Oceanside staff and Commission staff, it became apparent that, sometime between 1991 and 1992,

the City of Oceanside significantly updated/replaced its zoning ordinance without benefit of review or approval by the Coastal Commission. Directly following that discovery, the City began using the previous zoning document certified by the Commission in 1986 to review developments within the coastal zone. Among other things, the certified and uncertified versions contain significantly different provisions regarding height restrictions. Specifically, the uncertified ordinance required homes to mirror the existing grade, such that homes along Pacific Street decreased in height as the bluff descends to the ocean ([ref. Exhibit No. 5](#)). By contrast the certified ordinance allows homes to maintain the same height even as the bluff descends, which allows for a larger overall building envelope for the structures closer to the ocean. Consequently, homes constructed between 1991 and 2007 were potentially smaller than what could have been developed if the City had been implementing the certified zoning ordinance. In response, the City has observed a significant influx in coastal development permit applications along the shoreline to take advantage of the less restrictive provisions. This has further resulted in strong public interest and concern. Since 2007, the Commission has heard approximately ten (10) appeals, similar to the subject appeal, where additions have been approved by the City. In this case, the home was constructed in 2004, when the more restrictive ordinance was being implemented by the City, and the applicant is now requesting additional habitable space similar to the development in the appeals previously reviewed by the Commission.

Standard of Review: Certified City of Oceanside Local Coastal Program and the public access and recreation policies of Chapter 3 of the Coastal Act.

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[Exhibit 10 – View from Cassidy Street End](#)

[Exhibit 11 – View between project site and home to the south](#)

[Exhibit 12 – City’s Memo No. 2012-1 defining “Basement”](#)

## **I. APPELLANTS CONTEND**

The appellants contend that project as approved by the City does not conform to the City of Oceanside's certified Local Coastal Program (LCP), with regard to blockage of existing public views of the ocean from an elevated public sidewalk located on the inland side of Pacific Street. The appellants also contend that the addition will allow for a home size that is significantly larger than the surrounding homes and is therefore inconsistent with the number of LCP policies included that aim to minimize bulk/scale of home design and maintain community character. The appellants' contentions also include a number of technical claims pertaining to the definition of a "basement," the method used for measuring "building height" of the structure and the size of the existing home. However, these technical claims have been included as substantiation for the community character argument and will therefore be addressed as one collective contention. Thus, the contentions raised by the appellants include protection of public views and protection of community character.

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## **II. LOCAL GOVERNMENT ACTION**

The project was approved with conditions by the City Council on December 6, 2017. The project has a detailed history including that in 2014 the applicant submitted a prior application for a Coastal Development Permit for a proposal that included a larger addition, a request for variance to allow a fourth level and decking beyond the stringline. This application was denied 7-0 by the Planning Commission on December 7, 2015. The denial was appealed by the property owner to the City Council. On April 20, 2016 the Council voted 4-1 to affirm Planning Commission's denial of the proposed development. The applicant revised and resubmitted an application on October 27, 2016. The revised project decreases the bulk of the previously proposed addition, replaces the fourth level with a mezzanine and does not include any development beyond the stringline. On August 14, 2017 the Planning Commission approved the revised project. This approval was appealed by the appellants to the City Council. On December 6, 2017, the Council upheld the Planning Commission's approval for the revised project.

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## **III. APPEAL PROCEDURES**

After certification of a Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits.

Section 30603(b)(1) of the Coastal Act states:

*The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.*

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

*With respect to appeals to the commission after certification of a local coastal program that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.*

If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to the de novo portion of the hearing on the merits of the project, then, or at a later date. If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, those allowed to testify at the hearing will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project then, or at a later date, reviewing the project de novo in accordance with sections 13057-13096 of the Commission's regulations. If the Commission conducts the de novo portion of the hearing on the permit application, the applicable standard of review for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program (LCP).

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal if it considers the project de novo, that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act. In other words, in regard to public access questions, the Commission is required to consider not only the certified LCP, but also applicable Chapter 3 policies when reviewing a project on appeal.

The only persons qualified to testify before the Commission at the "substantial issue" stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. At the time of the de novo portion of the hearing, any person may testify.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question as to conformity with the certified local coastal program" or, if applicable, the public access and public recreation policies of Chapter 3 of the Coastal Act (Cal. Code Regs., tit. 14 section 13115(b)). In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP;

2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing a petition for a writ of mandate pursuant to the Code of Civil Procedure, section 1094.5.

The City of Oceanside has a certified Local Coastal Program (LCP), and the subject site is located in an area where the Commission retains appeal jurisdiction because it is located between the first public road and the sea. Therefore, before the Commission considers the appeal de novo, the appeal must establish that a substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603. In this case, for the reasons discussed further below, the Commission exercises its discretion to determine that the development approved by the City does not raise a substantial issue with regard to the appellants' contentions regarding coastal resources.

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#### **IV. SUBSTANTIAL ISSUE MOTION AND RESOLUTION**

The staff recommends the Commission adopt the following resolution:

**MOTION:**        *I move that the Commission determine that Appeal No. A-6-OCN-17-0075 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

**STAFF RECOMMENDATION:**

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

**RESOLUTION:**        *The Commission hereby finds that Appeal No. A-6-OCN-17-0075 does not present a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan*

*and/or the public access and recreation policies of the Coastal Act.*

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## **V. SUBSTANTIAL ISSUE FINDINGS AND DECLARATION**

The Commission finds and declares as follows:

### **A. PROJECT DESCRIPTION/SITE HISTORY**

The subject site is a 6,900 sq. ft. (0.158 acre) beachfront lot currently developed with a 4,331 sq. ft. single-family home that includes a 483 sq. ft. garage and 1,550 sq. ft. of decking on the seaward side of Pacific Street in the City of Oceanside. The existing residence is comprised of two stories over a daylight basement. Surrounding development includes the Pacific Ocean to the west, a vacant lot to the north, single family homes to the south, and Pacific Street to the east ([ref. Exhibit No. 2](#)). The lot is 30 feet wide and 230 feet deep, extending seaward from Pacific Street to the mean high tide line. The residence extends westward over a coastal bluff, and the home steps down towards the ocean mirroring the contours of the bluff. As the bluff descends toward the beach, the residence includes a “daylight basement” (a basement in a house situated on a slope, so that part of the level is below ground, and part of the level is above ground, with an opening to the outside) ([ref. Exhibit No. 3](#)).

The subject development approved by the City includes a 1,243 sq. ft. addition on the western side of the second and third levels of the existing structure (the first and second stories). The development includes no revisions to the first (basement) level. Revisions to the west side of the second level first story) include enclosure of a 156 sq. ft. deck to create additional enclosed habitable space. The development proposed on the third level (second story) includes a 686 sq. ft. addition, and construction of a new 120 sq. ft. deck. The third level addition will also include a 401 sq. ft. mezzanine ([ref. Exhibit No. 3](#)). A mezzanine as used here is an intermediate floor inside the residence which is open to the floor below; that is, not a complete new story.

The City of Oceanside has a certified Local Coastal Program (LCP) and the subject site is located in an area where the Commission retains appeal jurisdiction because it is located between the sea and first public road. The standard of review for the appeal is the certified LCP and the public access policies of the Coastal Act.

### **B. SCALE OF DEVELOPMENT/COMMUNITY CHARACTER**

Section VI – Visual Resources and Special Communities of the City’s LCP states:

#### *A. Coastal Act Policies:*

*The Coastal Act requires that the visual qualities of the Coastal Zone shall be protected and that new development be sited and designed to be visually compatible with the character of the surrounding communities.*

*B. Summary of Major Findings:*

*1. Oceanside's Coastal Zone is blessed with several important natural aesthetic resources including the ocean, San Luis Rey River and Buena Vista Lagoon...*

*C. Objectives and Policies*

*Objectives*

*The City shall protect, enhance and maximize public enjoyment of the Coastal Zone scenic resources.*

*The City shall, through its land use and public works decisions, seek to protect, enhance, and restore visual quality of urban environment.*

*Policies*

*1. In areas of significant natural aesthetic value, new developments shall be subordinate to the natural environment.*

The Coastal Development Design Standards section of the City's LCP states:

*III. Overall Objectives*

*[...]*

*2. The City shall, through its land use and public works decisions, seek to protect, enhance and restore the visual quality of the urban environment.*

*[...]*

*4. The City shall encourage a continuing awareness of the long term effects of the physical forms of individual projects on the overall image of Oceanside.*

*V. Preserving The Past*

*Neighborhood preservation can be realized by the following:*

*1. Ensure that all new development is compatible in height, scale, color and form with the surrounding neighborhood.*

*2. Promote harmony in the visual relationship and transitions between new and older buildings*

In addition, the City has incorporated all policies of the Coastal Act into its LCP. In this case, the appellants are raising the project's consistency with Section 30251, which states:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas....*

The appellants' primary contention raised by the subject appeal is that the approved addition will result in a home that is significantly larger and out of character with the surrounding homes for the following reasons, discussed in detail below:

1. The first level does not meet the definition of basement
2. The size of the addition has not been described correctly
3. The proposed height exceeds the maximum height allowed
4. The approved addition was evaluated differently than similar development proposals at neighboring homes
5. The size of the home after the addition will be significantly larger than all surrounding development

1. The first level does not meet the LCP definition of basement.

The City's LCP limits the height of homes in the R-1 district to two stories or 35 feet, whichever is smaller. In this case, the existing home is three levels including the basement, which is not considered a story. However, if, as the appellants contend, the first level of the house does not meet the definition of a basement, then the existing structure would be a 3-story structure, which is not permitted under the LCP, and adding new area and a mezzanine to the non-conforming structure would also not be permitted. The City's LCP defines basements as the following:

*"Basement" means that portion of a building between floor and ceiling which is partly below and partly above the ground but so located that the vertical distance from grade to floor below is less than the vertical distance from grade to ceiling*

This definition has been identified by both the City and the Commission as problematic because it requires a basement to be more above than below ground, which is clearly contrary to the plain meaning of "basement." The City has indicated that the definition should instead require that the vertical distance from grade to floor is *more than* the vertical distance from grade to ceiling. In response to this, the City distributed a memo internally that provides clarification for the definition for basement. This memo is not part of the City's certified LCP but it does clarify that in order to meet the definition for basement, the first level must be more below than above ground ([ref. Exhibit No. 12](#)). The Commission has previously accepted this interpretation for basement when reviewing multiple projects on appeal and found it to be consistent with the intent of the LCP and the Coastal Act (ref. CDP Nos. A-6-OCN-12-054/Revx Pacific North LLC; A-

6-OCN-12-055/Evergreen Habron L.P.; A-6-OCN-12-056/Revx Pacific North; A-6-OCN-99-133/Liguori).

This concern regarding the elevation of the basement was also raised by the Appellants when the approval was appealed to the City Council. The City's staff report prepared for the Council meeting included the following findings regarding the basement:

*The project includes an existing basement that was determined during the review of the original structure in 2004 to meet the definition of a basement..*

Commission staff have reviewed the site plans and determined that the first level does meet the definition of basement. No modifications are proposed to the basement level at this time. The project can therefore be found consistent with the City's LCP with regard to the status of the basement.

2. The size of the addition has not been described correctly

The appellants contend that the existing structure is 4,091 sq. ft. not 4,331 as described in the City's approval of the subject project, and that the addition is actually 1,483 sq. ft and not 1,243 sq. ft. as described by the City. The appellants contend that the miscalculation marginalizes the size of the addition, and thus underestimates the proposed bulk and scale of the addition. The appellants contend that describing the addition as its actual size of 1,483 sq. ft. would help support the claim that the proposed development is out of character with the surrounding homes. The subject site has received two previous CDPs from the City. In May of 2004, the City issued a Notice of Final Action for construction of a 4,091 sq. ft. single family residence (ref. NOFA No. 6-OCN-04-083). Later, in August of 2007, the City issued a Notice of Final Action for expansion of an existing roof deck. In both of these permits, the home is described as being 4,091 sq. ft. When the earlier version of the current project was first proposed in 2016, the applicant provided plans to the City indicating that the current square footage of the residence is 4,331 sq. ft. The City was not able to explain this discrepancy and did not address it in approving the project. Nevertheless, it is clear from the plans and the City approval that the proposed total square footage for the overall structure, including the proposed additions, would be 5,574 sq. ft. As such, it is possible to adequately review the proposed overall size/bulk/scale even if the size of the existing structure is larger than originally approved. This analysis is contained under item #5, below.

3. The proposed height exceeds the maximum height allowed

The appellants contend that the height of the addition will be taller than the maximum height permitted in the City's LCP. Section 1709 of the City's LCP Implementation Plan states:

*No building or structure located in the R-A, R-1, R-2, PRD or SP zone shall exceed a height of 35 feet or two stories, whichever is less*

The site has an R-1 designation and thus development is limited to either 35 feet or two stories. As described in the City's file and the project plans, the height of the existing home is 35 feet and includes two stories, not including the basement. The proposed addition would also be a maximum of 35 feet in height, and the proposed mezzanine is not considered a new story, and thus is consistent with the LCP. However, the appellants contend that the grade of the lot was measured inaccurately, thereby allowing for a structure three feet taller than what would otherwise be permitted by the LCP. Building height is typically measured by taking a number of points from grade, to a specific elevation of the structure; in this case, the City defines "Building Height" as:

*"Building Height" means the vertical distance measured? from the average level of the highest and lowest point of that portion of the building-site covered by the building to the ceiling of the uppermost story.*

The appellants are contending that the City accepted measurements from the average of all four sides of the structure instead of from the lowest and highest portion of the building, which; in this case, would allow for an additional approximately three feet in height. However, the City has indicated that the measurement of grade was calculated as required by the above provision. Commission staff has reviewed the plans and the appellants' contentions and agrees that the City has measured grade accurately. Staff believes the discrepancy lies in where the "lowest portion of the building" was taken from. The appellants assert that the lowest point of the existing building is at the bottom of stairway which provides the external entrance to the existing basement ([ref. Exhibit No. 6](#)). However, the City accepted a measurement taken from the lowest point of the above-grade portion of the basement ([ref. Exhibit No. 6](#)). Commission staff has reviewed the two different locations and agree with the City's interpretation. While there is an external access to the basement, this section of the basement is below grade and should not be used to measure height. Although the City's policy for measuring height does not explicitly state whether a below grade stairway should be considered the lowest point of a building site covered by a building, it stands to reason that below ground improvements are not included when measuring building height. Therefore, the height of the addition will be 35 feet, consistent with the City's LCP and does not raise a substantial issue on the grounds filed.

4. The approved addition was given different evaluation protocols than those applied to development proposals at neighboring homes.

The project includes an approximately 1,200 sq. ft. addition to the seaward side of an approximately 4,331 sq. ft. home single family home. The above contention is based on the appellants' claim that the homes located at 1707 and 1705 Pacific Street were required to incorporate more significant step backs on the ocean side of the upper levels of these structures (ref. A-6-OCN-11-028/Stensrud & 6-OCN-12-149/Caya). The City's LCP does not require any specific step backs, however, such step backs are often included to reduce the bulk of the structure and provide for visual relief on the western side of ocean-fronting homes. In this case, the CDP approved by the City includes a 5 foot step back of the second story and a 15-foot step back for the mezzanine. The approved offsets are smaller in size than those included in the homes located at 1705 and 1707 Pacific Street, but as noted, the LCP does not require any minimum step back. As

described in detail below, there are little to no public views from the ocean side of these residences. Thus, the proposed project design is not inconsistent with the LCP and the contention raised regarding utilization of different protocols does not raise a substantial issue.

5. The size of the home after the addition will be significantly larger than all surrounding development.

The final contention raised by the appellant is that the addition will result in a home size significantly larger than the surrounding development, and thus, would be inconsistent with the character of the community. As previously described, the project includes a 1,243 sq. ft addition on a 4,331 sq. ft. existing single family home for a total home size of 5,574 sq. ft. The project site is zoned R-1, which is one of the lowest residential density in the City. The appellants contend that of the 38 shorefront homes located between Cassidy Street and Buccaneer Beach, this would not only be the largest home on the block, but will be *significantly* larger than any other home.

Commission staff reviewed home sizes on this block using the website Zillow and agree that, with the proposed addition, the subject house will have one of the largest floor areas of the homes on this block. Existing homes range from as low as approximately 800 sq. ft. to as high as approximately 5,400 sq. ft., with about half of the homes (approximately 20 homes) less than 3,000 sq. ft. and half (approximately 16 homes) above 3,000 sq. ft. However, while the proposed addition will result in the subject structure being larger than the majority of homes in the area, that does not necessarily indicate that the home is not compatible in height, scale, color and form with the surrounding neighborhood as required by the Design Standards section of the City's LCP, or inconsistent with the scale of development allowed by and anticipated in the certified LCP.

The City's LCP does not include a Floor Area Ratio maximum; instead the maximum home size is dictated by setbacks and height. In this case, the project conforms to all setbacks, and height, and, although not required by the LCP, also includes stepped back development at the third and fourth levels. The addition will increase the overall height of the structure by only approximately one foot and for only a small portion of the western roof, and will not change the development footprint. Aside from the total size of the structure, within this neighborhood, homes comprised of four levels have been approved by the City and not appealed by the Commission (ref. FLAN No. 6-OCN-12-149/Caya). As noted above, the project incorporates stepbacks on the ocean side of the structure, as is typical with development on Pacific Street, and the City found the project consistent with the Coastal Development Design Standards section of the City's LCP.

Furthermore, because of the topography of the area, development on Pacific Street, including the subject project, typically steps down from Pacific Street such that the majority of the structures are not visible from Pacific Street or any other public street ([ref. Exhibit No. 2](#)). Nor are the homes especially visible from the beach side, as there is very tall rock revetment separating the homes from the beach. Commission staff visited the site during low tide, and because of the height of the revetment, the first two levels of the subject home are not visible and therefore any revision or additions to these levels will

not be discernable from the beach ([ref. Exhibit No. 8](#)). The addition on the second story (third level) will be visible from the beach, but will be stepped back 5-15 feet, and will not be prominent from the shoreline.

In conclusion, while the home will be a large structure, it is will not be substantially larger than any of the existing homes, it is consistent with all of the height, setback, design, and density requirements of the LCP, and it will not appear to be unusually prominent from any public vantage points. Thus, the contentions raised by the appellants regarding community character do not rise to the level of significance necessary to determine a substantial issue with consistency of the LCP exists. The basement meets the LCP definition as historically interpreted by the Commission and therefore does not count as a story, and the City implemented the proper method to determine the height of the home. The square footage of the existing structure may have been described incorrectly in the City's approval or the home may have been built slightly larger than the original approval allowed, but the size of the home including the addition was described correctly. The City's approval did not include any variances that would allow the structure to be inconsistent with any portion of the LCP, the addition will not increase the height of the structure, and the addition maintains the existing footprint. The scale of the home will not change as viewed from Pacific Street and will only increase minimally when viewed from the beach side. The project can therefore be found consistent with the City's LCP and does not raise a substantial issue on the grounds filed by the appellants relative to the respective size of the residence.

## **C. PUBLIC VIEW IMPACTS**

Section VI - Visual Resources and Special Communities of the City's LCP states:

### *A. Coastal Act Policies:*

*The Coastal Act requires that the visual qualities of the Coastal Zone shall be protected and that new development be sited and designed to be visually compatible with the character of the surrounding communities.*

### *B. Summary of Major Findings:*

*1. Oceanside's Coastal Zone is blessed with several important natural aesthetic resources including the ocean, San Luis Rey River and Buena Vista Lagoon...*

### *C. Objectives and Policies*

#### *Objectives*

*The City shall protect, enhance and maximize public enjoyment of the Coastal Zone scenic resources.*

*The City shall, through its land use and public works decisions, seek to protect, enhance, and restore visual quality of urban environment.*

*Policies*

*1. In areas of significant natural aesthetic value, new developments shall be subordinate to the natural environment.*

*[...]*

*4. The City shall maintain existing view corridors through public rights-of-way*

The Coastal Development Design Standards section of the City's LCP states:

*III. Overall Objectives*

- 1. The City shall protect, enhance and maximize public enjoyment of the Coastal Zone scenic resources.*
- 2. The City shall, through its land use and public works decisions, seek to protect, enhance and restore the visual quality of the urban environment.*
- 3. The City shall maximize the use of recreational areas for recreational purposes.*
- 4. The City shall encourage a continuing awareness of the long term effects of the physical forms of individual projects on the overall image of Oceanside.*

*IV. Preserving and Creating Views*

*The visual orientation to the Pacific Ocean is a major factor for the City of Oceanside. Traditional view corridors should be preserved and reinforced in the placement of buildings and landscaping. Additionally, some views not presently recognized, deserve consideration in the design and location of future coastal improvements.*

*View areas can be preserved and reinforced by:*

*A. Removing Obstructions*

*[...]*

*3. Proposed new development should consider surrounding views when designing building height.*

As noted above, the LCP incorporates Coastal Act section 30251, which in addition to preserving community character, protects public views.

The appellants also contend that the proposed addition will obstruct existing public views of the ocean. As previously stated, the subject site is an ocean-fronting lot currently

developed with a three-level, approximately 4,300 sq. ft. home. The appellants assert that the addition will obstruct views of the ocean from an elevated public sidewalk located along the east side of Pacific Street. This elevated public sidewalk is located along the east side of Pacific Street beginning at Buccaneer Park and continuing for a ½ mile south, terminating at the Saint Malo development ([ref. Exhibit No 2](#)). The sidewalk is located at the top of a shotcrete retaining wall and because of its elevation provides views to the ocean between and occasionally over single-story homes on the west side of Pacific Street. According to the City, this walkway was constructed due to the limited space for public right-of-ways on South Pacific Street. This sidewalk is used by pedestrians on a daily basis, and is the main safe passage along Pacific Street within the South Oceanside community.

The City's LCP contains provisions requiring the protection of visual resources in areas of natural aesthetic value and maintaining existing view corridors through public rights-of-way. There are currently ocean views available from the elevated sidewalk both north and south of the subject site ([ref. Exhibit No. 7](#)). The views from the south side are between and over the subject structure and the single-story residence south of the site. All of the proposed development would take place on the back (ocean side) of the structure, and would not encroach any further south than the existing residence. Nevertheless, because there are currently views over the single-story residence south of the site, and from west of the existing home on the subject site, the proposed addition would be visible from and would block a portion of the existing ocean views from the elevated sidewalk. However, views between the two structures would remain ([ref. Exhibit No. 11](#)).

There is a vacant lot north of the subject site. Thus, there are currently views across this entire site from the walkway. Similar to the views from south of the site, because the site is vacant, portions of the proposed addition will be visible across the site and will encroach into the existing ocean views from the elevated sidewalk. However, the vacant lot is designated for residential development, and it is anticipated that it will be developed with a home at some point. Once said home is constructed, even if only a single-level structure, public ocean views across the site will then be limited to between the structures, as is the case with most of the rest of South Pacific Street.

Thus, the proposed addition will be visible from and will encroach slightly into existing open water views from both the north and the south side of the existing residence, reducing but not eliminating views from the public walkway. The City's LCP requires that development be sited and designed to be visually compatible with the character of the surrounding community and maintain existing view corridors through public rights-of-way. The minor encroachments resulting from the proposed development is not expected to have a significant impact on public views either from the walkway or in the neighborhood for several reasons. At the subject site, the pattern of development consists of is a variety of single and multi-story structures with varying degrees of ocean views available between the structures. As discussed above, the proposed addition is consistent with the permitted height limits, all required setbacks, and with the bulk and scale of the area. Views between the (existing and future) structures will be maintained, and no views through public rights-of-ways will be affected. The majority of east to west oriented public streets in Oceanside are open at the western terminus and provide unobstructed views of the beach (such as the nearby Cassidy Street, Oceanside Boulevard and

Wisconsin Street) and these views are clearly protected in the LCP. Additionally, the City's LCP requires at least 3-foot wide side yard setbacks and gates at least 75% open to light which will maintain views to ocean within these setbacks. Public views within these sideyard setbacks on the subject site would not be blocked by the proposed addition.

In conclusion, while the appellants' contention is correct that a small portion of existing views of the ocean will likely be obstructed by the addition, the Commission finds that in this case the impacts are minor and occur mostly because the adjacent lot to the north is vacant. Additionally, existing views will remain in the sideyard setbacks and expansive views are available nearby at both Buccaneer Beach and Cassidy Street ([ref. Exhibit Nos. 9, 10](#)). The project can therefore be found consistent with the City's LCP and does not raise a substantial issue on the grounds filed by the appellants relative to potential impacts to existing public vantages to and along the ocean.

#### **D. SUBSTANTIAL ISSUE FACTORS**

As discussed above, there is adequate factual and legal support for the City's determination that the proposed development is consistent with the certified LCP. Generally speaking, the Commission considers five specific findings when considering whether a project raises a "substantial issue." These factors are listed on Page 7 of this staff report and none of them support a finding of substantial issue in this case. As discussed above, there is strong factual and legal support for the City's determination that the proposed development is consistent with the certified LCP. The subject appeal is for a minimal improvement to an existing structure located in an area with an established line of development beyond that approved by the subject development. Therefore, the objections to the project suggested by the appellants do not raise any significant coastal resource or public access concerns, and as such, do not raise any substantial issues of regional or statewide significance. Finally, the City's approval of this coastal development permit will not create an adverse precedent for future interpretation of this LCP.

## **APPENDIX A**

### **SUBSTANTIVE FILE DOCUMENTS:**

- City of Oceanside certified LCP
- Notice of Final Action forms for 1709 S. Pacific Nos. 6-OCN-04-083; 6-OCN-07-205
- Appeal Nos. A-6-OCN-12-054/Revx Pacific North LLC; A-6-OCN-12-055/Evergreen Habron L.P.; A-6-OCN-12-056/Revx Pacific North; A-6-OCN-99-133/Liguori