

**CALIFORNIA COASTAL COMMISSION**

SOUTH COAST DISTRICT OFFICE  
301 E. OCEAN BLVD, SUITE 300  
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# F19a

## ADDENDUM

DATE: June 7, 2022

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **ADDENDUM TO ITEM F19a, A-5-MNB-20-0020 & A-5-MNB-20-0041  
REGULAR CALENDAR DE NOVO REHEARING FOR THE COMMISSION  
MEETING ON FRIDAY, JUNE 10, 2022**

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The purpose of this addendum is to modify the staff-recommended findings to add a response to one comment letter from the Applicant's representative received since publication of the staff report on May 20, 2022, and to make other changes to the staff recommended findings, as follows:

### **I. CHANGES TO STAFF REPORT**

The following are revisions to the text of the staff report and recommendation. Proposed additions are marked with underlined text.

A) Page 14 of the staff report shall be modified to add Section G:

### **G. RESPONSE TO COMMENTS**

The Commission received one comment letter from the Applicant's representative on June 2, 2022. The Applicant objects to the staff recommendation of denial and generally asserts that the trial court "limited" the Commission's review to only the demolition portion of the Applicant's project as a stand-alone project, that the Commission's regulations do not support denial of the Applicant's coastal development permit applications, and that retention of the existing structures is not feasible. The Commission addresses each of those three assertions below.

First, the Applicant suggests that the Commission improperly views the "application" before the Commission as one for demolition and construction of a new single-family residence. However, that is the nature of the application that was submitted to the City of Manhattan Beach, and the trial court judgment does not require the Commission to pretend that the Applicant has submitted a new application. The judgment remanded the Commission's

decision “for reconsideration . . . as to whether, in light of the Court’s Statement of Decision, a Coastal Development Permit should have been denied for the demolition of the structures at 1312 and 1316 The Strand.” It is clear from the discussion at the trial court hearing on the writ petition (see **Exhibit 13**, consisting of excerpts of the transcript of that hearing) that the trial court was not instructing the Commission to deviate from its normal rules or procedures or defining a new project application, but rather, giving the Applicant the opportunity to make the case that, in this context, and given the Court’s ruling that the Commission’s denial was only justified due to the project’s inconsistency with the community character, the Commission should have considered the demolition component of the project separately and should have considered not denying that aspect of the project. The Commission’s findings respond to the judgment and explain why approval of only the demolition portion of the Applicant’s project is not appropriate when the Applicant’s project was to build a new single-family residence. So, while the judgment may have directed the Commission to answer a narrow question, and while the Commission has narrowed this hearing to a reconsideration of the demolition portion of the application, there is no indication that the court redefined the Applicant’s project.<sup>1</sup>

Even if the court had ordered the Commission to sever the applications into separate parts, the Commission has determined that it is not appropriate to approve a CDP for only the proposed demolition, as explained in the findings above. The Applicant’s project was for both demolition of existing structures and construction of a new single-family residence, and the entire purpose of the project was to build a new house. A project involving only demolition of the two existing structures on the Applicant’s property is a fundamentally different project that must first be reviewed by the City of Manhattan Beach, which has been delegated coastal development permitting authority under the Coastal Act.

Second, the Applicant asserts that the Commission’s regulations do not support denial of a CDP for the demolition portion of the Applicant’s project. However, the Commission’s findings explain why, based on all of the unique circumstances associated with this project on appeal to the Commission, it is not appropriate or required to approve a CDP for the proposed demolition. As explained, the Coastal Act does not require the Commission to redesign projects in order reach an approval decision. Moreover, the Commission may reasonably decline to approve only the demolition portion of the Applicant’s project to avoid piecemeal review of the Applicant’s project (which was to construct a new single-family residence) and

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<sup>1</sup> It is worth noting that the court entered judgment in the Commission’s favor and it did not find, as the Applicant’s letter at least implies, that the Commission decision was legally deficient for lack of adequate findings regarding the proposed demolition. In addition, the Commission did not provide a detailed analysis in its original 2020 denial decision of whether the proposed demolition could be approved separately because 1) the Applicant never requested approval of only demolition of the existing structures, and 2) as explained in these findings on remand, the Commission is not obligated to redesign projects to get to approval of a project. Particularly where the court has entered judgment in the Commission’s favor and denied the writ petition, and for all of the other reasons explained in these findings, the Commission reasonably views demolition-only as an entirely different project than what the Applicant originally proposed, which must be reviewed first by the City as the primary permitting authority in the City’s coastal zone.

because such a drastically different project must be reviewed first by the City of Manhattan Beach.<sup>2</sup>

Third, the Applicant asserts that retention of the existing structures is not feasible, but does not provide any evidence to support this assertion. As explained in the findings above, the Commission is not required to make a finding of feasibility under Section 30612 because the Applicant's project before the Commission on de novo review was both demolition and construction of a new single-family residence. Even if the Commission were required to make such a finding, the Applicant's assertions that the structures are 74 years old (1312 The Strand) and 68 years old (1316 The Strand), and that the triplex at 1312 The Strand is currently vacant, do not establish that it is not feasible to retain them. At most, the Applicant demonstrates that she "wishes to remove improvements" on her property. But, the Applicant's preferences do not establish that retaining the structures is not feasible. Commission staff has observed both structures, which currently exist and, as confirmed by photographic evidence, appear to be intact. Therefore, even if Section 30612 were to apply in the context of this remand hearing, due to the lack of any evidence that retaining the two structures is not feasible, the Commission finds that a preponderance of evidence supports that retention of the structures is feasible.<sup>3</sup>

B) Page 11 of the staff report shall be modified to add the following paragraph after the last full paragraph:

Even if the Commission were required to make a finding under Section 30612, the Applicant's assertions that the structures are 74 years old (1312 The Strand) and 68 years old (1316 The Strand), and that the triplex at 1312 The Strand is currently vacant, do not establish that it is not feasible to retain them. At most, the Applicant demonstrates that she "wishes to remove improvements" on her property. But, the Applicant's preferences do not establish that retaining the structures is not feasible. Commission staff has observed both structures, which currently exist and, as confirmed by photographic evidence, appear to be intact. (**Exhibit 14**). Therefore, even if Section 30612 were to apply in the context of this remand hearing, due to the lack of any evidence that retaining the two structures is not feasible, the Commission finds that a preponderance of evidence supports that retention of the structures is feasible.<sup>4</sup>

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<sup>2</sup> Even the Applicant's attorney acknowledged during the hearing on the writ petition that "We're required to put all the development in a single application for a CDP. We are not allowed to make separate applications for demolition, merger, and construction." (**Exhibit 13**).

<sup>3</sup> The Commission applies the definition of "feasible" in Section 30108 of the Coastal Act to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors."

<sup>4</sup> The Commission applies the definition of "feasible" in Section 30108 of the Coastal Act to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors."

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 85

HON. JAMES C. CHALFANT, JUDGE  
(VIA MICROSOFT TEAMS)

CORINNA COTSEN, AS TRUSTEE OF THE )  
CORINNA COTSEN 1991 TRUST, ET AL., )

PETITIONERS, )

VS. )

CALIFORNIA COASTAL COMMISSION, )

RESPONDENT. )

CASE NO.  
20STCP04214

REPORTER'S TRANSCRIPT OF PROCEEDINGS

TUESDAY, JANUARY 4, 2022

APPEARANCES:

FOR PETITIONERS: GAINES & STACEY, L.L.P.  
BY: SHERMAN STACEY, ESQ.  
(VIA MICROSOFT TEAMS)  
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818.993.0222  
SSTACEY@GAINESLAW.COM

FOR RESPONDENT CALIFORNIA DEPARTMENT OF JUSTICE  
CALIFORNIA OFFICE OF THE ATTORNEY GENERAL  
COASTAL BY: ERICA B. LEE, ESQ.  
COMMISSION: (VIA MICROSOFT TEAMS)  
600 W. BROADWAY, STE. 1800  
SAN DIEGO, CALIFORNIA 92101  
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ERICA.LEE@DOJ.CA.GOV

CINDY CAMERON, CSR NO. 10315  
OFFICIAL COURT REPORTER

California Coastal Commission

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1 THE COURT: YOUR C.D.P. WAS FOR DEMOLITION AS WELL  
2 AS MERGING AND CONSTRUCTION?

3 MR. STACEY: YES, YOUR HONOR. WE'RE REQUIRED TO  
4 PUT ALL OF THE DEVELOPMENT IN A SINGLE APPLICATION FOR A  
5 C.D.P. WE ARE NOT ALLOWED TO MAKE SEPARATE APPLICATIONS  
6 FOR DEMOLITION, MERGER, AND CONSTRUCTION.

7 THE COURT: AND THE COMMISSION DENIED THE C.D.P.  
8 ON THE DESTRUCTION AND MERGER ISSUES ONLY?

9 MR. STACEY: THAT IS, I BELIEVE, CORRECT. I DON'T  
10 THINK THERE'S ANY FINDINGS AS TO DEMOLITION EXCEPT FOR THE  
11 BASIC THRUST OF THE COMMISSION'S POSITION THAT THE COURT  
12 FINDS NOT APPROPRIATE. THAT WOULD HAVE SUPPORTED THE  
13 DEMOLITION TO SAY THAT YOU WOULD BE ABLE TO REDUCE THE  
14 DENSITY. AND THAT'S A POSITION THE COMMISSION REALLY WAS  
15 TRYING TO ADVANCE AND WE'VE BEEN CAUGHT UP WITH COMMUNITY  
16 CHARACTER AND A DISCRETION WE DIDN'T THINK EXISTED.

17 BUT THE DEMOLITION ON COMMUNITY CHARACTER BASIS,  
18 THEY CAN REQUIRE THE NEW STRUCTURES TO CONFORM TO COMMUNITY  
19 CHARACTER AND, YOU KNOW, THEY ALL WILL BE WELL, BUT MY  
20 CLIENT WILL NOT BE THEN SUBJECT TO THE BURDENS OF A NEW  
21 APPLICATION WHICH SHE OUGHT NOT TO HAVE MADE. SHE'S  
22 ALREADY MADE AN APPLICATION TO DEMOLISH, MERGE, AND  
23 CONSTRUCT.

24 TO THE EXTENT THE COMMISSION DENIED THE MERGER AND  
25 CONSTRUCTION AND THE COURT FINDS THAT THE FINDINGS ON  
26 COMMUNITY CHARACTER SUPPORT THAT, IF THAT'S THE COURT'S  
27 RULING, THEN SO BE IT. BUT THOSE FINDINGS DO NOT SUPPORT  
28 THE DENIAL OF THE PERMIT TO DEMOLISH THE STRUCTURE. AND I

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Exhibit 13 p. 2 of 9

1 BELIEVE THE COURT COULD ISSUE A WRIT TO SET ASIDE THE  
 2 DECISION AND INSTRUCT THAT THE COMMISSION'S FINDINGS NOT  
 3 SUPPORT THE DENIAL OF DEMOLITION.

4 THE COURT: WELL, I WOULDN'T WANT TO GO THAT FAR,  
 5 BUT IT SEEMS TO ME I CAN REMAND TO THE COMMISSION TO DECIDE  
 6 WHETHER OR NOT BASED ON MY DECISION THAT THERE IS NO  
 7 PREFERENCE FOR DENSITY, BUT THAT THE PART THAT'S  
 8 INCONSISTENT WITH COMMUNITY CHARACTER AND COMMUNITY  
 9 CHARACTER FINDING, WHETHER YOU ARE CORRECT THAT YOUR CLIENT  
 10 SHOULD BE PERMITTED TO DEMOLISH, I CERTAINLY CAN REMAND TO  
 11 THE COMMISSION FOR THAT ISSUE.

12 MR. STACEY: I BELIEVE THAT WOULD BE AN  
 13 APPROPRIATE FORM OF RELIEF, YES, YOUR HONOR. AND THE CASE  
 14 WOULD REMAIN OPEN FOR US TO RETURN IF WE -- IF WE WERE  
 15 UNSATISFIED WITH THE COMMISSION'S DECISION.

16 THE COURT: WELL, THERE ARE TWO WAYS TO HANDLE A  
 17 REMAND, EITHER AN INTERLOCUTORY REMAND, WHICH IS WHAT  
 18 YOU'RE TALKING ABOUT, OR A JUDGMENT OF REMAND IN WHICH CASE  
 19 YOU'RE DISSATISFIED WITH THE COMMISSION'S REMAND THEN YOU  
 20 JUST FILE A NEW PETITION. I DON'T REALLY HAVE STRONG  
 21 FEELINGS ONE WAY OR THE OTHER. BUT I WOULD NOT WANT TO  
 22 SAY, WELL, I FOUND COMMUNITY CHARACTER; AND THEREFORE, I'M  
 23 ISSUING A WRIT TO COMPEL THE COMMISSION TO ALLOW YOU TO  
 24 DEMOLISH. THAT, I WOULD NOT WANT TO DO.

25 MR. STACEY: NO, I UNDERSTAND, YOUR HONOR. I DO  
 26 BELIEVE, HOWEVER, THAT IF YOUR TENTATIVE RULING WERE  
 27 MODIFIED TO INCLUDE LANGUAGE THAT THE COMMISSION'S FINDINGS  
 28 ARE SUPPORTED BY SUBSTANTIAL EVIDENCE AND SUPPORT THE

1 DECISION TO PROHIBIT THE MERGER OF THE LOTS AND SUPPORT THE  
 2 DECISION TO PROHIBIT THE CONSTRUCTION OF THE HOUSE BUT NOT  
 3 TO PROHIBIT THE DEMOLITION AND REMAND IT TO THE COMMISSION  
 4 WITH INSTRUCTIONS TO RECONSIDER IN LIGHT OF THE COURT'S  
 5 DECISION.

6 THE COURT: MS. LEE, YOU KNOW, THAT MAY BE  
 7 APPROPRIATE. LOOK, I UNDERSTAND THE COMMISSION MAY SAY,  
 8 WE'RE NOT GOING TO CHOP UP A PERMIT AND, YOU KNOW, ALLOW  
 9 SOME PORTION OF THE PERMIT AND NOT OTHERS. THEY COULD SAY  
 10 THAT AND --

11 MS. LEE: AND YOUR HONOR --

12 THE COURT: YEAH, GO AHEAD.

13 MS. LEE: I APOLOGIZE, YOUR HONOR.

14 AND THAT I BELIEVE HAS BEEN THE COMMISSION'S  
 15 POLICY IN THE RECENT -- SINCE I'VE BEEN REPRESENTING THEM  
 16 IN THE PAST ALMOST FIVE YEARS BECAUSE I BELIEVE THAT PEOPLE  
 17 USED TO BRING PERMITS JUST FOR DEMOLITION AND THEN THEY  
 18 WOULD -- AND THEY WOULD GET THAT APPROVED, AND THEN THEY  
 19 WOULD BRING PERMITS FOR BUILDING OF HOMES.

20 AND USUALLY THOSE HOMES -- THERE WAS SOMETHING --  
 21 I DON'T WANT TO SAY SNEAKY, BUT THERE WAS SOMETHING ABOUT  
 22 THE HOMES THAT THEY WANTED TO GET THE DEMOLISHING DONE  
 23 FIRST KNOWING THEY WERE GOING TO BUILD A HOME AND IT WOULD  
 24 BE EITHER BIG OR NOT CONFORMING TO COMMUNITY CHARACTER OR  
 25 SOMEHOW PUSHING THE ENVELOPE FOR THOSE HOMES.

26 AND THE COMMISSION SAID, HEY, NO MORE. THE  
 27 DEMOLITION PERMIT AND THE CONSTRUCTION AND THE DESIGN HAVE  
 28 TO BE TOGETHER BECAUSE THERE'S GOING TO BE OTHER EMPTY LOTS

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1 EVERYWHERE AND THEN PEOPLE WANT HOMES TO BE BUILT HOMES  
2 BECAUSE IT'S BAD FOR NEIGHBORHOODS TO HAVE EMPTY LOTS.

3 AND I BELIEVE IT'S NOW PART OF THE COMMISSION  
4 RULES THAT PERMITS HAVE TO BE COMPLETE THROUGH ALL OF THE  
5 ASPECTS THAT THE APPLICANTS WANT TO ACCOMPLISH. SO I THINK  
6 REMANDING IT WOULD CAUSE CONFUSION.

7 AND IT WAS THE PETITIONER'S DECISION TO BRING HER  
8 PERMITS THE WAY THAT SHE DID. I THINK SHE ACTUALLY HAD TO  
9 BRING EVERYTHING ALL AT ONCE.

10 AND ALLOWING THOSE HOMES TO BE DEMOLISHED  
11 WITHOUT -- WELL, KNOWING THAT THE CASE IS STILL PENDING  
12 BECAUSE THE DESIGN AND CONSTRUCTION OF THE HOME IS STILL UP  
13 FOR GRABS WOULDN'T ADVANCE ANY -- I DON'T THINK IT WOULD  
14 ADVANCE THE PURPOSES. I DON'T THINK IT WOULD BE GOOD USE  
15 OF JUDICIAL RESOURCES OR THE COMMISSION'S RESOURCES, SO I  
16 DON'T THINK --

17 THE COURT: THAT MAY ALL BE TRUE, BUT I DON'T KNOW  
18 THAT. I MEAN, I'M SURE AS AN OFFICER OF THE COURT YOU'RE  
19 TELLING ME YOUR BELIEF AS TO WHAT WOULD HAPPEN.

20 MS. LEE: THIS IS MY BELIEF, YOUR HONOR, YES. I  
21 DON'T DO THIS -- I ONLY GET CASES AFTER THEY BECOME  
22 LITIGATION, BUT THIS IS JUST WHAT I KNOW AND, IN FACT,  
23 MR. STACEY MAY KNOW THIS BETTER THAN I.

24 THE COURT: WELL, I THINK -- MR. STACEY'S ARGUMENT  
25 MAKES SENSE, THAT IS HIS POSITION IS, OKAY, WE LOSE OUR  
26 COMMUNITY CHARACTER, BUT NOT THE REST; AND THEREFORE, WE  
27 HAVE A SHOT AT LEAST AT THE COMMISSION SAYING, OKAY, GO  
28 AHEAD AND DEMOLISH.



1           AND YOUR POSITION IS, I THINK THE COMMISSION IS  
2 GOING TO SAY WE'RE NOT GOING TO CHOP UP THE PERMIT. OKAY.  
3 IF THAT'S WHAT THEY DO, THAT'S WHAT THEY DO, BUT I THINK I  
4 HAVE TO GIVE MR. STACEY A CHANCE TO MAKE THAT ARGUMENT TO  
5 THE COMMISSION.

6           BUT I THINK BASED ON WHAT MS. LEE IS SAYING, IT  
7 SHOULDN'T BE REMAND -- AN INTERLOCUTORY REMAND, IT SHOULD  
8 BE A JUDGMENT OF REMAND; ADOPTING THE DECISION AND A  
9 JUDGMENT OF REMAND. AND THEN IF YOU -- IF YOU GET THE BACK  
10 OF THE COMMISSION'S HAND, YOU KNOW, THAT'S THE END OF THE  
11 CASE.

12           MS. LEE: I THINK IF THE COURT IS GOING TO REMAND,  
13 IT SHOULD BE A JUDGMENT IN REMAND, BUT IT IS STILL THE  
14 COMMISSION'S -- I BELIEVE THAT EVEN IF THE COURT ENTERS  
15 JUDGMENT, THE PETITIONER IS NOT SOMEHOW PROHIBITED FROM  
16 BRINGING A NEW APPLICATION.

17           THE COURT: NO, NO. THAT'S ACTUALLY A MATTER OF  
18 PAYING A FILING FEE. THAT'S THE ONLY DISTINCTION. THE  
19 DIFFERENCE IS, YOU KNOW, I GET IT OFF MY DOCKET IF I ENTER  
20 A JUDGMENT; AND IF I THOUGHT THERE WAS A REAL PROSPECT THAT  
21 IT SHOULD COME BACK TO ME ON AN INTERLOCUTORY BASIS, THEN I  
22 WOULD DO IT ON THAT BASIS.

23           BUT IF I THINK THIS MAY WIND UP BEING THE END OF  
24 THE CASE AND NO NEW CASE WILL BE FILED -- WELL, I THINK IF  
25 YOU'RE CORRECT, MS. LEE, THAT'S PROBABLY WHAT WOULD  
26 HAPPEN -- THEN I THINK A JUDGMENT OF REMAND IS MORE  
27 APPROPRIATE. ALTHOUGH YOU CAN TALK ME OUT OF THAT.

28           OH, WAIT, YOU STILL HAVE YOUR 1983 CLAIM. I

1 FORGOT ABOUT THAT. WHAT DO YOU WANT DO ABOUT THAT? YOU'RE  
2 MUTED.

3 MR. STACEY: I THINK MY PHONE WAS RINGING AND YOUR  
4 CLERK MUTED ME.

5 I WOULD CERTAINLY BE WILLING TO DISMISS THE CAUSE  
6 OF ACTION UNDER 1983 IN ORDER TO ALLOW JUDGMENT OF REMAND  
7 TO BE ENTERED, EITHER INTERLOCUTORY OR FINAL.

8 THE COURT: OKAY.

9 MS. LEE: I THINK THAT WE WOULD -- THE COMMISSION  
10 WOULD WANT THE JUDGMENT TO BE FINAL, YOUR HONOR, SO WE  
11 COULD HAVE SOME CERTAINTY ABOUT THIS CASE.

12 THE COURT: RIGHT. MR. STACEY IS SAYING HE'S  
13 WILLING TO DISMISS HIS 1983 CLAIM IN ORDER TO GET A  
14 JUDGMENT OF REMAND. MS. LEE IS SAYING, JUDGE, IF YOU HAVE  
15 TO REMAND, WE WOULD RATHER HAVE A JUDGMENT OF REMAND. SO  
16 IT SEEMS LIKE THE PARTIES ARE IN AGREEMENT AND I AGREE WITH  
17 THAT.

18 SO I WILL ADOPT MY DECISION AS -- MY TENTATIVE AS  
19 MY DECISION AND THERE WILL BE A JUDGMENT IN FAVOR OF THE  
20 COMMISSION, BUT WITH A REMAND ON THE DEMOLITION ISSUE.

21 DOES THAT MAKE SENSE?

22 MS. LEE: SO IF I UNDERSTAND THIS CORRECTLY, YOUR  
23 HONOR, IT JUST MEANS THAT THE PETITIONER WOULDN'T HAVE TO  
24 FILE A NEW APPLICATION FOR DEMOLITION, BUT --

25 THE COURT: CORRECT. WELL --

26 MS. LEE: -- IT SAVES HER MONEY IN THAT RESPECT.

27 THE COURT: NO, YOU'RE MISUNDERSTANDING THE MONEY  
28 ISSUE. THE MONEY IS A NEW LAWSUIT IN SUPERIOR COURT.

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1 THAT'S WHERE THE MONEY IS.

2 SO YOU HAVE TO PAY THE COMMISSION -- I DIDN'T KNOW  
3 YOU HAD TO -- OBVIOUSLY YOU HAVE TO PAY -- EVERY AGENCY YOU  
4 HAVE TO PAY SOME FEE FOR.

5 NO, SO LET ME BE MORE ARTICULATE. THE JUDGMENT --  
6 THE JUDGMENT WOULD BE IN FAVOR OF THE COMMISSION, BUT WITH  
7 A REMAND TO, AS MR. STACEY SAYS, TO RECONSIDER THE  
8 DEMOLITION ISSUE IN LIGHT OF THE COURT'S DECISION. AND THE  
9 MONEY -- AN INTERLOCUTORY REMAND WITH THE CASE OPEN SAVES  
10 THE PETITIONER FROM FILING A NEW LAWSUIT IF THEY LOSE ON  
11 REMAND. IT'S WHATEVER THE COST OF A NEW LAWSUIT IS.  
12 THAT'S WHAT WE'RE TALKING ABOUT.

13 BUT FROM MY POINT OF VIEW, THE DECISION OF A  
14 JUDGMENT OF REMAND VERSUS NOT INTERLOCUTORY REMAND IS  
15 DEPENDENT ON WHETHER I REALLY THINK THE CASE IS GOING TO  
16 COME BACK TO ME. IF IT'S DEFINITELY COMING BACK TO ME, I  
17 WOULD ISSUE AN INTERLOCUTORY REMAND. WHERE IF THERE IS A  
18 REASONABLE PROSPECT THAT WHATEVER THE COMMISSION DECIDES  
19 WILL BE THE END, THEN IT SHOULD BE A JUDGMENT OF REMAND.

20 MR. STACEY: WELL, IF THE COMMISSION DECIDE --  
21 SHERMAN STACEY.

22 IF THE COMMISSION DECIDES TO DENY, WE WOULD BE  
23 COMING BACK AND UNLESS THE COMMISSION -- IF THEY FOLLOW  
24 YOUR RULING AS TO THE APPLICATION OF LOSS OF DENSITY AND,  
25 OF COURSE, THE COURT, TO BE QUITE UP FRONT ABOUT IT, WE  
26 WANT TO PRESERVE THAT FILE DATE THAT PREDATES THE EFFECTIVE  
27 DATE S.B. 330.

28 THE COURT: I GOT IT.

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Exhibit 13 p. 8 of 9

1 MR. STACEY: THAT'S OUR OBJECTIVE.

2 THE COURT: RIGHT; I UNDERSTAND.

3 I MEAN, I THINK IN ALL -- LAYERED OVER ALL THIS IS  
4 WITH A JUDGMENT OF REMAND, THAT'S APPEALABLE; AN  
5 INTERLOCUTORY REMAND I DON'T BELIEVE IS APPEALABLE.  
6 ALTHOUGH I COULD BE WRONG ON THAT. COURT OF APPEAL DOES  
7 HAVE RULES ABOUT REMAND ISSUES. SO THE LONG AND SHORT OF  
8 IT --

9 MS. LEE: YOUR HONOR, IF WE ARE -- IF THE COURT IS  
10 CONSIDERING DOING A REMAND, MAY I SPEAK AS TO THE DENSITY  
11 ARGUMENT BECAUSE --

12 THE COURT: YES. GO AHEAD.

13 MS. LEE: THANK YOU. I'D LIKE TO SPEAK TO THE  
14 JUDGE ABOUT THOSE.

15 SO, YOUR HONOR, REGARDING DENSITY, IT IS THE  
16 COMMISSION'S POSITION THAT THIS PARTICULAR AREA, IT IS  
17 APPROPRIATE TO MAINTAIN OR INCREASE DENSITY BECAUSE THIS IS  
18 A HIGH DENSITY AREA, AND ALTHOUGH SINGLE-FAMILY HOMES ARE  
19 PERMITTED, SINGLE-FAMILY RESIDENTIAL IS DEFINED IN THE  
20 L.C.P. AS A SINGLE ROLLING UNIT ON A SINGLE LOT, NOT ON A  
21 DOUBLE LOT. AND THIS IS DIFFERENT FROM HOW THE L.C.P.  
22 DEFINES MULTI-FAMILY HOMES, WHICH IS TWO OR MORE UNITS ON A  
23 SITE. HERE, THIS IS A SINGLE-FAMILY HOME ON TWO LOTS, SO  
24 IT IS ESSENTIALLY HALF A UNIT PER LOT.

25 AND THE BARE MINIMUM OF DENSITY IN THIS AREA WOULD  
26 BE ONE SINGLE-FAMILY HOME PER LOT. SO THIS HOME DOES NOT  
27 CONFORM WITH THE L.C.P. I THINK THEY CALL IT DOWN ZONING.  
28 IT IS NOT MAINTAINING DENSITY, IT IS NOT EVEN MAINTAINING



**1312 The Strand**



**1316 The Strand**