



# CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Blvd., 5<sup>th</sup> Floor

Long Beach, CA 90802

(562) 570-6194

FAX (562) 570-6068

September 6, 2012

## CHAIR AND PLANNING COMMISSIONERS

City of Long Beach

California

### RECOMMENDATION:

Approve a Standards Variance for a building height of 24 feet, 9 inches to the midpoint of a sloped roof, and a height of 25 feet, 10 inches to the top of a parapet wall, instead of not more than 24 feet for both, and approve a Local Coastal Development Permit for the project, a single-family dwelling located at 332 Claremont Avenue in the R-1-S zoning district (Council District 3).

APPLICANT: Phillip Bennett, Architect  
For Mark Michaels, Property Owner  
636 Molino Ave.  
Long Beach, CA 90814  
(Application No. 1206-04A)

### DISCUSSION

The proposed project is located on the south side of Claremont Avenue between Vista Street and Appian Way (Exhibit A – Location Map). The site is in the R-1-S zoning district, located on a 3,550-square-foot lot improved with a single-family dwelling.

The applicant obtained a building permit to construct a code-compliant second story addition to the single-family dwelling and proceeded through the construction process. However, due to a construction error, several portions of the building were finished above the code-compliant building height approved on the plans, and above the height limit for the R-1-S zone (the sloped roof was built 9 inches above the 24-foot height limit, and the parapet wall for the roof deck was built 1 foot, 10 inches (1'-10") above the 24-foot height limit)(Exhibit B – Plans and Photos). The architect proactively brought this issue to the Planning Bureau staff's attention and obtained two different height surveys to verify the actual constructed height of the structure.

Staff examined the height surveys and the conditions of the site, and found that a hardship exists that makes strict compliance with the code's height limits difficult. Although the lot appears flat, it has a nearly 3-foot upward slope from front to rear. This puts any development approaching the height limits on this lot at a disadvantage. *Grade* (the base point from which height is measured, see definition in Exhibit C – Definition of Grade and Diagram) is still taken from the front top of the curb, but due to the rising slope of the lot,

## CHAIR AND PLANNING COMMISSIONERS

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the end effect is that the height of the building above the ground is more limited than it would be on a sloped lot, leaving the applicant less height in which to build a two-story structure.

The zoning regulations do not make allowances for heights on sloped lots unless the slope reaches a difference of at least five feet between front and rear. At this point, *grade* is measured differently (taken from a plane connecting the average front and average rear elevations) in order to prevent this hardship. However, since the slope is less than five feet in this case, the hardship is still present and the applicant is deprived of the right to use and improve the property as other properties in the same zone are used (Exhibit D – Findings).

The City also has a long history of granting standards variances in this specific area. A search of zoning records returned no fewer than thirty-nine discretionary approvals for residential properties in the 250–300 blocks of Santa Ana Avenue, Claremont Avenue, and Bay Shore Avenue, as well as the 5300–5400 blocks of Appian Way. The exceptions granted took many forms, including variances for setbacks, fence heights, projections, and garage standards, as well as several height variances. While the zoning ordinance does not recognize a *mandatory precedent*, this record does seem to staff to set a strong *suggestive precedent* toward approval of the request. Additionally, a number of buildings on the same block as the subject property, as well as on adjacent streets, are developed with residential structures that are over the current height limits. Due to the combination of the development pattern, the record of discretionary approvals, and the hardship present on the site, staff recommends that Planning Commission approve variance request and the Local Coastal Development Permit (made necessary by any discretionary approval in the Coastal Zone). Due to the nature of the project and the request, staff has not found that any non-standard conditions of approval are necessary (Exhibit E – Conditions of Approval).

The City will require the applicant to bring the building into compliance with the code's height limits if the variance is not approved; however, the applicant has a number of options for achieving that, and the City cannot necessarily dictate the manner in which this is done absent a discretionary approval. Rather than lower the entire ceiling height and roofline of the house to bring it into compliance (which would be economically and practically unappealing to the applicant and owner), the applicant may elect to "cut off" the peak of the sloped roof to the extent necessary to lower the roof's midpoint to the 24-foot height limit. Staff believes this outcome would not be in the City's best interests, because the results would likely be aesthetically unfavorable. Staff would prefer to see an architecturally harmonious and complete single-family dwelling with a roof slightly higher than code strictly allows. Staff reiterates that this situation is created by the way the code makes no allowances for sloped lots with less than 5 feet of grade change, putting the applicant at a disadvantage in building height.

### **PUBLIC HEARING NOTICE**

Public hearing notices were distributed on August 20, 2012, in accordance with the requirements of Chapter 21.21 of the Long Beach Municipal Code. At the time of writing of

this report; staff has received one telephone inquiry expressing opposition, and one letter expressing opposition to the project.

**ENVIRONMENTAL REVIEW**

In accordance with the Guidelines for Implementation of the California Environmental Quality Act, a Categorical Exemption was issued for the proposed project (Exhibit F – CE-12-046).

Respectfully submitted,



DEREK BURNHAM  
PLANNING ADMINISTRATOR

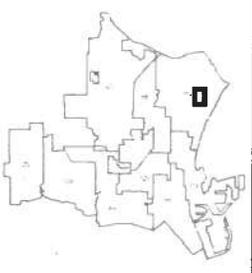
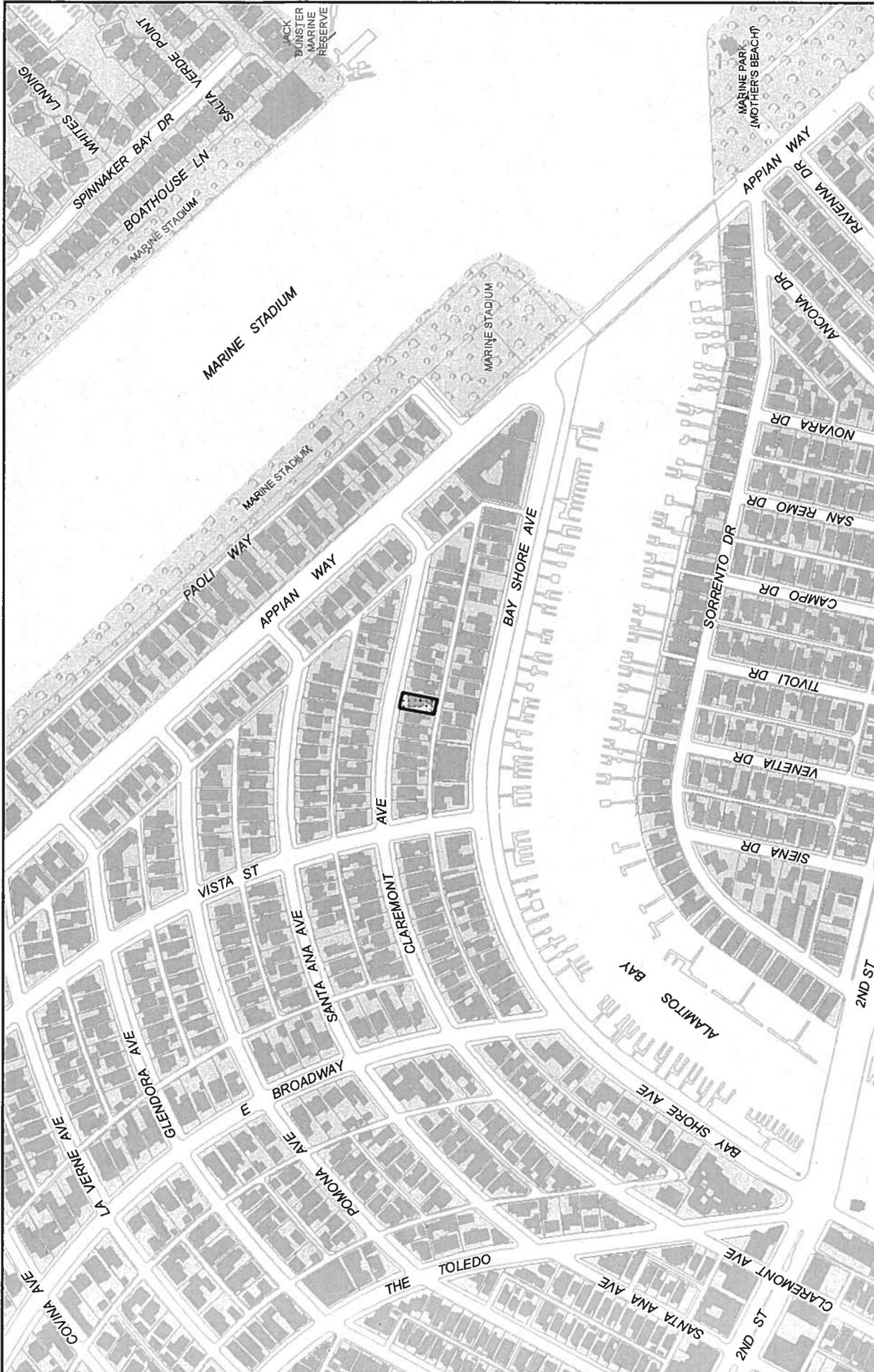


AMY J. BODEK, AICP  
DIRECTOR OF DEVELOPMENT SERVICES

AJB:DB

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Attachments:           Exhibit A – Location Map  
                                  Exhibit B – Plans and Photos  
                                  Exhibit C – Definition of Grade and Diagram  
                                  Exhibit D – Findings  
                                  Exhibit E – Conditions of Approval  
                                  Exhibit F – Categorical Exemption CE-12-046



# Exhibit A



**Subject Property:**  
 332 Claremont Ave  
 Application No. 1206-04A  
 Council District 3  
 Zoning Code : R-1-S

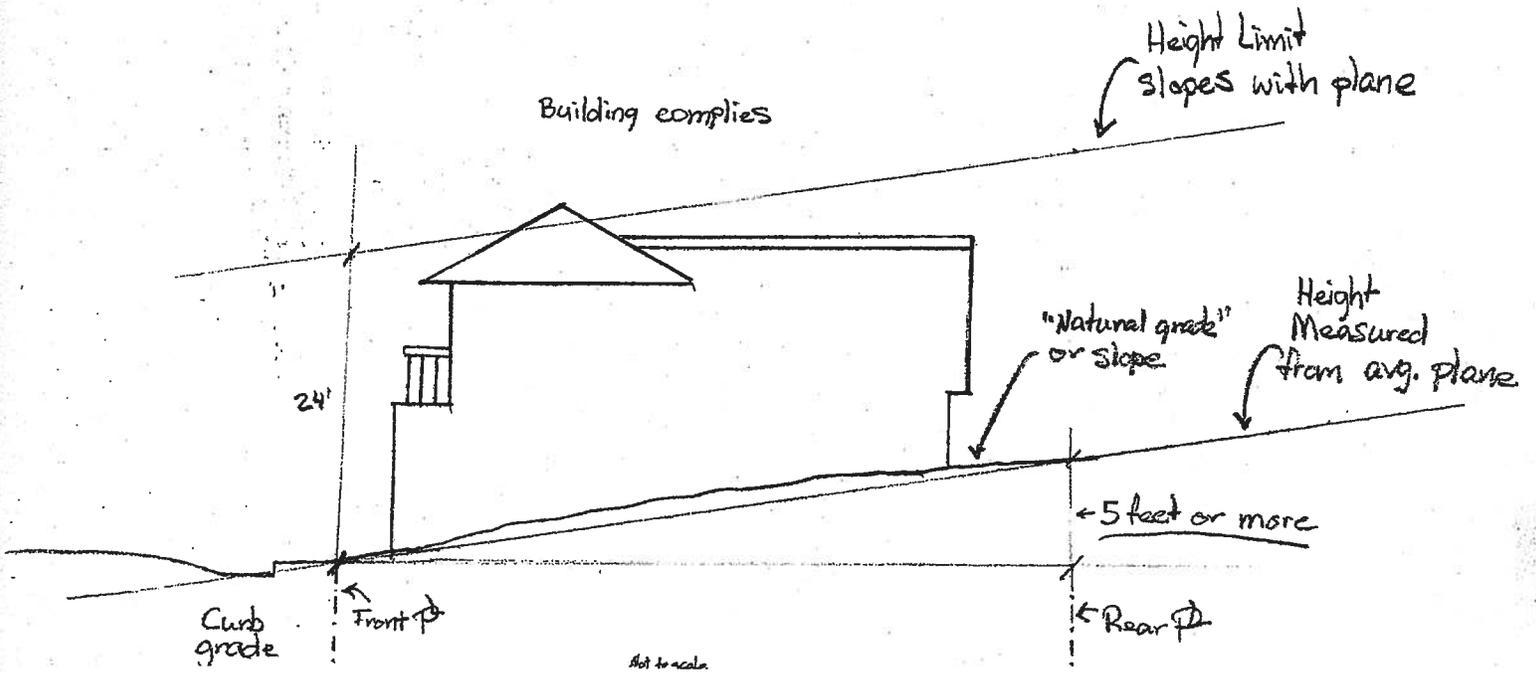
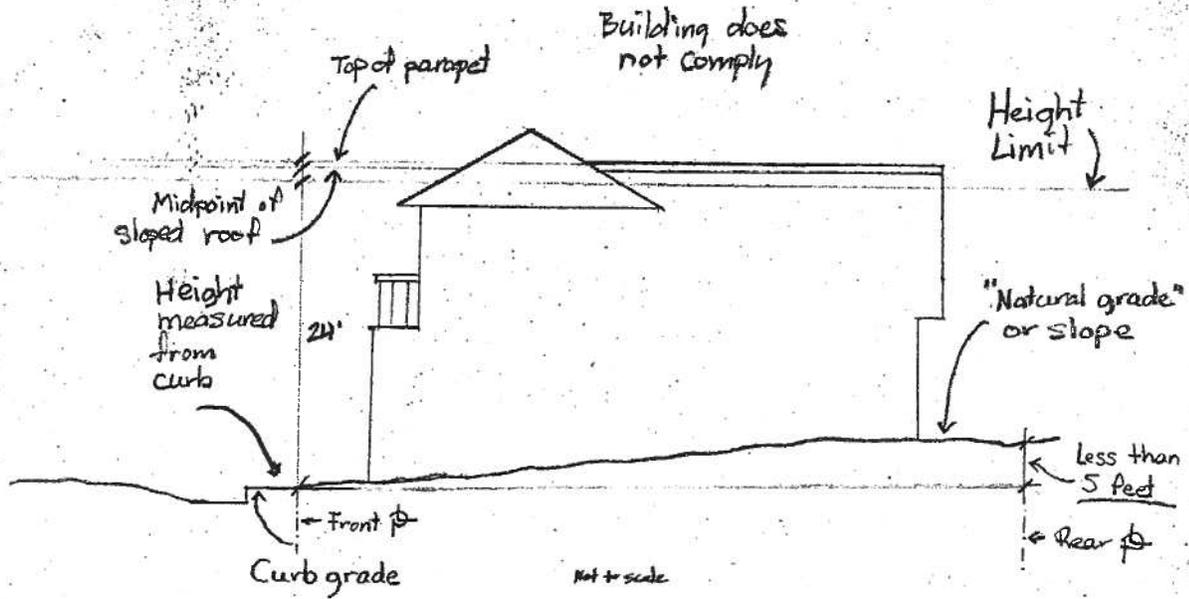


**21.15.1190 Grade.**

"Grade" is defined as follows:

- A. The average elevation at the front top of curblines.
- B. If the average elevation of the rear property line differs from that of the front top of curb by five feet (5') or more, then grade shall be the plane connecting the average front elevation and the average rear elevation.
- C. In flood hazard areas, grade means the elevation at flood hazard level or grade as defined above, whichever is the highest point.

(Ord. C-6533 § 1 (part), 1988).



**STANDARDS VARIANCE FINDINGS**

Application No. 1206-04A  
332 Claremont Ave.  
September 6, 2012

Per Section 21.25.306 of the Long Beach Municipal Code, the following findings must be analyzed, made and adopted before any action is taken to approve or deny the subject standards variance and must be incorporated into the record of proceedings relating to such approval or denial.

The findings from the Zoning Regulations, which must be answered, are presented in bold. Staff's answer to each finding, describing how the project does (positive finding) or does not (negative finding) comply, is below.

1. **THE SITE OR THE IMPROVEMENTS ON THE SITE ARE PHYSICALLY UNIQUE COMPARED TO THE OTHER SITES IN THE SAME ZONE;**

Positive Finding. The site is physically unique compared to a standard lot in the R-1-S zoning district. This subject lot has a significant slope of nearly 3 feet, rising from front to back. This changes the way height of building is measured and affects the height allowed for structures.

2. **THE UNIQUE SITUATION CAUSES THE APPLICANT TO EXPERIENCE HARDSHIP THAT DEPRIVES THE APPLICANT OF A SUBSTANTIAL RIGHT TO USE OF THE PROPERTY AS OTHER PROPERTIES IN THE SAME ZONE ARE USED AND WILL NOT CONSTITUTE A GRANT OF SPECIAL PRIVILEGE INCONSISTENT WITH LIMITATIONS IMPOSED ON SIMILARLY ZONED PROPERTIES OR INCONSISTENT WITH THE PURPOSE OF THE ZONING REGULATIONS;**

Positive Finding. The applicant requests a height variance for midpoint of a sloped roof 9 inches above the 24-foot height limit, and height to top of a parapet wall (for a roof deck) 1 foot, 10 inches above the 24-foot height limit. The subject site's nearly 3-foot front-to-back slope makes compliance with the 24-foot height limit difficult, since *grade* (the base point from which building height is measured) is taken from front average top-of-curb elevation, as it would be for a lot with no slope. But because a slope is present, strict application of the code effectively imposes a shorter building height than would be allowed on a flat lot. The Zoning Regulations establish *grade* differently for sloped lots where the slope is 5 feet or greater; in such a case *grade* is taken as a plane connecting the average front and average rear elevation and building height is measured along this plane. However, because the slope is less than 5 feet on the subject lot, this "relieving" provision does not apply. The effect is that the subject site experiences hardship, since the slope is significant enough that it deprives the applicant of the substantial right to construct a residence of the same effective height as on a flat lot; but, the slope is not enough to trigger the "relief" provision the Zoning

Regulations provide for lots with 5 feet or more of slope. Additionally, a number of properties on the subject block and in the immediately surrounding area are constructed above the nominal height limit, in some cases considerably above it. The applicant also has taken measures to provide greater-than-required building setbacks to reduce building massing and volume, so that an exception for a building height of 9 inches and 1 foot, 10 inches above the limit will not overwhelm neighboring structures. Approval of this request will not constitute a grant of special privilege inconsistent with limitations imposed on similarly-zoned properties (since this privilege already is enjoyed by other nearby properties), and will not be inconsistent with the purpose of the zoning regulations (controlling height, volume, and massing of structures), since those factors are effectively controlled by implementation of greater-than-required building setbacks.

**3. THE VARIANCE WILL NOT CAUSE SUBSTANTIAL ADVERSE EFFECTS UPON THE COMMUNITY; AND**

Positive Finding. Approval of this variance request would not cause substantial adverse effects upon the community. Approval will result in a building height 9 inches above the 24-foot height limit to midpoint of a sloped roof, and a roof deck parapet wall height of 1 foot, 10 inches above the 24-foot height limit. Staff cannot find that this approval will cause any substantial effects upon the community.

**4. IN THE COASTAL ZONE, THE VARIANCE WILL CARRY OUT THE LOCAL COASTAL PROGRAM AND WILL NOT INTERFERE WITH PHYSICAL, VISUAL, AND PSYCHOLOGICAL ASPECTS OF ACCESS TO OR ALONG THE COAST.**

Positive Finding. The variance will not change the way the Local Coastal Program is carried out at the subject site, or interfere with physical, visual, or psychological aspects of access to or along the coast. The project consists construction of a new second story addition to a single-family dwelling with a roof deck above the second story in the rear. . The site is located on an interior lot landward of the nearest public highway to the coast.

# LOCAL COASTAL DEVELOPMENT PERMIT FINDINGS

332 Claremont Ave.  
Application No. 1206-04A  
September 6, 2012

Pursuant to Section 21.25.904 of the Long Beach Municipal Code, a Local Coastal Development Permit can be granted only when positive findings are made consistent with the following criteria set forth in the Zoning Ordinance. These findings and staff analysis are presented for consideration, adoption and incorporation into the record of proceedings:

The findings from the Zoning Regulations, which must be answered, are presented in bold. Staff's answer to each finding, describing how the project does (positive finding) or does not (negative finding) comply, is below.

**1. THE PROPOSED DEVELOPMENT CONFORMS TO THE CERTIFIED LOCAL COASTAL PROGRAM INCLUDING BUT NOT LIMITED TO ALL REQUIREMENTS FOR REPLACEMENT OF LOW AND MODERATE-INCOME HOUSING; AND**

Positive Finding. The project conforms to the certified Local Coastal Program (LCP). This project is located in Area C of the LCP (The Belmont Height/Belmont Park Communities). The LCP mainly emphasizes public access to the shoreline and preservation of ocean views in Belmont Heights. This project is consistent with the requirements established for this area. All development will occur on an established lot, and will not encroach upon any public way. The project will comply with all development standards contained in the zoning ordinance, except for the standards variance exceptions requested for a height of 9 inches and 1 foot, 10 inches above the 24-foot height limit, respectively. This section of shoreline in Long Beach has excellent public access to the coast. No low- or moderate-income housing will be removed as part of this project.

**2. THE PROPOSED DEVELOPMENT CONFORMS TO THE PUBLIC ACCESS AND RECREATION POLICIES OF CHAPTER 3 OF THE COASTAL ACT. THIS SECOND FINDING APPLIES ONLY TO DEVELOPMENT LOCATED SEAWARD OF THE NEAREST PUBLIC HIGHWAY TO THE SHORELINE.**

Not Applicable. The proposed project is located landward of the nearest public highway (Appian Way) to the shoreline.

**STANDARDS VARIANCE and  
LOCAL COASTAL DEVELOPMENT PERMIT  
CONDITIONS OF APPROVAL**

332 Claremont Ave.  
Application No. 1206-04A  
September 6, 2012

1. This permit and all development rights hereunder shall terminate one year from the effective date of this permit unless construction is commenced or a time extension is granted, based on a written request approved by the Zoning Administrator, submitted prior to the expiration of the one year period as provided in Section 21.21.406 of the Long Beach Municipal Code.
2. The code exceptions approved for this project are as follows:
  - A building height of 24 feet, 9 inches (24'-9") to the midpoint of the highest sloped roof, instead of not more than 24 feet, and
  - A building height of 25 feet, 10 inches (25'-10") to the top of parapet wall surrounding the roof deck, instead of not more than 24 feet.
3. This permit shall be invalid if the owner(s) and/or applicant(s) have failed to return written acknowledgment of their acceptance of the conditions of approval on the *Conditions of Approval Acknowledgment Form* supplied by the Planning Bureau. This acknowledgment must be submitted within 30 days from the effective date of approval (final action date or, if in the appealable area of the Coastal Zone, 21 days after the local final action date). Prior to the issuance of a building permit, the applicant shall submit a revised set of plans reflecting all of the design changes set forth in the conditions of approval to the satisfaction of the Zoning Administrator.

**Special Conditions:**

4. The applicant shall maintain the increased yard setbacks as shown on approved plans, in perpetuity, unless released by the City through approval of a modification to this subject permit.

**Standard Conditions:**

5. If, for any reason, there is a violation of any of the conditions of this permit or if the use/operation is found to be detrimental to the surrounding community, including public health, safety or general welfare, environmental quality or quality of life, such shall cause the City to initiate revocation and termination procedures of all rights granted herewith.

6. In the event of transfer of ownership of the property involved in this application, the new owner shall be fully informed of the permitted use and development of said property as set forth by this permit together with all conditions that are a part thereof. These specific requirements must be recorded with all title conveyance documents at time of closing escrow.
7. All conditions of approval must be printed verbatim on all plans submitted for plan review to Long Beach Development Services. These conditions must be printed on the site plan or a subsequent reference page.
8. The Director of Long Beach Development Services is authorized to approve minor modifications to the approved plans or to any of the conditions of approval if such modifications shall not significantly change or alter the approved project. Any major modifications shall be reviewed by the Zoning Administrator or Planning Commission, respectively.
9. Site development, including landscaping, shall conform to the approved plans on file with Long Beach Development Services. At least one set of approved plans containing Planning, Building, Fire, and, if applicable, Redevelopment and Health Department stamps shall be maintained at the job site, at all times for reference purposes during construction and final inspection.
10. All landscaped areas must be maintained in a neat and healthy condition. Any dying or dead plants materials must be replaced with the minimum size and height plant(s) required by Chapter 21.42 (Landscaping) of the Zoning Regulations. At the discretion of City officials, a yearly inspection shall be conducted to verify that all irrigation systems are working properly and that the landscaping is in good healthy condition. The property owner shall reimburse the City for the inspection cost as per the special building inspection specifications established by the City Council.
11. The property shall be developed and maintained in a neat, quiet, and orderly condition and operated in a manner so as not to be detrimental to adjacent properties and occupants. This shall encompass the maintenance of exterior facades of the building, designated parking areas serving the use, fences and the perimeter of the site (including all public parkways).
12. Any graffiti found on site must be removed within 24 hours of its appearance.
13. All structures shall conform to the Long Beach Building Code requirements. Notwithstanding this subject permit, all other required permits from the Building Bureau must be secured.
14. Separate building permits shall be required for fences, retaining walls, flagpoles, and pole mounted yard lighting foundations.

15. Approval of this development project is expressly conditioned upon payment (prior to building permit issuance or prior to Certificate of Occupancy, as specified in the applicable Ordinance or Resolution for the specific fee) of impact fees, connection fees and other similar fees based upon additional facilities needed to accommodate new development at established City service level standards, including, but not limited to, sewer capacity charges, Park Fees and Transportation Impact Fees.
16. The applicant shall file a separate plan check submittal to the Long Beach Fire Department for their review and approval prior to the issuance of a building permit.
17. Demolition, site preparation, and construction activities are limited to the following (except for the pouring of concrete which may occur as needed):
  - a. Weekdays and federal holidays: 7:00 a.m. to 7:00 p.m.;
  - b. Saturday: 9:00 a.m. - 6:00 p.m.; and
  - c. Sundays: not allowed
18. Any off-site improvements found to be damaged shall be replaced to the satisfaction of the Director of Public Works.
19. All unused curb cuts shall be replaced with full height curb, gutter and sidewalk and shall be reviewed, approved and constructed to the specifications of the Director of Public Works.
20. As a condition of any City approval, the applicant shall defend, indemnify, and hold harmless City and its agents, officers, and employees from any claim, action, or proceeding against City or its agents, officers, and employees to attack, set aside, void, or annul the approval of City concerning the processing of the proposal/entitlement or any action relating to, or arising out of, such approval. At the discretion of the City and with the approval of the City Attorney, a deposit of funds by the applicant may be required in an amount sufficient to cover the anticipated litigation costs.



# NOTICE of EXEMPTION from CEQA

DEPARTMENT OF DEVELOPMENT SERVICES  
333 W. OCEAN BLVD., 5<sup>TH</sup> FLOOR, LONG BEACH, CA 90802  
(562) 570-6194 FAX: (562) 570-6068  
lbs.longbeach.gov

TO:  Office of Planning & Research  
1400 Tenth Street, Room 121  
Sacramento, CA 95814

FROM: Department of Development Services  
333 W. Ocean Blvd, 5<sup>th</sup> Floor  
Long Beach, CA 90802

L.A. County Clerk  
Environmental Fillings  
12400 E. Imperial Hwy. 2<sup>nd</sup> Floor, Room 2001  
Norwalk, CA 90650

Categorical Exemption CE- 12-046A

Project Location/Address: 332 CLAREMONT

Project/Activity Description: STANDARDS VARIANCE FROM MID-POINT OF ROOF SPAN (24'10" IN LIEU OF 24'0") & TOP OF PARAPET RAILING AT ROOF DECK OF 25'-10" IN LIEU OF PER'D 24'0"

Public Agency Approving Project: **City of Long Beach, Los Angeles County, California**

\* Applicant Name: MARIC MICHAELS

\* Mailing Address: 636 Molino Ave Long Beach CA 90804

\* Phone Number: 562-746-2311 Applicant Signature: [Signature]

BELOW THIS LINE FOR STAFF USE ONLY

Application Number: 1206-04A Planner's Initials: SK

Required Permits: Standards Variance, Local Coastal Development Permit

THE ABOVE PROJECT HAS BEEN FOUND TO BE EXEMPT FROM CEQA IN ACCORDANCE WITH STATE GUIDELINES SECTION 15303, Class 3, New Construction of Small Structures

Statement of support for this finding: Addition to existing single family residence.

Contact Person: Craig Chalfant

Contact Phone: 562-570-6768

Signature: [Signature]

Date: 8/22/12