

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA  
7575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108-4421  
(619) 767-2370

## RECORD PACKET COPY



Staff: GDC-SD  
Staff Report: January 27, 2005  
Hearing Date: February 16-18, 2005

# Fri 7a

AMENDMENT REQUEST  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-93-48-A1

Applicant: Kerry and Lynn Rutherford

Original

Description: Subdivision of a 21,213 sq. ft. lot into two lots (Lot 1 = 15,822 sq. ft. gross, 13,046 sq. ft. net; Lot 2 = 5,319 sq. ft. gross, 3,966 sq. ft. net).

Proposed

Amendment: Request to amend deed restriction requirements of subdivision approval and construct approximately 1,725 sq. ft., two-story single-family residence (including garage) with an approximately 1,004 sq. ft. basement on an approximately 5,374 sq. ft. lot (Lot 2).

Site: 2600 Montgomery Avenue, Cardiff, Encinitas, San Diego County  
APN 261-191-16

Substantive File Documents: Certified City of Encinitas Local Coastal Plan; Local Coastal Development Permit #04-142; Coastal Development Permit 6-93-48/Nommesen.

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STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the amendment request. The primary issue raised by the proposed development relates to protection of visual resources. The subject site is located on a sloping hillside just north of San Elijo Lagoon and is highly visible from the lagoon and surrounding roadways and other public areas. The proposed development includes a two-story over basement home on this highly constrained site. However, as conditioned, the home will include landscape screening and will be constructed utilizing earth tone colors to minimize its contrast with the adjacent natural hillside. In addition, staff recommends that a special condition be included that requires the use of Best Management Practices to assure all runoff from the site is effectively treated. All the proposed special conditions will be recorded against the subject lot through the use of a deed restriction. As conditioned, the proposed development will be consistent with all applicable provisions of the City of Encinitas certified LCP.

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**I. PRELIMINARY STAFF RECOMMENDATION:**

The staff recommends the Commission adopt the following resolution:

**MOTION:**      *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 6-93-048 pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a YES vote. Passage of this motion will result in approval of the amendment as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO APPROVE A PERMIT AMENDMENT:**

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in conformity with the policies of the certified Local Coastal Program. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

**II. Standard Conditions.**

See attached page.

**III. Special Conditions.**

The permit, as amended, is subject to the following conditions:

[Note: The following condition shall replace in its entirety Special Condition #1 of the original coastal development permit. For reference, the original coastal development permit is attached to the staff report as exhibit #4]

1. Final Plans. PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT (6-93-48-A1), the applicants shall submit to the Executive Director for review and written approval, final site and building plans that have been approved by the City of Encinitas and that substantially conform with the plans by Caitlin Kelly, Architect, dated June 22, 2004, as revised on September 8, 2004, but shall be revised to conform to the following:

- a. Residential development shall be limited to a maximum of two stories (plus basement) and shall incorporate a "stepped back" design for all southwest facing portions of the structure. The maximum height of any future residential structure shall not exceed 22 feet as measured from existing or proposed grade (whichever is lower) to the ridgeline of the roof. In addition, the maximum height of any structure shall not exceed the height of the ridgeline of the existing residential structure on the adjacent lot to the northwest, as approved by the Coastal Commission under CDP #F7630.
- b. Building materials and colors shall be limited to earth tones, including deep shades of green and grey, with no white or light shades, and no bright tones, except as minor accents, to minimize the residential development's contrast with the surrounding hillsides.
- c. With the exception of the southwest corner of the proposed residence (approximately 41 sq. ft.) as shown on the site plan by Caitlin Kelly, Architect, dated 9/8/04, no structures shall extend any closer than 5 ft. to the existing open space area. In addition, no alteration of landforms, removal of vegetation or erection of any structure shall be permitted within the existing open space easement located along the southwestern portion of the site (ref. Recorded document #81-180997, dated June 10, 1981).

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

[Note: All of the following conditions are new, though some of them contain provisions taken from the original version of condition 1 (i.e., the version in the original permit; ref.Exhibit #4).]

2. Future Development Restriction. This amendment (6-93-48-A1) is only for the development described in coastal development permit amendment No. 6-93-48-A1. Pursuant to Title 14 California Code of Regulations section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) shall not apply to the development governed by coastal development permit amendment No. 6-93-48-A1. Accordingly, any future improvements to the single family house authorized by this amendment, including but not limited to repair and maintenance identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), shall require another amendment to Permit No. 6-93-48 from the Commission unless it is determined by the Executive Director that no amendment is legally required.

3. Abandonment of Local Coastal Development Permit. PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT (6-93-48-A1), the

applicants shall submit evidence that they have surrendered and abandoned, in writing, all rights to construct under local coastal development permit #04-142 or any approval of a coastal development permit on appeal thereof.

4. Final Drainage Plans. PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT (6-93-48-A1), the applicants shall submit to the Executive Director for review and written approval, revised final drainage and runoff control plans, with supporting calculations, approved in writing by the City of Encinitas that document that the runoff from the roof, driveway and other impervious surfaces shall be directed into pervious areas on the site (landscaped areas) for infiltration and percolation to the maximum extent feasible prior to being conveyed off-site in a non-erosive manner.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT (6-93-048-A1), the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicants have executed and recorded against the parcel(s) governed by this permit amendment a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit amendment, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit amendment, as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit amendment. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit amendment, shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property. This deed restriction shall supercede and replace the deed restriction recorded pursuant to Special Condition #1 of Coastal Development Permit #6-93-48, approved on June 10, 1993, which deed restriction(s) is recorded as Instrument No. 1994-0150173 in the official records of San Diego County, with respect to the property subject to this permit amendment.

6. Final Landscaping Plan. PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT (6-93-48-A1), the applicants shall submit for the review and written approval of the Executive Director, a final landscaping plan, in substantial conformance with the plan submitted by Caitlin Kelley, Architect, dated 9/8/04. The plan submitted by the applicants shall be stamped approved by the City of Encinitas and include the following:

- a. The type, size, extent and location of all trees on the site. The trees shall maximize screening of the structure from views from San Elijo Lagoon, Highway 101 and the beach, and shall include a minimum of three (3) specimen-sized trees (minimum 24-inch box) along the southwest facing portions of the site.
- b. Drought-tolerant, native plant materials shall be utilized. No invasive species are permitted.
- c. A planting schedule that indicates that the landscaping plan will be implemented within 60 days of completion of residential construction.
- d. A written commitment by the applicants that all required plantings will be maintained in good growing conditions, and, whenever necessary, will be replaced with new drought-tolerant native, non-invasive plant materials to ensure continued compliance with applicable landscape screening requirements for the life of the project.
- e. A written commitment by the applicants that five years from the date of thereceipt of the Certificate of Occupancy for the home, the applicants will submit for the review and written approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies whether the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

The permittee shall undertake development in accordance with the approved landscape plans. Any proposed changes to the approved landscape plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

#### IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Amendment Description/Project History. The proposed development involves a request to amend the deed restriction requirements of the original subdivision approval for one of the two lots created and to construct an approximately 1,725 sq. ft., two-story single-family residence (including garage) with an approximately 1,004 sq. ft. basement on the approximately 5,374 sq. ft. lot. The subject site is located on a steeply sloping promontory overlooking San Elijo Lagoon, Highway 101 and the Pacific Ocean. In 1993, the Commission approved the subdivision which created the subject lot and imposed special conditions relating to future development of the subject lot that were

designed to mitigate the visual impact of any future residential development (ref. CDP #6-93-48/Nommesen). The special conditions included height limitations, a "stepped back" design for the southwest portion of the residence, color restrictions (earth tones), specific foundation design requirements (pole or pier), landscape screening and a prohibition against encroachments towards an existing open space area. To assure that all future property owners were aware of these conditions, the Commission required that a deed restriction be recorded against the subject lot identifying the requirements.

The applicant is requesting that two of the special conditions be modified because of changed circumstances. These restrictions concern the required pole or pier foundation and the prohibition of structures within a certain distance of an existing open space easement. The open space easement on the subject property consists of a naturally vegetated steep slope in excess of 25% grade that is located on the southwest side of the property. The open space easement was created in 1981 across this portion of the property as part of the approval of earlier subdivision (ref. CDP #9641).

The applicant initially processed the proposed residential development through the City of Encinitas, which has a certified Local Coastal Plan governing the subject property. The property also lies within the Commission appeals jurisdiction since the property is located within 300 ft. of San Elijo Lagoon. On October 12, 2004, two Commissioners appealed the local decision on grounds that the development as proposed was not reviewed for consistency with the visual protective policies of the LCP for new development located within the certified Scenic/Visual Corridor Overlay Zone. In addition, the Commissioners' appeal raised concerns with the inconsistency of the project with the development restrictions imposed by the subdivision approval (ref. 6-93-48/Nommesen). In order to resolve these issues and the conflict with the original subdivision approval, the applicant has waived his right to hearing on the appeal and has submitted the subject amendment request to modify the conditions of approval for CDP #6-93-48 and to request the residential development be approved as an amendment to the original permit, CDP #6-93-48. Following approval of the subject request, the applicant proposes to withdraw his coastal development permit application from the City of Encinitas. To assure that two different coastal development permits are not issued for the same development, Special Condition #4 requires the applicant to surrender any remaining rights he may have under City CDP 04-142 prior to issuance of the subject coastal development permit amendment.

The project site is located in the Cardiff community of Encinitas. The City has a certified Local Coastal Plan and has been issuing coastal development permits since 1995. The subject development lies within the City's coastal permit jurisdiction, however, because the proposed development includes revisions to the requirements imposed on the original subdivision approval by the Commission, the applicant is requesting to amend the requirements of the deed restriction (ref. CDP #6-93-48/Nommesen). In addition, since the original approval also required a coastal permit for the future residential development of the site from either the Coastal Commission or the Commission's successor agency, the applicant is also requesting a coastal permit from the Commission for the new

residence. Because the site is located in the area governed by the City's LCP, the City's certified LCP is the standard of review.

2. Visual Resources. The primary issue raised by the proposed development relates to protection of visual resources. The subject site is located on a sloping hillside just north of San Elijo Lagoon and is highly visible from the lagoon and surrounding roadways and other public areas. The proposed development includes a two-story over basement home on this highly constrained site.

The proposed development will be located on a southwesterly facing ridge overlooking San Elijo Lagoon and Highway 101 that is designated on the Visual Resource Sensitivity Exhibit of the certified LUP as being within the scenic view corridor. In addition, the following Local Coastal Program policies relate to the proposed development:

Resource Management Element

Policy 4.6 The City will maintain and enhance the scenic highway/visual corridor viewsheds.

Policy 4.8 The City will designate Scenic/Visual Corridor Overlay and scenic Highway viewshed areas as illustrated on the Visual Resource Sensitivity Map (Figure 3).

Policy 4.9 It is intended that development would be subject to the design review Provisions of the Scenic/ Visual Corridor Overlay Zone for those locations within Scenic View Corridors, along scenic highways and adjacent to significant viewsheds and vista points with the addition of the following design criteria:

-Development Design

- Building and vegetation setbacks, scenic easements, and height and bulk restrictions should be used to maintain existing views and vistas from the roadway.
- Off-site signage should be prohibited and existing billboards removed.
- Development should be minimized and regulated along any bluff silhouette line or on adjacent slopes within view of the lagoon areas and Escondido Creek.
- Where possible, development should be placed and set back from the bases of bluffs, and similarly, set back from bluff or ridge top silhouette lines; shall leave lagoon areas and floodplains open, and shall be sited to provide unobstructed view corridors from the nearest scenic highway.

- Development that is allowed within a viewshed area must respond in scale, roof line, materials, color, massing, and location on site to the topography, existing vegetation, and colors of the native environment.

#### Land Use Policy 6.6

The construction of very large buildings shall be discouraged where such structures are incompatible with surrounding development. The building height of both residential and non-residential structures shall be compatible with surrounding development, given topographic and other considerations, and shall protect public views of regional or statewide significance.

#### Land Use Goal 9

Preserve the existence of present natural open spaces, slopes, bluffs, lagoon areas, and maintain the sense of spaciousness and semirural living within the I-5 View Corridor and within other view corridors, scenic highways and vista/view sheds as identified in the Resource Management Element.

The City's certified Implementation Plan (IP) also contains similar measures to assure development located within Scenic View Corridors is designed to address visual impacts of the development:

#### 30.34.080 Scenic/Visual Corridor Overlay Zone.

A. APPLICABILITY. The Scenic/Visual Corridor Overlay Zone regulations shall apply to all properties within the Scenic View Corridor as described in the Visual Resource Sensitivity Map of the Resource Management Element of the General Plan.

B. DEVELOPMENT STANDARDS. When development is proposed on any properties within the Scenic View Corridor, consideration will be given to the overall visual impact of the proposed project and conditions or limitations on project bulk, mass, height, architectural design, grading, and other visual factors may be applied to Design Review approval.

The applicant is proposing to amend previous development restrictions in order to allow for construction of an approximately 1,725 sq. ft., two-story single-family residence (including garage) with an approximately 1,004 sq. ft. basement on a sloping approximately 5,374 sq. ft. lot. Approximately 1/3 of the subject lot consists of a naturally vegetated steep slope that is protected by an open space easement prohibiting development. No development is proposed within the open space easement. The project will also involve approximately 350 cu. yds. of grading that is proposed to be exported from the site.



In approving the creation of the subject lot, through a subdivision, in 1993, the Commission was concerned that any future residential development on the lot include measures to minimize the structure's appearance or visual prominence. The Commission required that the residence be limited to 2-stories, incorporate a "stepped back" design and not exceed 22 ft. in height or exceed the ridgeline of the adjacent residence to the northwest. The Commission also required coloring of the structure with earth tones and the use of landscaping along the southwest site of the residence to minimize its appearance. In addition, the Commission required any new residence be designed using a pole or pier foundation in order to minimize grading of the site and maximize views of the natural slope. The Commission also prohibited any structure from encroaching closer to the open space easement than a car deck that existed in 1993 (See attached Coastal Permit 6-93-48/Nommesen, Exhibit #5).

The subject site continues to be visually prominent as seen from San Elijo Lagoon and Highway 101. Therefore, staff believes that most of the development restrictions required in 1993 are still relevant and recommends that Special Condition #1 be retained in a manner that replicates most of the conditions required by the original permit. However, since 1993 the residential character of the neighborhood has changed such that the applicant's proposed revisions to the original special conditions of approval can be found to be acceptable and consistent with the requirements of the LCP. One significant change has been the construction of large three-story residences located above and adjacent to the proposed development site. The proposed residence will be significantly smaller in size and appearance than these three-story residences. Another significant change has been the maturation of natural vegetation around the subject site.

The proposed development conforms to most of the requirements of Coastal Development Permit 6-93-48; however, the applicant is requesting that two modifications be approved. According to the applicant, the requirement of a pole or pier foundation with minimal grading is infeasible. In addition, the applicant asserts that since 1993, site conditions have changed such that the prohibition against any structure being placed closer to the open space easement is no longer necessary. The applicant is requesting that Special Condition 1d (pole/pier foundation) of Coastal Development Permit 6-93-48 be deleted and that Special Condition 1f be modified to allow approximately 41 sq. ft. of the proposed residence to encroach towards the open space easement (but not into it) in the area in which Special Condition 1f had prohibited such development (ref. Coastal Development Permit 6-93-48; attached as Exhibit 3).

Special Condition 1d required a pole or pier foundation for any new structure on the subject lot and was imposed by the Commission in order to minimize the alteration of natural landforms on this steeply sloping lot and to maintain views of the slope beneath the residence. However, the applicant has submitted geotechnical information that demonstrates that a minimum factor-of-safety against slope failure in excess of 1.5 (the engineering standard for new development) cannot be met utilizing only a pole or pier foundation. According to the applicant's geotechnical information, which has been subjected to review and approval by the City's geotechnical third party reviewer, the proposed development will require a deep foundation system consisting of drilled, cast-

in-place concrete piers tied together with grade beams and the construction of a basement resulting in approximately 350 cu. yds. of graded export in order to address geotechnical requirements. In addition, the applicant has submitted photo documentation that any views of the slope on the development site that existed in 1993 have been significantly reduced by the growth of the natural vegetation within the open space easement on the southwest side of the lot and by mature vegetation that exists on the adjacent lots. Based on this new information, Commission staff believes the limitation of a pole or pier foundation is no longer necessary or feasible and that no adverse visual impacts will occur if Special Condition 1d of the original permit is eliminated.

Special Condition #1f of Coastal Permit #6-93-48 prohibits any structures from being located closer to the existing open space area than a car deck that existed on the site in 1993 in order to assure future residential development did not project out over the slope. While the "car deck" has since been removed, the requirement generally translates into an approximately 5 ft. setback from the open space easement. The proposed residence is designed in a way such that a small corner of the home will encroach approximately 41 sq. ft. into this 5 ft. setback area on the southwest side. However, the design will also result in a greater approximately 10 to 15 ft. setback from the open space area on its south east side. This varied setback design is consistent with the Commission's overall concern that any new development not create a wall effect along the upper edge of the near vertical open space easement and that the southwest side of the residence be a "stepped-back design". In addition, as identified above, the natural vegetation within the open space easement has matured such that public views of the development site do not generally exist. Finally, Special Condition #6 requires the applicant to screen the proposed structure with drought tolerant native and non-invasive plant materials with a minimum of 3 specimen-sized trees between the residence and the lagoon and Highway 101. The applicant has submitted a landscape plan consistent with that requirement. Therefore, because of the varied stepped back design of the residence, the existing mature vegetation and the applicant's proposed landscaping plan, the proposed 41 sq. ft. encroachment toward the open space easement will not result in any adverse impact to area's visual resources. Therefore, revising Special Condition #1f to allow for the minimal 41 sq. ft. encroachment toward the open space area can be found to be consistent with the above-cited LCP policies and goals which require new development in scenic areas be designed to mitigate their visual impact.

Special Condition #1 has been retained but modified. The revised version replicates most of the requirements of the original permit except for the modifications requested by the applicant. These include the requirement that any residence be limited to a two-story structure not exceeding 22 ft. in height and incorporate a stepped back design on its southwest side. Building materials and colors shall be limited to earth tones to reduce the contrast of the home on the surrounding natural area. As conditioned, the proposed development will not have an adverse impact on the visual resources of the area as required by the above-cited LCP policies. To assure that future owners of the property are aware of these requirements, as well as others, Special Condition #5 requires that the applicants record a deed restriction against the property identifying all of the special conditions of approval. Since the conditions replace the previously-applicable

restrictions that were recorded in a prior deed restriction, this new deed restriction is designed to supercede and replace the existing one.

To assure that any future development of the site is consistent with the Special Conditions of approval, Special Condition #2 requires the submission of an amendment or additional Coastal Development Permit for any future development.

3. Runoff/Water Quality. The following LCP policies are applicable to the proposed development:

GOAL 2: The City shall make every effort to improve ocean water quality.

POLICY 2.1: In that ocean water quality conditions are of utmost importance, the City shall aggressively pursue the elimination of all forms of potential unacceptable pollution that threatens marine or human health.

POLICY 2.3: To minimize harmful pollutants from entering the ocean environment from lagoons, streams, storm drains and other waterways containing potential contaminants, the City shall mandate the reduction or elimination of contaminants entering all such waterways; pursue measures to monitor the quality of such contaminated waterways, and pursue prosecution of intentional and grossly negligent polluters of such waterways.

Land Use Policies 2.1 and 2.3 of the certified LCP require that new development be designed to minimize the adverse impacts of sediments and polluted runoff that enter sensitive habitat areas and ocean waters. The project site is located on the north side of Manchester Avenue, a street that borders San Elijo Lagoon. Because of the location, runoff from the development site will eventually enter San Elijo lagoon, which contains wetlands and waters that flow into the Pacific Ocean.

In order to reduce the potential for adverse impacts to water quality of nearby lagoon wetlands and coastal waters resulting from drainage runoff from the proposed development, Special Condition #4 is attached. The condition requires that runoff from the roof, driveway and other impervious surfaces is directed into the landscaped areas on the site for infiltration and/or percolation, prior to being conveyed off-site. Directing runoff through landscaping is a well-established BMP for treating runoff from developments such as the subject proposal. As conditioned, the proposed development will serve to reduce any impacts to water quality from the project to insignificant levels, and the Commission finds that the project will be consistent with Land Use Policies 2.1 and 2.3 of the City's certified LCP regarding the protection of water quality.

#### 4. Local Coastal Planning

The subject site is planned and zoned for residential development in the certified Encinitas Local Coastal Program. As conditioned, the proposed development is

consistent with the City's development standards for a single-family residence as well as with the provisions of the Scenic Overlay. As conditioned, the project is consistent with all policies of the certified LCP and the Commission finds that approval of the subject project will not prejudice the ability of the City of Encinitas to continue to implement its certified Local Coastal Program.

5. Consistency with the California Environmental Quality Act (CEQA).

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the visual resource and water quality policies of the certified Local Coastal Plan. Mitigation measures will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

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

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

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41 sq. ft.  
 Portion Residence  
 Proposed adjacent  
 to open space

DENOTES EXISTING OPEN SPACE  
 EASEMENT GRANTED TO THE  
 COUNTY OF SAN DIEGO PER  
 DOC. No. 81-180997 REC  
 JUNE 10 1981

EXISTING ACCESS EASEMENT  
 FOR 1596 MONTGOMERY

96' ELEV.  
 CROWN OF STREET

RESIDENCE

TOP OF ROAD - 22.5'  
 (10' ABOVE ELEV. CROWN OF STREET)

8 1/2' x 18'  
 PARKING AREA

20'-0" F.Y.S.B.

Existing  
 open  
 space  
 EASEMENT

PARCEL 2  
 PM 17367

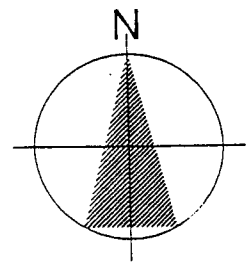

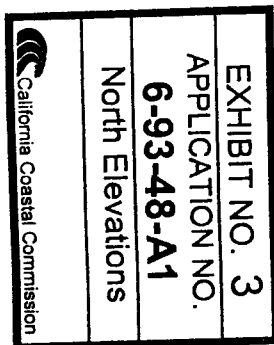
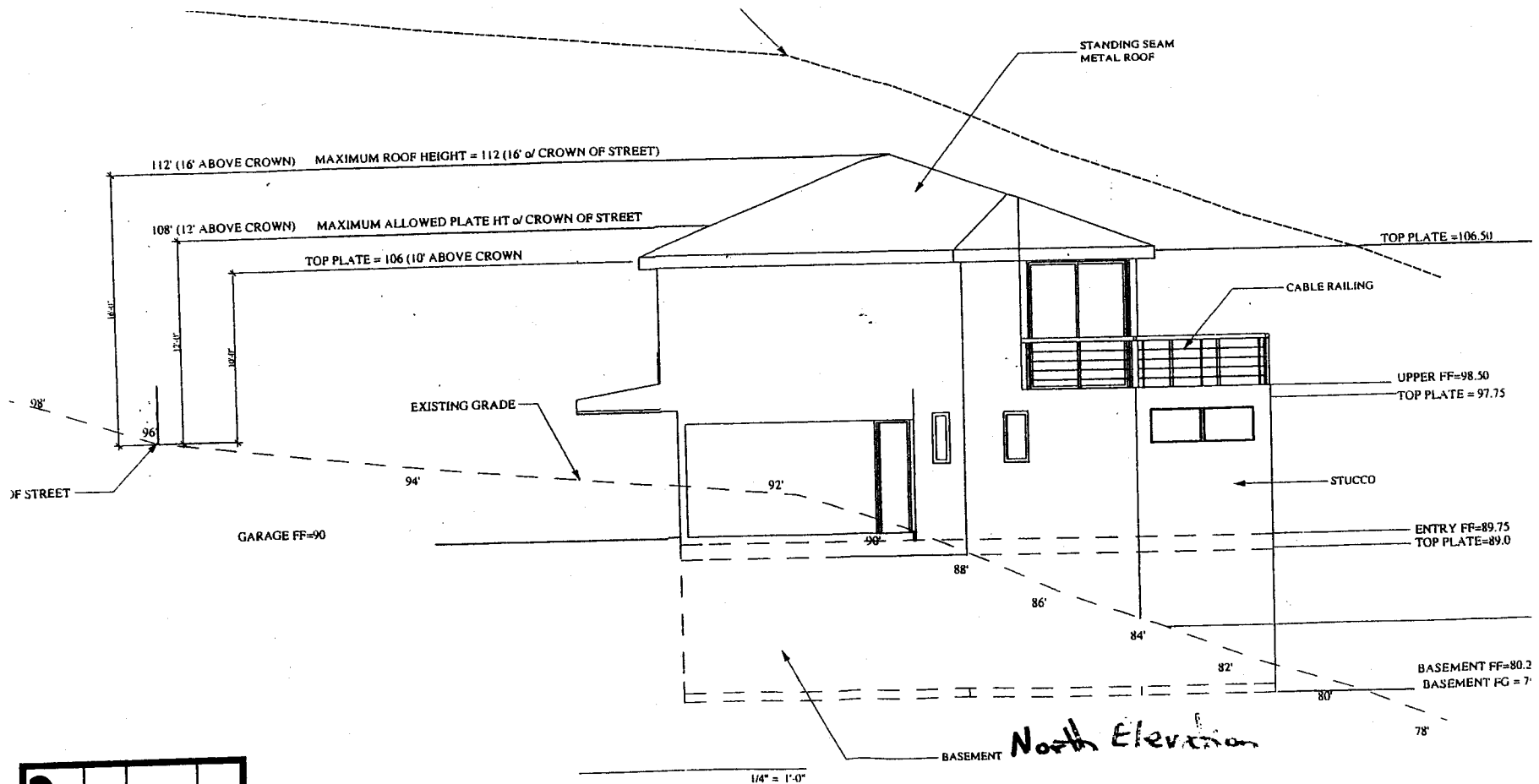


EXHIBIT NO. 2
APPLICATION NO.
<b>6-93-48-A1</b>
Site Plan
 California Coastal Commission





## CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA  
3111 CAMINO DEL RIO NORTH, SUITE 200  
SAN DIEGO, CA 92108-1725  
(619) 521-8036

COASTAL DEVELOPMENT PERMIT NO. 6-93-48

Page 1 of 3



On June 10, 1993, the California Coastal Commission granted to John Normesen this permit for the development described below, subject to the attached Standard and Special Conditions.

Description: Subdivision of a 21,213 sq. ft. lot into two lots (Lot 1 = 15,822 sq. ft. gross, 13,046 sq. ft. net; Lot 2 = 5,319 sq. ft. gross, 3,966 sq. ft. net).

Lot Area	21,213 sq. ft.
Building Coverage	3,641 sq. ft. (17%)
Pavement Coverage	4,200 sq. ft. (20%)
Landscape Coverage	13,372 sq. ft. (63%)
Parking Spaces	8
Zoning	R-11
Plan Designation	Residential 11 (8.01-11 dua)
Project Density	4.1 dua
Ht abv fin grade	35 feet

Site: 2596 Montgomery Avenue, Cardiff, Encinitas, San Diego County.  
APN 261-191-12

Issued on behalf of the California Coastal Commission by

PETER DOUGLAS  
Executive Director  
and:

**IMPORTANT:** THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGEMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE.

## ACKNOWLEDGEMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

RECEIVED

APR - 1 1994

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

3/25/94  
Date

Signature

EXHIBIT NO. 4  
APPLICATION NO.  
6-93-48-A1

Original Permit with  
Special Conditions

Page 1 of 3

California Coastal Commission

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

The permit is subject to the following conditions:

1. Future Residential Development Restrictions. Prior to the issuance of the coastal development permit, the applicant shall record a deed restriction, in a form and content acceptable to the Executive Director, free of all prior liens and encumbrances, except for tax liens, and binding on the permittee's successors in interest and any subsequent purchasers of any portion of the real property. The restriction shall be recorded against proposed Lot #2 and shall provide the following:

- a. Any proposed residential development or other development as defined in Public Resources Code Section 30106 will require an additional coastal development permit from the California Coastal Commission or from its successor agency.

SPECIAL CONDITIONS, continued:

b. Future residential development shall be limited to a maximum of two stories and shall incorporate a "stepped back" design for all southwest facing portions of the structure. The maximum height of any future residential structure shall not exceed 22 feet as required by the current City of Encinitas Zoning Ordinance (ref. City Ordinance No. 13.16.010B(7), dated 6-92). In addition, the maximum height of any structure shall not exceed the height of the ridgeline of the existing residential structure on the adjacent lot to the northwest, as approved by the Coastal Commission under CDP #F7630.

c. Building materials and colors shall be limited to earth tones, including deep shades of green and grey, with no white or light shades, and no bright tones, except as minor accents, to minimize the residential development's contrast with the surrounding hillsides.

d. Any future residence shall be supported by a pole or pier foundation. No additional grading shall be permitted on the site with the exception of excavation necessary for foundation/footings and to accommodate utility extensions.

e. Landscape screening shall be required that consists of drought tolerant native or naturalizing plant materials to the maximum extent feasible. Special emphasis shall be placed on the treatment of the southwest facing portions of the site with a minimum of three specimen size trees (24-inch box) to effectively screen any proposed residential development from views from the lagoon, Highway 101 and the beach. In addition, all required landscaping shall be installed within 6 months of recordation of the final map and/or prior to occupancy of any residential unit, whichever comes first.

f. No structures shall extend any closer to the existing open space area than the existing car deck (ref. Exhibit #2 attached). In addition, no alteration of landforms, removal of vegetation or erection of any structure shall be permitted within the existing open space easement located along the southwestern portion of the site (ref. recorded document #81-180997, dated June 10, 1981).

Evidence of recordation of such restriction shall be subject to the review and written approval of the Executive Director.

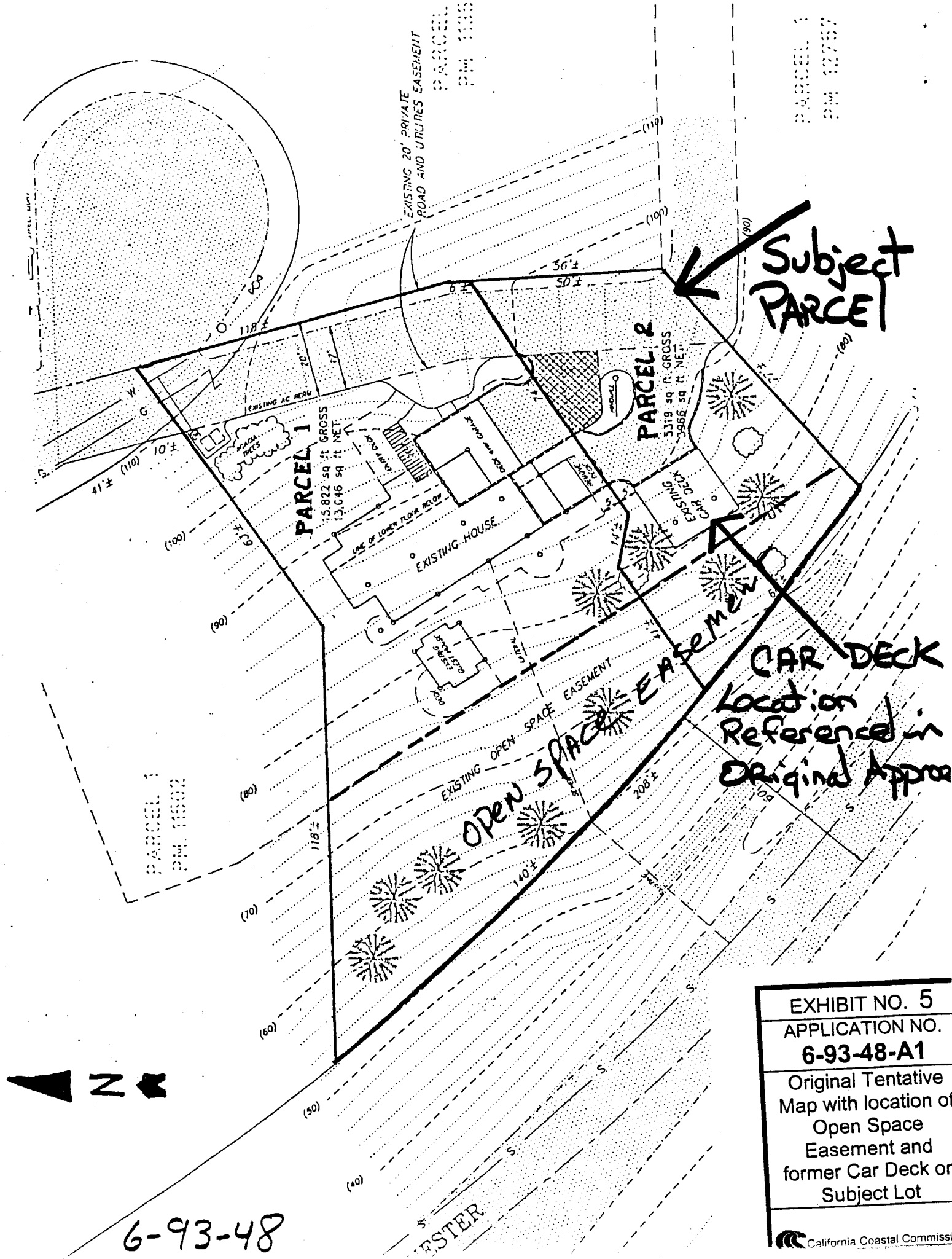


EXHIBIT NO. 5  
 APPLICATION NO.  
**6-93-48-A1**  
 Original Tentative  
 Map with location of  
 Open Space  
 Easement and  
 former Car Deck on  
 Subject Lot