

Agenda No. 23b, September 5, 2007

Appeal No. A-6-LJS-06-079-A1

Lewis M. Branscomb

Opposed to the project

W 23b

Received

AUG 24 2007

California Coastal Commission
San Diego Coast District

To: California Coastal Commission Members and Staff

Submitted by: **Lewis M. Branscomb**, owner and resident,

1600 Ludington Lane, La Jolla CA 92037.

Telephone 868 454 6871

My home is immediately above and across the street from the project whose approval by the city of San Diego, and subsequent conditional disapproval by the Coastal Commission is under appeal to the Commission. My property abuts the canyon down which the storm water from the north side of Mt. Soledad flows. The Commission is considering a first step toward approval of a 8,559 square foot home at 1620 Torrey Pines Road (Permit No. A-6-LJS-06-079-A1) in La Jolla¹.

My wife and I are strongly opposed to the appellant's request to delete Special Condition no. 11, which was ruled as a requirement by the Commission at the hearing in Long Beach January 30, 2007. I testified against the appellant's request at that hearing on a variety of grounds. Unfortunately the September 5 hearing takes hundreds of miles away in Eureka, CA, and it is impossible for me to be there in person. Thus I make my case in this letter.

There are many valid objections to an enormous house being constructed in the mouth of the very narrow canyon that drains the north face of Mt. Soledad into a Marine Park and an Area of Special Biological Significance. In this letter I will address only one of my concerns— the issue that the Commission ruled on last January. The Commission ruled that the project should only go forward if the problems raised by the State Water Quality Resources Board are met, if indeed, they can be met.

Last January the Coastal Commission made its approval conditional on the City of San Diego obtaining an exception to the ruling of the Water Quality Control Board by finding a way to treat the water from the proposed storm drain so that its quality did not violate the requirements of the Water Quality Control Board for an Area of Special Biological Significance. I see no evidence in the appeal that the applicant has satisfied that condition.

Indeed, the current staff report states that the State WRCB will not make a ruling (positive or negative) until late 2007 or perhaps in 2008. Furthermore, the city has made clear that, while it "has allocated funding" for a low-flow diversion at this storm drain, allocating

¹ The City Council approved a home of only 6,869 square feet. How did the builder get authority to expand to 8,559 sq ft?

letter of opposition¹ 9

budget is not a guarantee that the project will happen, or what the completion date will be. In any case the staff requirement #6 says the appellant only has to *“cooperate with the city of San Diego in its efforts to install a low flow diversion intercept at the storm drain entering the subject site.”*

An “effort” by the city is not good enough. This clause in the staff recommendation falls far short of assurance that a low-flow diversion to the city sewer will, in fact, ever be installed. In addition the staff report says that the low-flow diversion project would, under the best of circumstances, not be completed until December 2009 – over two years from now. This low-flow diversion is the only step the appellant proposes that would even partly allow compliance with state water quality law. I see no basis for the Coastal Commission to approve this request prior to that facility being in place (two or more years from now).

Nor do I see what the rush is about.

Surely the Coastal Commission should await a formal ruling by the State WQCB, and that approval should not be expected until the Commission receives verification that the low-flow diversion of the storm drain will

- (a) actually happen by the date of completed relocation of the storm drain, and
- (b) is adequate to fulfill the requirements of California (and federal) water quality law.

I urge the Commission to

- a) Deny the appellant’s request and vote “no” on the staff recommendation.
- b) Rule that the project as modified cannot proceed without the full approval of the California Water Quality Control Board (and not just the willingness of the San Diego office to offer a temporary, conditional approval.)
- c) Insist that the project can only proceed with assurances from the city of San Diego that the low-flow diversion project will be installed on the same time schedule as the relocated storm drain itself.

Signature on File

Lewis M. Branscomb

August 27, 2007

CALIFORNIA COASTAL COMMISSION

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Wed 23b

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 Staff Report: 8/22/07
 Hearing Date: 9/5-7/07

AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

APPLICATION NO.: A-6-LJS-06-79-A1

APPLICANT: CWS, Inc./Ms. Virginia King **AGENT:** Matt Peterson

ORIGINAL

DESCRIPTION: Construction of an 8,559 sq. ft., three-story single-family residence with an attached 455 sq. ft. 2-car garage on a vacant 13,452 sq. ft. blufftop lot. Also proposed is the abandonment of an existing storm drain easement across the site and the construction of a new 36-inch storm drain within a new easement with an approximately 350 sq. ft. rip rap energy dissipater on the beach.

PROPOSED

AMENDMENT: Delete Special Condition #11 to remove the requirement that the applicant provide evidence that the City of San Diego has been granted an exception from the State Water Resources Control Board (SWRCB) for discharge into the La Jolla Area of Special Biological Significance (ASBS) prior to issuance of the coastal development permit. Also proposed is a request to segment the permit such that work on the storm drain can proceed ahead of the home construction and extend a limited period into the rainy season (Part A = storm drain improvements; Part B = residential development).

SITE: 1620 Torrey Pines Road, La Jolla, San Diego (San Diego County).
 APN 350-141-16

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending approval of the proposed amendment, with special conditions. The primary issue raised by the proposed development relates to protection of water quality as the storm drain to be relocated discharges directly into the La Jolla Area of Special Biological Significance (ASBS).

Due to concerns raised by the State Water Resources Control Board (SWRCB) staff at the time of the original approval pertaining to discharges into the La Jolla ASBS from the relocated storm drain, the Commission conditioned the permit to require the applicant to

provide evidence, before issuance of the permit, that the City of San Diego had been granted an exception by the SWRCB for discharges into the La Jolla ASBS. However, because it was not known when the SWRCB was going to act on the City's exception request, the Commission also included that if the SWRCB had not acted within 6 months, then the applicant could propose an amendment to address other options. To date, the SWRCB has not acted on the City's exception request and is not expected to act until late 2007 or sometime in 2008. With the subject amendment, the applicant has demonstrated that by not constructing the relocated storm drain, during rain events, the existing storm drain will continue to cause erosion, resulting in sedimentation being discharged into the ocean which will be eliminated with the construction of the relocated storm drain. In addition, the City of San Diego has provided documentation that funding for a low flow diversion at this storm drain has been allocated and that the low flow diversion should be operational before December 2009. Thus, relocation of the storm drain will result ultimately in an improvement to ocean water quality. Finally, SWRCB staff have indicated that they do not object to Special Condition #11 being deleted, especially given the fact the overall water quality to the La Jolla ASBS will be improved with the development. Therefore, staff recommends the Commission approve the amendment request.

The applicant is also requesting the permit be segmented such that issuance of the permit for the construction of the storm drain improvements can occur ahead of and separate from the issuance of the permit for the residential construction. While somewhat unusual, in this particular case, the applicant has documented that the existing storm drain needs to be replaced before the next rainy season, as it currently causes localized flooding, erosion and sedimentation into the La Jolla ASBS. The applicant cannot, however, meet the prior to issuance conditions of the permit related to the residential development before the next rainy season starts. Staff therefore recommends that the Commission approve segmenting the permit to allow the portion of the permit related to the storm drain development to be issued prior to the portion of the permit authorizing development related to the residential construction, as this approach will be most protective of coastal resources. To carry out staff's recommendation, the proposed special conditions are being revised so that the permit can be issued in phases; Part A authorizes the storm drain construction and Part B authorizes the residential construction. Thus, upon satisfaction of the prior-to-issuance special conditions listed under Part A, the permit can be issued solely for the storm drain construction. Issuance of the permit for the residential component will not occur until all of the prior-to-issuance special conditions listed under Part B are satisfied. It should be noted that while the permit issuance has been segmented, the substantive changes to the permit conditions relate only to the storm drain component of the development.

STANDARD OF REVIEW: Certified City of San Diego Local Coastal Program and the public access and recreation policies of the Coastal Act.

SUBSTANTIVE FILE DOCUMENTS: Certified City of San Diego Local Coastal Program; Appeal forms; Report of Geologic Reconnaissance Proposed Single-

Family Residence, 1600 Torrey Pines Road by Christian Wheeler Engineering dated August 5, 2002; Response to Geotechnical Review of Documents Proposed Single-Family Residence, 1600 Torrey Pines Road by Christian Wheeler Engineering dated July 31, 2003; Report on Bored Storm Drain Construction, Proposed Single-Family Residential Site, 1600 Torrey Pines Road by Christian Wheeler Engineering dated September 2, 2003; Foundation Recommendations and Design Criteria, Proposed Single-Family Residence, 1620 Torrey Pines Road by Christian Wheeler Engineering dated March 15, 2004; Response to 2nd Geotechnical Review of Documents, Proposed Single-Family Residence, 1600 Torrey Pines Road by Christian Wheeler Engineering dated June 30, 2004; Slope Stability Analysis, Proposed Single-Family Residence, 1620 Torrey Pines Road by Christian Wheeler Engineering dated April 6, 2004; Report of Geotechnical Investigation – 1620 Torrey Pines Road by Christian Wheeler Engineering dated July 23, 2004; Response to 5th Cycle Review of Documents, Proposed Single-Family Residence, 1620 Torrey Pines Road by Christian Wheeler Engineering dated February 23, 2005; Response to 6th Cycle Review, Proposed Single-Family Residence, 1620 Torrey Pines Road by Christian Wheeler Engineering dated April 4, 2005; Response to 7th Cycle Review of Documents, Proposed Single-Family Residence, 1620 Torrey Pines Road by Christian Wheeler Engineering dated May 16, 2005; Supplemental Response to 7th Cycle Review of Documents, Proposed Single-Family Residence, 1620 Torrey Pines Road by Christian Wheeler Engineering dated June 3, 2005; Review of Revised Bored Storm Drain Construction Plans, Proposed Single-Family Residential Site, 1620 Torrey Pines Road by Christian Wheeler Engineering dated October 18, 2006; Drainage Analysis Storm Drain East of Coast Walk and Torrey Pines Road dated November 7, 2006 by Stuart Engineering; Coastal Hazard and Wave Runup Study for Proposed Storm Drain Outfall Near 1620 Torrey Pines Road, La Jolla dated November 8, 2006 by GeoSoils, Inc.; Letter from the State Water Resources Control Board dated March 22, 2007; Letter from City of San Diego dated August 10, 2007.

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. A-6-LJS-06-79 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 LCP and the public access policies of Chapter 3 of the Coastal Act. 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. SPECIAL CONDITIONS.

The permit is subject to the following conditions:

The following special conditions supercede and replace all the special conditions of the original permit A-6-LJS-06-79. Pursuant to these conditions, the permit can be issued in two parts (Part A & Part B) such that work on the storm drain improvements can commence before all of the prior-to-issuance conditions have been satisfied.

1. This Permit can be issued in Segments. Part A authorizes the storm drain improvements. Part A can be issued when Special Conditions 1-7 have been satisfied and accepted in writing. Work on the storm drain improvements only can begin once Part A has been issued. Part B authorizes the single family residence and associated development. Part B can be issued when Special Conditions 8, 9, 10, 14, 15 and 16 have been satisfied and accepted in writing. No portion of the residential construction, which includes all development not related to the storm drain improvements, can begin until Part B has been issued. This permit is one permit even though it can be issued in segments. Those conditions that are not “prior-to-issuance” conditions apply to all development on the property. Similarly, the standard conditions apply to all of the development on the property.

2. Grading/Erosion Control. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval final grading and erosion control plans for the proposed storm drain improvements that have been approved by the City of San Diego. Said plans shall be in substantial conformance with the plans submitted with this application by Stuart Engineering date stamped received on 8/20/07 and shall incorporate the following requirements:

- a. Necessary grading/micro-tunneling for construction of the new storm drain is permitted to occur during the rainy season (the period from October 1st to March 31st of each year).

- b. Placement of a silt fence around the project anywhere there is the potential for runoff. Temporary check dams, sand bags, straw bales and gravel bags shall be installed. Hydroseeding, energy dissipation and a stabilized construction entrance shall be implemented as required. All disturbed areas shall be revegetated after grading.
- c. The site shall be secured daily after grading with geotextiles, mats and fiber rolls; only as much grading as can be secured daily shall be permitted. Concrete, solid waste, sanitary waste and hazardous waste management BMP's shall be used. In addition, all on-site temporary and permanent runoff and erosion control devices shall be installed and in place prior to commencement of construction to minimize soil loss from the construction site.
- d. For grading that is to occur during the rainy season (October 1st to April 1st) of any year, the applicant shall submit to the Executive Director for review and written approval, a program for monitoring the condition of erosion control devices and the effectiveness of the erosion control program. The monitoring program shall include, at a minimum, monthly reports beginning November 1st of any year continuing to April 1st, which shall be submitted to the Executive Director for review and written approval at the end of each month. The reports shall be completed by a licensed engineer and shall describe the status of grading operations and the condition of erosion control devices. Maintenance of temporary erosion control measures is the responsibility of the applicant, including replacement of any devices altered or dislodged by storms.

The permittee shall undertake development in accordance with the approved grading and erosion control plans. Any proposed changes to the approved grading and erosion control plans or grading schedule 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.

3. Revised Final Storm Drain Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director final revised plans for the relocated storm drain on the property that have been approved by the City of San Diego. Said plans shall be in substantial conformance with the plans submitted with this application by Stuart Engineering date stamped received 8/21/07 and shall be revised as follows:

- a. The necessary energy dissipater on the beach, as generally depicted on the cross sections dated 1/4/07 by Stuart Engineering shall meet all of the following parameters:
 - (1) Not extend any higher than elevation +15.0 ft. MSL;
 - (1) Extend no further seaward than elevation +4.5 MSL;
 - (3) Not exceed 350 sq. ft in area;

- (4) Utilize quarry stones that closely resemble the color of the adjacent natural bluff to reduce its visibility; and
- (5) Quarry stones shall be selected and placed such that a “bench” or “path”, running parallel to the beach, is incorporated into the energy dissipater so as to facilitate lateral access along the beach to the greatest extent feasible.

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.

4. As-Built Plans. Within 60 days following completion of the storm drain improvements, the permittee shall submit certification by a registered civil engineer, acceptable to the Executive Director, verifying that the structures have been constructed in conformance with the approved plans.

5. Future Redesign/Removal of Riprap. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall agree in writing that should the new storm drain no longer be needed and cease to be used in the future, the permittee or any successor in interest agrees to remove the energy dissipater from the beach. Before performing any work in response to the requirement of this condition, the permittee or any successor in interest shall contact the Executive Director of the California Coastal Commission to determine if an amendment to this coastal development permit is necessary.

6. Future Low Flow Diversion. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and written approval of the Executive Director, a written statement agreeing to cooperate with the City of San Diego in its efforts to install a low flow diversion intercept at the storm drain pipe entering the subject site.

7. Other Permits. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, the permittee shall provide to the Executive Director copies of all other required state or federal discretionary permits for the development authorized by CDP #A-6-LJS-06-79, as amended. The applicant shall inform the Executive Director of any changes to the project required by other state or federal agencies. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this permit, unless the Executive Director determines that no amendment is legally required.

8. Final Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final site, building, foundation and grading plans for the proposed development that have been approved by the City of San Diego. Said plans

shall be in substantial conformance with the plans submitted by Marengo Morton Architects dated 9/27/05 and shall include the following:

- a. The proposed residential structure will be set back a minimum of 40 ft. from the bluff edge, except for a small portion of the home that cantilevers to within 32-feet 2-inches of the bluff edge.
- b. Foundation plans that document that no portion of the structure shall extend beyond 40 ft. from the bluff edge, except for the small area that cantilevers to within 32-feet 2-inches of the bluff edge and that cast-in-place concrete caissons are utilized for the foundation as detailed in the report by Christian Wheeler Engineering dated March 15, 2004 entitled "Report of Foundation Recommendations and Design Criteria for the Proposed Single-Family Residence at 1620 Torrey Pines Road.
- c. The proposed residential structure shall not exceed 122.1' above Mean Sea Level (MSL) at its highest point as depicted on the approved plans.
- d. All existing and proposed accessory improvements shall be identified. All accessory improvements (including, but not limited to, patios, decks, walkways, and open shade structures) proposed within the 40 ft. geologic setback area must be "at-grade" and located no closer than 5 ft. from the edge of the existing bluff.

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.

9. Revised Final Landscape/Yard Area Fence Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval revised final landscaping and fence plans approved by the City of San Diego. The plans shall be in substantial conformance with the plans as submitted by Marengo Morton Architects dated 10/27/05, except for the revisions required by this condition. The plans shall be revised to keep the north and south yard areas (or setbacks) clear to enhance public views from the street toward the ocean. Specifically, the plans shall be revised to incorporate the following:

- a. A view corridor a minimum of 4 ft. wide shall be preserved along the west side yard setback area and 13 ft. 7-inches along the east side yard setback area. All proposed landscaping in the front, west and east yard areas shall be limited to species with a growth potential not to exceed three feet at maturity and shall be maintained at a height of three feet or lower (including raised planters) to preserve views from the street toward the ocean. All landscaping in the front yard area shall be allowed to screen the home from Torrey Pines Road, but shall

be outside of the view corridors and not exceed the height of the roof of the home at any point. No street trees along Torrey Pines Road are permitted.

- b. All landscaping shall be (1) drought-tolerant and native or (2) non-invasive plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.
- c. No new permanent irrigation system may be installed.
- d. Any fencing in the front, west and east yard areas shall permit public views and have at least 75 percent of its surface area open to light.
- e. A written commitment by the applicant that five years from the date of the issuance of the coastal development permit for the residential structure, the applicant 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.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and written approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

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

10. Runoff/Drainage Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and written approval of the Executive Director, final drainage and runoff control plans that have been approved by City of San Diego. The plans shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the

developed site. The plans shall document that at a minimum, the stormwater runoff from the roof and other impervious surfaces, for the 24 hour 85th percentile storm event or 0.6 inches of precipitation, shall be collected for onsite treatment, without allowing water to percolate into the bluff face, prior to being conveyed off-site in a non-erosive manner. Until the low flow diversion is completed by the City of San Diego for the public storm drain that occurs on the site, appropriate BMPs shall be incorporated into the project such that there is no runoff from the site to the storm drain during dry weather. These BMPs should include, but not be limited to, sweeping instead of hosing off impervious surfaces and direct supervision of any landscape irrigation to ensure that there is no runoff to the storm drain during dry weather. In addition, the plans shall document that all runoff be directed away from the bluff.

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.

11. Assumption of Risk, Waiver of Liability and Indemnity.

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from waves, storm waves, bluff retreat and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

12. Other Special Conditions of the CDP 10577/SDP No. 10582. Except as provided by this coastal development permit, this permit has no effect on conditions imposed by the City of San Diego pursuant to an authority other than the Coastal Act. The conditions contained in this coastal development permit are in addition to the conditions imposed and required by the City of San Diego. In case of conflict, the conditions contained in the subject coastal development permit shall be controlling.

13. No Future Bluff or Shoreline Protective Device

A(1) By acceptance of this permit, the applicant agrees, on behalf of itself and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. A-6-LJS-06-079 including, but not limited to, construction of a new, approximately 8,559 sq.ft., three-story single family

residence with an attached 455 sq. ft. 2-car garage, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future. By acceptance of this Permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

- A(2) By acceptance of this Permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this Permit, including construction of a new, approximately 8,559 sq.ft., three-story single family residence with an attached 455 sq. ft. 2-car garage, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

14. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, 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 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. 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 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.

15. Grading/Erosion Control. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval final grading and erosion control plans that have been approved by the City of San Diego. The approved plans shall incorporate the following requirements:

- a. No grading activities shall be allowed during the rainy season (the period from October 1st to March 31st of each year). All disturbed areas shall be replanted immediately following grading and prior to the beginning of the rainy season.
- b. The permittees shall submit a grading schedule to the Executive Director demonstrating compliance with the above restriction.

c. All permanent runoff and erosion control devices shall be developed and installed prior to or concurrent with any on-site grading activities. All areas disturbed, but not completed, during the construction season, including graded pads, shall be stabilized in advance of the rainy season. The use of temporary erosion control measures, such as berms, interceptor ditches, sandbagging, filtered inlets, debris basins, and silt traps shall be utilized in conjunction with plantings to minimize soil loss during construction.

d. Landscaping shall be installed on all cut and fill slopes prior to October 1st with temporary or permanent (in the case of finished slopes) erosion control methods. Said planting shall be accomplished under the supervision of a licensed landscape architect, shall provide adequate coverage within 90 days, and shall utilize vegetation of species compatible with surrounding native vegetation, subject to Executive Director approval.

The permittee shall undertake development in accordance with the approved grading and erosion control plans. Any proposed changes to the approved grading and erosion control plans or grading schedule 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.

16. Disposal of Graded Material. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall identify the location for the disposal of graded spoils. If the site is located within the coastal zone, a separate coastal development permit or permit amendment shall first be obtained from the California Coastal Commission.

III. FINDINGS AND DECLARATIONS.

The Commission finds and declares as follows:

1. Project History/Amendment Description. The original project approved by the Commission on January 11, 2007, was for the construction of an 8,559 sq. ft., 3-story single-family residence with an attached 455 sq. ft. 2-car garage on a vacant 13,452 sq. ft. blufftop lot. To prepare the site for development, approximately 11,800 cubic yards of cut and 700 cubic yards of fill were permitted.

The project approval also included the abandonment of an existing storm drain easement that extends across the middle of the site and re-alignment of the easement along the eastern property boundary. The existing 36-inch public storm drain pipe extends onto the subject site from under Torrey Pines Road and empties into the southern portion of the property. The drainage that empties onto the site then flows across the site in a natural swale and into a small basin located just inland of the coastal bluff edge. From the basin, the drainage enters two pipes that extend out of the bluff edge and drainage flows from

the pipes onto the face of the bluff and onto the beach below. As approved, the system will be removed and a new 36-inch storm drain will be constructed within the new easement along the eastern property boundary partly buried and then micro-tunneled through the bluff to outlet on the beach. Some minor grading of the site is also necessary to accommodate access for trenching/tunneling equipment for the relocated storm drain (ref. Exhibit #2 attached). An approximately 350 sq. ft. riprap energy dissipater will then be constructed on the beach at the storm drain outlet.

The project approved by the Commission included numerous special conditions addressing the location and siting of the home, landscaping, placement of the riprap on the beach and grading, erosion control and water quality provisions (ref. Exhibit #7 - Notice of Intent to Issue Permit for A-6-LJS-06-79). One of the special conditions required the applicant to document that the City of San Diego had obtained an exception from the State Water Board to allow discharges into the La Jolla Area of Biological Significance (ASBS) before the permit would be issued. Specifically, Special Condition #11, which is the subject of this amendment, is cited below:

11. Areas of Special Biological Significance (ASBS) Exception. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall provide for review and written approval of the Executive Director, evidence that the City of San Diego has obtained an exception from the State Water Resources Control Board for discharge of waste into the designated La Jolla ASBS. The permittee shall inform the Executive Director of any changes to the project required pursuant to any exception granted by the State Water Resources Control Board to the City of San Diego. Such changes shall not be incorporated into the project until the permittee obtains a Commission amendment to this permit, unless the Executive Director determines that no amendment is legally required. If the City has not obtained an exception from the State Water Resources Control Board within six (6) months of Commission action on this permit, the applicant shall be permitted to apply to the Commission for an amendment to this permit to address other options.

The applicant is requesting with this amendment that Special Condition #11 be deleted as it has been more than 6 months since the Commission approved the permit and the City has not yet obtained an exception from the State Water Board. The applicant is also requesting that the permit be segmented such that the applicant can proceed with work on the storm drain relocation ahead of the home construction and to allow necessary grading/micro-tunneling for the storm drain relocation to occur for a limited period into the rainy season.

The site is located at 1620 Torrey Pines Road, just east of Coast Walk in the La Jolla community of the City of San Diego. There is no direct access to the site from Torrey Pines Road and the applicant has obtained an easement from the adjacent property owner to the west to gain access to the site. The subject site is comprised of a steeply sloping hillside that extends north from Torrey Pines Road, then down the coastal bluff to the beach. Surrounding development includes single-family homes to the east and west, Torrey Pines Road to the south and the Pacific Ocean to the north.

The City of San Diego has a certified LCP, and the subject site is within the City's permit jurisdiction. However, since the subject application represents an amendment to a Commission-approved coastal development permit (appeal), the Commission has jurisdiction over this application. Nevertheless, the standard of review is the certified LCP (the La Jolla Land Use Plan and the City's Land Development Code) and, because the subject site is between the sea and the first public road, the public access and recreation policies of the Coastal Act.

2. Protection of Water Quality. The certified La Jolla-La Jolla Shores LCP Addendum contains the following policies which are applicable to the subject amendment:

The ocean and submerged lands within the jurisdictional limits of San Diego should be preserved in their natural state. Plant and marine life in tide pools and offshore waters should be protected from environmental degradation.

...To protect the natural beauty of the coastline while allowing the natural shoreline retreat process to continue, the City and the state aggressively regulate coastal development to prevent activities such as misdirected drainage from increasing natural erosion. Only appropriate erosion control measures that maintain the natural environment, yet allow for the effective drainage of surface water shall be permitted. Surface water drainage shall not be allowed to drain over or near the bluff, but rather shall be directed towards the street or directed into subterranean drainage facilities with energy dissipating devices.

In addition, in order to implement Section 30230 of the Coastal Act, which calls for the protection of marine resources and specifically for special protection to be "given to areas and species of special biological or economical significance", the certified La Jolla-La Jolla Shores LCP includes the following policy:

Preserve and protect the La Jolla/La Jolla Shores Underwater Park and Marine Reserve from impacts of new development...

The residential development/storm drain relocation approved by the Commission in the original approval will occur atop a coastal bluff and on the beach adjacent to the ocean and the San Diego-La Jolla Underwater Park and Ecological Reserve. The San Diego-La Jolla underwater park is a dedicated City park consisting of almost 6,000 acres of tidal and submerged lands located between La Jolla Cove and the northern boundary of the City of San Diego. The park was established in 1970 to protect and conserve all aspects of the marine environment including marine plants and animals, geologic formations and scenic resources. As any runoff that discharges from the subject site enters into the ocean and the San Diego La Jolla Underwater Park and Ecological Reserve, potential impacts to water quality that may occur as a result of sedimentation caused by erosion, runoff

carrying contaminants and direct discharge of other pollutants was addressed by the Commission in its original approval.

In addition, the ocean area adjacent to the subject site where the runoff from the relocated storm drain will discharge has been designated by the State Water Resources Control Board 2005 California Ocean Plan as an Area of Special Biological Significance (ASBS). According to the Ocean Plan, ASBS' are:

...those areas designated by the State Water Board as ocean areas requiring protection of species or biological communities to the extent that alteration of natural water quality is undesirable.

Further, the California Ocean Plan prohibits discharges to an ASBS unless granted an exception by the State Water Resources Control Board (SWRCB). In granting an exception, the SWRCB must, among other things, find that the exception will not compromise protection of ocean waters for beneficial uses and that the public interest will be served.

Due to the proximity of the project site to the underwater reserve and the fact that the project includes relocation of a public storm drain that will discharge into the La Jolla ASBS, the Commission included a number of special conditions addressing runoff and water quality in approving the original development.

To address water quality/runoff concerns pertaining to the residential portion of the development, the Commission required submittal of a drainage plan documenting that runoff from the roof, driveway and other impervious surfaces will be directed away from the coastal bluff and treated, without allowing water to percolate into the bluff, prior to being discharged off site into the City storm drain system. In addition, the Commission required grading plans be submitted that include detailed erosion control provisions and that restricted site grading to the non-rainy months. None of these provisions are being changed with the subject amendment (with the exception of a clarification that allows construction of the storm drain relocation beyond October 1st), which only pertains to the storm drain relocation.

Relative to the approved relocated storm drain, the project does not include any measures to treat the quality of the runoff from the new pipe before it is discharged onto the beach and into the ocean. (It should be noted that as approved by the Commission in the original approval, all runoff from the proposed residence and the developed site will be treated on-site prior to being directed into the storm drain.) In discussing this issue with City of San Diego storm water staff, it was indicated that the project is not a new storm drain, just relocation of an existing storm drain and no new discharges are proposed. In other words, the relocated storm drain pipe will accommodate the same drainage that currently exists; it will just be discharged at a different location (i.e., at the base of the bluff rather than over the top of the bluff). However, in discussing this issue with SWRBC staff, it was their position that the California Ocean Plan does not allow discharges into the La Jolla ASBS and as such, it did not matter if the discharge was new

or existing, all waste discharges are prohibited, unless an exception is granted. At the time of the original approval, City of San Diego storm water staff also indicated that the City had applied to the SWRCB for a general exception to the discharge requirements for the La Jolla ASBS, but they were not sure when it was going to be acted upon. As such, the Commission, in its decision on the original application, placed a special condition on the permit which required the applicant to demonstrate that the SWRCB had granted the City of San Diego an exception to allow discharges into the La Jolla ASBS before the permit would be issued. As it was unclear when the SWRCB was going to act on the City's request and because the Commission did not want to hold up the residential development indefinitely, the special condition also included a provision which allowed the applicant to apply to the Commission for an amendment to address other options if the SWRCB had not yet approved the City's exception request within 6 months.

Subsequently, SWRCB staff sent a letter to the applicant regarding the status of their review of the City's exception request (ref. Exhibit #4 attached). Based on this letter, the SWRCB staff indicated that they had received approximately 20 requests for exceptions to the ASBS discharge prohibition from various jurisdictions throughout the state and had decided to address all of the exception requests in one action. As such, they estimated that the public hearing on the matter would be in late 2007 or sometime in 2008. Based on this letter and subsequent discussions with Regional Board and City of San Diego staff, the applicant has requested with this amendment request that the special condition applied to the permit by the Commission that requires proof of an exception be demonstrated before the permit could be released (Special Condition #11 of the original permit), be deleted.

The applicant has cited several reasons for the amendment request. The first and most obvious is that they do not wish to wait an indefinite period of time for the SWRCB to act on the City's exception request. The second, and more significant is that the existing storm drain that outlets on the site is inadequate and during storm events, causes localized flooding and results in sedimentation to the ocean. Currently, there is an existing 36-inch public storm drain pipe that extends onto the subject site from under Torrey Pines Road and empties into the southern portion of the property. The drainage that empties onto the site then flows across the site in a natural swale and into a small basin located just inland of the coastal bluff edge. From the basin, the drainage enters two pipes that extend out of the bluff edge and drainage flows from the pipes onto the face of the bluff and onto the beach below. Because the discharge flows uncontrolled over the unimproved property before flowing over the bluff, erosion of the property is occurring and sediment is discharged to the ocean (ref. Exhibit #6 attached). According to the various technical reports prepared for the project, the proposed relocated drainage system will correct the erosion problems created by the existing drain at the top of the bluff. Thus, if the new storm drain is not constructed, during future rain events, erosion and sedimentation, and associated impacts on ocean water quality within the La Jolla ASBS, will continue. Therefore, it is most protective of ocean water quality to allow construction of the storm drain improvements to occur sooner, rather than later.

However, there still is the issue of the discharge from the relocated storm drain into the La Jolla ASBS and the SWRCB staff's position that such discharge is not permitted under the California Ocean Plan. To address this issue, the Commission Water Quality staff has discussed this concern with both Regional and SWRCB staff. While SWRCB staff do not object to Special Condition #11 being deleted such that the coastal development permit would not be "held up" waiting for the SWRCB to approve the City's exception request, they do recommend that this only occur if it is documented that the "new" discharge to the La Jolla ASBS from the relocated storm drain results in an improvement in water quality rather than creating additional adverse water quality impacts. As noted above, simply by replacing the existing storm drain with the relocated storm drain, water quality will be significantly improved as the erosion and resulting sedimentation will no longer occur.

In addition, as discussed in the original project staff report, to further improve water quality, the City of San Diego has targeted this storm drain to be retrofitted with a low flow intercept system that would divert dry weather and "first flush" flows to the sanitary sewer system. Since it is typically these dry weather or "first flush" flows which contain most of the pollutants associated with storm drain discharges, this will result in a significant benefit relative to water quality. At the time of the original approval, City storm water staff had not provided the Commission with a schedule on when this upgrade would take place. Since that time, Commission staff and the applicant have continued to work with the City on this issue. According to a letter from the Director of the City of San Diego General Services Department, the low flow diversion at the subject storm drain is now fully funded and is scheduled to be operational before December 2009 (ref. Exhibit #5 attached). In addition, the letter indicates that the City has reviewed the storm drain plans and has found that they will not preclude the installation of the low flow diversion by the City in the future. Thus, after installation of the low flow diversion, water quality from the relocated storm drain will again be significantly improved.

Based on the above discussion, the Commission finds that the applicant's request to delete Special Condition #11 of the original permit is acceptable. It should be noted that deletion of this condition in no way relieves the applicant of the responsibility of obtaining any other needed state or federal permits/authorizations. Special Condition #7 requires the applicant, prior to commencement of construction, to provide the Executive Director copies of all other required state or federal permits. In addition, to assure that the applicant does not object to the future installation of the low flow diversion by the City, Special Condition #6 requires the applicant to submit a document agreeing to cooperate with the City on the future low flow diversion installation.

In addition, due to the urgency of getting the storm drain improvements completed before significant winter rain events, the applicant is also requesting that necessary grading/micro-tunneling for the storm drain be allowed to occur into the rainy season. To address this, the applicant has submitted a conceptual grading and erosion control plan for the storm drain construction. In addition, the applicant estimates that the storm drain construction will take approximately 80 days to complete and expects to begin construction by October 1st, with an estimated completion date of around mid December.

Grading for the project is minimal and the storm drain will be installed utilizing both open trench construction and micro-tunneling. Given the minimal grading and the proposed erosion control measures, the Commission finds that allowing the storm drain work to occur for a short period of time into the rainy season is acceptable. Special Condition #2 requires the applicant to submit final grading and erosion control plans for the storm drain development that have been approved by the City of San Diego. This condition requires the applicant to implement numerous BMPs to assure that any necessary grading for the storm drain not result in off-site sedimentation.

The applicant is also requesting the permit be segmented such that construction of the storm drain improvements can occur ahead of and separate from the residential construction. While somewhat unusual, in this particular case, the applicant has documented that the existing storm drain needs to be replaced as it currently causes localized flooding, erosion and sedimentation into the ocean and the La Jolla ASBS. The storm drain portion of the permit needs to occur in the next few months, however the applicant is not yet ready to satisfy the prior-to-issuance conditions relating to the residential component. Therefore, the Commission finds that segmenting issuance of the permit so that work on the storm drain improvements can occur before all of the prior-to-issuance conditions for all the permitted development have been met, will be most protective of coastal resources. To address this, issuance of the permit has been segmented; Part A can be issued to authorize construction of the storm drain construction and Part B can be issued subsequently, to authorize construction of the residential development. Thus, upon satisfaction of Special Conditions 2 through 7, Part A of the permit can be issued for the storm drain construction. Issuance of the permit for the residential component (i.e., Part B of the permit), will not occur until all of the remaining prior-to-issuance special conditions have been satisfied (these are Special Conditions 8, 9, 10, 14, 15 and 16). The conditions that are not prior-to-issuance conditions apply to all of the development authorized by this permit; these are Special Conditions 11,12 and 13, and all of the standard conditions. Although issuance of the permit has been segmented into two parts, this permit continues to constitute one permit.

In summary, due to concerns raised by the State Water Resources Control Board (SWRCB) staff at the time of the original approval pertaining to discharges into the La Jolla ASBS from the relocated storm drain, the Commission conditioned the permit to require the applicant to provide evidence, before issuance of the permit, that the City of San Diego had been granted an exception by the SWRCB for discharges into the La Jolla ASBS. However, because it was not known when the SWRCB was going to act on the City's exception request, the Commission also included a provision that if the SWRCB had not acted within 6 months, then the applicant could propose an amendment to address other options. As discussed above, the applicant has demonstrated that by not constructing the relocated storm drain, during rain events, the existing storm drain will continue to cause erosion, resulting in sedimentation being discharged into the ocean. In addition, the City of San Diego has provided documentation that funding for a low flow diversion at this storm drain has been allocated and that the low flow diversion should be operational before December 2009. Thus, relocation of the storm drain will result ultimately in an improvement to ocean water quality. Finally, SWRCB staff have

indicated that they do not object to Special Condition #11 being deleted, especially given the fact that the overall water quality to the La Jolla ASBS will be improved with the development and related City improvements. Therefore, the Commission finds the proposed amendment, as conditioned, consistent with the above cited provisions of the certified City of San Diego LCP.

3. Public Access. Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea “shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3.”

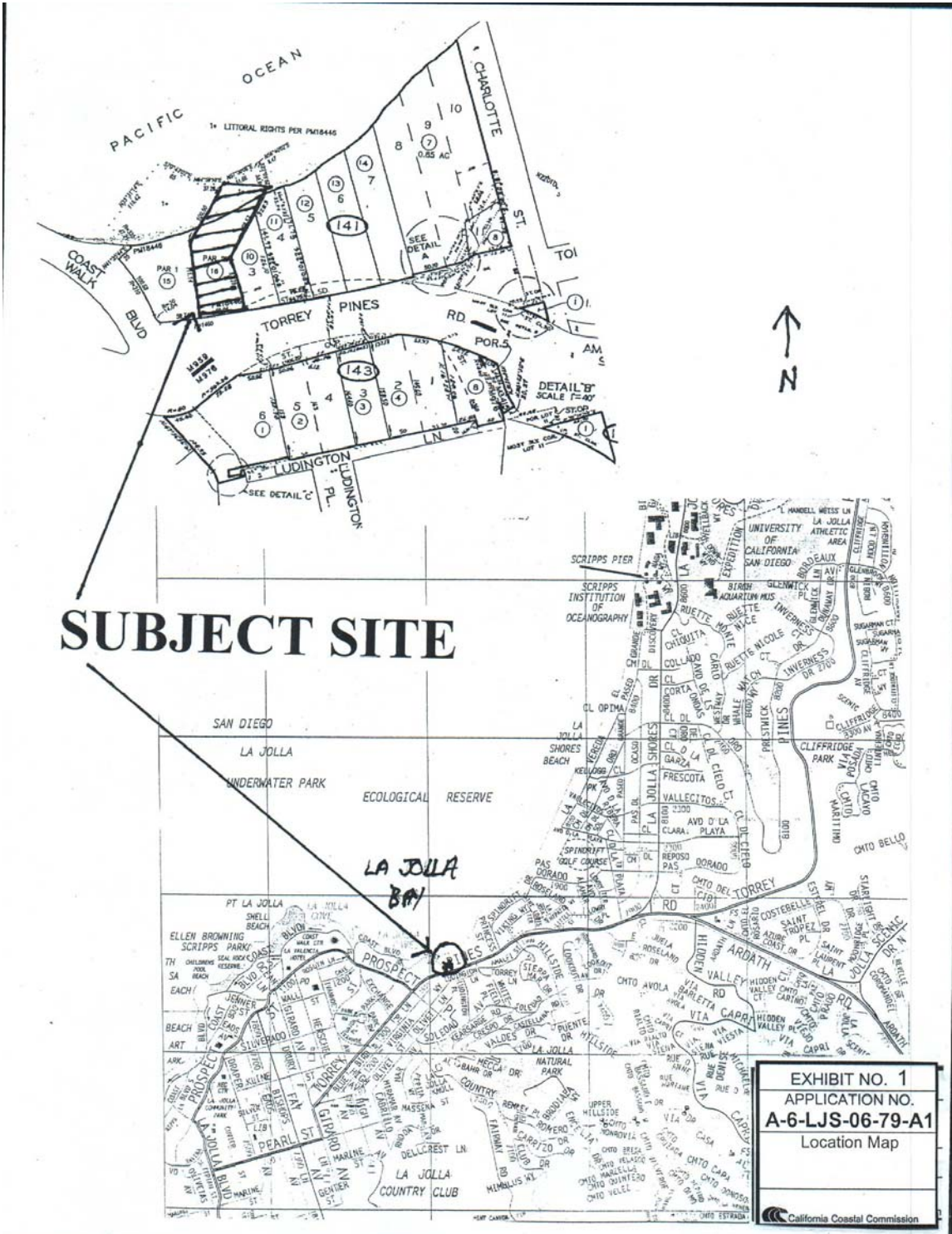
The subject site is located along Torrey Pines Road, just east of its intersection with Coast Walk in La Jolla. Torrey Pines Road at this location is the designated first coastal road. As the project site is located along a steep coastal bluff, no access to the beach is currently available at the subject site nor would it be feasible to provide public beach access at the site. The certified La Jolla LUP includes provisions for public access within the La Jolla community. The subject site is not identified as providing public access, other than pedestrian access along the sidewalk on Torrey Pines Road. In addition, public access, in the form of a blufftop trail, exists just west of the subject site at Coast Walk Boulevard. The Coast Walk trail is a continuous trail that extends along the bluffs from the terminus of Coast Walk Boulevard, west to Coast Boulevard. The trail includes vista points and benches as well as two public parking spaces at the terminus of Beach Walk Boulevard. While the relocated storm drain does require the installation of a riprap energy dissipater on the beach, as originally conditioned, the structure will be minimal (350 sq. ft.) and is required to include a flat step like feature to facilitate access across it during higher tides. That requirement remains unchanged with the subject amendment. The subject amendment is only to delete a special condition relating to water quality issues and to segment the permit and will have no effect on public access.

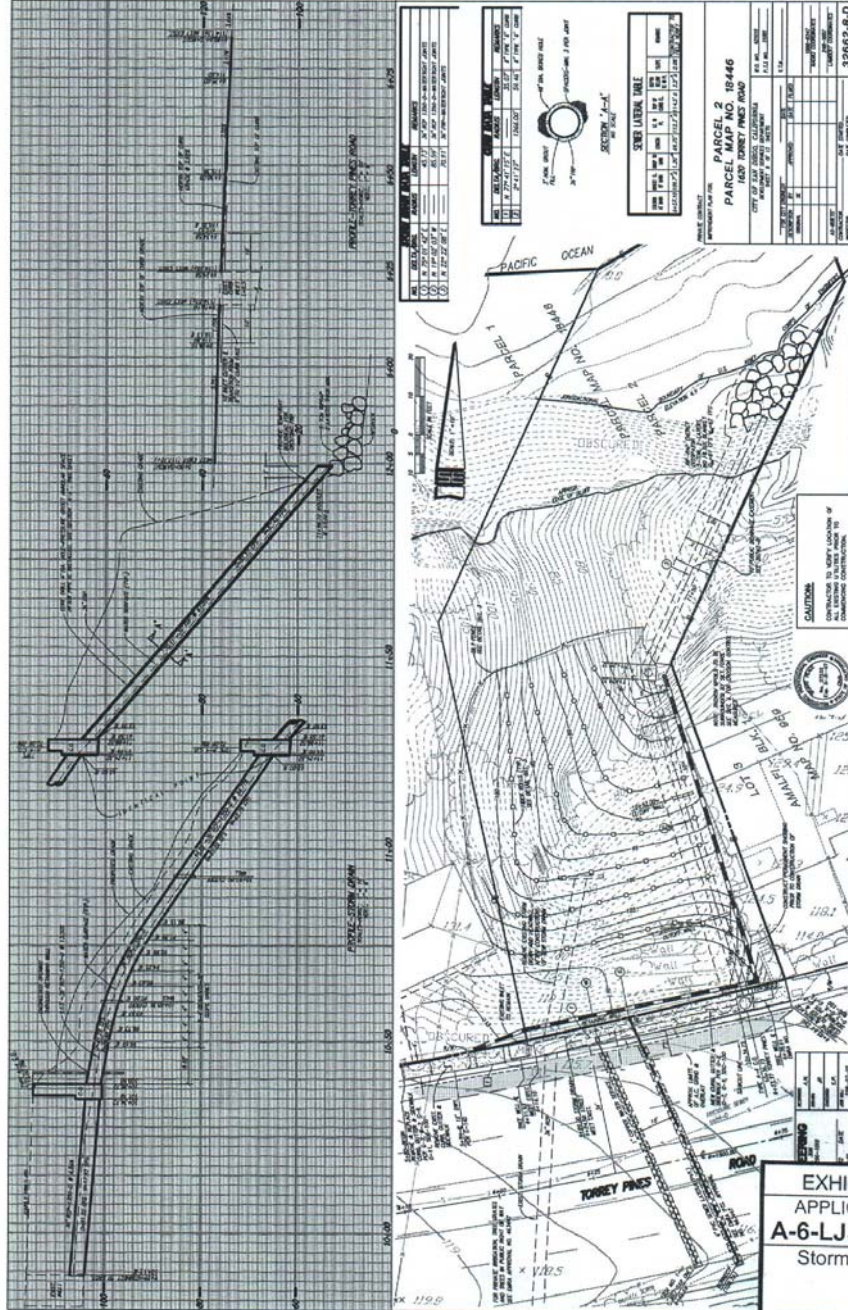
4. Local Coastal Planning. The City of San Diego has a certified LCP and has been issuing coastal development permits for its areas of jurisdiction, including the La Jolla area, since 1988. The subject site is designated for residential use in the certified La Jolla Land Use Plan. While the certified LCP does contain provisions for protection of water quality, based on the above discussion, the proposed amendment to delete the requirement that the development not commence until the City is granted an exception to the discharge requirements of the California Ocean Plan to allow discharges to the La Jolla ASBS will not result in significant adverse impacts on water quality. Therefore, approval of the proposed amendment, as conditioned, will not prejudice the ability of the City of San Diego to continue to implement its certified LCP for the La Jolla community.

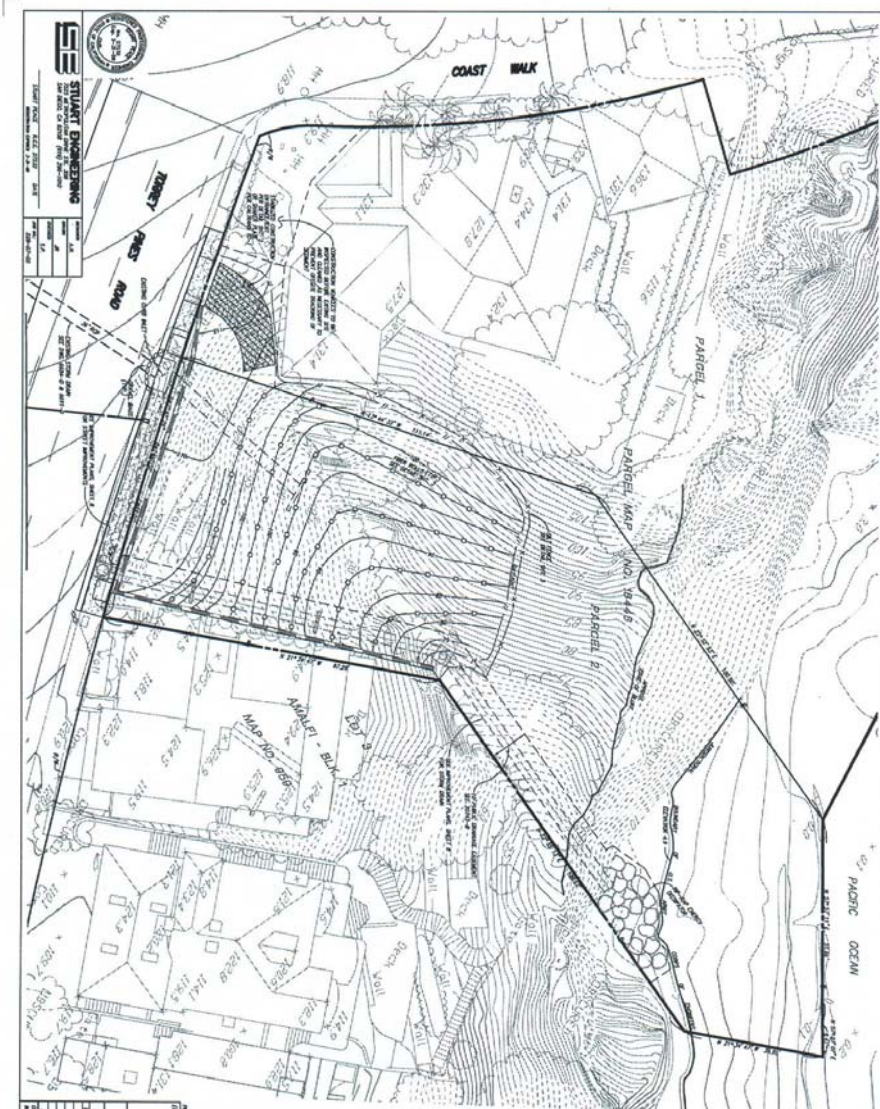
5. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of 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 certified LCP and the public access and recreation policies of the Coastal Act. 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 amendment is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.







SE STUART ENGINEERING
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 ANAHEIM, CALIFORNIA 92805
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PROJECT SUMMARY

PROJECT NAME	PARCEL 2
PROJECT NO.	PARCEL MAP NO. 18446
CLIENT	CITY OF ANAHEIM (LANS 2040)
DATE	11/14/2006
SCALE	AS SHOWN
DATE	11/14/2006
BY	STUART ENGINEERING
CHECKED BY	STUART ENGINEERING
APPROVED BY	STUART ENGINEERING
DATE	11/14/2006
PROJECT NO.	329832-6-D

STORM DRAIN CONSTRUCTION AND EROSION CONTROL MEASURES

THE APPLICANT HAS SUBMITTED THE FOLLOWING INFORMATION TO THE CITY OF ANAHEIM FOR REVIEW AND APPROVAL OF THE CITY ENGINEER'S REVIEW OF THE PROPOSED STORM DRAIN CONSTRUCTION AND EROSION CONTROL MEASURES. THE APPLICANT HAS PROVIDED THE FOLLOWING INFORMATION:

1. A DETAILED PLAN OF THE PROPOSED STORM DRAIN CONSTRUCTION AND EROSION CONTROL MEASURES. THE PLAN SHOWS THE LOCATION OF THE STORM DRAIN, THE TYPE OF STORM DRAIN, THE TYPE OF EROSION CONTROL MEASURES, AND THE LOCATION OF THE STORM DRAIN AND EROSION CONTROL MEASURES.

2. A DETAILED PLAN OF THE PROPOSED STORM DRAIN CONSTRUCTION AND EROSION CONTROL MEASURES. THE PLAN SHOWS THE LOCATION OF THE STORM DRAIN, THE TYPE OF STORM DRAIN, THE TYPE OF EROSION CONTROL MEASURES, AND THE LOCATION OF THE STORM DRAIN AND EROSION CONTROL MEASURES.

3. A DETAILED PLAN OF THE PROPOSED STORM DRAIN CONSTRUCTION AND EROSION CONTROL MEASURES. THE PLAN SHOWS THE LOCATION OF THE STORM DRAIN, THE TYPE OF STORM DRAIN, THE TYPE OF EROSION CONTROL MEASURES, AND THE LOCATION OF THE STORM DRAIN AND EROSION CONTROL MEASURES.

4. A DETAILED PLAN OF THE PROPOSED STORM DRAIN CONSTRUCTION AND EROSION CONTROL MEASURES. THE PLAN SHOWS THE LOCATION OF THE STORM DRAIN, THE TYPE OF STORM DRAIN, THE TYPE OF EROSION CONTROL MEASURES, AND THE LOCATION OF THE STORM DRAIN AND EROSION CONTROL MEASURES.

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10. A DETAILED PLAN OF THE PROPOSED STORM DRAIN CONSTRUCTION AND EROSION CONTROL MEASURES. THE PLAN SHOWS THE LOCATION OF THE STORM DRAIN, THE TYPE OF STORM DRAIN, THE TYPE OF EROSION CONTROL MEASURES, AND THE LOCATION OF THE STORM DRAIN AND EROSION CONTROL MEASURES.

EXHIBIT NO. 3
APPLICATION NO.
A-6-LJS-06-79-A1
 Storm Drain
 Construction Erosion
 Control BMPs

California Coastal Commission



Linda S. Adams
Secretary for
Environmental
Protection

State Water Resources Control Board

Office of Chief Counsel
1001 I Street, 22nd Floor, Sacramento, California 95814
P.O. Box 100, Sacramento, California 95812-0100
(916) 341-5161 • FAX (916) 341-5199 • <http://www.waterboards.ca.gov>



Arnold
Schwarzenegger
Governor

March 22, 2007

RECEIVED
MAR 26 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Matthew A. Peterson
Peterson & Price
655 West Broadway, Suite 1600
San Diego, CA 92101-3301

Dear Mr. Peterson:

1620 TORREY PINES ROAD PROJECT

Dominic Gregorio of the Division of Water Quality has requested that I respond to your e-mail to him, dated March 14, 2007, regarding your client's proposed development at 1620 Torrey Pines Road. You have asked for a letter setting forth the State Water Resources Control Board's (State Water Board's) position on replacement of the City of San Diego's storm drain at your client's site.

It is my understanding that the California Coastal Commission (Commission) imposed a special condition on the coastal development permit that requires the permittee to provide evidence that the City has obtained an exception from the State Water Board for discharges into the La Jolla Area of Special Biological Significance (ASBS). The condition also provides that if the City has not obtained an exception within six months of Commission action, the permittee can apply to the Commission for an amendment to the permit to address other options.

The State Water Board's Ocean Plan prohibits waste discharges into an ASBS.¹ The State Water Board can, however, grant exceptions to the prohibition if the State Water Board finds that to do so "will not compromise protection of ocean waters for beneficial uses, and, [t]he public interest will be served."² To grant an exception, the State Water Board must conduct a public hearing and comply with the California Environmental Quality Act (CEQA), Public Resources Code section 21000 et seq.³

Discharges from the City of San Diego's municipal separate storm drain system are currently regulated under a National Pollutant Discharge Elimination System (NPDES) permit issued by the San Diego Regional Water Quality Control Board (San Diego Water Board). The NPDES permit is conditioned upon compliance with applicable water quality standards. These standards include the Ocean Plan prohibition against discharges to ASBS.

¹ Water Quality Control Plan, Ocean Waters of California (2005), III. E. 1. See also Pub. Resources Code

§36710(f).

² Ocean Plan, III.I.

³ *Ibid.*

California Environmental Protection Agency

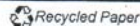


EXHIBIT NO. 4
APPLICATION NO.
A-6-LJS-06-79-A1
Letter from State Water Resources Control Board Staff
Page 1 of 3
California Coastal Commission

Matthew A. Peterson

- 2 -

March 22, 2007

The City of San Diego is one of roughly 20 dischargers who have submitted documentation to the State Water Board to support an exception to the ASBS discharge prohibition. The City's application was dated May 30, 2006. State Water Board staff proposes to address all of the exception requests for storm water and nonpoint source discharges in one action in order to conserve limited staff resources. Staff is currently working on an initial study under CEQA and anticipates that the public hearing will be held sometime in late 2007 or 2008.

The proposed general exception action will cover the City's storm drain discharges into the La Jolla ASBS as well as other ASBS discharges. The City can submit a separate application for an exception that is specific to your client's site; however, if the City were to do so, the separate exception request would be processed after the general exception request and any currently pending exception requests.

The general exception, if granted, will cover storm water discharges from the City's storm drain system into the La Jolla ASBS. Discharges associated with relocation of the City's storm drain at your client's site will not be addressed in the general exception. The San Diego Water Board is responsible for addressing these site-specific discharges. The Ocean Plan does allow certain limited-term activities in ASBS,⁴ such as repair of existing storm drain pipes, if approved by the applicable regional water quality control board. In this case, the San Diego Water Board is responsible for determining whether your client's project is allowable under the limited term ASBS discharge provisions of the Ocean Plan and, if so, for issuing waste discharge requirements to regulate waste discharges associated with relocating the storm drain.

In the future, please do not contact Division of Water Quality staff, but instead direct your questions to me at (916) 341-5173.

Sincerely,



Sheila K. Vassey
Senior Staff Counsel

cc: John Robertus, Executive Officer
San Diego Regional Water Quality
Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340
[via e-mail only]

Dominic Gregorio
San Diego Regional Water Quality
Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340
[via e-mail only]

Continued next page

⁴ *Id.* III. E. 2.

Matthew A. Peterson

- 3 -

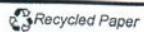
March 22, 2007

cc: Lee McEachern ✓
California Coastal Commission
District Regulatory Supervisor
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Jack Gregg
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Darrin Polhemus, Division Chief
Division of Water Quality
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814
P.O. Box 100
Sacramento, CA 95812-0100
[via e-mail only]

California Environmental Protection Agency



From: General Services Dept.

619 525 8573

08/10/2007 14:57

#055 P.002/003



THE CITY OF SAN DIEGO

MAYOR JERRY SANDERS

RECEIVED

AUG 10 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

August 10, 2007

Lee McEachern, District Regulatory Supervisor
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Subject: Torrey Pines Storm Drain Repair
CDP Application A-6-LJS-06-79-A1

Dear Mr. McEachern:

City of San Diego Storm Water Pollution Prevention staff originally decided to install low flow diversions on all storm drains which discharge into the La Jolla Shores Area of Special Biological Significance ("ASBS") when it became clear that the State Water Resources Control Board would ultimately require cessation of dry weather flows to the ASBS. Subsequent to that decision, the City established a Capital Improvement Project account for three of the diversions (including the location near 1620 North Torrey Pines Road) and, in conjunction with the Scripps Institute of Oceanography, applied for and has been awarded a grant to fund part of the cost.

Scheduling for the project continues to be driven by the 2010 construction deadline established by the grant as well as an ongoing attempt to revise an existing Environmental Protection Agency ("EPA") appropriation to offset the balance of local funding. The funding for the project has been secured. We will continue to work on the EPA appropriation to maximize the City's leverage of external resources. The City anticipates that the low flow diverter near 1620 North Torrey Pines Road will be operable by December 2009, and perhaps sooner.

Capital Improvement Project design and construction in the City of San Diego is managed by the City's Engineering and Capital Projects (ECP) Department. Jamal Batta, Senior Civil Engineer in the ECP Department, has reviewed the drawing of the storm drain relocation proposed by the property owner at 1620 North Torrey Pines Road and provided by Matt Peterson on July 18, 2007 and dated June 11, 2007. The City, as yet,



General Services Department

1970 B Street, MS 27A • San Diego, California 92102-1820
Tel (619) 525-8686 Fax (619) 525-9573

EXHIBIT NO. 5
APPLICATION NO.
A-6-LJS-06-79-A1
Letter from City of San Diego Regarding Low Flow Diversion
Page 1 of 2
California Coastal Commission

From: General Services Dept.

819 525 8573

08/10/2007 14:57

#055 P.003/003

Page 2

Mr. McEachern
August 10, 2007

has not designed its Low Flow System for this location. Mr. Batta has found that the attached plans (City Drawing Number 32662-D Sheets 7 & 8 of 13) would not preclude the City's Low Flow project because the City could, if necessary, modify the storm drain system to accommodate the City's Low Flow project or could, if necessary, site its Low Flow project to avoid modification of some or all of the Storm Drain System.

Moreover, the City notes that the repairs to the City's existing MS4 comply with City design standards and, upon completion, the repaired/replaced storm drain will be accepted by the City as part of its MS4 system.

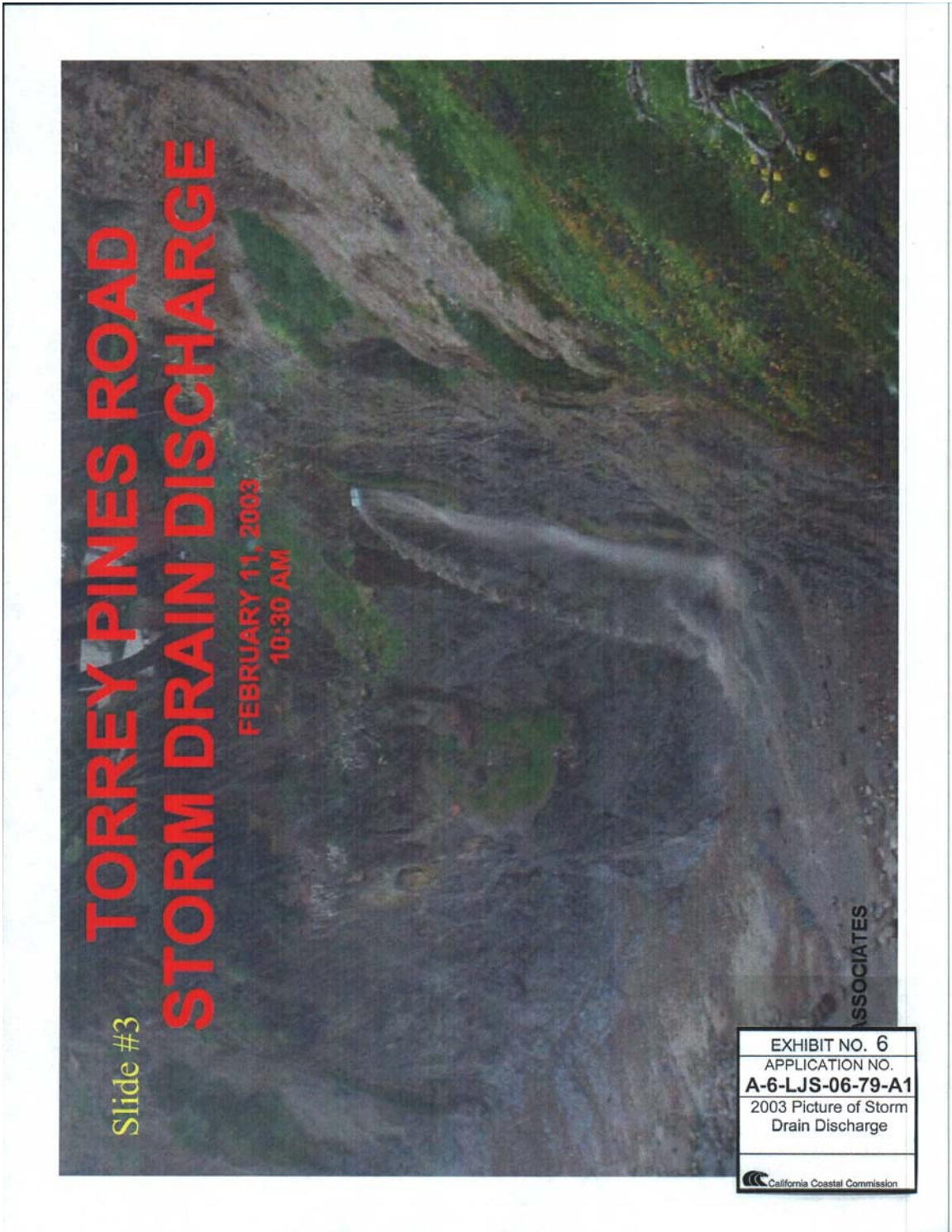
Please let me know if you would like more information concerning this matter.

Sincerely,

Mario X. Sierra
Director

CZ/abq

cc: R.F. Haas, Deputy Chief of Public Works
Dave Jarrell, Assistant Deputy Chief of Public Works
Chiara Clemente, RWQCB
Chris Zirkle, Deputy Director, Storm Water Pollution Prevention Division
Fritz Ortlieb, Deputy City Attorney
Matthew Peterson, ESQ.



**TORREY PINES ROAD
STORM DRAIN DISCHARGE**

Slide #3

FEBRUARY 11, 2003
10:30 AM

ASSOCIATES

EXHIBIT NO. 6
APPLICATION NO.
A-6-LJS-06-79-A1
2003 Picture of Storm Drain Discharge
 California Coastal Commission

FILE COPY

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

San Diego Coast Area Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421
(619) 767-2370

Date: January 30, 2007
Permit Application No.: A-6-LJS-06-079
Page: 1 of 10



NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions)

THIS IS NOT A COASTAL DEVELOPMENT PERMIT

THE SOLE PURPOSE OF THIS NOTICE IS TO INFORM THE APPLICANT OF THE STEPS NECESSARY TO OBTAIN A VALID AND EFFECTIVE COASTAL DEVELOPMENT PERMIT ("CDP"). A Coastal Development Permit for the development described below has been approved but is not yet effective. Development on the site cannot commence until the CDP is effective. In order for the CDP to be effective, Commission staff must issue the CDP to the applicant, and the applicant must sign and return the CDP. **Commission staff cannot issue the CDP until the applicant has fulfilled each of the "prior to issuance" Special Conditions.** A list of all of the Special Conditions for this permit is attached.

The Commission's approval of the CDP is valid for two years from the date of approval. To prevent expiration of the CDP, you must fulfill the "prior to issuance" Special Conditions, obtain and sign the CDP, and commence development within two years of the approval date specified below. You may apply for an extension of the permit pursuant to the Commission's regulations at Cal. Code Regs. title 14, section 13169.

On **January 11, 2007**, the California Coastal Commission approved Coastal Development Permit No. **A-6-LJS-06-079**, requested by **CWS, Inc./Ms. Virginia King** subject to the attached conditions, for development consisting of: **Construction of a 8,559 sq. ft., three-story single-family residence with an attached 455 sq. ft. 2-car garage on a vacant 13,452 sq. ft. blufftop lot. Also proposed is the abandonment of an existing storm drain easement across the site and the construction of new 36-inch storm drain within a new easement with an approximately 350 sq. ft. riprap energy dissipater on the beach.** More specifically described in the application file in the Commission offices. **Commission staff will not issue the CDP until the "prior to issuance" special conditions have been satisfied.**

The development is within the coastal zone in **1620 Torrey Pines Rd, La Jolla, San Diego (San Diego County) APN 350-141-16.**

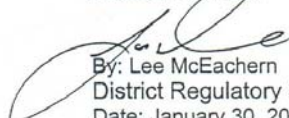
EXHIBIT NO. 7
APPLICATION NO.
A-6-LJS-06-79-A1
Notice of Intent to Issue Permit for A-6-LJS-06-79
Page 1 of 10
California Coastal Commission

NOTICE OF INTENT TO ISSUE PERMIT
(Upon satisfaction of special conditions)
Date: January 30, 2007
Permit Application No.: A-6-LJS-06-079

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If you have any questions regarding how to fulfill the "prior to issuance" Special Conditions for CDP No. A-6-LJS-06-079, please contact the Coastal Program Analyst identified below.

Sincerely,
PETER M. DOUGLAS
Executive Director



By: Lee McEachern
District Regulatory Supervisor
Date: January 30, 2007

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this Notice and fully understands its contents, including all conditions imposed.

Date Permittee

Please sign and return one copy of this form to the Commission office at the above address.

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.

NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions)

Date: January 30, 2007

Permit Application No.: A-6-LJS-06-079

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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.

SPECIAL CONDITIONS:

NOTE: IF THE SPECIAL CONDITIONS REQUIRE THAT DOCUMENT(S) BE RECORDED WITH THE COUNTY RECORDER, YOU WILL RECEIVE THE LEGAL FORMS TO COMPLETE (WITH INSTRUCTIONS). IF YOU HAVE ANY QUESTIONS, PLEASE CALL THE DISTRICT OFFICE.

The permit is subject to the following special conditions:

1. **Final Plans.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final site, building, foundation and grading plans for the proposed development that have been approved by the City of San Diego. Said plans shall be in substantial conformance with the plans submitted by Marengo Morton Architects dated 9/27/05 and shall include the following:

- a. The proposed residential structure will be set back a minimum of 40 ft. from the bluff edge, except for a small portion of the home that cantilevers to within 32-feet 2-inches of the bluff edge.
- b. Foundation plans that document that no portion of the structure shall extend beyond 40 ft. from the bluff edge, except for the small area that cantilevers to within 32-feet 2-inches of the bluff edge and that cast-in-place concrete caissons are utilized for the foundation as detailed in the report by Christian Wheeler Engineering dated March 15, 2004 entitled "Report of Foundation Recommendations and Design Criteria for the Proposed Single-Family Residence at 1620 Torrey Pines Road.

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- c. The proposed residential structure shall not exceed 122.1' above Mean Sea Level (MSL) at its highest point as depicted on the approved plans.
- d. All existing and proposed accessory improvements shall be identified. All accessory improvements (including, but not limited to, patios, decks, walkways, and open shade structures) proposed within the 40 ft. geologic setback area must be "at-grade" and located no closer than 5 ft. from the edge of the existing bluff.

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.

2. Revised Final Landscape/Yard Area Fence Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval revised final landscaping and fence plans approved by the City of San Diego. The plans shall be in substantial conformance with the plans as submitted by Marengo Morton Architects dated 10/27/05, except for the revisions required by this condition. The plans shall be revised to keep the north and south yard areas (or setbacks) clear to enhance public views from the street toward the ocean. Specifically, the plans shall be revised to incorporate the following:

- a. A view corridor a minimum of 4 ft. wide shall be preserved along the west side yard setback area and 13 ft. 7-inches along the east side yard setback area. All proposed landscaping in the front, west and east yard areas shall be limited to species with a growth potential not to exceed three feet at maturity and shall be maintained at a height of three feet or lower (including raised planters) to preserve views from the street toward the ocean. All landscaping in the front yard area shall be allowed to screen the home from Torrey Pines Road, but shall be outside of the view corridors and not exceed the height of the roof of the home at any point. No street trees along Torrey Pines Road are permitted.
- b. All landscaping shall be (1) drought-tolerant and native or (2) non-invasive plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be

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employed or allowed to naturalize or persist on the site. No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.

- c. No new permanent irrigation system may be installed.
- d. Any fencing in the front, west and east yard areas shall permit public views and have at least 75 percent of its surface area open to light.
- e. A written commitment by the applicant that five years from the date of the issuance of the coastal development permit for the residential structure, the applicant 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.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and written approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

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

3. Runoff/Drainage Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and written approval of the Executive Director, final drainage and runoff control plans that have been approved by City of San Diego. The plans shall be prepared by a licensed

NOTICE OF INTENT TO ISSUE PERMIT

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- c. No new permanent irrigation system may be installed.
- d. Any fencing in the front, west and east yard areas shall permit public views and have at least 75 percent of its surface area open to light.
- e. A written commitment by the applicant that five years from the date of the issuance of the coastal development permit for the residential structure, the applicant 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.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and written approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

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

3. Runoff/Drainage Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and written approval of the Executive Director, final drainage and runoff control plans that have been approved by City of San Diego. The plans shall be prepared by a licensed

NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions)

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engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The plans shall document that at a minimum, the stormwater runoff from the roof and other impervious surfaces, for the 24 hour 85th percentile storm event or 0.6 inches of precipitation, shall be collected for onsite treatment, without allowing water to percolate into the bluff face, prior to being conveyed off-site in a non-erosive manner. Until the low flow diversion is completed by the City of San Diego for the public storm drain that occurs on the site, appropriate BMPs shall be incorporated into the project such that there is no runoff from the site to the storm drain during dry weather. These BMPs should include, but not be limited to, sweeping instead of hosing off impervious surfaces and direct supervision of any landscape irrigation to ensure that there is no runoff to the storm drain during dry weather. In addition, the plans shall document that all runoff be directed away from the bluff.

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.

4. Assumption of Risk, Waiver of Liability and Indemnity.

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from waves, storm waves, bluff retreat and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

5. Other Special Conditions of the CDP 10577/SDP No. 10582. Except as provided by this coastal development permit, this permit has no effect on conditions imposed by the City of San Diego pursuant to an authority other than the Coastal Act. The conditions contained in this coastal development permit are in addition to the conditions imposed and required by the City of San Diego. In

NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions)

Date: January 30, 2007

Permit Application No.: A-6-LJS-06-079

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case of conflict, the conditions contained in the subject coastal development permit shall be controlling.

6. No Future Bluff or Shoreline Protective Device

- A(1) By acceptance of this permit, the applicant agrees, on behalf of itself and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. A-6-LJS-06-079 including, but not limited to, construction of a new, approximately 8,559 sq.ft., three-story single family residence with an attached 455 sq. ft. 2-car garage, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future. By acceptance of this Permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- A(2) By acceptance of this Permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this Permit, including construction of a new, approximately 8, 559 sq.ft., three-story single family residence with an attached 455 sq. ft. 2-car garage, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

7. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, 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 as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire

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parcel or parcels governed by this permit. 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 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.

8. Grading/Erosion Control. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval final grading and erosion control plans that have been approved by the City of San Diego. The approved plans shall incorporate the following requirements:

- a. No grading activities shall be allowed during the rainy season (the period from October 1st to March 31st of each year). All disturbed areas shall be replanted immediately following grading and prior to the beginning of the rainy season.
- b. The permittees shall submit a grading schedule to the Executive Director demonstrating compliance with the above restriction.
- c. All permanent runoff and erosion control devices shall be developed and installed prior to or concurrent with any on-site grading activities. All areas disturbed, but not completed, during the construction season, including graded pads, shall be stabilized in advance of the rainy season. The use of temporary erosion control measures, such as berms, interceptor ditches, sandbagging, filtered inlets, debris basins, and silt traps shall be utilized in conjunction with plantings to minimize soil loss during construction.
- d. Landscaping shall be installed on all cut and fill slopes prior to October 1st with temporary or permanent (in the case of finished slopes) erosion control methods. Said planting shall be accomplished under the supervision of a licensed landscape architect, shall provide adequate coverage within 90 days, and shall utilize vegetation of species compatible with surrounding native vegetation, subject to Executive Director approval.

The permittee shall undertake development in accordance with the approved grading and erosion control plans. Any proposed changes to the approved grading and erosion control plans or grading schedule shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal

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Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

9. Disposal of Graded Material. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall identify the location for the disposal of graded spoils. If the site is located within the coastal zone, a separate coastal development permit or permit amendment shall first be obtained from the California Coastal Commission.

10. Revised Final Storm Drain Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director final revised plans for the relocated storm drain on the property that have been approved by the City of San Diego. Said plans shall be in substantial conformance with the plans submitted with this application by Stuart Engineering date stamped received November 13, 2006, but shall be revised as follows:

a. The necessary energy dissipater on the beach, as generally depicted on the cross sections dated 1/4/07 by Stuart Engineering and attached as Exhibit # 14 to this staff report, shall meet all of the following parameters:

- (1) Not extend any higher than elevation +15.0 ft. MSL;
- (2) Extend no further seaward than elevation +4.5 ft. MSL;
- (3) Not exceed 350 sq. ft in area;
- (4) Utilize quarry stones that closely resemble the color of the adjacent natural bluff to reduce its visibility; and
- (5) Quarry stones shall be selected and placed such that a "bench" or "path", running parallel to the beach, is incorporated into the energy dissipater so as to facilitate lateral access along the beach to the greatest extent feasible.

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.

NOTICE OF INTENT TO ISSUE PERMIT

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Date: January 30, 2007

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11. Areas of Special Biological Significance (ASBS) Exception. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall provide for review and written approval of the Executive Director, evidence that the City of San Diego has obtained an exception from the State Water Resources Control Board for discharge of waste into the designated La Jolla ASBS. The permittee shall inform the Executive Director of any changes to the project required pursuant to any exception granted by the State Water Resources Control Board to the City of San Diego. Such changes shall not be incorporated into the project until the permittee obtains a Commission amendment to this permit, unless the Executive Director determines that no amendment is legally required. If the City has not obtained an exception from the State Water Resources Control Board within six (6) months of Commission action on this permit, the applicant shall be permitted to apply to the Commission for an amendment to this permit to address other options.

12. Future Redesign/Removal of Riprap. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall agree in writing that should the new storm drain no longer be needed and cease to be used in the future, the permittee or any successor in interest agrees to remove the energy dissipater from the beach. Before performing any work in response to the requirement of this condition, the permittee or any successor in interest shall contact the Executive Director of the California Coastal Commission to determine if an amendment to this coastal development permit is necessary.