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Commission Action:

**STAFF REPORT: APPEAL - SUBSTANTIAL ISSUE**

APPEAL NUMBER: A-5-RPV-10-002

APPLICANTS: Brian & Jenifer Conroy

LOCAL GOVERNMENT: City of Rancho Palos Verdes

LOCAL DECISION: Approval with Conditions

APPELLANTS: James Huston, Pamela Simes Fleming, Don Fleming, and Coastal Commissioners Mary Shallenberger and Sara Wan

PROJECT LOCATION: 24 Seacove Drive, Rancho Palos Verdes, Los Angeles County.

PROJECT DESCRIPTION: Appeal from decision of the City of Rancho Palos Verdes approving Local Coastal Development Permit No. ZON2007-00046 (after-the-fact) for construction of a swimming pool, spa and outdoor chimney barbeque in the rear yard area of a bluff top property. The local permit includes a requirement to remove the unpermitted retaining wall, fire pit and fill located on the bluff face or at the bluff edge from the site and to restore the slope to pre-grade condition.

SUMMARY OF STAFF RECOMMENDATION

The appellants contend that the development approved by the City does not conform with the City of Rancho Palos Verdes certified Local Coastal Program (LCP) because the development is situated within or seaward of the Coastal Structure Setback Zone. The Coastal Structure Setback Zone, established by the certified LCP, is the area measured 25 feet inland of the Coastal Setback Line (Exhibit #8, p.3). The certified LCP prohibits buildings and other permanent structures within the Coastal Structure Setback Zone. The City Council approved the local coastal development permit that is the subject of this appeal pursuant to a variance, then subsequent to its hearing on the subject coastal development permit, voted to identify the Coastal Setback Line using the City's official zoning map rather than its past method of using the LCP geologic study map for the purpose of determining appropriate coastal bluff setbacks. The official zoning map, which is produced at a smaller scale than the LCP geologic study map, indicates that the Coastal Setback Line is in a more seaward location on the subject property. By using the official zoning map, the previously constructed swimming pool would no longer be located within the Coastal Structure Setback Zone. The administrative record for the local coastal development permit, however, indicates that the development subject to this appeal does not conform to the bluff-top setback requirement of the certified LCP unless the official zoning map is used to identify the Coastal Setback Line (instead of the geologic study map contained in the certified LCP).

Staff is recommending that the Commission determine that the appeals raise **a substantial issue** with respect to the grounds on which the appeals have been filed. Specifically, the appeals raise a substantial issue regarding whether the City-approved development conforms with the Coastal Structure Setback Zone of the City of Rancho Palos Verdes certified LCP, whether the swimming pool threatens the stability of the coastal bluff, and whether restoration of the previously disturbed bluff edge has been adequately carried out. **The motion to carry out the staff recommendation is on Page Seven.**

STAFF NOTE: The Commission will not take public testimony during the substantial issue phase of the appeal hearing unless at least three commissioners request it. Unless the Commission finds that the appeals do not raise a substantial issue, the Commission will hear the de novo phase of the appeal (at a future meeting), during which the Commission will take public testimony. Written comments may be submitted to the Commission during either phase of the hearing.

SUBSTANTIVE FILE DOCUMENTS:

1. City of Rancho Palos Verdes Certified Local Coastal Program (LCP), 4/27/83.
2. City of Rancho Palos Verdes Local Coastal Development Permit No. ZON2007-00046 (24 Seacove Drive).
3. Geologic Factors Related to a Coastal Set-Back for the City of Rancho Palos Verdes, California, by Earth Sciences Associates, 1976.
4. Preliminary Soils and Geology Investigation (and supplements), 24 Seacove Drive, by Triad Foundation Engineering, Inc., July 16, 1987.
5. Preliminary Engineering Geology Investigation, Proposed Pool and Additions, 24 Seacove Drive, by George DeVries, April 30, 2002.
6. Limited Geotechnical Engineering Investigation Report, Proposed Addition, Deck Extension and New Swimming Pool, 24 Seacove Drive, by Coastline Geotechnical Consultants, Inc., May 13, 2002.
7. Updated Geotechnical Engineering Report, 24 Seacove Drive, by Coastline Geotechnical Consultants, Inc., September 25, 2007.
8. Response to Geotechnical Investigation Report Review Checklist for 24 Seacove Drive, by Coast Geotechnical, Inc., June 9, 2008.
9. Letter regarding 75-year safe life of pool, by Coastline Geotechnical Consultants, Inc., February 4, 2011.

I. APPELLANTS' CONTENTIONS

The appeals involve a dispute over the location of the Coastal Setback Line and whether the proposed development would threaten the stability of the coastal bluff. The appellants contend that the development approved by the City does not conform with the City of Rancho Palos Verdes certified Local Coastal Program (LCP) because the proposed development is situated within or seaward of the Coastal Structure Setback Zone (Exhibits #10-12). The Coastal Structure Setback Zone, established by the certified LCP, is the area measured 25 feet inland of the Coastal Setback Line (Exhibit #8, p.3). The certified LCP prohibits buildings and other permanent structures within the Coastal Structure Setback Zone.

II. LOCAL GOVERNMENT ACTION

The project site, situated between the first public road (Seacove Drive) and the sea, is the top of a 185-foot high coastal bluff where development approved by the City of Rancho Palos Verdes is appealable to the Coastal Commission. The applicants' existing two-story, 5,662 square foot single-family residence was constructed (behind the Coastal Structure Setback Zone) on the site in 1988/89 pursuant to City of Rancho Palos Verdes Local Coastal Development Permit No. 30 (Exhibit #7, p.2).

In 2006, several improvements were constructed in the applicants' rear yard without benefit of the required coastal development permit. The unpermitted development included a swimming pool, spa, chimney barbeque, trellis, grading on the bluff, and an eight-foot tall retaining wall at the top of the bluff to accommodate a viewing area and fire pit.

On January 29, 2007, subsequent to issuance of several "Stop Work" orders by the City, the property owners submitted applications to the City for a variance, grading permit, and an after-the-fact coastal development permit (Case No. ZON2007-00046).

On May 24, 2007, the applicants requested an Interpretation Procedure (Case No. ZON2007-00253) in order to challenge the City's interpretation of the location of the Coastal Setback Line in the rear yard of the property.

On June 21, 2007, the City Director of Planning, Building and Code Enforcement issued a formal Interpretation regarding the location of the Coastal Setback Line in the rear yard of the property. The Director's Interpretation, based on maps prepared in 1976 for the LCP by Earth Sciences Associates (ESA), establishes the Coastal Setback Line in the rear yard of the property at a location 150 feet from the front (Seacove Drive) property line.

On July 3, 2007, the attorney representing the applicants submitted an appeal of the Director's Interpretation. The applicants later requested that the appeal be held in abeyance while Case No. ZON2007-00046 was processed to legalize and approve the development (after the fact) pursuant to a variance. The City's administrative record states that, "the Conroys notified staff that they would like to exercise their option of accepting staff's determination of the Coastal Setback Line and continue to pursue their variance and coastal permit applications in an attempt to legalize the after-the fact construction, and requested that their Interpretation Procedure Appeal be held in abeyance" (Exhibit #9, p.4).

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On October 9, 2008, the City Geologist conditionally approved the geology report for the proposed swimming pool, spa and chimney barbecue. The City Geologist's conditional approval requires the applicants to prepare an "as-built" geotechnical report with conclusions and recommendations regarding slope stability, erosion control, etc.

On December 11, 2008, the Planning Commission opened a public hearing for Case No. ZON2007-00046, then continued the hearing to February 24, 2009. On February 24, 2009, the Planning Commission conditionally approved the local coastal development permit, variance, and grading permit for the development (Exhibit #9, p.5). The Planning Commission found that the pool and other improvements did not comply with the LCP requirement to be set back beyond the Coastal Structure Setback Zone, but approved the development by granting the variance because of an "exceptional circumstance". The Planning Commission's approval included a requirement to remove the unpermitted development at the bluff edge and bluff face (view deck, fire pit, fill and retaining wall). The Planning Commission tabled the Interpretation Procedure Appeal regarding the location of the Coastal Setback Line at the request of the applicants (Exhibit #16, p.2).

On March 11, 2009, Ms. Pamela Simes filed an appeal requesting that the City Council overturn the Planning Commission's approval of Case No. ZON2007-00046.

On June 2, 2009, the City of Rancho Palos Verdes City Council held a public hearing for the appeal, but took no action.

On September 8, 2009, the Planning Commission revised the Director's Interpretation and determined that the location of the Coastal Setback Line on properties shall be based on a site-specific geology study and the Coastal Specific Land Use Map (Exhibit #16, p.3). On September 23, 2009, Ms. Pamela Simes filed an appeal requesting that the City Council overturn the Planning Commission's revised interpretation.

On December 3, 2009, the City issued the applicants an after-the-fact building permit for: grading to restore bluff edge, demolish unpermitted walls and fire pit, install sump pump and drain lines for yard drainage.

On December 15, 2009, the City Council held another public hearing for the appeal of the Planning Commission's after-the fact approval of the development. After hearing both sides of the appeal, the City Council denied the appellant's (Ms. Simes) appeal and upheld the Planning Commission's after-the fact approval of the variance for the development finding that there is an exceptional circumstance applicable to the property due to the development pattern of other residences in the area (Exhibit #9, p.5). The City Council found that the only location to build the proposed improvements is in the rear yard, which is within the Coastal Structure Setback Zone (25 feet from the Coastal Setback Line), and that the development is similar to other bluff top development in the rear yards of other nearby properties (Exhibit #9, ps.5-8: City Council Resolution No. 2009-93 adopted December 15, 2009).

On December 17, 2009, the City's Notice of Final Local Action for Local Coastal Development Permit No. ZON2007-00046 was received via first class mail in the Commission's South Coast District office in Long Beach. The Commission's ten working-day appeal period was established on December 18, 2009. On January 4, 2010, Commission staff received appeals

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from James Huston, Pamela Simes Fleming and Don Fleming, and Coastal Commissioners Mary Shallenberger and Sara Wan. The appeal period ended at 5 p.m. on January 4, 2010 with no other appeals received.

On January 5, 2010, City Council adopted City Council Resolution No. 2010-01 finding that that the location of the Coastal Setback Line on properties shall be based on the City's official zoning map, instead of the Coastal Specific Land Use Map or the ESA maps contained in the certified LCP (Exhibit #16). The resolution revised the previous Director's Interpretation which determined that the Coastal Setback Line was in the same location on the site where it had previously been established when the house was permitted. The City's new method for identifying the Coastal Setback Line using the official zoning map, which was adopted three weeks after the approval of the applicants' proposed swimming pool pursuant to the variance and Local Coastal Development Permit No. ZON2007-00046, identifies the location of the Coastal Setback Line about 25 feet further seaward than the location of the line shown on the ESA maps referenced in the LCP. The new location of the Coastal Setback Line (as interpreted by the City Council) puts the proposed swimming pool landward of the Coastal Structure Setback Zone where structures are prohibited.

The applicants believe that the City Council's re-location of the Coastal Setback Line should render the appeals moot, and the Commission should reject them. The applicants assert that on December 15, 2009, in addition to approving the variance, the City Council determined that the Coastal Setback Line is approximately 175 feet from the front property line, instead of 150 feet as previously determined by City staff (Exhibit #5). The more seaward (25 feet) location of the Coastal Setback Line would be based on the enlarged official zoning map (Exhibit #8) instead of the ESA geologic study maps (Exhibit #6) to determine the location of the Coastal Setback Line. The official City record, however, does not reflect any change in the City's determination regarding the location of the Coastal Setback Line on December 15, 2009 (Exhibit #9). [See Exhibit #12 for the appellant's (Pamela Simes Fleming) description of the City's hearings and actions for the proposed development.]

III. APPEAL PROCEDURES

After certification of Local Coastal Programs (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff [Coastal Act Section 30603(a)]. In addition, an action taken by a local government on a coastal development permit application may be appealed to the Commission if the development constitutes a "major public works project" or a "major energy facility" [Coastal Act Section 30603(a)(5)].

The City of Rancho Palos Verdes Local Coastal Program (LCP) was certified on April 27, 1983. Section 30603(a) of the Coastal Act identifies the proposed project site as being in an appealable area by virtue of its location. The proposed project is located between the sea and the first public road paralleling the sea, and within three hundred feet of the top of the seaward face of a coastal bluff.

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Section 30603 of the Coastal Act states:

- (a) After certification of its Local Coastal Program, an action taken by a local government on a coastal development permit application may be appealed to the Commission for only the following types of developments:
 - (1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
 - (2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

The grounds for appeal of an approved local coastal development permit in the appealable area are stated in Section 30603(b)(1), which states:

- (b)(1) The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in this division.

The action currently before the Commission is to find whether there is a "substantial issue" or "no substantial issue" raised by the appeals of the local approval of the proposed project. Sections 30621 and 30625(b)(2) of the Coastal Act require a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal.

Commission staff recommends a finding of substantial issue. If there is no motion from the Commission to find no substantial issue, the appeals will be presumed to raise a substantial issue and the Commission will hold a de novo public hearing on the merits of the application. A de novo public hearing on the merits of the application uses the certified LCP as the standard of review. In addition, for projects located between the first public road and the sea, findings must be made that an approved application is consistent with the public access and recreation policies of the Coastal Act. Sections 13110-13120 of Title 14 of the California Code of Regulations further explain the appeal hearing process.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeals raise a substantial issue. The only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicant, the appellants or other persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that the grounds for the appeals raise no substantial issue. The Commission's finding of substantial issue voids the entire local coastal development permit action that is the subject of an appeal.

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that **a substantial issue exists** with respect to the grounds for the appeal regarding conformity of the project with the City of Rancho Palos Verdes Local Coastal Program or the public access policies of the Coastal Act, pursuant to Public Resources Code Section 30625(b)(2).

Staff recommends a **NO** vote on the following motion:

MOTION: *"I move that the Commission determine that Appeal No. A-5-RPV-10-002 raises No Substantial Issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act."*

Failure of this motion will result in a de novo hearing on the application and adoption of the following resolution and findings. A majority of the Commissioners present is required to pass the motion.

Resolution to Find Substantial Issue for Appeal A-5-RPV-10-002

The Commission hereby finds that Appeal No. A-5-RPV-10-002 presents a substantial issue with respect to the grounds on which the appeals have been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access policies of the Coastal Act.

V. FINDINGS AND DECLARATIONS FOR SUBSTANTIAL ISSUE

The Commission hereby finds and declares:

A. Project Description

The project site, situated on the coastal bluff seaward of the first public road, is part of a developed residential neighborhood on the southern shore of the Palos Verdes Peninsula (Exhibit #1). The existing 5,662 square foot single-family residence on the site was constructed in 1988/89 pursuant to City of Rancho Palos Verdes Local Coastal Development Permit No. 30. The house is set back about 75 feet from the bluff edge, 25 feet inland of the Coastal Setback Line established by Local Coastal Development Permit No. 30 (Exhibit #7).

On December 15, 2009, the City Council of Rancho Palos Verdes, applying the variance provisions in its certified LCP, approved Local Coastal Development Permit No. ZON2007-00046, which permits the applicants (after the fact) to construct a swimming pool, spa, and outdoor chimney barbeque in the rear yard area of the coastal bluff property at 24 Seacove Drive. The pool, spa and chimney are set back sixty feet from the edge of the bluff (Exhibit #4). The City-approved development also includes the removal of an unpermitted retaining wall, fire pit and fill from the site and the restoration of the bluff edge to the condition it was in prior to the development that commenced in 2006 (Exhibit #4). In February 2010, at the request of the City, the applicants removed the unpermitted retaining wall, fire pit and fill from the site. New drainage pipes and a sump pump were installed in the area near the bluff edge,

and the disturbed area has been landscaped with lawn, flowers, olive trees, stone pathways, and a sixteen-inch high stone garden wall.

B. Factors to be Considered in Substantial Issue Analysis

Section 30625 of the Coastal Act states that the Commission shall hear an appeal of a local government action unless it finds that no substantial issue exists with respect to the grounds on which the appeal has been filed. Section 13115(b) of the Commission's regulations indicates that the Commission will hear an appeal unless it finds that the appeal raises no significant question as to conformity with the certified LCP or there is no significant question with regard to the public access policies of Chapter 3 of the Coastal Act. In previous decisions on appeals, the Commission has been guided by the following factors.

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the LCP and the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

Even when the Commission chooses not to find that an appeal raises a substantial issue, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5. Staff is recommending that the Commission find that **a substantial issue** exists for the reasons set forth below.

C. Substantial Issue Analysis

As stated in Section III of this report, the grounds for appeal of a coastal development permit issued by the local government after certification of its Local Coastal Program (LCP) are specific. In this case, the local coastal development permit may be appealed to the Commission on the grounds that it does not conform to the certified LCP or the public access policies of the Coastal Act. The Commission must then decide whether a substantial issue exists in order to hear the appeal.

Approval by Variance

The appellants contend that the development approved by the City (pursuant to the City's variance process) does not conform with the City of Rancho Palos Verdes certified LCP because the development is situated within or seaward of the Coastal Structure Setback Zone (Exhibits #10-12). The Coastal Structure Setback Zone, established by the certified LCP, is the area measured 25 feet inland of the Coastal Setback Line (Exhibit #8, p.3). The certified

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LCP prohibits buildings and other permanent structures within the Coastal Structure Setback Zone.

Section 17.34.060B (Coastal Setback Zone) of the City of Rancho Palos Verdes Coastal Specific Plan (certified LCP) states:

The coastal setback zone comprises an area in which new development is prohibited. Residential density credit will be granted only for areas proven to the city's satisfaction to be stable. No new permanent structures shall be allowed closer than twenty-five feet to the coastal setback zone.

The Coastal Structure Setback Zone has been mapped on the project site in 1987 and 2002 as part of site-specific geologic studies (Exhibit #7). The Coastal Setback Line in the rear yard of the property is 150 feet from the front (Seacove Drive) property line. On June 21, 2007, the City Director of Planning, Building and Code Enforcement determined that the Coastal Setback Line on the project site is consistent with the 1987 and 2002 geology report maps.

Section 17.72.040B (Uses and Developments Permitted - Coastal Setback Zone) of the City of Rancho Palos Verdes Municipal Code states:

Uses and Developments Permitted in the Coastal Structure Setback Zone. Any new permanent structures in this zone are prohibited, including, but not limited to, pools, spas, vertical support members and chimneys. Minor structures and equipment, such as trash enclosures, storage sheds of less than one hundred twenty square feet, doghouses, enclosed water heaters, barbecues, garden walls, air conditioners, pool filters, vents and other minor structures and/or equipment may be allowed. In addition, decks, walkways or similar ground surfacing less than six inches in height, as measured from adjacent existing grade, shall be allowed.

The application of the variance provision in the certified LCP was ultimately the basis of the Planning Commission's and City Council's (on appeal) approval of this disputed local coastal development permit. Both the Planning Commission and the City Council approved the local coastal development permit even though they found that the applicants' development did not comply with the setback requirements of the Coastal Setback Zone. Pursuant to Section 17.60.020 of the City's certified LCP, before it issues a variance, the City must make a finding that the applicants' project meets four conditions to qualify for a variance.

The four conditions are as follows:

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved, or to the intended use of the property, which do not apply generally to other property in the same zoning district;
2. That such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under like conditions in the same zoning district;

3. That the granting of the variance will not be materially detrimental to the public welfare or injurious to property and improvements in the area in which the property is located;
4. That the granting of such a variance will not be contrary to the objectives of the original plan.

The City Council, in approving the variance and local coastal development permit, found that the development satisfied each of these conditions (Exhibit #9, ps.5-7). Thus, there is a substantial issue as to whether or not the City's variance findings are consistent with the certified LCP.

Method for Mapping the Coastal Setback Line

The applicants assert that their local coastal development permit also involves a dispute over the location of the Coastal Setback Line. The interpretation procedure at issue concerns the methodology used to determine the City's Coastal Setback Line on individual coastal bluff properties. Depending on which City map is used to plot the Coastal Setback Line on the subject site, either all or a portion of the City-approved development falls within the prohibited setback area (ESA maps), or landward of it (enlarged zoning map). It is noted, however, that the City's staff report and findings for approval of the subject development (by variance) acknowledges that all of the development is not in conformance with the Coastal Setback Zone requirements based on the ESA maps used by City staff to determine the appropriate setback. The debate over the method used to determine the location of the Coastal Setback Line is a substantial issue because the outcome may determine the coastal bluff setback requirements for development along much of the City's shoreline.

Using the City's established method of utilizing the ESA maps for interpreting the certified LCP and determining the location of the Coastal Setback Line, all of the proposed development is situated within or seaward of the Coastal Structure Setback Zone, and therefore does not conform with the certified LCP (Exhibits #6&7). The Director's Interpretation, based on maps prepared in 1976 for the LCP by Earth Sciences Associates (ESA), establishes the Coastal Setback Line in the rear yard of the property at a location 150 feet from the front (Seacove Drive) property line. The Coastal Structure Setback Zone extends 25 feet inland of the Coastal Setback Line. The existing single-family residence extends to the landward edge of the Coastal Structure Setback Zone (Exhibit #7). On December 15, 2009, the City approved a variance and an after-the-fact local coastal development permit to permit the pool, spa and chimney structure to be located within 25 feet of the Coastal Setback Line (i.e., within the Coastal Structure Setback Zone) that is mapped on the ESA maps contained in the certified LCP.

The purpose of the Coastal Setback Line is to identify areas along the bluff edge that have geologic concerns. The location of the Coastal Setback Line along the City's entire coastline was determined as a result of a comprehensive geologic study of the City's coastal zone to address potential slope erosion and other geologic concerns. The study is contained in the report entitled Geologic Factors Related to a Coastal Set-Back for the City of Rancho Palos Verdes, California (1976) by Earth Sciences Associates (ESA). The 1976 ESA report and its associated maps are referenced in the appendix of the City's Coastal Specific Plan, which

comprises part of the City's certified LCP. The ESA maps show the precise location of the Coastal Setback Line on each individual coastal bluff property (Exhibit #6). Other maps in the Coastal Specific Plan include depictions of the approximate location of the Coastal Setback Line (Exhibit #8). Presumably, all of the City's maps depicting the location of the Coastal Setback Line are all based on the same geology report: the 1976 report (and maps) by ESA. Since the ESA maps are of the largest scale and are the most precise, the City has historically used these maps to identify the location of the Coastal Setback Line. The other City maps have not previously been used to determine the setback line because their small scale makes it impractical.

The ESA geology study maps and report were used to develop a four-category classification system that is set forth in the certified LCP (Coastal Specific Plan). The ESA report identifies coastal erosion and landslides, and streambed erosion as significant geologic hazards on the coastal bluffs. The LCP states that, "the following four-category system is comprehensive and also sufficiently detailed to be used as a basis for land use planning."

The four geologic categories mapped on the ESA maps (Exhibit #6) are:

- Category 1: Areas unsuited for any permanent structure. 1A – Potentially hazardous for human passage. 1B – In general, safe for human passage.
- Category 2: Areas suitable for light, non-residential structures not requiring significant excavation or grading.
- Category 3: Areas in which existing geologic information is not sufficiently detailed to establish suitability for construction purposes.
- Category 4: Areas that appear to be suitable for permanent tract-type residential structures and supporting facilities in light of existing geologic information.

On the basis of the ESA report and maps, the Coastal Setback Line was established in 1978. The Coastal Setback Line on the ESA maps runs along the seaward side of the Category 4 developable areas (Exhibit #6). The Coastal Structure Setback Zone extends 25 feet inland of the Coastal Setback Line (Exhibit #8, p.3). The Coastal Setback Zone, where new development is prohibited pursuant to Section 17.34.060B, includes all land within Categories 1, 2 and 3. The applicants' house is situated in the portion of the lot that is Category 4 on the ESA map (Exhibit #6). Regarding the Coastal Setback Line on the project site, the City's Director of Planning, Building and Code Enforcement issued a formal interpretation (based upon the ESA maps) in 2007 that places the Coastal Setback Line a distance of 150 feet measured seaward of the front property line, in the same location as shown on the ESA maps and the site-specific geology maps (Exhibit #7).

Therefore, the appropriate maps for determining the Coastal Setback Line are those contained in the ESA report referenced above along with a site specific geologic study. However, when uncertainties arise, the LCP does identify a method for the City to determine boundaries of zoning districts (i.e., the Coastal Setback Zone).

Section 17.72.030 of the certified LCP, states, in part:

District Boundaries – Zoning Map

A. Where indicated district boundaries are approximately street, alley or lot lines, said lines are determined to be the boundaries of the district. Otherwise, the boundaries shall be determined by dimensions shown on the official zoning map. In the absence of a dimension, the boundary shall be determined by the scale shown on said map.

D. Where uncertainties exist, the commission shall, by written decision, determine the location of the district boundary.

E. Where physical or cultural features, including but not limited to degree of slope, geologic stability, vegetation, and historic resources, existing or in the ground at the effective date of the ordinance codified in this title are at variance with those shown on the official zoning map, or in other circumstances not covered in this section, the planning director, with appeal to the planning commission, shall determine the location of the boundary.

This apparently was the process that commenced on June 21, 2007 with the City's Director of Planning, Building and Code Enforcement issuing a formal interpretation (based upon the ESA maps), and had apparently ended when the applicants notified the City that they would like to exercise their option of accepting staff's determination of the Coastal Setback Line and pursue the variance.

Alternate Method for Mapping the Coastal Setback Line

The applicants' preferred alternate method for determining the Coastal Setback Line is to use an enlarged zoning map that purports to show the setback line (Exhibit #8, p.1). The applicants assert that the City Council on December 15, 2009, in addition to approving the variance, adopted a determination that the Coastal Setback Line is approximately 175 feet from the front property line, instead of 150 feet. Such a delineation would result in the pool, spa and chimney being situated immediately inland and outside of the Coastal Structure Setback Zone (Exhibit #5). A more seaward (25 feet) location of the Coastal Setback Line would be based on the precedent of using an enlarged zoning map (Exhibit #8) instead of the ESA maps (Exhibit #6) to determine the location of the Coastal Setback Line. The official City record for the December 15, 2009 hearing, however, does not include any reference to the use of the enlarged zoning map to determine the location of the Coastal Setback Line.

One problem with using the official zoning map is that it is unclear where the Coastal Setback Line would be on the project site because the line indicated on the official zoning map would be about thirty feet wide once the map was enlarged to the scale needed for the site plan.¹ Even so, the applicants assert that the center of the line would be located exactly 25 feet seaward of the pool, thus putting the pool just inland of the Coastal Structure Setback Zone where development is prohibited (Exhibit #5).

¹ The ESA maps have a scale of 1:2,400 (1 inch = 200 feet), and the zoning map has a scale of 1:19,200 (1 inch = 1,600 feet).

The City staff acknowledges that the Planning Commission and City Council did express some concern about the staff's setback line interpretation and the staff's use of the ESA maps that the City has historically used to determine the appropriate setback line. The concern is based on the applicants' claim that the municipal code does not explicitly state that the ESA maps shall be used to determine the appropriate setback line. The applicants assert that Sections 17.88.030 and/or 17.88.050 of the City's zoning code require that the official zoning maps, not the ESA maps, be used to determine the Coastal Setback Line, but these sections are not part of the certified LCP's implementing ordinances (LIP). The City has adopted certain revisions to the zoning code without submitting such revisions to the Coastal Commission for certification. The applicants and the City cannot rely on uncertified sections of City code to support an approval of a local coastal development permit.

Commission staff has been aware since 2009 that the City Planning Commission was discussing the alternate methods for determining the appropriate setback line. Commission staff recommended that the City resolve the issue through an LCP amendment (Exhibit #14). While acknowledging that this issue is an important or "substantial" issue, Commission staff is supportive of a process to amend the LCP to include updated maps and requirements for determining the appropriate geologic bluff-top setbacks to assure geologic stability and safety for new coastal development in the City. Until the LCP has been amended, however, the City should not try to change the methodology used for determining the setback requirements. In considering a future LCP amendment, as well as applications for new development on coastal bluffs, the setback lines from coastal bluff edges should, at the minimum, be established to assure a geologic factor of safety of 1.5 (static) and 1.1 (pseudostatic) for the economic life of the development (assumed for most development to be 75 years); such a level of stability must be maintained during future bluff retreat, and should consider the acceleration of bluff retreat due to continued and accelerated sea level rise.

The City states that it does not intend to amend the LCP, even though the City Council on January 5, 2010 adopted Resolution No. 2010-01 stating that the official zoning map shall now be used to determine the Coastal Setback Line (Exhibit #16). The debate over the method used to determine the location of the Coastal Setback Line is a substantial issue because it is how the City determines the location of the coastal bluff setbacks along the City's shoreline.

Bluff Restoration Condition

The City's approval requires the applicants to remove unpermitted development (fill and a retaining wall) from the bluff edge and bluff face. It is not clear that the City's requirement to remove the unpermitted development at the bluff edge and on the bluff face will result in adequate restoration and re-vegetation of the bluff because no additional monitoring or follow-up requirements were included in the City's action. This portion of the approved development is located in the Coastal Structure Setback Zone. Therefore, the restoration work approved by the City permit also raises a substantial issue in regards to the grounds of the appeals.

The Five Factors

Guided by the following factors, Commission staff recommends a finding of substantial issue because the appellants have properly sustained the grounds for an appeal of the City-approved coastal development permit—that the development does not conform to the

standards set forth in the City's certified LCP. The City-approved development does not conform with the City of Rancho Palos Verdes certified LCP because it is within the Coastal Structure Setback Zone where development is prohibited pursuant to Section 17.34.060B, and the development could threaten the stability of the coastal bluff.

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

The local government's decision does not provide any factual or legal support that the development is consistent with the certified LCP. In its approval of the variance and the local coastal development permit, the City Council acknowledges that the pool, spa, and chimney barbeque encroach into the Coastal Structure Setback Zone and therefore do not comply with the coastal setback requirement established by the LCP (Exhibit #9, ps.5-9).

While Section 17.60.020 of the certified LCP allows the City to approve variances from the standards set forth in the certified LCP, the City is required to make findings that such variance involves exceptional or extraordinary circumstances that do not apply to other properties in the same zone, that such variance is necessary for the preservation and enjoyment of a substantial property right, and that the variance will not be detrimental to the public welfare or injurious to property, or be contrary to the objectives of the LCP.

The City approved the local coastal development permit pursuant to a variance on the basis that other properties located on the seaward side of Seacove Drive contained structures located within the Coastal Setback Zone and that the only location for accessory structures on the subject property is in the rear yard area which is within the Coastal Structure Setback Zone. In approving the variance the City found that the variance was "necessary for the preservation and enjoyment of a substantial property right since other properties in the RS-2 zoning district do not have such limitations ..." and "have been afforded the ability to maintain and construct such improvements". The City's findings also acknowledge that the other properties located on the seaward side of Seacove Drive that have pools and other accessory structures in their rear yards existed prior to the City's incorporation.

The City's findings also state that "although the pool and other improvements do not comply with the Coastal Structure Setback requirement, the improvements are not detrimental to the public welfare, or injurious to property or improvements in the area." In this case, a substantial issue exists with regards to the City's findings supporting the variance because the findings do not include substantial factual and legal support that the development approved within the Coastal Structure Setback Zone will not be detrimental to the public welfare or injurious to the property. The record does not indicate whether the approved setback from the coastal bluff edge will assure a geologic factor of safety of 1.5 (static) and 1.1 (pseudostatic) for the economic life of the development (assumed to be 75 years).

2. The extent and scope of the development as approved or denied by the local government;

The City approved the proposed swimming pool, spa and outdoor chimney barbeque. The proposed retaining wall, fire pit and fill near the bluff edge were not approved. The local permit includes a requirement to remove the unpermitted retaining wall, fire pit and fill from the site and to restore the bluff top slope to pre-grade condition. It is not clear that the City's

requirement to remove the unpermitted development at the bluff edge and on the bluff face will result in adequate restoration and re-vegetation of the bluff because no additional monitoring or follow-up requirements were included in the City's action.

3. The significance of the coastal resources affected by the decision;

The coastal resources affected by the City's after-the-fact approval of the swimming pool, spa and outdoor chimney barbeque near the house may not be significant, although the precedent setting nature of the City's decision could result in significant adverse effects to coastal resources by allowing significant alteration of the bluff face and bluff edge in an area of known geologic hazards. The City's decision to not establish specific performance standards for bluff-top, edge, and face or to require post "restoration" follow-up and monitoring could result in significant coastal resource impacts, however.

4. The precedential value of the local government's decision for future interpretations of its LCP; and,

The maps that establish the Coastal Setback Line accompany a report that is referenced in the City's Coastal Specific Plan/LCP. These maps constitute the basis by which the City has made determinations on the location of the Coastal Setback Line for properties, or portions thereof, located within the Coastal Structure Setback Zone in the City in past permitting actions. The alternate method for determining the location of the appropriate setbacks could result in significant risks to safety and adversely affect coastal resources because new development would be allowed to encroach closer to the bluff edge and into unstable areas where new development could endanger life and property. Reduced setbacks for new development could lead to the construction of shoreline protection devices that adversely affect coastal access, recreation, and visual resources. Further, no new geotechnical analysis was completed to provide a technical and scientific basis for changing the method by which coastal bluff setbacks are to be determined.

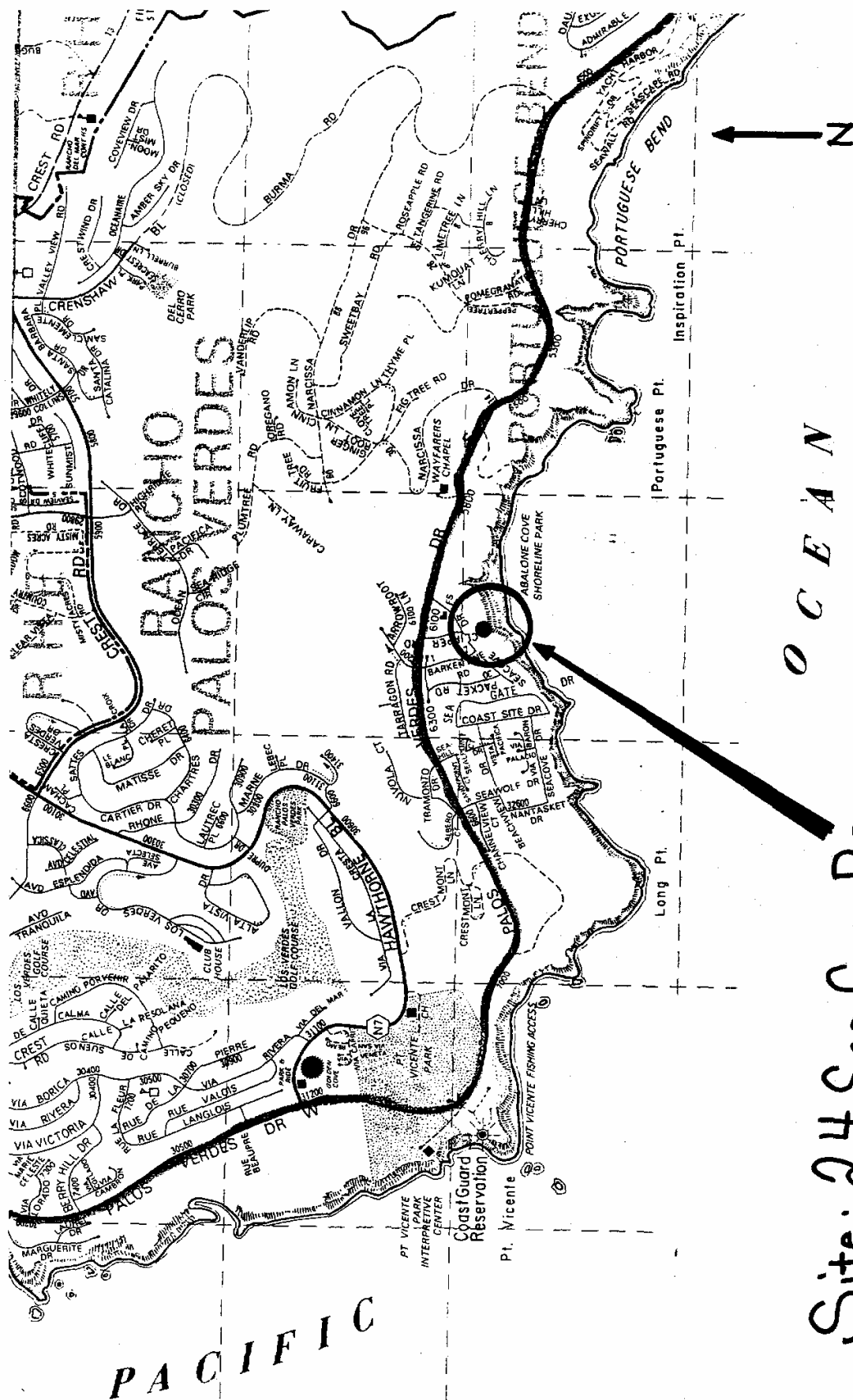
While acknowledging that this issue is an important or a "substantial" issue, Commission staff is supportive of a process to amend the LCP to include updated maps and requirements for determining the appropriate geologic bluff-top setbacks to assure geologic stability and safety for new coastal development in the City. Until the LCP has been amended, however, the City should not try to change the methodology used for determining the setback. The appropriate maps for determining the Coastal Setback Line are those contained in the ESA report referenced above along with a site specific geologic study. In considering a future LCP amendment, as well as applications for new development on coastal bluffs, the setback lines from coastal bluff edges should, at the minimum, be established to assure a geologic factor of safety of 1.5 (static) and 1.1 (pseudostatic) for the economic life of the development (assumed for most development to be 75 years); such a level of stability must be maintained during future bluff retreat, and should consider the acceleration of bluff retreat due to continued and accelerated sea level rise.

It is important to note that the City's zoning code includes many uncertified provisions that should not be used when reviewing coastal development permit applications. In this case, the uncertified provisions have caused confusion because the applicants' argument (for using an alternate method for determining the setback line) relies on uncertified provisions of the zoning code on the apparent assumption that they are certified.

5. Whether the appeal raises local issues, or those of regional or statewide significance.

This appeal raises both a local and statewide issue that applies to the properties on coastal bluffs in Rancho Palos Verdes and other coastal cities and counties. This appeal relates only to the method that this particular City uses to determine the appropriate setback for new development, however, the method of determination for and the need for appropriate coastal bluff setbacks is a very significant statewide issue. Coastal bluffs are inherently susceptible to geological failure given their constant exposure to the erosive forces from weather patterns, gravity, seismic activity and wave action. With this in mind, it is imperative that methods of determination of bluff-top setback lines have received thorough technical scrutiny before they are applied in the coastal zone. Thus, this appeal raises a significant statewide and local issue to ensure that coastal bluff property owners will be safe from potential geological instability by establishing the proper bluff-top setback line through the application of the appropriate method of determination.

In conclusion, the proposed development and the local coastal development permit for the proposed development do not conform to the requirements of the City of Rancho Palos Verdes certified LCP. Therefore, the Commission finds that the appeals raise **a substantial issue** with respect to the grounds on which the appeals have been filed.



7573 7
SCALE 1" = 100'

2004

BK. 7572

PALOS VERDES DRIVE SOUTH

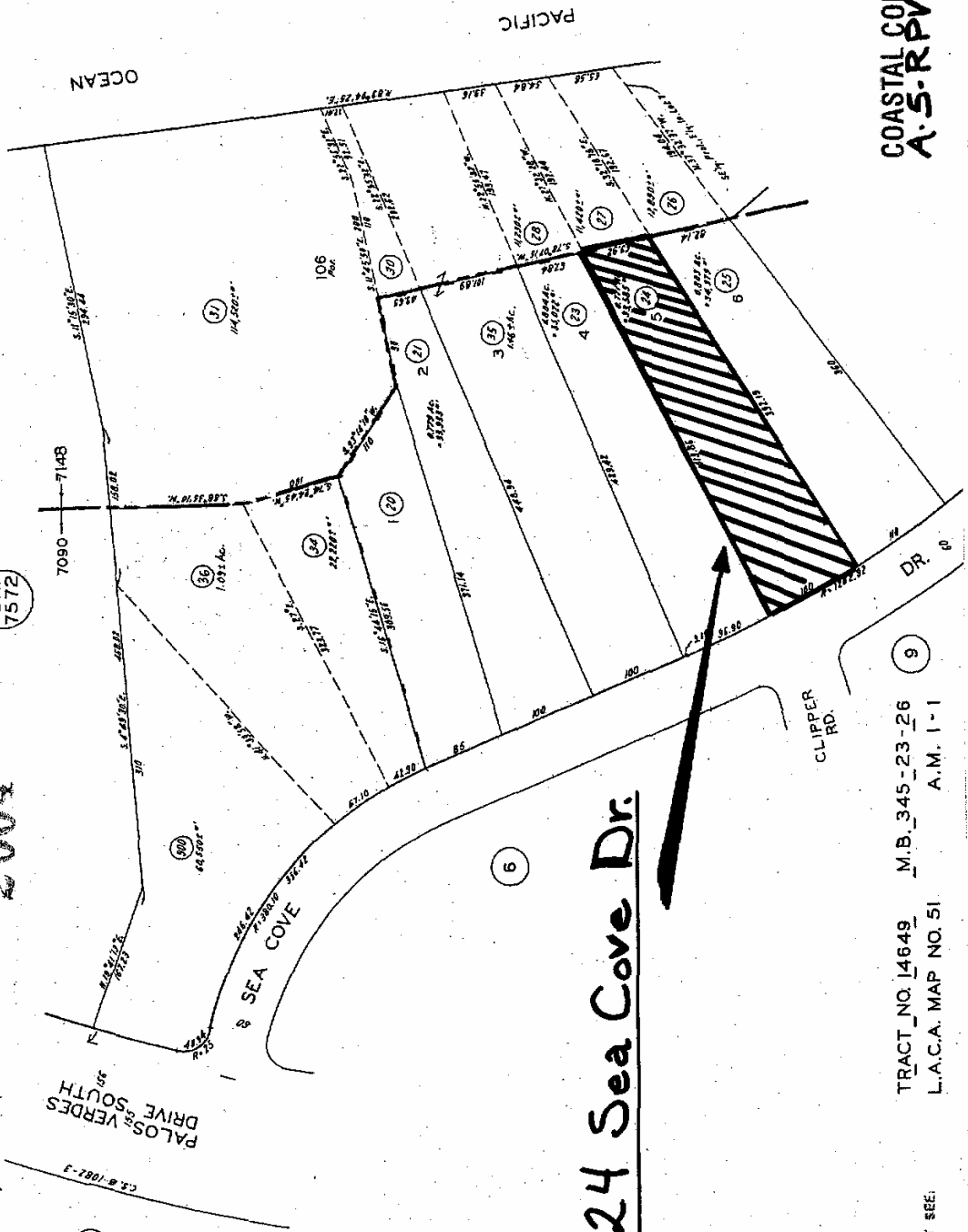
SEA COVE

Site: 24 Sea Cove Dr.

CORNER
7090
7148

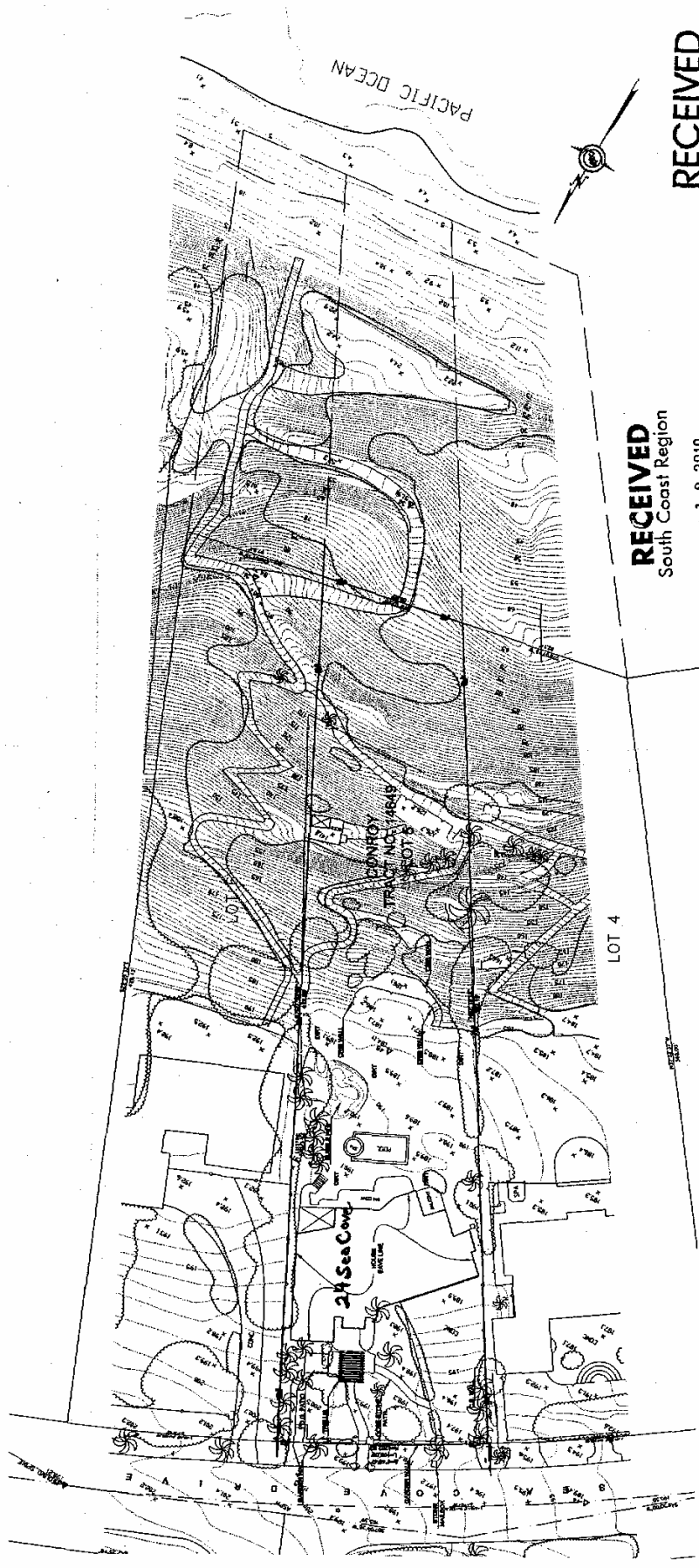
TRACT NO. 14649 M.B. 345-23-26 9
L.A.C.A. MAP NO. 51 A.M. 1-1

FOR PREV. ASSM'T SEE:
7573 - 21



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A.S.RPV-10-002

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PLANNING, BUILDING AND
CODE ENFORCEMENT

Site Plan

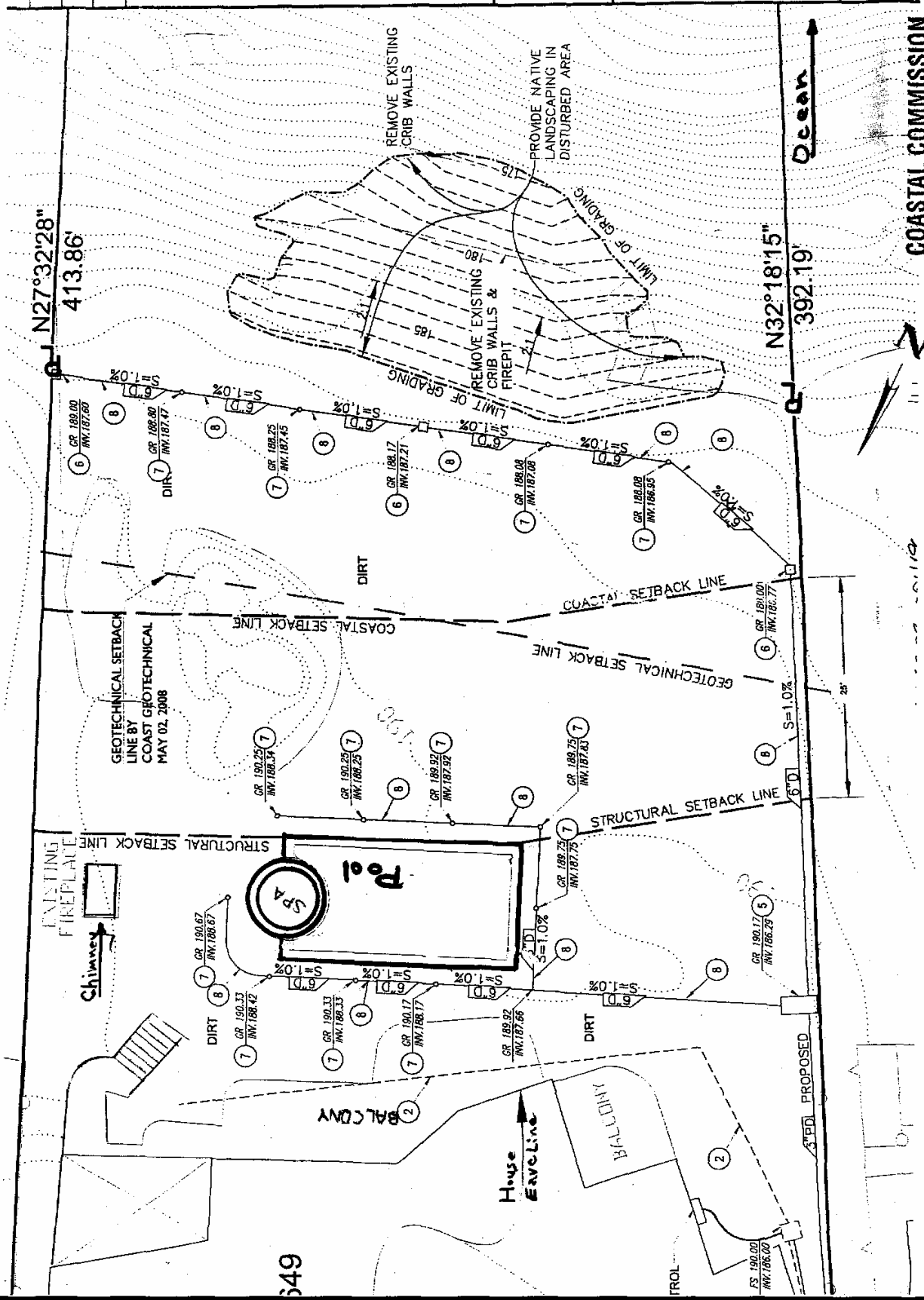
0 100' Scale

Width of lot at street is 100'

COASTAL COMMISSION
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EXHIBIT # **3**

PAGE **1** OF **1**



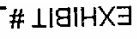
COASTAL COMMISSION
A-5-RPV.10.002

EXHIBIT # 4
PAGE 1 OF 1

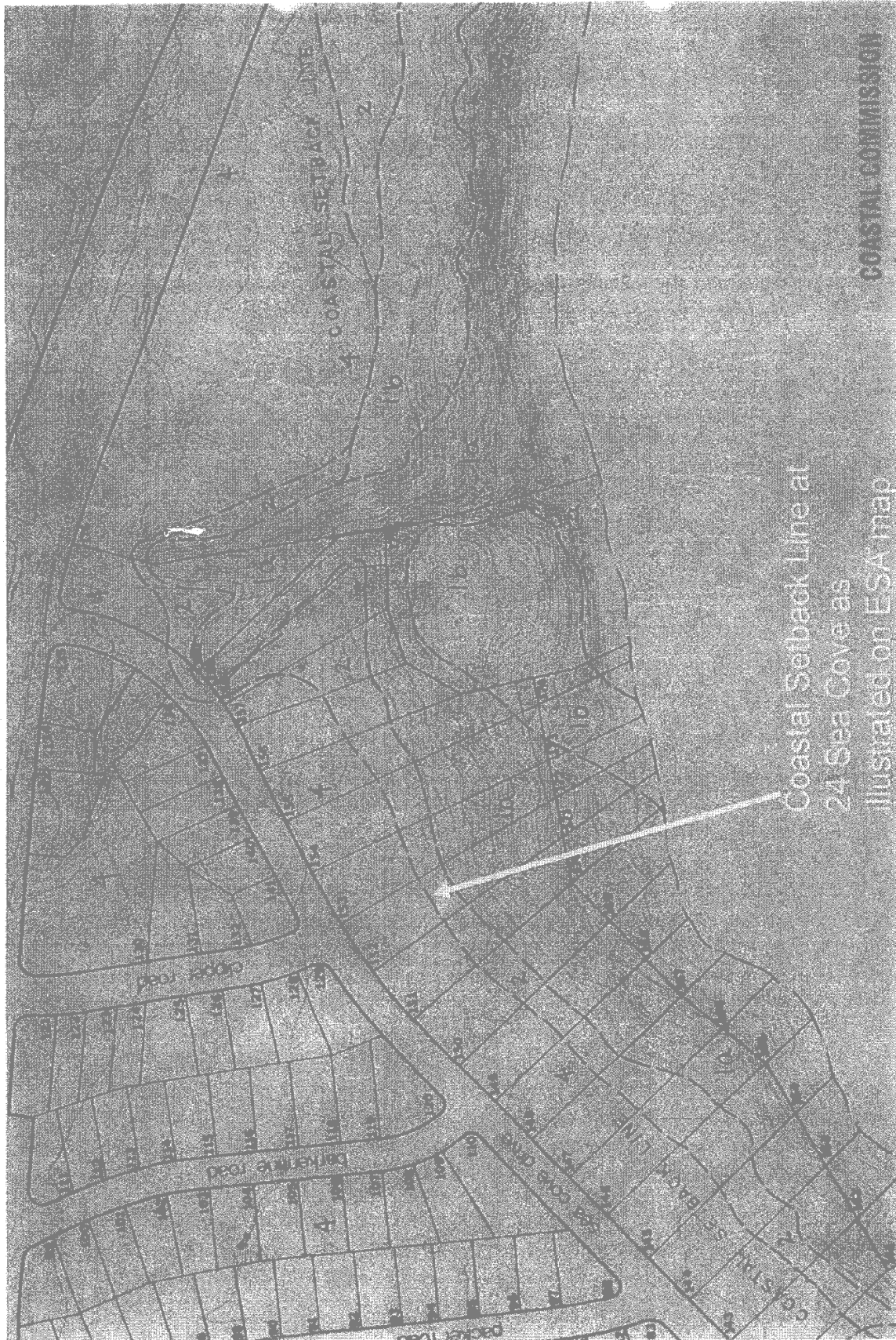
Restoration Plan - Bluff Edge

A.S.RPV-10-002

PAGE 1 OF 1



02224



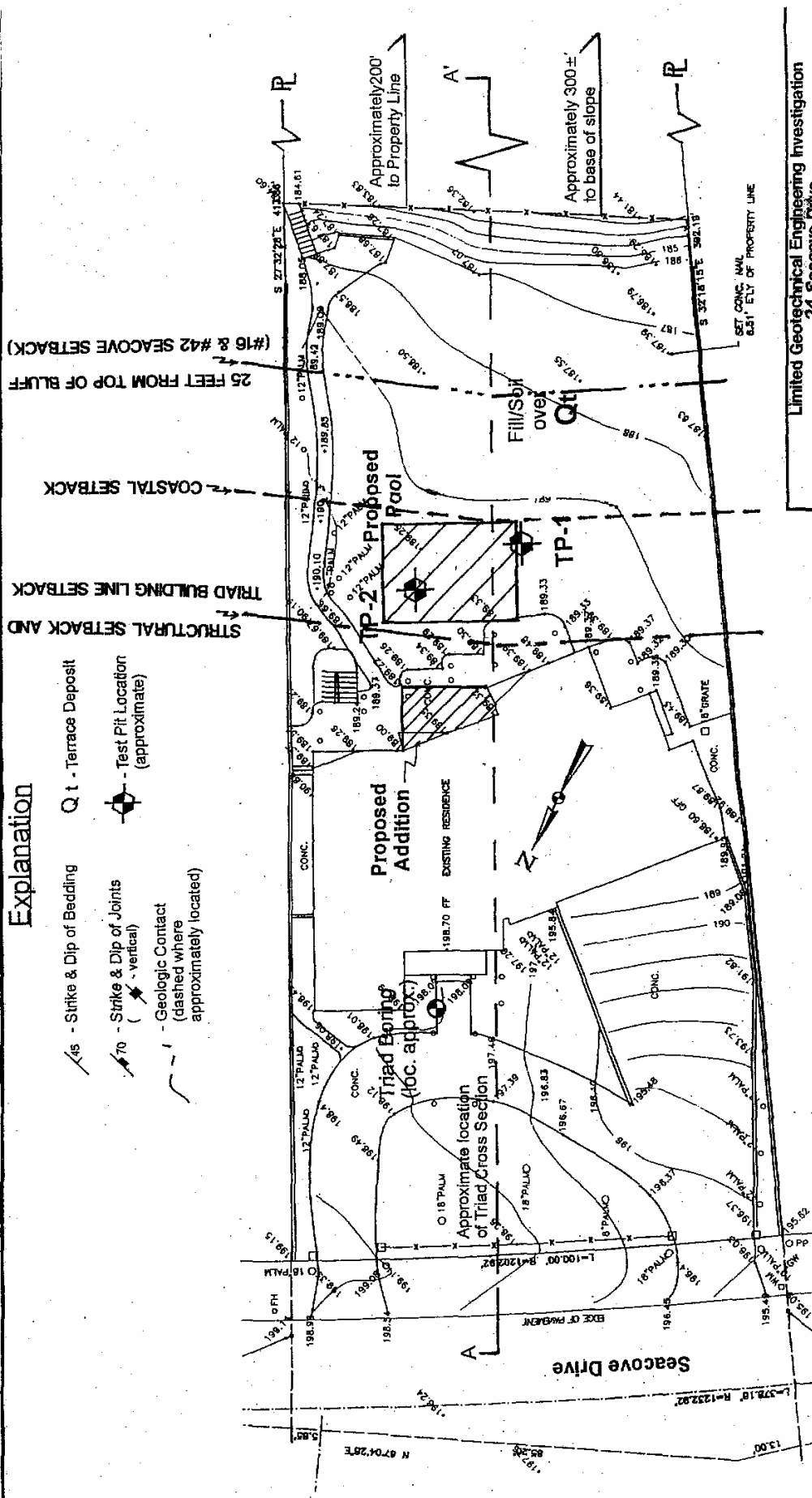
COASTAL COMMISSION

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EXHIBIT # 6

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ESA Map 4/7



Scale 1" = 20'

From: Plan dated 5/8/01 by
bk concepts - Architect

Limited Geotechnical Engineering Investigation 24 Seacove Drive Rancho Palos Verdes, California		DRAWN BY: ACL REVISED:
SCALE: 1" = 20' DATE: May 02		APPROVED BY:
Coastline Geotechnical Consultants, Inc.		
Project No. 1773C-101		DRAWING NUMBER 2 R

GEOLOGIC MAP

Qaf - COMPACTED FILL Qls - LANDSLIDE Q+ - TERRACE DEPOSITS Tmsh - MONTEREY FM
 — STRIKE & DIP OF BEDDING • BORING

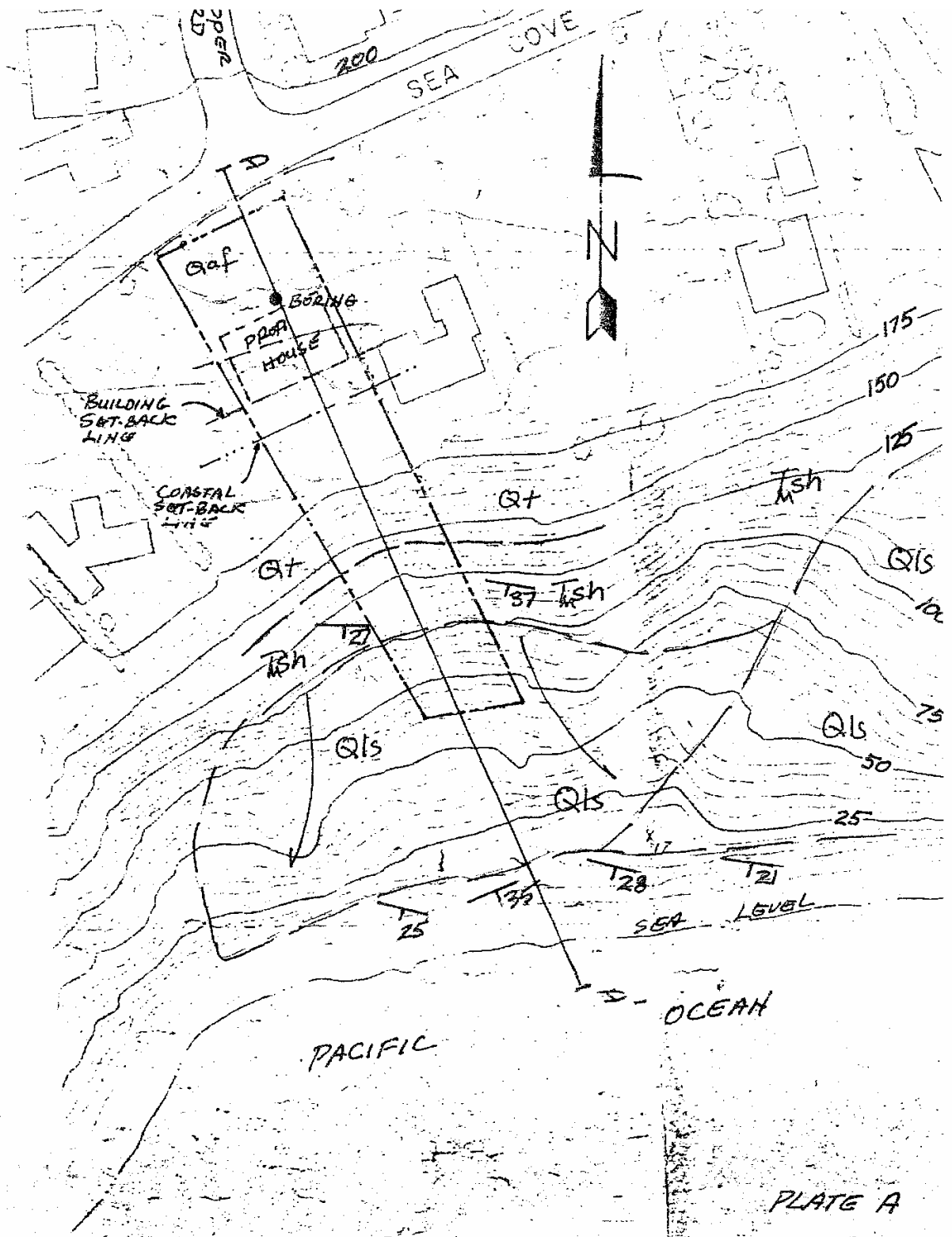


PLATE A



TRIAD FOUNDATION ENGINEERING, Inc.

Consulting Geologists - Soils Engineering

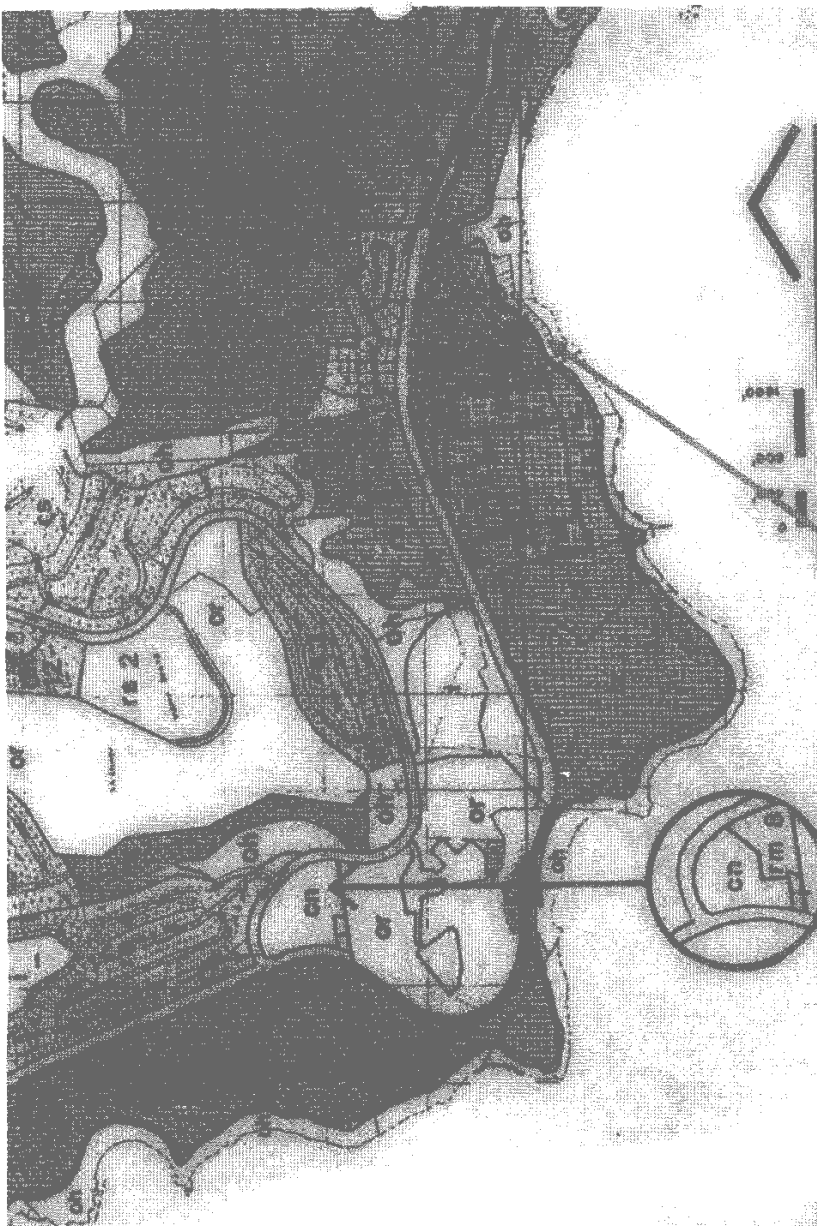
Job no: 86-126

Date: 12-29-87 Scale: 1"=100'

By: LRL

EXHIBIT # 7

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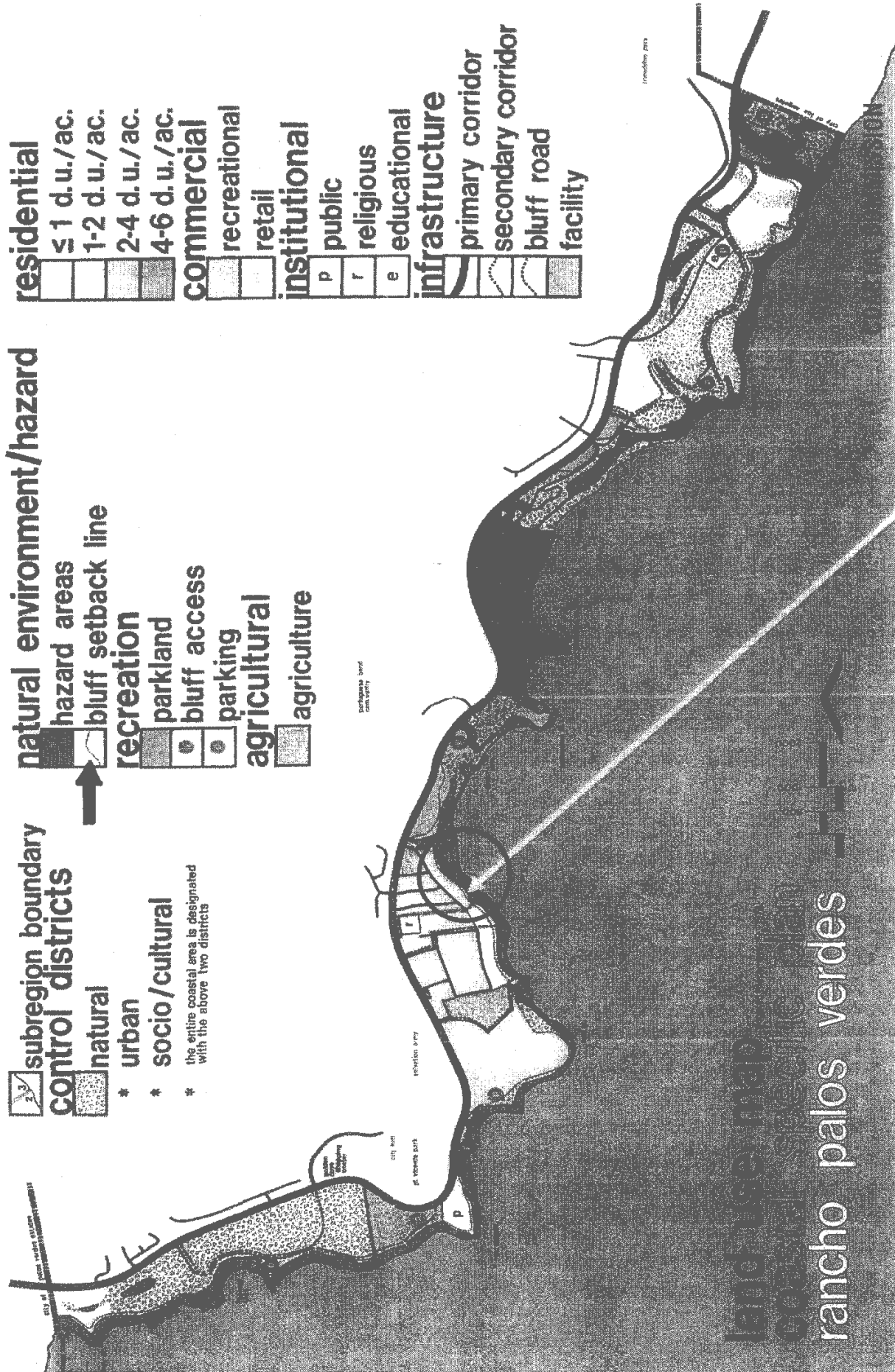
REVISION 6/17/86
 ZONE CHANGE NO. 12
for Rancho Palos Verdes, City Clerk

A-5-RPV-10-002

Coastal Setback Line
 Illustrated on Zoning
 Map

This is to certify that this is the Official Zoning Map of the City of Rancho Palos Verdes, Calif.
 Signed: _____
 City Clerk

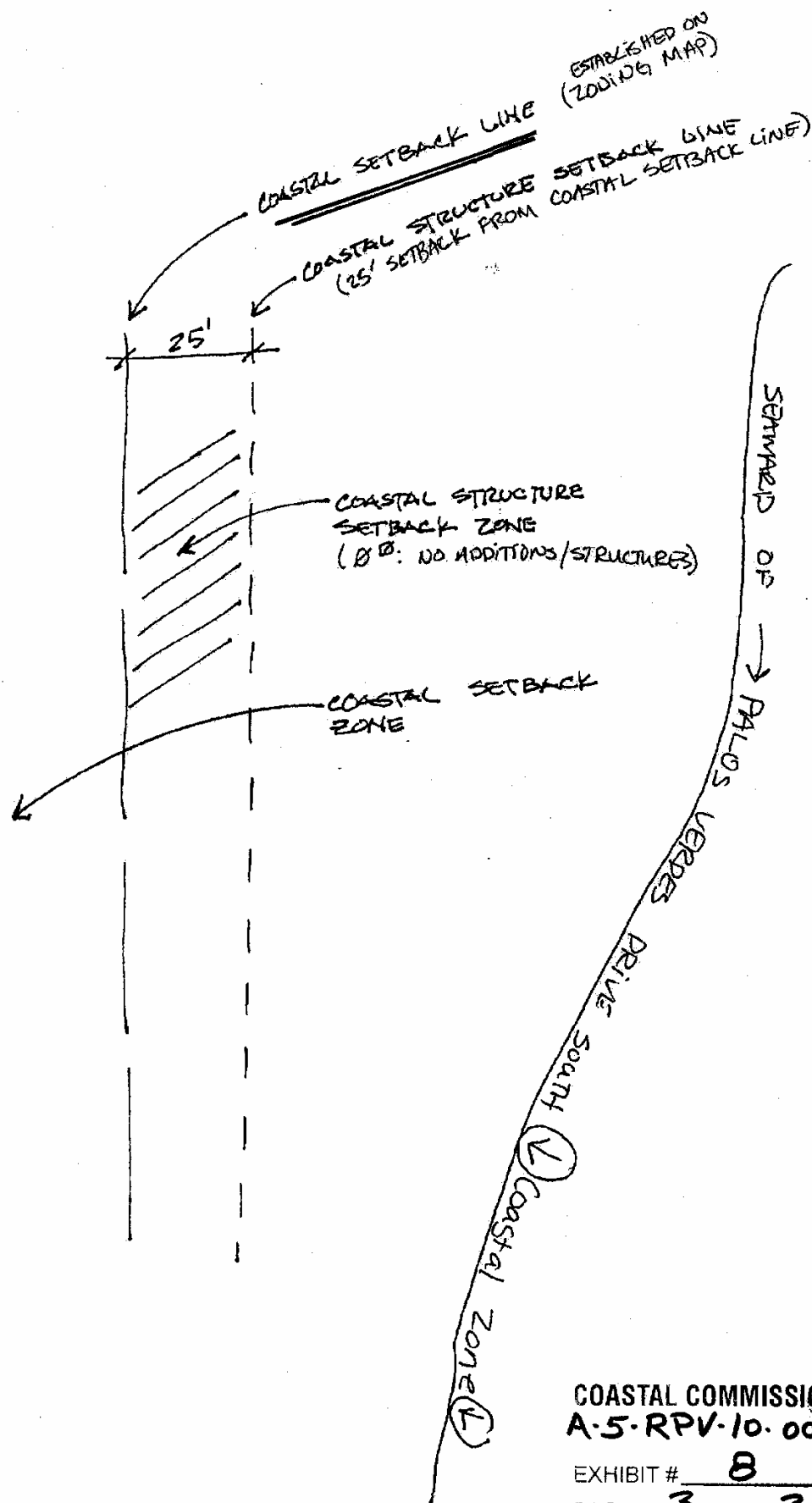
DATE	REVISIONS	APPROVED
1/1/86	1. Zone Change No. 1	Zone Change No. 1
1/1/86	2. Zone Change No. 2	Zone Change No. 2
1/1/86	3. Zone Change No. 3	Zone Change No. 3
1/1/86	4. Zone Change No. 4	Zone Change No. 4
1/1/86	5. Zone Change No. 5	Zone Change No. 5
1/1/86	6. Zone Change No. 6	Zone Change No. 6
1/1/86	7. Zone Change No. 7	Zone Change No. 7
1/1/86	8. Zone Change No. 8	Zone Change No. 8
1/1/86	9. Zone Change No. 9	Zone Change No. 9
1/1/86	10. Zone Change No. 10	Zone Change No. 10
1/1/86	11. Zone Change No. 11	Zone Change No. 11
1/1/86	12. Zone Change No. 12	Zone Change No. 12



LUP: Bluff Setback Line

A-5-RPV-10-002

OCEAN



COASTAL COMMISSION
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PLANNING, BUILDING, & CODE ENFORCEMENT

December 16, 2009

NOTICE OF FINAL DECISION

NOTICE IS HEREBY GIVEN that on December 15, 2009, the City Council of the City of Rancho Palos Verdes denied an appeal and upheld the Planning Commission's approval of Case No. ZON2007-00046 for a Variance and Coastal Permit:

Appellant: Pamela Simes.

Applicant: Brian & Jenifer Conroy.

Landowner: Brian & Jenifer Conroy.

Location: 24 Sea Cove Drive, Rancho Palos Verdes, CA 90275.

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DEC 17 2009

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Said approval is for an after-the-fact pool, spa and outdoor chimney barbecue in the rear yard area of a bluff top property located at 24 Sea Cove Drive.

In Granting the Coastal Permit, the following findings were made:

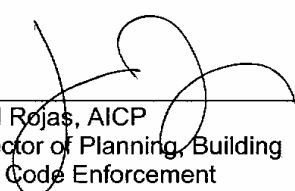
1. That the proposed development is in conformance with the coastal specific plan. The subject property is located within Subregion 4 of the City's coastal zone, as established by the Rancho Palos Verdes Coastal Specific Plan, and is designated for residential development. Subregion 4 is predominantly developed with single family residences, and is identified by a strong and unified character, adjacent land uses of different types, and active homeowners association, creating a homogeneity that establishes it as a distinct neighborhood. The after-the-fact accessory structures do not affect these characteristics.
2. The subject property is located between the sea and the first public road (i.e., Sea Cove Drive). The public access policies of the Coastal Act (Chapter 3, Article 2) generally require the provision of public coastal access as a condition of new development. However, the subject property is a developed private property within a developed neighborhood and does not contain any public trails from the street to the shoreline below or along the top of the bluff, nor could coastal access be obtained since the subject property and the adjacent properties are developed with single-family residences. Further, the site does not provide access because of the extreme slope that exists between the top and toe of the bluff, and as such, does not currently provide, nor will ever provide, public access to the sea.

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Since the project is located in an **Appealable Area** of the City's Coastal District, this decision may be appealed to the California Coastal Commission.

If you have any questions regarding this permit, please contact Senior Planner Eduardo Schonborn, AICP, at (310) 544-5228 or via e-mail at eduardos@rpv.com.



Joel Rojas, AICP
Director of Planning, Building
and Code Enforcement

COASTAL COMMISSION

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DEC 17 2009

RESOLUTION NO. 2009-93

CALIFORNIA
COASTAL COMMISSION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO PALOS VERDES DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION'S DECISION TO CONDITIONALLY APPROVE CASE NO. ZON2007-00046 FOR A VARIANCE AND COASTAL PERMIT TO ALLOW AN AFTER-THE-FACT POOL, SPA, AND OUTDOOR CHIMNEY BARBECUE WITHIN THE COASTAL STRUCTURE SETBACK ZONE ON PROPERTY LOCATED AT 24 SEA COVE DRIVE.

WHEREAS, during 2006 and 2007, the property owner (Brian Conroy) constructed several improvements in the rear yard of his property without the benefit of permits, which included a pool and spa, a barbecue and chimney, trellis, grading, and an 8-foot tall retaining wall at the bluff top that accommodates a viewing area and fire pit; and,

WHEREAS, the City's Code Enforcement Division and Building and Safety Division issued several "STOP WORK" orders, and directed the property owner to either remove the improvements or apply for the appropriate entitlements to commence legalization of the after-the-fact improvements; and,

WHEREAS, on January 29, 2007, the property owners, Brian and Jenifer Conroy, submitted Case No. ZON2007-00046, consisting of Variance, Grading Permit and Coastal Permit applications for after-the-fact improvements in the rear yard area of 24 Sea Cove Drive; and,

WHEREAS, on February 27, 2007, the property owner requested that the applications be put on hold pending the determination of the Coastal Setback Line; and,

WHEREAS, on May 24, 2007, the property owner submitted a request for an Interpretation Procedure (Case No. ZON2007-00253), challenging Staff's interpretation of the location of the Coastal Setback Line for his property at 24 Sea Cove Drive and on properties within the City's Coastal Zone; and,

WHEREAS, on June 21, 2007, within the prescribed 30 days of initiating a request for an Interpretation, the Director of Planning, Building and Code Enforcement issued a formal Interpretation regarding the issue of the Coastal Setback Line. In summary, the Director established that the Coastal Setback Line for property at 24 Sea Cove Drive is located at 150-feet from the front property line based upon the maps prepared by Earth Sciences Associates (ESA), the firm that compiled the geotechnical information for the City's Coastal Plan. The ESA maps that establish the Coastal Setback Line on individual properties within the Coastal Zone, accompany a report titled, "Geologic Factors Related to a Coastal Set-Back Zone for the City of Rancho Palos Verdes, California", which was also prepared by ESA in 1976, and are also referenced in the appendix of the City of Rancho Palos Verdes Coastal Specific Plan; and,

COASTAL COMMISSION

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WHEREAS, on July 3, 2007, Scott Campbell, the attorney representing the property owners of 24 Sea Cove Drive, submitted an appeal of the Director's formal Interpretation and requested that the appeal hearing be conducted at the August 14, 2007 Planning Commission meeting, thereby relinquishing their right to a hearing within 30 days of their appeal; and,

WHEREAS, after the hearing was duly noticed, the Conroy's notified Staff that they would like to exercise their option of accepting Staff's determination of the Coastal Setback Line and continue to pursue their Variance and Coastal Permit applications (ZON2007-00046) in an attempt to legalize the after-the-fact construction, and requested that their Interpretation Procedure appeal be held in abeyance; and,

WHEREAS, on August 14, 2007 the Planning Commission tabled the appeal hearing to allow the property owner time to process the applications associated with Case No. ZON2007-00046; and,

WHEREAS, since the City's Development Code requires that geology reports be submitted and approved by the City Geologist, the property owner worked on obtaining approval of the reports for the after-the-fact pool, spa, chimney, barbecue, and trellis on the subject property, and on October 9, 2008, the City Geologist approved the geology report; and,

WHEREAS, after review of the information the project was deemed generally complete by Staff on October 25, 2008; and,

WHEREAS, pursuant to the provisions of the California Environmental Quality Act, Public Resources Code Sections 21000 *et. seq.* ("CEQA"), the State's CEQA Guidelines, California Code of Regulation, Title 14, Section 15000 *et. seq.*, the City's Local CEQA Guidelines, and Government Code Section 65962.5(f) (Hazardous Waste and Substances Statement), Staff found no evidence that Case No. ZON2007-00046 would have a significant effect on the environment and, therefore, the proposed project has been found to be categorically exempt under Class 1 (Existing Facilities) since the structures do not intensify the use of the lot because the property is currently developed with a residential structure and the after-the-fact structures are ancillary to the residential use of the lot; and,

WHEREAS, after notice issued pursuant to the requirements of the Rancho Palos Verdes Development Code, the Planning Commission held a duly noticed public hearing on December 11, 2008, at which time all interested parties were given an opportunity to be heard and present evidence; and,

WHEREAS, on December 11, 2008, Mr. Conroy granted a 90-day extension to the deadlines established by the Permit Streamlining Act and the Planning Commission continued the hearing to the February 24, 2009 Planning Commission meeting to allow

time for Staff to investigate the allegations of additional unpermitted construction on the subject property at 24 Sea Cove Drive; and,

WHEREAS, on February 24, 2009 the Planning Commission conditionally approved Case No. 2007-00046, and a Notice of Decision was prepared and distributed to all interested parties; and,

WHEREAS, on March 11, 2009, within fifteen (15) days following the Planning Commission's decision, the adjacent property owner to the east at 22 Sea Cove Drive, Ms. Pamela Simes, filed an appeal to the City Council requesting that the City Council overturn the Planning Commission's conditional approval of Case No. ZON2007-00046 based upon the location of the Coastal Setback Line, Staff's position with previous applications, and geology; and,

WHEREAS, after notice was issued pursuant to the requirements of the Rancho Palos Verdes Development Code, the City Council held a duly noticed public hearing on June 2, 2009, at which time all interested parties were given an opportunity to be heard and present evidence; and,

WHEREAS, after notice was issued pursuant to the requirements of the Rancho Palos Verdes Development Code, the City Council held a duly noticed public hearing on December 15, 2009, at which time all interested parties were given an opportunity to be heard and present evidence.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RANCHO PALOS VERDES DOES HEREBY FIND, DETERMINE, AND RESOLVE AS FOLLOWS:

Section 1: The City Council hereby denies the appeal and upholds the Planning Commission's conditional approval of Case No. ZON2007-00046, and finds as follows:

- a) There is an exceptional circumstance applicable to the property which does not apply to other property in the same zoning district, which is due to the development pattern of the existing residences on the seaward side of "old" Sea Cove Drive. The subject property is one of four residences on the seaward side of "old" Sea Cove Drive that are constructed in compliance with the requirement to maintain a 25-foot setback from the Coastal Setback Line and thereby not encroach into the Coastal Structure Setback Zone, and all of which are located over 75-feet from the coastal bluff top. The remaining 12 structures along the seawards side of "old" Sea Cove Drive are currently constructed into the Coastal Structure Setback Zone, resulting in residences that are significantly closer to the coastal bluff top than the subject property, some being as close as ±30-feet from the coastal bluff top. Thus, due to the development pattern of the residences on the seaward side of the street and the location of the Coastal Setback Line, the only location for the subject property to construct accessory structures is in the rear yard area, which is in the Coastal Structure Setback

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Zone. Although the swimming pool, spa, chimney, barbecue and trellis are in the rear yard of the subject property, these structures continue to be located farther from the coastal bluff top than other residences on Sea Cove Drive.

- b) The variance is necessary for the preservation and enjoyment of a substantial property right since other properties in the RS-2 zoning district do not have such limitations as the subject property and have the ability to construct pools, spas and similar accessory structures in their rear yards. Of 16 properties along "old" Sea Cove Drive, 5 have pools in the rear yards. These properties, located at 16, 28, 32, 42 and 44 Sea Cove Drive, have pools that were existing prior to the City's incorporation. However, two of these properties, located at 16 and 42 Sea Cove Drive, had extensive recent projects that resulted in modifications to the existing pools. Although the pool at 16 Sea Cove Drive was built in 1955, approval was granted in 2005 that allowed a reduction in the size of the pool and a spa. The pool at 42 Sea Cove Drive was also constructed in 1955; however, when the Coastal Setback Line was established, it resulted in a pool that straddles the Coastal Setback Line. In 2000, a project was considered by the Planning Commission that included, among other requests, a request for a Zone Change to relocate the Coastal Setback Line. The Planning Commission recommended that the City Council approve the project, which was subsequently approved by the City Council on September 19, 2000. Thus, there have been other residences on the immediate "old" Sea Cove Drive that maintain improvements within the Coastal Structure Setback Zone and have been afforded the ability to maintain and construct such improvements.
- c) The variance will not be materially detrimental to the public welfare since geology reports for the improvements have been approved and the property owner must obtain the appropriate permits from the Building and Safety Division, who will conduct inspections of the project site. Further, appropriate inspections will be conducted to ensure the pool's structural integrity, as recommended by the geology reports. Furthermore, the geology reports provided by the property owner recommend that the grading and retaining wall at the coastal bluff top be demolished and the slope/bluff restored, which the City Geologist concurs with.
- d) Granting the variance will not be contrary to the objectives of the General Plan. The General Plan land use designation for the neighborhood within which the subject property is located is Residential, 2-4 DU/acre. The development of accessory structures and additions for single-family residences is consistent with this underlying land use designation. In addition, the improvements are consistent with the General Plan's goal to protect the general health, safety, and welfare of the community (Land Use Plan, Pag~ 192-193). As concluded in Finding No.3 above, although the pool and other improvements do not comply with the Coastal Structure Setback, the improvements are not detrimental to the public welfare, or injurious to property and improvements in the area.

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Additionally, the pool, spa, chimney, barbecue and trellis are farther away from the slope than other existing residences on the seaward side of the street.

- e) The proposed project is consistent with the Coastal Specific Plan. The subject property is located within Subregion 4 of the City's coastal zone, as established by the Rancho Palos Verdes Coastal Specific Plan, and is designated for residential development. Subregion 4 is predominantly developed with single family residences, and is identified by a strong and unified character, adjacent land uses of different types, and active homeowners association, creating a homogeneity that establishes it as a distinct neighborhood. The after-the-fact accessory structures do not affect these characteristics.
- f) The subject property is located between the sea and the first public road (i.e., Sea Cove Drive). The public access policies of the Coastal Act (Chapter 3, Article 2) generally require the provision of public coastal access as a condition of new development. However, the subject property is a developed parcel within a developed neighborhood and does not contain any public trails from the street to the shoreline below or along the top of the bluff, nor could coastal access be obtained since the subject property and the adjacent properties are developed with single-family residences. Further, the site does not provide access because of the extreme slope that exists between the top and toe of the bluff, and as such, does not currently provide, nor will ever provide, public access to the sea.
- g) That the appeal offers no additional information to warrant overturning the Planning Commission's decision since it is based on issues related to the location of the Coastal Setback Line, Staff's position with previous applications, and geology. Further, the appeal does not directly refute any of the findings of fact made by the Planning Commission in granting the Variance and Coastal Permit; instead, it provides reactive comments to the comments made by some of the Commissioners during the Planning Commission's discussion that are based on the approved Planning Commission Minutes.

Section 2: The time within which the judicial review of the decision reflected in this Resolution, if available, must be sought is governed by Section 1094.6 of the California Code of Civil Procedure and other applicable short periods of limitation.

Section 3: For the foregoing reasons, and based on the information and findings included in the Staff Reports to the Planning Commission dated December 11, 2008 and February 24, 2009, Planning Commission Resolution No. 2009-06, the Memorandum to the City Council dated June 2, 2009 and December 15, 2009, Minutes and other records of proceedings, the City Council of the City of Rancho Palos Verdes hereby denies the appeal, thereby upholding the Planning Commission's conditional approval of Case No. ZON2007-00046 and all the conditions of approval as stated in the attached Exhibit "A" and incorporated by reference.

Resolution No. 2009-93

Page 5 of 6

COASTAL COMMISSION

EXHIBIT # 9
PAGE 7 OF 10

PASSED, APPROVED, and ADOPTED this 15th day of December 2009.

/s/ Stefan Wolowicz
Mayor

ATTEST:

/s/ Carla Morreale
City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)ss
CITY OF RANCHO PALOS VERDES)

I, Carla Morreale, City Clerk of the City of Rancho Palos Verdes, hereby certify that the above Resolution No. 2009-93 was duly and regularly passed and adopted by the said City Council at a regular meeting held on December 15, 2009.

Carla Morreale
City Clerk

Resolution No. 2009-93
Page 8 of 10
COASTAL COMMISSION

EXHIBIT # 9
PAGE 8 OF 10

EXHIBIT "A"
Conditions of Approval
Case No. ZON2007-00046 (VAR & CP)

1. Prior to the submittal of plans into Building and Safety plan check, the applicant and/or property owner shall submit to the City a statement, in writing, that they have read, understand and agree to all conditions of approval contained in this approval. Failure to provide said written statement within ninety (90) days following the date of this approval shall render this approval null and void.
2. The approval shall become null and void after one year from the date of approval, unless approved plans are submitted to the Building and Safety Division to initiate the "plan check" review process.
3. The proposed project, including site layout, shall be constructed and maintained in substantial compliance with the plans reviewed and approved by the Planning Commission on February 24, 2009, as submitted by the owner.
4. The Approval of Case No. ZON2007-00046 (Variance and Coastal Permit) allows an after-the-fact pool, spa, and outdoor chimney barbecue in the Coastal Structure Setback Zone in the rear yard area of the subject property.
5. All the appropriate Building and Safety Division permits for the pool, spa, chimney, barbecue and trellis shall be obtained. Said permits shall not be issued until slope restoration of the blufftop is completed, as indicated in condition no. 9, below.
6. The maximum height of the chimney is limited to 12-feet, as measured from lowest adjacent grade to the top of the chimney. Only required spark arrestors are allowed to exceed the 12-foot height limit; however, other than the required spark arrestor, there shall not be any decorative/architectural features on the top of the chimney. Further, the spark arrestor shall not be any higher than the minimum height required by the Uniform Building Code or the manufacturer's specifications, whichever is stricter.
7. The chimney and trellis shall maintain a 5-foot side yard setback from the eastern property line. A SETBACK CERTIFICATION SHALL BE PREPARED BY A LICENSED SURVEYOR AND SUBMITTED TO THE BUILDING AND SAFETY DIVISION, INDICATING COMPLIANCE WITH THE SETBACK PRIOR TO A BUILDING PERMIT OR PLUMBING PERMIT FINAL FOR THE CHIMNEY/BARBEQUE.
8. The mechanical equipment for the pool and spa shall maintain a minimum 3-foot setback from the side property lines if the manufacturers' specifications are provided to demonstrate that the equipment will not generate noise in excess of 65dBA at the property line. Otherwise, the mechanical equipment shall maintain a minimum 5-foot setback.

COASTAL COMMISSION

EXHIBIT # 9
PAGE 9 OF 10

9. The retaining wall and related fill for the flat area and fire pit shall be removed, and the blufftop slope shall be restored to pre-grade conditions to the satisfaction of the Director of Planning, Building and Code Enforcement. All necessary permits and approvals from the Building and Safety Division needed to complete this removal and restoration must be obtained within 180-days of the final decision, and prior to removal of the retaining wall, fire pit and grading (fill).
10. All recommendations in the approved geology reports reviewed and approved by the City Geologist shall be implemented.
11. The Director of Planning, Building and Code Enforcement is authorized to approve minor modifications to the approved plans or any of the conditions if such modifications achieve substantially the same results as would strict compliance with said plans and conditions. Otherwise, all other modifications shall be subject to review and approval by the Planning Commission.
12. In the event that a Planning requirement and a Building & Safety requirement are in conflict with one another, the stricter standard shall apply.
13. The hours of construction shall be limited to 7:00 a.m. to 7:00 p.m., Monday through Saturday. No construction shall be permitted on Sundays or on legal holidays. Further, trucks shall not park, queue and/or idle at the project site or in the adjoining public rights-of-way before 7:00 AM, Monday through Saturday, in accordance with the permitted hours of construction stated above.
14. The construction site shall be kept free of all loose materials resembling trash and debris in excess of that material used for immediate construction purposes. Such excess material may include, but is not limited to: the accumulation of debris, garbage, lumber, scrap metal, concrete, asphalt, piles of earth, salvage materials, abandoned or discarded furniture, appliances or other household fixtures.

COASTAL COMMISSION

EXHIBIT # 9
PAGE 10 OF 10

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
200 OCEANGATE, 10TH FLOOR
LONG BEACH, CA 90802-4416
VOICE (562) 590-5071 FAX (562) 590-5084



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Commissioner Mary Shallenberger; Commissioner Sara Wan

Mailing Address: 45 Fremont St., Suite 2000

City: San Francisco

Zip Code: 94105-2219

Phone:

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Rancho Palos Verdes, CA

2. Brief description of development being appealed:

Approval, after-the-fact, of pool, spa, and outdoor chimney barbeque in the rear yard area of a bluff top lot located within a coastal setback zone.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

24 Sea Cove Drive, Rancho Palos Verdes (Los Angeles County), California

4. Description of decision being appealed (check one.):

- ☐ Approval; no special conditions
☒ Approval with special conditions:
☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO:

A5-RPV-10-002

DATE FILED:

1/4/2010

DISTRICT:

Long Beach/South Coast

COASTAL COMMISSION

A5-RPV-10-002

EXHIBIT # 10

PAGE 1 OF 3

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

The subject site is located between the nearest public road and the sea, an area where development approved by the City of Rancho Palos Verdes pursuant to its certified Local Coastal Program is appealable to the Coastal Commission. In 2006 and 2007, the property owner/applicant constructed several improvements in the rear yard of the property without benefit of the required coastal development permit. The development included a pool, spa, chimney barbeque, trellis, grading on the bluff, and an 8-foot tall retaining wall at the top of the bluff to accommodate a viewing area and fire pit. Subsequent to issuance of several "Stop Work" orders by the City the property owner/applicant submitted applications for a Variance, Grading Permit, and Coastal Development Permit for after-the-fact development to the City.

The subject site containing the approved development is located within the designated Coastal Specific Plan District pursuant to the certified Rancho Palos Verdes Local Coastal Program (Coastal Specific Plan Section 17.34.060). More specifically, the approved development, after-the-fact, is located within the rear portion of the lot closest to the coastal bluff designated as the Coastal Setback Zone in the certified LCP. Section 17.34.060B (Coastal Setback Zone) states:

"The coastal setback zone comprises an area in which new development is prohibited. Residential density credit will be granted only for areas proven to the city's satisfaction to be stable. No new permanent structures shall be allowed closer than twenty-five feet to the coastal setback zone."

The above described development approved by the CDP is located within the Coastal Setback Zone, an area in which new development is prohibited pursuant to the certified LCP policy section referenced above.

Regarding the Coastal Setback Line, the City's Director of Planning, Building and Code Enforcement previously issued a formal interpretation that established the Coastal Setback Line for the subject property at 150-feet from the front property line based upon maps prepared by Earth Sciences Associates (ESA), the firm that compiled the geotechnical information for the City's Coastal Plan. The maps that establish the Coastal Setback Line accompany a report that is referenced in the City's Coastal Specific Plan/LCP. These maps constitute the basis by which the City has made determinations on the location of the Coastal Setback Line for properties, or portions thereof, located within the Coastal Setback Zone in the City in past permitting actions.

In its approval of the CDP the City acknowledges that the pool, spa, chimney, barbeque, trellis, grading, and retaining wall on the bluff do not comply with the coastal setback requirement established by the

LCP. The City approved the CDP pursuant to a Variance on the basis that other properties located on the seaward side of Sea Cove Drive contained structures located within the Coastal Setback Zone and that the only location for accessory structures on the subject property is in the rear yard area which is within the Coastal Setback Zone. In approving the Variance the City found that the variance was "necessary for the preservation and enjoyment of a substantial property right since other properties in the RS-2 zoning district do not have such limitations ..." and "have been afforded the ability to maintain and construct such improvements". The City's findings also acknowledge that the other properties located on the seaward side of Sea Cove Drive that have pools and other accessory structures in their rear yards existed prior to the City's incorporation. The City's findings state that "although the pool and other improvements due not comply with the Coastal Structure Setback, the improvements are not detrimental to the public welfare, or injurious to property or improvements in the area." Regarding consistency with the certified Coastal Specific Plan/LCP the City found that the after-the-fact accessory structures do not affect the characteristics of the neighborhood and that the subject property does not contain any public trails from the street to the shoreline or along the top of the bluff. The City made no finding that the development was consistent with the Coastal Setback Line and, as indicated above, acknowledged that the development was not consistent with this requirement of the LCP.

COASTAL COMMISSION

EXHIBIT # 10
PAGE 3 OF 3

CALIFORNIA COASTAL COMMISSION

South Coast Region

SOUTH COAST DISTRICT OFFICE

JAN 4 - 2010

200 OCEANGATE, 10TH FLOOR

LONG BEACH, CA 90802-4418

VOICE (562) 590-5071 FAX (562) 590-5084

CALIFORNIA
COASTAL COMMISSION

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: JAMES HUSTON
Mailing Address: 6269 SOUTHFRONT RD
City: LIVERMORE CA Zip Code: 94551 Phone: 925 487-7991

SECTION II. Decision Being Appealed

1. Name of local/port government: CITY OF RANCHO PALOS VERDES
2. Brief description of development being appealed:
POOL, SPA, VERTICAL SUITCASE MEMBERS CANNES
BARBEQUE, TOWELS & BLUFF BACKFILL
INSTALLED IN COASTAL STRUCTURAL SETBACK ZONE
3. Development's location (street address, assessor's parcel no., cross street, etc.):
24 SEA COVE DR
RANCHO PALOS VERDES 90275
4. Description of decision being appealed (check one.):
☐ Approval; no special conditions
☒ Approval with special conditions:
☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-5-RPV-10-002
DATE FILED: 1/4/10
DISTRICT: South Coast

COASTAL COMMISSION

EXHIBIT # 11
PAGE 1 OF 5

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

- SEE LETTER DATED 1/4/10 ON BEHALF OF LAMBDA SIMES
- VIOLATION OF COASTAL SPECIFIC PLAN OF 1976
SEGMENTS CITY COASTAL ZONE INTO SEPARATE
GEOLOGIC CATEGORIES THAT DEFINE WHERE
DEVELOPMENT IS SUITABLE AND WHERE
IT IS NOT, RESULTING IN THE
ESTABLISHMENT OF COASTAL SETBACK LINE.
- DEVELOPMENT CODE WHICH IMPLEMENTS
COASTAL PERMIT PROCEDURES FOR COASTAL
SPECIFIC PLAN ESTABLISHES TWO SEPARATE
ZONES ON EITHER SIDE OF THE COASTAL
SETBACK LINE. RPV MUNICIPAL CODE
17.72.040-B PROHIBITS THE FOLLOWING BE BUILT IN THE
COASTAL STRUCTURAL SETBACK ZONE WHEN IT STATES, AND
NEW PERMANENT STRUCTURES IN ZONE ARE PROHIBITED BUT
NOT LIMITED POOLS, SPAS, VERTICAL SUPPORT MEMBERS AND
CHIMNEYS.
SUBJECT
- ALLOWING THE PERMIT AND VARIANCE WOULD BE
PREOCCUPANT SETTING AND IN DIRECT VIOLATION

To : Coastal Commission
From : James Huston on behalf of Pamela Simes
Date : Jan 4th, 2010

Subject: Appeal of the City Councils approval of Case No. ZON2007-00046 (Variance and Coastal permit for property at 24 sea Cove drive). Appeal of illegal unpermitted pool, spa, trellis, outdoor chimney, barbeque, in the coastal structural setback zone.

Granting a coastal permit requires two findings and they are: 1) The proposed development is consistent with the Coastal Specific Plan. 2) The proposed development, when located between the sea and the first public road, is consistent with the applicable public access and recreation policies of the Coastal ACT.

The property owner at 24 Sea Cove Drive clearly cannot satisfy item no. 1., because the pool, spa, trellis, outdoor chimney, barbeque, are built in the coastal structural setback zone and are in direct violation of the development code which, implements the coastal permit procedures for the coastal specific plan, The municipal code states the following:

City of Rancho Palos Verdes Miniciple Code Section 17.72.040-B. Specifically " prohibits" the Following to be built in the "Coastal Structural Set back Zone" when it states:

17.72.040-B. " Uses and Developments permitted in the Coastal structural setback zone"

"Any new permanent structures in this zone are Prohibited including but not limited to , pools, spas, vertical support members and chimneys" .

Once again, Conroy purchased 24 Sea Cove drive, eleven full years after the Coastal Specific Plan came into effect. Because the lot did not have an existing dwelling prior to 1976, the property is, Not-Like", and specifically rather, is "Un-like", all the other" legal-non-conforming" homes in the community. Conroy's unpermitted constructions encroach into the protected coastal zone and are considered "Illegal" by the development code. If Conroy is allowed to encroach into the "Coastal Structural Set back zone today" he would be the first ever to obtain a Coastal permit allowing construction in the protected structural setback zone.

Also, the property owner cannot obtain a variance for the strict reasons as denoted in our previous response to the four (4) Planning Commission findings listed by Rancho Palos Verdes planning staff in the minutes dated June 6, 2009 voting to allow a variance for the After-the-Fact Conroy improvements, we provided the following rebuttal which was confirmed by the previous City of Council 4-0 ruling against the variance on June 2nd 2009.

RPV PC Finding No. 1 - There are exceptional or extraordinary circumstances or conditions applicable to the property involved, or to the intended use of the property, which do not apply generally to other property in the same zoning district.

COASTAL COMMISSION

EXHIBIT # 11
PAGE 3 OF 5

Our Rebuttal:

The twelve original legal non-conforming homes that comprise the, "development pattern," referenced by Senior Planner Mr. Schonborn, of the existing residences, were built as far back as sixty years ago. This is thirty years before the current Coastal Setback Zone law even existed. Conroy on the other hand, purchased 24 Sea Cove Dr. as a bare lot and he personally designed and started his massive ongoing home project in 1987, This is more than thirty years after the first builder's and eleven full years after the Coastal Specific Plan came into effect. Conroy's lot does not enjoy the same legal- non-conforming status as the original homes. There are no special or extraordinary circumstances, other than new planning laws in place when Conroy purchased the property. He Therefore, is required to abide by those laws. He was fully aware of his special property limitations and restrictions at that time.

RPV PC Finding No.2 – That such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under **"Like"** conditions in the same zoning district.

Our Rebuttal:

Once again, Conroy purchased 24 Sea Cove drive, eleven full years after the current planning law came into effect. Because the lot did not have an existing dwelling prior to 1976, the property is, **Not-Like**, and specifically rather, is **"Un-like"**, all the other "legal-non-conforming" homes in the community. Conroy's unpermitted constructions encroach into the protected coastal zone and are considered "Illegal" by the Development code. If Conroy is allowed to encroach into the "Coastal Structural Set back zone today, he would be the first ever to get such a variance. The Coastal Specific Plan restrictions were written specifically to protect property owners from builder abuses like Conroy's that result in slides all to prevalent in this region .

RPV PC finding No. 3 – That granting the Variance will not be materially detrimental to the public's welfare or injurious to property and improvements in the area in which the property is located: and,

Our Rebuttal:

The geological factors related to the coastal set back zone for the City of Rancho Palos Verdes, prepared by (ESA) Lists the following significant hazards:

" three Significant Geological hazards Identified in the Coastal Zone;

1) Coastal Erosion, 2) Land sliding, and 3) Erosion along intermittent stream channels.
Coastal Erosion and land sliding are inter-related, and they are "major threats".

The thought of overlooking these very specific documented geological threats and allow Conroy to encroach into the protected coastal structural set back zone, is clearly counter to the cities base geological study, engineering and laws. Disregarding the geologists recommendations, and subsequent laws, is clearly detrimental to the public's welfare, and potentially injurious to property & improvements in the area. It is easy to conceive how an overflowing pool left untended for even a small amount of time could easy saturate the surrounding unstable soil and overwhelm the fragile bluff.

COASTAL COMMISSION

EXHIBIT # 11
PAGE 4 OF 5

RPV PC finding No. 4 - That granting the Variance will not be contrary to the objectives of the General Plan or the policies and requirements of the Coastal Specific Plan.

Our Rebuttal:

City of Rancho Palos Verdes Miniciple Code Section 17.72.040-B. (See attachment- C) Specifically "prohibits" the Following to be built in the "Coastal Structural Set back Zone" when it states:

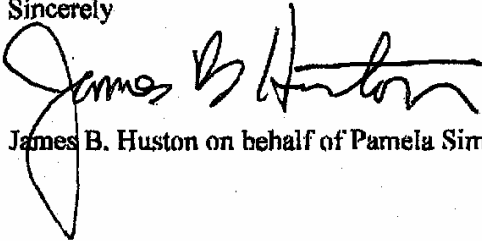
17.72.040-B. " Uses and Developments permitted in the Coastal structural setback zone"

"Any new permanent structures in this zone are Prohibited including but not limited to , pools, spas, vertical support members and chimneys" .

Conroy, without benefit of permits or inspections, has installed all of the above and is in direct violation of the Coastal Specific Plan. Conroy has also illegally extended the bluff with non-engineered fill that is prohibited in the coastal setback zone.

In Conclusion, we hope that the respected members of the Coastal Commission will overturn approval of subject coastal permit and associated variance and reinstate use of ESA maps to define coastal setback zone restrictions and building limitations.

Sincerely



James B. Huston on behalf of Pamela Simes

COASTAL COMMISSION

EXHIBIT # 11
PAGE 5 OF 5

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4302
(562) 590-5071

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT
(Commission Form D)



Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

PAMELA SIMES FLEMING AND DON FLEMING
22 SEA COVE DRIVE
RANCHO PALOS VERDES CA 90275 (310) 245-9000 (W)
Zip Area Code Phone No.
(310) 612-5559

SECTION II. Decision Being Appealed

1. Name of local/port government: CITY OF RANCHO PALOS VERDES

2. Brief description of development being appealed: RPV MUNICIPAL CODE 17.0403 B PROHIBITS DEVELOPMENT IN THE COSTAL STRUCTURAL SETBACK ZONE - INCLUDING POOLS, SPAS, VERTICAL SUPPORTS & CHIMNEYS

3. Development's location (street address, assessor's parcel no., cross street, etc.): 24 SEA COVE DRIVE, RPV CA 90275

4. Description of decision being appealed:

- a. Approval; no special conditions: _____
- b. Approval with special conditions: X _____
- c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-5-RPV-10-002

DATE FILED: 1-4-10

DISTRICT: S. Coast

H5: 4/88

COASTAL COMMISSION
A-5-RPV-10-002

EXHIBIT # 12

PAGE 1 OF 18

TO: Mr. Gary Timms and Members of the Coastal Commission

FROM: Pamela Simes

DATE: January 4, 2010

RE: Resolutions from the Rancho Palos Verdes City Council Hearing of December 15, 2009:

- 1) Code Amendment to clarify which existing maps to use to establish the location of the Coastal Setback Line on individual properties (CASE #ZON2009-00416)
- 2) Appeal of the Planning Commission's approval of CASE ZON2007-00253, A revised interpretation regarding the Coastal Setback Line on properties in the City's Coastal Zone,
- 3) Appeal of CASE #ZON2007-0046 (Variance and Coastal Permits for Property located at 24 Seacove Dr.)

On December 15, 2009, a precedent-setting, landmark decision was made by the Rancho Palos Verdes City Council to reject use of the ESA maps to establish the Coastal Setback Line on individual properties. Their decision was to use the Zoning Map (Resolution #1 as referenced above) which could ultimately affect 77 properties. At this meeting, former mayor, Ken Dyda, who signed the Coastal Specific Plan dated December 19, 1978, testified that **the ESA maps and geologic report are the governing documents for establishing the Coastal Setback Line in Rancho Palos Verdes.** His statements are also included in a letter from him that has been sent to the Coastal Commission. The Staff and City Attorney recommended memorializing the use of the ESA maps to determine the location of the Coastal Setback Line on individual properties. Staff has *historically* utilized the geologic maps prepared by ESA in discerning the precise location of the Coastal Setback Line on private property, and as Senior Planner Schonborn stated there have been 237 cases since 1978 which utilized the ESA maps without exceptions. Therefore, it has been established practice and procedure of the Rancho Palos Verdes Planning Commission Staff to use only the ESA maps setting an uninterrupted precedent.

In the October 20, 2009 Memorandum to the City Council, it was stated that...:

Unless a code amendment to clarify that the City's ESA Maps are the maps that are to be used in determining the location of the Coastal Setback Line on individual properties is adopted then an urgency ordinance to establish a temporary moratorium on accepting, processing or issuing Coastal Permits would not be necessary. But if this did not occur, then the urgency ordinance should be adopted. Depending on which maps are used in processing these coastal permit applications, portions of the coast could be developed even though such developments could have significant public safety, health and welfare impacts on adjoining parcels, particularly with respect to geologic stability, and thus in order to protect against the current and immediate threat to the public safety, health and welfare, the City Council must amend the relevant Chapters of the Rancho Palos Verdes Municipal Code before allowing City staff to continue processing such coastal permit applications. This ordinance is therefore necessary for the current and immediate

preservation of the public health, safety and welfare and shall take effect immediately upon adoption as an urgency ordinance.

At the October 20, 2009 meeting, the City Attorney felt that the code amendment could be processed in a timely fashion by the December 15th meeting, but the City Council decided not to adopt this because then they could not approve Conroy's variance.

By voting to adopt the Zoning Map in Resolution #1, they also voted for Resolution #2, overturning Staff's recommendation, and thereby establishing the Coastal Setback Line on Mr. Conroy's property 200 feet from Seacove Drive, which is where the Coastal Setback Line was before the Coastal Specific Plan was adopted in 1978.

With respect to Resolution #3 (referenced above), on June 2, 2009 the City Council voted 4-0 to deny Mr. Conroy's variance thus overturning the Planning Commission's earlier 3-2 vote which approved the variance. The decision had not been memorialized since a Resolution had not been adopted. Even though Staff had stated that *there has not been any new information submitted to change this decision*, the City Council decided to rehear the case so that all three Resolutions could be heard at the same time. At this December 15 meeting, they voted 4-1 in favor of upholding the variance for Mr. Conroy in contradiction to their earlier vote on June 2nd. This raises the question as to why they did a complete turnaround based on the same information.

These decisions by the City Council are in direct conflict with the objectives of the Coastal Specific Plan. They do not uphold the intent of the Coastal Specific Plan or the LCP. Rancho Palos Verdes Deputy City Manager Carolyn Petru stated that in her twenty years, she has never seen anyone pursue the degree of unpermitted, illegal construction as that of Brian Conroy, a licensed general contractor. Pursuant to Municipal Code Section 17.72.040C of Rancho Palos Verdes Development Code, *"New uses or structural improvements are prohibited in the area seaward of the Coastal Setback Zone..."* Mr. Conroy has extended the bluff-top 50 feet with his Bobcat. I am including an aerial photograph of the coastline taken in 1968 which will document where this bluff was before Conroy's illegal extension. Our understanding is that he has been ordered to remove a portion of the extension of the bluff-front. In addition, pursuant to Municipal Code Sec. 17.72.040.B **Uses and development permitted in Coastal Structure Setback Zone.** *Any new permanent structures in this zone are prohibited, including, but not limited to, pools, spas, vertical support members and chimneys.* Additionally, Mr. Conroy has, without permits or inspections, illegally installed all of the above.

Commissioner Ruttenberg stated (December 11, 2008, p. 32) that the applicant was asking for equity in regards to being allowed to have the pool and other improvements, however he disagreed. He did not want to hear about equities in this situation where there has clearly and admittedly been a direct violation of the laws. There has been unpermitted construction on the property by a general contractor.

As Commissioner Tomblin summarized, according to the applicant, he bought a property knowing that there was a coastal setback line in place. After buying the property he discussed construction plans with the City, and staff gave recommendations on what they would and would not consider as part of an application process. Because he was in disagreement with what he heard

from staff, the applicant went ahead, in disregard of the law, and started construction. Commissioner Tomblin stated that he could not support the Variance and voted to deny the application.

Any approval of above-referenced variance would be precedent setting as noted by Director Joel Rojas who stated that if a future application comes forward it would be difficult not to make a finding under the same pretense.

Granting this variance to Mr. Conroy is a landmark decision that establishes an even more dangerous precedent through the tacit approval it gives to others who wish to follow his example by building at their own discretion without regard for city rules and regulations. It makes a travesty of the law by allowing a professional licensed general contractor to manipulate the system for his own personal gain in the form of increased property values. It seems implausible that City Council voted in such a way as to risk massive damages to these coastal properties and, at the same time, condone the flaunting of a total disregard for the law.

It is my fervent hope that the Coastal Commission will recognize the importance of its decision and will seriously consider the far-reaching impact that the decision will have on our community.

Sincerely,

Pamela Simes
Don Fleming
Jim Huston
Doug Ross
Joccoma Maulsby
Al Gersten

COASTAL COMMISSION

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TO: Coastal Commission

APPELLANT: Pamela Simes

APPLICANT: Brian and Jennifer Conroy

LOCATION: 24 Seacove Drive, Rancho Palos Verdes, California 90275

DATE: January 4, 2010

RE: Approval for illegal, unpermitted, uninspected pool, spa, barbecue, outdoor chimney, and trellis in the Coastal Structure Setback Zone (Case #ZON2007-0046 for Variance and Coastal Permits)

The basis for this appeal is that the decision by the Rancho Palos Verdes City Council on December 15, 2009 to approve the above-referenced variance is inconsistent with the Coastal Specific Plan, also known as the LCP, and the City's municipal codes pertaining to geologic stability. This vote is in direct contradiction to their earlier June 2, 2009 4-0 vote which overturned the Planning Commission's earlier 3-2 vote approving the variance. The information that they used to first deny the variance is the same information that was used to subsequently approve it. This will have citywide ramifications for Rancho Palos Verdes and will be precedential in future interpretations of the LCP.

The following information taken from the Coastal Specific Plan, Zoning Maps, the Development Code, testimony, memorandums, city records, and municipal codes uphold the denial by the City Council of the above-referenced variance at their June 2, 2009 4-0 vote:

Finding #1

That there are exceptional or extraordinary circumstances or conditions applicable to the property involved, or to the intended use of the property, which do not apply generally to other property in the same zoning district;

Finding #2

That such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under like conditions in the same zoning district;

- 1) In overturning the Planning Commission's conditional approval of Case No. ZON2007-00046, thereby denying Case No. ZON200700046 for a Variance and Coastal Permit, the City Council found the following (October 20, 2009 Memorandum, p. 11-10):
 - a) The project site is not subject to exceptional or extraordinary circumstances or conditions which do not apply generally to other properties in the RS-1 zoning district. The subject property is a bluff-top sloping lot, which is consistent with other bluff-top properties on Sea Cove Drive. Like other lots in this area, the Coastal Setback Line traverses the property, which creates the same restrictions

extraordinary circumstance.

- b) The variance is not necessary for the preservation and enjoyment of a substantial property right, since the property is currently developed with a single family residential structure, which is the primary permitted use of the lot. A single-family residence and pool are allowed; however, Section 17.02.020.C states, "private outdoor recreational uses, such as tennis courts, swimming pools and basketball courts, ... are **incidental** to the residential use of the property" (emphasis added). There is a distinction between primary and ancillary uses, since a pool could not be constructed on a vacant Residentially-zoned property and, therefore, it is an ancillary or incidental use or property right. Thus, the substantial property right is the ability to construct and maintain a single-family residence on the property, and a pool is an incidental use and lesser property right. Further, the variance would grant a special privilege not enjoyed by others in the area or zone since a pool, spa, and outdoor fireplace are private outdoor recreational uses that are incidental to the residential use of the property, and not a primary allowable use.
- 2) At the February 24, 2009 Planning Commission meeting, Commissioners Knight and Tetreault voted to deny the variance based on the following information:
- Commissioner Knight stated that he still could not make the finding that this is an extraordinary or unusual circumstance, as the improvements on the other properties were existing before the formation of the Coastal Setback Line. As Knight stated (Attachment 153), whatever has been approved by the City in the past was done with structures built before the Coastal Specific Plan was put in place and dealing with situations where residents have existing non-conforming improvements on the property. He felt that staff's justification of the other properties in the area with similar amenities is in a different category, as they were existing and non-conforming to begin with. He also had trouble with finding No.1 for the Coastal Permit. He noted that the Coastal Specific Plan has a geotechnical factors section of the natural environment elements which also involves the coastal setback line, and this was not mentioned in the staff report. He did not find this to be consistent with the Coastal Permit finding No.1.
 - Commissioner Tetreault felt that a couple of assumptions have been made in order to justify granting this Variance application. The first assumption is that a backyard pool is a substantial property right and the second assumption is that there could not have been a swimming pool and a house on this property. He disagreed with both of these assumptions, as he did not think a backyard pool is a substantial property right. Further, since the house was constructed by the current owner, the house could have been built in a fashion that would have accommodated the swimming pool. In regards to the other homes that have swimming pools in the backyard that go closer to the bluff, those are legal non-conforming. Because there is a property on the street that has a structure that is legal non-conforming does not mean that others on the street can enjoy that same

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property right by avoiding compliance to the current setback laws in the City. He felt that much of the argument being presented by the applicant is that there are several properties on the street with pools in the backyard that were constructed before the City was incorporated and before the coastal setback line was established, and he should also be allowed to have a swimming pool in the same area. He did not accept that argument.

3) At the December 11, 2008 Planning Commission meeting, the following statements were made against approval of the variance:

- Any approval of above-referenced variance would be precedent setting as noted by Director Rojas who stated that if a future application comes forward it would be difficult not to make a finding under the same pretense Commissioner Knight also stated at the same meeting that he was having trouble with the findings for the Variance and Coastal Permit. He was also concerned with Staff's justification for the Variance, as he felt if the Commission approves this request it would be difficult not to approve other similar requests. Commissioner Ruttenberg stated that if the Planning Commission makes the decision to grant a Variance, it opens itself up to interpreting the codes a certain way to where the next resident comes before them requesting a variance and noting the former interpretation made by the commission.
- Commissioner Ruttenberg that one of the findings for a Variance is that the Variance is necessary for the preservation and enjoyment of a substantial property right, and he asked if the Code states that having a swimming pool is a substantial property right. He felt that one of the 'purposes of the city's incorporation was to stop the kind of building being done under the county and to establish rules to provide more limitations than before. He questioned to what degree the Commission's decision or interpretation should be influenced by what happened before city incorporation.
- Commissioner Ruttenberg stated that the applicant was asking for equity in regards to being allowed to have the pool and other improvements, however he disagreed. He did not want to hear about equities in this situation where there has clearly and admittedly been a direct violation of the laws. There has been unpermitted construction on the property by a general contractor."
- Commissioner Ruttenberg's concern was that whenever the Planning Commission makes a decision to grant a Variance, they open themselves up by having interpreted the codes a certain way to where the next resident comes before them requesting a Variance and noting the former interpretation made by the Commission. In this particular case there are four residences out of sixteen that have swimming pools, and if this is interpreted as a substantial property right, wouldn't that then put the Planning Commission in a position where it would be difficult to reject anyone who comes before them and wants to have a swimming

pool that requires a Variance because everywhere in the City there will be four out of sixteen homes that already have a swimming pool.

- Commissioner Knight asked how many properties on Seacove Drive have structures built in the coastal setback area. Senior Planner Schonborn answered that of the sixteen properties on Seacove Drive, twelve have structures in the coastal setback area. He noted that all twelve were constructed before the City was incorporated.
 - Commissioner Ruttenberg stated that Seacove Drive has sixteen residences and four of those have swimming pools that were all built before city incorporation. He felt that one of the purposes of the city's incorporation was to stop the kind of building being done under the county and to establish rules to provide more limitations than before. He questioned to what degree the Commission's decision or interpretation should be influenced by what happened before city incorporation.
 - Commissioner Knight stated that he was having trouble with the findings for the Variance and Coastal Permit. He was also concerned with Staff's justification for the Variance, as he felt if the Commission approves this request it would be difficult not to approve other similar requests. He did not think the Variance process was the appropriate process to change the coastal setback line, and that an application to change the coastal setback line was more appropriate.
- 4) Staff upheld, in the February 24, 2009 Memorandum as noted below, the process by which pools and other structures have been built along Old Seacove Drive prior to the State's enactment of the Coastal Act of 1976. These were legal, non-conforming improvements that existed before the formation of the Coastal Setback Line.

It is important to differentiate between the many residential subdivisions along the City's coastline, which consists of newer tracts approved by the City (Lunada Pointe, Oceanfront Estates, west portions of Seacove Drive and Trump National Estates) and older tracts approved by the County prior to the City's incorporation (east portions of Seacove Drive and the Portuguese Bend Club).

Within the older subdivisions (those recorded prior to City incorporation), the Coastal Setback Line had not been delineated on the final tract maps because those subdivisions were created prior to the State's enactment of the Coastal Act in 1976. Most of the structures in these older subdivisions were also constructed prior to the Coastal Act. When the City incorporated and adopted its Development Code and Coastal Specific Plan, the Coastal Setback Line was placed on the City's Zoning Map. This affected the older subdivisions because when the Coastal Setback Line was added, it was located inland of most of the existing older structures and lots in the Portuguese Bend Club and traversed all of the lots and some structures on the east portion of Seacove Drive. Subsequently, many structures in these areas are located in the Coastal Structure Setback Zone or even on the ocean side of the Coastal Structure Setback Zone and are thus non-conforming. The Code acknowledges these non-conformities by allowing minor additions to structures that are located within the Coastal Setback Zone. Furthermore, in the past the City has issued Variances to permit residential additions and accessory structures to

be located within or seaward of the Coastal Structure Setback Zone for the older subdivisions that were approved prior to the City's incorporation.

Staff has researched other residences along Sea Cove Drive and has found that there are a total of 16 residences along Sea Cove Drive. Thirteen of these residences were constructed prior to the City's incorporation in 1973, one was constructed in 1978 prior to adoption of the Coastal Specific Plan, and two were constructed in the 1980's. The two residences constructed in the 1980's (24 and 26 Sea Cove Drive) were approved in locations that comply with the Coastal Setback Line and the related Coastal Structure Setback Line. On the 16 residential lots, many of the additions to the residences and pools were constructed prior to the City's incorporation. There have been several major projects on properties that have utilized the existing footprints or have been approved via other processes. See Attachment A for a list of the properties along with the associated additions or projects.

As such, Staff believes that this argument serves to prove that there are processes in place that can allow improvements in the Coastal Structure Setback Zone (area 25' landward of the Coastal Setback Line) and in the Coastal Setback Zone (area 25' seaward of the Coastal Setback Line).

On June 15, 2009, the City Council agreed that whatever had been approved by the City in the past was done with structures built **before** the Coastal Specific Plan was put in place where residents have existing legal, non-conforming improvements on the property. All properties in the area with similar amenities are in a different category, as they were existing non-conforming to begin with. An opportunity for a Variance request typically applies to legal non-conforming pre-existing structures and not illegal projects built after a new law has been enacted.

Finding #3

That granting the variance will not be materially detrimental to the public's welfare or injurious to property and improvements in the area in which the property is located.

Finding #4

That granting the variance will not be contrary to the objectives of the General Plan or the policies and requirements of the Coastal Specific Plan.

Finding #5

The proposed development is consistent with the Coastal Specific Plan.

Granting this variance **will** be materially detrimental to the public's welfare or injurious to property and improvements in the area in which the property is located. It **will** also be contrary to the policies and requirements of the Coastal Specific Plan. The proposed development raises issues with regards to geologic stability and the unpermitted, illegal encroachment into the Coastal Structure Setback Zone. This variance also raises issues with regard to the Zoning Map,

the Municipal Codes, and other documents on file with the City. The subject property is located adjacent to the cliffs in the area between Abalone Cove and Marineland: an area that, according to previous geologic studies, has marginal stability and development should be restricted. The Zoning Map documents this as an Open Space Hazard, and therefore, development in this area should be extremely limited. Support for this can be found in the following two Municipal Code Sections:

- Pursuant to Municipal Code Section 17.72.040C of Rancho Palos Verdes Development Code, *"New uses or structural improvements are prohibited in the area seaward of the Coastal Setback Zone..."* Mr. Conroy has extended the bluff-top 50 feet with his Bobcat. Our understanding is that he has been ordered to remove a portion of the extension of the bluff-front. According to the ESA report (October 20, 2009 Memorandum, p. 10-73), *"Future episodes of landsliding also could result from geotechnically unsound construction practices in and around the coastal zone."*
- Pursuant to Municipal Code Sec. 17.72.040.B Uses and development permitted in Coastal Structure Setback Zone. *Any new permanent structures in this zone are prohibited, including, but not limited to, pools, spas, vertical support members and chimneys.* Additionally, Mr. Conroy has, without permits or inspections, illegally installed all of the above. According to the ESA report (October 20, 2009 Memorandum, p. 10-73), *"Future episodes of landsliding also could result from geotechnically unsound construction practices in and around the coastal zone."*

The following information is further evidence of how allowing this variance will be detrimental to public welfare and contrary to the policies and the requirements of the Coastal Specific Plan: The subject property is a bluff-top sloping lot, which is consistent with other bluff-top properties on Sea Cove Drive. Like other lots in this area, the Coastal Setback Line traverses the property, which creates the same restrictions that affect all other bluff-top properties in the Coastal Zone of the City.

- 1) The June 21, 2007 Planning Commission Memorandum (pp. 9-33 to 9-82), firmly documents the city's determination that the Coastal Setback Line for this property is 150 feet from the front property line. The Coastal permit was approved in 1987 for the existing residence. This determination was not contested by the property owner, Brian Conroy. In fact, two separate reports by Mr. Conroy's engineers, (Triad Foundation Engineering, dated 12-29-87, and Denn Engineers, dated 11-22-00), both illustrated the Coastal Setback Line at 150-feet from the front property line. The subject property
- 2) Until 2008, Staff had upheld the Triad Geologic Report (12-29-87 geologic map and cross section) which establishes a safe building site at 150 feet from Seacove Drive, with a minimum 25-foot (Coastal Structure Setback Zone) from the Coastal Setback Line. The report and Mr. Conroy's Coastal Permit 30 also states that the land seaward of the Coastal Setback Line is zoned Open Space Hazard and lies within the Landslide Moratorium Area. Site specific geology in the report, map and cross section show that there is instability and ancient landslide along the bluff.

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- 3) The Coastal Specific Plan upholds that *any* deviation from use of the ESA maps would be harmful to public safety, health and welfare as stated in the October 20, 2009 Memorandum:

Depending on which maps are used in processing these coastal permit applications, portions of the coast could be developed even though such developments could have significant public safety, health and welfare impacts on adjoining parcels, particularly with respect to geologic stability, and thus in order to protect against the current and immediate threat to the public safety, health and welfare, the City Council must amend the relevant Chapters of the Rancho Palos Verdes Municipal Code before allowing City staff to continue processing such coastal permit applications. This ordinance is therefore necessary for the current and immediate preservation of the public health, safety and welfare and shall take effect immediately upon adoption as an urgency ordinance.

- 4) According to the land-use planning categories outlined in the report entitled, "Geologic Factors Related to a Coastal Setback Zone for the City of Rancho Palos Verdes" and the Coastal Specific Plan, pools, spas, fireplace/barbecue and trellises are prohibited in the Coastal Structure Setback Zone. The purpose of the Coastal Setback Line is to ensure that no future construction will be performed in prohibited areas. It is imperative that we adhere to these guidelines as we have witnessed not only the Portuguese Bend slide, but also the slippage at the current Trump Golf Course and, most recently, at the Palos Verdes Bay Club which is situated at the end of old Seacove Dr. Also, Palos Verdes Estates has now lost five to six houses by not adhering to these guidelines.

- 5) Geologic Conditions in Subregion 4 Coastal Specific Plan, (p. S4-2):

Geologically sensitive areas, in almost every respect, are associated with the bluff and natural drainage courses in the area. Actions on properties seaward of Seacove Dr. need to be cognizant of this condition.

- 6) ESA Report and Maps, Category 2, (October 20, 2009 Memorandum, p. 10-76) applies to 24 Seacove Dr.:

Areas classed in Category 2 are scattered throughout the coastal zone. They exhibit essentially one or both of two restrictive conditions; 1) marginally stable areas adjacent to the crest of the sea cliff or 2) ancient landslide deposits of marginal stability. The areas bordering the sea cliff are relatively narrow, while the ancient landslide deposits are more extensive.

The longest tract of this category that borders the sea cliff runs westward from Abalone Cove to the cove west of Marineland. Seaward-dipping shale caps basalt along much of this stretch of sea cliff and results in a situation favorable for shallow landslide, in the higher sections of the cliff.

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- 7) Environmental Assessment to Uphold the Coastal Setback Line (November 24, 2009 Memorandum, p. 5) which supports the Coastal Specific Plan and ESA Map and Reports:

The proposed Zone Text Amendment would add language that specifies use of the ESA Maps to determine the location of the Coastal Setback Line since there is no language in the City's Development Code that references which maps to use to establish the location of the Coastal Setback Line. Thus, the proposed Zone Text Amendment involves no physical change to the environment itself and has no possibility to have a significant effect on the environment. Further, the Zone Text Amendment does not involve construction activities and will impose a process to more accurately determine the location of the Coastal Setback Line to prevent environmental degradation by keeping buildings and structures farther away from the coastal bluffs.

- 8) When Jim Huston and I were at the RPV Building Department, Building Inspector, Paul Christman, provided us with a pool inspection form and stated that there had to be multiple inspections of Reinforcing Steel, Gas Piping, Main Drain, Electrical Ground Work, etc. The City Council Members were very concerned that because the pool was already completed without permits and inspections, it would be impossible to conduct the proper inspections necessary to uphold the safety and stability of the pool on the fragile bluff front. There was also a great concern that borings had not been made by Conroy to establish the safety of this pool on the fragile bluff front. Additionally, since he has illegally extended the bluff top, there have been no borings done to uphold the stability of the bluff.

- 9) Conroy's development does not uphold the Coastal Specific Plan Geotechnical Factors section of the Natural Environment Elements, which involves the Coastal Setback Line. According to the geologic report that was prepared in 1978 for the Coastal Specific Plan, "Coastal erosion and landsliding are interrelated, and they are clearly major threats both aerially and economically." The geologic constraints in the coastal zone were assessed by a classification system based on the suitability for existing and anticipated land use. More specifically, as stated in the geologic report of 1978, the author designated all lands in Categories 1A, 1B and 2 as part of the Coastal Setback Zone. Therefore, development in this area is extremely limited pursuant to the Municipal Code #17.72.040B which prohibits pools, spas, vertical support members, and chimneys.

Category 1a... Areas unsuited for any permanent structure and potentially hazardous for human passage"

Category 1b - Areas unsuited for any permanent structure, but, in general, safe for human passage.

Category 2 - Areas suitable only for light, non-residential structures not requiring significant excavation or grading.

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On the basis of the available geologic information, a realistic coastal set-back zone would include all lands in Category 1a, Category 1b, and Category 2.

Mr. Conroy's latest geologic report, from *Coastline Geotechnical*, was first submitted in 2002 but was denied seven times before it was finally accepted in 2008. This report contradicts earlier geologic reports and, if upheld, it would allow for a precedent-setting decision which would have citywide ramifications.

There is no precedent-setting basis for new pool construction. The existing pools in this area were grandfathered in because their construction occurred before the establishment of the Coastal Zoning Commission. This fact was verified by Senior Planner Schonborn at the December 11, 2008 meeting where he noted that all 12 properties that have structures in the Coastal Setback area were constructed before the city was incorporated. Additionally, Director Rojas noted that any approval of above-referenced variance would be precedent setting, and if a future application comes forward it would be difficult not to make a finding under the same pretense.

The above-mentioned information clearly supports the City Council's June 2, 2009 vote to deny the Conroy request for a variance. What is unclear is why they chose to approve the variance on December 15th based on the same information. The approval of the variance is a precedent-setting decision of citywide ramifications and is inconsistent with the City's tradition of using the ESA maps and adhering to the Coastal Specific Plan and Development Codes. We are filing this appeal to uphold the Coastal Specific Plan and Development Codes which protect the coastal bluff and the residents Rancho Palos Verdes. Additional documents will be submitted to further support this appeal.

Sincerely,

Pamela Simes
Don Fleming
Jim Huston
Doug Ross
Joccoma Maulsby
Al Gersten

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Attachment A

Appellant: The City's determination of the location of the Coastal Setback Line is inconsistent with prior development in the area.

Appellant: The City has not provided an explanation of the process by which pools and other structures have been built on the properties along Sea Cove Drive.

It is important to differentiate between the many residential subdivisions along the City's coastline, which consists of newer tracts approved by the City (Lunada Pointe, Oceanfront Estates, west portions of Seacove Drive and Trump National Estates) and older tracts approved by the County prior to the City's incorporation (east portions of Seacove Drive and the Portuguese Bend Club).

Within the older subdivisions (those recorded prior to City incorporation), the Coastal Setback Line had not been delineated on the final tract maps because those subdivisions were created prior to the State's enactment of the Coastal Act in 1976. Most of the structures in these older subdivisions were also constructed prior to the Coastal Act. When the City incorporated and adopted its Development Code and Coastal Specific Plan, the Coastal Setback Line was placed on the City's Zoning Map. This affected the older subdivisions because when the Coastal Setback Line was added, it was located inland of most of the existing older structures and lots in the Portuguese Bend Club and traversed all of the lots and some structures on the east portion of Seacove Drive. Subsequently, many structures in these areas are located in the Coastal Structure Setback Zone or even on the ocean side of the Coastal Structure Setback Zone and are thus non-conforming. The Code acknowledges these non-conformities by allowing minor additions to structures that are located within the Coastal Setback Zone. Furthermore, in the past the City has issued Variances to permit residential additions and accessory structures to be located within or seaward of the Coastal Structure Setback Zone for the older subdivisions that were approved prior to the City's incorporation.

Staff has researched other residences along Sea Cove Drive and has found that there are a total of 16 residences along Sea Cove Drive. Thirteen of these residences were constructed prior to the City's incorporation in 1973, one was constructed in 1978 prior to adoption of the Coastal Specific Plan, and two were constructed in the 1980's. The two residences constructed in the 1980's (24 and 26 Sea Cove Drive) were approved in locations that comply with the Coastal Setback Line and the related Coastal Structure Setback Line. On the 16 residential lots, many of the additions to the residences and pools were constructed prior to the City's incorporation. There have been several major projects on properties that have utilized the existing footprints or have been approved via other processes. The properties, along with the associated additions or projects, are listed below:

8 Sea Cove Drive

- Residence built in 1959
- Pool in the rear yard was built in 1960
- Renovations: in 2003, a reduction in the size of the pool to be within the (at-the-time)

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existing pool footprint was approved. Also a new spa was approved through a Variance since the entire property is seaward of the Coastal Setback Line.

16 Sea Cove

- Residence built in 1955
- Pool in the rear yard built in 1955
- Addition built in 1972
- Zone Change #23, approved in 1994, relocated the Coastal Setback Line (CSL) from the front of the existing residence to the top of the bluff, which is approximately 40-feet seaward of the existing residence.
- Additions approved in 1995 and constructed in 1999, outside of CSL (due to new location of the CSL) ,
- Approval granted in 2005 to reduce the pool size, and construct a new spa, barbecue and fire pit.

24 Sea Cove

- Residence approved in 1988, outside of the CSL, and outside of the Coastal Structure Setback Zone (Le., the area that is 25-feet landward from the CSL)
- No pool

26 Sea Cove

- Residence approved in 1988, outside of the Coastal Setback Line (CSL)
- No pool

30 Sea Cove

- Residence built in 1953
- Portion of garage converted to habitable and a new garage built in 1998. (plan on file illustrates the Coastal Structure Setback Line located seaward of the additions, and not in the Coastal Structure Setback Zone)

34 Sea Cove

- Residence built in 1952
- Pool in the front yard built in 1960
- Variance approved in 1998 for a covered patio that exceeded the 250 square foot limitation for improvements that encroach into the Coastal Structure Setback Zone

36 Sea Cove

- Residence built in 1952
- No pool
- A new garage approved in 1982 that was outside of the Coastal Structure Setback Zone

38 Sea Cove

- Residence built in 1952
- No pool
- Variance approved in 1999 for additions to an existing residence that is in (or partially in) the Coastal Structure Setback Zone

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40 Sea Cove

- Residence built in 1953
- Pool in the front yard built in 1954
- Paddle tennis court in the front yard approved in 1978
- Pergola addition in the front yard approved in 1992

42 Sea Cove

- Residence built in 1955
- Pool in the rear yard built in 1955
- Renovations: In 2000, the City Council approved the demolition of the existing residence, and rebuilding of a larger residence, along with the demolition and rebuild of a pool using the existing footprint. The Council also approved a zone change to move the Coastal Setback Line closer to the bluff top. The location created a legal non-conformity because the residence (built in 1955) encroached 9 feet into the Coastal Structure Setback Zone. The Coastal Permit was appealed to the California Coastal Commission, but subsequently withdrawn.

44 Sea Cove

- Residence built in 1951
- Pool built in 1967
- Additions built in 1984 and 1988 that were outside of the Coastal Structure Setback Zone

As such, Staff believes that this argument serves to prove that there are processes in place that can allow improvements in the Coastal Structure Setback Zone (area 25' landward of the Coastal Setback Line) and in the Coastal Setback Zone (area 25' seaward of the Coastal Setback Line).

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FAX

To: Mr. Gary Timms, District Manager
From: Ken Dyda
Former mayor, RPV, 1978
Signer of the Coastal Specific Plan

Fax: (562) 590-5084
Pages: 2 (incl. cover)

Phone:
Date: 1-2-10

Application #: 5-RPV-09-103
Local Permit #: ZON2007-00046
Applicants: Brian and Jennifer
Conroy

Re: Location: 24 Seacove Dr., Rancho Palos Verdes, Los Angeles County
Pamela Simes

Description: Illegal, uninspected, unpermitted pool, spa, trellis, barbecue/fireplace in area of property located within the City's Coastal Structure Setback Zone, which improvements are prohibited pursuant to Municipal Code Section 17.72.040 and to illegal, unpermitted, uninspected extension of bluff front and 8-ft tall garden retaining wall with a fire feature at bluff front that is located in the City's Coastal Setback Zone, which is prohibited pursuant to Municipal Code Section 17.72.040.

Dear Mr. Timm,

Enclosed is my letter for the above-referenced appeal. This memorializes, in part, what I discussed at the December 15, 2009 City Council meeting and also in a memorandum to the City Council.

If you have any questions, please contact me.

Sincerely,

Ken Dyda

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Kenneth J. Dyda

January 1, 2010

To Whom It May Concern:

Subject: Rancho Palos Verdes Coastal Setback Line.

The City of Rancho Palos Verdes passed, approved and adopted the Coastal Specific Plan on December 19, 1978. As mayor, I signed the resolution adopting the Plan. The document contains many figures some of which are illustrative of the city's Coastal Zone. These figures are reductions of maps on file with the city. These figures were not intended to be used for definitive measurements. The Bibliography contains the definitive references to the maps developed for the Plan. These maps are of a sufficient size to allow more accurate determination of distances. Earth Sciences Associates was the firm the city used to develop, among other geological elements, the coastal setback line. Because that map is larger, and therefore more accurate than the illustrations in the body of the plan, it has been and should be the standard for determining the location of the Coastal Setback Line. Making a property improvement in the coastal zone without applying for a permit does not afford the opportunity to know the set back requirements.

The illustrations presented to support the after the fact location of a swimming pool on the Conroy property is false and misleading. The figure in the plan showing the set back line was enlarged to a point where the dots representing the line were more than twenty five feet in diameter when superimposed on the Conroy plot plan which was to a much different scale. By combining the enlarged map with the plot plan at two different scales, in my view, eliminates any credibility. This is total misdirection.

Further, to use this combined illustration to justify the position that the pool does not encroach beyond the setback line, the set back line drawn as part of the plot plan started with the assumption that the setback line just touches the ocean side of the pool. To accomplish this, the set back line of the plot plan is not in the center of the dots purported to represent the setback line. Rather, it is ocean ward of that center further compounding the errors.

I urged the city council to uphold the use of the ESA maps for accuracy.

Sincerely,

Ken Dyda

COASTAL COMMISSION

5715 Capeswood Drive
Rancho Palos Verdes, CA 90275-1725
Home - (310) 375-3932 Cell - (310) 386-0285
Email kendyda@verizon.net

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COASTLINE GEOTECHNICAL CONSULTANTS, INC.

CONSULTING GEOTECHNICAL ENGINEERS

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GARDENA, CALIFORNIA 90248-3202

E-mail: coastlinegeo@sbcglobal.net

Tel. (310) 217-1504
Fax (310) 217-1909

May 21, 2009

Project No. 1773C-059

Mr. and Mrs. Brian Conroy
24 Seacove Drive
Rancho Palos Verdes, CA 90275

Subject: Opinion Letters
Proposed Swimming Pool
24 Seacove Drive
Rancho Palos Verdes, CA

RECEIVED
South Coast Region

JAN 12 2010

CALIFORNIA
COASTAL COMMISSION

Dear Mr. and Mrs. Conroy:

At your request, we have reviewed two opinion letters concerning your proposed swimming pool, from the following:

1. James B. Huston
Huston General Contracting, Inc.
Livermore (Alameda County), CA
Undated
2. Andres E. Stambuk, P. E.
CRES Engineering
Brentwood (Contra Costa County), CA
February 23, 2009

Neither individual indicated he had visited or personally viewed the property. Both have offices in the East Bay area in Northern California. CRES specializes in structural design, not geotechnical engineering.

The segmental retaining walls and fill will be removed from the top of slope. This is required by the City and recommended by this office.

The pool location has been studied using engineering geology observations by George DeVries and Todd Houseal, State Certified Engineering Geologists, and Richard Martin, State licensed Civil and Geotechnical Engineer, who are all local, experienced professionals.

COASTAL COMMISSION
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PAGE 1 OF 5

Project No. 1773C-059
Conroy/Ranch Palos Verdes

2

Prior geotechnical work performed by Coastline Geotechnical Consultants, Inc. on residential property on Seacove, some of which resulted in the modification of the coastal setback line, included #1, 7, 8, 16, 28, 30, 36, 40, 2, and 44 Seacove Drive.

Our findings, as reported on June 16, 2008, which is on file with the building department, indicates the pool site is safe from the potential for landsliding. The resistance to sliding is more than 50 percent higher than the driving forces which cause the movement. These calculations are based on saturated soil and bedrock.

Water from the pool or other sources, such as landscaping, have been considered in the evaluation of the site stability. In addition, most engineers know that pool filled with water (62.4 pounds/cubic foot) weights less than the soil excavated (110 pounds/cubic foot). Therefore, there is a net reduction in the load due to the pool construction.

Respectfully submitted,

COASTLINE GEOTECHNICAL CONSULTANTS, INC.



Richard A. Martin, RGE 563

RAM/jm



COASTAL COMMISSION

EXHIBIT # 13
PAGE 2 OF 5

SLOPE STABILITY CALCULATIONS

Shear Strength	Terrace	Parallel to Bedding	Cross Bedding	
Cohesion, psf	540	380	800	
Friction Angle, ϕ	29	27	34	
$\tan \phi$	0.554	0.510	0.675	
Unit Weight, pcf	110	110	110	

Segment	Area (Ft ²)	Weight of Segment (Kips/LF)	Slide Plane Angle	$\sin \alpha$	$\cos \alpha$	Driving Force W Sin α	Normal Force W Cos α	Length (Feet)
1	594	65.3	60	0.866	0.500	56.6	32.7	54
2	2016	221.8	30	0.500	0.866	110.9	192.0	43
3	4824	530.6	30	0.500	0.866	265.3	459.5	83
4	3366	370.3	30	0.500	0.866	185.1	320.7	60
5	3752	412.7	0	0.000	1.000	0.0	412.7	112
Σ						617.9	1417.6	352.0

PSEUDOSTATIC

$$\begin{aligned} \text{F.S.} &= \frac{\Sigma \text{CL} + \Sigma W \cos \alpha \tan \phi}{\Sigma W \sin \alpha} \\ &= \frac{189.4 + 791.9}{617.9} \\ &= \frac{981.3}{617.9} = 1.59 \end{aligned}$$

$$\begin{aligned} \text{F.S.} &= \frac{\Sigma CL + (\Sigma W \cos \alpha - K \Sigma W \sin \alpha) \tan \phi}{\Sigma W \sin \alpha + K \Sigma W \cos \alpha} \\ &= \frac{189.4 + 744.3}{830.6} \quad (K = 0.15) \\ &= \frac{933.7}{830.6} = 1.12 \end{aligned}$$

Geotechnical Engineering Investigation 24 Seacove Drive Rancho Palos Verdes, California	Project No. 1773C-038
	Plate 13

Plate 13

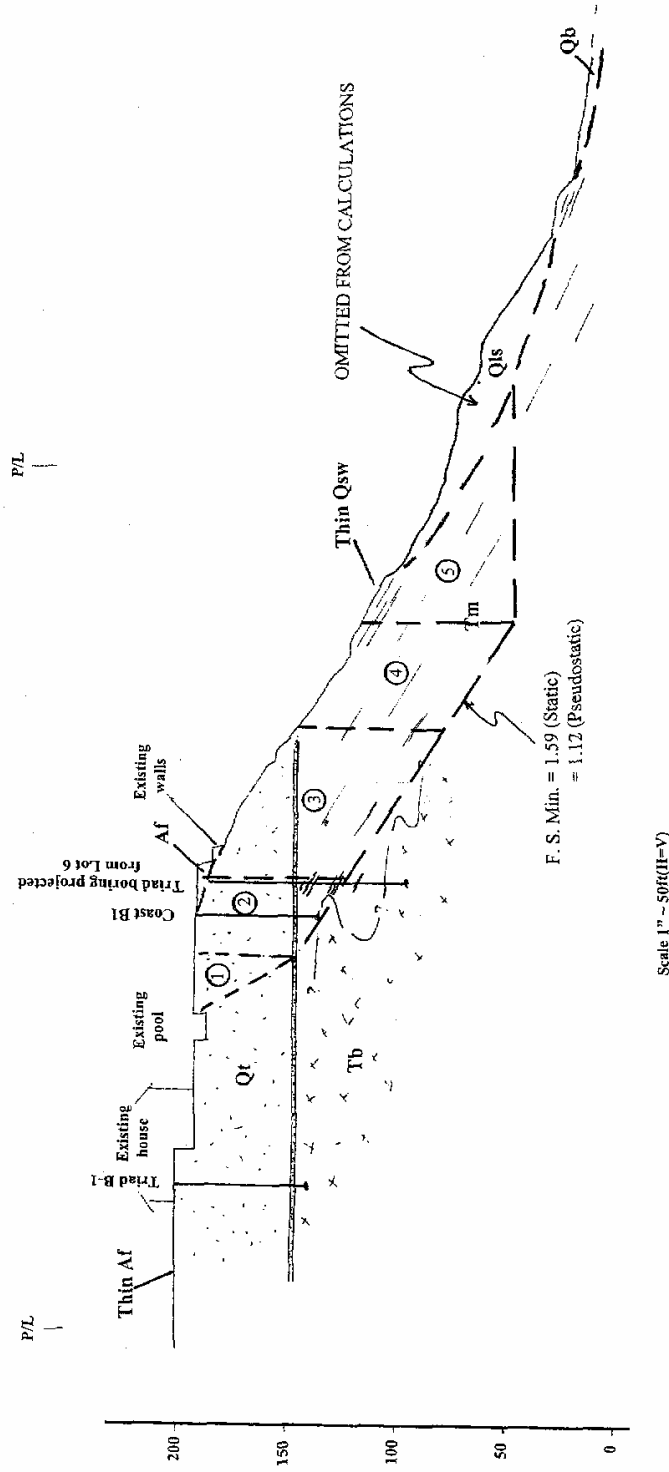
COASTLINE GEOTECHNICAL CONSULTANTS

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PAGE 3 OF 5

PLANAR SLOPE STABILITY ANALYSIS

GEOLOGIC CROSS SECTION A-A'

BY COAST GEOTECHNICAL



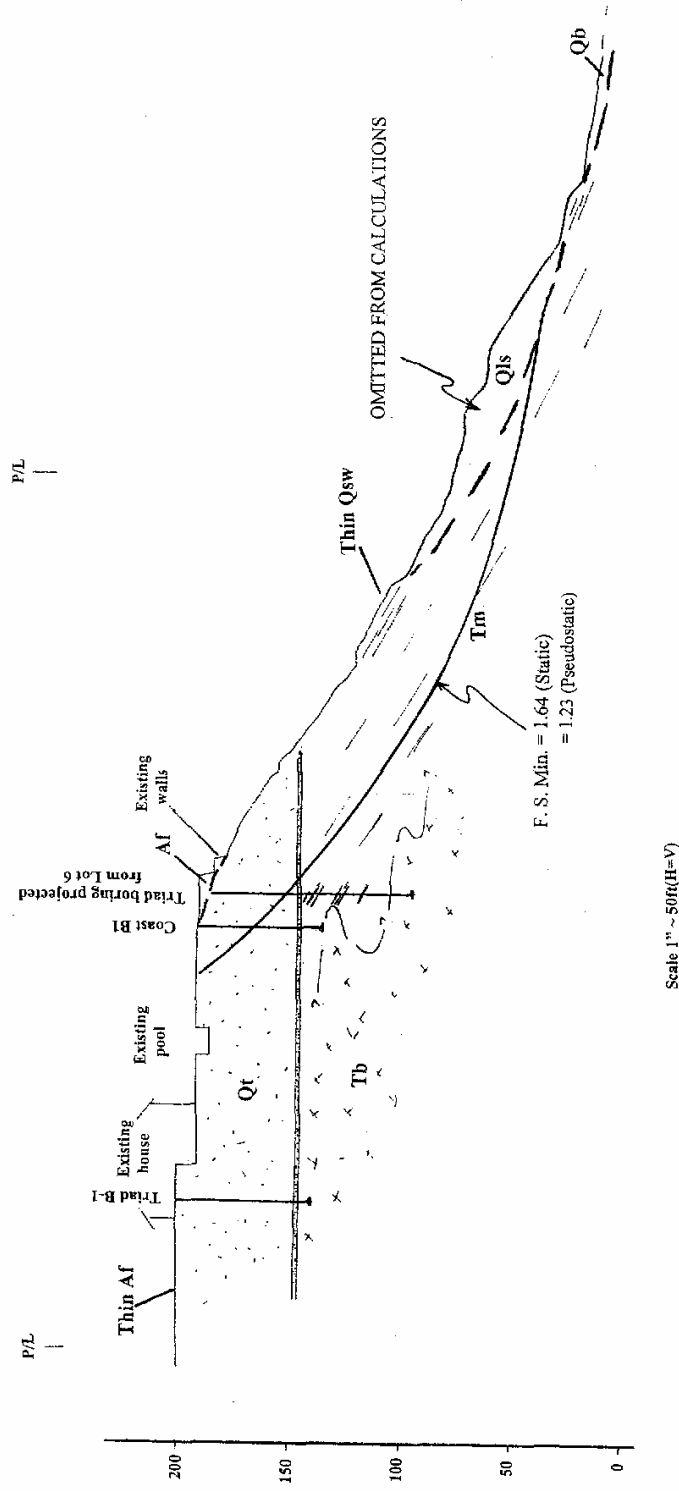
COASTLINE GEOTECHNICAL CONSULTANTS PROJECT NO. 1773C-038 PLATE 12

COASTAL COMMISSION

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GEOLOGIC CROSS SECTION A-A'
BY COAST GEOTECHNICAL

CIRCULAR SLOPE STABILITY ANALYSIS



COASTLINE GEOTECHNICAL CONSULTANTS PROJECT NO. 1773C-038 PLATE 14

COASTAL COMMISSION

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COASTLINE GEOTECHNICAL CONSULTANTS, INC.

CONSULTING GEOTECHNICAL ENGINEERS

1446 W. 178TH STREET
GARDENA, CALIFORNIA 90248-3202

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Tel. (310) 217-1504
Fax (310) 217-1909

August 20, 2010

Project No. 1773C-080

Brian Conroy
24 Seacove Drive
Rancho Palos Verdes, CA 90275

Subject: Site Restoration
24 Seacove Drive
Rancho Palos Verdes, California

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South Coast Region

SEP 8 2010

CALIFORNIA
COASTAL COMMISSION

Dear Mr. Conroy:

At your request, the writer inspected the subject site on August 17, 2010. The purpose of the visit was to verify the removal of the Keystone block walls and fill, and site restoration to its pre-existing condition.

Since our last site inspection, the two six-foot high Keystone block, fill and stairways have been removed. The slope has been restored and the area replanted.

Area drains were installed in the grass area near the top-of-slope, on the east and west sides of the property. These drains, along with area drains in the desk, north of the pool, are connected to subsurface pipe lead to a sump near the southwest corner of the residence. This sump is equipt with a pump which discharges the runoff water into the street.

While no representative from this office was present during restoration, the site condition appear to be close to the conditions observed back in 2002. The grass, slope planting and drains have been added. The topographic plan prepared by Bolton Engineering, dated July 19, 2010, presents the restored site conditions.

Should there be any questions, please contact the writer.

Respectfully Submitted,

COASTLINE GEOTECHNICAL CONSULTANTS, Inc.

Richard A. Martin, RGE 653
(5) Addressee



COASTAL COMMISSION
A.S. RPV. 10.002

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PAGE 1 OF 1

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



September 3, 2009

Joel Rojas, Director
Eduardo Schonborn, Senior Planner
City of Rancho Palos Verdes
30940 Hawthorne Blvd.
Rancho Palos Verdes, CA
90275-5391

Subject: Appeal of Case No. ZON2007-00253 (Interpretation Procedure)

Dear Joel and Eduardo,

The above referenced item is scheduled for public hearing before the RPV Planning Commission on Tuesday, September 8. The interpretation procedure at issue concerns the methodology used to determine the City's Coastal Setback Line on individual properties relative to existing maps contained in the City's certified Local Coastal Plan otherwise known as the Coastal Specific Plan.

As previously described and carried out in past permitting actions, the Coastal Setback Line is based upon the maps contained in the report entitled "Geologic Factors Related to a Coastal Set-Back Zone for the City of Rancho Palos Verdes, California" prepared by Earth Sciences Associates (ESA) in 1976. Said report is referenced in the appendix of the City's Coastal Specific Plan. Other maps contained in the Specific Plan, which may contain variations in delineating the coastal setback line, have not previously been used to determine the setback line. It is our understanding that staff is recommending that the Planning Commission, due to the variation in the location of the Coastal Setback Line on different City maps, determine the setback line on the basis of maps contained in the Coastal Specific Plan and a site specific geologic study until the issue can be further clarified by amending the Local Coastal Plan.

In acknowledging the existing discrepancies or variations contained in the Coastal Specific Plan maps and the age of the primary document and maps used to determine the appropriate setback line, Commission staff is supportive of a process to amend the LCP to include updated maps and requirements for determining the appropriate geologic blufftop setbacks to assure geologic stability and safety for new coastal development in the City. Until the LCP has been amended, the City should not change the methodology used for determining the setback line. The appropriate maps for determining the Coastal Setback Line are those contained in the ESA report referenced above along with a site specific geologic study. In considering a future LCP amendment as well as applications for Coastal Development Permits (CDPs) for new development on coastal blufftops, setback lines from coastal bluff edges should, at the very minimum, be established to assure a geologic factor of safety of 1.5; provide for a 75-year bluff retreat setback or greater if necessary to assure geologic stability for development, and; contain an additional buffer.

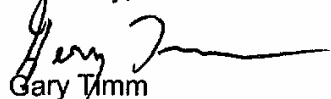
COASTAL COMMISSION
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PAGE 1 OF 2

In addition, any methodology used to determine appropriate blufftop setbacks should consider future impacts to bluffs from projected sea level rise. In no case should the ESA report and maps be interpreted in a manner that allows a more liberal seaward encroachment of development than the strict interpretation that has been used to date to determine such line. In closing, I also want to reiterate that any action taken to determine the Coastal Setback Line for the purpose of existing unpermitted development or future proposed development is subject to a Coastal Development Permit that would be appealable to the Coastal Commission due to its location.

Please contact me if you have any questions or wish to discuss this issue further.

Sincerely,



Gary Timm
Coastal Program Manager
South Coast District, Long Beach
562-590-5071
gtimm@coastal.ca.gov

cc Gabriel Buhr
John Ainsworth
Teresa Henry

COASTAL COMMISSION

EXHIBIT # 15
PAGE 2 OF 2

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South Coast Region

NOV - 1 2010

RESOLUTION NO. 2010- 01

CALIFORNIA
COASTAL COMMISSION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO PALOS VERDES DENYING THE APPEAL BY MS. PAMELA SIMES AND FURTHER REVISING THE DIRECTOR'S INTERPRETATION (CASE NO. ZON2007-00253) DETERMINING THAT THE LOCATION OF THE CITY'S COASTAL SETBACK LINE ON INDIVIDUAL PROPERTIES WITHIN THE COASTAL ZONE SHALL BE BASED ON THE CITY'S OFFICIAL ZONING MAP.

WHEREAS, the Coastal Zone boundary within the City and the entire State was created by the California Coastal Commission as part of the implementation of the State's Coastal Act, which was enacted in 1976; and,

WHEREAS, in preparation of the City's Coastal Specific Plan, a comprehensive geologic study of the City's coastal region was prepared, which segmented the City's Coastal Zone into separate geologic categories that defined where development was suitable and where it was not, resulting in the establishment of the Coastal Setback Line. The geologic study is titled, "Geologic Factors Related to a Coastal Set-Back Zone for the City of Rancho Palos Verdes, California" prepared by Earth Sciences Associates (ESA) in 1976, which contain geologic maps that specifically identify a 25' required setback landward of the Coastal Setback Line; and,

WHEREAS, the comprehensive geologic report titled "Geologic Factors Related to a Coastal Set-Back Zone for the City of Rancho Palos Verdes, California" by Earth Sciences Associates (ESA) was used to prepare the City's Coastal Specific Plan, which was adopted by the California Coastal Commission; and,

WHEREAS, the Development Code, which implements the Coastal Permit procedures for the Coastal Specific Plan, established two separate "Zones" on either side of the Coastal Setback Line whereby the area seaward of the Coastal Setback Line is called the "Coastal Setback Zone" and the areas twenty-five feet (25') landward of the Coastal Setback Line is called "Coastal Structure Setback Zone"; and,

WHEREAS, Staff has historically utilized the geologic maps prepared by ESA (referenced above) in discerning the precise location of the Coastal Setback Line on private property; and,

WHEREAS, on May 24, 2007, Brian Conroy, owner of property located at 24 Sea Cove Drive, submitted a request for a formal interpretation (Case No. ZON2007-00253) requesting Staff's basis for establishing the location of the Coastal Setback Line for his property at 24 Sea Cove Drive and on properties within the City's Coastal Zone; and,

WHEREAS, on June 21, 2007, the Director of Planning, Building and Code Enforcement issued a formal Interpretation regarding how to interpret the City's maps for determining the most precise location of the Coastal Setback Line on private properties,

COASTAL COMMISSION
A.S.RPV-10-002

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PAGE 1 OF 4

which in cases of uncertainty or ambiguity resulting from the Specific Plan Maps to establish the location of the Coastal Setback Line on individual properties within the Coastal Zone, then the maps that accompany the report titled, "Geologic Factors Related to a Coastal Set-Back Zone for the City of Rancho Palos Verdes, California" prepared by Earth Sciences Associates (ESA) in 1976 and referenced in the appendix to the City of Rancho Palos Verdes Coastal Specific Plan shall be used; and,

WHEREAS, on July 3, 2007, Mr. and Mrs. Conroy, through their attorney, Scott Campbell, submitted an appeal of the Director's formal Interpretation and requested that the appeal hearing be conducted at the August 14, 2007 meeting, thereby relinquishing their right to a hearing within 30 days of their appeal; and,

WHEREAS, after the hearing was duly noticed, the Conroy's notified Staff that they would like to exercise their option of accepting Staff's determination of the Coastal Setback Line and instead process the Variance and Coastal Permit applications (ZON2007-00046) in an attempt to legalize the illegal construction, and requested that their Interpretation Procedure appeal be held in abeyance; and,

WHEREAS, the Planning Commission tabled the appeal hearing on August 14, 2007 to allow the property owner time to process the applications associated with Case No. ZON2007-00046; and,

WHEREAS, on December 11, 2008, the Planning Commission considered Case No. ZON2007-00046 for a Coastal Permit and Variance, but continued the public hearing to the February 24, 2009 meeting to allow Staff to investigate additional code violation allegations against the applicant that were raised by a neighbor, and present Staff's interpretation decision (i.e., this appeal) at the same time as the Variance request, thereby allowing the Planning Commission the opportunity to first hear the use determination regarding the location of the Coastal Setback Line, and if necessary hear the Variance request for the after-the-fact improvements in the rear yard; and,

WHEREAS, on February 5, 2009, the City mailed notices of the pending Planning Commission hearing to 67 property owners within a 500-foot radius from the subject property, the Coastal Commission, and to the *West Portuguese Bend Community Association*, and published a notice in the *Peninsula News* on February 5, 2009; and,

WHEREAS, after notice issued pursuant to the provisions of the Rancho Palos Verdes Municipal Code, the Planning Commission conducted a public hearing on February 24, 2009, at which time all interested parties were given an opportunity to be heard and present evidence regarding the appeal of Case No. ZON2007-00253.

WHEREAS, on February 24, 2009, the Planning Commission tabled the appeal hearing at the request of the appellant; and,

WHEREAS, on August 20, 2009, the City mailed notices of the pending Planning Commission hearing to 67 property owners within a 500-foot radius from the subject

Resolution No. 2010-01
COASTAL COMMISSION
Page 2 of 4

EXHIBIT # 16
PAGE 2 OF 4

property, the Coastal Commission, and to the *West Portuguese Bend Community Association*, and published a notice in the *Peninsula News* on August 20, 2009; and,

WHEREAS, on September 8, 2009, the Planning Commission adopted P.C. Resolution No. 2009-36, revising the Director's Interpretation and determining that the location of the Coastal Setback Line on properties shall be based on a site-specific geology study and the Coastal Specific Plan Land Use Map; and,

WHEREAS, on September 23, 2005, within fifteen (15) days following the Planning Commission's decision, the adjacent property owner to the east at 22 Sea Cove Drive, Ms. Pamela Simes, filed an appeal to the City Council requesting that the City Council overturn the Planning Commission's revised Interpretation based upon the Director's original June 21, 2007 Interpretation; and,

WHEREAS, after notice was issued pursuant to the requirements of the Rancho Palos Verdes Development Code, the City Council held a duly noticed public hearing on October 20, 2009, at which the City Council continued the public hearing to December 15, 2009; and,

WHEREAS, on December 15, 2009, the City Council held a public hearing at which time all interested parties were given an opportunity to be heard and present evidence;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RANCHO PALOS VERDES DOES HEREBY FIND, DETERMINE, AND RESOLVE AS FOLLOWS:

Section 1: The City Council hereby revises the Director's Interpretation dated June 21, 2007, and the Director's revised Interpretation which was upheld by the Planning Commission on September 8, 2009 (Case No. ZON2007-00253), and finds that the location of the Coastal Setback Line on properties shall be based on the City's official Zoning Map, by overlaying an enlarged portion of the City's Zoning Map onto a property and identifying the centerline of the Coastal Setback Line, as shown on the enlarged portion of the City's Zoning Map, as the location of the Coastal Setback Line for that property.

Section 2: The time within which the judicial review of the decision reflected in this Resolution, if available, must be sought is governed by Section 1094.6 of the California Code of Civil Procedure and other applicable short periods of limitation.

Section 3: For the foregoing reasons, and based on the information and findings included in the Staff Reports, Resolutions, Memoranda, Minutes and other records of proceedings, the City Council of the City of Rancho Palos Verdes hereby denies the appeal, and further revises the Planning Commission's revised Interpretation of Case No. ZON2007-00253.

COASTAL COMMISSION

Resolution No. 2010-01

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EXHIBIT # 16
PAGE 3 OF 4

PASSED, APPROVED, AND ADOPTED this 5th day of January 2010.

/s/ Stefan Wolowicz
Mayor

ATTEST:

/s/ Carla Morreale
City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)ss
CITY OF RANCHO PALOS VERDES)

I, Carla Morreale, City Clerk of the City of Rancho Palos Verdes, hereby certify that the above Resolution No. 2010-01 was duly and regularly passed and adopted by the said City Council at a regular meeting held on January 5, 2010.

Miss Sankok
for City Clerk

COASTAL COMMISSION

Resolution No. 2010-01
Page 4 of 4

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COASTLINE GEOTECHNICAL CONSULTANTS, INC.

CONSULTING GEOTECHNICAL ENGINEERS

1446 W. 178TH STREET
GARDENA, CALIFORNIA 90248-3202

E-mail: coastlinegeo@sbcglobal.net

Tel. (310) 217-1504
Fax (310) 217-1909

August 20, 2010

Project No. 1773C-080

Brian Conroy
24 Seacove Drive
Rancho Palos Verdes, CA 90275

Subject: Site Restoration
24 Seacove Drive
Rancho Palos Verdes, California

RECEIVED
South Coast Region

SEP 8 2010

CALIFORNIA
COASTAL COMMISSION

Dear Mr. Conroy:

At your request, the writer inspected the subject site on August 17, 2010. The purpose of the visit was to verify the removal of the Keystone block walls and fill, and site restoration to its pre-existing condition.

Since our last site inspection, the two six-foot high Keystone block, fill and stairways have been removed. The slope has been restored and the area replanted.

Area drains were installed in the grass area near the top-of-slope, on the east and west sides of the property. These drains, along with area drains in the desk, north of the pool, are connected to subsurface pipe lead to a sump near the southwest corner of the residence. This sump is equipt with a pump which discharges the runoff water into the street.

While no representative from this office was present during restoration, the site condition appear to be close to the conditions observed back in 2002. The grass, slope planting and drains have been added. The topographic plan prepared by Bolton Engineering, dated July 19, 2010, presents the restored site conditions.

Should there be any questions, please contact the writer.

Respectfully Submitted,

COASTLINE GEOTECHNICAL CONSULTANTS, Inc.

Richard A. Martin, RGE 653
(5) Addressee



COASTAL COMMISSION
A-5-RPV-10-002

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PAGE 1 OF 1



COASTLINE GEOTECHNICAL CONSULTANTS, INC.

CONSULTING GEOTECHNICAL ENGINEERS

1446 W. 178TH STREET
GARDENA, CALIFORNIA 90248-3202

E-mail: coastlinegeo@sbcglobal.net

Tel. (310) 217-1504
Fax (310) 217-1909

February 4, 2011

Project No. 1773C-021

Mr. and Mrs. Brian Conroy
24 Seacove Drive
Rancho Palos Verdes, CA 90275

Subject: Slope Stability
Swimming Pool
24 Seacove Drive
Rancho Palos Verdes, California

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South Coast Region

FEB 11 2011

CALIFORNIA
COASTAL COMMISSION

Dear Mr. and Mrs. Conroy:

This is written at your request to address the California Coastal Commission's concern for a 75 year safe life of the swimming pool on your property. Our reports prepared from 2002 to 2010 have shown the factors of safety against landsliding for the building pad exceeds 1.5 for static gross stability, and 1.1 for the pseudostatic (seismically loaded) condition. These calculations have been reviewed and approved by the City. Therefore, from a gross slope stability point of view, the pool shell is located in a "safe" setback.

The second, time-dependent issue is bluff regression. Normal bluff weathering, include wind-driven rainfall, uncontrolled surface run off, chemical erosion by oxidation and hydration, and wind-driven waves and sprays against the bluff.

Applicable data on the rate of sea cliff retreat was determined by Robert M. Norris (1968) along sea cliffs westerly of the Santa Barbara area. In general, cliffs along the Santa Barbara coastline are subject to similar marine and climatic processes as the bluff below the subject site. In addition, some of the areas of slope retreat studied by Norris (1968) are underlain by bedrock assigned to the Monterey formation, which is the formation below the subject site.

The Norris (1968) study concluded that under present wave and sea level conditions, the average rate of cliff retreat in the Santa Barbara area is on the order of fifty (50) feet per century, or about six (6) inches per year. Utilizing this rate for the subject site, one would not expect the bluff to retreat back to the proposed pool for another 120 years, as the pool will be set back from the top of slope. Thus, the pool will be setback beyond the sixty (60) year setback line from the top of the bluff.

COASTAL COMMISSION
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Project No. 1773C-021
Conroy/Rancho Palos Verdes

2

The toe of the bluff is subject to periodic wave erosion that typically occurs during high tide and storm events. During periods of low to average tides, waves do not reach the toe of the bluff. Therefore, the pool shell would be safe for more than 75 years from bluff regression.

Should there be any further questions or comments, please feel free to contact this office.

Respectfully submitted,

COASTLINE GEOTECHNICAL CONSULTANTS, INC.

Richard A. Martin

Richard A. Martin, RGE 563

Distribution:
(3) Addressee



Norris, Robert M., 1968, Sea Cliff Retreat near Santa Barbara, California: Mineral Information Service, v. 21, no. 6, pg. 87-91.

Norris, Robert M., August 1990, Sea Cliff Erosion: A Major Dilemma, California Geology, pg. 171-177.

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