

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



W 16a & b

Addendum

Click here to go
to the original staff report
following the addendum.

June 13, 2011

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item W 16a & b**, Coastal Commission Permit Application
#A-133-79-A5/F6760-A6 (Kretowicz), for the Commission Meeting of
June 15, 2011

Staff recommends the following changes be made to the above-referenced staff report:

1. On Page 5 of the staff report, the following shall be added to the end of Special Condition #1:
 - C. **WITHIN 120 DAYS OF THE COMMISSION'S APPROVAL OF THIS AMENDMENT**, the applicants shall provide to the Executive Director, for review and written approval, a promissory note secured by a second position trust deed on the property. The applicants, at any time, may replace the promissory note and deed of trust with a letter of credit in a form and content acceptable to the Executive Director. Upon acceptable substitution of the security, the Executive Director shall sign, notarize and record a reconveyance or other document adequate to release the encumbrance of the deed of trust from the property. The security (either the deed of trust or substitute security) shall be subject to the following:
 - a. The first trust deed on the property shall not exceed \$3 Million
 - b. The applicants shall obtain a MAI appraisal certifying that the fair market value of the property is at least ten million dollars (\$10,000,000). The applicants shall obtain a renewed MAI appraisal every twelve months thereafter, until all payments have been made.
 - c. The fair market value (as reflected in the annual appraisal) at all times shall exceed the combined outstanding principal balances of the first trust deed

and the second trust deed (or substitute security as detailed above) by \$3,700,000. If such equity is not maintained, the applicants shall be required to substitute the second trust deed and promissory note with a letter of credit, in the amount equal to the then-outstanding balance owed. The letter of credit shall be subject to review and written approval of the Executive Director.

2. On Page 7 of the staff report, Special Condition #5 shall be revised as follows:

5. Revised Landscape/Yard Area Plans. WITHIN 60 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicants shall submit to the Executive Director for review and written approval, revised landscaping plans approved by the City of San Diego. The plans shall be in substantial conformance with the plans as submitted by Marengo Morton Architects dated 3/15/10, except for the revisions cited below. The plans shall be revised to keep the side yard (south of the residence) clear to enhance public views toward the ocean. Specifically, the plans shall be revised to incorporate the following:

a. A view corridor a minimum of 4 ft. wide shall be preserved along the southern side yard. All new landscape materials within the southern yard area (adjacent to the home) shall be species with a growth potential not expected to exceed a height 3-ft. above the elevation of the adjacent street as depicted on the plans by Marengo Morton Architects dated 6/13/11 ~~three feet at maturity~~. In addition, all landscaping in the southern yard area shall be maintained at a height to preserve views toward the ocean.

[...]

c. No permanent irrigation shall be permitted on the site closer than 25 ft. from the bluff/slope edge. ~~Drip irrigation for existing landscaping beyond the 40-ft. blufftop setback area may be permitted.~~

3. On Page 9 of the staff report, Special Condition #10 shall be revised as follows:

10. Open Space Restriction. No development (except for removal of flood lights, capping or removal of irrigation and replacement of dead vegetation to prevent erosion ~~removal of a drain pipe~~), as defined in section 30106 of the Coastal Act shall occur on that portion of the bluff face seaward of the bluff edge (as depicted in its current location on “Site Plan” by Marengo Morton Architects dated 3/15/10) and the steep hillside area in the southwestern portion of the site. This prohibition on development shall apply to the bluff face as the location of the bluff edge changes over time, due to erosion or other disturbances. The current location of the bluff face and steep hillside area shall be described and depicted in an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit.

[...]

4. On Page 10 of the staff report, Special Condition #13 shall be revised as follows:

13. Implementation of Removal of Improvements. WITHIN 90 DAYS OF EXECUTIVE DIRECTOR APPROVAL OF REVISED PLANS REQUIRED IN SPECIAL CONDITION NOS. 4 AND 5 OF AMENDED COASTAL DEVELOPMENT PERMIT NO. A-133-79-A5/F6760-A6, or within such additional time as the Executive Director may grant for good cause, the applicants shall remove and/or modify the existing wall and gate located at the south side yard setback area and replace the wall and gate consistent with the plans approved pursuant to Special Condition #4 of this permit amendment. The applicants shall also remove the floodlights on the bluff face, ~~the drainage pipe located on the northern bluff face~~, cap or remove all irrigation on the site (other than drip irrigation at least 40 ft. from the bluff edge) and remove the portions of the residence located on the lower level that extend beyond the 25 ft. bluff edge setback. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

5. On Page 12 of the staff report, the first paragraph describing new project components shall be revised as follows:

The following components are new:

(14) Interior garage improvements to include excavation and removal of approx. 130 cy. of uncompacted fill material to allow an additional parking space, a car lift and storage.

(15) Remove floodlights from bluff face.

~~(17) Remove landscape drainage pipe on northern bluff face.~~

[...]

6. On Page 23 of the staff report, the following shall be added after the third complete paragraph:

The project site also contains a steep hillside area. Steep Hillside is defined in the City's certified implementation plan (Land Development Code) as follows:

Steep hillside means all lands that have a slope with a natural gradient of 25 percent (4 feet of horizontal distance for every 1 foot of vertical distance) or greater and a minimum elevation differential of 50 feet, or a natural gradient of 200 percent (1 foot of horizontal distance for every 2 feet of vertical distance) or greater and a minimum elevation differential of 10 feet.

The City's certified LUP contains provisions addressing steep hillsides. Policy 4 (Page 51/52) of the Natural Resources and Open Space Element of the certified La Jolla LUP states, in part:

4. Steep Hillsides

- a. The City shall apply the Environmentally Sensitive Lands regulations to all new development on property in La Jolla having slopes with a natural gradient of 25 percent or greater and a minimum differential of 50 feet. The Environmentally Sensitive Lands regulations provide supplementary development regulations to underlying zones such as development encroachment limits for natural steep slopes, erosion control measures and compliance with design standards identified in the Steep Hillside Guidelines. Development on steep hillsides shall avoid encroachment into such hillsides to the maximum extent possible. When encroachment is unavoidable, it shall be minimized and in accordance with the encroachment limitations standards contained in the plan....

Plan Recommendation 5 (Pages 61-64) of the Natural Resources and Open Space Element of the certified La Jolla LUP states, in part:

5. Steep Hillsides

In addition to the recommendations contained in the Residential Element of this plan and the requirements of the Land Development Code, including the Environmentally Sensitive Lands regulations and the Steep Hillside Guidelines of the Land Development Manual, the following Hillside Development Guidelines shall be used as requirements in evaluating new development on all properties containing slopes in La Jolla which equal or exceed 25 percent:

- a. Keep driveways, parking areas, tennis courts, swimming pools, and other accessory uses to a minimum, and locate them on more level portions of the site in slopes below 25 percent.

[...]

- k. Set back large residential structures from the top of steep hillsides so that the design and site placement of a proposed project respect the existing natural landform and steep hillside character of the site. This is especially important for those locations that are visible from natural open space systems, parklands, major coastal access routes and the seashore. The reservation of the natural character of these areas depends upon minimizing visual intrusions.

The Environmentally Sensitive Lands (ESL) Regulations of the City's Land Development Code address development on steep hillsides. The following provisions of the ESL Regulations are applicable to the proposed development.

Section 143.0142 Development Regulations for Steep Hillides

Development that proposes encroachment into steep hillsides or that does not qualify for an exemption pursuant to Section 143.0110(c) [not applicable here] is subject to the following regulations and the Steep Hillside Guidelines in the Land Development Manual.

(a) Allowable Development Area

[...]

(4) Within the Coastal Overlay Zone, steep hillsides shall be preserved in their natural state....

[...]

(D) for the purposes of Section 143.0142, encroachment shall be defined as any areas of twenty-five percent (25%) or greater slope in which the natural landform is altered by grading, is rendered incapable of supporting vegetation due to displacement required for the building, accessory structures or paving...

[...]

In order to help the City interpret the development regulations for steep hillsides, the City of San Diego has developed the Steep Hillside Guidelines (which are included as a component of the City's certified LCP). The following provisions of the guidelines are applicable to the proposed development.

DESCRIPTION OF REGULATIONS

[...]

(B) 143.0113 Determination of Location of Environmentally Sensitive Lands, Applicability of Division and Decision Process

[...]

(4)(a) Within the Coastal Overlay Zone, projects proposing to encroach into steep hillsides shall be subject to the discretionary regulation identified in Section 143.0142(a)(4) of the Environmentally Sensitive Lands regulations. Projects shall be evaluated on a case-by-case basis to determine if encroachment, as defined in Section 143.0142(a)(4)(D) of the Environmentally Sensitive Lands regulations, can be permitted. It is the intent of the regulations and the Steep Hillside Guidelines that development be located on the least sensitive portions

of a site and that encroachment into areas containing steep hillsides, sensitive biological resources, geologic hazards, view corridors identified in adopted land use plans or viewsheds designated on Map C-720, be avoided or minimized if unavoidable. Projects proposing to encroach into steep hillsides shall demonstrate conformance with the Environmentally Sensitive Lands regulations and the Design Standards in Section II of the Steep Hillside Guidelines and result in the most sensitive design possible.

Encroachment shall not be permitted for the following:

- Projects where the encroachment is solely for purpose of achieving the maximum allowable development area;
- **Accessory uses or accessory structures including, but not limited to patios, decks, swimming pools, spas, tennis courts, other recreational areas or facilities, and detached garages, ...**
[emphasis added]

7. On Page 25, the first complete paragraph shall be revised as follows:

The subject amendment also includes a request for after-the-fact authorization for removal of several unpermitted improvements beyond the bluff edge and on the face of the coastal bluff. These improvements included several wooden timber stairs, retaining walls and palm trees. However, as noted, all of these improvements have been removed. The applicants are also proposing with this application to remove some additional improvements that are also on the face of the bluff. These include a couple of flood lights, ~~a plastic drain pipe extending down the bluff on its surface~~ (while the drain pipe was identified as a component of the project, after further review it was determined to be on the adjacent property and not on the applicants) and capping or removing existing irrigation on the face of the bluff. All of these improvements can be removed without disturbing the bluff and do not raise any coastal resource issues. Again, as these improvements already exist, Special Condition #13 requires that they be removed within 90 days of issuance of the amended permit.

8. On Page 26 of the staff report, the second paragraph shall be revised as follows:

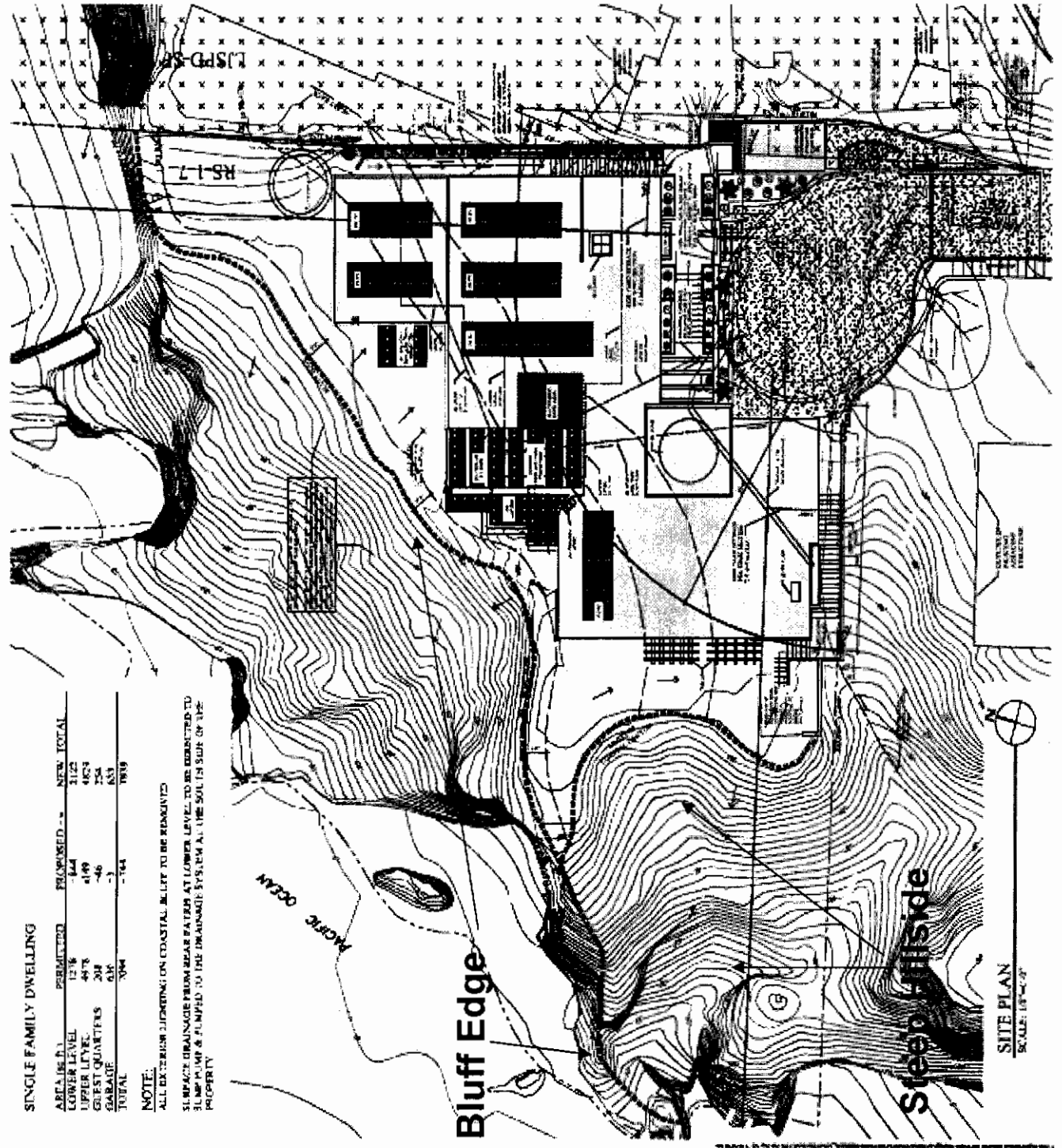
Special Condition #9 has been attached which requires that an amendment be approved for any future additions to the residence or other development as defined by the Coastal Act on the subject site. Requiring an amendment for all future development allows the Commission to insure that such development will not create or lead to the instability of the coastal bluffs, impacts to public access, adverse visual impacts or result in the construction or enlargement of the existing structure in a high risk area. While the project site is bordered by the ocean to the north and west, the southwestern portion of the site is considered a steep hillside in the LCP as it is part of a small coastal canyon area that intersects the bluff at this location. Based on the LCP

definition of a coastal bluff edge, the sloping area on the southwestern portion of the site is defined as being part of a coastal canyon and as such is considered a steep hillside, rather than a coastal bluff under the LCP. However, this is only a technical distinction as, in this particular case, the toe of the slope is still subject to marine erosion ocean and thus functions like a coastal bluff. In any case, based on the above cited provisions, the LCP protects steep hillsides in a manner similar to (but not exactly the same) how it protects a coastal bluff. As such, To further protect the geologic integrity of the coastal bluff seaward of the residence and to protect the LCP defined steep hillside area from development as required under the LCP, Special Condition #10 requires that an open space deed restriction be placed over the bluff face and the steep hillside portions of the site to prohibit construction or the placement of any structures on it (with the exception of the removal of the unpermitted improvements, and irrigation piping and drains) and to protect it in perpetuity.

9. On Page 28 of the staff report, the third paragraph shall be revised as follows:

Relative to the fence/wall and gate, as noted above, on properties located between the first public road and the sea and/or on properties that contain designated view sheds, the LCP requires that public views be protected by, among other things, requiring that the side yard setback area(s) be deed restricted to assure structures and landscaping do not interfere with public views. In the case of the subject site, public views of the ocean are available along the south side yard area from Princess Street as well as from an informal viewing area adjacent to Spindrift Street over the residence. There is an existing concrete stairway in the southern side yard. However, beyond the stairway further south along the side yard, there is an existing hedge which could impede public views to the ocean. While no new landscaping is proposed, there is the potential that in the future, trees or other tall shrubs could be planted within this side yard area. For this reason, Special Condition #5 requires the south yard area (adjacent to the home) be maintained free of vegetation taller than 3 ft. above the adjacent street ~~greater than 3 ft. in height~~, such that no new trees or tall hedges are planted, in order to preserve views of the ocean in this viewshed....

10. The attached Site Plan Exhibit shall replace Exhibit #2 attached to the staff report.



SINGLE FAMILY DWELLING

AREA (SQ. FT.)	PERMITTED	PROPOSED	NEW TOTAL
LOWER LEVEL	1276	-144	3122
UPPER LEVEL	4878	4199	4829
GUEST QUARTERS	204	-46	254
GARAGE	636	-3	633
TOTAL	3094	-764	1839

NOTE:

ALL EXTERIOR JOINTING ON COASTAL BLUFF TO BE REINFORCED
 SURFACE DRAINAGE FROM REAR PATIO AT LOWER LEVEL TO BE IDENTIFIED TO
 BE PUMPED & PUMPED TO THE DRAINAGE SYSTEM AT THE SOUTH SIDE OF THE
 PROPERTY

EXHIBIT NO. 2
 APPLICATION NO.
A-133-79-
A5/F6760-A6
 Site Plan **78**
 California Coastal Commission

W 16 a: b

FRED GAINES
SHERMAN L. STACEY
LISA A. WEINBERG
REBECCA A. THOMPSON
NANCI S. STACEY
KIMBERLY RIBLE
ALICIA B. BARTLEY

LAW OFFICES OF
GAINES & STACEY LLP
1111 BAYSIDE DRIVE, SUITE 280
CORONA DEL MAR, CALIFORNIA 92625

TELEPHONE
(949)640-8999
FAX
(949)640-8330

June 6, 2011

RECEIVED

JUN 09 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Mr. Lee McEachern
California Coastal Commission
San Diego Regional Office
7575 Metropolitan Drive, #103
San Diego, CA 92108

Re: Permit Amendment No. A-133-79-A5/F6760-A6 (Kretowicz)
7957 Princess Street, La Jolla

Dear Lee:

On behalf of Ure & Dianne Kretowicz, I am enclosing a copy of a report prepared by Geologist Robert Hawk of Terra Costa Consulting Group regarding the location of the bluff edge as it reaches the southeasterly portion of the Kretowicz property. On Exhibits 2 and 9 to the Staff Report, the Staff has identified the "bluff edge" on a line which is depicted by Marengo Morton Architects as the limit of coastal canyon with the bluff line located by Marengo Morton Architects in a different location. This has a major impact upon Special Condition No. 10 as to the open space easement.

We believe that the Staff Report has placed the bluff edge, as it is determined under the City of San Diego certified Local Coastal Program ("LCP"), in the wrong location. Hawk has identified it in the correct location. I have a copy of a memorandum dated 10 September 2001 from Mark Johnsson concerning the coastal bluff edge location on the Kretowicz property. Johnsson acknowledged but ignored the definition contained in the certified LCP. Johnsson relied instead upon the definition in California Code of Administrative Regulations, Title 14, §13577(h). In 2001, I believe that Johnsson may have agreed with the location of bluff edge described in your staff report. The conclusion in 2001 was not accurate and it should be revisited.

I have an email from Johnsson to Claude Marengo dated February 15, 2011 (copy enclosed), stating that Johnsson was incorrect that the definition in §13577(h) did not take coastal canyons into account. In fact, coastal canyons are accounted for by §13577(h). Johnsson indicated that he had not yet made a final recommendation on the issue. I do not find any

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Mr. Lee McEachern
California Coastal Commission
June 6, 2011
Page 2

reference in the proposed findings or in the exhibits that Johnsson has made any final recommendation. The enclosed report is intended to assist Johnsson and you in that final recommendation. It is my belief that Johnsson and you will agree that the line of the coastal bluff does not go up the canyon but crosses the canyon to the other side.

Further, I believe that the reliance upon the definition contained in §13577(h) for geologic stability purposes is not a correct use of the Regulation in a certified LCP municipality. The San Diego LCP, including the definitions for bluff edge and coastal canyon, were certified for consistency with Public Resources Code §30253 which requires development to assure stability. The definition contained in §13577(h) has nothing to do with stability or consistency with §30253, it is a method for measuring the appeal jurisdiction of the Commission under Public Resources Code §30601(2) for appeals from permits issued by local jurisdictions which have certified LCPs.

In formulating its LCP, the City of San Diego was not bound to follow, and the Commission did not require, that the definition of bluff edge mirror §13577. The City in fact adopted a different method of definition, which the Commission certified as being consistent with Public Resources Code §30253. That definition is described in Hawk's report. That definition distinguished between a coastal bluff and a coastal canyon. Setbacks required by the City's LCP relate to the coastal bluff but not similarly to the coastal canyon. Hawk's conclusion is that the coastal canyon on the Kretowicz property interrupts the coastal bluff which is connected directly across the mouth of the canyon and not by going up the canyon as your Exhibit 2 would illustrate.

When the Commission acts on a permit which is in a location on which a certified LCP is in place, the findings of the Commission are whether or not the development is consistent with the certified LCP (Public Resources Code §30604(b) and with the public access and recreation policies of the Coastal Act (Public Resources Code §30604(c)). The Commission is bound to apply the provisions of the San Diego certified LCP and not substitute its own judgment or regulations when dealing with the issue of consistency with Public Resources Code §30253 which is not a part of the public access or recreation policies of the Coastal Act. It was found by the City, and is clear in any event, that the line of the coastal bluff on the Kretowicz property is correctly shown in the enclosed Hawk report. I request that you modify Special Condition No. 10 to reflect that it applies only to the portions of the property that lie seaward of the line depicted as Figure 6 in the Hawk report.

I would also note that the reference in Special Condition No. 10 to the 3/15/10 drawing of Marengo Morton Architects is misleading. The exhibits are not clear as to what drawing is being referenced. However, Exhibit 2 shows a line marked "BLUFF EDGE" and Exhibit 9 shows the

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Mr. Lee McEachern
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June 6, 2011
Page 3

same line with a cross-hatched identification of the area to which the open space easement is to apply. The line indicate as the bluff edge was not done by Marengo Morton Architects. Marengo Morton Architects who identified that line at the limit of coastal canyon. The designation of "bluff edge" was added by Coastal Commission Staff. It is that designation by Staff on Exhibit 2 and Exhibit 9 that is incorrect.

Sincerely,

Signature on file

SHERMAN L. STACEY

SLS/sh

cc: (by email)
Mark Johnsson
Sherilyn Sarb
Ure Kretowicz
Dianne Kretowicz
Claude Margeno

From: "Mark Johnsson" <mjohnsson@coastal.ca.gov>
Date: February 15, 2011 11:11:46 AM PST
To: "Claude Anthony Marengo" <CAMarengo@marengomortonarchitects.com>
Cc: "Lee McEachern" <lmceachern@coastal.ca.gov>, "Louise Warren" <lwarren@coastal.ca.gov>, "Sherilyn Sarb" <ssarb@coastal.ca.gov>
Subject: RE: Kretowicz property at Princess Street la Jolla

Claude-Anthony,

Attached is the memo you requested. I should say that I misstate in it that the Coastal Act itself has no provisions for coastal canyons; that is incorrect. CCR Title 14, § 13577 (h) (2) Has a provision for determining the point where a coastal bluff ends and, by inference, where a coastal canyon begins. Important to that definition is that lines drawn to define that point must be at least 500 feet long--so that minor indentations such as at the Kretowicz property are included in the coastal bluff.

I have yet to make my final recommendation on revisiting this issue.

Sincerely,

Mark Johnsson

Mark J. Johnsson, Ph.D.

Staff Geologist

California Coastal Commission
45 Fremont St., Suite 2000
San Francisco, CA 94105

(415) 904-5200 (v)
(415) 904-5400 (f)
mjohnsson@coastal.ca.gov

-----Original Message-----

From: Claude Anthony Marengo [<mailto:CAMarengo@marengomortonarchitects.com>]
Sent: Saturday, February 12, 2011 1:18 PM
To: Mark Johnsson
Subject: Kretowicz property at Princess Street la Jolla

Hello Mark,

It was a pleasure to finally meet you today and go over the site. I hope that you were able to easily gain access to the beach, I waited to see if you were going to turn up so I could see if it looked good or not. Anyway, I was wondering if I could trouble you for the memo from 7 yrs ago on your previous opinion as I don't believe I ever got it.

Also thanks for the opinion on the bluff side of the property with regards to the stability of the structures within the bluff setback.

I look forward to anything you have found and I was very pleased with our meeting today. Thank you for hearing us out.

Have a great weekend and

Best regards,

Claude-Anthony Marengo

Principal

Marengo Morton Architects, Inc.

7724 Girard Avenue, Second Floor

La Jolla, CA 92037

Tel: 858-459-3769

Fax: 858-459-3768

Cell: 619-417-1111

BL



Geotechnical Engineering
Coastal Engineering
Maritime Engineering

Project No. 2747
June 6, 2011

Mr. Sherman L. Stacey
GAINES & STACEY, LLP
1111 Bayside Drive, #280
Corona del Mar, California 92625

**BLUFF EDGE DETERMINATION
7957 PRINCESS STREET
LA JOLLA, CALIFORNIA
KRETOWICZ RESIDENCE**

Dear Mr. Stacey:

I have been extensively involved with the development of the coastal permitting procedure for the City of San Diego ("City") since approximately 1990. I worked for the City of San Diego as a Senior Engineering Geologist for over 20 years until my retirement in 2009. I personally performed the geologic review of the subject property on behalf of the City for the purpose of Coastal Permit review during the 1990s through 2001.

The "Beaches and Bluffs Guidelines" are the culmination of several years of work by City Staff to create guidelines to help applicants design their projects in conformance with coastal regulations, and were created to exemplify determinations made by Staff since the implementation of the Local Coastal Program in 1988. The first draft guideline was introduced in November 1996 and was adopted into the City Municipal Code. As with all coastal regulations by the City, it was vetted by the California Coastal Commission (CCC) Staff for conformance with the City's Local Coastal Program and accepted. Under the LCP and the Municipal Code, all new City regulations affecting coastal properties must be approved by the CCC prior to taking effect: **§122.0106 Certification Requirements for Local Coastal Program Amendments**. Only CCC concurrence with the new regulation allows it to be included in the LCP. Changes are submitted by the City to the CCC generally on a quarterly basis. The guidelines are referred to in the Municipal Code and were vetted in the same manner. The specific Municipal Code language is attached.

It is helpful to understand that the determination of coastal bluff versus coastal canyon had occurred on various projects prior to the creation of the guideline. Therefore, the coastal canyon concept could have been argued prior to adoption of the guidelines. The concept of local erosion (gully) versus regional drainage (canyon) for coastal bluff definition has been discussed and used in determinations for many years prior to the guidelines adoption to resolve geomorphic ambiguity about what constitutes a coastal bluff due to marine action versus a bluff formed due to terrestrial runoff but that happens to be located in the Coastal Zone. I helped create, and served on, the committee of City Staff to create the guidelines. Our purpose was to help Staff and applicants alike to understand the coastal regulations and provide guidance in the design of their projects.

The Kretowicz property is located on the coastal shoreline. Geomorphically, the land has been shaped by several processes, but the current landform is due to marine erosion on the westerly portion and subaerial erosion from terrestrial runoff from Soledad Mountain. Portions of the property are also undermined by sea caves. The topographic expression is a southwesterly sloping hillside, cut by an abrupt boundary with the sea cliff, and incised by drainages extending upslope well beyond the Kretowicz property and the coastal zone as defined by the Coastal Act and the City's Local Coastal Program (LCP). Accurately defining the coastal bluff edge is necessary to determine where new development can be allowed.

The topographic map prepared by SB&O and used in the geologic reports prepared by Mike Hart, CEG, shows the topography and estimated location of the coastal bluff edge. Under the City's Beaches and Bluffs Guidelines, the bluff edge determination is complicated by the presence of the coastal canyon and the sea caves. The coastal canyon is shown on the plan on the south portion of the property.



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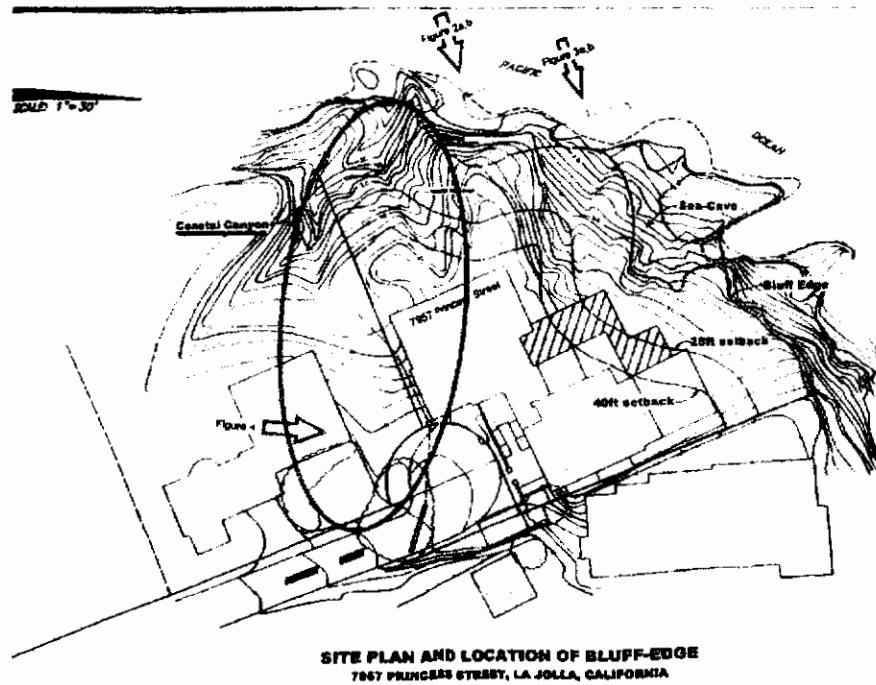


Figure 1. SB&O site plan with coastal canyon circled.

The Guidelines define a coastal canyon as:

7. Coastal Canyons

Where a site is bounded on at least one side by a coastal canyon (a large, established regional drainage course that traditionally accepts runoff from off-site), the coastal bluff edge is defined as the portion of the site which drains directly into the ocean. That portion of the site which drains first to the canyon (landward of the drainage divide) is not considered to be a sensitive coastal bluff. See **Diagram III-7**.

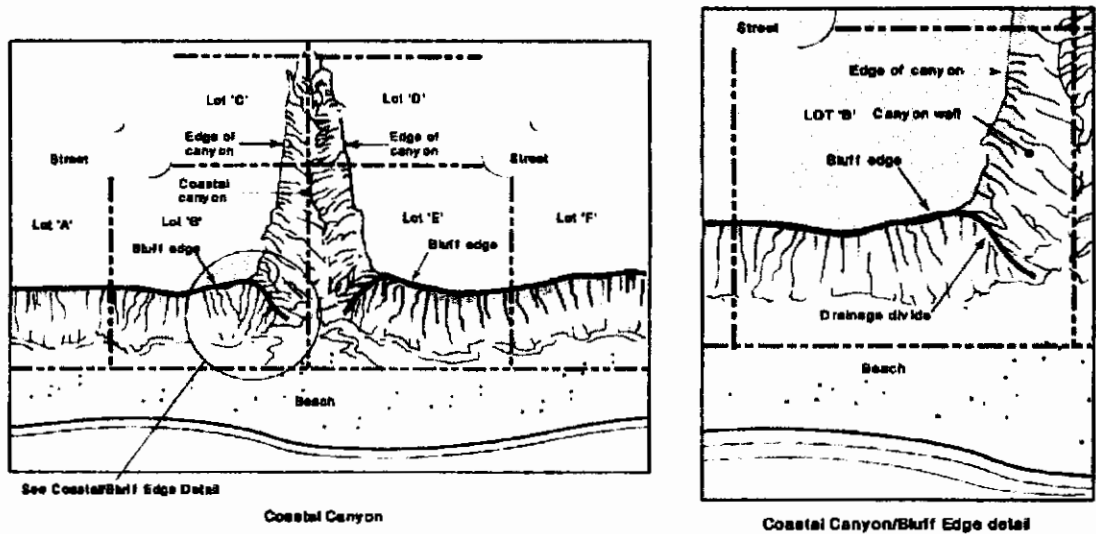


Figure 2. Coastal Canyon, Diagram III-7

Figure 3 is a photograph taken on site of the bifurcated canyon to facilitate visualization of the coastal canyon. Figure 4 is an aerial view for the same purpose; the indicated canyon centerlines are approximate. Note that the headward portion of the canyon has been filled to provide a level pad for the Kretowicz home. Based on the bluff edge definition in the LCP, the site geometry, and the analysis by Geologist Mike Hart, I and other City Coastal Staff concurred with the coastal bluff edge shown on the SB&O site plan. Those boundaries, which demark the drainage divide between waters flowing directly to the ocean from waters flowing to the coastal canyon, appear to be depicted on the Marengo Morton Architects plan as well:



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Figure 3. Coastal canyon showing approximate locations of canyon thalweg.

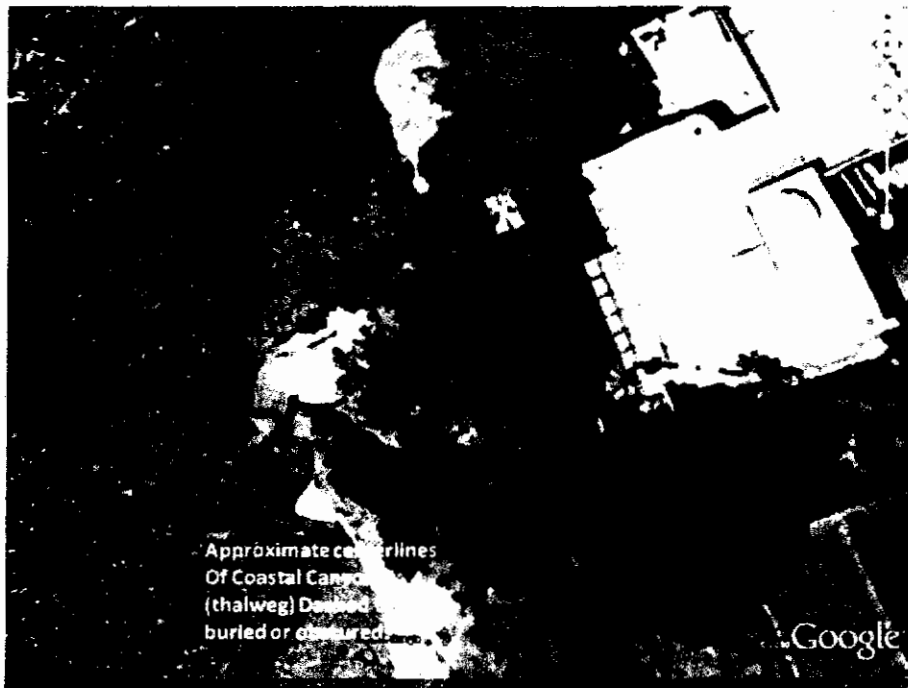


Figure 4. Aerial photo showing approximate location of the canyon thalweg.



Figure 5. Marengo Morton Architects site plan showing coastal canyon.

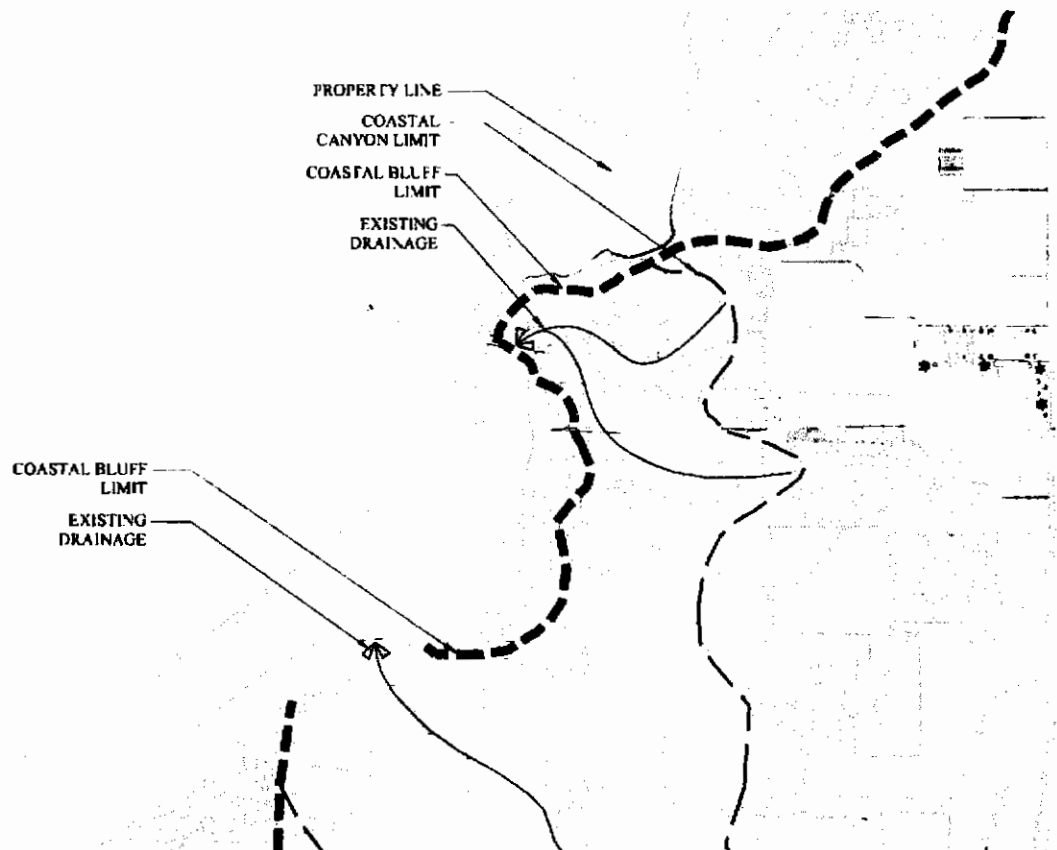


Figure 6: Expanded portion of plan prepared by Marengo Morton Architects.

Based on the foregoing discussion, it remains my professional opinion that the limits and definition of the coastal canyon are in agreement with the assessment by the City of San Diego, and shown on the respective plans by SB&O (Figure 1) and Marengo Morton Architects (Figures 5 and 6). I believe that this determination is in conformance with the definitions within the Coastal Act and the City's LCP. The landforms along the drainages are not of marine origin, not subject to coastal processes, and should not be subject to definition as a coastal bluff.

Thank you for the opportunity to be of service. If you have any questions, please call the undersigned at your earliest convenience.

Very truly yours,

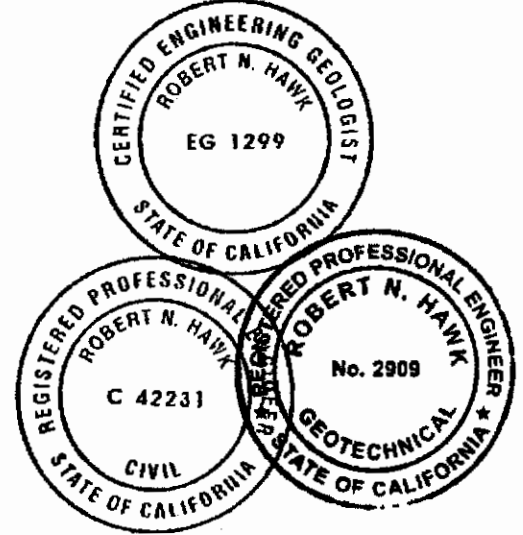
TERRACOSTA CONSULTING GROUP, INC.

Signature on file

Robert N. Hawk, Principal Geologist
C.E.G. 1299, R.C.E. 42231, R.G.E. 2909

RNH/jg

Attachments: San Diego Municipal Code Section §122.0106 Certification Requirements
for Local Coastal Program Amendments



**San Diego Municipal Code Section §122.0106 Certification
Requirements for Local Coastal Program Amendments**

§122.0106 Certification Requirements for Local Coastal Program Amendments

(a) Any new *land use plan* or amendment to an applicable land use plan that applies to property in the Coastal Overlay Zone constitutes an amendment to the *Local Coastal Program*.

(b) Notice of availability. At least 6 weeks before the City Council hearing to approve or deny an amendment to the *Local Coastal Program*, the City Manager shall distribute a notice of availability in accordance with the applicable provisions of the California Coastal Act and Guidelines and shall make available to the public a review draft of the amendment language.

(c) *Certification of Local Coastal Program Amendments*. An amendment to the City's *Local Coastal Program* must be certified by the California Coastal Commission in accordance with Coastal Commission regulations. If the Coastal Commission certifies the amendment with modifications, the City Council shall conduct a public hearing, noticed in accordance with Sections 112.0301(c) and 112.0305, to consider the modifications, no later than 6 months after the Coastal Commission action.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)



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REFERENCES

1. California Coastal Commission, September 10, 2001, Geotechnical Review Memorandum regarding A-6-LJS-O1-95 (Kretowicz) Appeal, prepared by Mark Johnson, Ph.D., CEG, Senior Staff Geologist, to Laurinda Owens, Coastal Program Analyst.
2. Hart, Michael W., August 9, 1997, Update of Geologic Reports, Residence, 7957 Princess Street, including an undated Site Plan, Kretowicz Residence prepared by SB&O, Inc., File No. 299-97.
3. James M. Johnson, Architect, undated, Site and Roof Plan, stamped "Exempt" from CDP by City of San Diego Development Services and dated May 15, 2008, for PTS No. 145249.
4. Marengo Morton Architects, January 27, 2011, Sheet A-1.1, Kretowicz Residence -- 7957 Princess Street, La Jolla, 92037, Project No 2006-430.
5. Scott Bernet Architects, April 14, 2004, Plan: Checota Residence, 7966 Princess Street, La Jolla, CA 92037, approved as "Exhibit A" for CDP 6540.



California Coastal Commission
San Diego District Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

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JUN 09 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

June 9, 2011

RE: KRETOWICZ-A-133-79-A4/F6760-A6 - updated letter

Dear Commissioners,

This is an update to my letter of February 6, 2011.

The Commission should require an Offer to Dedicate (OTD) Easement on the Kretowicz parcel, consistent with its 1979 findings, with the goal that the public will once again gain access to this unique beach area. Access to this the beach from this location is still as feasible and is as important today as it was in 1979 when the Commission found: (Page 13 of the current staff report)

“The Commission finds that access to this pocket beach is only available at low tide due to the promontories which impede access to the beach from the nearest accessway to the shoreline which is located ¼ mile up coast. The Commission concludes, therefore, that adequate access does not exist nearby. Although the public has historically had access over the project site, construction of the project has preceded the use of this accessway, thereby diminishing the public's right of access to the state owned tidelands. An alternative accessway must, therefore, be provided to offset the burdens this development has placed on the public's constitutional right of access and to assure the conformity of the project with the provisions of Section 30212 of the Act.

This paragraph continues, with one of the most compelling arguments for restoring the beach access. (This this part of the paragraph was left out of this section of the staff report, although the complete 1979 Commission report appears later in the addendum.)

“ ...This site has historically been used for access to the shoreline below. A site inspection revealed that it was not difficult to walk down the bluff face and, if minor improvements were made, the access way could be easily traversed with little damage to the landforms. The Commission concludes that public access can be provided consistent with public safety and must, therefore, be provided to the proposed project consistent with the Coastal Act.”

Pictures taken as part of the Coastal Commission's staff report in 1979 look remarkably similar to photos taken today. There has been very little erosion at the base of the cliff where it meets the beach area, indicating that this location is stable enough for stairs or other structures to be located. The main area of concern is on the hillside itself, which has suffered some erosion over the years due to non-conforming irrigation and drainage systems. The Commission's findings in 1979 still stand today: vertical beach access is practical, important, required by the Coastal Act, and should be restored.

From page 17 & 18 of the current staff report:

“...While the OTD has never been recorded, in violation of the terms of the coastal development permit, due to the inaccessibility of the beach below the subject site, the need to provide access to the beach at this location is just as important today as it was when the Commission originally required it in 1979...”

And from page 13 of the current staff report regarding the history of the project:

LETTERS OF COMMENT

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“...By the time the Commission imposed the access conditions, however, the applicant had already completed construction of the proposed addition in compliance with the permit as previously issued. Therefore, the State Commission required that the vertical access be located in a slightly different location than the historic trail in order to accommodate the addition. The then-owner, Ms. Baker, did not record the offers to dedicate access.”

It is my understanding from conversations with supervisor McEachern at the San Diego office, that the main reasons for the staff recommendation to accept the 3.3 million dollar mitigation rather than require an OTD easement, is that the city is unwilling to accept such an easement. The City has recently sent a letter saying that they want the 3 million dollar portion of the agreement to go to other improvements in the area (that the city is short of funding for) and not to reconstruct the Angel's Flight stairs. It appears that the City of San Diego is using this as a solution for their fiscal management issues at the expense of beach access to the public. This response from the city is a great disappointment to me as there were no community forums held by the city to discuss their decision on this issue.

The City letter cited safety issues with patrolling this beach if the public were to have access again. This situation is no different from any other beach the public has access to. The City is responsible for patrolling any beach, existing or new. Recently, the popular Casa Beach was difficult to access for many months due to the closure of the stairs just south of the Children's Pool. The city closed the stairs for repairs, but did not repair them. This saved on repair costs and also lifeguard costs. The stairs were finally opened back up, but only after members of the community became active and fought for access to be restored. The Princess Street Access is a similar situation and unfortunately the City's position is being driven by monetary interests, rather than the long term benefit to the public. It is to the City's advantage (budget-wise) to have fewer beaches accessible.

The Coastal Commission Staff recommendation to have \$3,000,000 for reconstruction of the Angel's Flight stairs spent within 5 years sounds good on the surface, but will never happen. The City's position is clear: they do not want any beach access to this area EVER, because that would mean having to fund lifeguards and maintenance.

The 5 year deadline spend the funds is unreasonably short. If there is no resistance from the community and city, the process will take a minimum of 2 to 3 years to gain public input, develop a workable design, and then go through the Coastal Commission approval process. However, the City will fight against beach access, and the Angel's Flight area residents will fight it due to traffic and parking concerns on their dead-end street that connects to one of the most traveled roads of city. The 5 year deadline will easily be missed, and the city will shift the funds to other projects. Thus, the staff proposal will not achieve the objective of restoration of beach access to the public.

If the Commission does indeed decide in favor of the staff recommendation and settlement, then a condition needs to be added to the settlement agreement: **in the event of any default of the \$3,300,000 payment, an offer to dedicate shall be recorded immediately by the owners (or for-closers) of the property.** Without this clause a situation could arise where the Coastal Commission is holding a lean on the property, which would be more valuable if there was no beach access. This would be a potential conflict of interest with the Commission's mandate for public access versus higher value the property would sell for with no access.

Late last year, the community had its first opportunity for input on this issue since the Commission hearing in 1979. The La Jolla Shores Association, the La Jolla Town Council, the La Jolla Parks and

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Beaches committee, and the La Jolla Community Planning Association have all heard this issue and provided a forum for public input. The overwhelming response is that the community would like the OTD easement granted, and beach access restored. All of these community organizations have passed motions in favor of restoring this access way.

While it is true that the City of San Diego currently does not have funds to develop an acceptable access at this site, it does not mean that funds can't be located or raised in the near future to allow restoration of the access. Now that the community is involved, I anticipate that funding sources will be found to restore this access.

One of the important mandates of the Coastal Act is to insure public access to our beaches and coastline. This is the best opportunity, and probably the only opportunity, for public access to this beach area to be restored. I ask you to re-affirm the findings which were passed unanimously by the 1979 Coastal Commission and not to accept the 3.3 million dollar mitigation, but instead to require an OTD easement with the purpose of restoring the historical beach accessway at this location.

Sincerely,

Tim Lucas
8152 Calle del Cielo
La Jolla, CA 92037

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*Preserve, Restore, and
Protect Coastal Resources*

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CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

May 27, 2011

California Coastal Commission
San Diego Coast District Office
7575 Metropolitan Drive, Suite 103
San Diego, California, 92108

Attention: Lee McEachern

Re: Kretowicz/ File A-133-79-A4 / F6760-A5

Dear Mr. McEachern:

On May 3, 2011, the Board of the La Jolla Conservancy voted unanimously to support the California Coastal Commission's efforts to protect the public's use of the historic access from Princess Street to the La Jolla Underwater Park and State Ecological Reserve, and to require the proposed off-site mitigation fee. The La Jolla Conservancy stands ready to assist the Coastal Commission and other state and local agencies to successfully carry out the goal to enhance the public's access and enjoyment of this treasured California coastal resource.

~~Respectfully~~

Signature on File

Steve Haskins
La Jolla Conservancy Board

P.O. BOX 660
LA JOLLA, CA 92038
PH. 858.245.7593
FX. 619.255.4255

www.lajollaconservancy.org

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CALIFORNIA COASTAL COMMISSION

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



Wed 16a & b

Filed: 10/29/10
 180th Day: 4/27/11
 Extension Request: 3/8/11
 Final Date for
 Commission Action: 7/26/11
 Staff: L. McEachern- SD
 Staff Report: 5/25/11
 Hearing Date: 6/15-17/11

AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: A-133-79-A5/F6760-A6

Applicant: Ure & Diane Kretowicz **Agent:** Sherman Stacey

Original Project

Description: Construction of a 3,693 sq. ft. first floor addition to an existing 2,970 sq. ft. two-story, single-family residence on a 1.3 acre blufftop site.

Proposed

Amendment: 1) Delete the requirement to record an offer to dedicate a vertical public access easement; 2) pay \$3.3 Million to fund various public coastal access projects in the La Jolla area as mitigation for the deletion of the public access easement; and, 3) request after-the-fact approval for improvements, modification and additions to the existing residence resulting in a 7,388 sq. ft. two-level home (ref. Exhibit #8 – Settlement Agreement).

Site: 7957 Princess Street, La Jolla, San Diego, San Diego County.
 APN 350-151-01 & -02

STAFF NOTES:

History

The Regional Coastal Commission's original approval of the application (F6760) for an addition to a single-family residence was appealed to the State Coastal Commission in 1978. The Commission found that the appeal raised no substantial issue. However, a lawsuit was filed against the Commission for, among other things, not having made adequate findings regarding public access pursuant to Section 30604 of the Act. The court ordered that the matter be remanded back to the Regional Commission for a specific finding on only the issue of public access and recreation. The court allowed the development to go forward in the interim because the petitioners failed to post the

necessary bond for a stay. The Regional Commission adopted findings regarding public access but did not impose any requirement for provision of public access at the site. This decision was then again appealed to the State Commission (A-133-79) who found that the appeal raised a substantial issue. On de novo, the State Commission approved the project with an additional condition that required the applicant to record an offer to dedicate a vertical public access easement (5 ft. in width extending from Princess Street along the southern edge of the property next to the garage and then in a northwesterly direction along the top of the slope and then back in a southwesterly direction, traversing down the face of the bluff to the beach), as well as a lateral public access easement. The Commission found that without this condition, the addition would interfere with existing public access. The State Commission found that because the residential addition displaced a blufftop viewpoint and trail to the beach on the site, public access should be required elsewhere on the site. Thus, the State Commission required that the applicant record an offer-to-dedicate (OTD) easement for public access extending from Princess Street to the mean high tide line. However, as noted above, the court had allowed the applicant to continue with the development under the original permit because the petitioners failed to post the necessary bond for a stay while the Commission reviewed the proposal again on remand, and thus, the requirement for recordation of the OTD occurred after the development was already complete. The applicant never recorded the offer required by the State Commission. The property was subsequently sold.

In June of 2005, the Commission reviewed an amendment request by a subsequent property owner (current applicant) to replace the requirement for the offer to dedicate public vertical access with an easement for emergency lifeguard access only and payment of \$10,000.00 for public access improvements in the La Jolla area (ref. A-133-79-A1/F6760-A2). The amendment request also included a request to remove various unpermitted improvements on the face of the coastal bluff, modify an existing rear yard retaining wall and install a patio, barbecue and landscaping in the rear yard. In its action, the Commission denied the applicants' request to revise the OTD requirement, but approved the other proposed improvements, except those located within the alignment of the access easement or those that could interfere with use of the access in the future. The applicants subsequently filed suit against the Commission regarding that decision.

Subsequently, a prospective settlement agreement was entered in to between the applicants and the Commission, resulting in another amendment application. However, all settlement agreements are subject to formal Commission action within a public hearing. This request included the proposal to replace the requirement for the offer to dedicate vertical public access with an easement for emergency lifeguard access only and a payment of \$200,000.00 towards feasibility investigation, design processing, professional consulting fees and construction costs to replace "Angel's Flight" public beach access stairway as mitigation for the change in terms of the vertical public access easement and to construct and improve a public viewing area in the public right-of-way adjacent to the home (ref. A-133-79-A2/F6760-A3). However, at the June 14, 2007 hearing on this item, the Commission raised concerns with the applicants' request and the matter was postponed by the applicants and subsequently withdrawn. Since that time, the applicants have received approval from the City of San Diego (Site and Neighborhood

Development Permits) for numerous unpermitted improvements at the subject site as well as some new improvements. The applicants submitted another amendment request. However, due to Permit Streamlining Act deadlines, the applicant withdrew the amendment request (ref. A-133-79-A3/F6760-A4).

The applicant then submitted another amendment request for the same project and a staff report was prepared for the October 2010 Commission hearing (ref. A-133-79-A4/F6760-A5). At the applicants' request the matter was postponed from the October 2010 hearing. However, due to Permit Streamlining Act deadlines, the applicant again withdrew the amendment request and then submitted another request. The subject amendment application includes all the same improvements approved by the City as well as the request addressing the public access.

This matter was scheduled for review by the Commission at the February 2011 Commission hearing in San Diego. However, at the applicants' request, the item was postponed. Since the last report was prepared and circulated for the October 2010 Commission hearing, Commission staff have received many calls and a number of letters from members of the public opposed to the proposed amendment (see Exhibit #10 attached). The concerns identified are many, but almost all request that the requirement to record the OTD on the subject site remain as it was originally required by the Commission in 1979.

Summary of Staff's Preliminary Recommendation:

Staff recommends that the Commission approve the proposed amendment subject to special conditions. The proposed amendment implements the settlement agreement in *Kretowicz v. California Coastal Commission*. However, as noted above, all settlement agreements are subject to formal Commission action within a public hearing. The proposal will delete the requirement that the applicant record an OTD for public vertical access in exchange for the payment of \$3.3 Million to be used to fund other access improvements in the La Jolla area including reconstruction of Angel's Flight stairway, a public stairway that used to extend from a public path (Coast Walk) down to the same beach that is below the subject site. The reconstruction of Angel's Flight would be a substantial public access amenity in this area.

The applicants are also seeking approval for a number of improvements to the blufftop home that have been completed without benefit of a CDP, including an addition to the home and a new jacuzzi spa and decks. The City has reviewed and approved these improvements through both Neighborhood and Site Development permits. Staff has found that most of the proposed after-the-fact improvements are acceptable and consistent with the certified LCP. However, the project includes an approximately 844 sq. ft. addition to the lower level of the home (enclosing and converting non-habitable space to habitable space), portions of which extend closer than 25 ft. from the bluff edge (approximately 73 sq. ft.). In addition, the project includes a new jacuzzi spa within the geologic setback area. Neither of these improvements is consistent with the provisions of the certified LCP, which requires such improvements to observe a minimum 25 ft.

setback from the bluff edge. Therefore, staff is recommending that revised plans be submitted which delete or relocate the spa and delete/remove the portions of the home within 25 ft. from the bluff edge. In addition, staff recommends that all “prior to issuance” special conditions be satisfied within 60 days of Commission action and that the portions of the home to be removed occur within 90 days of issuance of the permit amendment. With the proposed conditions, the project is consistent with the certified LCP and public access provisions of the Coastal Act. Therefore, staff recommends the Commission approve the amendment request, subject to the special conditions detailed herein.

Standard of Review: The City of San Diego certified Local Coastal Program (LCP) and the public access and recreation policies of the Coastal Act.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution.

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. A-133-79/F6760 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE A PERMIT AMENDMENT:

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

II. Special Conditions.

The permit amendment is subject to the following conditions:

The following shall replace Special Condition #1B of CDP #A-133-79/F6760 and is added as new Special Condition #1:

1. Payment of \$3,300,000.

- A. The applicants shall pay \$3,300,000.00 to the State Coastal Conservancy (Conservancy) or other entity as directed by the Executive Director of the Commission, in accordance with the agreement required in Subsection B below, to be used to fund reconstruction of the Angel's Flight public access stairway and various other public access improvements in the La Jolla area, including a grant of \$300,000.00 to the City of San Diego to be used exclusively for public access improvements. If the funds paid to the Conservancy are not spent to reconstruct the Angel's Flight public access stairway within five years of the Conservancy's acceptance of such funds, the Executive Director may require that such funds be used first to fund other new public beach access improvements within the La Jolla community. Alternatively, the Executive Director may require the funds to be used to fund other new public beach access improvements in the coastal area of Southern California.
- B. **WITHIN 120 DAYS OF THE COMMISSION'S APPROVAL OF THIS AMENDMENT**, the applicants shall provide to the Conservancy (or other entity approved by the Executive Director), through a financial instrument subject to review and written approval of the Executive Director (such as a credit card, cashier's check or wire transfer), \$800,000.00 payable to the Conservancy (or other entity approved by the Executive Director). An additional \$1,000,000.00 shall be paid twelve (12) months thereafter, an additional \$1,000,000.00 shall be paid twenty-four (24) months thereafter, and a final payment of \$500,000.00 shall be paid thirty-six (36) months thereafter. These funds shall be used for the purposes described in Subsection A above in accordance with a Memorandum of Understanding (MOU) that the Commission will enter into with the Conservancy (or other entity approved by the Executive Director) outlining how the funds are to be utilized.

The following shall replace Special Condition #1A of CDP #A-133-79 and is added as new Special Condition #2:

2. Public Lateral Access. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicants shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an easement for lateral public access and passive recreational use along the shoreline. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to the acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. The area of dedication shall consist of the entire width of the property from the mean high tide line to the toe of the bluff. The recorded document shall include legal descriptions of both the

entire project site and the area of dedication. The document shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

3. Lifeguard Emergency Vertical Access. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicants shall execute and record a document, in a form and content acceptable to the Executive Director, which grants to the City of San Diego an easement for emergency lifeguard access to the shoreline. The area of dedication shall consist of a corridor five (5) feet wide generally along the southern boundary of the property which shall extend from the Princess Street Right-of-Way to the mean high tide line. The easement shall also provide for a key to the gate or other means to allow access by the lifeguards. The grant of easement shall include formal legal descriptions of both the entire project site and the area of dedication. The document shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed and shall run with the land on behalf of the City of San Diego and the people of the State of California, binding all successors and assigns.

4. Revised Final Plans. WITHIN 60 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicants shall submit to the Executive Director for review and written approval, final plans for the proposed development, including a site plan that has been approved by the City of San Diego. Said plans shall be in substantial conformance with the plans prepared by Marengo Morton Architects, dated 3/15/10, except the plans shall be revised as follows:

- a. The proposed residential addition on the lower floor shall be revised such that no portion of the enclosed residence shall extend beyond (seaward of) the 25 ft. blufftop setback line. Those portions of the lower floor addition to the home that extend seaward of the 25 ft. bluff edge setback shall be deleted.
- b. The proposed jacuzzi spa and water feature located within the 25 ft. geologic setback area shall be deleted or relocated inland of the geologic setback area.
- c. The proposed fencing/gate in the south yard area shall be revised such that it does not extend beyond the southern property boundary onto the adjacent property, shall be no higher than 92 inches tall, shall not obstruct public views toward the ocean and shall have at least the upper 75 percent of its surface area open to light.
- d. All existing and proposed accessory improvements shall be identified. All accessory improvements (including, but not limited to, patios, decks, walkways, and open shade structures) proposed within the rear yard (west of the residence adjacent to the coastal bluff) area must be "at-grade" and located no closer than 5 ft. from the edge of the existing slope/bluff.

- e. The following shall be added as a note on the project plans:

“No development within 25 ft. of the identified bluff edge shall be allowed except for at-grade accessory improvements that are at least 5 ft. from the identified bluff edge.”

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

5. Revised Landscape/Yard Area Plans. WITHIN 60 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicants shall submit to the Executive Director for review and written approval, revised landscaping plans approved by the City of San Diego. The plans shall be in substantial conformance with the plans as submitted by Marengo Morton Architects dated 3/15/10, except for the revisions cited below. The plans shall be revised to keep the side yard (south of the residence) clear to enhance public views toward the ocean. Specifically, the plans shall be revised to incorporate the following:

- a. A view corridor a minimum of 4 ft. wide shall be preserved along the southern side yard. All new landscape materials within the southern yard area shall be species with a growth potential not expected to exceed three feet at maturity. In addition, all landscaping in the southern yard area shall be maintained at a height to preserve views toward the ocean.
- b. The landscape palette for all proposed new plants shall emphasize the use of drought-tolerant native species, but use of drought-tolerant, non-invasive ornamental species and lawn area, is allowed as a small component. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as ‘noxious weed’ by the State of California or the U.S. Federal Government shall be utilized.
- c. No permanent irrigation shall be permitted on the site. Drip irrigation for existing landscaping beyond the 40 ft. blufftop setback area may be permitted.
- d. A written commitment by the applicant that all required plants on this site shall be maintained in good growing condition and whenever necessary, shall be replaced with new plant materials to ensure compliance with the approved landscape requirements shall be included.
- e. Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.

f. Five years from the date of issuance of the coastal development permit, the applicant shall submit for review and written approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

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

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

6. Accessory Improvements. In the event that erosion or bluff failure threatens the accessory improvements located in the rear yard of the site (west of the residence adjacent to the coastal bluff) that are approved through this permit amendment, the threatened improvement(s) shall be removed. The approval of this permit shall not be construed as creating a right to shoreline protection under the certified LCP for such structures. By acceptance of this permit, the applicants hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under the certified LCP. Prior to removal of any accessory improvement, the applicants shall obtain a coastal development permit for such removal unless the Executive Director determines that no permit is legally required.

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

8. Deed Restriction. **WITHIN 60 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicants have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

9. Future Development. This permit is only for the development described in coastal development permit No. A-133-79-A5/F6760-A6. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply. Accordingly, any future improvements to the proposed single family residence, including, but not limited, to repair and maintenance identified as requiring a permit in Public Resources Code section 30610(d) and Title 14 California Code of Regulations section 13252(a)-(b), shall require an amendment to permit No. A-133-79-A5/F6760-A6 from the California Coastal Commission or shall require an additional coastal development permit from the applicable certified local government.

10. Open Space Restriction. No development (except for removal of flood lights, capping or removal of irrigation and removal of a drain pipe), as defined in section 30106 of the Coastal Act shall occur on that portion of the bluff face seaward of the bluff edge (as depicted in its current location on "Site Plan" by Marengo Morton Architects dated 3/15/10). This prohibition on development shall apply to the bluff face as the location of the bluff edge changes over time, due to erosion or other disturbances. The current location of the bluff face shall be described and depicted in an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit.

WITHIN 30 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT AND PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI FOR THIS PERMIT AMENDMENT, the applicants shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the current location of the portion of the subject property affected by this condition, as generally described above and shown on Exhibit #9 attached to this staff report.

11. Prior Conditions of Approval. The conditions of this amendment shall supersede and replace all others prior special conditions of Coastal Development Permit No. A-133-79/F6760, as amended.

12. Condition Compliance. Within the specified times required in each condition or within such additional time as the Executive Director may grant for good cause, the applicants shall satisfy all requirements specified in the conditions hereto that the applicants are required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

13. Implementation of Removal of Improvements. **WITHIN 90 DAYS OF EXECUTIVE DIRECTOR APPROVAL OF REVISED PLANS REQUIRED IN SPECIAL CONDITION NOS. 4 AND 5 OF AMENDED COASTAL DEVELOPMENT PERMIT NO. A-133-79-A5/F6760-A6,** or within such additional time as the Executive Director may grant for good cause, the applicants shall remove and/or modify the existing wall and gate located at the south side yard setback area and replace the wall and gate consistent with the plans approved pursuant to Special Condition #4 of this permit amendment. The applicants shall also remove the floodlights on the bluff face, the drainage pipe located on the northern bluff face, cap or remove all irrigation on the site (other than drip irrigation at least 40 ft. from the bluff edge) and remove the portions of the residence located on the lower level that extend beyond the 25 ft. bluff edge setback. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

III. Findings and Declarations.

The Commission finds and declares as follows:

1. Amendment Description. The proposed project represents an amendment to a coastal development permit approved by the Commission for the construction of a 3,693 sq. ft. addition to an existing 2,970 sq. ft. single-family residence in 1979. The proposal is to delete the requirement to record an offer to dedicate vertical public access easement, pay \$3.3 Million dollars towards access improvements, and approval of various other improvements, both new and after-the-fact. Specifically, the amendment request includes:

(1) The applicants propose to delete the existing requirement for recordation of an offer to dedicate vertical public access easement and replace it with the following:

- (a) Emergency Lifeguard Access. Upon issuance of the permit amendment, the applicants propose to grant to the City of San Diego an easement for emergency lifeguard access to the beach which shall be 5 ft. wide and run along the southern property boundary.

- (b) Fee Payment. Upon approval of the amendment, the applicants propose to pay a total of \$3.3 Million (Three Million Three Hundred Thousand Dollars) to the State Coastal Conservancy (or other entity as directed by the Executive Director) in installments, as detailed below, for the purpose of funding various coastal public access projects in the La Jolla area.

Payment Schedule:

- \$800,000.00 shall be paid within 120 days of approval of the amendment.
- \$1,000,000.00 shall be paid every twelve months thereafter, not to exceed a total payment of \$3,300,000.00.

The following components have already been constructed and are proposed to remain and be approved after-the-fact:

- (2) Construct concrete stairways along the south and eastern property boundaries.
- (3) Construct wall and fence across south side yard area (to be lifeguard emergency access).
- (4) Install decorative paving in City Right-of-Way leading up the house.
- (5) Construct new planter walls, entry trellis and 4 ft. high planter in public Right-of-Way.
- (6) Construct new fountain adjacent to eastern exterior stairway.
- (7) Replace second-story deck and add partial roof.
- (8) Construct new second-story cantilevered balcony.
- (9) Construct a 28 ft. long, 6 ft. high masonry wall in public right-of-way.
- (10) Extend height of existing retaining wall from 3 ft. 6-inches to 7 ft. 6-inches.
- (11) Construct modifications to non-conforming accessory structure (Casita) located partially within public right-of-way to include 52 sq. ft. bathroom addition, new doors, windows and expansion of existing walls.
- (12) Add approximately 844 sq. ft. to existing home (bedrooms, music and exercise room) by converting unimproved area beneath main home to living area, portions of which are located within 25 ft. of the bluff edge.
- (13) Remove wooden timber stairs and portion of retaining wall on bluff face.

The following components are new:

- (14) Interior garage improvements to include excavation and removal of approx. 130 cy. of uncompacted fill material to allow an additional parking space, a car lift and storage.
- (15) Remove floodlights from bluff face.
- (17) Remove landscape drainage pipe on northern bluff face.
- (18) Remove or cap irrigation on bluff face.
- (19) Install a new jacuzzi spa and trellis on existing main flood deck as well as a new water feature.
- (20) Install a photovoltaic system on the roof.

The 1.31 acre site is situated atop a 55-ft. high coastal bluff located off a cul-de-sac at the northern terminus of Princess Street in the La Jolla community of the City of San Diego. The existing residence is situated on the flatter portion of the site, directly adjacent to Princess Street, with the site sloping steeply down from the home to the north and west. There is no existing shoreline or bluff protection on the subject site. Surrounding development includes single family homes to the east and south and the Pacific Ocean to the north and west.

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

2. Detailed Project History. The home on the site was originally constructed around 1915. Over the years, the home was added to and remodeled several times. In June of 1977, the Regional Commission denied an application (#F5265) by Ms. Baker for a substantial addition (3,300 sq. ft.) to the existing home on the site, finding that the development would have a significant adverse impact on scenic resources in the area as it would significantly encroach onto the visually prominent bluff seaward of the existing home.

In June of 1978, the Regional Commission approved Ms. Baker's CDP #F6760 for construction of a 3,693 sq. ft. addition to the existing 2,970 sq. ft. single-family residence, finding that the project did not project further seaward than the existing line of development, thereby reducing its impact on visual resources (there is a discrepancy with the square footages called out in this permit and the subsequent actions. After review of

the final plans approved for the original project, the actual size of the addition and of the existing home is greater). The permit was approved with special conditions requiring that the development comply with the recommendations of the geology report, that the southwest corner of the proposed addition (15 ft. x 15 ft.) be cantilevered to “ensure the integrity of the slope”, and that the final drainage plans be submitted. The decision on this matter was subsequently appealed to the State Commission (A-221-78), but the State Commission found that the appeal raised no substantial issues on July 18, 1978. The grounds for the appeal were that inadequate public access findings were made.

A lawsuit was then filed against the Commission for, among other things, not having made adequate findings regarding public access and recreation as required by Section 30604 of the Coastal Act for development located between the first public road and the sea. The court subsequently found that the development was located between the first public road and the sea and that the finding on public access and recreation was not sufficiently specific to comply with the requirements of Section 30604(c) of the Act. The court ordered that the matter be remanded back to the Regional Commission for a specific finding on only the issue of public access and recreation. In addition, the court allowed the development to go forward in the interim because the petitioners failed to post the necessary bond for a stay. The Regional Commission subsequently adopted more specific findings regarding public access and recreation but did not impose any special requirements for the provision of public access at the site. This decision was then also appealed to the State Commission (A-133-79).

On September 20, 1979, the State Commission found that additional public access provisions should be required. Specifically, the Commission found:

...access to this pocket beach is only available at low tide due to the promontories which impede access to the beach from the nearest accessway to the shoreline which is located ¼ mile up coast. The Commission concludes, therefore, that adequate access does not exist nearby. Although the public has historically had access over the project site, construction of the project has preceded the use of this accessway, thereby diminishing the public’s right of access to the state owned tidelands. An alternative accessway must, therefore, be provided to offset the burdens this development has placed on the public’s constitutional right of access and to assure the conformity of the project with the provisions of Section 30212 of the Act.

The Commission imposed a special condition on the permit requiring the applicant to record offers to dedicate both lateral (across the ocean frontage of the parcel from the toe of the bluff to the mean high tide line) and vertical (5 ft. in width extending from Princess Street along the southern edge of the property next to the garage and then in a northwesterly direction along the top of slope and then back in a southwesterly direction, traversing down the face of the bluff to the beach) public access easements (ref. Exhibit #6 - Original Staff Report). By the time the Commission imposed the access conditions, however, the applicant had already completed construction of the proposed addition in compliance with the permit as previously issued. Therefore, the State Commission required that the vertical access be located in a slightly different location than the historic

trail in order to accommodate the addition. The then-owner, Ms. Baker, did not record the offers to dedicate access.

Because the permit for the addition was remanded, and subsequently issued during the litigation and appeal, it retained the original application number F6760. However, because the State Commission heard a second appeal, it gave the permit a new number – A-133-79. Therefore, the permit for the addition is identified by both numbers: A-133-79/F6760.

Then, in 1980, the applicant (Ms. Baker) requested and received approval of an amendment to the permit to authorize drainage structures which had already been constructed without authorization (ref. CDP #F6760-A1). That is, the applicant implemented the drainage improvements without authorization and subsequently received approval through an after-the-fact permit amendment for the revised drainage plans.

In 1988, the Commission certified the City of San Diego's Local Coastal Program and the City began issuing coastal development permits for development within its jurisdiction, including La Jolla where the subject site is located.

In 1994, the property became bank-owned through a foreclosure and the bank sold to Mr. and Mrs. Kretowicz, the now current owners and applicants. As noted above, the offers to dedicate lateral and vertical access had not been recorded.

In 1999, the City of San Diego approved a coastal development permit for construction of a pool with spa, a concrete deck, barbecue counter, retaining walls, drains and landscaping in the rear yard of the blufftop site that contains the existing single-family residence. The proposal also included removal of a number of existing unpermitted improvements (wooden timber stairs, retaining walls and palm trees) on the face of the coastal bluff. No changes to the existing single-family residential structure were proposed. The City's decision to approve the development was appealed by the Commission on June 25, 2001 (ref. Appeal #A-6-LJS-01-95). The basis of the appeal was that the proposed development was allegedly inconsistent with the certified LCP as it related to blufftop setbacks, geologic hazards, protection of public views and public access. In particular, a swimming pool was proposed projecting beyond the bluff edge of the subject site. The certified LCP requires such structures to be sited a minimum distance of 25 feet from the edge of the bluff. A second major issue raised with the project was that it was inconsistent with the conditions of approval of Coastal Development Permit #A-133-79/F6760, which required recordation of an offer for a public vertical access easement across the subject site.

The appeal was thus scheduled for Commission review. On August 6, 2001, the Commission found that a Substantial Issue existed with respect to the grounds on which the appeal was filed. The de novo review of the permit application was subsequently scheduled for the Commission's October, 2001 meeting and then again at its June, 2002 meeting. Both times the project was postponed by the applicants. Subsequently, on May 14, 2002, the project was withdrawn by the applicants, which resulted in no permit for the development at the City or the Coastal Commission. The City subsequently sued the

applicants over the unpermitted development that was present on the site (excavation in the garage). At this time, the applicants worked with both the Coastal Commission's enforcement staff as well as the City's code enforcement staff to resolve the outstanding violations.

As part of the resolution of the outstanding violations on the subject site (and the related litigation that the City had instituted against the applicants), the applicants entered into a "Stipulated Judgment" with the City of San Diego, dated April 4, 2004, and, as agreed upon by the City and the applicants, the applicants then proceeded to seek an amendment to the previous Coastal Development Permit with the Coastal Commission, concurrent with the City's Site Development Permit, to address all the unpermitted development. As explained above, the State Commission revised CDP #F6760 to include the requirements for public access. As noted above, some of the development proposed by the applicants would block access to the area of the offer to dedicate a public access easement that was required in CDP A-133-79/F6760.

Then in 2004, the applicants requested an amendment to the State/Regional Commission permit to: (1) replace the requirement for recordation of an offer to dedicate a vertical public access easement with a) an easement solely for emergency lifeguard access and, b) a contribution of \$10,000 to enhance coastal access or other coastal improvements in the La Jolla area; 2) after-the-fact approval for the removal of unpermitted improvements on the subject site consisting of rear wood timber stairs, a portion of a retaining wall within the five foot coastal bluff setback, palm trees and the irrigation system; 3) construct an at-grade concrete patio, barbeque counter, area drains, staircase and landscaping; and 4) construct interior garage improvements to include excavation and removal of approx. 130 cy. of uncompacted fill material to allow an additional parking space and a car lift and storage (ref. CDP #A-133-79-A1/F6760-A2/Kretowicz). On June 14, 2005, the Commission denied the applicants' request to replace/modify the previously required vertical public access easement; however, it approved all other proposed improvements with a requirement that they be modified such that no improvements occur within the alignment of the required access easement.

On August 5, 2005, the applicants filed litigation against the Commission regarding its decision to deny the modification to the previously required public access easement (ref. SDSC Case No. GIC 851915). The Commission subsequently filed a Cross-Complaint, claiming, among other things, violations of the Coastal Act. Subsequently, a settlement was reached and the applicants submitted an amendment request to modify the terms of the access easement (such that it would not be available for public access until 2081), pay \$200,000 towards the reconstruction of a nearby failed public access stair and install a public viewing platform pursuant to the terms of the settlement agreement (ref. CDP #A-133-79-A2/F6760-A3/Kretowicz). However, at the June 14, 2007 hearing on this item, the Commission raised concerns with the applicants' request and the matter was postponed by the applicants and subsequently withdrawn on November 20, 2007. The applicants and the Commission then negotiated an amended settlement agreement and the applicants applied to the City for approval. On December 2, 2008, the applicants received approval from the City of San Diego for Neighborhood and Site Development

Permits for the development and then submitted a new amendment application to the Commission (ref. A-133-79-A3/F6769-A4). However, due to Permit Streamlining Act deadlines, this application was subsequently withdrawn.

The applicants then submitted another amendment request for the same project and a staff report was prepared for the October 2010 Commission hearing (ref. A-133-79-A4/F6760-A5). At the applicants' request the matter was postponed from the October 2010 hearing. However, due to Permit Streamlining Act deadlines, the applicant again withdrew the amendment request and then submitted another request. The subject amendment application includes all the same improvements approved by the City as well as the request addressing the public access.

3. Public Access. Because this site is between the sea and the first public road parallel to the sea, pursuant to California Public Resources Code section 30604(c), any development must comply with the public access and recreation policies of the Coastal Act. Several policies of the Coastal Act require that new development protect or enhance public access and recreational opportunities to and along the shoreline. These policies include:

Section 30210

In carrying out the requirements of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. [emphasis added]

Section 30212

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

Section 30221

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

In addition, the certified La Jolla Community Plan and Local Coastal Program Land Use Plan states the following:

The City should ensure that new development does not restrict or prevent lateral vertical or visual access (as identified in Figure 9 and Appendix G) to the beach on property that lies between the shoreline and first public roadway, or to and from recreational areas and designated public open space easements. Further, in areas where physical vertical access to the shoreline does not exist within 500 feet of a private development project on the shoreline, consideration of a new accessway across private property should be analyzed. (p. 52)

Maintain, and where feasible, enhance and restore existing facilities including streets, public easements, stairways, pathways and parking areas to provide adequate public access to the shoreline. Detailed maps and specific subarea recommendations are provided in Appendix G. (p.57)

The project site is located between the ocean and the first public roadway (Princess Street/Spindrift Drive). The subject site is at the terminus of Princess Street in the La Jolla community of the City of San Diego. The site is a natural promontory overlooking the La Jolla Underwater Park and Ecological Reserve and is bounded on the north and west by the ocean. The beach below the subject site (and to the south) is a small rock/cobble beach bounded by steep bluffs that is only accessible from surrounding beaches, and then only at very low tides and only from the north (the nearest public access point is adjacent to the Marine Room, approximately ¼ mile to the north). There is no formal access to this beach from the south due to the existence of steep coastal bluffs and rocky shorelines.

Relative to public access, the proposed amendment is to delete the requirement to record an offer to dedicate a public vertical access easement. As described above in the “Detailed Project History” section, the Commission previously required recordation of an offer to dedicate (OTD) a public vertical access easement from the street to the beach as mitigation for impacts of a substantial home addition on a trail on the site that had historically been used by the public to access the beach in this location. While the OTD has never been recorded, in violation of the terms of the coastal development permit, due

to the inaccessibility of the beach below the subject site, the need to provide access to the beach at this location is just as important today as it was when the Commission originally required it in 1979. This has ultimately resulted in litigation filed against the Commission by the property owner. As a means to resolve the litigation, the applicants have proposed the subject amendment.

The subject amendment is to delete the requirement that public vertical access to the beach be provided on the subject site, in exchange for paying \$3.3 Million to fund public access improvements in the La Jolla area and immediate dedication of a vertical easement for emergency lifeguard access only. There are many other components to the proposed amendment, but no others that affect public access. To address this amendment, the Commission must determine if the proposed alternative measures are acceptable such that public access opportunities will not be diminished. In other words, do the proposed alternative measures provide the same level or greater public access than that previously required by the Commission in the original permit? Each of these components is addressed separately below.

a. Lifeguard Emergency Access.

The first alternative measure proposed by the applicants is to grant an easement to the City of San Diego for emergency lifeguard access across the site and down to the beach. While this measure is good and does help somewhat with public access, this was previously required by the Commission with the original permit. However, it too, was never recorded and remains a violation. Thus, the applicants' proposal to grant emergency lifeguard access complies with the Commission's previous decision and as such, does not mitigate or provide an "offsetting benefit" for the proposed elimination of the public vertical access.

b. Payment of \$3,300,000 towards Alternative Public Access in La Jolla.

Just down coast and across La Jolla Bay from the subject site is the Coast Walk public access. Coast Walk is a dirt path that runs along the top of the coastal bluff overlooking La Jolla Bay and runs between Coast Walk Drive and Coast Boulevard. Spectacular views of the ocean, La Jolla Bay and the north San Diego coastline are available from this very popular public accessway. Prior to around 1962, there used to be a public stairway, known as "Angel's Flight", leading down a steep gorge, known as the "Devil's Slide", from the Coast Walk path to the beach below (ref. Exhibit Nos. 1 & 7). Sometime around 1962, this historic stairway was destroyed by a fire and to date, has not been reconstructed. Today, at this location, there is an informal "trail" leading down the bluff to the beach. However, it is very steep and only accessible to the most able bodied individuals willing to risk scrambling down the trail.

The applicants are proposing with this amendment to pay \$3.3 Million to the State Coastal Conservancy for public access improvements in the La Jolla area. Of that, \$300,000 would be granted to the City of San Diego to upgrade and improve existing accessways in the La Jolla area. The remaining \$3 Million would be used to replace the

Angel's Flight historic stairway, as mitigation for eliminating the requirement to record a public access OTD on the subject site.

The first question to be asked in reviewing the applicants' request to delete the OTD requirement from the subject site is why even consider such a request. When first approached with this idea from the applicants, Commission staff inquired if the City was willing to pick up or accept the OTD on the subject site if it was recorded. At the time, City staff indicated that the City was not interested in accepting lateral/vertical access easements on the subject site, but instead would only consider an emergency lifeguard access. Recently, Commission staff received a letter from the City's Chief Operating Officer regarding this issue (ref. Exhibit #11 attached). In the letter, the City has indicated that after consulting with the City Fire and Life Safety and Parks and Recreation Departments, they do not support opening access to the public at the project site at this time, but do support emergency lifeguard access. As such, as the City does not support public access at Princess Street, the provision of a new replacement stairway at Angel's Flight was further analyzed.

From a public access standpoint, the proposal has merit. The beach accessed by the old Angel's Flight stairway is the same beach that would be accessed by a stairway on the applicants' property, just a little further down coast. As noted earlier, currently, the only way to access this particular beach is to walk on the beach from the north at very low tides or by scrambling down the bluff at the old Angel's Flight location. Thus, providing another means of access to this beach is very important and one of the main reasons the question of public access remains as critical today as it did in 1979, when the Commission first required the vertical access easement.

Another positive aspect of the applicants' proposal to fund replacement of the Angel's Flight stairway is that the replacement stairway is located directly off the Coast Walk public path and will likely be more available and accessible to the public than a stairway on the subject site, which would be located between two single-family residences. This is not to suggest that an accessway to the beach on the subject site is not important to improve public access, but the proposed stairway at Coast Walk would simply likely get more use by the public due to the existing popularity of the Coast Walk path.

On the other hand, the applicants' proposal does not assure that the Angel's Flight stairway will be replaced. The proposal is to provide \$3 Million for public access improvements that would be used to reconstruct the stairway. In 2007, Commission staff met with representatives from the City of San Diego Parks and Recreation Department as well as with representatives from the La Jolla Conservancy (a local non-profit organization) to discuss the replacement stairway. While no formal Memorandum of Understanding (MOU) has been drafted, both parties agreed the stairway reconstruction was a good idea. The La Jolla Conservancy expressed interest in being involved in facilitating the stairway reconstruction as well as locating additional funding to complete the project (if necessary). At that time, the City provided a very preliminary feasibility review which estimated the stairway reconstruction could cost close to \$1.7 Million (\$1,700,000.00) and then would also need to be maintained. Commission staff has not

been able to get a more updated figure since that time. However, taking into consideration cost of living adjustments since that time, the estimated cost to replace the stairway would still be less than \$3 Million, leaving room for added costs and future maintenance.

As noted above, the City has recently submitted a letter indicating they do not support public access at Princess Street at this time (ref. Exhibit #11 attached). In addition, the same letter indicates that the City does not support replacement of the Angel's Flight public access stairway either. Instead, the City has indicated that they recommend that the \$3.3 Million be used to reconstruct and improve existing public accessways in the La Jolla area that have been closed or are in need of repairs due to lack of funding. The City cites the reason for this position is that the beach accessed by this stairway and at Princess Street is not safe for use by the public due to its limited width and restricted visibility for lifeguards.

However, the public currently has access to this beach at very low tides from the north and does currently use it. Having an access stairway would provide better and safer access than what currently exists. While replacement of this stairway is not currently on any City list of needed/necessary access improvements for La Jolla, given its previous historic status and the need for safe public access to this beach, there is an interest by the public to see this stairway replaced (however, the Commission has received several letters of opposition from Coast Walk neighbors opposed to the new stairway). With the help of the La Jolla Conservancy and others, the Commission finds that replacement of this stairway should still be feasible.

While providing the entire \$3.3 Million to the City would help improve existing public accessways that are either closed or in various stages of disrepair, it would not address the issue of replacement access to the beach at this location, which is the impact that the Commission is trying to mitigate as the result of the removal of the vertical access requirement from the subject permit. As such, the Commission does not support the payment of the entire amount to the City, but instead continues to support the replacement of the Angel's Flight stairway. In addition, \$300,000 would still go to the City of San Diego to help fund much needed repairs to existing public accessways in the La Jolla area. Many accessways have gone without needed maintenance for years, resulting in the closure of some, as no money has been available for necessary maintenance. Thus, while not providing new access, this money would help open up existing accessways that have been closed and/or provide necessary repairs to others, thereby improving public access in the area.

To assure the applicants' proposed alternative measures are implemented, several special conditions are proposed. Special Condition Nos. 2 and 3 require that prior to issuance of the permit amendment, the applicants execute and record a lateral access easement along the beach and a document granting to the City of San Diego an easement for emergency lifeguard access that extends generally along the southern property boundary in a 5 ft. wide corridor from the street to the mean high tide line. Special Condition #1 addresses the mitigation payment proposed by the applicants. This condition requires that the

Commission and an identified third party enter into a Memorandum of Understanding (MOU) that addresses the disposition of the \$3.3 Million. The condition details how the funds are to be used and includes a schedule of payments. In addition, the condition also specifies that if \$3 Million of the mitigation funds are not used to fund the reconstruction of the Angel's Flight stairway within five years of acceptance of the funds, then the funds shall first be used for other new public beach access improvements in the La Jolla community; alternatively within the coastal area of Southern California. Thus, if the Angel's Flight stairway cannot be reconstructed, the money could be used to fund a new beach accessway in the same general area of La Jolla such as a new stairway from a street end to the beach or a new stairway where currently only informal access exists. In choosing such a site, priority would be given to sites that have availability of public parking, proximity to useable beach areas, etc.

In summary, the proposed amendment will result in changes to previously required public access provisions on a blufftop property in La Jolla. In exchange for deleting the requirement for recordation of a public access OTD on the subject site, the applicants will provide emergency lifeguard access down the bluff to the beach and pay \$3.3 Million to be used to fund reconstruction of the Angel's Flight stairway and public access improvements in the La Jolla area. The Commission has reviewed the applicants' request and has determined that the proposal to pay \$3.3 Million for public access improvements elsewhere is acceptable, as it will provide access to the same beach as the access required in the original permit or in very close proximity. Thus, this beach will arguably be more accessible to the public than under the original requirement, and the funds will restore an historic public accessway. Thus, the proposed alternative access will be at least as good as that previously required. Based on the above discussion, the Commission finds the proposed amendment, as conditioned, is consistent with the above cited access provisions of the Coastal Act and the City's certified LCP.

4. Blufftop Setbacks/Geologic Safety. The subject site is located on a blufftop lot located at the north end of the cul-de-sac of Princess Street where it meets Spindrift Drive in La Jolla. The proposed project includes various accessory improvements close to the bluff edge as well as additions to the home within 40 ft. of the bluff edge and some closer than 25 ft. from the bluff edge. The bluffs are steep and exist on both the north and west sides of the subject site. The existing residence is located on the flat part of the site close to the street frontage. From the street frontage, access to the rear yard is gained from the south side of the residence where there is a gate. Beyond the gate, there is a concrete walkway and steps which lead down in elevation to the back yard. As one turns the corner of the house in the back yard, there is a small flat lawn area immediately adjacent to the house. Grass and other vegetation then cascades down the south-facing and north-facing bluff face of the subject site. Also in the rear yard, on the north side of the residence, there is an improved at-grade concrete patio and a deck at the upper story of the residence. The shoreline below the site is a rocky shoreline and there is no existing improved physical access to this area due to the steepness of the bluffs. There are no existing seawalls or bluff retaining walls on the subject site and none are proposed with the subject amendment request.

The proposed development raises several concerns related to the shoreline hazards provisions of the certified LCP as they relate to blufftop setbacks. Pursuant to the City's certified LCP, all proposed development on a coastal bluff must observe a required setback of 40 feet from the bluff edge, unless a site-specific geology report is completed which makes findings that a lesser setback can be permitted. Specifically, Section 143.0143 addressing Development Regulations for Sensitive Coastal Bluffs states the following:

- (f) All *development* including buildings, *accessory structures*, and any addition to existing *structures* shall be set back at least 40 feet from the *coastal bluff edge*, except as follows:
 - (1) The City Manager may permit *structures* to be located between 25 and 40 feet from the bluff edge where the evidence contained in a geology report indicates that the site is stable enough to support the *development* at the proposed distance from the *coastal bluff edge* and the project can be designed so that it will not be subject to or contribute to significant geologic instability throughout the anticipated life span of the primary *structures*, and no shoreline protection is required. Reductions from the 40-foot setback shall be approved only if the geology report concludes the *structure* will not be subject to significant geologic instability, and not require construction of shoreline protection measures throughout the economic life span of the *structure*. In addition, the applicants shall accept a deed restriction to waive all rights to protective devices associated with the subject property. The geology report shall contain:
 - (A) An analysis of bluff retreat and coastal stability for the project site, according to accepted professional standards;
 - (B) An analysis of the potential effects on bluff stability of rising sea levels, using latest scientific information;
 - (C) An analysis of the potential effects of past and projected El Nino events on bluff stability;
 - (D) An analysis of whether this section of coastline is under a process of retreat.
 - (2) *Accessory structures* and landscape features customary and incidental to residential uses shall not be closer than 5 feet to the *coastal bluff edge* provided, however, that these shall be located at *grade*. *Accessory structures* and features may be landscaping, walkways, unenclosed patios, open shade *structures*, decks that are less than 3 feet above grade, lighting standards, *fences* and wall, seating benches, *signs*, or similar *structures* and features, excluding garages, carports, building, pools, spas, and upper *floor* decks with load-bearing support *structures*.

In addition, the policies and guidelines of the certified La Jolla-La Jolla Shores LCP also contain the following related provisions:

“The shoreline bluffs are one of La Jolla’s most scenic natural resources...Over time, as the bluffs continue to recede, existing developments will become increasingly susceptible to bluff hazards. In many cases, seawalls, revetments, and other types of erosion control structures will be required to stabilize the bluff. Such structures, while necessary to protect private property, are poor substitutes for adequate site planning....”

The LCP then goes on to cite the following guidelines:

[...]

“The geotechnical report...should document that the “area of demonstration” is stable enough to support the proposed development and that the project can be designed so that it will neither be subject to nor contribute to significant geologic instability throughout the estimated lifespan of the project structures....”

To find the proposed project consistent with the above-cited provisions of the LCP, the Commission must find that the proposed improvements will be safe and not require a seawall or other shoreline protective device to protect them into the future. To determine an appropriate safe setback for new development, the LCP requires the submission of an analysis of the stability of the bluff be completed according to accepted professional standards, which includes that not only the long-term erosion rate be adequately identified but also that the geotechnical report demonstrate an adequate factor of safety against slope failure (i.e., landsliding), of 1.5 or greater will be maintained throughout its economic life.

To that end, the applicants’ geotechnical representatives have prepared quantitative slope stability analyses for the site. The analyses show that the factor of safety for the most critical failure surfaces varied from 1.73 to 1.99 seaward of the existing residence after 75 years. Thus, the geotechnical reports completed for the project conclude that the new development will not be affected by bluff instability, will not contribute to significant geologic instability and will not require any shoreline protection measures, throughout the anticipated 75 year economic life span of the structure(s). The Commission’s staff geologist has reviewed the applicants’ technical reports and has concurred that the proposed residential improvements/additions will be safe for their anticipated 75-year expected life, consistent with the LCP requirements cited above.

The proposed improvements include accessory improvements and various additions/revisions to walls and decks, the majority of which are located inland of the geologic setback area. However, as part of the after-the-fact improvements, the applicants are proposing to maintain an 844 sq. ft. addition to the home on the lower level that was constructed by enclosing existing non-habitable/unimproved areas and patios to create a gym and bedroom. When the major addition to the home was approved in 1978,

the Commission allowed the newly added portions of the home to extend, in some locations, up to 5 ft. from the bluff edge. Since that time, the City has adopted ordinances, as cited above, which prohibit residential structures any closer than 25 ft. from the bluff edge. While the entire addition proposed for approval with this amendment is located below and within the footprint (albeit non-conforming) of the existing home, portions of this addition extend beyond the 25 ft. bluff edge setback. There are two areas of the proposed addition that extend into the 25 ft. setback area (ref. Exhibit #3). One is located on the northern most portion of the site. This area was expanded to create a bedroom and extends approximately 3 ft. into the 25 ft. setback area (total area of 7.35 sq. ft.). The other area is located on the northwestern portion of the site. It was expanded to create a gym and extends approximately 7 ft. into the 25 ft. setback area (total area of 65.6 sq. ft.).

In addition, the applicants are proposing to install a new spa and water feature within the 25 ft. blufftop setback area as well. As noted above, the applicants' technical consultants and the Commission's staff geologist both conclude that the proposed improvements are safe and will not be subject to threat for their estimated life. The City found, in its review of the project (Site Development Permit) for the additions and spa, that because the addition areas would be located below and within the footprint of the existing home and no new grading or ground disturbance was necessary, the project could be found consistent with the City regulations. However, as also noted above, the LCP does not allow principal improvements, including pools and spas, to be located closer than 25 ft. from the bluff edge. In other words, on blufftop properties, no principal structures can be sited any closer than 25 ft. from the bluff edge, even if, from a geologic standpoint, the structures would be safe from threat for their estimated economic life.

One of the reasons for the minimum 25 ft. bluff edge setback in the LCP on ocean fronting properties such as this is to acknowledge that estimating the safety of structures and determining safe geologic setbacks is not an exact science. There have been many instances in San Diego County where a geologic report states a certain bluff edge setback is adequate and then some years later, the bluff fails and the property owners are requesting emergency permits to construct seawalls. Thus, the minimum 25 ft. setback provides a "buffer" area should the bluff sustain an unexpected failure in the future. In addition, the minimum 25 ft. setback area also serves to keep structures back from the edge to reduce their visibility from the beach and other off-site public locations. Additionally, pools and spas, due to their weight and potential for leakage, are also treated as principal structures and must also maintain a minimum 25 ft. bluff edge setback. The LCP does not contain any provisions to allow development to be sited any closer than 25 ft. from the bluff edge. As such, the development cannot be found consistent with the certified LCP.

According to the applicants' representative, the 844 sq. ft. addition was accomplished by simply closing in an existing unimproved patio area underneath the existing home, and no new foundations or structural improvements were constructed. In addition, the new spa is proposed to be constructed on retaining walls that support an existing deck structure. Based on a review of the project plans, because there are no foundation

improvements, it appears that the portions of the two rooms that extend beyond the 25 ft. bluff edge setback could be removed and still maintain the overall function of the rooms. In addition, as the spa has not been built, it can simply be deleted from the plans. Therefore, rather than deny the entire addition, the Commission, through Special Condition #4a, requires that the applicants submit revised plans which indicate that those portions of the home within the 25 ft. setback area have been eliminated. In addition, Special Condition #4b requires that the spa be deleted from the plans or moved elsewhere on the site inland of the 25 ft. setback. Because the portions of the home in the setback area already exist, Special Condition Nos. 12 and 13 require that the revised plans, approved by the City of San Diego, be submitted within 60 days of Commission action and that the portions of the room extending beyond the 25 ft. setback be removed within 90 days of issuance of the amended permit.

The subject amendment also includes a request for after-the-fact authorization for removal of several unpermitted improvements beyond the bluff edge and on the face of the coastal bluff. These improvements included several wooden timber stairs, retaining walls and palm trees. However, as noted, all of these improvements have been removed. The applicants are also proposing with this application to remove some additional improvements that are also on the face of the bluff. These include a couple of flood lights, a plastic drain pipe extending down the bluff on its surface and capping or removing existing irrigation on the face of the bluff. All of these improvements can be removed without disturbing the bluff and do not raise any coastal resource issues. Again, as these improvements already exist, Special Condition #13 requires that they be removed within 90 days of issuance of the amended permit.

All other existing or proposed accessory improvements will observe a minimum 5 ft. setback from the bluff edge and are at-grade, consistent with the certified LCP. Given that the accessory improvements are closest to the bluff edge, there is the potential for these improvements to be subject to threat from erosion in the future leading to a request for shore/bluff protection. However, the certified LCP does not allow for shoreline protection devices to protect accessory improvements. As such, Special Condition #6 puts the applicants on notice that if the accessory improvements become threatened in the future, they should be moved/removed rather than anticipate shoreline protection to maintain them in place.

Although the Commission finds that the proposed improvements to the home have been designed to minimize the risks associated with their construction, the Commission also recognizes the inherent risk of blufftop development. There is a risk of damage to the proposed improvements as a result of erosion and sea level rise over time. Given that the applicants have chosen to construct these improvements despite these risks, the applicants must assume the risks. Accordingly, Special Condition #7 requires the applicants to acknowledge the risks associated with this development, waiving any claims against the Commission for injury or damage that may result from such hazards, and agreeing to indemnify the Commission against claims for damages that may be brought by third parties against the Commission as a result of its approval of this permit.

Special Condition #8 requires the permit and findings be recorded to assure future property owners are aware of the permit conditions.

Special Condition #9 has been attached which requires that an amendment be approved for any future additions to the residence or other development as defined by the Coastal Act on the subject site. Requiring an amendment for all future development allows the Commission to insure that such development will not create or lead to the instability of the coastal bluffs, impacts to public access, adverse visual impacts or result in the construction or enlargement of the existing structure in a high risk area. To further protect the geologic integrity of the coastal bluff seaward of the residence, Special Condition #10 requires that an open space deed restriction be placed over the bluff face to prohibit construction or the placement of any structures on it (with the exception of the removal of the unpermitted improvements, irrigation piping and drains) and to protect it in perpetuity.

In summary, the applicants have documented and the Commission's technical staff has concurred that the proposed improvements can be sited safely on the site without the need for shoreline protection in the future. With conditions requiring those portions of the home and the spa within the 25 ft. setback area be deleted/removed (total square footage of home area to be removed is 72.95 sq. ft.), the integrity of the coastal bluff will be assured, consistent with the geologic and blufftop stability provisions of the City's certified LCP. Therefore, the proposed development, as conditioned, is consistent with the provisions of the certified LCP addressing geologic hazards and blufftop setbacks.

5. Public Views. In terms of protection of scenic quality and the visual resources of the subject site, the certified LCP and the La Jolla Community Plan contain numerous policies addressing the protection of public views to the ocean. Some of these include:

Public views from identified vantage points, to and from La Jolla's community landmarks and scenic vistas of the ocean, beach and bluff areas, hillsides and canyons shall be retained and enhanced for public use....

Public views to the ocean from the first public roadway adjacent to the ocean shall be preserved and enhanced, including visual access across private coastal properties at yards and setbacks....

Protect public views to and along the shoreline as well as to all designated open space areas and scenic resources from public vantage points...Design and site proposed development that may affect an existing or potential public view to be protected...in such a manner as to preserve, enhance or restore the designated public view....

Implement the regulation of the building envelope to preserve public views through the height, setback, landscaping and fence transparency regulation of the Land Development Code that limit the building profile and maximize view opportunities....

View corridors utilizing side yard setbacks, should be encouraged along shoreline and blufftop areas, in order to avoid a continuous wall effect. Even narrow corridors create visual interest and allow for sea breezes to refresh passersby....

- Setbacks and view corridors should be kept clear of trash receptacles, utility boxes, storage materials, untrimmed landscaping or any other obstructions which may interfere with visual access.

In addition, the certified Land Development Code contains similar provisions. Section 132.0403 of the Land Development Code states the following:

- (a) If there is an existing or potential public view and the site is designated in the applicable *land use plan* as a public view to be protected,
 - (1) The applicant shall design and site the *coastal development* in such a manner as to preserve, enhance or restore the designated public view, and
 - (2) The decision maker shall condition the project to ensure that critical public views to the ocean and shoreline are maintained or enhanced.
- (b) A visual corridor of not less than the side *yard* setbacks or more than 10 feet in width, and running the full depth of the *premises*, shall be preserved as a deed restriction as condition of Coastal Development permit approval whenever the following conditions exist [emphasis added]:
 - (1) The proposed *development* is located on *premises* that lies between the shoreline and the first public roadway, as designated on Map Drawing No. C-731; and
 - (2) The requirement for a visual corridor is feasible and will serve to preserve, enhance or restore public views of the ocean or shoreline identified in the applicable *land use plan*.
- (c) If there is an existing or potential public view between the ocean and the first public roadway, but the site is not designated in a land use plan as a view to be protected, it is intended that views to the ocean shall be preserved, enhanced or restored by deed restricting required side yard setback areas to cumulatively form functional view corridors and preventing a walled off effect from authorized development.

[...]
- (e) *Open fencing* and landscaping may be permitted within the view corridors and visual accessways, provided such improvements do not significantly obstruct public views of the ocean. Landscaping shall be planted and maintained to preserve public views.

In addition, the City's certified implementation plan defines open fencing as "a fence designed to permit public views that has at least 75 percent of its surface area open to light." The intent of the above-cited language in the certified LCP is to enhance or maintain any potential public views across a property between the first coastal road and sea.

The subject site is located at the northwest corner of Princess Street and Spindrift Drive in La Jolla on a coastal blufftop lot. The site is located within a major scenic viewshed, as identified in the certified Land Use Plan and between the first public road and the sea. The proposed amendment raises a couple of issues with regard to protection of public views. First, the proposed fence/wall and gate at the entrance to the vertical access easement may impact public views from the public right-of-way as well as from an existing informal viewing area on Spindrift. The second relates to the proposal to contribute funds for construction of a new public access stairway. The public access itself could result in public view impacts.

Relative to the fence/wall and gate, as noted above, on properties located between the first public road and the sea and/or on properties that contain designated view sheds, the LCP requires that public views be protected by, among other things, requiring that the side yard setback area(s) be deed restricted to assure structures and landscaping do not interfere with public views. In the case of the subject site, public views of the ocean are available along the south side yard area from Princess Street as well as from an informal viewing area adjacent to Spindrift Street over the residence. There is an existing concrete stairway in the southern side yard. However, beyond the stairway further south along the side yard, there is an existing hedge which could impede public views to the ocean. While no new landscaping is proposed, there is the potential that in the future, trees or other tall shrubs could be planted within this side yard area. For this reason, Special Condition #5 requires the south yard area be maintained free of vegetation greater than 3 ft. in height, such that no new trees or tall hedges are planted, in order to preserve views of the ocean in this viewshed. In addition, currently there is existing landscaping within the south side yard setback area that partially obstructs views to the ocean from not only the existing informal public viewing area, but also from the end of Princess Street looking towards the ocean through the south side yard. While this landscaping need not be removed, Special Condition #5 requires that it be trimmed such that ocean views are not affected. This condition also requires that any new plant materials be mostly drought-tolerant native species (no invasive species) and that in 5 years a landscape monitoring report be submitted documenting that the landscaping is consistent with the landscape plans approved with this action.

However, the fence/wall and gate proposed to be retained will affect public views along this view corridor and are not consistent with the provisions of the certified LCP cited above in that neither the wall nor the fence have been designed such that 75% of their surface area is open. The existing fence/wall and gate extend across the south side yard adjacent to Princess Street. As proposed, the gate is 92 inches tall and 48 inches wide and is constructed with a wood frame (approximately 6 inches wide on either side and approximately 9 inches wide on the top and bottom) with a wire mesh middle section.

One side is attached to the home and other to a free standing solid stucco wall that is 92 inches tall and approximately 32 inches wide that extends beyond the property line onto the adjacent property to the south. Based on the plans submitted with this application, the proposed gate only retains approximately 50% of its surface area as open and the stucco wall is solid, with no open area. Thus, both the gate and the wall are inconsistent with the certified LCP.

The south side yard area is the only area on the property where public views are available to the ocean. Thus, maintaining these existing public views is important. To assure public views are maintained, Special Condition #4c requires that the fence/wall and gate be revised such that the upper 75% of the surface area of each is open and that no portion extends onto the adjacent property to the south. This condition also requires that revised plans first be approved by the City of San Diego. Because the fence/wall and gate are currently existing, Special Condition Nos. 12 and 13 require that the revised plans, approved by the City of San Diego, be submitted within 60 days of Commission action and that the fence/wall and gate be removed within 90 days of issuance of the amended permit.

Currently, ocean views are available over the existing home and between the existing home and the home to the south from an informal public viewing area along Spindrift. None of the proposed improvements will result in public view impediments from this viewing area. With the requirement that landscaping be trimmed to maintain views and the fence/gate be modified in the south yard area, the Commission can be assured public views will be maintained into the future.

The last issue raised by the subject amendment relates to the proposed mitigation for revising the vertical access. As noted in the project description, the applicants are proposing to pay \$3.3 Million to delete the requirements for providing public access on the subject site and provide funding for other public access improvements in the La Jolla area, including rebuilding the Angel's Flight public stairway. While the construction of a public access stairway down the face of a coastal bluff can result in public view impacts, in this particular case, the stairway will be located where a stairway previously existed, but was destroyed by fire many years ago. In addition, this amendment is not permitting that stairway; a separate coastal development permit will be required for that development and impacts on scenic visual resources will be addressed at that time.

In summary, there are existing public views of the ocean that will be affected by the subject development. The existing wall and gate proposed to be retained result in public view impacts and are inconsistent with the certified LCP. As conditioned to revise these structures and to assure all landscaping in the south side yard setback area is low level, not to exceed three feet in height, public views will be protected, consistent with the above-cited provisions of the certified LCP.

6. Unpermitted Development. Unpermitted development has been carried out on the subject site without the required coastal development permit. The applicants are requesting after-the-fact authorization for numerous improvements to the existing home to include construction of concrete stairways, walls and fences, garage improvements, decorative

paving in the public Right-of-Way, new planters and trellises, second story-deck and roof and balcony and modifications to non-conforming structure located partially in the public Right-of-Way. Also, requested are after-the-fact additions to the home.

To ensure that the matter of unpermitted development is resolved in a timely manner, Special Condition #12 requires that the applicants satisfy all conditions of this permit amendment within the specified times required in each condition, or within such additional time as the Executive Director may grant for good cause. In addition, because many components of the amendment have already been constructed and through this amendment are required to be revised, Special Condition #13 requires that within 90 days of Executive Director approval of the required revised plans pursuant to Special Condition Nos. 4 and 5, the applicants shall remove the existing improvements consistent with the plans approved pursuant to Special Condition Nos. 3 and 4 of this permit amendment.

Although development has taken place prior to the submission of this amendment request, consideration of the request by the Commission has been based solely upon the certified City of San Diego LCP and the public access and recreation policies of the Coastal Act. Commission action upon the permit amendment does not constitute a waiver of any legal action with regard to the alleged violations of the Coastal Act that may have occurred; nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit.

7. Local Coastal Planning. The subject site is zoned RS-1-7 and is designated for residential use in the certified La Jolla Land Use Plan. The proposed project is consistent with that zone and designation. The subject site consists of a sensitive coastal bluff as identified in the City's certified LCP. The Environmentally Sensitive Lands (ESL overlay) regulations of the City's implementation plan are thus applicable to the subject site. The proposed improvements, as conditioned, are consistent with the ESL overlay.

The certified La Jolla Community Plan and Local Coastal Program Land Use Plan contain policies that address shoreline protective devices, protection and improvement of existing visual access to the shoreline, and policies stating that ocean views should be maintained in future development and redevelopment. In addition, the certified LUP requires that structures be set back adequately from the coastal bluff to protect the geologic integrity and visual resources of the coastal bluffs and shoreline areas. As conditioned, the proposed development is consistent with the shoreline hazards provisions and all other relevant provisions of the certified LUP. It is also consistent with the public access and recreation policies of the Coastal Act. Therefore, the proposed development, as conditioned, is consistent with the certified LCP and the relevant policies of the Coastal Act and can be approved.

8. Consistency with the California Environmental Quality Act (CEQA). The Commission incorporates its findings above in sections 1 through 7 regarding Coastal Act consistency and LCP consistency at this point in support of its CEQA findings. Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the

permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the certified LCP and the public access and recreation policies of the Coastal Act. Mitigation measures, including conditions addressing payment of the fee, revised plans and open space on the bluff face will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.



2008 photograph of subject site from Coastal Records Project (Copyright © 2002-2010 Kenneth & Gabrielle Adelman - Adelman@Adelman.COM).

OCEAN

SAN DIEGO

LA JOLLA

UNDERWATER PARK

ECOLOGICAL RESERVE

LA JOLLA BAY

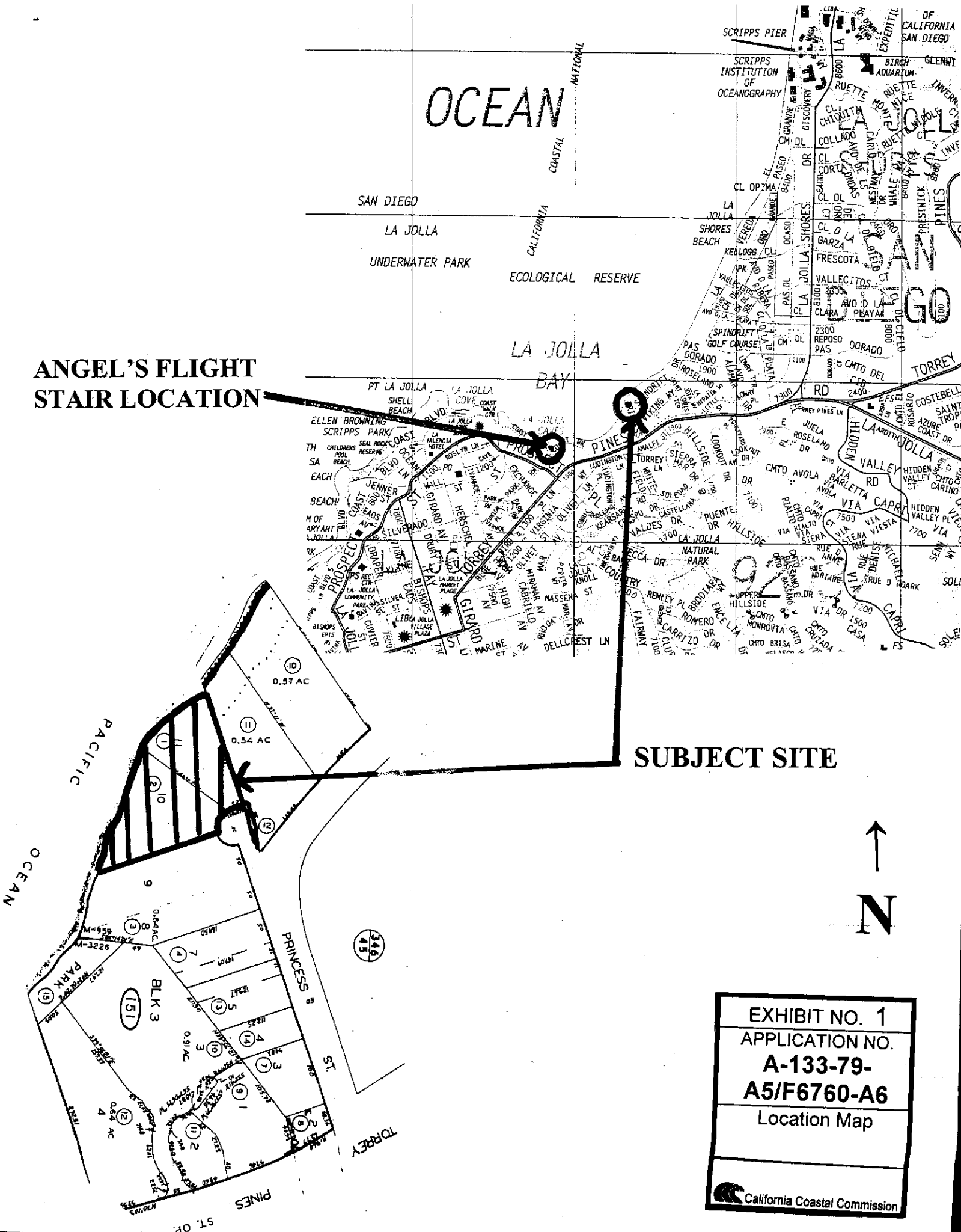
ANGEL'S FLIGHT STAIR LOCATION

SUBJECT SITE



EXHIBIT NO. 1
 APPLICATION NO.
A-133-79-
A5/F6760-A6
 Location Map

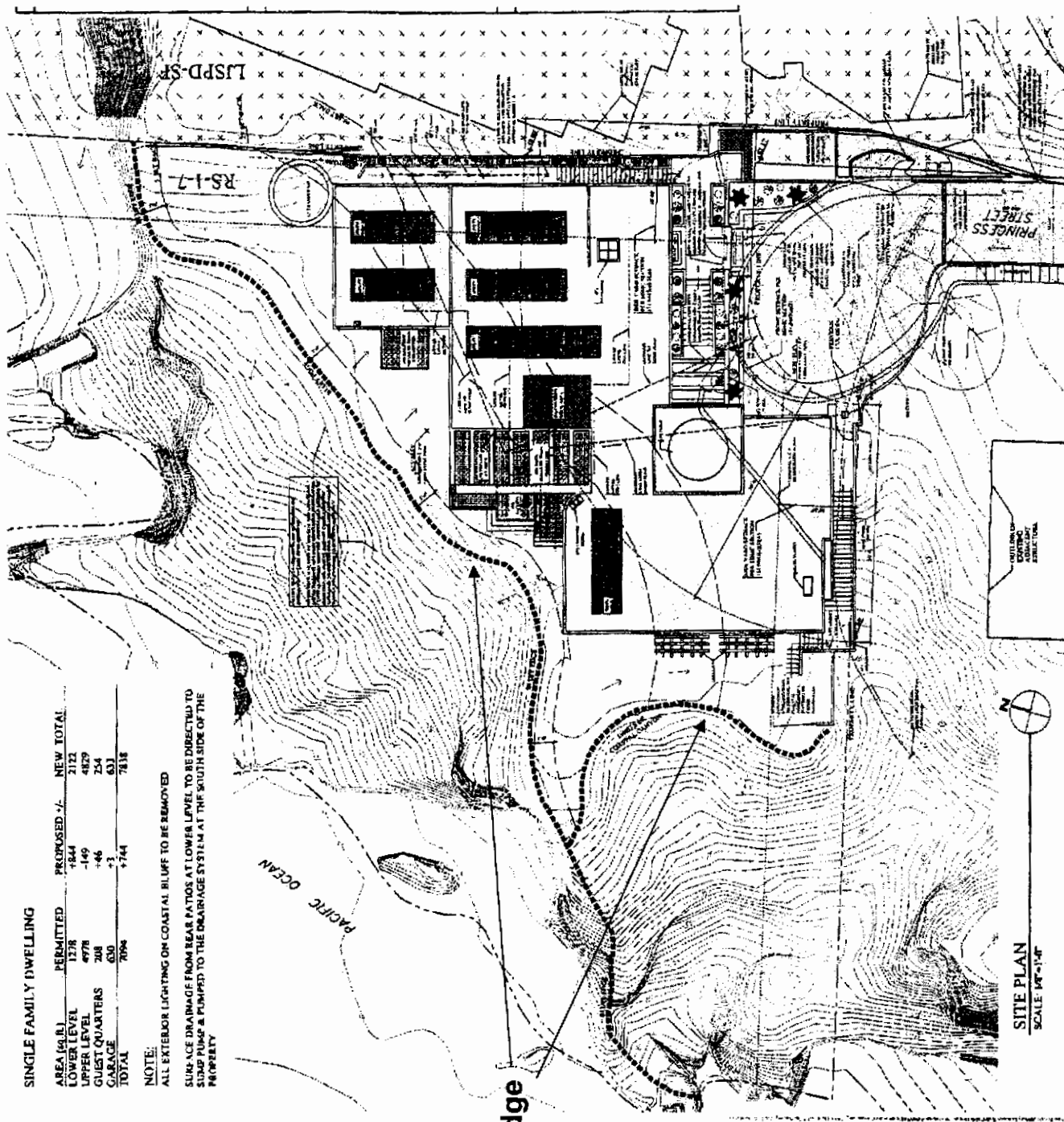
California Coastal Commission



SINGLE FAMILY DWELLING

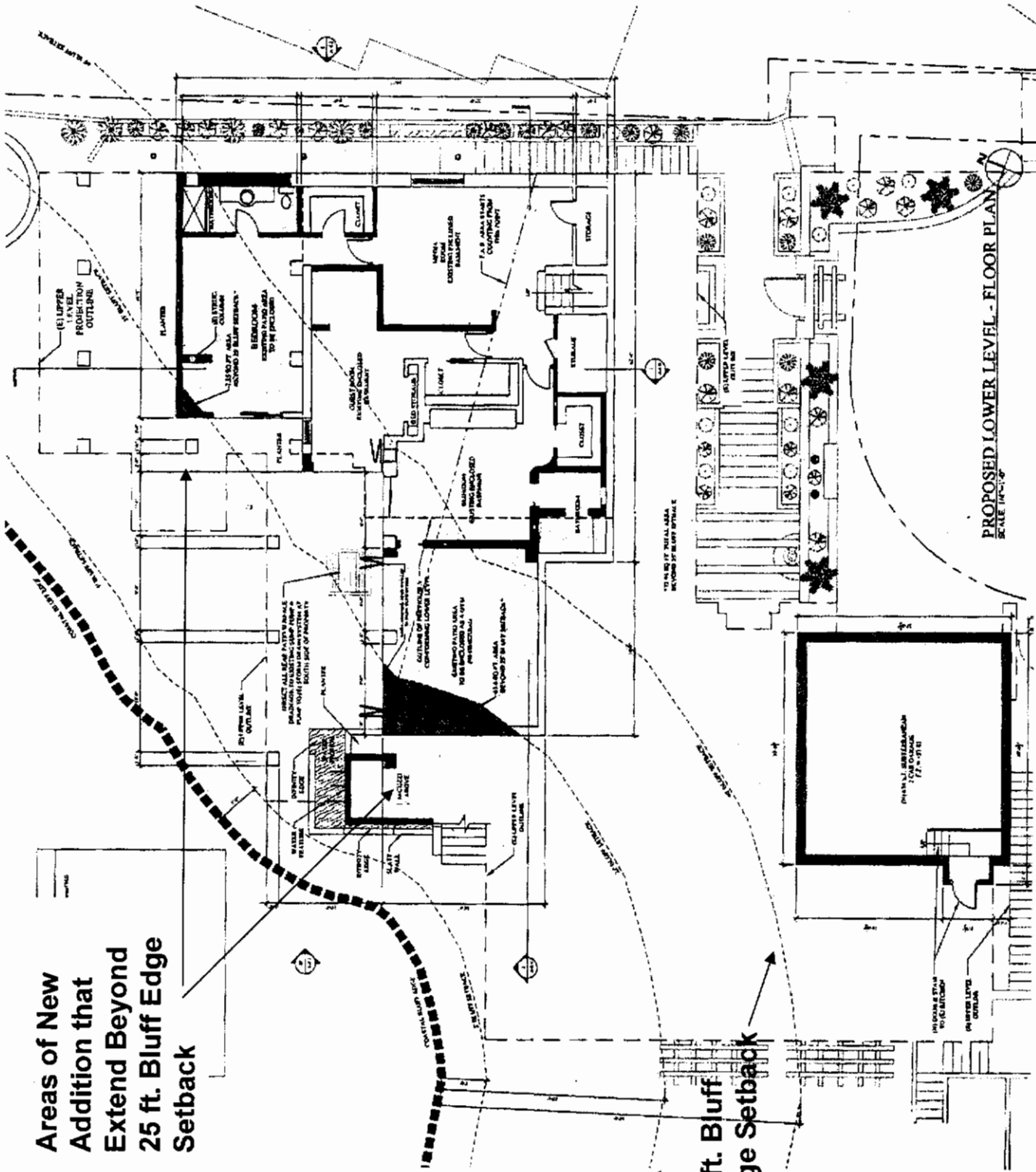
AREA (sq.ft.)	PERMITTED	PROPOSED +/-	NEW TOTAL
LOWER LEVEL	1378	-2844	2122
UPPER LEVEL	4778	-149	4629
GUEST QUARTERS	208	-46	254
GARAGE	650	-3	631
TOTAL	7094	-744	7818

NOTE:
 ALL EXTERIOR LIGHTING ON COASTAL BLUFF TO BE REMOVED
 SURFACE DRAINAGE FROM REAR PATIOS AT LOWER LEVEL TO BE DIRECTED TO
 STUMP PUMP & PUMPED TO THE DRAINAGE SYSTEM AT THE SOUTH SIDE OF THE
 PROPERTY.



Bluff Edge

EXHIBIT NO. 2
APPLICATION NO.
A-133-79-
A5/F6760-A6
Site Plan

Areas of New Addition that Extend Beyond 25 ft. Bluff Edge Setback



25 ft. Bluff Edge Setback

40 ft. Bluff Edge Setback

EXHIBIT NO. 3
APPLICATION NO.
A-133-79-
A5/F6760-A6
Floor Plan – Lower Level
 California Coastal Commission

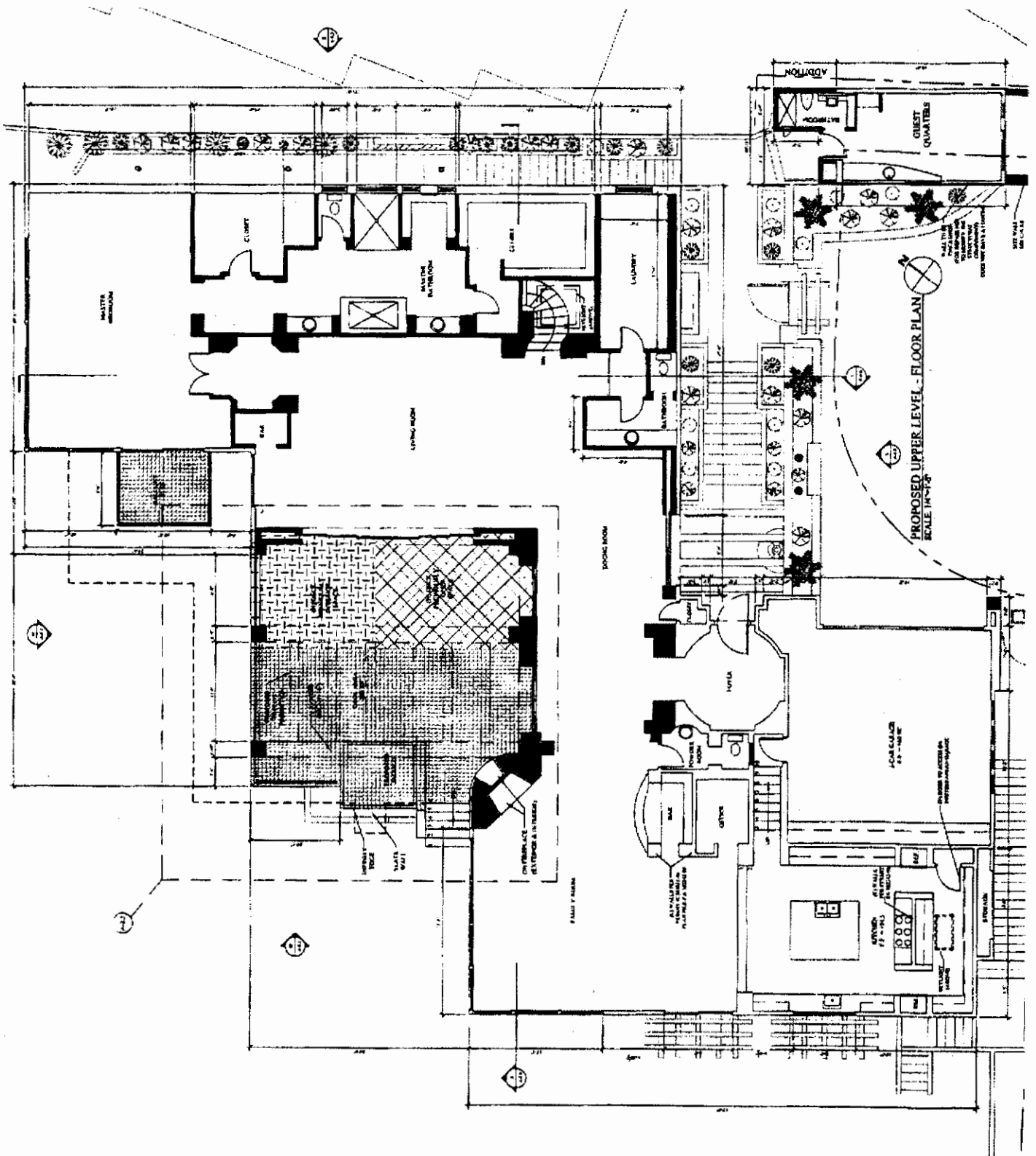
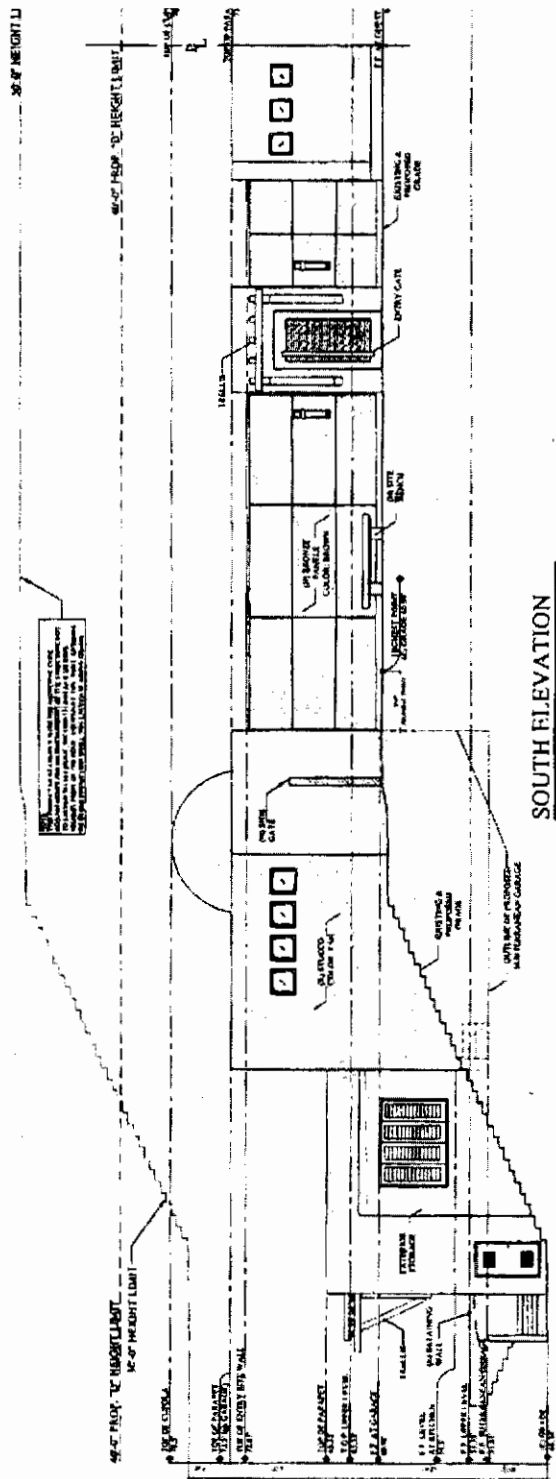
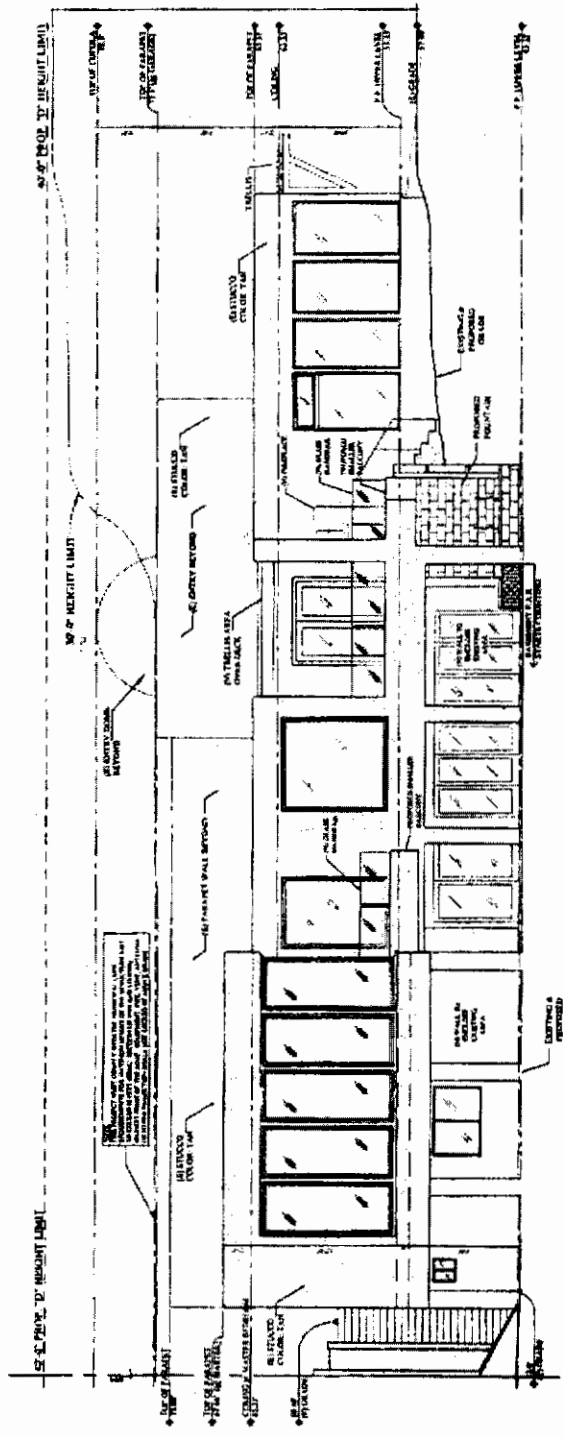


EXHIBIT NO. 4
 APPLICATION NO.
A-133-79-
A5/F6760-A6
 Floor Plan - Upper Level




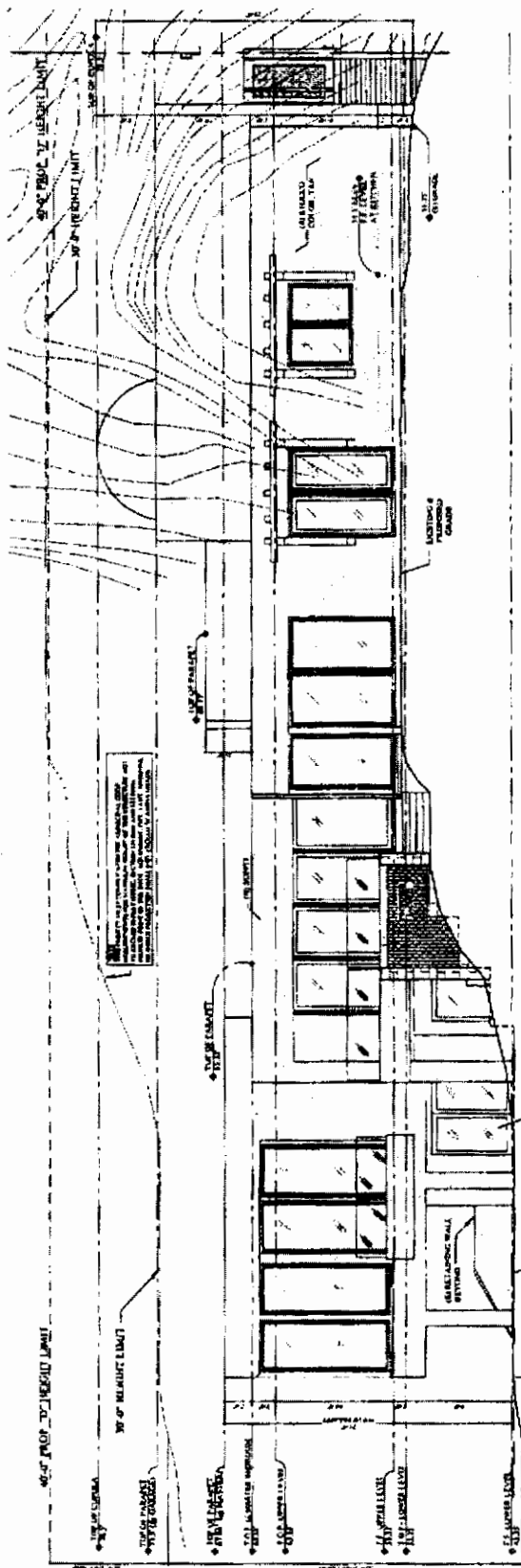


SOUTH ELEVATION
SCALE: 1/4" = 1'-0"

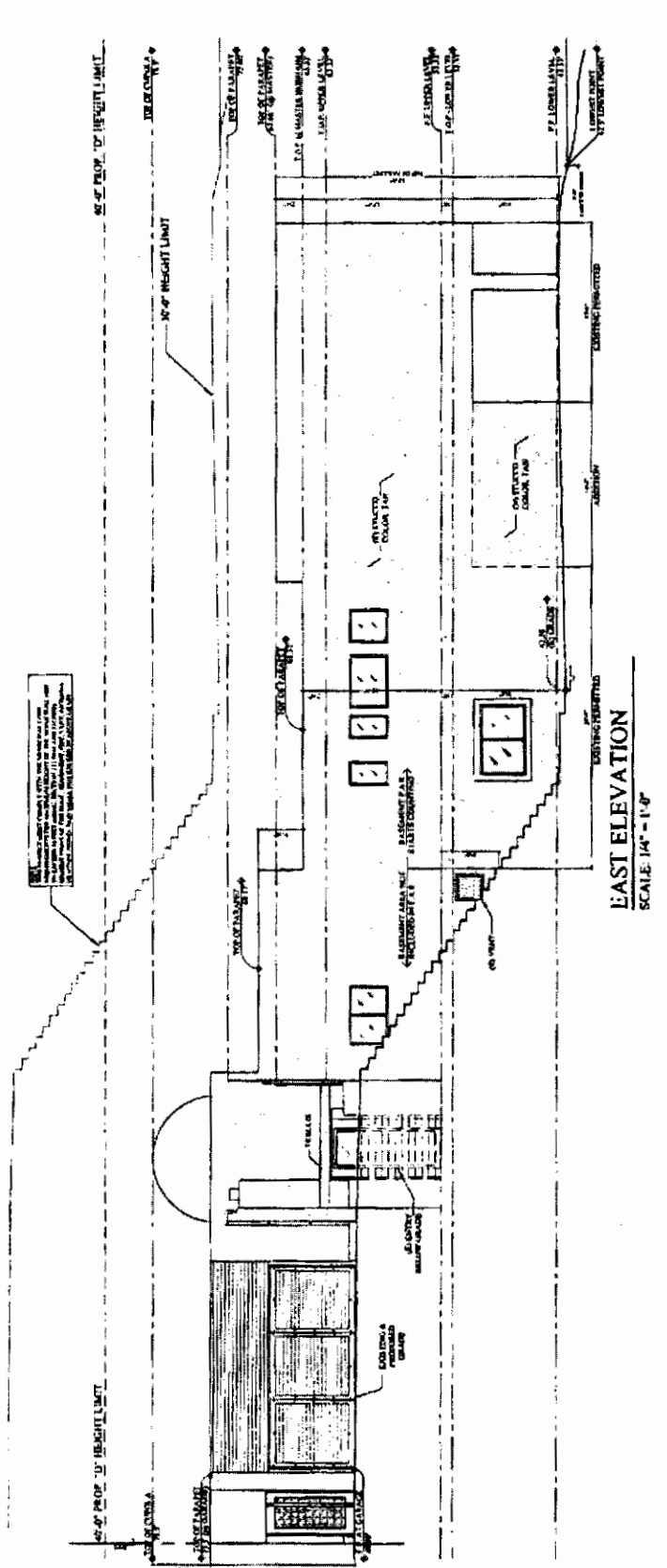


NORTH ELEVATION
SCALE: 1/4" = 1'-0"

EXHIBIT NO. 5
APPLICATION NO.
A-133-79-
A5/6760-A6
Elevations
1 of 2
 California Coastal Commission



WEST ELEVATION
SCALE: 1/4" = 1'-0"



EAST ELEVATION
SCALE: 1/4" = 1'-0"

ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED. ALL FINISHES ARE TO BE AS SHOWN. ALL MATERIALS ARE TO BE OF THE BEST QUALITY AVAILABLE. ALL WORK IS TO BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND ALL APPLICABLE REGULATIONS. THE ARCHITECT ASSUMES NO RESPONSIBILITY FOR THE ACCURACY OF THE INFORMATION PROVIDED BY OTHER PROFESSIONALS OR SOURCES. THE ARCHITECT'S RESPONSIBILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE WORK SHOWN ON THESE DRAWINGS.

STAFF RECOMMENDATION

PASSED UNANIMOUSLY 9/20/79

Appeal No. 133-79
(Baker)
Hearing Opened: 6/19/79

DECISION OF REGIONAL COMMISSION:

Permit granted with conditions by San Diego Coast Regional Commission

PERMIT APPLICANTS:

Jane B. Baker

APPELLANT:

Anthony Ciani

DEVELOPMENT LOCATION:

One half mile east of La Jolla Cove, at 7957 Princess Street, La Jolla, City and County of San Diego (Exhibits 1, 2)

DEVELOPMENT DESCRIPTION:

Single story addition to existing two-story, single family residence (Exhibits 3, 4)

PUBLIC HEARING:

Opened on June 19, 1979 in Los Angeles

ADDITIONAL SUBSTANTIVE FILE DOCUMENTS: La Jolla Community Plan

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.


The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that, as conditioned, the development is in conformity with the provisions of Chapter 3 of the Coastal Act, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and the public road nearest the sea and is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Conditions.

This permit is subject to the following condition:

Public Access. Prior to the issuance of the permit, the applicant shall submit, for the review and approval of the Executive Director, a document irrevocably offering to dedicate to a public agency or private association approved by the Executive Director easements for public access to and along the shoreline in accordance with the provisions of this condition. The approved document shall be irrevocable for a period of 21 years running from the date of recordation. The documents shall be recorded free of all prior liens and encumbrances except for tax liens and shall constitute a covenant running with

9/18-

EXHIBIT NO. 6
APPLICATION NO.
A-133-79-
A5/F6760-A6
Original Staff Report for CDP #A-133- 79/F6760
1 of 6
 California Coastal Commission

the land in favor of the People of the State of California binding the applicant, heirs, assigns and successors in interest to the subject property. The documents shall provide for offers to dedicate easements for:

A. Lateral Access along the shoreline. The easement shall extend across the ocean frontage of parcel from the toe of the bluff seaward to the mean high tide line; where sea caves exist, the easement shall extend to the inland extent of the cave. The easement shall allow for passive recreational use by the public and shall allow accepting agency to post signs indicating that marine life cannot be removed from the area.

B. Vertical Access extending from princess Drive to the mean high tideline. The easement shall be 5 ft. in width and shall extend along the southern edge of the property adjacent to the garage and down the bluff along the trail currently existing on the site (Exhibit 3). The exact location of the easement shall be plotted on a map subject to the review and approval of the Executive Director and shall be attached as an exhibit to the recorded document.

The easement shall be available for public pedestrian use from sun rise to sunset and for emergency rescue operations 24 hours per day. The terms of the easement shall allow the accepting agency, with the concurrence of the Coastal Commission or its successor in interest, to construct improvements to the accessway to ease the public's ability to reach the shoreline. The easement shall also allow the accepting agency to post signs informing the public of the existence of the accessway.

Nothing in this condition shall be construed to constitute a waiver of any sort or a determination on any issue of prescriptive rights or public trust lands which may exist on the parcel itself or on the designated easement.

III. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description and History. The applicant proposes to construct a one-story, 3,566-sq. ft. addition to an existing 1,250-sq. ft. single-family house. The existing dwelling is two stories in height but is situated primarily below street level. The proposed addition, two ft. higher than the existing structure with the exception of a rotunda projecting six feet above the new roofline, would be $7\frac{1}{2}$ ft. above the centerline of the frontage road. The proposed project would be set back 35 ft. from the irregularly-shaped bluff and $2\frac{1}{2}$ ft. from the frontage road. No exterior grading would be required.

The proposed addition would be constructed on a parcel consisting of the lot on which the existing structure is situated and an adjacent undeveloped lot (Exhibit 2). The project site is a blufftop parcel located on a promontory overlooking the San Diego-La Jolla Underwater Park and Ecological Reserve, about $\frac{1}{2}$ mile east of La Jolla Cove. The site is located at the end of Princess Street, a residential cul-de-sac (Exhibit 2).

In June, 1978, the Regional Commission granted a permit for the proposed development. The permit was subject to conditions to assure the geologic stability of the development. The Regional Commission found that, as conditioned, the development was consistent with the provisions of Chapter 3 of the Act. Although the project site is between the first public road and the sea, the Regional Commission did not make a specific finding regarding the conformity of the development to the public access policies of the Act as required under Section 30604 of the Act. This decision was appealed to the State Commission, which

subsequently found that no substantial issue was raised by the appeal.

Subsequent to the State Commission action, the appellants filed for a Writ of Mandate with the San Diego County Superior Court. This action challenged, among other issues, the adequacy of the Commission decision due to the failure to make the requisite finding regarding public access. The trial judge ruled that the finding on public access was required prior to issuance of the permit and remanded the decision to the Regional Commission for a determination on the conformity of the project to the access provisions of the Act. The Court ruled that the Regional Commission could make this determination based on the prior record, or open the public hearing and make a determination based on both previously submitted and new evidence. Although noticed as a public hearing, the Regional Commission decided not to admit new evidence on the issue of public access. Based on the documents in the record, the Regional Commission found that access dedications would not be appropriate at the site due to safety constraints and resource protection concerns and that the development would, therefore, be consistent with the access policies of the Act. Over the past year, the applicant completed the construction of the addition which is the subject of this appeal. The appellants contend that the addition is sited over a trail traditionally used by the public to obtain access to the shoreline and Charolette Park, a City-owned oceanfront park.

2. Public Access. The proposed project site is located between the first public road and the sea on a promontory overlooking the San Diego-La Jolla Underwater Park and Ecological Reserve, about $\frac{1}{2}$ mile east of La Jolla Cove. The Coastal Act of 1976 requires that public access to and along the shoreline be maximized. In accordance with this policy statement Sections 30210 - 30212 of the Act provides:

In carrying out the requirement of Section 4 of Article 10 of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. (30210)

Development shall not interfere with the public's right of access to the sea where acquired through use...or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. (30211) (Emphasis Added)

Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated accessways shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway. (30212)

The project site is a blufftop lot overlooking the rocky shoreline adjacent to the La Jolla Underwater Park ecological reserve. To the south of the site is the .16 acre Charolette Park. Public access to the shoreline below and to the City park is currently available only at low tide by walking down coast from an accessway at La Jolla Shores $\frac{1}{4}$ -mile north of the site.

The Commission finds that access to this pocket beach is only available at low tide due to the promontories which impede access to the beach from the nearest accessway to the shoreline which is located $\frac{1}{4}$ mile up coast. The Commission concludes, therefore, that adequate access does not exist nearby. Although the public has historically had access over the project site, construction of the project has preceeded the use of this accessway, thereby diminishing the public's right of access to the state owned tidelands. An alternative accessway must, therefore, be provided to offset the burdens this development has placed on public's constitutional right of access and to assure the conformity of the project to the provisions of Section 30212 of the Act. The applicant contends that, because of the steepness of the bluff, the accessway would not be safe and therefore need not be provided under subsection (3) of Section 30212. This site has historically been used for access to the shoreline below. A site inspection revealed that it was not difficult to walk down the bluff face and, if minor improvements were made, the access way could be easily traversed with little damage to the landforms. The Commission concludes that public access can be provided consistent with public safety and must, therefore, be provided to find the proposed project consistent with the Coastal Act.

Prior to the construction of the proposed addition, the site was the last remaining vacant parcel adjacent to the subject pocket beach and Charolette Park. Numerous letters have been submitted stating that the public had continuously used the project site to gain access to the shoreline and to the adjacent Charolette Park. This is the only trail to gain access to this pocket beach and city-owned Oceanfront park. Evidence of a well worn trail currently exists on the edge and face of the bluff, although the portion of the trail extending from the road to the bluff top has been covered by the addition to the residence which is the subject of this application. The appellants contend that since the addition interferes with public access as established through historic use, the project can not be found consistent with Section 30211 of the Coastal Act. The appellants concede, however, that since the addition is constructed denial of the project may not be an acceptable solution. The Commission notes that the Coastal Act requires that public prescriptive rights be protected wherever they exist. However, as set forth in the Statewide Interpretive Guidelines on public access development may be sited in an area of historic public use where equivalent areas for public access are provided. The Commission has noted in previous appeals [401-78 (Tree)] and the guidelines that such relocated accessways to compensate for the lost public accessway and find the project consistent with Section 30211 of the Act. The Commission finds that the submitted documents give clear indication of the historic use of the parcel. Because of the historic use and the fact that access to the cove beach below the site and city-owned oceanfront park adjacent to the site would be totally precluded by approval of the project without provisions for public access the Commission cannot find the project as proposed consistent with the provisions of either Sections 30211 or 30212 of the Act. Only, as conditioned, to provide an access path equivalent to the historic use area of the site and to provide lateral access along the shoreline can the commission conclude that the project is consistent with the public access provisions of the Coastal Act.

This plat is not a survey of the land
and is furnished for information only.
No liability is assumed by this company
as to the accuracy thereof.

P. L. 1205

ROAD

SPADRFIT DRIVE

P. L. 1205



PRINCESS STREET

TORREY PINES

151

AMALFI

STREET

PARK

CHARLOTTE STREET

OCEAN

REYNOLDS PROPERTY

CITY OF SAN DIEGO

AMALFI

JUDKINS ESTATES BKS 2

14

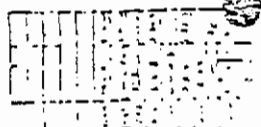
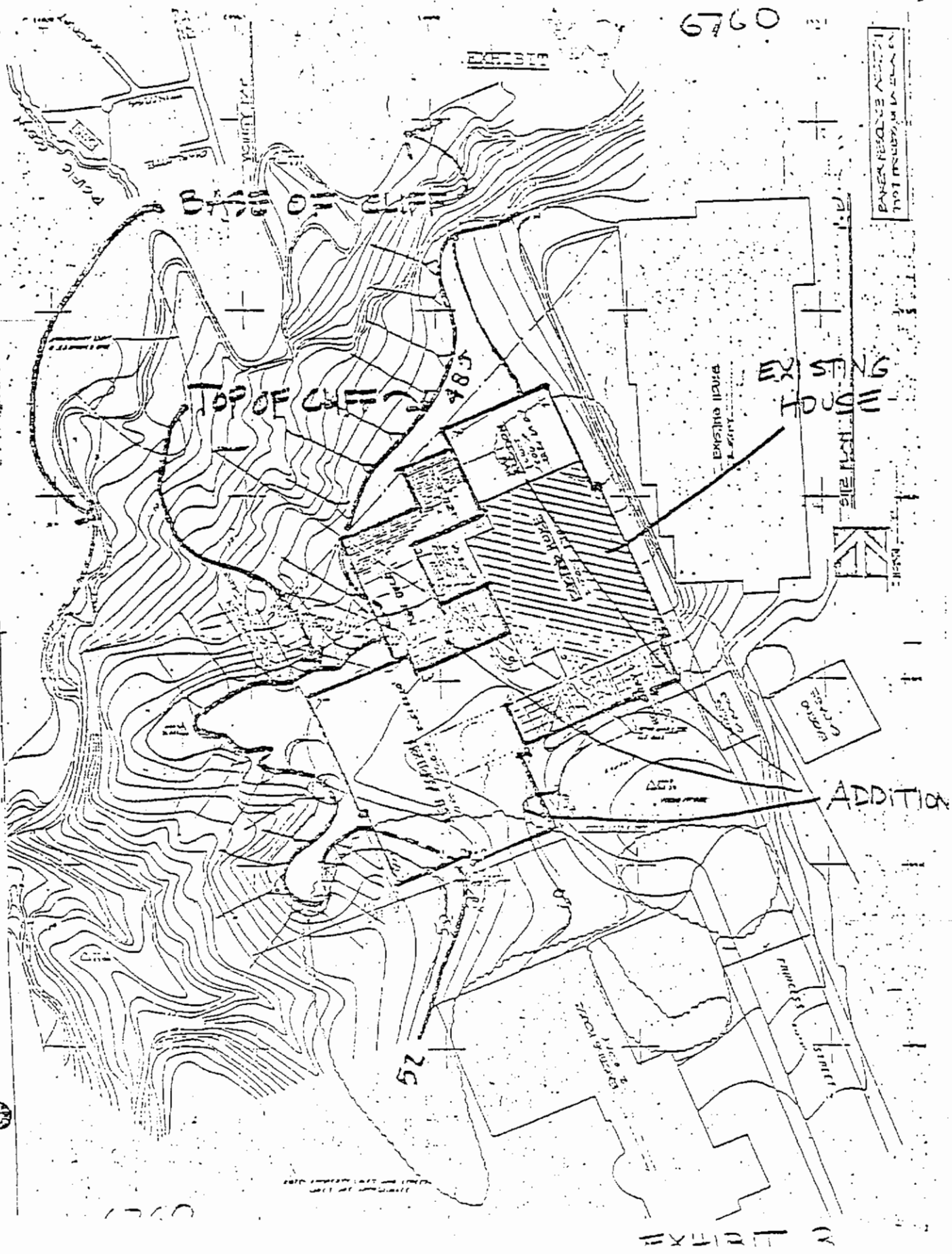


EXHIBIT 2

6760

PAVED ROADS ARE SHOWN IN
LINES WITH SPACED DASHES

EXHIBIT



BASE OF CLIFF

TOP OF CLIFF

EXISTING FOUNDING

ADDITION

PAVED DRIVE

52

58

EXHIBIT

PAVED ROADS ARE SHOWN IN LINES WITH SPACED DASHES

The Coast Walk Trail

Legal Description:

Coast Walk, a dedicated street between Cave Street and Torrey Pines Road, adjacent to Lots 15 through 27, Block 48, and Lots 1 through 8, and Lots 20 and 21, Block 46, La Jolla Park Subdivision, in the City of San Diego, California.

Historical Background:

Overlooking the La Jolla Caves area, approximately 100 feet above the shoreline, is a bluff top pathway known as the Coast Walk Trail. This dirt pathway, amidst natural and introduced ornamental plantings, meanders approximately 1/2 mile northeasterly from behind the Cave Curio Shop at Goldfish Point up to and across a wooden trestle bridge over a steep gorge known as the "Devil's Slide." Here it continues northeasterly from the bridge until it meets Coast Walk, a paved, dead end street which connects with Torrey Pines Road to the east.

This pedestrian trail, once named Angel's Walk, affords a panoramic view of the Pacific Ocean, beach, and shoreline below. Archeological artifacts found along the bluffs and shoreline suggest that the trail may have been in existence since prehistoric times, where it may have served as a hunting trail. In recorded times, it has been the only practical means of lateral pedestrian access along the bluffs since the 1860's. Because it is located within a dedicated street, the trail serves as a buffer against residential or commercial development and the fragile coastal environment below.

The western terminus of the trail at Goldfish Point (also known as Alligator Head) and from stairs located in a man-made tunnel beneath the La Jolla Cave & Shell Shop (dug in 1902 by Gustav Schulz, German-born engineer and professor of philosophy), provide access to the western approaches of the tidepools and caves below the trail. These seven deep sea caves are cut into the sandstone cliffs below Coast Walk Trail. These caves, known as the "Mammoth Caves," were used as bathhouses during low tide at the turn of the century and as suspected smugglers' dens for illegal aliens, bootleg whiskey and saboteurs. The sandstone cliffs above the caves serve as rookeries for the Common gull, the endangered California brown pelican, and black Cormorant, which are considered sacred birds to Native Americans.

To the west of the caves is the La Jolla Cove area, which has been a popular resort area since 1860. In 1887, the Pacific Coast Land Bureau developed the area around the cove into the La Jolla Park subdivision. One year later the La Jolla Park Hotel was built on the ocean side of Prospect Street and Grand (later Girard) Avenue, but it did not open until 1893 (the hotel burnt down in the latter part of 1894).

One year later, on March 15, 1894, the San Diego, La Jolla & Pacific Beach Railroad extended its line from Pacific Beach to La Jolla, ending some 1500 yards shy of the hotel. One month later the line finally reached the hotel.

EXHIBIT NO. 7
APPLICATION NO.
A-133-79-
A5/F6760-A6

History of Coast
Walk and Angel's
Flight Stairway

1 of 4

The railroad (known as the "Abalone Limited") attracted visitors to the cove, tidepools and caves through special attractions and promotions. A pavillion, bath house and a small "tent city" were built at the Cove for visitors and residents. Spectators would walk up from the Cove area along Angel's Walk to the crest of the bluffs overlooking the caves where balloon rides were given.

One of the more noteworthy attractions along the trail was a series of dives off "Dead Man's Leap" given by "Professor" Horace Poole. In 1898, the railroad sponsored the good professor to leap from a diving board off the cliffs into the shallow waters below. On July 4th, 1898, Professor Poole, after dousing himself with inflammable oil, made one of his more spectacular dives off the bluffs engulfed in flames!

Cliff diving off the bluffs was banned in 1899, when Bert Reed, the son of the mayor of San Diego, died from injuries sustained after an unauthorized plunge off of the bluffs. Over the years other reckless individuals have jumped off the bluffs along the Coast Walk Trail.

People walked up from the bath house along Angel's Walk to an area between Dead Man's leap and Devil's slide where they were lowered over the side of the cliff in buckets in order to dangle above the water to peer into the caves below.

To provide access to the eastern approaches of the caves (notably the legendary "White Lady" cave) and the abalone beds to the northeast, in 1899 the railroad installed a wooden staircase from the end of Park Row down Devil's Slide to the beach below. At that time Park Row was known as Beach Row and the top of the cliffs was transversed by Cave Street. Cave Street was a street in name only. Due to the fact that the cliffs were unstable, vehicular traffic was prohibited. In 1913, Cave Street was renamed Coast Boulevard. In 1920 Coast Boulevard was declared a dedicated street. This farsighted action prevented buildings from encroaching upon the scenic bluffs.

During the Depression a series of public work projects were conducted by the local welfare committee of the La Jolla Chamber of Commerce. One of these projects was the making of an attractive coast walk along the original Angel's Walk foot trail. The entire trail was reconditioned and made safer by the installation of wooden fences and benches. Erosion-control check dams and cobblestone brow ditches were also added. The stairs leading down Devil's Slide were refurbished. Wooden foot bridges were built over Devil's Slide Gorge as well as two other smaller gullies along the trail (Local residents who have lived in the area since before 1920 all agree that no bridge ever crossed the Devil's Slide area before 1929). Stands of Canary Island Palms and other non-native plantings were planted in the canyon and along the trail in order to prevent erosion. This local attempt at public relief predates any Federal programs by two years.

In 1963, the entire trail and a paved roadway east of the bridges, which connected to Torrey Pines Road, was changed from Coast Boulevard to Coast Walk. In the last few years, the two smaller bridges east of the one over Devil's Slide have been relaced with concrete culverts. In 1962, the stairs leading down

to the beach were burned beyond repair.

In the 1970's, an underwater park and ecological reserve were created to protect the fragile ecosystems. A concrete stairway was planned to be installed in order to replace the burnt one, but prohibitive construction costs, as well as the need to limit access to the caves, underwater park, and the ecological reserve, were cited as reasons not to install the replacement concrete stairway. Devil's Slide is still used by some individuals to climb down to the area below, even though the descent is steep and dangerous.

Historical Significance:

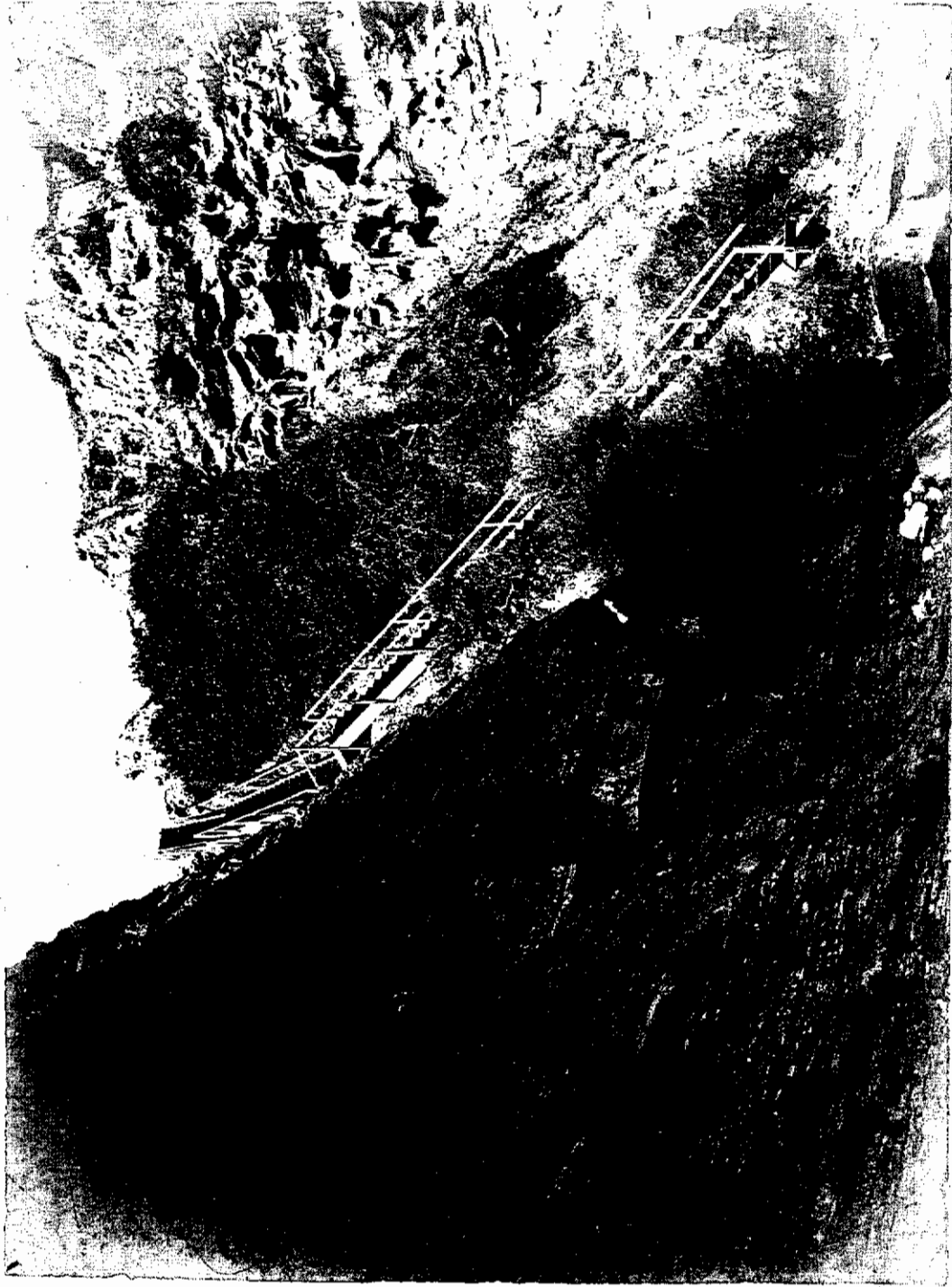
The natural and scenic wonders along and below Coast Walk Trail have been a local attraction since the late 1860's. This pedestrian trail, once named Angel's Walk, affords a panoramic view of the Pacific Ocean, beach, and shoreline below. This foot path, refurbished in 1931 and renamed the Coast Walk Trail in 1963, has served as the only practical means of lateral pedestrian access along the bluffs.

Even though the area along, above, and below the trail was exploited by local real estate developers and railroad companies during the turn of the century in order to attract customers, today it serves as a buffer against encroachment by commercial or residential development. The area along the trail provides a feeling of what La Jolla might have been like before its post-WWII population growth, affording the visitor one of the most beautiful and unspoiled recreational resources in La Jolla, as well as along the entire Pacific Coast.

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Books:

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*Devils Slide,
ca 1906*

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is effective this 14 day of July, 2008, by and between Dianne Kretowicz and Ure Kretowicz, as Trustees of The Princess Trust (collectively "Kretowicz") and the California Coastal Commission, an agency of the State of California (the "Commission") in relation to San Diego County Superior Court Case No. GIC 851915, entitled *Dianne Kretowicz and Ure Kretowicz v. California Coastal Commission, et al.* and related cross complaint, with reference to the facts set forth herein.

RECITALS

A. Kretowicz filed an action in the Superior Court of California, County of San Diego, SDSC Case No. GIC 851915 (the "Kretowicz Action") against the Commission in connection with the Commission's claimed right to an easement for public access over residential property owned and occupied by Kretowicz, located at 7957 Princess Street, in the community of La Jolla, City of San Diego, California ("Property"). The Commission filed a Cross-Complaint to the Kretowicz Action alleging, among other things, violations of the Coastal Act ("Commission Cross-Complaint").

B. On September 20, 1979, the State Commission took action to approve coastal development permit A-133-79 ("Permit A-133-79") for the Property. The Commission asserts that as a condition to that approval it required a previous owner of the Property to offer lateral and vertical public access easements across the Property. No offer to dedicate easements over the Property pursuant to Permit A-133-79 was ever recorded.

C. On July 22, 2004, Kretowicz submitted an application to the Commission to modify an existing garage and to install a barbeque, patio, landscaping and related improvements on the Property and to remove certain wooden timber stairs, palm trees and portions of a retaining wall ("Kretowicz Permit Application"). The Commission required Kretowicz to offer to dedicate public access easements over the Property pursuant to Permit A-133-79 as a condition of approval of the Kretowicz Permit Application.

D. The parties dispute the Commission's authority to require an offer to dedicate any easement over the Property pursuant to Permit A-133-79.

E. On January 19, 2007, the parties entered into that certain Stipulation for Entry of Judgment ("Original Stipulation") to settle and resolve their differences relating to the Property. Among other things, the Original Stipulation required the Commission to consider approval of an amended coastal development permit. At a hearing held on June 14, 2007, the Commission refused to grant the proposed amendment.


F. Taking into consideration guidance received from the Commission at the June 14, 2007 hearing, the parties now desire to settle and resolve their differences relating to the Property as set forth below.

NOW, THEREFORE, in consideration of the mutual covenants set forth below, the parties agree as follows:

101099204.3
Settlement Agreement
Kretowicz/California Coastal Commission

1

EXHIBIT "A"

EXHIBIT NO. 8
APPLICATION NO. A-133-79- A5/F6760-A6
Settlement Agreement
1 of 10
 California Coastal Commission

AGREEMENT

1. Incorporation of Recitals. Recitals A through F, inclusive, are incorporated herein by this reference and acknowledged by all parties hereto as accurate.
2. Original Stipulation Void. This Agreement is intended to supersede and replace the Original Stipulation in its entirety. The parties hereby agree that the Original Stipulation is void.
3. New Kretowicz Permit Amendment Application. Within ninety (90) days after the execution of this Agreement, Kretowicz shall submit a new coastal development permit amendment application ("Amendment Application") consistent with the Kretowicz Permit Application, and also seeking approval for (i) deletion of the requirement to offer to dedicate vertical public access identified in Permit A-133-79, (ii) an unpermitted gate and fence, and (iii) the other existing improvements to the Property constructed without the benefit of a coastal development permit as listed in Exhibit A, and (iv) a proposal to pay \$3.3 million. Kretowicz shall provide any additional information that Commission staff deems necessary to complete the Amendment Application within 30 days of receipt of notice from Commission staff that such information is necessary, subject to Kretowicz's appeal right to the Coastal Commission pursuant to California Code of Regulations, title 14, section 13056. If the Commission approves the Amendment Application ("Approved Amendment"), Kretowicz shall comply with all terms and conditions of the Approved Amendment within the deadlines set forth in the conditions. If the Commission denies the Amendment Application in full or if, within twenty (20) days following the date of the final Commission action on the Amendment Application, Kretowicz provides written notice stating that Kretowicz does not accept the Commission's action, this Agreement shall be null and void.
4. City Permit Process. The parties acknowledge that Kretowicz has submitted development applications to the City of San Diego ("City") pursuant to the January 8, 2008 City Administrative Hearing Officer determination which include, without limitation, a site development permit amendment ("City Permit Application"). The City will process the City Permit Application and consider its approval in advance of the Commission's discretionary action on the Amendment Application. Although the City is not exercising coastal development permit jurisdiction in connection with the City Permit Application, the parties acknowledge that the City's decision to approve, deny or conditionally approve the City Permit Application may affect the scope and content of the Amendment Application. Accordingly, within thirty (30) days following the final determination by the City in connection with the City Permit Application, in their sole discretion Kretowicz either will make revisions necessary to bring the Amendment Application into conformity with the City's action on the City Permit Application or will notify the Commission that Kretowicz does not accept the City's action, in which event this Agreement shall be null and void.
5. Grant of Emergency Lifeguard Easement. If the Agreement is not terminated pursuant to Section 3 hereof, Kretowicz will grant the City of San Diego ("City") an easement for emergency lifeguard access and no other purpose ("Lifeguard Easement") upon the issuance of the permit for the Approved Amendment. The Lifeguard Easement shall be four (4) feet wide along the southern Property boundary.
6. Payment. If the Agreement is not terminated pursuant to Section 3 or Section 4 hereof, Kretowicz will pay a total of Three Million Three Hundred Thousand Dollars

(\$3,300,000.00) ("Financial Obligation"), in installments as set forth below, to the State Coastal Conservancy or other entity as directed by the Executive Director of the Commission. The Commission may direct use of the payment to fund various coastal access projects in the La Jolla area, including a grant of \$300,000 to the City of San Diego exclusively for such purposes, although Kretowicz will have no involvement in such projects and this Agreement is not contingent upon any such project.

6.1 Payment Schedule. Subject to the provisions of Section 6.2 below, the Financial Obligation shall be satisfied as follows:

6.1.1 \$800,000 shall be paid within 120 days of the Commission's approval of the Approved Amendment; provided, that if prior to the expiration of said 120 days the Commission staff notifies Kretowicz in writing of its intention to issue the Approved Amendment, Kretowicz shall make the initial payment as a condition of permit issuance. The Commission staff shall give ten (10) days advance written notice of its intention to issue the Approved Amendment.

6.1.2 An additional \$1,000,000 shall be paid every twelve months thereafter, not to exceed a total payment of \$3,300,000.

6.1.3 The twelve month deadline referenced in Section 6.1.2 shall run from the previous payment deadline, regardless of whether the prior payment was timely made.

Late payments shall include interest at the legal rate (presently 10%) in accordance with Code of Civil Procedure section 685.010. Interest shall be in addition to any penalties imposed pursuant to section 8 hereof.

6.2 Issuance of Approved Amendment. Commission staff will use best efforts to review all documents that must be approved by the Executive Director prior to issuance of the Approved Amendment and will timely process and issue the Approved Amendment following the Commission's approval of the same. Kretowicz will timely submit all documentation necessary for the issuance of the Approved Amendment.

6.3 Security. The Financial Obligation will be memorialized in a promissory note secured by a second position trust deed on the Property, which shall be a condition of issuance of the Approved Amendment. At any time, Kretowicz shall have the unilateral right to replace the promissory note and deed of trust with a letter of credit in a form reasonably satisfactory to the Executive Director of the Commission. The Commission agrees to sign, notarize and record a reconveyance or other document adequate to release the encumbrance of the trust deed from the Property upon such substitution of security. The security shall be subject to the following requirements:

6.3.1 The first trust deed on the Property shall not exceed \$3 million.

6.3.2 As a condition of the issuance of the Approved Amendment, Kretowicz shall obtain a MAI appraisal certifying that the fair market value of the Property is at least ten million dollars (\$10,000,000). Kretowicz shall obtain a renewed MAI appraisal every twelve months thereafter, until all payments have been made.

6.3.3 The fair market value (as reflected in the annual appraisal) at all times shall exceed the combined outstanding principal balances of the first trust deed and the second trust deed (or substituted security pursuant to Section 6.2) by \$3,700,000. If such equity is not maintained, Kretowicz shall promptly substitute the second trust deed and promissory note with a letter of credit in an amount equal to the then-outstanding Financial Obligation. The form of letter of credit shall be reasonably acceptable to the Executive Director of the Commission.

7. Dismissal of Claims; Court's Retention of Jurisdiction. Within 45 days of the date hereof, the parties shall seek entry of an order in a form mutually acceptable to the parties providing that the Court shall retain jurisdiction to enforce this Agreement until performance in full of its terms pursuant to Section 664.6 of the California Code of Civil Procedure. Within 30 days following entry of such order, Kretowicz shall dismiss the Kretowicz Action without prejudice and the Commission shall dismiss the Commission Cross-Complaint without prejudice. The parties shall be permitted to re-file these actions if the Settlement Agreement is terminated or deemed null and void, in which case the parties shall revert to their respective legal positions before this Agreement was executed, as if the litigation had been tolled. Neither party shall assert any defense or theory which would prevent the other party from re-instituting its claims.

8. Violation of Terms of Agreement Pursuant to Stipulation. Should Kretowicz violate any term set by this Agreement, Kretowicz shall be liable for a penalty in the amount of two hundred fifty dollars (\$250.00) for each day Kretowicz is in violation. Before any such penalty is imposed, the Commission shall give Kretowicz thirty (30) days written notice (by certified mail, return receipt requested) of the Commission's intent to enforce this penalty provision. If at the end of such thirty (30) days Kretowicz has failed to cure the violation, the Commission may enforce this penalty provision for the entire period of non-compliance and regardless of whether Kretowicz has subsequently complied. Kretowicz shall pay the Commission such penalty within twenty (20) days of receipt of the Commission's written notice (by certified mail, return receipt requested) to enforce this penalty provision. Payment of the penalty shall be computed from the first day in which Kretowicz violated the Agreement. Payment of such penalty shall not relieve Kretowicz of his duties under the Agreement. Kretowicz may seek an extension of any deadline in this paragraph and the Commission's Executive Director may grant the extension for good cause, in which case Kretowicz would not be liable for a penalty during that extension.

9. Commission Access to Site. Kretowicz agrees to provide access to the Property upon receipt of 24 hours advance notice and an opportunity for Kretowicz to be present. Nothing in the Agreement is intended to limit in any way the right of entry or inspection that any agency may otherwise have under applicable law. Commission staff may enter and move freely about the portions of the Property on which the development which is the subject of this Agreement is located, and, to the extent allowed by law, on adjacent areas of the Property to view the areas where the development is being performed pursuant to the requirements of the Agreement for purposes including but not limited to inspecting records, operating logs, and contracts relating to the site and overseeing, inspecting and reviewing the progress of Kretowicz in carrying out the terms of the Agreement.

10. Mutual Release. The parties hereto intend and agree that this Agreement shall be effective as a full and final accord in satisfaction and general release of and from all claims, rights or causes of action arising out of or related to the Kretowicz Action and the Commission Cross-

Complaint ("Released Matters"). In furtherance thereof, the parties acknowledge that they are familiar with Section 1542 of the Civil Code of the State of California which provides as follows:

"A general release does not extend to claims which the creditor does not know or expect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

The parties expressly waive and release any and all rights or benefits which they have or may have with respect to the Released Matters under Section 1542 of the Civil Code of the State of California, any successor statute or any similar law or rule of any other jurisdiction. In connection with such waiver and relinquishment, the parties acknowledge that they are aware that claims or facts in addition to, or different from, those which they presently know or believe to exist may be discovered and that the release herein given shall be and remain in effect as a full and complete release notwithstanding the discovery of the existence of any additional common, new or different claims or facts. However, nothing in this Agreement constitutes a waiver of the Commission's authority to enforce violations of the Coastal Act that are not addressed in the Amendment Application.

11. Enforcement of Settlement Agreement.

11.1 Kretowicz and the Commission hereby jointly request the Court to retain jurisdiction of this case and over Kretowicz and the Commission personally until final performance of this Agreement and to hear and determine motions to enforce this Agreement under Code of Civil Procedure section 664.6. This joint request includes tolling of any applicable statute, rule or court order affecting timely prosecution of this action, including without limitation the 5-year statute (Code of Civil Proc. section 583.330).

11.2 The Court also retains jurisdiction for the purpose of enabling any party to this litigation to apply to the Court for any further orders or directions as may be necessary and appropriate for the Agreement's construction, execution, and enforcement of the Agreement pursuant to California Code of Civil Procedure sections 128(a) (4) and 664.6.

12. Miscellaneous.

12.1 No Waiver of Rights. Nothing in this Agreement shall be construed as a waiver of the Commission's duties pursuant to applicable law with regard to the Property. This Agreement does not in any way compromise, limit, control or direct the discretionary authority of the Commission with regard to pending or future permit applications.

12.2 No Admission of Liability. Nothing in this Agreement shall be construed as an admission by any party of any liability or wrongdoing in connection with the Kretowicz Action, the Commission Cross-Complaint or the Property.

12.3 Counterparts. This Agreement may be executed in counterparts, all of which, when taken together, shall constitute a fully executed original.

12.4 Entire Agreement. This Agreement constitutes the final and exclusive settlement agreement between the parties hereto and all prior and contemporaneous agreements, representations, negotiations and understandings of the Parties hereto, oral or written, are hereby superseded and merged herein.

12.5 Cooperation. Each party agrees to cooperate and to perform such further acts and to execute and deliver any and all further documents that may be reasonably necessary to effectuate the express purposes of this Agreement in a timely manner.

12.6 Modification. No modification, waiver, amendment, discharge or change of this Agreement shall be valid unless the same is in writing and signed by the parties.

12.7 Construction. This Agreement was not drafted by any one party and shall not be construed or interpreted against any one party.

12.8 Severability. If any provision or other portion of this Agreement shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this Agreement shall not be affected thereby and shall remain in force and effect to the fullest extent permissible by law.

12.9 Successors and Assigns. Each and all covenants and conditions of this Agreement shall inure to the benefit of, and shall be binding upon, the successors in interest, assigns, and legal representatives of the parties hereto and shall run with the land.

12.10 Governing Law. The parties hereby agree that this Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California. In mutual recognition of the fact that this Agreement is to be performed in San Diego County, California, the parties agree that in the event that any civil action is commenced regarding this Agreement, San Diego County, California, is the proper county for the commencement and trial of such action.

12.11 Advice of Counsel. The parties, and each of them, represent and declare that in executing this Agreement they have relied solely upon their own judgment, belief and knowledge, and the advice and recommendation of their own independently selected counsel, concerning the nature, extent, and duration of their rights and claims, and that they have not been influenced to any extent whatsoever in executing the same by any representations or statements covering any matters made by the other parties hereto or any other person.

12.12 Notice. Any notice to be given or other document to be delivered by any party to another party under this Agreement may be deposited in the United States mail in the State of California, duly certified or registered, return receipt requested, with postage prepaid, or by Federal Express or other similar overnight delivery service, or by facsimile addressed to the party for whom intended as follows:

To Kretowicz: Dianne and Ure Kretowicz, Trustees of The Princess Trust
4365 Executive Dr., Suite 600
San Diego, CA 92121
Facsimile: (858) 452-3600
Telephone: (858) 458-9700

With a copy to: Luce, Forward, Hamilton & Scripps LLP
600 West Broadway, Suite 2600
San Diego, CA 92101
Attn: Jeffrey A. Chine, Esq.
Facsimile: (619) 446-8275
Telephone: (619) 699-2545

To Commission: Lee McEachern
California Coastal Commission
San Diego District Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108
Facsimile: (619)767-2384
Telephone: (619) 767-2370

And a copy to Lisa Haage, Chief of Enforcement
California Coastal Commission
45 Fremont Street, 20th Floor
San Francisco, CA 94105-2219
Facsimile: (415) 904-5400
Telephone: (415) 904-5200

With a copy to: Jamee Jordan Patterson, Esq.
Supervising Deputy Attorney General
State of California
P.O. Box 85266
110 West A St., Suite 1100
San Diego, CA 92186-5266
Facsimile: (619) 645-2012
Telephone: (619) 645-2023

Any party may from time to time, by written notice to the other, designate a different address, which shall be substituted for the one above specified. Unless otherwise specifically provided for in this Agreement, all notices, payments, demands or other communications shall be in writing and shall be deemed to have been duly given and received (i) upon personal delivery or (ii) as of the third business day after mailing by United States registered or certified mail, return receipt requested, postage prepaid, addressed as set forth above, or (iii) the immediately succeeding business day after timely deposit with Federal Express or other equivalent overnight delivery system or (iv) if sent by facsimile, upon confirmation if sent before 5:00 p.m. on a business day or otherwise on the business

day following confirmation of such facsimile, and provided that notice is also sent on the same day by one of the methods described above.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

Dianne Kretowicz, Trustee

California Coastal Commission

By: *Signature on file*

By: _____
Its: _____

Ure Kretowicz, Trustee

By: *Signature on file*

By: _____
Its: _____

APPROVED AS TO FORM:

LUCE, FORWARD, HAMILTON & SCRIPPS LLP

Signature on file

By: _____
Jeffrey A. ~~Chine~~, Attorney for Dianne Kretowicz and Ure Kretowicz, as Trustees of The Princess Trust

OFFICE OF ATTORNEY GENERAL

By: _____
Jamee Jordan Patterson, Deputy Attorney General,
Attorney for the California Coastal Commission

day following confirmation of such facsimile, and provided that notice is also sent on the same day by one of the methods described above.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

Dianne Kretowicz, Trustee

California Coastal Commission

2/2/08

Signature on file

By: _____

By: _____

Its: Peter Douglas, Executive Director

Ure Kretowicz, Trustee

By: _____

By: _____

Its: _____

APPROVED AS TO FORM:

LUCE, FORWARD, HAMILTON & SCRIPPS LLP

By: _____

Jeffrey A. Chine, Attorney for Dianne Kretowicz and Ure Kretowicz, as Trustees of The Princess Trust

OFFICE OF ATTORNEY GENERAL

Signature on file

By: _____

for Jamee Jordan Patterson, Deputy Attorney General, Attorney for the California Coastal Commission

EXHIBIT A

1. Construction of stairways along the south and eastern property boundaries;
2. Extending height of garage roof;
3. Removal of rear wood timber stairs on the face of the bluff (already removed) and portion of a retaining wall within the five foot coastal bluff setback;
4. Installation of decorative paving of City ROW leading up to home;
5. Masonry wall (6 ft. high) in City ROW as well as the extension in height of an existing retaining wall from 3'6" to 7'6", not in City ROW;
6. Modifications to non-conforming accessory structure "casita" (partially within City ROW) to include new plumbing and electrical, new doors and windows, expansion of existing walls and rehab and thickening of some exterior walls;
7. New planter walls, entry trellis and new 4' high max. planter in ROW;
8. New fountain adjacent to eastern exterior stair;
9. Second-story deck reconstructed and partial roof added;
10. New second-story cantilevered balcony;
11. Native vegetation removal on face of bluff;
12. Landscaping (non-native ice plant) and removal of irrigation on bluff face;
13. New square footage added, portions within 25 ft. of the bluff edge (bedrooms, music room and exercise room), constructed below house;
14. Flood lights on bluff face;
15. Drainage pipe down bluff face to collect and discharge drainage from northern patios/landscaped areas;
16. Wall and Fence in required vertical public access (lifeguard access);

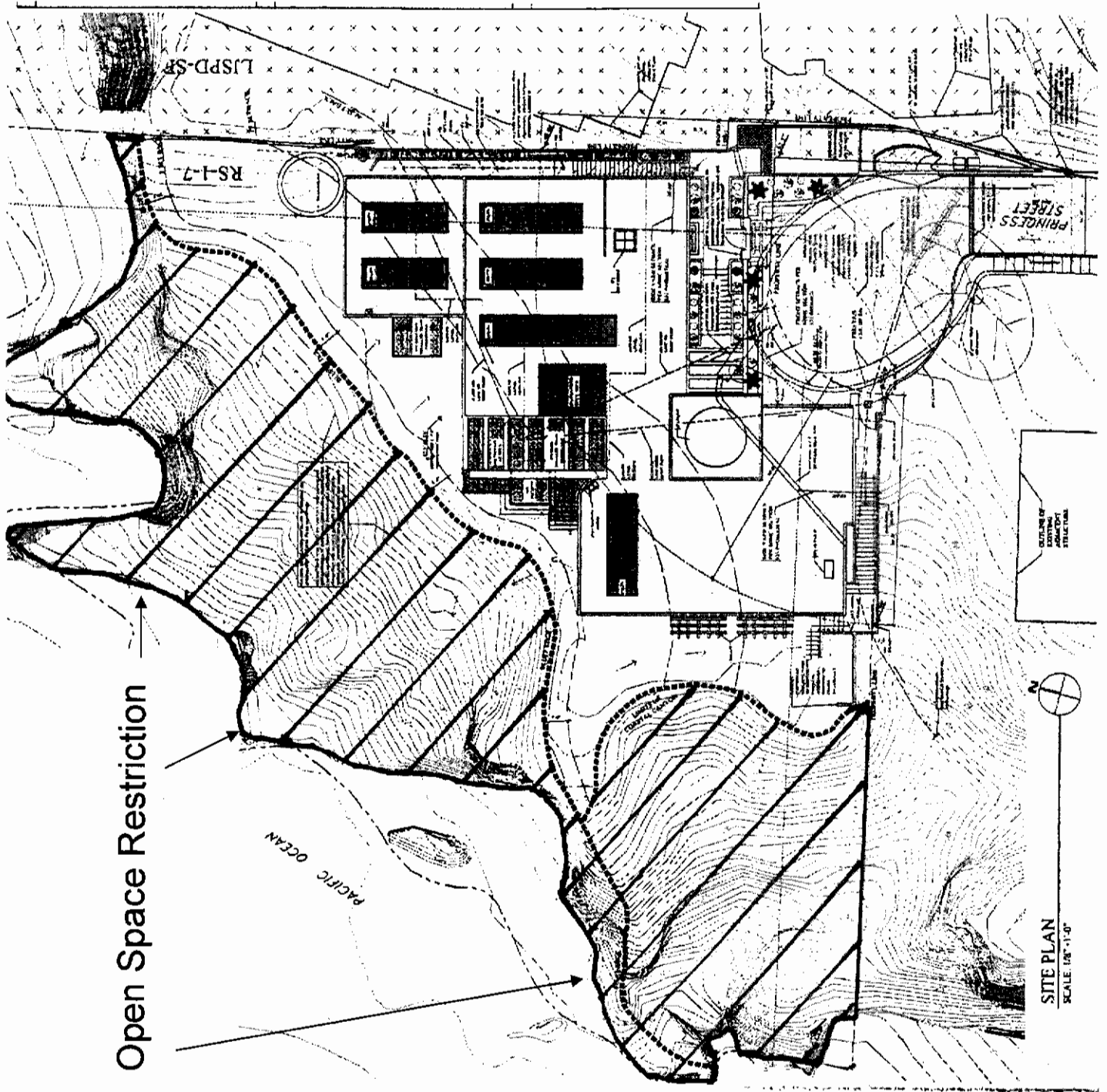


EXHIBIT NO. 9
APPLICATION NO.
A-133-79-
A5/F6760-A6
Open Space Restriction
 California Coastal Commission

January 24, 2011

February 10, 2011, Items 16a & 16b

California Coastal Commission
San Diego Coast District Office
7575 Metropolitan Drive, Suite 103
San Diego, California, 92108

RECEIVED
JAN 24 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Attention: Lee McEachern

Re: Kretowicz – File A-133-79-A5 / F6760-A6

I am writing to clarify the position of the La Jolla Conservancy (LJC) regarding this matter. On December 7, 2010, the LJC voted unanimously to supplement the letter it sent the commission on September 23, 2010 with the following statement:

The La Jolla Conservancy favors the restoration and maintenance of access to the public beach at 7957 Princess Street, regardless of any other recommendations concerning possible uses of funds that may be recovered as a result of past and current coastal permit infractions at the subject property.

The LJC also stands by the letter it sent to the Commission on September 23, 2010 which states:

On September 22, the Board of the La Jolla Conservancy voted unanimously to support the Commission's efforts to protect the public's use of this historic access to the La Jolla Underwater Park and State Ecological Reserve, with the proposed off-site mitigation fee to restore it. Angel's Flight access is located at the heart of the Coast Walk Trail and footbridge which are a designated historical landmark and visitor destination of worldwide significance. The La Jolla Conservancy stands ready to assist the Coastal Commission and other state and local agencies to successfully carry out the goal to enhance the public's access and enjoyment of this treasured California coastal resource.


When the Offer to Dedicate an Easement for the Public's access is recorded, then it can be accepted by local or state agencies or nonprofit organizations such as the La Jolla Conservancy.

Respectively

Signature on file

John Redinger, Secretary
760-635-8566

Secretary

EXHIBIT NO. 10
APPLICATION NO. A-133-79- A5/F6760-A6
Comment Letters
 California Coastal Commission



LA JOLLA PARKS & BEACHES INC.

MEET 4TH MONDAY, MONTHLY
AT 615 PROSPECT STREET

December 14, 2010

California Coastal Commission San Diego Area
Application # A-133-79-A4/F6760-A5
Send to lmceachern@coastal.ca.gov Att: Lee McEachern
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421

Re: Application No. A-133-79-A4/F6760-A5
Applicants: Ure and Diane Kretowicz

Members of the California Coastal Commission:

On Monday January 24, 2011, La Jolla Parks & Beaches Inc. voted 8-1-1 (chair abstains from voting) to "Support letter from La Jolla Shores Association to the California Coastal Commission".

Applicants Ure and Diane Kretowicz are private property owners who, through the architectural design firm of Marengo Morton, propose closure of public access to the south end of La Jolla Shores at Princess Street in exchange for installment payments totaling \$3.3 million to fund other access improvements. On October 13, 2010 and again on December 8, 2010, the Board of Directors of the La Jolla Shores Association met and held a properly noticed public hearing on the issue of whether or not to support the proposed action which is the subject of the above referenced application. After hearing overwhelming opposition from members of the public on this issue, the board has unanimously rejected the proposal which seeks to deny the public both lateral and vertical access to the beachfront. Our reasons are set forth below.

In the first instance, the Princess Street access to La Jolla Shores is vitally important to the safety and well-being of the beach-going public. This access point sits south of the La Jolla Shores at the approximate halfway point between the Shores and the Cove. Testimony heard at one hearing of the La Jolla Shores Association made a strong case that there are no similar beach access points in the area, leaving swimmers, kayakers, divers, tide-poolers, and hikers potentially stranded (and at risk of drowning) if they are blocked at high tide from egress at the Princess Street access. Applicants' suggestions that a lifeguard can be called to unlock a gate or that the public can simply swim to other La Jolla Shores egress points (such as Angel's Flight) seem unrealistic in an emergency situation.

Second, our community has expressed its strong disapproval of the sale of such an important public right of way. The California Coastal Commission is charged with a duty to protect, for the benefit of all citizens, our coastline and beaches from the overreach of a greedy few. The idea that, at any price, a private party can "buy-off" an invaluable obligation to the public, is contrary to this Commission's duty to protect the public's access to California beaches. Our community is left wondering: How is it that this Commission would allow a wealthy property owner to barter for the permanent abandonment of the public's beach access – beach access which, once sold off, can never be replaced?

While a sale of irreplaceable beach access at any price seems anathema to most, others are left shuddering at the low-ball nature of the applicants' offer. In other words, from a purely business point of view, the \$3.3 million installment offer seems grossly insufficient given the permanent nature of the private beach access being taken from the public. And, there are no guarantees that the applicants will make the scheduled payments (which are to be stretched out over a three year period of time) and no remedy left to the State in the event of a default. This is no minor point, when you consider the economic times.

Moreover, there are no guarantees that this money will be spent on other public accesses in La Jolla. While suggested, there is no mandate that the funds be so used and there remains ample opportunity in the proposal for the monies to be spent elsewhere in the region, leading to no access benefits for La Jolla.

Finally, the public has, in large part, been unaware of the proposal. Matters such as this, with long running permit and legal issues, are by their nature difficult to get timely information on. As a consequence, until recently the public has not been in a position to become informed on the issues and intricacies involved nor have their opinions fully heard and considered by the Commission. The recent hearings at the La Jolla Shores Association were the first public forums to address this proposal. It is vitally important to have this matter fully addressed and receive broad public input at the Coastal Commission Meeting. We are pleased that the item will be heard in San Diego, as that will provide for full community participation by those who stand to lose the most should the proposed action be approved.

In short, the applicants' proposal is not in the public's best interest as it denies, in perpetuity, the public's right to access an invaluable public resource, which no person (wealthy, powerful or otherwise) should be able to buy – at any price. The La Jolla Shores Association formally requests that the proposed action be denied and that this public access be preserved, forever, for the public's use and enjoyment.

La Jolla Shores Association

Joseph G. Dicks, Chair

cc: Office of the California Attorney General

**JOSEPH G. DICKS, CHAIR
LA JOLLA SHORES ASSOCIATION
P.O. BOX 64
LA JOLLA, CA 92038**

DEC 14 2010

Sent Via Personal Delivery and U.S. Mail

December 14, 2010

California Coastal Commission
San Diego Area
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421

Re: Application No. A-133-79-A4/F6760-A5
Applicants: Ure and Diane Kretowicz

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contrary to this Commission's duty to protect the public's access to California beaches. Our community is left wondering: How is it that this Commission would allow a wealthy property owner to barter for the permanent abandonment of the public's beach access – beach access which, once sold off, can never be replaced?

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In short, the applicants' proposal is not in the public's best interest as it denies, in perpetuity, the public's right to access an invaluable public resource, which no person (wealthy, powerful or otherwise) should be able to buy – at any price. The La Jolla Shores Association formally requests that the proposed action be denied and that this public access be preserved, forever, for the public's use and enjoyment.

La Jolla Shores Association

Signature on file

Joseph G. Dicks, Chair

cc: Office of the California Attorney General

LA JOLLA TOWN COUNCIL

Draft Minutes - LJTC
Thursday, January 13, 2011, Page Two

Action Item:

Approved Motion: Bache-Kerr made a motion for Van Inwegen to work with Ed Quinn and the community group to figure out the next step for the helicopter flying overhead close to shoreline. (Bache-Kerr/Hildt 12-0-1) Abstained: Van Inwegen

Comments from Government Representatives –

John Weil from Supervisor Pam Slater-Price: Present; made report.

Sterling McHale from Assemblymember Nathan Fletcher: Present; made report

LJTC Community Organizations-

UCSD-Anu Delouri: Present; made report

BRCC-Michelle Faulks-Present; made report

LJ CPA - Joe LaCava: Present; made report.

LJTC Committee Reports –

Streetscape/Beautification-Esther Viti: Present; made report

PDO-Crystall Hasson: Present; made report

T&T-Rob Hildt: Present; made report

Parks & Beaches- MerryWeather presented La Jolla Shores letter regarding item #7 Princess St. access, Kretowicz residence.

Action Item:

Approved Motion: Rasmussen made a motion to approve the general position of the La Jolla Shores letter in regards to the Princess St. access and for La Jolla Town Council to possibly write a letter in support. (Rasmussen/Haskins 12-0-1) Abstained: Dorsee

Consent Agenda: Approved motion regarding the December Consent Agenda with exception of pulling item K. Change in Parking time limits at 7427 Fay Ave- (Courtney/Haskins 13-0-0).

Lee McEachern

From: Melinda Merryweather [mbeherenow@sbcglobal.net]
Sent: Monday, January 24, 2011 2:18 PM
To: Lee McEachern
Subject: Fw: Princess st

----- Forwarded Message -----

From: Melinda Merryweather <mbeherenow@sbcglobal.net>
To: lmceachern@costal.ca.gov
Sent: Mon, January 24, 2011 1:57:54 PM
Subject: Princess st

To Commission Staff. Re Kretowicz/Princess beach access/San Diego Feb.10, 2011

Asking to restore public beach access at Princess st. forever.

My name is Melinda Merryweather and I have served on Park and Beaches in La Jolla for 19 years I also helped write our community plan,as a trustee of the La Jolla Community Planing Association.My duties were to map all the beach accesses.I am also the founder of Friends of Windansea who raised over \$200,000.00 for the historic preservation of Windansea beach in La Jolla.

I have lived in La Jolla most of my life,and in the 60s lived next to Princess st. and used the beach access all the time ,to go surfing (I was then married to Mike Hynson of the Endless Summer surf movie) we went down the path to the Beach and Tennis Club we went down to dive and snorkel,myself and my friends used it all the time.We also used it in the 70s and 80s. I am asking you on behalf of all of us,to please restore the beach access.It has also become a safety issue through the years if you go to that beach at low tide and the tide comes up you are trapped, as Mr Kretowics locks a gate across the access,and if you can get help from the lifeguards the have to use the house and kindness of a neighbor to get you out,yesterday there were

over 60 kayaks in that bay.

Mr Kretowicz will tell you the path is unsafe yet I have seen his own children take their kayak down the hill. He will claim when he bought the house he did not know there was a beach access there, good grief there was a huge sign there.

Please do not let this access that is so important to us be bought, I do not see any possibility of a access at Angel's Flight, as the bluffs are collapsing, and at most tides you can not reach that beach from there. And the neighbors have hired a attorney to fight it. I have also been told Kretowics will not have the funds. Last year he even took the city beach access sign down.

I believe the Eagle Scouts can come in and improve the trail, and if need be some stairs can be put in, we did it at Windansea.

Please lets put this nightmare of almost 30 years behind us and

Get our beach access back please.

Thank you for all your good work sincerely
Melinda Merryweather.

January 23, 2011

To: California Coastal Commission

From: Bill Booth, Jr.

Re: Historical Overview of Princess Street Access to Beach(La Jolla Slides) and its cultural precedent.

To whomever it concerns:

I am the son of Jane B. Baker, deceased, who owned the "Hopi House" and adjacent vacant lot at the foot of Princess Street, La Jolla, CA. from 1960 through 1989. The "Hopi House", fronting the Irving Gill home "Hilario", has been an architectural icon of La Jolla since 1916 with its strategic setting and accessibility to La Jolla's finest jewel, the La Jolla Cove. As real estate agent/consultant who represented my Mother, I assisted Robert Klitgaard, attorney of record for Jane Baker, in the negotiation with Helen Reynolds regarding the aforementioned Princess Street access. Helen Reynolds, owner of the Irving Gill home, had enjoyed a rich family history since 1907 with Princess Street and she provided an opposition to my Mother, who misinformed, had closed a seventy year, grandfathered access to the Slides.

Chronology of Beach Access/Implied Easement at 7957 Princess Street, La Jolla, CA.

1916: "Hopi House" site consecration; authentic pueblo home construction with indigenous Indian labor; bamboo garden installation between "Hopi House" and "Hilario" for bluff retention; cliff pathway hand dug for dedicated, public access to cobblestone beach of La Jolla Slides.

1916-1960: Bailey/North family succession of Princess Street, "Hopi House" ownership. Note: Wheeler North, eminent oceanographer and cousin to Helen Reynolds, jack hammered five subterranean caves into sandstone, shale cliffs, creating storage for marine artifacts below the "Hopi House".

1961: Jane Baker purchases "Hopi House"

1962/1964: Condemnation of bluff caves due to arson and vandalism.

1968: First "Hopi House" modification/addition/renovations. Prior to local scrutiny/historical preservation.

1977: Second "Hopi House" addition commencement.

1978: Jane Baker enjoined from further construction. Coastal Commission, Tony Ciani(architect/watch dog), and Helen Reynolds discover "string line" violations, parapet roof violations, and unlawful closure of beach access with curbside erection of chain link fence through a portion of Helen Reynolds front yard.

1979: Brokered peace achieved between Ciani, Klitgaard, and Coastal Commission. Jane Baker agrees to accept quiet, grandfathered easement in return for construction completion. It is stipulated that City of San Diego Lifeguards and staff of Scripps Institution of Oceanography(SIO) shall be granted "any time" access through locked gate to the La Jolla Slides with authorized keys. All grantees and grantor agree to minimum scope of usage until cliff pathway can be upgraded to general public use.

1982: Historical El Nino storms destabilize bluffs, undermine 70 year old path's integrity, and ultimately render easement impassable with cliff escarpment. All grantees use alternate access, the "Hopi House" side yard stairway, for emergencies, academic field investigations, and general access.

1989: Jane Baker sells "Hopi House". The buyer, Chris McKellar, acknowledges and accepts written disclosure regarding unrecorded easement and its historical continuity.

Synopsis: The unique geology and littoral bathymetry of La Jolla Slides was, in part, a primary feature of the siting of Scripps Institution of Oceanography in 1912 at its present campus. Pioneer oceanic research of La Jolla Cove with its submarine canyon, magnificent cliffs, bird life, kelp beds, and abundant sea life insured SIO's foundation. Fishermen, divers, swimmers, and surfers have always, and indisputably, used this cultural access to the beach below.

I would conclude with this: the Princess Street right of way needs to be returned to the public domain as it was established over a century ago.

Bill Booth, Jr.

TO CALIF. COASTAL COMMISSION.
RE: PRINCESS ST. LA JOLLA

Dear La Jolla Town Council and Committee Representatives,

I have recently been made aware of a 'former' emergency rescue access that has not been widely known or used by lifeguards in the last five to ten years. I toured the Princess St. "limited" access last Friday, April 15, and was very encouraged to find out that this access may be made available to lifeguards during emergencies. As a lifeguard supervisor in La Jolla for the past four years, I am aware of a number of times where this access route would have been beneficial to the victim(s) as well as the rescuers.

From a public safety standpoint, I encourage the La Jolla Town Council to support the sustainment of a emergency access at the foot of Princess St. for the benefit of all La Jollans and visitors to the La Jolla coastline.

Sincerely,

Sgt. John Sandmeyer
San Diego Lifeguards
Off. (619) 221-8879
cell (619) 980-0895
jsandmeyer@sandiego.gov



Paul S. Teirstein, M.D., F.A.C.C.

Chief of Cardiology

Director, Interventional Cardiology

Division of Cardiovascular Diseases

October 30, 2010

Direct Line: 858 554-9905

Fax Line: 858 554-6883

E-Mail: pteirstein@scrippsclinic.com

RECEIVED

NOV 08 2010

California Coastal Commission
San Diego Coast District

California Coastal Commission

San Diego Coast District Office

7575 Metropolitan Drive, Suite 103

San Diego, CA 92108

Attention: Lee McEachern

Re: Kretowicz-Off Site Mitigation

File A-133-79-A4 / F6760-A5

We are writing to voice our disapproval of the proposed amendments to the Coastal Development Permits for this property. We are specifically opposed to the mitigation plans that call for building the Angel's Flight staircase on Coast Walk as an alternate public access.

Concerns surrounding the impact of such a project are as follows:

Public Safety-

- Access for emergency crews is limited at best along the single lane dead end street.
- Current bridge and surrounding soil reveals years of neglect. The walking bridge bears a temporary repair (metal plate) which has been in place for several years. Increased foot traffic and access will further deteriorate the bridge as well as the walking path at a faster rate, affecting safety.
- Congestion builds when vehicles try to access limited parking spots along Coast Walk.
- Currently, expert swimmers and surfers use the beach. If a new staircase down the bluff is created, less skilled swimmers and surfers will use the area resulting in a potential increase of emergency services if an easier access is built.
- A lifeguard rescue using the proposed Angel's Flight staircase will be extremely dangerous due to the steepness and length of the required staircase
- At high tide, the proposed Angel's Flight staircase is cut off from the rest of the inlet, making lifeguard rescue more risky

Environment

- *Due to weather and usage, Coast Walk Path is in desperate need of re-grading the soil along the entire walking path. There are places that storm water runoff pipes are exposed with large screws are exposed and when drainage occurs it is not walk able.*
- *A man-made stairway is counter to a "preservationist" solution for beach access*
- *A man-made stairway will endanger the already unstable bluff*
- *As noted in the Commission staff report (page 27) of 9/29/10, "...construction of a public access stairway down the face of a coastal bluff can result in public view impacts..."*

If the Coastal Commission's staff approves the current recommendations, funds will be available to construct the Angel's Flight staircase. Building a staircase may be a solution for beach access in resolution for this lawsuit, but it is not a systemic solution for the whole of the path that is part of Coast Walk, and for the reasons outlined above, creates major new safety and environmental threats to the community.

We believe it is imperative that the Coastal Commission be alerted that there is intense community concern about the potential proposed settlement. Before approving a settlement and collecting \$3.3M, (earmarking the majority of the \$3.3M to the proposed stairs) the commission should know that their mitigation plans will be vigorously opposed by us as well as many neighborhood residents. The commission should also understand the important reasons why the proposed settlement does not provide the anticipated mitigation, but instead, threatens public safety and the environment.

Respectfully,

Signature on file

Paul S. Teirstein

1515 Coast Walk, La Jolla, CA 92037

858-554-9909

pteirstein@scrippsclinic.com

Signature on file

Jackalynn Wilson

1515 Coast Walk, La Jolla, CA 92037

858-459-5005

Jackalynn@san.rr.com

LJM

JOEL FISLER M.D.

NOV 08 2010
California Coastal Commission

November 3, 2010

Dear California Coastal Commission:

We strongly disapprove of the proposed amendments to the Coastal Development Permits for this property. We are specifically opposed to the mitigation plans that call for building the Angel's Flight staircase on Coast Walk as an alternate public access and as mitigation to 7957 Princess St lawsuit.

Concerns surrounding the impact of such a project are as follows:

Public Safety-

- Access for emergency crews is limited at best along the single lane dead end street.
- Current bridge and surrounding soil reveals years of neglect. The walking bridge bears a temporary repair (metal plate) which has been in place for several years. Increased foot traffic and access will further deteriorate the bridge as well as the walking path at a faster rate, affecting safety.
- Congestion builds when vehicles try to access limited parking spots along Coast Walk.
- Currently, expert swimmers and surfers use the beach. If a new staircase down the bluff is created, less skilled swimmers and surfers will use the area resulting in a potential increase of emergency services.
- Lifeguard rescue using the proposed Angel's Flight staircase will be extremely dangerous due to the steepness and length of the required staircase
- At high tide, the proposed Angel's Flight Staircase is cut off from the rest of the inlet, making lifeguard rescue more risky

Environment

- Due to weather and usage, Coast Walk Path is in desperate need of re-grading the soil along the entire walking path. There are places that storm water runoff pipes are exposed with large screws are exposed and when drainage occurs it is not walk able.
- A man-made stairway is counter to a "preservationist" solution for beach access
- A man-made stairway will endanger the already unstable bluff
- As noted in the Commission staff report (page 27) of 9/29/10 "... construction of a public access stairway down the face of a coastal bluff can result in public view impacts... "

If the Coastal Commission's staff approves the current recommendations, funds will be available to construct the Angel's Flight staircase. Building a staircase may be a solution for beach access in resolution for this lawsuit, but it is not a systemic solution for the whole of the path that is part of Coast Walk, and for the reasons outlined above, creates major new safety and environmental threats to the community.

Before the Coastal Commission decides to accept this mitigation, you should know that Angel Flight stairs would be the "stairs to nowhere". There is no beach at the base as well as no way to reach the beach in front of the Princess Property. Please be advised that due to the condition of Coast Walk not being able to support more traffic as well as other environmental and safety concerns we our greatly opposed.

Respectfully,

Signature on file

Joel D. Fisler

Signature on file

Linda S. Fisler

1531 COAST WALK, LA JOLLA, CA. 92037
PHONE (858)454-2209 * FAX (858)454-6999
EMAIL JFISLER2@SAN.RR.COM

California Coastal Commission -
Supervising Deputy Attorney General -
La Jolla Conservancy -

11-1-10

REC'D -
DEC 06 2010

Please open up the unlawful, selfish closure of Princess Street beach access. This was originally intended for public use to reach the ocean. It was available until owners of 7957 Princess closed it off, as if it were their own, 30 years ago.

Please do not even consider building an expensive, dangerous, precipitous stairway from the Coast Walk bridge down to jagged unsafe rocks below.

Please address erosion of Coast Walk cliffs and necessary repair of the deteriorated walk itself.

Sincerely,

 Signature on file JOW

46 year resident of Coast Walk

October 24, 2010

California Coastal Commission
San Diego District Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108
Attention: Mr. Lee McEachren

DEC 06 2010

RE: KRETOWICZ – A-133-79-A4/F6760-A5

Dear Commissioners:

After reading the Amendment Request, Staff Report and Preliminary Recommendation dated September 20, 2010, a group of concerned residents living along Coast Walk Trail gathered on October 24, 2010 to discuss the proposed settlement recommended by the California Coastal Commission Staff.

It was alarming to learn of the years of blatant permit abuse by the past residents of 7957 Princess Street and the lack of consequences for non-compliance. If there were ever a case on record to demonstrate the need for public oversight of coastal abuses, this long-standing litigation would serve as its poster child.

Consideration of this settlement appears to be at odds with the mission of the Coastal Commission to:

Protect, conserve, restore, and enhance environmental and human-based resources of the California coast and ocean for environmentally sustainable and prudent use by current and future generations.

The actions by the past residents of 7957 Princess Street, and the non-actions of the Coastal Commission, have managed to cut off previously public beach access for nearly 30 years. Additionally, the unpermitted construction that has been granted by after-the-fact permissions over the past decade has further damaged the bluffs and intertidal areas. The result is a direct impact to the sustainability of the coastal bluff and shoreline, which the Coastal Commission has direct responsibility for protecting.

With respect to the proposed settlement, while we believe some form of mitigation may be necessary, we vigorously oppose the mitigation proposed in the Coastal Commission staff report of September 20, 2010. The staff proposal does not constitute appropriate mitigation, because it a) does not provide adequate access to the disputed beach, b) raises enormous safety concerns, and c) threatens the sensitive Coast Walk Trail, an environmentally important trail, which is already at risk due to abuse and neglect.

Our concerns about the environmental impact of this proposal to the fragile Coast Walk Trail have resulted in our taking steps to form a Coast Walk Conservancy group to work on preservation and protection of this valuable resource.

14 similar
letters submitted

We support and encourage new ideas for the dispute on Princess Street. It is our hope that a more meaningful and beneficial resolution can be found.

Respectfully yours,

Signature on file *Signature on file*

Signature(s)

WATER & STYLIANI (ESTD) BINDER

Printed Name(s)

1327 Coast Walk Lakeland, FL 32037

Address

Telephone (Optional)

styanip@att.net

E-Mail (Optional)

Anthony A. Ciani
340 Dunemere Drive
La Jolla, CA90237

May 25, 2011

California Coastal Commission
San Diego District Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

RE: KRETOWICZ – A-133-79-A4/F6760-A5

Dear Commissioners:

I urge you to conclude this matter, by approving only the development of the proposed CDP amendments with special conditions that definitely will not harm Coastal Resources and the public's enjoyment of them.

Specifically, I request that you:

- 1) protect the sensitive bluffs and adjacent shoreline and La Jolla Marine Reserve Conservation Area – and Underwater Park ;
- 2) protect the public's right of access from Princess Street to the adjacent shoreline;
- 3) protect existing public views over the site to the adjacent shoreline, La Jolla Caves and Cove;
- 4) require a significant mitigation fee to enhance public access to the adjacent shoreline;
- 5) require that the existing, unapproved irrigation of the bluffs be eliminated, and that future irrigation be designed and controlled to avoid urban runoff in the ecological reserve;
- 6) require that the current storm drainage system and applicant's storm drainage system, be diverted away from the bluff and sea using a sump pump with a gas-powered generator backup; and,
- 7) based upon the permit history for this site, I request the Commission require a monitoring program to insure compliance with the conditions for these amendments.

In support of my request:

- A) There is an abundance of evidence regarding the public's historical use in the record of the California Coastal Commission's previous decision to require an offer to dedicate a vertical public access at this site;
- B) there is substantive evidence of the current owner/applicant performing significant development after being informed to stop work and to obtain all required permits including a CDP; portions of those new improvements, on their own, interfere with the public's right of access to the shoreline (CA Section 30211); and
- C) there is a preponderance of public opinion about the significance of the adjacent beach, ocean and tide pools and importance of protecting the public's right of access to them.

Sincerely,

Signature on file

Anthony A.

RECEIVED

MAY 26 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

RECEIVED

FEB 04 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

**Audrey D. Keane
8141 El Paseo Grande
La Jolla, CA 92037**

California Coastal Commission San Diego Area
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421

February 4, 2011

To Whom it May Concern:

The property located at 7957 Princess Street is full of history, including a legally recognized beach access. Located on the point of Princess St overlooking the ocean, tide pools, and caves, the access to the beach was walked by ancient Native Americans. Amateur and professional marine biologists and geologists still explore the tide pools today, but the only access is by walking south from the public access next to the Marine Room and crossing the rocks at low tide. This week during low tide, I saw several people exploring the area including a man with a small child.

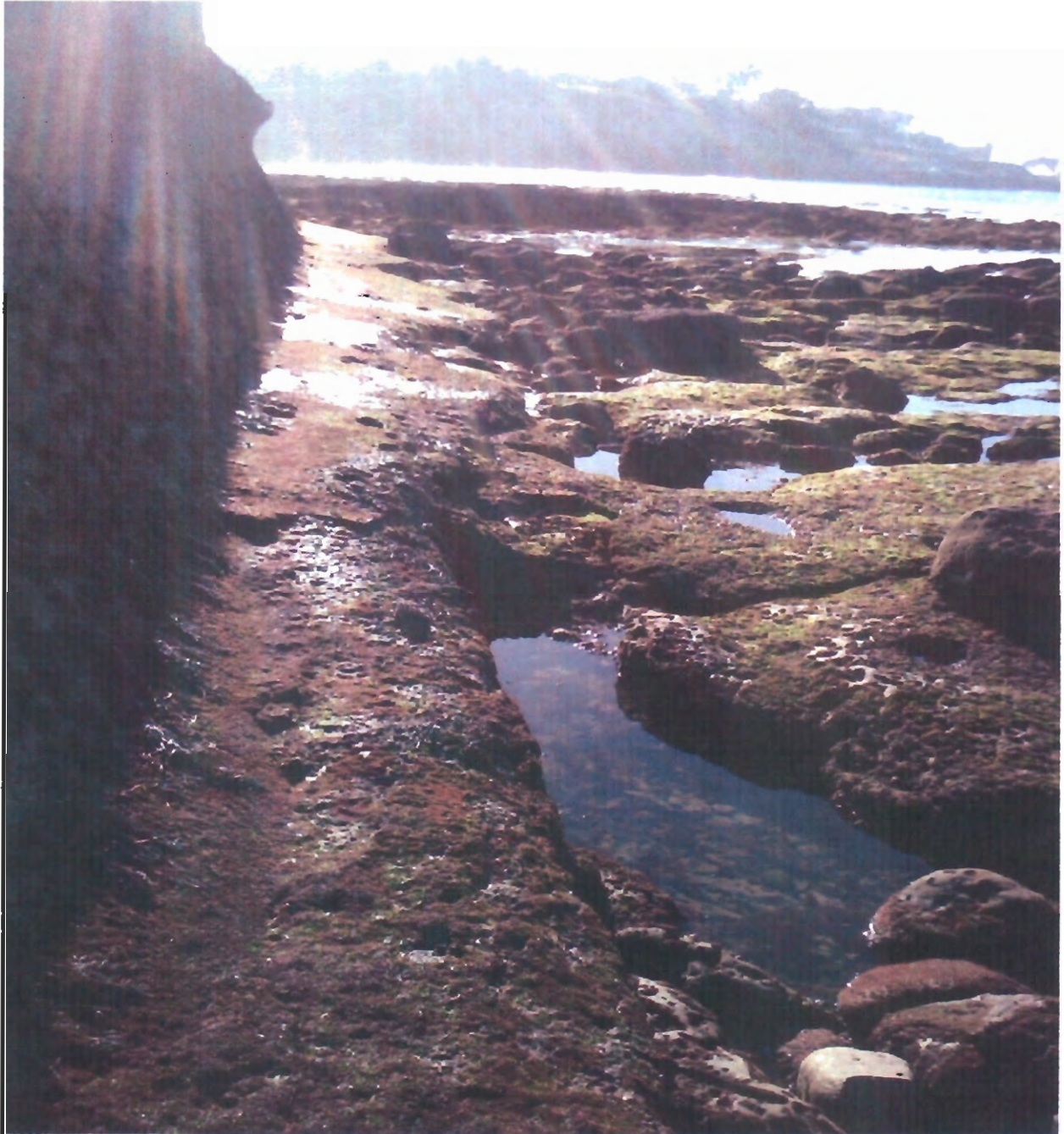




As you can see from several of the photos, the area is beautiful and full of sea life.

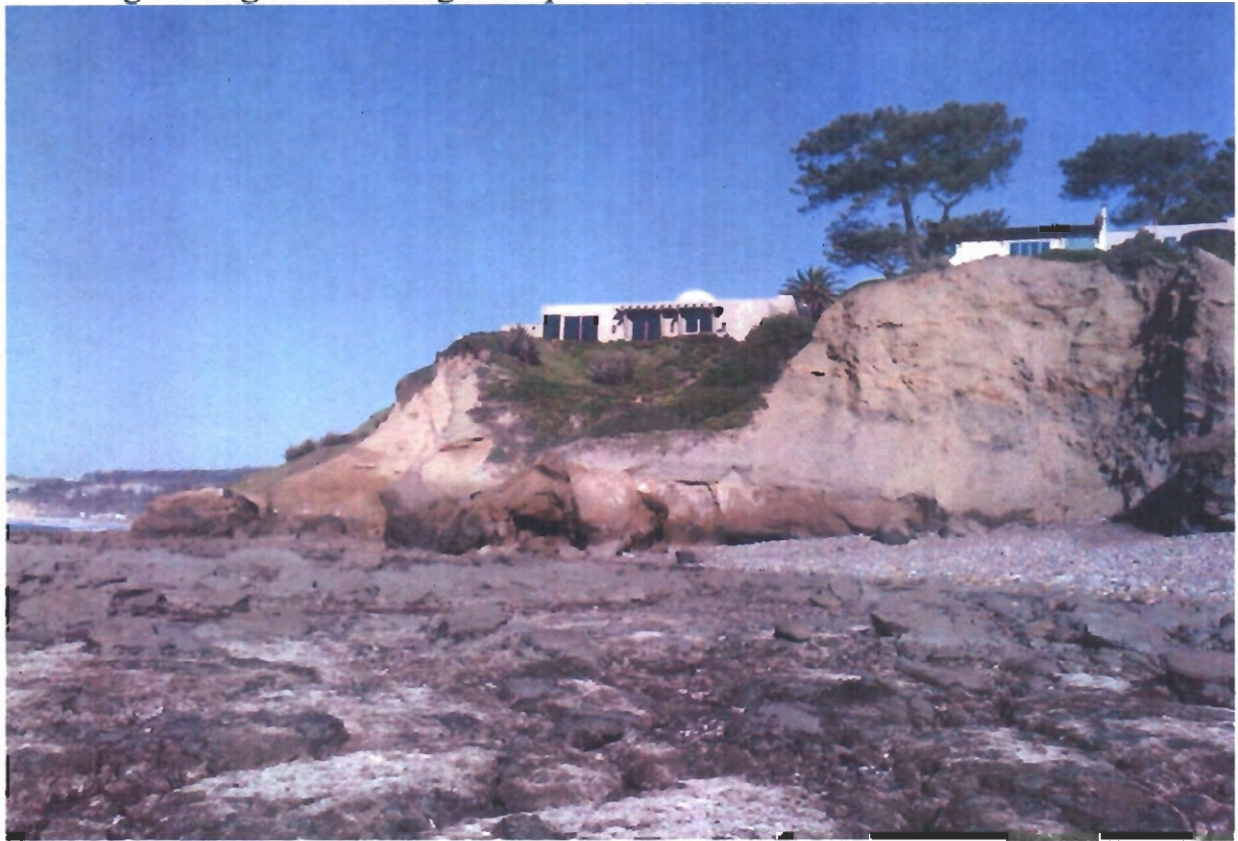


At low tide, there appears to be a walkway created by the cement retaining wall beaconing the public south toward the tide pools.



Unfortunately, as the tide rises, there is no obvious exit from the beach.

The property located at 7957 Princess Street has a long history of violations, including closing off the designated public beach access.



Potential former walkway from beach overgrown with bushes and iceplant.



Furthermore, there appears to be a drain pipe extending from the property directly into the coastal reserve.



It is important to recognize that this area is an important part of the La Jolla Marine Reserve. As the sign says on the Marine Room entrance, "Public Access Always Permitted."



The California Coastal Commission has a responsibility to preserve the coast and the marine reserve. No private property owner should have the right to buy public access in exchange for payment of fines for building violations. If you set a precedent by rewarding such behavior, other coastal property owners will act the same way. Private beach front property is worth much more than a mere \$3.3 million and will continue to grow in value over time.

Although the beach access in that area is not obvious and may have eroded over time, it is possible to build stairs or a safety platform. The money could be used to improve signage indicating the existence of the underwater park, including warnings to not disturb wildlife plus educational signage. Tide charts would be helpful so that people have warning of the time limits.

Money from the fine could also be used to support park ranger(s) and lifeguards to monitor the area. The beach is in a blind corner from the La Jolla Shores Lifeguard station, so monitoring must be done via jet ski or paddle board.



In conclusion, it is important to retain the public's legal right to access at Princess Street. The fine should be used to support activities in the La Jolla Marine Reserve area to promote the health and safety of people and the marine life in the reserve.

Thank you for your consideration,

Signature on file —

Audrey D. Keane

Lee McEachern

From: David Little [dlittle1@san.rr.com]
Sent: Friday, February 04, 2011 9:32 AM
To: Lee McEachern
Subject: We Need Public Beach Access at Princess Street

Please restore public access to the public beach at Princess Street in La Jolla.

Public beach access in this area is scarce and this access was in existence years ago.

If our beaches are to remain public, we need public access - not a locked gate.

Thank you .

**David Little
5511 Linda Rosa Ave
La Jolla, Ca**

2475 Hidden Valley Road
La Jolla, CA 92037-4021
January 26, 2011

California Coastal Commission San Diego Area
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421

Subj: Princess Street Access to the Pacific Ocean

To: California Coastal Commission

I'm a senior citizen and a life-long resident of San Diego. As a child lucky enough to grow up in La Jolla, I remember very well having access to the rocky shoreline via Princess Street. My best friend lived on Torrey Pines at the intersection of these two streets. We explored the shore, the tide pools, and at the lowest tides, the caves. It is a delightful remembrance.

I now tide pool with our young grandchildren. Sadly, the Children's Pool cannot be enjoyed by them. Princess Street access has also been taken away. What next?

I fully support re-opening this coastal path access.

Respectfully,

Signature on file

Daira Paulson

858-454-7708

RECEIVED

JAN 31 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

TJR

RECEIVED

Tamara Rible
2485 Hidden Valley Road
La Jolla, CA 92037-4021

FEB 02 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

California Coastal Commission San Diego Area
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421

To whom it may concern,

I was born and raised in La Jolla and was blessed with a joyful childhood of swimming and tide pooling. I spent countless days at Slide Beach with my best friends exploring the incredible tide pools and nearby caves. It was where I learned all I know about the diversity of the seashore. The memories of wonderment, adventure, and independence are dear to me.

Now I have grandchildren, and although they don't live in La Jolla, they do visit and what draws them is exactly what captivated me when I was young. I feel that children who cannot experience what I did, who cannot look and reach into the miniature world of tide pools, are missing some of life's more enchanting experiences.

I was stunned to learn that the nearby property owners built a fence which prevents all their neighboring tax payers, as well as anyone else with curiosity and an appreciation of nature, access to such a unique area. No other area has tide pools as wonderful as the ones of Slide Beach.

Perhaps I live in a bygone era, one which held that Mother Nature's beauty should be appreciated and shared by all. It seems immoral to block access to a beach. In this day of waste and pollution, the younger generation needs to know and care about the earth. If intriguing places like Slide Beach are not accessible, how will our youngest citizens learn?

I respectfully urge the committee to keep access to Slide Beach open.

Sincerely,

Ta *Signature on file*
Tamara Rible

WV

RECEIVED

FEB 07 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

California Coastal Commission
San Diego Area
7575 Metropolitan Drive
Suite 103
San Diego, CA 92108-4421

February 3, 2011

Dear Sirs:

I write you regarding restoration of beach access at Princess Street, in La Jolla. This access, long available to various users of La Jolla Cove, should be restored.

Thank you for allowing me to voice my opinion on this important matter.



Glenn Vanstrum, M.D.
1261 Rhoda Drive
La Jolla, CA 92037



La Jolla Community Planning Association

4 February 2011

California Coastal Commission - San Diego Area
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421

ATTN: Lee McEachern

Re: Application No. A-133-79-A4/F6760-A5
Applicants: Ure and Diane Kretowicz

Members of the California Coastal Commission:

The La Jolla Community Planning Association (LJCPA) is officially designated by the San Diego City Council to make recommendations to the City Council and other governmental agencies on land use matters, specifically, concerning the implementation of the La Jolla Community Plan and Local Coastal Program Land Use Plan.

At its regular scheduled meeting on February 3, 2011 duly noticed to the public in conformance with the Brown Act, the LJCPA considered the subject application, specifically with regards to the staff recommendation.

By a unanimous 16-0 vote, the LJCPA adopted the following motion:

The La Jolla Community Planning Association supports the restoration and maintenance of the historic full and open public beach access at 7957 Princess Street and not simply "emergency lifeguard" access. And, incorporating this access into the La Jolla Community Plan and Local Coastal Program.

Furthermore any funds that the Coastal Commission may seek to recover as mitigation for previous obstruction of such access and/or for non-conforming development at the subject property must be restricted for use solely within the La Jolla coastal area.

Please modify the staff recommendation accordingly as part of your consideration of this application.

Sincerely,
La Jolla Community Planning Association

Signature on file *WA*

Joe LaCava, President

Lee McEachern

From: Jim Fitzgerald [jimfitz1@pacbell.net]
Sent: Friday, February 04, 2011 12:01 PM
To: Lee McEachern
Subject: Charlotte Public Beach Access at 7957 Princess Street, La Jolla, 92037

Honorable Members of the California Coastal Commission:

Re: Charlotte Public Beach Access at 7957 Princess Street, La Jolla, 92037

I am a 22-year resident of La Jolla and an elected Trustee of the La Jolla Community Planning Association (LJCPA).

At the February 3, 2011 LJCPA meeting, the Trustees voted unanimously to request free and open public access to Charlotte Beach and not to limit access for emergency purposes only. The result of this vote has been transmitted to you by Joe LaCava, President of the LJCPA.

I want to add my voice as a private citizen to the request to allow free and open public access to this beach-- as was the case at this location for decades. The legal history of this property has been complicated by the failure of authorities to formally record a public-access easement to the beach (as was intended by the Coastal Commission many years ago) and by subsequent encroachments into the public right-of-way by property owners.

These complications notwithstanding, beaches are public assets to be accessed and enjoyed by all citizens. Given the extensive development along the coast in La Jolla (and elsewhere), opportunities for the public to access beaches are very limited in certain areas—and this is one of these areas.

I strongly urge the Commission to fulfill one of its prime responsibilities by guaranteeing the public's free and open access to Charlotte Beach.

Thank you for your consideration.

Respectfully yours,

Jim Fitzgerald
6942 Via Estrada
La Jolla, CA 92037
858-456-6255

California Coastal Commission
San Diego District Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108

February 6, 2011

RE: KRETOWICZ-A-133-79-A4/F6760-A5

Dear Commissioners,

The Commission should require an Offer to Dedicate (OTD) Easement on the Kretowicz parcel, consistent with its 1979 findings, with the goal that the public will once again gain access to this unique beach area. Access to this the beach from this location is still as feasible and is as important today as it was in 1979 when the Commission found: (Page 13 of the current staff report)

“The Commission finds that access to this pocket beach is only available at low tide due to the promontories which impede access to the beach from the nearest accessway to the shoreline which is located ¼ mile up coast. The Commission concludes, therefore, that adequate access does not exist nearby. Although the public has historically had access over the project site, construction of the project has preceded the use of this accessway, thereby diminishing the public’s right of access to the state owned tidelands. An alternative accessway must, therefore, be provided to offset the burdens this development has placed on the public’s constitutional right of access and to assure the conformity of the project with the provisions of Section 30212 of the Act.

This paragraph continues, with one of the most compelling arguments for restoring the beach access. (This this part of the paragraph was left out of this section of the staff report, although the complete 1979 Commission report appears later in the addendum.)

“ ...This site has historically been used for access to the shoreline below. A site inspection revealed that it was not difficult to walk down the bluff face and, if minor improvements were made, the access way could be easily traversed with little damage to the landforms. The Commission concludes that public access can be provided consistent with public safety and must, therefore, be provided to the proposed project consistent with the Coastal Act.”

Pictures taken as part of the Coastal Commission's staff report in 1979 look remarkably similar to photos taken today. There has been very little erosion at the base of the cliff where it meets the beach area, indicating that this location is stable enough for stairs or other structures to be located. The main area of concern is on the hillside itself, which has suffered some erosion over the years due to non-conforming irrigation and drain systems. The Commission's findings in 1979 still stand today: vertical beach access is practical, important, required by the Coastal Act, and should be restored.

From page 17 of the current staff report:

“...While the OTD has never been recorded, in violation of the terms of the coastal development permit, due to the inaccessibility of the beach below the subject site, the need to provide access to the beach at this location is just as important today as it was when the Commission originally required it in 1979...”

And from page 13 of the current staff report regarding the history of the project:

“...By the time the Commission imposed the access conditions, however, the applicant had

already completed construction of the proposed addition in compliance with the permit as previously issued. Therefore, the State Commission required that the vertical access be located in a slightly different location than the historic trail in order to accommodate the addition. The then-owner, Ms. Baker, did not record the offers to dedicate access.”

It is my understanding from conversations with supervisor McEachern at the San Diego office, that the main reasons for the staff recommendation to accept the 3.3 million dollar mitigation rather than require an OTD easement, is based on the assumption that the city is unwilling to accept such an easement. This opinion apparently was given years ago by a representative working for the Park and Recreation Department who is no longer with the department. The reason given was that there weren't any funds available at the time to restore the historical access and there was a general unwillingness to add another expense to the budget. I have not seen this position from the City in writing, and if the Commission does have such a letter, it should be provided to the city immediately so that further research can be made on the issue to develop a current position. The mayor's office when contacted was not aware of this previous position. One thing is certain, there was no community input taken regarding the OTD easement for beach access issue by the Park and Recreation department, nor any other entity of the city.

The new director of the San Diego Park and Recreation Department only became aware of the beach access issue last week. The department is currently searching their records and to date has not found any letter or memo stating any position on the beach access OTD easement. They are also in the process of evaluating the issue but will need 30 days to complete their work and provide a position on this issue.

The public has been unaware of this issue until recently. In the past two months the community had its first opportunity for input since the Commission hearing in 1979. The La Jolla Shores Association, the La Jolla Town Council, the La Jolla Parks and Beaches committee, and the La Jolla Community Planning Association have all heard this issue and provided a forum for public input. The overwhelming response is that the community would like the OTD easement granted, and beach access restored. All of these community organizations have passed motions in favor of restoring this access way.

While it is true that the San Diego Park and Reception Department currently does not have funds budgeted to develop an acceptable access at this site, it does not mean that funds can't be located or raised in the near future to allow restoration of the access. Now that the community is involved, I anticipate that funding sources will be found to once again open access.

One of the important mandates of the Coastal Act is to insure public access to our beaches and coastline. This is the best opportunity, and probably the only opportunity, for public access to this beach to be restored. I ask you to re-affirm the findings which were passed unanimously by the 1979 Coastal Commission and not to accept the 3.3 million dollar mitigation, but instead require an OTD easement with the purpose of restoring the historical beach access way at this location.

Sincerely,

Tim Lucas
8152 Calle del Cielo
La Jolla, CA 92037

To Whom it May Concern,

Many years ago, in 1962, I lived with my family on Park Row in La Jolla . My father had just finished his doctorate in Marine Biology at Cal and we rented the big white 2 story from "Miz Sibley" realtor Sib Sellow's widow. We had the whole run of the Village area in those days, especially on Sundays when it was mainly deserted. We ranged from Windansea to the south and Torrey Pines to the north and EVERYWHERE in between! We explored every access to every beach; permitted, legal, private or public. We swam into the caves and ran up the steps to knock on the door to the Shell Shop, hoping to startle anyone who might be in that store shopping! We had a "fort" near the stairs down Devil's Slide, which we used most often, as it was at the end of the north "spoke" of Park Row. And, yes, Princess Street beach access was used sometimes as well, both to get down to that beach (and to climb up!) if we wanted to take a short cut to the "Indian Bath" area of those tide pools at low tide (sadly, since eroded and worn away; the other, below Torrey Pines, is still there.) It was way quicker than going all the way down to the Marine Room walkway! Over the years my brothers, I, and many others continued to use this secret, "locals only" beach access, even as the cliff eroded and it became a bit dicey. It was a great way to sneak out (for a surf) at the Cove on bigger days without drawing too much attention to the fact. A rope was used for many years as an aid to climb up with. The last time I probably used Princess St. was during the big swell of 1983, I'd gotten caught inside on a big set, lost my board, and was happy to be able to recover it on the rocks below and get out of there! However I have gone to end of Princess and looked out many times since then, and have noted the unfortunate changes made over the last many years by private individuals. It would be a shame to disregard the really useful, historic public access that Princess Street represents.

Respectfully submitted, Wm Hansen Newman
 La Jolla Elementary
 Muirlands Jr. High
 La Jolla Explorer Post 4 1968-73
 Graduate of La Jolla High School 1973
 B.A. University of California Berkeley 1979
 Su Casa Restaurante 1975-05
 Windansea Surf Club past president 1983-87
 Friends of Windansea Co-founder
 Trustee of the La Jolla Town Council 2003-05

Father, Dr. Wm A. Newman
 B.S. & M.A. University of California Berkeley 1952
 Doctorate @ Cal 1962 in Marine Biology
 Fanning Island Expedition 1963
 Associate Professor, Comparative Zoology, Harvard College 1963-65
 Professor Emeritus, Benthic Invertebrates,
 Scripps Institute of Oceanography 1962-present

Brother, Dr. James H. Newman
 (Schooling as above, LJHS '74)
 Dartmouth College 1978
 University of Mainz , Germany
 Doctorate Rice University , Astrophysics 1983

NASA 1983-2009 Mission Specialist STS 51, 69, 88, and 109
 US Director Space Flight Program Star City Russia 2002-05
 Associate Professor, Naval Post-Graduate School , Monterey
 Still surfs...well!

Brother, Eric H. Newman
 (Schooling as above, LJHS '76)
 Su Casa Restaurante 1974-80
 Seaport Village 1980-83
 University of Montana Missoula Director of Foodservice 1984-87
 Seastar Restaurant, Big Fork, Mt.
 Bozeman Food Co-op Montana
 National Sales Director, Nature Valley Dairy
 Better surfer than any of us ever were...

RECEIVED

MAY 18 2011

CALIFORNIA
 COASTAL COMMISSION
 SAN DIEGO COAST DISTRICT

Fw: Spindrift access

"Boucher, Saxon"

Add to Contacts

Saxon Boucher

----- Original Message -----

From: Boucher, Saxon

To: 'mbeherenow@sbcglobal.net' <mbeherenow@sbcglobal.net>

Sent: Wed May 11 21:36:11 2011

Subject: Spindrift access

To whom it may concern,

My name is Saxon Boucher, I was born and raised here in La Jolla and am fortunate enough to still call it my home. I grew up in the water and on the beach and made a career as a pro surfer and now work in the surf industry at Surfer magazine. I used the accesses all around La Jolla as a kid and adult to get to and from all my favorite beaches. The Spindrift access in particular is special just in order to get to that part of the beach and use it to go surf or walk the beach for shells or just to be able to enjoy that secluded part of our "jewel". I beg that this access remain on the OPEN list forever so that current and future generations can enjoy what I have. Thanks.

Saxon Boucher

Saxon Boucher

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MAY 12 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT



Surfing with style

RECEIVED
MAY 03 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

June 6th 2007

Dear California Coastal Commission

I am writing to you regarding a-133-79-a2/86760-a3. The date is June 14th 2007 #the 10 A . Ure & Dianne Kretowicz

First Thank you for your time in this matter. I am a long time resident of La Jolla since 1967. I started surfing in 1969 & surfed La Jolla Shores & the inside break there since 1969. There is a white stairway that you could go down to the beach, its called "Slides". It is a beautiful area of La Jolla Cove.

I served as president of the non-profit corporation Windansea Surf Club for 7 Years www.windanseasurfclub.org & also serve as member of the non-profit group The Coalition of Surfing Clubs, www.surfclubs.org currently.

I was with my children Emma DeJourday 7 years old & my son Dylan De Jourday 13 years old & their 3 friends on Sunday June 3rd 2007. We walk down the trail at slides in between Coast Walk & Princess St there. After a while being at the beach & tide pooling with the kids we decided to head home but the climb back up the trail was to steep for my daughter Emma so I told the kids there was another public access out so we headed up the Princess st. trail that now has a new black fence we had to climb over to get back home.

I was telling the kids that this was a public access they can use & all of a sudden this lady started yelling that it was not a public access & frightened the kids. She later said it was down the road but there is only one way & now they have a fence blocking the way down with the new fence. Please do something about this. This is now a safety issue for the many Kayackers & swimmers that use this area. If there were big waves & you had to make a rescue this exit a Princess St would be the safest & quickest way to get out or to get help.

I have always admired our California Coastal Commission for all it does.
Please help us.

Sincerely

Ozstar De Jourday

Signature on file *Signature on file*



COUNCILMEMBER SHERRI S. LIGHTNER

FIRST DISTRICT
CITY OF SAN DIEGO

May 25, 2011

Mr. Lee McEachern
California Coastal Commission
San Diego Area
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421

RECEIVED

MAY 25 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Re: Application No. A-133-79-A4/F6760-A5
Applicants: Ure and Diane Kretowicz

Dear Mr. McEachern:

Thank you for the opportunity to comment on the application for a Coastal Development Permit for improvements that have already been completed to the Kretowicz residence at 7957 Princess Street, La Jolla.

I offer the following comments regarding the Special Conditions, as referenced on page 4 of the staff report.

1. Payment of \$3,300,000 in mitigation

Coastal Commission staff has made a preliminary recommendation that \$3,000,000 in mitigation funds be used for the reconstruction of Angel's Flight public access stairway. Per the April 18, 2011 letter from City of San Diego Chief Operating Officer Jay Goldstone (attached), I would also recommend that these funds instead be used exclusively to reconstruct and improve existing public accesses and stairways within the La Jolla Community Planning Area, as determined by the City and approved by the Coastal Conservancy. Within the La Jolla Community Planning Area, there are 14 existing public access points that are identified as being in the top 50 access points in the City of San Diego that are in need of improvements, and that money could best be spent on improving these locations (rather than building a new public access at Angel's Flight in a location that has not been deemed appropriate by San Diego Lifeguards and Park and Recreation Department staff).

I join the City in supporting the additional \$300,000 grant to be issued to the City for other public access areas within La Jolla.



2. *Lifeguard Emergency Vertical Access at Princess Street*

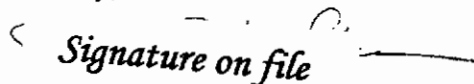
I also support the City of San Diego's recommendation that the City be provided the use of an easement at Princess Street for an emergency lifeguard access, which will be paid for by the applicant. This is consistent with the current La Jolla Community Plan/Local Coastal Program, which calls for an emergency lifeguard access at Princess Street.

In addition, numerous La Jolla constituents along with three community groups, the La Jolla Community Planning Association, La Jolla Shores Association and La Jolla Parks and Beaches Committee, support the upgrading of the Princess Street access to a full public coastal access. This is an important historical access point, and as such, the community would appreciate maintaining the option to restore it to a full public access in the future.

To that end, I respectfully request that the Coastal Commission also preserve the option of an offer to dedicate the Princess Street access as a full public access for the next 21 years in the event that circumstances change and funds become available to upgrade this location so that it can safely accommodate a full public access. (Funds would also be needed for the accompanying amendment to the La Jolla Community Plan/Local Coastal Program to change this location from an emergency access to a full public access.)

Thank you very much for your consideration. Please do not hesitate to contact my office at sherrilightner@sandiego.gov or (619) 236-6611 if I may provide any additional information.

Sincerely,


Signature on file

Sherri S. Lightner
Councilmember, City of San Diego, District One

cc: Jay Goldstone, Chief Operating Officer, City of San Diego
Stacey LoMedico, Park and Recreation Director
Javier Mainar, Fire-Rescue Chief
Rick Wurts, Lifeguard Chief
Kathleen Hasenauer, Park and Recreation Deputy Director
Darren Greenhalgh, Engineering and Capital Projects Deputy Director
Ali Darvishi, Engineering and Capital Projects Project Officer II
Lesley Henegar, Community Investment and Community Planning
Tony Crisafi, Chair, La Jolla Community Planning Association
Audrey Keane, Chair, La Jolla Shores Association
Patrick Ahern, Chair, La Jolla Parks and Beaches Committee



THE CITY OF SAN DIEGO

RECEIVED

APR 22 2011

CALIFORNIA COASTAL COMMISSION SAN DIEGO COAST DISTRICT

JM

April 18, 2011

Mr. Lee McEachern
San Diego Office Area
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Dear Mr. McEachern:

Subject: Application No. A-133-79-A4/F6760-A5 /Kretowicz

In January 2011 the City of San Diego (City) became aware of the above-referenced Coastal Commission permit application and Coastal Commission staff report with preliminary recommendations which in part include approval of the permit with certain conditions.

City of San Diego staff was not asked to provide input to the Coastal Commission staff recommendations at the time of the report. As such this letter is the official City of San Diego response to the Coastal Commission's report outlining the preliminary recommendations which impact locations within the City of San Diego's La Jolla Local Coastal Program (LCP).

Responses to the Special Conditions (as referenced on page 4 of the report)

- 1. Payment of \$3,300,000

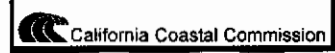
The Coastal Commission staff recommends funds be used for the "reconstruction of Angel's Flight public access stairway" and various other public access improvements in La Jolla area, including a grant to the City for \$300,000 to be used exclusively for other public access improvements. In addition, if the \$3,000,000 identified for the reconstruction of Angel's Flight Stairway is not used by the State Coastal Conservancy for this purpose the funds shall be used by the Conservancy for other such public access improvements within the coastal area of Southern California.

The City supports the \$300,000 grant to be issued to the City for other public access areas within La Jolla, but disagrees with the recommendation of \$3,000,000 or any funding for the Angel Flight Stairway. The City of San Diego's La Jolla Community Plan, which also is the LCP for the area was developed by the residents of the La Jolla Community area and adopted by the City Council in 2004. This adopted Community Plan does not recommend this location as a future public access point to the beach below. In addition, various City staff, including staff from the Fire and Life Safety and the Park and Recreation Departments does not support a new stairway in the area. For these reasons we would recommend that the Coastal Commission change this Special Condition to include \$3,000,000 for the exclusive use to reconstruct and improve existing public access/stairways in the La Jolla Community



DIVERSITY BRINGS US ALL TOGETHER

EXHIBIT NO. 11
APPLICATION NO.
A-133-79-
A5/F6760-A6
Letter from City



Planning Area, as determined by the City and approved by the Coastal Conservancy. In 2003 the City completed a comprehensive Coastal Access Site Improvement Assessment of 131 public access points along the coast. The 2003 survey prioritized the areas for improvements based upon the site assessments. Of the 131 sites, many within the La Jolla Community Planning Area and 14 of these La Jolla locations are within the top 50 identified priorities. With limited funding for such improvements it could take upwards of 15 years to complete all the improvements identified. As such the City could use the funds to make improvements only to public access points within the La Jolla Community Planning Area.

2. Lifeguard Emergency Vertical Access (at Princess Street)

The City of San Diego agrees with the recommendation to provide the City of San Diego an emergency easement for the use of Lifeguards for emergency access which will be paid for by the applicant. The City of San Diego agrees with the recommendation to provide the City with an emergency easement to be used by Lifeguards or other emergency responders for the purpose of accessing the water and shore, which will be paid for by the applicant. The City of San Diego does not recommend the access be opened to the general public at this time. First and foremost, the La Jolla Community Plan, as adopted in 2004, does not recommend full public access, only emergency access, which is recommended by City staff as well. After further evaluation of the site by Lifeguard staff full access at this point could pose a safety issue to those who access the beach below due to the limited beach space and the possibility for users to become stranded on adjacent beach areas at high tide or during periods of high surf. Additionally, there is restricted visibility of the beach from established lifeguard observation points and the approach to the beach from the seaward side is severely impeded by a shallow rocky reef. There is a strong likelihood that increased public access at this location would result in an increase in emergency responses to the area.

The Lifeguard staff has evaluated the access as it exists today and provides the following recommendations for improvements along with the easement to be recorded with the City of San Diego.

- I. Lifeguards shall be provided 24-hour emergency access via a key to the gate, the combination to a lock, or through access to an onsite lock box that has a key. The owner of the property shall be responsible for maintaining any lock or gate to ensure that emergency access is not impeded.
- II. The emergency access shall allow lifeguard access to the water along a path that is unobstructed from vegetation or property improvements. Improvements to this path shall be allowed if necessary in order to gain or improve the emergency access.
- III. Lifeguards shall be permitted to use the access for emergency calls, gaining visual site lines of the area, conduction area familiarization training, and other on duty activities that fall under the purview of the Lifeguard Division.

Page 3

Mr. Lee McEachern – Coastal Commission


April 18, 2011

- IV. Lifeguards shall be allowed to construct a rope rescue system along the emergency access corridor in order to access or extricate a trapped or injured person. Any such system shall be constructed on site, and removed after operations are concluded. These systems may also be constructed for the purposes of training guards in cliff rescue skills.
- V. Lifeguards shall be provided final permits prior to submittal to the City's Development Services Department and/or Coastal Commission.

As the local governmental agency that has jurisdiction of the areas as identified in this application we appreciate the opportunity to provide input and the Coastal Commission member's serious consideration of the alternatives and comments provided. If you have any further questions, please contact Stacey LoMedico, Park and Recreation Director at slomedico@sandiego.gov or at (619) 236-6643 or Rick Wurts, Lifeguard Chief at rwurts@sandiego.gov or at (619) 221-8832.

Sincerely,

Signature on file


Jay M. Goldstone
Chief Operating Officer

cc: Council Member Sheri Lightner
Stacey LoMedico, Park and Recreation Director
Javier Mainar, Fire-Rescue Chief
Rick Wurts, Lifeguard Chief
Kathleen Hasenauer, Park and Recreation Deputy Director
Darren Greenhalgh, Engineering and Capital Projects Deputy Director
Ali Darvishi, Engineering and Capital Projects Project Officer II
Lesley Hanger, Community Investment & Community Planning
Tony Crisafi, Chair, La Jolla Community Planning Group