

LEWMAR - NAVTEC - YALE CORDAGE - SPARCRAFT - SPINLOCK - SCHAEFER
RONSTAN - WICHARD - LOOS WIRE - ARCO - JOHNSON

Click here to go to
the original staff report which follows
the correspondence received.



W13a

LISC. #797599

RECEIVED
MAR 05 2012

San Diego Coast District Office
Sherilyn Sarb, Deputy Officer

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Re: In Support of Appeal
Permit Number: A-6-PEN-11-077

We at Rigworks, Inc. would like to voice our support for the appeal against the Point Loma Townhome project. We are a rigging shop & chandlery that is based out of Shelter Island and has been operating locally for over two decades.

Shelter Island is the only area in San Diego that offers a full range of Marine services in one place (boatyards, rigging shops, chandleries, marinas, sail-making lofts, fuel docks, sports fishing, etc.) People come from all over Southern California to work on their boats here and take advantage of having these services available in one area. The Point Loma Townhome Project will begin to intrude into this area, which the LCP is clearly written to protect. Allowing residences at this location will begin to diminish the marine presence in this area and will be the foot in the door for more residences to protrude into what is the supposed to be an area reserved to "encourage continued development and sensitive re-development of a wide variety of community, visitor, and marine related community commercial uses". This project does not abide by the overall intent of the LCP and therefore we ask that you support this appeal request. We feel the refusal of an appeal would undermine the purpose for which the LCP is written.

Sincerely,

Rigworks, Inc.
2540 Shelter Island Drive Ste. 200
San Diego, Ca 92106

619-223-3788

2540 SHELTER ISLAND DR. STE. E, SAN DIEGO, CA 92106

619-223-3788 • FAX 619-223-3099

www.rigworksinc.com

23
Letters IN
OPPOSITION to Project

111

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MAR 01 2012

SPIRIT OF ADVENTURE

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

1646 Willow Street
San Diego, CA 92106
Ph./Fax: 619-226-1729
e-mail: spiritofadventure@earthlink.net

San Diego Coastal District Office
Sherilyn Sarb, Deputy Director
Deborah Lee, District Manager
7575 Metropolitan Dr., Ste 103
San Diego, CA 92108-4402
Fax: 619.767.2384

W13a
Permit No. A-6-PEN-11-077
Name: Michael Keating
Position: Against the Project

February 27, 2012

Re: City of San Diego LCP Amendment No. 2-10 (Pt. Loma Townhomes Resubmittal)

Dear Ms. Sarb,

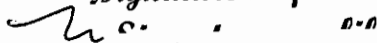
I won't be able to attend the Coastal Commission meeting on March 7, 2012, but would like to express my concern regarding the Pt. Loma Townhomes project.

I have been in the Sport fishing Business for 30 years and my boat is tied up at H&M Landing. Planning a residential area right next to three Sportfishing Landings will cause conflict, considering that many fishing trips are leaving between 10 PM and midnight. Residents would complain about noise like starting up engines, use of PA systems by landings and captains before departure, anglers pushing carts over ramps, traffic and bright lights.

We therefore urge you to not "re-zone" the Kettenburg property.

Your consideration in this matter is appreciated.

Sincerely *Signature on file*


Michael Keating
SPIRIT OF ADVENTURE CHARTERS

24

February 29, 2012

To: All Commissioners
California Coastal Commission

From: Christy Schisler
2803 Carleton Street
San Diego CA 92106

Re: Permit Number A-6-PEN-11-077
Appeal of Approval to Convert 1.65 Acres from Marine Industrial to
Commercial Uses in Order to Build Condominiums

Please support the Appeal submitted by Commissioner Mark W. Stone, Commissioner Esther Sanchez and by Ian Trowbridge.

This property sits approximately 120 feet from San Diego Bay and can continue to be an integral part of the marine business community that surrounds the immediate area. The Port plan is to have a boat yard adjacent to this property, furthering the importance of keeping the 1.65 acres exclusively for marine and recreational uses.

This is a list of the 11 marine companies currently on the 1275 Scott Street property:

Dinghy Doctor
Aquarius Marine
Benchmark Welding
North Shore Canvas
Shelter Island Boat Storage
Regal Welding

Americo Works Inc.
San Diego Boat Works
Richard's Marine Service
California Marine Services
Gary Record Diesel Mechanics

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MAR 05 2012

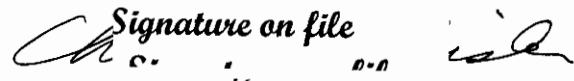
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

While the local Coastal District office contends that the planned commercial spaces will be reserved for marine businesses, the majority of companies will be unable to afford the new inflated rental rates.

The Coastal District staff unrealistically argues, that by restricting residential units to the upper floors, there will be no conflicts with noise, dust, and all the other annoyances that naturally occur from marine businesses – especially a boat yard. No matter how detailed and legally binding the CCRs may be, there will be complaints and conflicts arising from the residents.

The Coastal staff's argument makes one think that the staff has little idea of what a working waterfront is really about. This plan for a private gated community does not fit the City's LUP for preserving the thriving economic marine community and recreational access of the Shelter Island area.

Please support the Appeal. Thank you!

Signature on file


Ms. Sarb – please include this letter in the meeting materials for March 7, 2012





ULLMAN SAILS

Permit #: A-6-PEN-11-077

Agenda Item #: W13A

March 1, 2012

San Diego Coast District Office
Sherilyn Sarb, Deputy Director
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Re: In Support of Appeal

Permit Number: A-6-PEN-11-077

I strongly support the argument presented in the appeal of Permit Number A-6-PEN-11-077. The Point Loma Townhome project is inconsistent with the City LCP requirements for protection of marine related uses and residential unit restrictions in this zone. Residential use is supposed to be the lowest priority given by the Coastal Commission guidelines and should not replace the present use Marine Industry businesses.

I own a marine industry business in the neighborhood. Changing the use of this coastal property to allow the proposed private, residential development is in direct opposition to the LCP and does not protect visitor and marine related businesses in our tidelands community.

Please vote **IN FAVOR** of the appeal.

Sincerely,

Signature on file
Kathy O'Brien

RECEIVED

MAR 05 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

26



ULLMAN SAILS

Permit #: A-6-PEN-11-077

Agenda Item #: W13A

March 1, 2012

San Diego Coast District Office
Sherilyn Sarb, Deputy Director
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

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I work at a marine industry business in the neighborhood. Changing the use of this coastal property to allow the proposed private, residential development is in direct opposition to the LCP and does not protect visitor and marine related businesses in our tidelands community.

Please vote **IN FAVOR** of the appeal.

Sincerely,

Signature on file 

Travis Meindl

Ullman Sails

2805 Canon Street

San Diego, CA 92106

(619) 226-1133

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MAR 05 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

27



ULLMAN SAILS

Permit #: A-6-PEN-11-077

Agenda Item #: W13A

March 1, 2012

San Diego Coast District Office
Sherilyn Sarb, Deputy Director
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

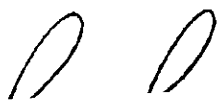
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Please vote **IN FAVOR** of the appeal.

Sincerely, 
Signature on file
Sean Smith

Ullman Sails
2805 Canon Street
San Diego, CA 92106
(619) 226-1133

RECEIVED
MAR 05 2012
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT



ULLMAN SAILS

Permit #: A-6-PEN-11-077

Agenda Item #: W13A

March 1, 2012

San Diego Coast District Office
Sherilyn Sarb, Deputy Director
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

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Permit Number: A-6-PEN-11-077

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Please vote **IN FAVOR** of the appeal.

Sincerely,

Signature on file
Tom Neibergall

Ullman Sails
2805 Canon Street
San Diego, CA 92106
(619) 226-1133

RECEIVED
MAR 05 2012
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

29

MA

RECEIVED

MAR 02 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT



2835 Cañon Street, San Diego, CA 92106 (619) 224-5220 Fax (619) 224-5285

2/28/2012

San Diego Coast District Office

Sherilyn Sarb, Deputy Director

7575 Metropolitan Drive Ste. 103

San Diego, CA 92108-4402

Ms. Sarb

Re: In Support of Appeal

Appeal Number A-6-PEN-11-077

As a Marine Related Business Owner I am in support of the argument presented in the Appeal.

The Point Loma Townhome Project is inconsistent with City LCP requirements.

The Project displaces 1.65 acres of Marine Related Business in favor of residential condos and a few token commercial spaces.

The Project is 39ft high above existing grade. What happened to the 30ft height limit?

The availability of Marine Related Business Space near the water is very limited now and it will be worse if this project is approved.

I am against the Point Loma Townhome Project.

Thank you,

Brian Thomas, President

Thomas Marine Inc. 2835 Canon St. SD CA 92106

64 year resident of Point Loma and San Diego Yacht Club Member

30

MA

Agenda no: 13a
Thomas Wurfl
Opposition to Project

San Diego Coastal Commission Office
Sherilyn Sarb, Deputy Director
7575 Metropolitan Drive Suite 103
San Diego, CA 92109-4402
619-767-2370

RECEIVED
MAR 02 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Re: In Support of Appeal ; Opposition to Project
Permit Number A-6-PEN-11-007

Dear Ms. Sarb,

I would like to express my strong support of the argument as set forth in the appeal. Clearly the Point Loma Townhome Project is inconsistent with Coastal Commission development guidelines. More high density housing is not needed in Point Loma and can be accommodated elsewhere, whereas marine businesses belong on the waterfront.

As a homeowner, boat owner and full-time resident of Point Loma community, I oppose this development for several reasons. First, the Shelter Island waterfront has always been a working waterfront. Residents and visitors alike have come to know and love the diversity represented by the many marine businesses, boatyards, restaurants and "village" atmosphere. Many of us live here because we use the waterfront and frequent these businesses; indeed, we need these services. Allowing residential use of the waterfront lessens the opportunity for more marine-related businesses to occupy that space, where they are needed and most likely to prosper.

Second, our little village can be a bit congested at times. With the expansion of the airport, we face the prospect of even more traffic on our already inadequate roads. This project can only add to the congestion.

Lastly, Point Loma and especially Shelter Island attracts a large number of tourists and residents from other parts of San Diego. Whether they come here for a convention, sport fishing, a family outing or some other reason, it is import that they all have access to, *and use of*, as much of the waterfront as possible. Residential use of the waterfront limits its use to a privileged few, and is in direct opposition to the stated objectives of the Commission and the City LCP.

I strongly urge you to uphold the appeal.

Regards
Signature on file
Thomas Wurfl
3413 Carleton Street
San Diego, CA 92106
858-353-9755

31

ML

Joe J. Lones
P.O. Box 6313
San Diego, CA 92166

RECEIVED

MAR 01 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

February 27, 2012

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

Permit No.: A-6-PEN-11-077

Dear Sirs:

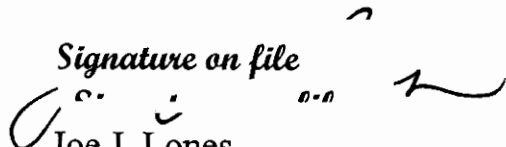
This is to express **opposition to the Prism Investments project** to erect residential town homes on marine related waterfront property located at

1275 Scott St., Peninsula, San Diego, San Diego County.

Waterfront residences are **not** in keeping with preservation of the community character and historic marine related uses in this zone.

Respectfully,

Signature on file



Joe J. Lones

Point Loma Resident, 50 Years

ATTENTION: CALIFORNIA COASTAL
COMMISSION MEMBERS

SUBJECT: PROJECT #115083 } 1275 SCOTT ST.
PERMIT # A-6-PEN-11-077 } TOWNHOUSES &
CONDOMINIUMS

MS LAURINDA OWENS

PLEASE FORWARD TO THE ATTENTION OF
COASTAL COMMISSION MEMBERS THE ENCLOSED
PACKAGE

WHETHER IT BE IGNORANCE BY DESIGN
OR INDIFFERENCE BY INTENT
THE DEVELOPER DID NOT INFORM THE
BOARD HE WAS BUILDING THIS PROJECT
PARALLEL TO AND ON TOP OF A
SLEEPING TIME BOMB
A 57 YR. OLD FUEL PIPING
SEE ENCLOSURES

Signature on file

RECEIVED

FEB 29 2012

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

3

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370 FAX (619) 767-2384

www.coastal.ca.gov



Page: 1

Date: February 24, 2012

IMPORTANT PUBLIC HEARING NOTICE
NEW APPEAL

PERMIT NUMBER: A-6-PEN-11-077

APPLICANT(S): Prism Investments, Attn: Rand Wassem

APPELLANT(S): Ian Trowbridge; Commissioner Mark W. Stone, Board of Supervisors;
Commissioner Esther Sanchez, City of Oceanside City Council

DECISION BEING APPEALED:

Demolition of two existing, two-story, commercial structures and construction of three, two story buildings and one, three story building consisting of a total of 36 residential townhomes, ten commercial condominium units, and one level parking garage with 132 partially below grade spaces on a 1.65 acre site.

PROJECT LOCATION:

1275 Scott St, San Diego, Peninsula (San Diego County)

HEARING DATE AND LOCATION:

DATE: Wednesday, March 7, 2012

TIME: Meeting begins at 9:00 AM

PLACE: Chula Vista City Hall Council Chambers
276 Fourth Avenue, Chula Vista, CA

PHONE (562) 972-9853

HEARING PROCEDURES:

People wishing to testify on this matter may appear at the hearing or may present their concerns by letter to the Commission on or before the hearing date. The Coastal Commission is not equipped to receive comments on any official business by electronic mail. Any information relating to official business should be sent to the appropriate Commission office using U.S. Mail or courier service.

AVAILABILITY OF STAFF REPORT

A copy of the staff report on this matter will be available no later than 10 days before the hearing on the Coastal Commission's website at <http://www.coastal.ca.gov/mtgcurr.html>. Alternatively, you may request a paper copy of the report from Melissa Ahrens, Coastal Program Analyst, at the San Diego Coast District office.

SUBMISSION OF WRITTEN MATERIALS:

If you wish to submit written materials for review by the Commission, please observe the following suggestions:

- We request that you submit your materials to the Commission staff no later than three working days before the hearing (staff will then distribute your materials to the Commission).
- Mark the agenda number of your item, the application number, your name and your position in favor or opposition to the project on the upper right hand corner of the first page of your submission. If you do not know the agenda number, contact the Commission staff person listed on page 2.

IMPORTANT PUBLIC HEARING NOTICE
NEW APPEAL

- If you wish, you may obtain a current list of Commissioners' names and addresses from any of the Commission's offices and mail the materials directly to the Commissioners. If you wish to submit materials directly to Commissioners, we request that you mail the materials so that the Commissioners receive the materials no later than Thursday of the week before the Commission meeting. Please mail the same materials to all Commissioners, alternates for Commissioners, and the four non-voting members on the Commission with a copy to the Commission staff person listed on page 2.
- You are requested to summarize the reasons for your position in no more than two or three pages, if possible. You may attach as many exhibits as you feel are necessary.

Please note: While you are not prohibited from doing so, you are discouraged from submitting written materials to the Commission on the day of the hearing, unless they are visual aids, as it is more difficult for the Commission to carefully consider late materials. The Commission requests that if you submit written copies of comments to the Commission on the day of the hearing, that you provide 20 copies.

ALLOTTED TIME FOR TESTIMONY:

Oral testimony may be limited to 5 minutes or less for each speaker depending on the number of persons wishing to be heard.

ADDITIONAL PROCEDURES:

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. In its consideration of whether the appeal raises a substantial issue, the Commission may decide to take testimony from the public. In that case, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. If the Commission finds that a substantial issue is raised the Commission will proceed to a de novo public hearing on the merits of the project. If the Commission finds that no substantial issue is raised, the local government's action on the coastal development permit is final.

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ATTENTION: CALIFORNIA COASTAL COMMISSION

SUBJECT: PERMIT A-6-PEN-11-077 MEMBERS

page 2

SEE ENCLOSURES

Project (2) Miramar Vintage Jet Fuel Pipeline (La Playa - MCAS)

Note: This pipeline was built in 1954, 8" in diameter - 800 P.S.I. - 17 miles long and runs through the Rose Canyon Fault Earthquake Path.

With a view to preventing a recurrence of another environmental leak and/or catastrophe similar to these listed on page (1) and since the PCPB members are elected by the Community residents to safeguard and protect Community interests I am requesting the PCPB to draft a letter to the Navy expressing their loss of confidence in the safety and reliability of the fuel Pipeline because of:

- (1) The age of this Pipeline.
- (2) The number of visible repairs to Pipeline.
- (3) The Pipeline location.
- (4) Incomplete and inadequate supply of documentation, i.e.: repairs, inspection, tests, etc.

In order to restore confidence to the Community and public in general, the PCPB should request the Navy to provide answers to the attached questions. (questions provided upon request)

Thank you for your time and consideration.

Jim Gilhooly

36
THINK ABOUT IT...

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370 FAX (619) 767-2384

www.coastal.ca.gov



Page: 1

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PHONE (562) 972-9853

*(DEVELOPMENT
OF RESIDENTIAL
TOWNHOMES &
CONDOMINIUMS
WILL BE BUILT
ON TOP & PARALLEL
TO 57 YR. OLD
HI-PRESSURE FUEL
LINE*

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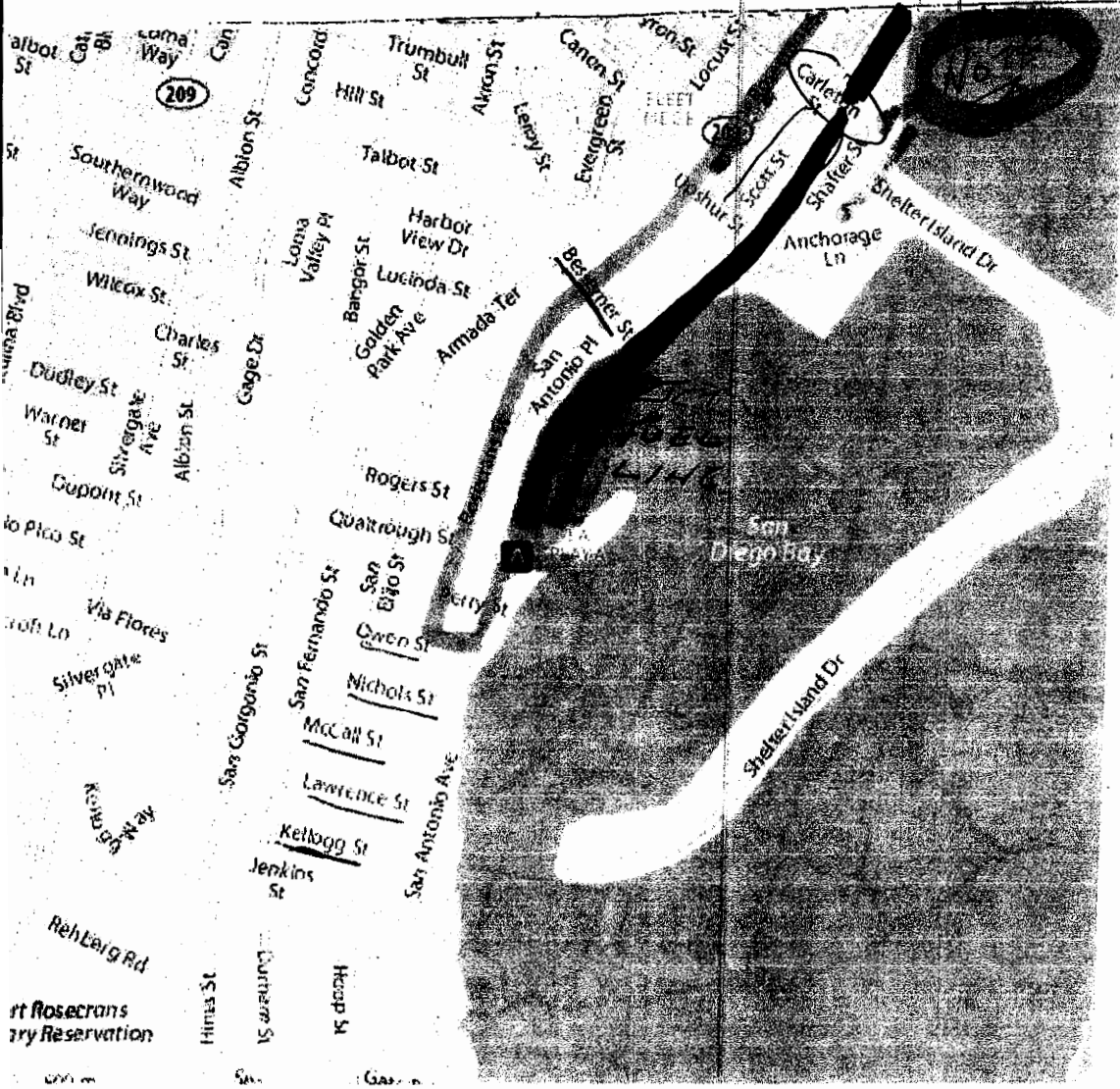
THINK ABOUT IT...

THE SLEEPING GIANT

I AM A HIGH PRESSURE, JET FUEL LINE - 8" DIA. PIPE

<ul style="list-style-type: none"> - I have on rare occasions been known to jet away faster than any dragster. - I might smash my way through brick walls. - I might even fly through the air. - I may spin, reel out, crash and slice through anything in my path. 	800 P.S.I.	17 MILES LONG.
		54 YEARS OLD
		ORIGINAL WALL THK. "0.333"
		CURRENT WALL THK. — ?

"TREAT ME WITH RESPECT—I AM A SLEEPING GIANT"

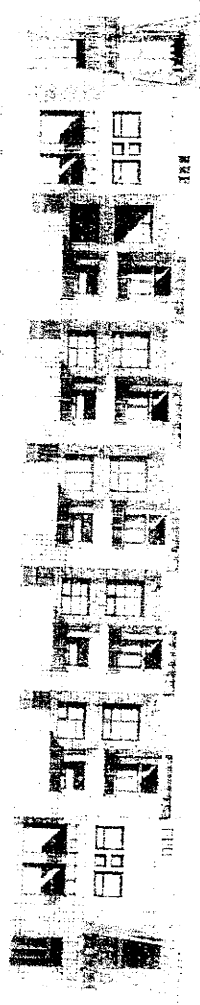


ACCESS TRAIL
 PUBLIC RIGHT
 OF
 WAY.

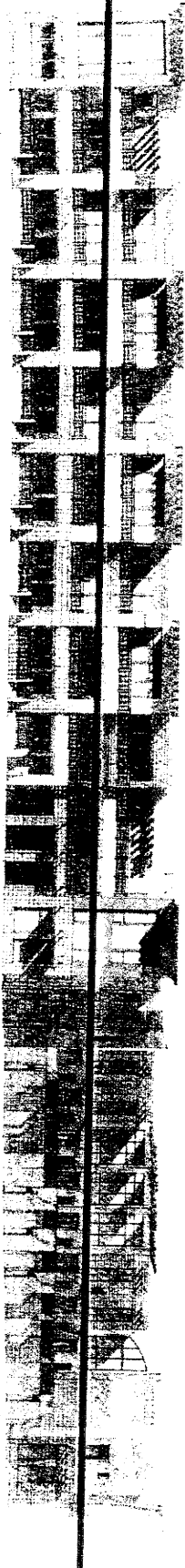
LA PLAYA
 RESIDENTIAL
 AREA

FUEL PIPELINE
 RUNS
 ADJACENT
 TO
 MILLION DOLLAR
 BEACH HOMES.

PIPE LINE,
 REPAIRS &
 RECORDS **39**
 NOT
 AVAILABLE!
 TO PUBLIC!



SCOTT STREET - NORTHWEST



FACING SAN DIEGO BAY - SOUTHEAST

ELEVATIONS

PT. LOMA TOWNHOMES / Project No. 115083

City of San Diego - Development Services Department



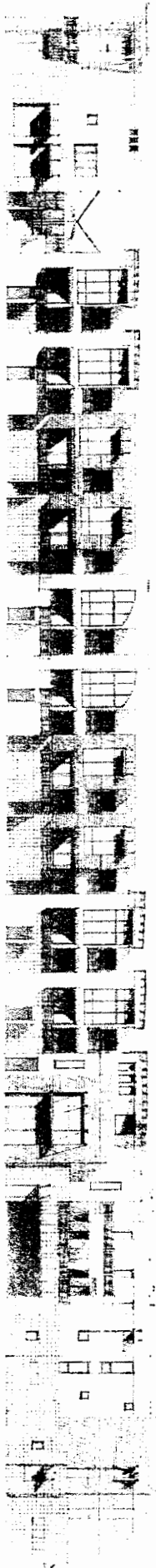
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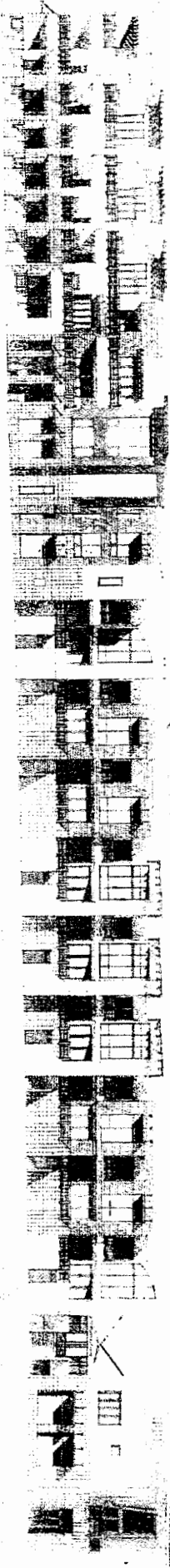
ELEVATIONS

PT. LOMA TOWNHOMES / Project No. 115083

City of San Diego – Development Services Department



CARLETON STREET - SOUTHWEST



DICKENS STREET - NORTHEAST

41

**FIGURE
No. 4**

STORIES CITY LIGHTS NEWS | LINDA VISTA | POINT LOMA

Hidden Pipeline, Secret Menace?

By Dorian Hargrove | Published Wednesday, Oct. 12, 2011

TEXT SIZE: A | A | A

SUBSCRIBE TO THIS COLUMN

SHARE   



Point Loma resident Jim Gilhooly worries about the 57-year-old fuel pipeline.

Photo by A Ian Decker

Some residents refer to it as the Sleeping Giant. An eight-inch-diameter Navy pipeline, carrying diesel and jet fuel from Point Loma to Miramar, lies beneath San Diego streets and canyons. Each year, 323 million gallons of fuel are pumped through the pipe at 800 pounds of pressure per square inch. The pipeline is 57 years old.

Jim Gilhooly, a 26-year resident of Point Loma, has 40 years of experience in the pipeline industry, including work on the Alaska pipeline. As Gilhooly tells it, the Navy's pipe should have been replaced 20 years ago.

"Corrosion in buried pipelines, whether they be oil, gas, or water, is a fact of life," he says. "Average life of pipelines without life-extension programs is 20 to 30 years."

Gilhooly's Point Loma home perches above San Diego Bay, overlooking Defense Fuel Support Point, Point Loma, the largest naval fuel farm in the world. Gilhooly says the pipeline's 1/4-inch walls have worn thin from corrosion, and because the fuel is pumped in intervals, the line is susceptible to corrosion from condensation. He warns of the consequences if the pipe were to rupture. He cites the ExxonMobil pipeline that ruptured last July in Montana.

"Some people think that a leak would be like a dribble coming from a faucet, but when you're working with 800 [pounds per square inch of pressure], when that gets a leak, that will shoot half of a mile, like a shot out of a gun," he says. "Depending on when they catch that break, if they are using pumps that are 2000 gallons per minute, then the spill would be substantial. Not only does the fuel have a high flash point, but you also have the fuel vapor and the environmental impacts."

"But they don't want to answer that. They are leaving the community out of it, and that's a cardinal sin."

From the fuel farm, the 17-mile pipeline extends a long Rosecrans Street, turns north to cross the San Diego River near Interstate 8, crosses the Rose Canyon Fault near Tecolote Road, and runs under the Tecolote Canyon Golf Course before heading for the intersection of Balboa and Mount Abernathy avenues. After crossing the 805, it travels north to Marine Corps Air Station Miramar.

The Navy has stored fuel on Point Loma since 1901, when Elihu Root, then secretary of war, set aside 360 acres of the Fort Rosecrans Army Reservation to the Department of the Navy to use as a coaling station. In 1932, storage tanks were placed on-site. By 1954, the pipeline connected the fuel farm to the Miramar air station. Today, 54 above- and below-ground tanks hold 100 million barrels of fuel.

In 2006, the Navy informed the public that approximately 1.5 million gallons of fuel had leaked from the aging tanks. Three years later, construction began to replace most of the tanks. However, Project 401, the largest construction project in the history of the Department of Defense, which the Navy claims will cost \$139 million, says nothing about replacing the pipeline.

"You put \$200 million to replace this fuel facility, but you're piecemealing this damn pipeline?" says Gilhooly. "It doesn't make sense."

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In August, the Peninsula Community Planning Board issued a letter warning of the consequences if the aged pipeline ruptured. The letter was addressed to naval commanders, Mayor Jerry Sanders, Councilmember Kevin Faulconer, and senators Dianne Feinstein and Barbara Boxer.

"The best time to address high-risk petrochemical toxic spills is before they happen, before the environment is endangered," reads the letter.

Gilhooly, who helped draft the letter, believes only small segments of the pipeline have been replaced. He has asked the Navy for maintenance records and for the design codes used to build the pipeline. He has requested reliability reports on pipeline segments. His requests have been ignored.

"There are a number of concerns, including seismic," says Gilhooly. "The seismic regulations in 1954 were next to nothing compared to those today."

The pipeline crosses what according to county documents is probably "the most significant potential earthquake source in the San Diego urban area," capable of a magnitude 6.75 to 7 earthquake.

But the Navy says the pipeline should last another 29 years.

"An optimization study was completed this May," writes Nannette Davis from the Navy's communications support firm. "The study concluded that the life cycle of the pipeline would be extended for another 29 years, with all routine inspections, maintenance and repairs to continue as planned."

In another email, a naval spokesperson said strict regulations are in place for the pipeline. "The Miramar pipeline is a Category I pipeline and is subject to an ultrasonic inspection every 5 years."

Ultrasonic inspections are conducted with tools called smart pigs. The pigs, worth \$4 to \$5 million each, detect anomalies from inside the pipe. The last smart-pig inspection was in 2008 and cost more than \$8 million, including repairs.



Photo by Alan

An exposed piece of...

In addition, a Navy employee inspects the pipe five days a week. When the pipe is transmitting fuel, an employee walks along La Playa beach every hour to check for leaks.

Gilhooly says he hasn't seen naval employees checking the pipeline. And as for the smart pigs, Gilhooly laughs.

"That pig thing is a joke," says Gilhooly. "The tools are good tools, but the pipeline was already worn when they calibrated the thing. They didn't run the pig until the pipe was more than 40 years old."

Adding to that, Gilhooly says that most private companies are required to send pigs down the pipeline once a year, not every five years.

Bill Bush, spokesperson for the American Petroleum Institute, confirms that the Navy has different standards. "If this is owned by the federal government," he says, "then they are in a different category for pipelines, and they are exempt from state and some federal regulations."

Despite assurances on the pipeline's condition, according to Councilmember Faulconer's office a plan is in the works to replace the line.

Asked when the pipeline will be replaced, the Navy's spokesperson responded, "To be determined."

THINK ABOUT IT...

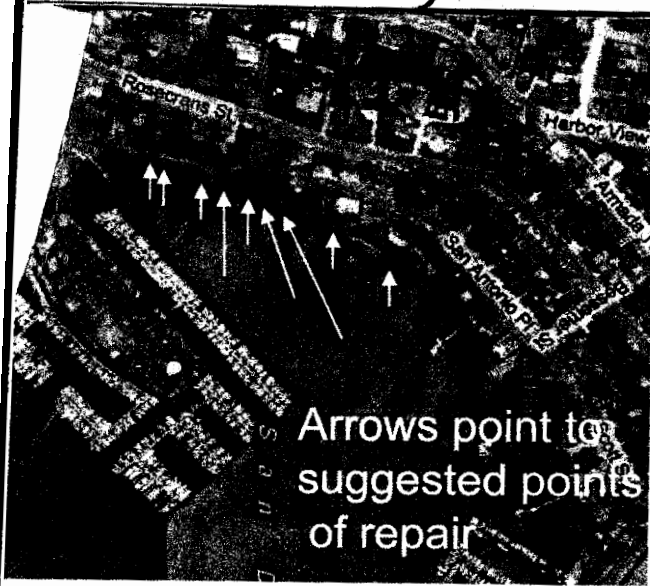
THE SLEEPING GIANT

Miramar Pipeline

(KELLOGG BEACH)

ACCESS TRAIL - PUBLIC RIGHT/WAY

LA PLAYA
RESIDENTIAL
AREA



Arrows point to suggested points of repair



- Pipeline links DFSP Point Loma and MCAS Miramar.
- Protective soil cover eroded – emergency repair combine sand and rock rip rap.

I AM A HIGH PRESSURE, FUEL PIPELINE

“TREAT ME WITH RESPECT—I AM A SLEEPING GIANT”

- I have on rare occasions been known to jetaway—faster than any dragster.
- I might smash my way through brick walls.
- I might even fly through the air.
- I may spin, ricochet, crash and slash through anything in my path.

Miramar Pipeline

LA PLAYA
RESIDENTIAL
AREA

KELLOG BEACH

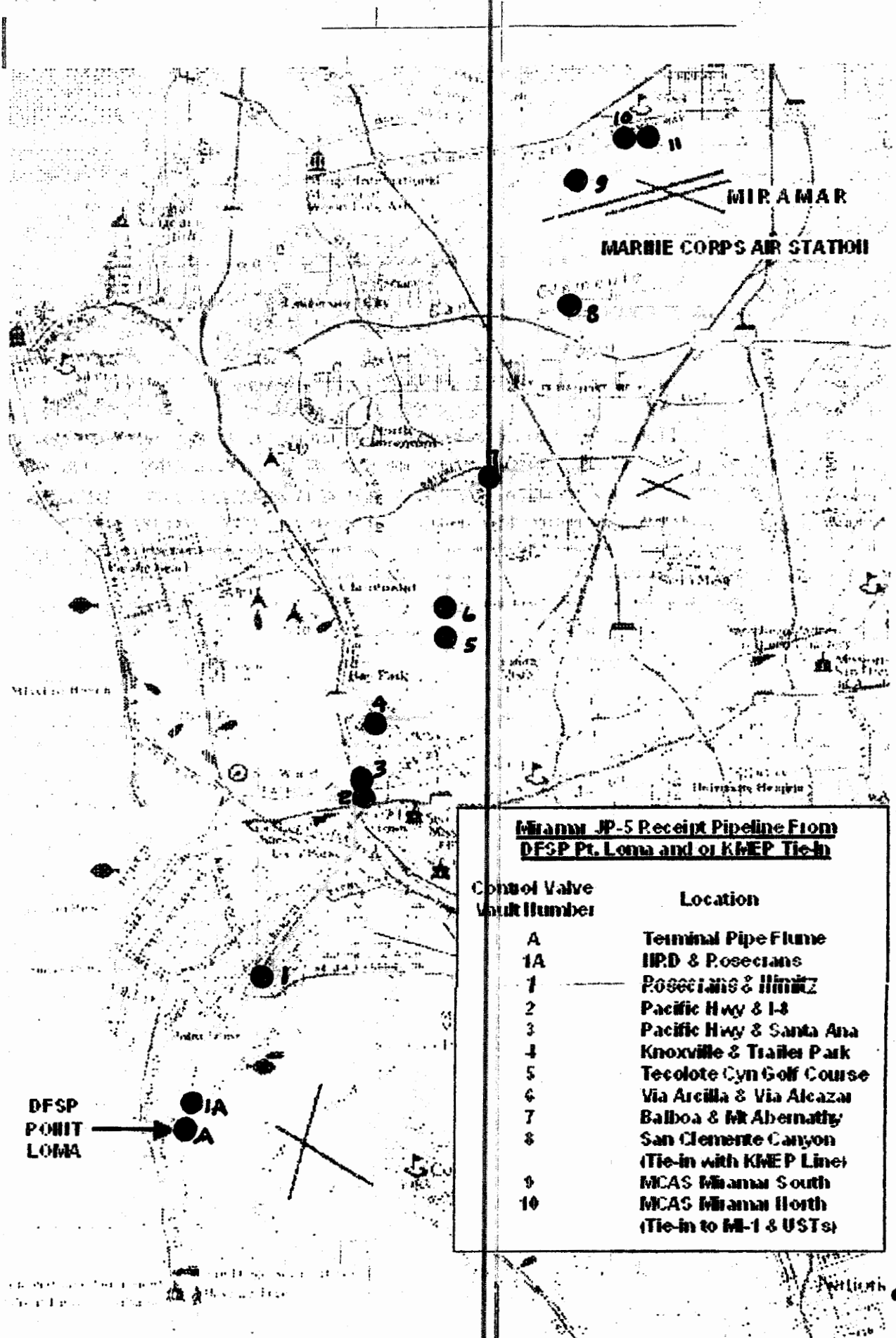
ACCESS TRAIL - PUBLIC RIGHT/WAY



Pipeline links DFSP Point Loma and MCAS Miramar.

PIPELINE BURIED ?

Pipeline links DFSP Point Loma and MCAS Miramar.



Miramar JP-5 Receipt Pipeline From DFSP Pt. Loma and of KMEP Tie-in

Control Valve Vault Number	Location
A	Terminal Pipe Flume
1A	HRD & Poseccians
1	Poseccians & Himitz
2	Pacific Hwy & I-8
3	Pacific Hwy & Santa Ana
4	Knoxville & Trailer Park
5	Tecolote Cyn Golf Course
6	Via Arcilla & Via Alcazar
7	Balboa & Mt Abernathy
8	San Clemente Canyon (Tie-in with KMEP Line)
9	MCAS Miramar South
10	MCAS Miramar North (Tie-in to MI-1 & USTs)

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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W13a

Filed: 10/19/11
49th Day: Waived
Staff: M. Ahrens-SD
Staff Report: 2/23/12
Hearing Date: 3/7-9/12

STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL GOVERNMENT: City of San Diego

DECISION: Approved with Conditions

APPEAL NO.: A-6-PEN-11-077

APPLICANT: Axiom Shelter Island, LLC/ Rand Wassem, Prism Investments

PROJECT DESCRIPTION: Demolition of two existing, two story, commercial structures and construction of three, two story buildings and one, three story building consisting of a total of 36 residential townhomes, ten commercial condominium units, and a one level parking garage with 132 partially below grade spaces on a 1.65 acre site.

PROJECT LOCATION: 1275 Scott St., Peninsula, San Diego, San Diego County.

APPELLANTS: Ian Trowbridge, Commissioner Mark Stone, Commissioner Esther Sanchez

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that substantial issue exists with respect to the grounds on which the appeal has been filed.

Staff also recommends that the Commission **APPROVE** the de novo permit with special conditions. The primary issues raised by the subject development are the project's inconsistency with the requirement of the certified Peninsula Community LUP that requires marine related community commercial and visitor serving uses be protected and encouraged on the subject 1.65 acre site. The Peninsula Community LUP includes provisions that require new development on the subject site to include marine related community commercial and visitor-serving uses on the ground floor, with residential uses specifically restricted to the upper floors of a structure. As such, staff is recommending Special Conditions 1, 2, 3 and 4, which require that residential uses on the subject site are restricted to the upper floor of the proposed development, that commercial uses that occupy the ground floor units encourage and emphasize marine related community

commercial and visitor serving priority uses, and that both of these restrictions are implemented through a deed restriction recorded against the property and through the CC&Rs for the development, which will provide notification and ensure that these restrictions apply to all future owners and lessees of the proposed commercial units. Staff is also recommending other conditions regarding final plans, landscaping, water quality, and signs. Therefore, as conditioned, the project can be found consistent with the applicable Peninsula Community LUP, the City of San Diego LCP and the Chapter 3 public access policies of the Coastal Act.

SUBSTANTIVE FILE DOCUMENTS: Appeal by Commissioners Sanchez and Stone filed 10/21/11; Appeal by Ian Trowbridge filed 10/19/11; City of San Diego Coastal Development Permit No. 221431; Certified San Diego Local Coastal Plan, Peninsula Community Plan.

I. Appellants Contend That: The City's approval of the proposed development is inconsistent with the policies of the certified LCP relating to protecting visitor and marine related businesses in this zone as well as prohibiting residential uses from occupying the ground floor of a structure in the 'Roseville' area of the Peninsula Community.

The Commercial Plan Element of the Peninsula Community Plan requires that marine related community commercial uses be encouraged and emphasized in development projects on properties adjacent to the tidelands, such as the subject site. However, the City did not condition this project to ensure that the available commercial space would be occupied by any businesses or commercial enterprises associated with waterfront activities. The City's CDP for the proposed development contains no condition that would assure the continued presence of any visitor or marine related businesses on the subject site. The absence of any binding condition in the City's CDP relating to the perpetuation of marine and waterfront related business activity in the proposed development's available commercial space deviates from the intent of the Peninsula Community Plan and all applicable provisions therein that aim to preserve and maintain the community character and historic marine related uses in this zone.

Additionally, the City of San Diego's CC-4-2 zoning for the subject site and the Peninsula Community plan state that within the Coastal Overlay Zone in this region of San Diego, residential uses are not permitted on the ground floor. While the project subject to this permit does include only commercial and live/work uses on the ground floor of the structure, the project has not been conditioned by the City to require that the proposed ground floor commercial square footage will remain such in perpetuity and not be converted to residential living space once portions of the structure become leased or sold. As such, the appellants contend that the lack of any condition in the City's approval of the project that would require residential uses to be restricted to the upper floors in the proposed development is inconsistent with the Peninsula Community plan and the overlying CC-4-2 zoning in the City's LCP.

II. Local Government Action. The coastal development permit was approved by the City Council on October 7, 2008, at which point the applicant proceeded to apply for an LCP amendment (LCPA 2-10) through the Commission. Subsequent to Commission approval of the LCPA, the Planning Commission reviewed the project through the substantial conformance review process and approved the project on September 29, 2011. The permit contains special conditions addressing development of the subject site including affordable housing requirements, landscaping, planning/design, wastewater, water requirements, transportation requirements and historical resources.

III. Appeal Procedures.

After certification of a municipality's Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permit applications. One example is that the approval of projects within cities and counties may be appealed if the projects are located within mapped appealable areas. The grounds for such an appeal are limited to the assertion that "development does not conform to the standards set forth in the certified local coastal program or the [Coastal Act] public access policies." Cal. Pub. Res. Code § 30603(b)(1).

After the local government has taken final action on an appealable project, it must send a notice of that final action (NOFA) to the Commission. Cal. Pub. Res. Code § 30603(d); 14 C.C.R. § 13571. Upon proper receipt of a valid NOFA, the Commission establishes an appeal period, which runs for 10 working days. Cal. Pub. Res. Code § 30603(c); 14 C.C.R. § 13110 and 13111(b). If an appeal is filed during the appeal period, the Commission must "notify the local government and the applicant that the effective date of the local government action has been suspended," 14 C.C.R. § 13572, and it must set the appeal for a hearing no later than 49 days after the date on which the appeal was filed, unless the applicant waives this deadline. Cal. Pub. Res. Code § 30621(a).

Section 30625(b)(2) of the Coastal Act requires the Commission to hear an appeal of the sort involved here unless the Commission determines that no substantial issue is raised by the appeal. If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to the de novo portion of the hearing on the merits of the project then, or at a later date.

If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project either immediately or at a subsequent meeting. If the Commission conducts the de novo portion of the hearing on the permit application, the applicable test

for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Coastal Act requires that, for a permit to be granted, a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act.

The only persons qualified to testify before the Commission at the “substantial issue” stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. At the time of the de novo hearing, any person may testify.

IV. Staff Recommendation On Substantial Issue.

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission determine that Appeal No. A-6-PEN-11-077 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. *A-6-PEN-11-077* presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

V. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description. The project as approved and conditioned by the City, would allow for demolition of two existing on-site structures, currently used by marine related businesses, and redevelopment of the subject site with three, two story buildings and one, three story building with a maximum height of 30 ft. The total square footages of the proposed mixed-use structures would be 13,068 sq. ft. of commercial and live/work unit space on the ground floor and 64,588 sq. ft. of upper floor residential square footage. The proposed project involves the construction of 36 residential/town home units on the upper floors of the mixed-use structure as well as four (4) new integrated live/work commercial spaces (“live/work quarters”) to be located along the ground level on the bayside/tidelands frontage of the development and six commercial condominium units (totaling approx. 7,100 sf.) to be situated all along the Scott Street frontage and one separate commercial leasehold at the northeast corner of the site along Dickens/adjacent tidelands. The proposed development would also provide 132 parking spaces in a partially subterranean parking garage.

The Peninsula Community Plan identifies this area as a “transitional area”, where gradual Commercial development and redevelopment is currently underway. Further, one of the objectives of the Plan is to “maintain and encourage continued development of the commercial fishing and marine related commercial land uses within Peninsula.” The Peninsula Community LUP designates the site as Community/Commercial, with the City’s overlying zoning for the site being CC-4-2, or Community Commercial. The CC-4-2 zoning allows for multi-residential units but not on the ground floor; all retail sales uses; all commercial services; visitor accommodations; bed & breakfast establishments; parking facilities; vehicle sales & services; warehouses; and research/development uses. Additionally, under the C-4-2 zoning industrial land use classification, “marine-related uses within the coastal zone” are clearly allowed under the zoning code with a conditional use permit as are numerous other uses allowed through either conditional use or neighborhood use permits. As such, the subject mixed use development, as proposed and conditioned, would include uses allowable under the LUP and LCP zoning.

The subject site is located one parcel from the San Diego Bay (America’s Cup Harbor) and is located in an area commonly referred to as the Roseville District of the Peninsula Community Plan area. The Roseville District supports a mix of single family residential, multi family residential, commercial, industrial, and visitor serving uses. There are existing commercial developments fronting Scott St. near the subject site, as well as industrial marine related uses to the southeast and northeast. Port tidelands are located immediately southeast of the site which are currently undergoing redevelopment as the “Kettenburg Landing” which includes, in part, construction of a walk-up food plaza and a public access walkway. While the subject site does not have direct waterfront access it still supports a variety of marine related business on site and is adjacent to other surrounding marine related industries.

The standard of review is the certified City of San Diego LCP as well as the public access policies of the Coastal Act.

2. Planning History. The Peninsula Community Plan/Land Use Plan, which is applicable to the subject site, is part of the City of San Diego's certified LCP, which contains 12 segments. The Commission approved, with suggested modifications, the Peninsula Community segment of the City of San Diego's Local Coastal Program on May 22, 1981 focusing on the protection of the Famosa Slough. On August 21, 1981, and again on May 23, 1984, the Commission certified this segment with suggested modifications. A second resubmitted LUP was certified by the Commission on August 27, 1985, and addressed the adequacy of parking requirements in the nearshore areas. A third resubmittal was certified as submitted on July 13, 1988.

There have only been three LCP amendments to the Peninsula Land Use Plan. The first (No. 2-98B) was for the North Bay Redevelopment Plan, which encompassed several City of San Diego planning communities and included a small portion of the Peninsula Community Plan area. The second amendment (No. 1-04A) was to redesignate a .39-acre property from Marine Related Industrial to Medium Density Multi-Family Residential and rezone the site from CO-1-2 to RM-2-5 to accommodate a proposed seven-unit condominium project. The LCPA was approved, as submitted, by the Commission on November 17, 2004 and became effective that same date. The third LCP amendment was a project driven amendment involving a land use change for the 1.65 acre Scott Street property where the subject mixed use development is proposed for construction.

At the February 2011 hearing, the Commission approved, with suggested modifications, LCP Amendment No. 2-10, the third amendment to the Peninsula Community Land Use Plan. The LCP amendment redesignated the subject 1.65 acre property from Industrial (Commercial Fishing/Marine Related) to Commercial/Recreational with the addition of policy language in two community plan provisions to accommodate the subject mixed use project. As the subject LCP amendment raised concerns regarding the protection of marine-related land uses, which is a priority use under the Coastal Act, the additional policy guidance clarified and expanded the list of marine-related priority uses for the Roseville subarea, which applies to the subject property, and reinforced the development standards that de-emphasize the residential component for this mixed use community. The specific modifications approved by the Commission included language that requires marine related community commercial uses be provided in the Roseville commercial district as well as for properties adjacent to tidelands, and also restricts residential uses to the upper floors in that specific subarea.

3. Inconsistency with the Certified LCP.

A. Marine Related Commercial/Industrial and Visitor Commercial Uses. The language in the Recommendations for Specific Commercial Area Element of the Peninsula Community Plan (LUP), which applies to this specific property, specifically states that permitted commercial uses in this area should emphasize visitor and marine related industries or businesses. Specifically, it states, in part:

For properties adjacent to the tidelands, permitted uses shall include, but not be limited to, marine sales and services supporting the commercial fishing and

recreational boating industries, hotels, restaurants, marine navigation and fish finding equipment, yacht brokers, diving schools, sail makers, marine salvage operations, specialty/handcraft shops, beachwear, books, chart/map sales and other similar activities that support uses on the waterfront. [...]

Also, the first objective in the Commercial Plan Element of the Peninsula Community Plan states:

Encourage continued development and sensitive redevelopment of a wide variety of community, visitor and marine related community commercial uses in the Roseville commercial district, including, but not limited to, marine sales and services supporting the commercial fishing and recreational boating industries, hotels, restaurants, marine navigation and fish finding equipment, yacht brokers, specialty/handcraft shops, beachwear, chart/map sales and other similar activities that support uses on the waterfront. [...]

The above cited provisions require such uses be included on the subject site. However, the City did not condition this project to ensure that the available commercial space would be occupied by any businesses or commercial enterprises associated with waterfront activities. The City's CDP permit for the proposed development contains no condition that would assure the continued presence of any visitor or marine related businesses on the subject site.

The absence of any binding condition in the City's CDP relating to the perpetuation of marine and waterfront related business activity in the proposed development's available commercial space deviates from the intent of the Peninsula Community Plan and all applicable provisions therein that aim to preserve and maintain the community character and historic marine related uses in this zone. Therefore, the City's approval is inconsistent with the above cited LCP provisions and the appellants have raised a substantial issue.

B. Residential Uses. Additionally, while the project applicant is proposing to have only commercial and live/work uses occupy the ground floor units of the structure, the project has not been conditioned by the City to require that the proposed ground floor commercial square footage remain such in perpetuity and not be converted to residential living space once portions of the structure become leased or sold. The lack of any condition in the City's approval of the project that would require residential uses to be restricted to the upper floors in the proposed development is inconsistent with the following section of the Peninsula Community plan (Recommendations for Specific Commercial Areas, Roseville Pg. 36) and in the first objective in the Commercial Plan Element of the Peninsula Community Plan, which state in part:

*[...] Residential uses may be permitted but for properties situated along or southeast of Rosecrans St. and extending to the tidelands between Hugo St. and Byron/Shelter Island Drive, **residential uses should be restricted to the upper floors**; only commercial units that provide integrated live/work space (i.e.*

live/work quarters) and required off-street parking may be located on the ground/street level. (Emphasis Added).

The subject site is located within the area described in the above referenced LCP provision, and, as such, to ensure consistency with the LDC the proposed development should not allow any residential uses to occupy the ground floor units of the town home development. The project, as currently proposed, dictates that residential use will only occur on the upper floors, with commercial/live work units to occur exclusively on the ground floor. However, there are no conditions attached to the permit approved by the City that would ensure this element of the proposed project becomes a binding restriction guaranteeing no residential uses become established in the ground floor units of the proposed development following construction or through any redevelopment or future modifications to the proposed development. Therefore, the City' approval is inconsistent with the above cited LCP provisions and the appellants have raised a substantial issue.

4. Conclusion. In summary, the City's approval of the proposed development is inconsistent with the policies of the certified LCP relating to protecting visitor and marine related businesses in this zone as well as prohibiting residential uses from occupying the ground floor of a structure in the 'Roseville' area of the Peninsula Community. Therefore, the project raises a substantial issue regarding consistency with the Peninsula Land Use Plan.

5. Substantial Issue Factors. As discussed above, there is inadequate factual and legal support for the City of San Diego's determination that the proposed development is consistent with the certified LCP. The other factors that the Commission normally considers when evaluating whether a local government's action raises a substantial issue also support a finding of substantial issue. The objections to the project suggested by the appellants raise substantial issues of regional or statewide significance and the decision creates a poor precedent with respect to the proper interpretation of the Peninsula Community LUP, as the City's determination does not assure that marine-related visitor serving/commercial uses will be encouraged and incorporated into the subject mixed use development, nor does it condition the project to restrict residential uses to the upper floors of the subject structure as required by the applicable provisions of the certified LCP.

VI. STAFF RECOMMENDATION ON THE COASTAL PERMIT

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. A-6-PEN-11-077 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit 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 THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the certified LCP and the public access policies of the Coastal Act. Approval of the permit 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 development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

VII. Standard Conditions.

See attached page.

VIII. Special Conditions.

The permit is subject to the following special conditions:

1. Residential Uses. Residential uses shall be restricted to the upper floors of the proposed condominium complex development and only commercial units, commercial units that provide integrated live/work space (i.e. live/work quarters) and required offstreet parking may be located on the ground/street level of the subject property.

2. Marine related commercial/industrial and visitor commercial uses. Permitted commercial uses on the subject site must include and emphasize marine sales and services supporting the commercial fishing and recreational boating industries, hotels, restaurants, marine navigation and fish finding equipment, yacht brokers, diving schools, sail makers, marine salvage operations, specialty/handcraft shops, beachwear, books, chart/map sales or other similar activities that support uses on the waterfront. A minimum of 50% of the commercial units proposed as part of the subject structure, excluding the live/work commercial leaseholds, shall be occupied exclusively by marine related retail or services supporting the commercial fishing and recreational boating industries.

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

content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the “Standard and Special Conditions”); and (2) imposing all the Standard and 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 that 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.

4. **CC&R’s. PRIOR TO OCCUPANCY OF THE CONDOMINIUM UNITS,** the applicant shall submit, for the review and written approval of the Executive Director of the Coastal Commission (“Executive Director”), a Declaration of Restrictions or Covenants, Conditions & Restrictions (CC&Rs) approved by the City of San Diego, which shall include:

- a. All the specific restrictions listed in Special Condition Nos. 1 & 2 above;
- b. A requirement that any lease(s) for commercial square footage within the proposed structures shall include the specific restrictions listed in Special Condition Nos. 1 & 2.
- c. Acknowledgement that these same restrictions are independently imposed as condition requirements of the coastal development permit;
- d. A statement that provisions of the CC&Rs that reflect the requirements of Special Conditions Nos. 1 & 2 above, cannot be changed without a coastal development permit amendment. If there is a section of the CC&Rs related to amendments, and the statement provided pursuant to this paragraph is not in that section, then the section on amendments shall cross-reference this statement and clearly indicate that it controls over any contradictory statements in the section of the CC&Rs (Declaration of Restrictions) on amendments;
- e. The CC&Rs described above shall be recorded against all individual property titles prior to the close of the first escrow for the condominium units.

5. **Final Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicants shall submit to the Executive Director for review and written approval, final site, floor, and elevation plans for the proposed development that have been stamped approved by the City of San Diego. Said plans shall be in substantial conformance with the concept plans for Pt. Loma Townhomes by Project Design Consultants dated 9/30/11 submitted with the coastal development permit application.

The permittees shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without an amendment to

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

6. Final Revised Landscape Plans: PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval final landscaping plans for the proposed development. Said plans shall be in substantial conformance with the landscape development plan for Pt. Loma Townhomes by GMP Landscape Architects dated 3/23/11, but shall be revised to remove the proposed 24 Mexican Fan Palms and include the following:

- a. The type, size, extent and location of all plant materials, the proposed irrigation system and other landscape features on the site shall be provided. All landscaping shall be drought-tolerant, native or non-invasive plant species. All landscape materials within the identified view corridors shall be species with a growth potential not expected to exceed three feet at maturity, except for authorized trees. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized. The use of Mexican Fan Palms is prohibited.
- b. A view corridor a minimum of 5 feet wide shall be preserved in the side yard setbacks along Carleton and Dickens Streets. All proposed landscaping in this yard area shall be maintained at a height of three feet or lower (including raised planters) or include tall canopy trees to preserve views from the street toward the Bay.
- c. A planting schedule that indicates the planting plan will be implemented within 60 days of completion of construction
- d. A written commitment by the applicant that all required plantings will be maintained in good growing condition, and whenever necessary, will be replaced with new plant materials to ensure continued compliance.
- 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 applicants, 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 permittees shall undertake development in accordance with the approved final landscaping plan. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

7. Water Quality. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT** the applicant shall submit a final Water Quality Technical Report (WQTR), prepared by a licensed water quality professional, for review and approval of the Executive Director. The WQTR shall incorporate structural and nonstructural Best Management Practices (BMPs) (site design, source control and treatment control) designed and implemented to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site and to minimize water quality impacts to surrounding coastal waters. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- a. Impervious surfaces, especially directly connected impervious areas, shall be minimized, and alternative types of pervious pavement shall be used where feasible.
- b. Irrigation and the use of fertilizers and other landscaping chemicals shall be minimized.
- c. Efficient Irrigation Measures including water saving irrigation heads and nozzles, flow sensors, automatic rain sensors and multiple programming capabilities shall be used.
- d. Trash, recycling and other waste containers, as necessary, shall be provided. All waste containers anywhere within the development shall be covered, watertight, and designed to resist scavenging animals.
- e. All dry weather runoff (non-stormwater flows) shall be retained onsite and not discharged to the bay.
- f. A BMP treatment train shall be designed and implemented to collect and treat runoff and remove pollutants of concern (including heavy metals, oil and grease, hydrocarbons, trash and debris, sediment, nutrients and pesticides) through

infiltration, filtration and/or biological uptake. The drainage system shall also be designed to convey and discharge runoff from the developed site in a non-erosive manner.

g. Post-construction structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.

h. All BMPs shall be operated, monitored, and maintained for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired at the following minimum frequencies: (1) prior to October 15th each year; (2) during each month between October 15th and April 15th of each year and, (3) at least twice during the dry season.

i.. Debris and other water pollutants removed from structural BMP(s) during cleanout shall be contained and disposed of in a proper manner.

j. It is the permittee's responsibility to maintain the drainage system and the associated structures and BMPs according to manufacturer's specifications. The permittees shall undertake development in accordance with the approved program. Any proposed changes to the approved program shall be reported to the Executive Director. No changes to the approved program shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

8. Sign Program. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit to the Executive Director for review and written approval a sign program documenting that only monument signs, not to exceed eight (8) feet in height, or facade signs are proposed. No tall or free-standing pole or roof signs shall be allowed.

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

9. Other Special Conditions from City of San Diego. Except as provided by this coastal development permit, this permit has no effect on conditions imposed by the City of San Diego pursuant to an authority other than the Coastal Act.

IX. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description. The proposed project involves the demolition of two existing on-site structures, currently used by marine related businesses, and redevelopment of the subject site with three, two story buildings and one, three story building, with a maximum height of 30 ft. The total square footages of the proposed mixed-use structures would be 13,068 sq. ft. of commercial and live/work unit space on the ground floor and 64,588 sq. ft. of upper floor residential square footage. The proposed project involves the construction of 36 residential/town home units on the upper floors of the mixed-use structures as well as four (4) new integrated live/work commercial spaces (“live/work quarters”) to be located along the ground level on the bayside/tidelands frontage of the development and six commercial condominium units (totaling approx. 7,100 sf.) to be situated all along the Scott Street frontage and one separate commercial leasehold at the northeast corner of the site along Dickens/adjacent tidelands. The proposed development would also provide 132 parking spaces in a partially subterranean parking garage.

The Peninsula Community Plan identifies this area as a “transitional area”, where gradual Commercial development and redevelopment is currently underway. Further, one of the objectives of the Plan is to “maintain and encourage continued development of the commercial fishing and marine related commercial land uses within Peninsula.” The Peninsula Community LUP designates the site as Community/Commercial, with the City’s overlying zoning for the site being CC-4-2, or Community Commercial. The CC-4-2 zoning allows for multi-residential units but not on the ground floor; all retail sales uses; all commercial services; visitor accommodations; bed & breakfast establishments; parking facilities; vehicle sales & services; warehouses; and research/development uses. Additionally, under the C-4-2 zoning industrial land use classification, “marine-related uses within the coastal zone” are clearly allowed under the zoning code with a conditional use permit as are numerous other uses allowed through either conditional use or neighborhood use permits. As such, the subject mixed use development, as proposed and conditioned, would include uses allowable under the LUP and LCP zoning.

The subject site is located one parcel from the San Diego Bay (America’s Cup Harbor) and is located in an area commonly referred to as the Roseville District of the Peninsula Community Plan area. The Roseville District supports a mix of single family residential, multi family residential, commercial, industrial, and visitor serving uses. There are existing commercial developments fronting Scott Street near the subject site, as well as industrial marine related uses to the southeast and northeast. Port tidelands are located immediately southeast of the site which are currently undergoing redevelopment as the “Kettenburg Landing” which includes, in part, construction of a walk-up food plaza and a public access walkway. While the subject site does not have direct waterfront access it still supports a variety of marine related businesses on site and is adjacent to other surrounding marine related industries.

The standard of review is the certified LCP as well as the public access policies of the Coastal Act.

2. Marine-Related Uses. The subject site has historically supported marine dependent commercial recreational and industrial uses such as boatyards and boat repair services and is currently occupied by seven different marine related businesses on site. At one point in time, prior to a lot line adjustment, the subject site was connected with the tidelands parcel to the east, though, currently the subject site has no direct water access. The proposed project would displace the current marine-related businesses on site, however, the proposed project, as conditioned, would require that marine related community commercial and visitor serving uses are preserved in the new mixed use development proposed on the subject site.

The following provisions from the Peninsula Community LUP apply to the subject site and state in part:

- Encourage continued development and sensitive redevelopment of a wide variety of community-, visitor- and marine-related community commercial uses in the Roseville commercial district.
- The Roseville commercial district should remain as the primary commercial focus within Peninsula. A majority of the area should be designated for a mix of residential, community commercial, commercial recreation and marine-related commercial and industrial uses. A portion of this area should be rezoned to residential which would permit this mix of uses with strengthened parking and landscape requirements. Residential development should be allowed at densities not exceeding 29 du/acre on upper floors of the commercial development, or with densities up to 43 du/acre permitted only in conjunction with low- and moderate-income housing.
- Maintain and encourage continued development of the commercial fishing and marine related commercial land within Peninsula.
- The area generally located along the north and west sides of Canon Street, east of Scott, and the area generally between Carlton and Dickens, also east of Scott, should be designated for marine-related commercial/industrial uses. In cases where discretionary review is applicable, development controls addressing building design, landscaping, view preservation, parking requirements and performance criteria should be applied to all new development in this area.

Additionally, the following City of San Diego Land Development provisions are applicable to the subject site and state:

131.0507 Purpose of the CC (Commercial--Community) Zones

(a) The purpose of the CC zones is to accommodate community-serving commercial services, retail uses, and limited industrial uses of moderate intensity and small to medium scale. The CC zones are intended to provide for a range of *development* patterns from pedestrian-friendly commercial *streets* to shopping centers and auto-oriented strip commercial *streets*. Some of the CC zones may

include residential *development*. Property within the CC zones will be primarily located along collector *streets*, major *streets*, and public transportation lines.

[...]

(4) The following zones allow heavy commercial uses and residential uses: CC-4-2 is intended to accommodate *development* with high intensity, strip commercial characteristics

[...]

Ground *Floor* Restriction. Residential use and residential parking are prohibited on the ground *floor* in the front half of the *lot*, except in the CC-3-4, CC-3-5, CC-4-4, CC-4-5, CC-5-4, CC-5-5, and CV-1-2 zones, where these uses are prohibited on the ground *floor* in the front 30 feet of the *lot* as shown in Diagram 131-05A. Within the Coastal Overlay Zone, required parking cannot occupy more than 50 percent of the ground floor in the CV-1-1 or CV-1-2 zones.

[...]

(f) Within the Coastal Overlay Zone, residential uses are not permitted on the ground floor.

Prior to Commission approval of LCP Amendment 2-10 in February 2011, the subject site had an Industrial land use designation identified in the Peninsula Community Plan. Through the project driven LCP Amendment 2-10, the land use designation for the subject site was changed to Community/Recreational, with the intent that marine related commercial and visitor serving uses would be included and emphasized in the commercial component of the proposed mixed use development on the subject site. As part of the LCP Amendment approval, the Commission included policy language modifications in the Peninsula Community Plan that clarified the requirement for encouraging marine related community commercial and visitor serving uses in the Roseville subarea. The new policies included in the Peninsula Community Plan state:

On Page 34 of the Community Plan, under the Commercial Plan Element, the first Objective reads:

Encourage continued development and sensitive redevelopment of a wide variety of community, visitor and marine related community commercial uses in the Roseville commercial district, including, but not limited to, marine sales and services supporting the commercial fishing and recreational boating industries, hotels, restaurants, marine navigation and fish finding equipment, yacht brokers, specialty/handcraft shops, beachwear, chart/map sales and other similar activities that support uses on the waterfront. Residential uses may be permitted but for properties situated along or southeast of Rosecrans Street and extending to the tidelands between Hugo Street and Byron/Shelter Island Drive, residential uses should be

restricted to the upper floors; only commercial units, commercial units that provide integrated live/work space (i.e. live/work quarters) and required off-street parking may be located on the ground/street-level.

On Page 36, under Recommendations for Specific Commercial Areas, Roseville,:

For properties adjacent to the tidelands, permitted uses shall include, but not be limited to, marine sales and services supporting the commercial fishing and recreational boating industries, hotels, restaurants, marine navigation and fish finding equipment, yacht brokers, diving schools, sail makers, marine salvage operations, specialty/handcraft shops, beachwear, books, chart/map sales and other similar activities that support uses on the waterfront. Residential uses may be permitted but for properties situated along or southeast of Rosecrans Street and extending to the tidelands between Hugo Street and Byron/Shelter Island Drive, residential uses should be restricted to the upper floors; only commercial units, commercial units that provide integrated live/work space (i.e. live/work quarters) and required off-street parking may be located on the ground/street-level.

Although the subject site does not have direct water access it remains critical that the proposed project encourage and includes marine related community commercial uses, consistent with the policies of the Peninsula Land Use Plan, which identifies marine related businesses as priority uses. While the standard of review is the City LCP/ Peninsula Community Plan, both the City's LCP and Peninsula LUP were derived from Chapter 3 policies of the Coastal Act and, as such, incorporate measures for protecting and preserving marine related uses in areas near the shoreline. The permitted uses allowed in the Community/recreational land use designation for the subject site allow for a broad range of retail, commercial, and visitor serving services as well as light industrial uses such as dry boat storage or marine services. Marine related priority uses are required to be encouraged in the commercial units along the street and tidelands frontages, but non-priority uses, such as the residential component of the proposed development, must be located above the street level, as specifically stipulated in the Peninsula LUP.

The applicant is proposing to construct a mixed use development with ten ground floor commercially designated units, where four of those will be live/work units, with the remaining 36 townhome units located in the upper floors of the 30 ft. high structure. Marine-related/industrial uses are a priority use for this area as identified by Chapter 3 policies of the Coastal Act as well as the Peninsula Community Plan, and as such, the proposed project is conditioned so that such uses are required and incorporated into the commercial component of the proposed mixed use structures. Specifically, Special Condition Nos. 1, 2, 3, and 4 pertain to protection of marine related priority uses on the subject site. Special Condition #1 restricts residential development to the upper floors of the proposed structure, while Special Condition #2 requires that marine related uses be included in the commercial component of the proposed structure.

Specifically, Special Condition #2 requires that 100% of the commercial use on the subject site must include and emphasize marine sales and services supporting the

commercial fishing and recreational boating industries, hotels, restaurants, marine navigation and fish finding equipment, yacht brokers, diving schools, sail makers, marine salvage operations, specialty/handcraft shops, beachwear, books, chart/map sales or other similar activities that support uses on the waterfront, as stipulated in the Peninsula Community Plan. Additionally, the condition requires that 50% of the commercial uses in the proposed development, excluding the live/work commercial leaseholds, must be occupied by marine related retail or services that support the marine community. This restriction still allows for a broad array of commercial/retail uses, however, it would restrict uses such as hotels or offices, unrelated to the marine community sales or services, from occupying over 50% of the commercial units in the subject development.

The intent of this condition is to allow for a variety of potential commercial/recreational and visitor serving uses on the subject site, while still encouraging and emphasizing marine related priority uses, consistent with the requirements of the Peninsula LUP, Commercial Plan Element.

Special Condition #3 requires that the applicants record a deed restriction prior to permit issuance that incorporates all of the permit's Standard and Special Conditions and will ensure that all of the Standard and Special Conditions attached to this permit appear on the title report for the property. To further ensure that these marine related priority uses are protected and encouraged on the subject site in perpetuity, Special Condition #4 requires that CC&Rs be prepared and submitted to the Commission prior to occupancy of any of the units. Through the CC&Rs, all future owners and lessees of commercial units in the subject structure will be notified of and required to abide by the restrictions on the property implemented through the Special Conditions number 1 and 2 of this permit.

In summary, the proposed special conditions will protect and encourage marine related priority uses on the subject site and restrict residential units to the upper floors of the ground structure, consistent with the requirements of the Peninsula Community Plan LUP and the City's LCP. As such, the proposed project, as conditioned, is consistent with the above cited provisions of the certified LCP.

3. Public Access/Parking. A number of policies in the Coastal Act address the protection and improvement of public access and recreation opportunities within the coastal zone, including:

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.

Section 30212(a)

(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, [...]

The Peninsula Community Plan Transportation and Shoreline Access component includes the following objectives:

- Residential development should provide 1.3 parking spaces per one bedroom or studio unit and 1.6 parking spaces per two or more bedroom units.
- All parking facilities should be designed so that they are compatible with pedestrian circulation and should be screened, to the extent feasible, from public view.
- Complete the system of public sidewalks, paths and stairways to provide safe and efficient pedestrian access to the residential, commercial and recreational areas of the Peninsula community.
- The commercial, residential and industrial areas should encourage pedestrian orientation and strive to include pedestrian and bicycle pathways and other facilities in their design in order to enhance the aesthetic and recreational qualities of this area.
- Scott Street, between North Harbor Drive and Talbot should be designed to incorporate a priority for pedestrian crossings east-west for better safety, maintain traffic flow and improve overall aesthetic design. The design should be integrated into the overall redevelopment of the Roseville area. In addition, Talbot between Rosecrans and Scott should also be improved as a four-lane major street. Peak hour parking restrictions and formation of an assessment district should also be reviewed for their effectiveness in alleviating traffic congestion.
- The following parking requirements should apply within the coastal zone:
 - New commercial/office development should provide at least one parking space for every 400 square feet of gross floor area on-site or one space per 500 square feet of gross floor area in a common parking facility.
 - Additions or modifications to existing commercial/office development should provide a minimum of twice the number of parking spaces as would be necessitated by the magnitude of said enlargement; provided, however, that the number of spaces required by this paragraph need not exceed the total number of parking spaces required for the enlarged development.

- Residential development should provide 1.3 parking spaces per one bedroom or studio unit and 1.6 parking spaces per two or more bedroom units.

- Parking for commercial establishments in the Voltaire and Rosecrans commercial districts should be located in rear alleys wherever this is practical.

In addition, the following provisions of the certified LCP are applicable and state, in part:

Article 2, General Development Regulations- Division 5, Parking Regulations the following policies apply to the subject site:

§142.0525 Multiple Dwelling Unit Residential Uses — Required Parking Ratios

(a) Minimum Required Parking Spaces. The required automobile parking spaces, motorcycle parking spaces, and bicycle parking spaces for *development of multiple dwelling units*, whether attached or detached, and related an *accessory uses* are shown in Table 142-05C. Other allowances and requirements, including the requirement for additional common area parking for some projects, are provided in Section 142.0525(b) through (d).

§142.0530 Nonresidential Uses — Parking Ratios

(a) Retail Sales, Commercial Services, and Mixed-Use Development. Table 142-05D establishes the ratio of required parking spaces to building *floor* area in the commercial zones, industrial zones, and planned districts shown, for retail sales uses and for those commercial service uses that are not covered by Table 142-05E or 142-05F. Table 142-05D also establishes the required parking ratios for mixed-use developments in a single *structure* that include an allowed use from at least two of the following use categories: (1) retail sales, (2) commercial services, and (3) offices.

-All parking facilities should be designed so that they are compatible with pedestrian circulation and should be screened, to the extent feasible, from public view.

The subject site is situated between the first public road and the sea in an area of the Peninsula Community designated as Roseville. The proposed mixed use development includes a 36 unit townhome project, four live/work commercial units with six commercial leaseholds and 132 off-street garage parking spaces with four ADA accessible spaces, 6 motorcycle spaces and 23 bicycle spaces, on a 1.65 acre parcel. The subject site is located one parcel from the San Diego Bay (America's Cup Harbor) and is located in an area commonly referred to as the Roseville District of the Peninsula Community Plan area. Port tidelands are located immediately southeast of the site which are currently undergoing redevelopment as the "Kettenburg Landing" which includes, in part, a reconfigured and smaller boatyard located closer to Shelter Island Drive; two commercial/retail buildings with two parking lots, the construction of a walk-up food plaza and the establishment of a public access promenade connecting public accessways from beyond Point Loma Seafoods and the sportfishing operations along America's Cup

Harbor north of the site through the tidelands parcel and connecting to Shelter Island Drive south of the site. The Peninsula LUP states: "A public walkway follows the perimeter of the commercial fishing basin between Dickens Street and North Harbor Drive. Although there is no direct access to the water, the walkway does provide public enjoyment of the fishing facilities. A public parking lot, comfort station and picnic area serves this area which is under the control of the Port District".

The policies of the Peninsula LUP and the City's LCP require that for every 400 sq. ft. of commercial space, one parking spot is required to be provided on site. The residential parking requirements for the coastal zone in the LUP are less restrictive than the LDC policies and are not as applicable to the proposed type of mixed use development, as such, the LDC parking policies of Table 142-05C and D are applied as they refer to multiple dwelling residential and non residential-mixed use development. There are 36 townhome units with a mix of one, two and three bedrooms, and 13,068 sq. ft. of ground floor commercial and commercial live/work space. The policies of the LDC per SDMC table 142-05C, require that 1 parking space be provided for every 400 sq. ft. of commercial space, 1.75 parking spaces be provided for the 2 one bedroom units proposed, 2.25 parking spaces be provided for the 5 two bedroom units, and 2.5 parking spaces be provided for the 29 three bedroom units proposed. Based on these requirements, the proposed project would need to provide 33 spaces for the commercial component (13,068 sq. ft. divided by 400) and 88 spaces for the residential component (29 3-bedroom units x 2.5; 5 2-bedroom units x 2.25; and 2 1-bedroom units x 1.75) with 11 additional spaces provided in excess of the requirements of the City LCP. The parking spaces would be located in a partially subterranean garage. As such, the proposed project provides adequate on site parking and will not have adverse impacts on the traffic circulation in the area or result in adverse impacts to public access to the shoreline in this area.

There is no public access to the bay currently provided on the subject site. Access to the bay will be provided in the future through an adjacent promenade/pedestrian path along the waterfront which is proposed by the Port District on the adjacent parcel of bayfront land between the subject site and bay (Port Master Plan Amendment #33/America's Cup Harbor). The proposed project will not result in adverse impacts to direct waterfront access, as adequate parking is provided on site at parking ratios consistent with the City's LDC. Additionally, the proposed project will enhance pedestrian amenities in the right of way along Carleton and Dickens Streets with improved sidewalks leading towards the Kettenburg landing site. As such, the proposed project is consistent with the public access policies of Chapter 3 of the Coastal Act and the certified LCP.

4. Visual Resources. The Peninsula Community Plan includes the following objectives:

Urban Design Section Objectives

- Maintain and complement the existing scale and character of the residential areas of Peninsula.

- Upgrade the physical appearance of the commercial area in Peninsula.
- Protect and enhance those natural and man-made features of the Peninsula community which make this area unique to the San Diego region.
- Enhance the community's image through special treatment of the major entry points into the community.
- Preserve and enhance significant views of the bay and ocean.

Commercial Component

In addition to physical access to the ocean and bay environments, visual access is an important consideration in terms of maximizing enjoyment of the Peninsula's unique resources. A number of view corridors exist throughout the Peninsula planning area, providing views of the bay, ocean, downtown, Coronado, Mission Bay and Pacific Beach. [...]

Local Coastal Program Section

L. VISUAL RESOURCES AND SPECIAL COMMUNITIES

1. Issue: Future development in the area should not detract from the special characteristics of the community. Residential development should be compatible with existing housing styles and price ranges.

Recommendation: The Plan's community character component discusses the factors which make the Peninsula community unique to the San Diego region. The Plan proposes guidelines for new development which are designed to protect significant natural and man-made (heritage) resources of the community. Also stressed is the need to ensure that new development is consistent with regard to overall design to adjacent properties.

2. Issue: The Peninsula plan proposes the removal of overhead power lines, billboards, and other visual clutter. Planting of vegetation and landscaping along streets lacking these amenities is also recommended. The Land Use Plan should propose zoning changes and an effective abatement program. Effective measures (including controls on building and vegetation) must be taken to ensure the preservation of lines of sight to the bay and ocean.

Recommendation: The Plan contains a visual resources component which addresses, in detail, proposals to enhance aesthetics of the community.

Specifically, sign standards are recommended for all of the commercial areas in order to reduce the visual clutter present in these locations. The Plan recommends that billboards be eliminated and utilities, wherever feasible, be undergrounded. In conjunction with the public access component, the visual resources component also

identifies significant vistas throughout the community and encourages their preservation.

In addition, Section 132.0403 of the City's certified Land Development Code also contains the following requirements:

[...]

(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 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.

Public views to the bay are visible from the eastern side of the project site and also along the two frontages (Dickens and Carleton Streets), although views across the site itself from Scott Street (west side of site) are not available due to the presence of existing buildings on the property. There are no LUP designated public view corridors along any portion of the site or its surrounding street frontage to the bay. However, the LUP does state that, "[i]n addition to physical access to the ocean and bay environments, visual access is an important consideration in terms of maximizing enjoyment of the Peninsula's unique resources. A number of view corridors exist throughout the Peninsula planning area, providing views of the Bay, ocean, Downtown, Coronado, Mission Bay and Pacific Beach...." The Commission typically reviews projects to assure that any new proposed development does not encroach into the yard setback areas which could impede public views toward the ocean or bay. In this particular case, the proposed development will observe all required setbacks and public views to the bay will not be impacted as a result of the proposed structure. However, there is the potential for proposed landscaping in the side yard areas to impede views to the bay (both initially and over time, as plant materials/trees mature). While the proposed development will not significantly impact bay views from any public vantage points, Special Condition #6 is proposed, which requires that the 5 ft. and 5.5ft. side yard setback areas of the project on both Carleton and Dickens Streets be restricted to preserve coastal views, consistent with the above cited provisions of the City LDC. In the side yard setback areas only low lying vegetation or hardscape less than 3', or tall canopy trees would be allowed.

Furthermore, the proposed development will not exceed the 30 ft. height limit for this area pursuant to the certified LCP and is consistent in size and scale with the surrounding

area. In addition, because tall free standing signs or pole signs can result in visual impacts, Special Condition #8 is proposed and requires the applicants to submit a sign program, prior to issuance of the permit, documenting that only monument signs, not to exceed eight (8) feet in height, or facade signs are proposed, consistent with the recommendation of the Peninsula LUP Visual Resources and Special Communities section. Also, Special Condition # 8 stipulates that no tall or free-standing pole or roof signs shall be allowed.

In addition, the Port action on the “Kettenburg Landing” project formalized and preserves the public view corridors extending down the Carleton and Dickens Street ends through the tidelands parcel to the bay. The restricted sideyard setbacks along Carleton and Dickens on the subject site, as required in Special Condition #6, would enhance these view corridors and improve public visual access in the area. The subsequent redevelopment of the subject upland site would not result in any adverse impacts on any designated public view corridors or physical accessways in the area and the Commission finds the proposed mixed use development, as conditioned, consistent with the certified LCP.

5. Water Quality/Sensitive Biological Resources. The Peninsula Community Plan includes the following objectives:

Conservation and Environmental Quality Objectives

- Identify existing and desired resources which contribute to the quality of the community environment, and develop guidelines for the conservation and enhancement of these resources.
- Balance new development with resource conservation, with consideration given to the protection of life and property from geologic hazards and environmental impacts.

Additionally, the following LDC policies addressing water quality and sensitive species and which are most applicable to the subject proposal, state, in part

Purpose of Environmentally Sensitive Lands Regulations

The purpose of these regulations is to protect, preserve and, where damaged restore, the *environmentally sensitive lands* of San Diego and the viability of the species supported by those lands. These regulations are intended to assure that *development*, including, but not limited to *coastal development* in the Coastal Overlay Zone, occurs in a manner that protects the overall quality of the resources and the natural and topographic character of the area, encourages a sensitive form of *development*, retains biodiversity and interconnected habitats, maximizes physical and visual public access to and along the shoreline, and reduces hazards due to *flooding* in specific areas while minimizing the need for construction of *flood* control facilities. These regulations are intended to protect the public health, safety, and welfare while employing regulations that are consistent with sound resource conservation principles and the rights of private property owners.

The subject site does not lie directly adjacent to the waters of the San Diego Bay, however, it is in close proximity to it and impacts to water quality as a result of the proposed project are a potential concern. The subject site is an existing commercial/industrial property that has been previously disturbed and consists mostly of impervious surfaces and dirt areas. The proposed project will be required to incorporate water quality BMPs, including the use of pervious surfaces and landscaped areas, to assure that the project does not result in significant water quality impacts. Specifically, Special Condition #7 is proposed. This condition requires the applicant to implement a number of pre- and post-construction water quality protection BMPs and construction practices including efficient irrigation with soil water sensors, programmable irrigation timers, automatic shut-off valves, and the incorporation of pervious pavement. This would benefit coastal waters and marine organisms by minimizing any increases in total volume and peak runoff rate of stormwater and water pollutants to the marine waters. Therefore, as proposed and conditioned the project can be found consistent with the policies of the LUP and LDC regarding protection of environmental resources.

In regards to the proposed landscaping plan, 24 Mexican Fan Palms were identified on the submitted plan around the perimeter and interior of the proposed development. In addition to being an invasive species, these palms have the potential to increase visual obstruction of available coastal views in the surrounding area and also act as predator perches for raptors preying on sensitive species of harbor and shorebirds, protected under the Migratory Bird Treaty Act. As such, Special Condition #6 requires that the applicant submit a revised landscaping plan omitting any Mexican Fan Palms prior to issuance of the permit. The subject site consists of previously disturbed commercial/industrial land with no environmentally sensitive lands located on site. Therefore, as conditioned, the proposed project will not result in any impacts to sensitive biological resources and can be found consistent with the policies of the LUP and LCP regarding protection of sensitive environmental resources.

6. Local Coastal Planning. The City of San Diego has a certified LCP for the Peninsula area. As discussed above, the project is consistent with the Commercial/Recreational land use designations in the Peninsula LUP and the CC-4-2 zoning in the City's LCP. As conditioned, the development is consistent with all applicable provisions of the certified LCP as well as with the public access policies of Chapter 3 of the Coastal Act. The Commission, therefore, finds that approval of the proposed development, as conditioned, will not prejudice the ability of the City of San Diego to continue to implement its certified Local Coastal Program for the Peninsula Community.

7. Consistency with the California Environmental Quality Act (CEQA). The City of San Diego is the lead agency for CEQA purposes and the Commission is a responsible agency. The City of San Diego approved a supplemental EIR for the proposed project. Section 13096 of the Commission's administrative regulations requires Commission approval of a coastal development permit or amendment to be supported by a finding showing the permit or permit amendment, 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 to be found consistent with the Marine-Related uses, public access, and visual protection, policies of the Peninsula community LUP, City of San Diego LCP and the public access policies of the Coastal Act. Mitigation measures will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and is consistent with the requirements of CEQA.

STANDARD CONDITIONS:

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



SEE 1287 MAP

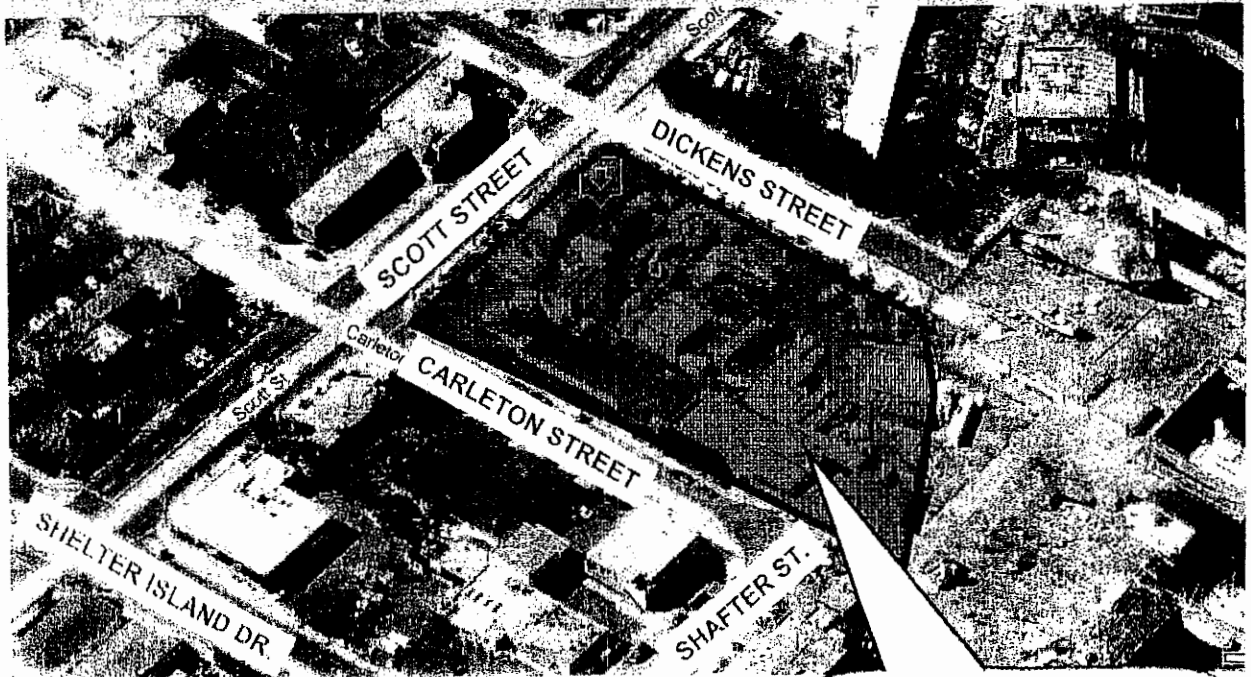
SAN DIEGO

SAN

EXHIBIT NO. 1
APPLICATION NO.
A-6-PEN-11-077
Location Map
 California Coastal Commission

Development Services Department
Project Management

Location




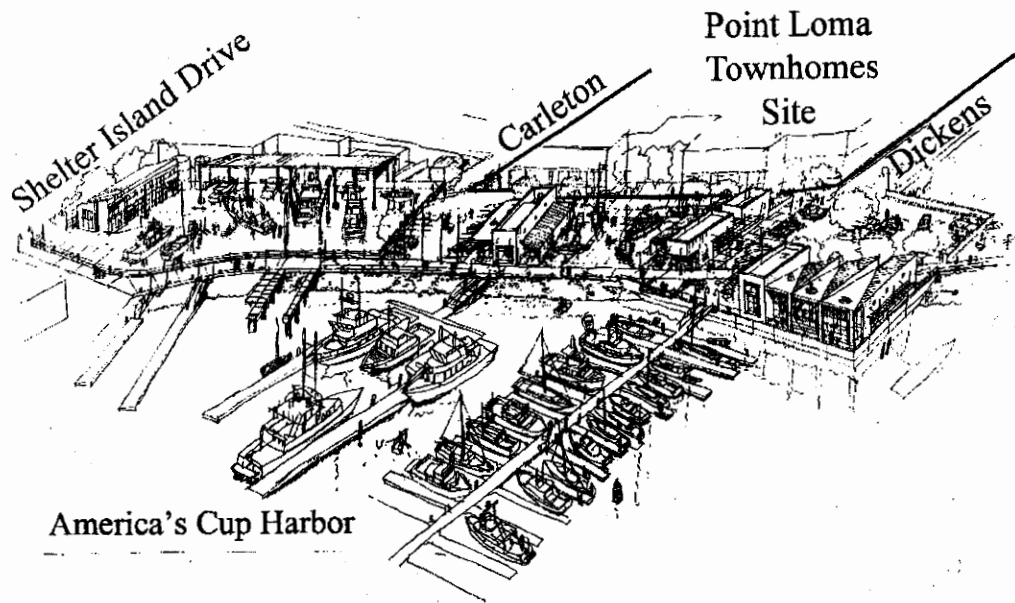
1275 Scott Street



EXHIBIT NO. 2
APPLICATION NO.
A-6-PEN-11-077

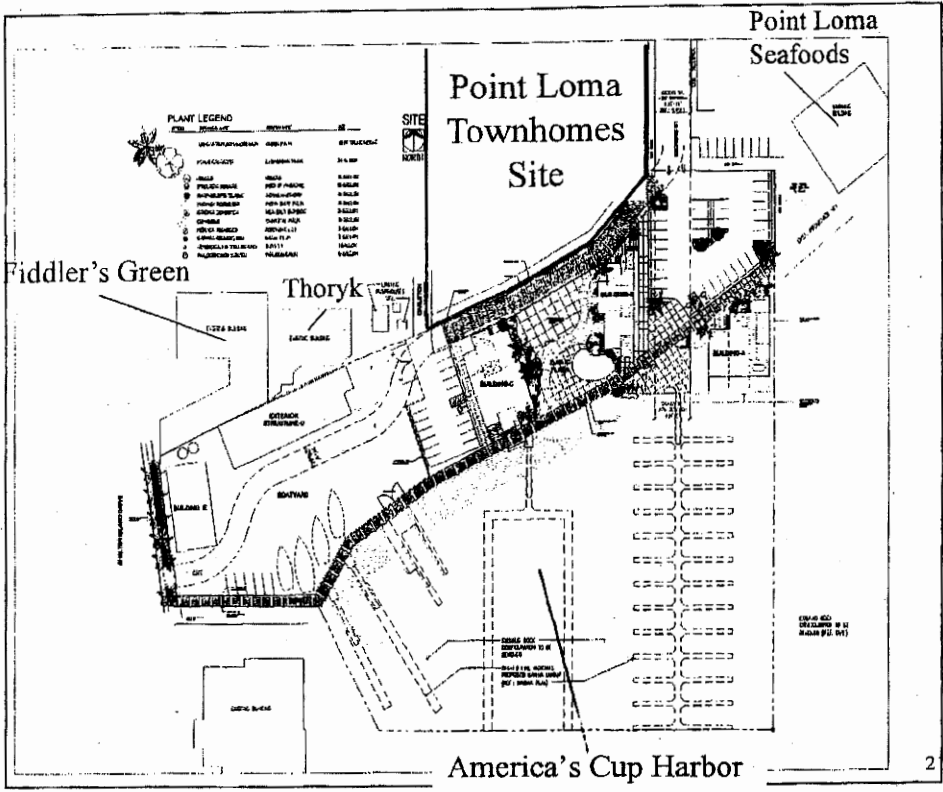
Site Plan
Page 1 of 3

 California Coastal Commission



Kettenburg Landing

PLTH LCPA Attachment 18



HULL

ARCHITECT
LANDSCAPE ARCHITECTURE
PLANNING
PO BOX 502
SAN DIEGO, CALIFORNIA 92161
(619) 594-4400

Kettenburg Marine
AMERICA'S CUP HARBOR
SAN DIEGO, CA
WORKING DRAWING SUBMITTAL

DATE: 11/15/00
BY: [Signature]
CHECKED BY: [Signature]
SCALE: 1/4\"/>

S-1



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form

RECEIVED

OCT 14 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

SECTION I. Appellant(s)

Name: Ian Trowbridge

Mailing Address: 3444 Hawk St.

City: San Diego

Zip Code: 92103

Phone: 619-248-3242

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of San Diego

2. Brief description of development being appealed:

A mixed use project consisting of 36 residential townhomes/condominium units, 4 new integrated commercial condominium units (live/workquarters on the ground floor and six commercial condominium units, and one commercial leasehold at the northeast corner of the site (see Fig 1)

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

1.65 acre site bounded by Carlton, Scott and Dickens St. and Port District tidelands directly East in the Point Loma area of San Diego (see attached Fig. 2). Peninsula plan area. The site is located between the last road and the shoreline.

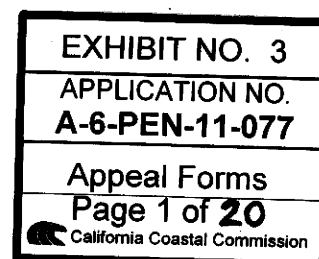
4. Description of decision being appealed (check one.):

Approval; no special conditions

Approval with special conditions:

Denial

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



STATE OF CALIFORNIA -- THE RESOURCES AGENCY
CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
VOICE (619) 767-2370 FAX (619) 767-2384

EDMUND G. BROWN JR., Governor



TO BE COMPLETED BY COMMISSION:

APPEAL NO: **A-6-PEN-11-077**

DATE FILED:

DISTRICT: **SAN Diego COAST**

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- x City Council/Board of Supervisors
- x Planning Commission
- Other

6. Date of local government's decision: cc 5/31/2011; pc 9/29/2011

7. Local government's file number (if any): res# 306814 ; pc SCR# 221431

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Rand Wassem, Prism Investments, Inc.

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) All interested parties are on file with Morris E. Dye, Development Project Manager, City of San Diego 619-446-5201 mdye@sandiego.gov.

(2)

(3)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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

Basis- inconsistent with the certified LCP

The LCP states: " For properties adjacent to the tidelands, permitted uses shall include, but not be limited to, marine sales and services supporting the commercial fishing and recreational boating industries, hotels, restaurants, marine navigation and fish finding equipment, yacht brokers, diving schools, sail makers, marine salvage operations, specialty/handcraft shops, beachwear, books, chart/map sales and other similar activities that support uses on the waterfront. Residential uses may be permitted but for properties situated along or southeast of Rosecrans Street and extending to the tidelands between Hugo Street and Byron/Shelter Island Drive, residential uses should be restricted to the upper floors; only commercial units, commercial units that provide integrated live/work space (i.e. live/work quarters) and required off-street parking may be located on the ground/street-level".

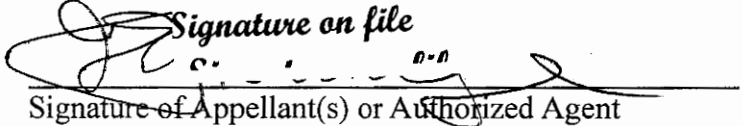
The property is clearly located adjacent to tidelands as described above but there are no conditions on the project to require uses to emphasize marine-related businesses on the first floor nor in any way ensure that any marine-related businesses occupy the commercial unit. The project is therefore inconsistent with the language and intent of the LCP to protect marine-related uses in this zone.

In addition there is no restriction that the residential uses be limited to the floors above the first level. The lack of any such conditions avoids the intent of the modifications and findings supporting the LCPA approval.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature on file


Signature of Appellant(s) or Authorized Agent

Date: Oct 14, 2011

Note: If signed by agent, appellant(s) must also sign below.

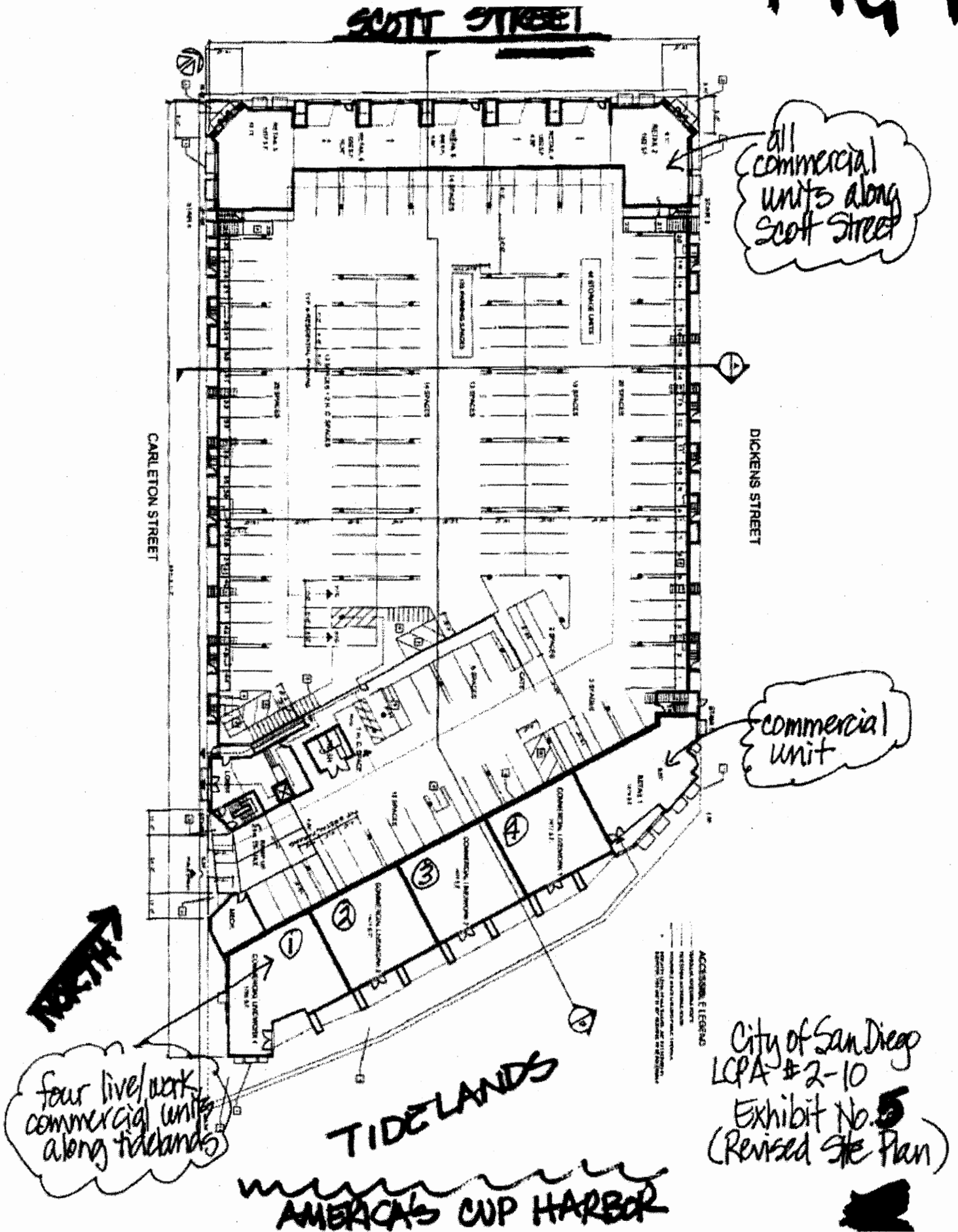
Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

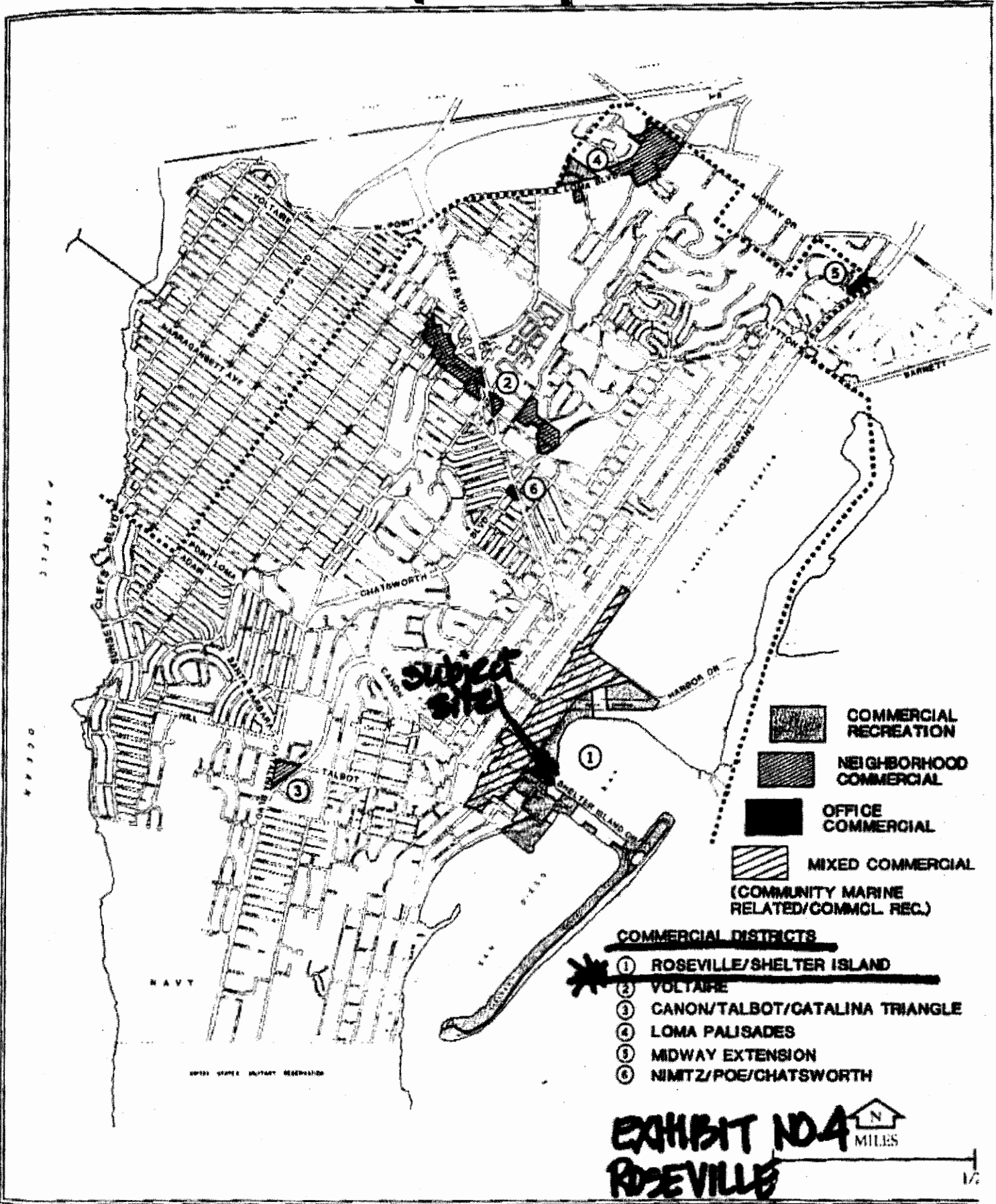
Date: _____

FIG 1



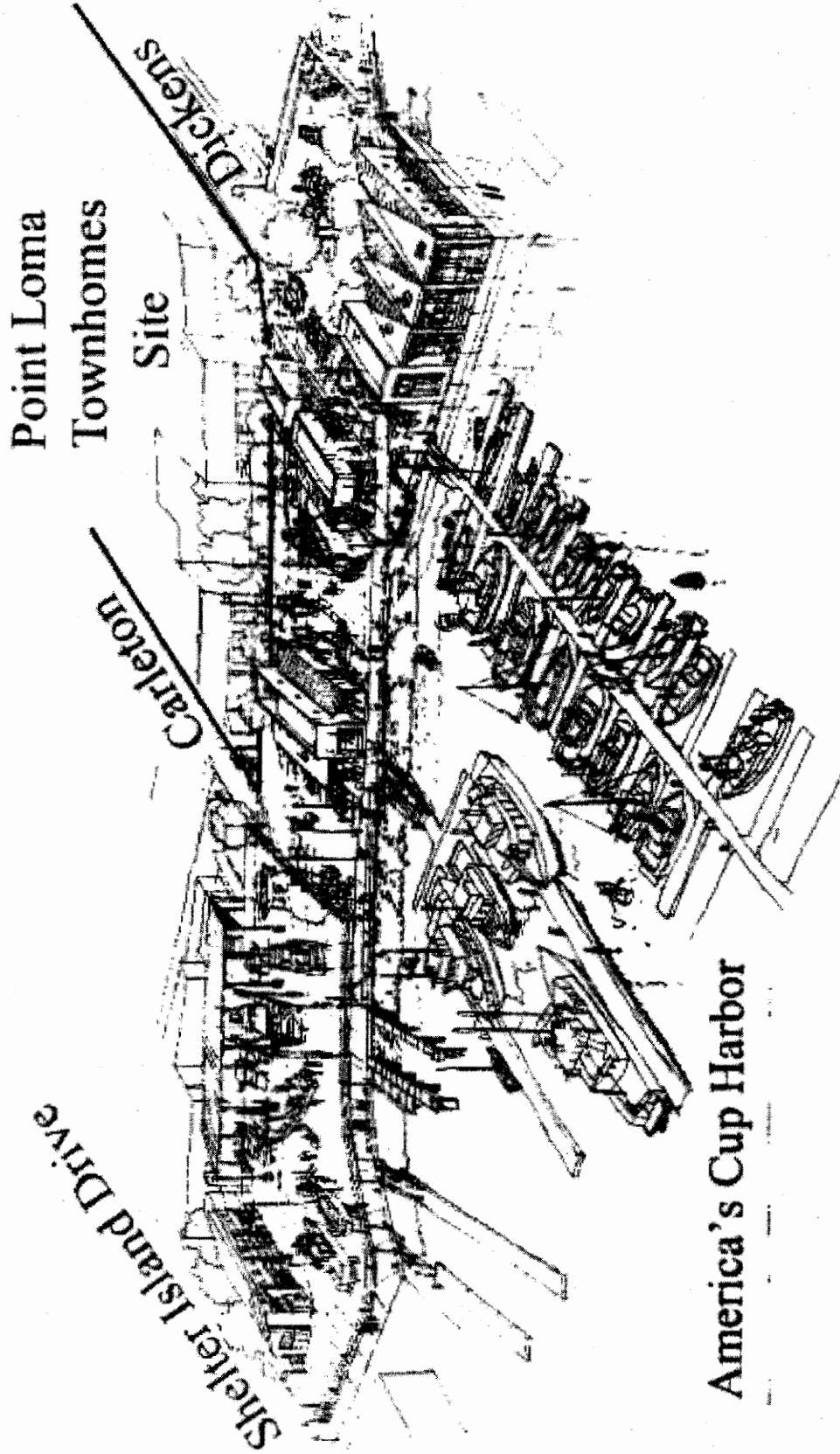
City of San Diego
LCPA #2-10
Exhibit No. 5
(Revised Site Plan)

FIG 29



COMMERCIAL AREAS

Fig 2b



Kettenburg Landing

PLTH LCPA Attachment 18

CALIFORNIA COASTAL COMMISSION

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



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Commissioner Esther Sanchez
Mailing Address: Oceanside City Council
City of Oceanside
300 North Coast Hwy
Oceanside, CA 92054
Phone Number: (760) 435-0971

SECTION II. Decision Being Appealed

1. Name of local/port government: City of San Diego
2. Brief description of development being appealed: Demolition of two existing, two story commercial structures and construction of three, two story buildings and one, three story building consisting of 36 residential townhomes, ten commercial condominium units, and a one level parking garage with 132 partially below grade spaces.
3. Development's location (street address, assessor's parcel no., cross street, etc.): 1275 Scott St., Peninsula, San Diego, San Diego County
4. Description of decision being appealed:
 - a. Approval; no special conditions:
 - b. Approval with special conditions:
 - c. Denial:

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-PEN-11-077

DATE FILED: 10/21/11

DISTRICT: San Diego

RECEIVED

OCT 21 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

5. Decision being appealed was made by (check one):

- a. Planning Director/Zoning Administrator c. Planning Commission
- b. City Council/Board of Supervisors d. Other

Date of local government's decision: 9/29/11

Local government's file number (if any): 221431

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

Name and mailing address of permit applicant:

Rand Wasserman, Prism Investment

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attachment A dated October 21, 2011

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: *Signature on file*
Appellant or Agent _____

Date: 10/21/11

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

Attachment A
Pt. Loma Townhomes Appeal
1275 Scott Street., San Diego
October 21, 2011

The project as approved and conditioned by the City, would allow for demolition of two existing on-site structures, currently used by marine related businesses, and redevelopment of the subject site with three, two story buildings and one, three story building. The total square footages of the proposed mixed use structure would be 13,068 sq. ft. of commercial and live/work unit space on the ground floor and 64,588 sq. ft. of upper floor residential square footage. The proposed structure would also provide 132 parking spaces in the partially subterranean parking garage, with 120 spaces required for the mixed use project component. The project as approved by the City is inconsistent with City's LCP as it relates to the requirements for protection of marine-related uses and residential unit restrictions in this zone.

The subject site is located one parcel from the San Diego Bay (America's Cup Harbor) and is located in an area commonly referred to as the Roseville District of the Peninsula Community Plan area. Port tidelands are located immediately southeast of the site which are currently undergoing redevelopment as the "Kettenburg Landing" which includes, in part, construction of a walk-up food plaza and a public access walkway. While the subject site does not have direct waterfront access it still supports a variety of marine related business on site and is adjacent to other surrounding marine related industries.

The language in the Recommendations for Specific Commercial Area Element of the Peninsula Community Plan (LUP), which applies to this specific property, specifically states that permitted commercial uses in this area should emphasize visitor and marine related industries or businesses. Specifically, it states, in part:

For properties adjacent to the tidelands, permitted uses shall include, but not be limited to, marine sales and services supporting the commercial fishing and recreational boating industries, hotels, restaurants, marine navigation and fish finding equipment, yacht brokers, diving schools, sail makers, marine salvage operations, specialty/handcraft shops, beachwear, books, chart/map sales and other similar activities that support uses on the waterfront. [...]

Also, The first objective in the Commercial Plan Element of the Peninsula Community Plan states:

Encourage continued development and sensitive redevelopment of a wide variety of community, visitor and marine related community commercial uses in the Roseville commercial district, including, but not limited to, marine sales and services supporting the commercial fishing and recreational boating industries, hotels, restaurants, marine navigation and fish finding equipment, yacht brokers,

specialty/handcraft shops, beachwear, chart/map sales and other similar activities that support uses on the waterfront. [...]

While the above cited provisions do not specifically require such uses be included on the subject site, they require such uses be encouraged and emphasized. However, the City did not condition this project to ensure that the available commercial space would be occupied by any businesses or commercial enterprises associated with waterfront activities. The City's CDP permit for the proposed development contains no condition that would assure the continued presence of any visitor or marine related businesses on the subject site.

The absence of any binding condition in the City's CDP relating to the perpetuation of marine and waterfront related business activity in the proposed development's available commercial space deviates from the intent of the Peninsula Community Plan and all applicable provisions therein that aim to preserve and maintain the community character and historic marine related uses in this zone.

Additionally, while the project applicant is proposing to have only commercial and live/work uses occupy the ground floor units of the structure, the project has not been conditioned by the City to require that the proposed ground floor commercial square footage will remain such in perpetuity and not be converted to residential living space once portions of the structure become leased or sold. The lack of any condition in the City's approval of the project that would require residential uses to be restricted to the upper floors in the proposed development is inconsistent with the following section of the Peninsula Community plan (Recommendations for Specific Commercial Areas, Roseville Pg. 36) and in the first objective in the Commercial Plan Element of the Peninsula Community Plan,, which state in part:

[...] Residential uses may be permitted but for properties situated along or southeast of Rosecrans St. and extending to the tidelands between Hugo St. and Byron/Shelter Island Drive, residential uses should be restricted to the upper floors; only commercial units that provide integrated live/work space (i.e. live/work quarters) and required off-street parking may be located on the ground/street level.

The subject site is located within the area described in the above referenced LCP provision, and, as such, to ensure consistency with the LCP the proposed development should not allow any residential uses to occupy the ground floor units of the townhome development. The project, as currently proposed, includes that residential use will only be on the upper floors, with commercial/live work units to occur exclusively on the ground floor. However, there are no conditions attached to the permit approved by the City that would ensure this element of the proposed project becomes a binding restriction guaranteeing no residential uses become established in the ground floor units of the proposed development following construction or through any redevelopment or future modifications to the proposed development.

In summary, the City's approval of the proposed development is inconsistent with the policies of the certified LCP relating to protecting visitor and marine related businesses in this zone as well as prohibiting residential uses from occupying the ground floor of a structure in the 'Roseville' area of the Peninsula Community.

CALIFORNIA COASTAL COMMISSION

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



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Commissioner Mark W. Stone
Mailing Address: Board of Supervisors
701 Ocean Street, Room 500
Santa Cruz, CA 95060
Phone Number: (831) 454-2200

SECTION II. Decision Being Appealed

1. Name of local/port government: City of San Diego
2. Brief description of development being appealed: Demolition of two existing, two story commercial structures and construction of three, two story buildings and one, three story building consisting of 36 residential townhomes, ten commercial condominium units, and a one level parking garage with 132 partially below grade spaces.
3. Development's location (street address, assessor's parcel no., cross street, etc.)
1275 Scott St., Peninsula, San Diego, San Diego County
4. Description of decision being appealed:
 - a. Approval; no special conditions:
 - b. Approval with special conditions:
 - c. Denial:

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-PEN-11-077

DATE FILED: 10/21/11

DISTRICT: San Diego

RECEIVED

OCT 21 2011

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

5. Decision being appealed was made by (check one):

- a. Planning Director/Zoning Administrator c. Planning Commission
- b. City Council/Board of Supervisors d. Other

Date of local government's decision: 9/29/11

Local government's file number (if any): 221431

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

Name and mailing address of permit applicant:

Rand Wasserman, Prism Investment

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attach A Dated OCTOBER 20, 2011

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: Signature on file
Appellant or Agent

Date: 10/20/11

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

Attachment A
Pt. Loma Townhomes Appeal
1275 Scott Street., San Diego
October 21, 2011

The project as approved and conditioned by the City, would allow for demolition of two existing on-site structures, currently used by marine related businesses, and redevelopment of the subject site with three, two story buildings and one, three story building. The total square footages of the proposed mixed use structure would be 13,068 sq. ft. of commercial and live/work unit space on the ground floor and 64,588 sq. ft. of upper floor residential square footage. The proposed structure would also provide 132 parking spaces in the partially subterranean parking garage, with 120 spaces required for the mixed use project component. The project as approved by the City is inconsistent with City's LCP as it relates to the requirements for protection of marine-related uses and residential unit restrictions in this zone.

The subject site is located one parcel from the San Diego Bay (America's Cup Harbor) and is located in an area commonly referred to as the Roseville District of the Peninsula Community Plan area. Port tidelands are located immediately southeast of the site which are currently undergoing redevelopment as the "Kettenburg Landing" which includes, in part, construction of a walk-up food plaza and a public access walkway. While the subject site does not have direct waterfront access it still supports a variety of marine related business on site and is adjacent to other surrounding marine related industries.

The language in the Recommendations for Specific Commercial Area Element of the Peninsula Community Plan (LUP), which applies to this specific property, specifically states that permitted commercial uses in this area should emphasize visitor and marine related industries or businesses. Specifically, it states, in part:

For properties adjacent to the tidelands, permitted uses shall include, but not be limited to, marine sales and services supporting the commercial fishing and recreational boating industries, hotels, restaurants, marine navigation and fish finding equipment, yacht brokers, diving schools, sail makers, marine salvage operations, specialty/handcraft shops, beachwear, books, chart/map sales and other similar activities that support uses on the waterfront. [...]

Also, The first objective in the Commercial Plan Element of the Peninsula Community Plan states:

Encourage continued development and sensitive redevelopment of a wide variety of community, visitor and marine related community commercial uses in the Roseville commercial district, including, but not limited to, marine sales and services supporting the commercial fishing and recreational boating industries, hotels, restaurants, marine navigation and fish finding equipment, yacht brokers,

specialty/handcraft shops, beachwear, chart/map sales and other similar activities that support uses on the waterfront. [...]

While the above cited provisions do not specifically require such uses be included on the subject site, they require such uses be encouraged and emphasized. However, the City did not condition this project to ensure that the available commercial space would be occupied by any businesses or commercial enterprises associated with waterfront activities. The City's CDP permit for the proposed development contains no condition that would assure the continued presence of any visitor or marine related businesses on the subject site.

The absence of any binding condition in the City's CDP relating to the perpetuation of marine and waterfront related business activity in the proposed development's available commercial space deviates from the intent of the Peninsula Community Plan and all applicable provisions therein that aim to preserve and maintain the community character and historic marine related uses in this zone.

Additionally, while the project applicant is proposing to have only commercial and live/work uses occupy the ground floor units of the structure, the project has not been conditioned by the City to require that the proposed ground floor commercial square footage will remain such in perpetuity and not be converted to residential living space once portions of the structure become leased or sold. The lack of any condition in the City's approval of the project that would require residential uses to be restricted to the upper floors in the proposed development is inconsistent with the following section of the Peninsula Community plan (Recommendations for Specific Commercial Areas, Roseville Pg. 36) and in the first objective in the Commercial Plan Element of the Peninsula Community Plan,, which state in part:

[...] Residential uses may be permitted but for properties situated along or southeast of Rosecrans St. and extending to the tidelands between Hugo St. and Byron/Shelter Island Drive, residential uses should be restricted to the upper floors; only commercial units that provide integrated live/work space (i.e. live/work quarters) and required off-street parking may be located on the ground/street level.

The subject site is located within the area described in the above referenced LCP provision, and, as such, to ensure consistency with the LCP the proposed development should not allow any residential uses to occupy the ground floor units of the townhome development. The project, as currently proposed, includes that residential use will only be on the upper floors, with commercial/live work units to occur exclusively on the ground floor. However, there are no conditions attached to the permit approved by the City that would ensure this element of the proposed project becomes a binding restriction guaranteeing no residential uses become established in the ground floor units of the proposed development following construction or through any redevelopment or future modifications to the proposed development.

In summary, the City's approval of the proposed development is inconsistent with the policies of the certified LCP relating to protecting visitor and marine related businesses in this zone as well as prohibiting residential uses from occupying the ground floor of a structure in the 'Roseville' area of the Peninsula Community.



6-PEN-11-122

THE CITY OF SAN DIEGO

COASTAL DEVELOPMENT PERMIT
NOTICE OF FINAL ACTION

California Coastal Commission, San Diego Area Office
7575 Metropolitan Drive, Suite 103, San Diego, CA 92108-4402
Phone (619) 767-2370

DATE: October 6, 2011

The following project is located within the City of San Diego Coastal Zone. A Coastal Permit application for the project has been acted upon as follows:

PROJECT NAME - NUMBER: Point Loma Townhomes – Project No.
115083/Substantial Conformance Review No. 221431
Mitigated Negative Declaration (MND) No. 115083

PROJECT DESCRIPTION: Coastal Development Permit No. 388140, Site Development Permit No. 388141, Planned Development Permit No. 561515 and Tentative Map No. 388142 modified by Substantial Conformance Review No. 221431 approved by Planning Commission on appeal on September 29, 2011, for an increase in commercial gross floor area (GFA) from 3,219 square feet (SF) to 13,068 SF for ground floor units along Scott Street and live-work units fronting the eastern property line; a reduction in residential GFA from 80,044 SF to 64,588 SF; a reduction in the number of dwelling units from 47 to 36; a reduction in total Floor Area Ratio (FAR) from 1.998 to 1.939; and a reduction of proposed parking from 141 spaces to 132 spaces where 120 are required for the mixed use project comprised of three, two-story buildings and one-three-story building on a 1.65-acre site.

LOCATION: 1275 Scott Street, San Diego, CA

APPLICANT'S NAME Rand Wasseem, Prism Investments, Applicant, Inc. Axiom Shelter Island, LLC, Owner

FINAL ACTION: APPROVED WITH CONDITIONS

ACTION BY: City Council on October 7, 2008, Planning Commission on September 29, 2011.

ACTION DATE: September 29, 2011

EXHIBIT NO. 4
APPLICATION NO.
A-6-PEN-11-077
City's CDP
Page 1 of 4
California Coastal Commission

OCT -7 2011

CONDITIONS OF APPROVAL: See attached Permit.

FINDINGS: See attached Resolution.

X Appealable to the Coastal Commission pursuant to Coastal Act Section 30603. An aggrieved person may appeal this decision to the Coastal Commission only after a decision by the City Council (or Planning Commission for Process 2 and 3 Coastal Development Permits) and within ten (10) working days following Coastal Commission receipt of this Notice, as to the date the Commission's appeal period will conclude.

CITY CONTACT:

Morris E. Dye
Development Services Department
1222 First Avenue, MS 501
San Diego, CA 92101-4153
Phone/e-mail: (619) 446-5201, mdye@sandiego.gov

Revised 4/08/10 HMD

**RECORDING REQUESTED
BY
CITY OF SAN DIEGO
DEVELOPMENT
SERVICES
PERMIT INTAKE, MAIL
STATION 501**

**WHEN RECORDED MAIL
TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501**

SPACE ABOVE THIS LINE FOR

RECORDER'S USE

INTERNAL ORDER NUMBER: 24001214

COASTAL DEVELOPMENT PERMIT NO. 388140
SITE DEVELOPMENT PERMIT NO. 388144
PLANNED DEVELOPMENT PERMIT NO. 561515
POINT LOMA TOWNHOMES [MMRP] - PROJECT NO. 115083
SUBSTANTIAL CONFORMANCE REVIEW NO. 221431
CITY COUNCIL/PLANNING COMMISSION

This Coastal Development Permit No. 388140, Site Development Permit No. 388144, and Planned Development Permit No. 561515 are granted by the City Council of the City of San Diego on October 7, 2008 and Planning Commission of the City of San Diego on appeal of Substantial Conformance Review No. 221431 on September 29, 2011 to Joan Kramer, MANAGER DUSK LLC, SOLE MEMBER AND AXIOM SHELTER ISLAND LLC, Owners/Permittees, pursuant to San Diego Municipal Code[SDMC] sections 126.0708, 126.0504, and 126.0604. The 01.65-acre project site is located at 1275 Scott Street in the CC-4-2 Zone, Coastal Overlay Zone (appealable-area), Coastal Height Limit Overlay Zone, First Public Roadway, Beach Parking Impact Overlay Zone, the North Bay Redevelopment Project Area, and the Community Plan Implementation Overlay Zone within the Roseville/Shelter Island area of the Peninsula Community Plan and Local Coastal Program Land Use Plan Area. The project site is a designated historic resource, identified as HRB Site #855 and designated by the Historical Resources Board on February 28, 2008.

The project site is legally described as Parcel A: Lot 1, Block 29 of Roseville, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 165, filed in the office of the County Recorder of San Diego County. Excepting therefrom that portion, if any, heretofore or now lying below the mean high tide line of the Bay of San Diego; and Parcel B:

That portion of Lot 1 in Block 28 and Lots 2 to 11 inclusive in Block 29 of Roseville, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 165, filed in the office of the County Recorder of San Diego County lying above the mean high tide line of the Bay of San Diego, as said mean high tide line was established by that certain Superior Court action numbered 35473, and on file in the office of the County Recorder of San Diego County as Miscellaneous Map No. 42; and Together with that portion of Shafter Street as closed to public use lying between said Blocks 28 and 29 and lying above said mean high tide line; and Parcel C: Lot 12, Block 29 of Roseville, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 165, filed in the office of the County Recorder of Said Page 2 of 10 San Diego County; Excepting therefrom any portion thereof now or heretofore lying below the mean high tide line of the Bay of San Diego.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owners/Permittees to demolish an existing three (3) two-story structures and associated accessory structures, and construct a new three (3) two-story and one (1) three-story buildings consisting of 36 residential condominium units, ten commercial condominium units and one level of subsurface parking, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated September 29, 2011, on file in the Development Services Department.

The project shall include:

- a. Demolition of an existing two, two story commercial structures and associated accessory structures;
- b. Construction of three, two-story buildings and one, three-story building consisting of 36 residential town homes (condominium units), ten commercial condominium units above a one level parking garage consisting of:
 - 1) Two (2), one-bedroom units, 5, two-bedroom units and 29, three-bedroom units totaling of 64,588-square-feet of habitable living area.
 - 2) 13,068 square feet GFA new commercial / retail
 - 3) 132 partially below grade parking spaces.
- c. Off-street parking facilities including 132 automobile, four accessible, 6 motorcycles, and 23 bicycle parking spaces;
- d. Deviations to the ground floor restriction of the CC-4-2 zone and development within the Coastal Zone as follows:
 - _ Allow development of the residential parking in the front half of the lot.
 - _ Allow development of the residential use on the ground floor.
- e. Landscaping (planting, irrigation and landscape related improvements);

f. Historic plaque and interpretive story board detailing the history of the Kettenburg Boat Works site and operation, as approved by HRB staff for the Designated Historic Site; and

g. Accessory improvements determined by the Development Services Department to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in affect at the time the extension is considered by the appropriate decision maker.

2. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action, or following all appeals.

3. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:

a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and

b. The Permit is recorded in the Office of the San Diego County Recorder.

4. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the Development Services Department.

5. This Permit is a covenant running with the subject property and shall be binding upon the Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.

6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

7. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee

for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

8. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

9. Construction plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

11. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

12. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program (MMRP). These MMRP conditions are incorporated into the permit by reference or authorization for the project.

13. The mitigation measures specified in the Mitigation Monitoring and Reporting Program, and outlined in MITIGATED NEGATIVE DECLARATION, NO. 115083, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

14. The Owner/Permittee shall comply with the Mitigation, Monitoring and Reporting Program (MMRP) as specified in MITIGATED NEGATIVE DECLARATION, NO. 115083, satisfactory to the Development Services Department and the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

Historical Resources (Archaeology), Public Health and Safety, and Historical Resources-Designated site.

15. Prior to issuance of any construction permit, the Owner/Permittee shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

AFFORDABLE HOUSING REQUIREMENTS:

16. Prior to the issuance of any building permit, the applicant shall comply with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code).

ENGINEERING REQUIREMENTS:

17. The subdivider shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance.

18. Prior to the issuance of any construction permit, the subdivider shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

19. Prior to the issuance of any construction permit the subdivider shall incorporate and show the type and location of all post-construction Best Management Practices (BMPs) on the final construction drawings, in accordance with the approved Water Quality Technical Report.

20. The subdivider shall replace the curb, gutter, and sidewalk with City standard curb, gutter

and sidewalk, adjacent to the site on Carleton Street, Scott Street, and Dickens Street.

21. The subdivider shall obtain an Encroachment Maintenance and Removal Agreement, for private improvements located in the public right of way including; enhanced paving, sidewalk underdrains, landscaping, and irrigation.

22. This project proposes to export 3,438 cubic yards of material from the project site. All export material shall be discharged into a legal disposal site. The approval of this project does not allow the onsite processing and sale of the export material unless the underlying zone allows a construction and demolition debris recycling facility with an approved Neighborhood Use Permit or Conditional Use Permit per LDC Section 141.0620(i).

23. Development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 99-08 DWQ and the Municipal Storm Water Permit, Order No. 2001-01(NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent (NOI) shall be filed with the SWRCB.

24. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99 08 DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in SWRCB Order No. 99 08 DWQ.

25. Prior to foundation inspection, the subdivider shall submit a building pad certification signed by a Registered Civil Engineer or a Licensed Land Surveyor, certifying the pad elevation based on USGS datum is in accordance with the approved tentative map.

26. The subdivider shall reconstruct the existing curb ramp(s) adjacent to the project to meet current City standards.

27. Prior to building occupancy, the applicant shall conform to Section 62.0203 of the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

LANDSCAPE REQUIREMENTS:

28. Prior to issuance of any construction permits for grading, the Permittee or Subsequent Owner shall submit landscape construction documents for the revegetation and hydroseeding of all disturbed land in accordance with the Land Development Manual Landscape Standards and to the satisfaction of the Development Services Department. All plans shall be in substantial

conformance to this permit (including Environmental conditions) and Exhibit "A," on file in the Office of the Development Services Department.

29. Prior to issuance of any construction permits for public right-of-way improvements, the Permittee or Subsequent Owner shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall take into account a 40 sq-ft area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

30. Prior to issuance of any construction permits for buildings, the Permittee or Subsequent Owner shall submit complete landscape and irrigation construction documents consistent with the Land Development Manual Landscape Standards to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Office of the Development Services Department. Construction plans shall take into account a 40 sq-ft area around each tree.

31. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or Subsequent Owner to install all required landscape and obtain all required landscape inspections. A "No Fee" Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.

32. The Permittee or Subsequent Owner shall maintain all landscape in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

33. The Permittee or Subsequent Owner shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Land Development Manual Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.

34. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, the Permittee or Subsequent Owner is responsible to repair and/or replace any landscape in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or prior to a Certificate of Occupancy.

PLANNING/DESIGN REQUIREMENTS:

35. No fewer than 132 off-street parking spaces, of which four spaces are accessible parking spaces, 6 motorcycle spaces and 23 bicycle spaces, shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the Development Services Department.

36. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

37. All signs associated with this development shall be consistent with sign criteria established by either the approved Exhibit "A" or City-wide sign regulations.

38. The Owner/Permittee shall post a copy of the approved discretionary permit or Tentative Map in the sales office for consideration by each prospective buyer.

39. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

HISTORICAL RESOURCES:

40. The historic plaque and interpretive story board and their placement on site shall be reviewed and approved by Historic Resources Board staff and the Design Assistance Subcommittee prior to construction and installation.

TRANSPORTATION REQUIREMENTS:

41. Prior to the issuance of any building permits, applicant shall assure by permit and bond restriping of Scott Street to provide a westbound left turn lane at the intersection of Scott Street and Carleton Street as shown on Exhibit "A", satisfactory to the City Engineer.

WASTEWATER REQUIREMENTS:

42. Prior to the issuance of any engineering or building permits, the developer shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each condominium will have its own sewer lateral or provide CC&R's for the operation and maintenance of on site private sewer mains that serve more than one ownership.

43. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.

44. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

WATER REQUIREMENTS:

45. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of a new 12-inch diameter water main in Scott Street from Carleton Street to Dickens Street, in a manner satisfactory to the Water Department Director and

the City Engineer.

46. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of a new water service(s) outside of any driveway, and the disconnection at the water main of the existing unused water service adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer.

47. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s), on each water service (domestic, fire and irrigation), in a manner satisfactory to the Water Department Director and the City Engineer.

48. Prior to the issuance of any certificates of occupancy, all public water facilities shall be complete and operational in a manner the Water Department Director and the City Engineer.

49. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities, and associated easements, as shown on approved Exhibit "A" shall be modified at final engineering to comply with standards.

INFORMATION ONLY:

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code §66020.

This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the City Council of the City of San Diego on October 7, 2008, by Resolution No.

R-304225 and Planning Commission of San Diego on September 29, 2011, by Resolution No. 4727-PC.

AUTHENTICATED BY THE DEVELOPMENT SERVICES DEPARTMENT

Morris E. Dye
Development Project Manager

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1189 et seq.**

The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

Joan Kramer
Owner/Permittee

By _____

Axiom Shelter Island LLC
Owner/Permittee

By _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**

(D)
(R-2009-198)

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10/07

RESOLUTION NUMBER R- 304225

DATE OF FINAL PASSAGE OCT 07 2008

WHEREAS, Dean Wilson, Trustee Of The Dean Wilson Living Trust And Axiom Shelter Island LLC, Owners/Permittees, filed an application with the City of San Diego for a Coastal Development Permit (CDP) No. 388140, Site Development Permit (SDP) No. 388141, and Planned Development Permit (PDP) No. 561515 to demolish an existing three (3) two-story structures and associated accessory structures, and construct a new four (4) two-story and one (1) three-story buildings consisting of 47 residential condominium units, three commercial condominium units and one level of subsurface parking, known as the Point Loma Townhomes project, located at 1275 Scott Street in the CC-4-2 Zone of the Peninsula Community Plan and Local Coastal Program Land Use Plan Area; and

WHEREAS, the project site is legally described as Parcel A: Lot 1, Block 29 of Roseville, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 165, filed in the office of the County Recorder of San Diego County. Excepting therefrom that portion, if any, heretofore or now lying below the mean high tide line of the Bay of San Diego; and Parcel B: That portion of Lot 1 in Block 28 and Lots 2 to 11 inclusive in Block 29 of Roseville, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 165, filed in the office of the County Recorder of San Diego County lying above the mean high tide line of the Bay of San Diego, as said mean high tide line was established by that certain Superior Court action numbered 35473, and on file in the office of the County Recorder of San Diego County as Miscellaneous Map No. 42; and Together with that portion of Shafter Street as closed to public use lying between said Blocks 28 and 29 and

(R-2009-198)

lying above said mean high tide line; and Parcel C: Lot 12, Block 29 of Roseville, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 165, filed in the office of the County Recorder of Said San Diego County; Excepting therefrom any portion thereof now or heretofore lying below the mean high tide line of the Bay of San Diego; and

WHEREAS, on August 7, 2008, the Planning Commission of the City of San Diego considered CDP No. 388140, SDP No. 388141, PDP No. 561515, and TM No. 388142, and pursuant to Resolution No. 4444-PC voted to recommend City Council approval of the permit" OR "approved/denied the permit"; and

OCT 07 2008

WHEREAS, the matter was set for public hearing on _____, 2008, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to CDP No. Permit No. 388140, SDP No. 388141, and PDP No. 561515:

COASTAL DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE [SDMC]
SECTION 126.0708:

1. **The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.** The Peninsula Community Plan identifies a public coastal view extending easterly from Rosecrans Street to San Diego Bay from Garrison Street to Shelter Island Drive. This view is available to pedestrian and vehicular passengers from Rosecrans Street at every intersection starting from Shelter Island Drive to Garrison Street. However, the coastal view from Rosecrans Street directly east has been obstructed by multi-story development along Scott Street. The proposed project would not impact these coastal views from Rosecrans Street identified in the community plan and would not further deteriorate the public view that has been previously compromised.

The proposed project also enhances the public coastal access that will be created with the adjacent Kettenburg Landing proposal on Port Tidelands by providing an enhanced public right

The proposed project also enhances the public coastal access that will be created with the adjacent Kettenburg Landing proposal on Port Tidelands by providing an enhanced public right of way and pedestrian interest through the commercial component of the planned mixed-use development.

Accordingly, the proposed project will not impact any public views to and along the ocean and other scenic coastal areas as specified in the Peninsula Community Plan and Local Coastal Program (LCP) Land Use Plan.

2. The proposed coastal development will not adversely affect environmentally sensitive lands. The proposed project would demolish all existing structures on the site and construct 47 townhomes and three commercial units in five buildings meeting the setback and height regulations of the zone. A Mitigated Negative Declaration has been prepared for the project and no Environmentally Sensitive Lands have been identified on the project site. In addition, the project is located within an existing urbanized area, surrounded by a fully developed neighborhood; therefore there are no environmental sensitive resources in the immediate vicinity. The project is not within or adjacent to the Multiple Species Conservation Program, Multiple Habitat Planning Area. The proposed construction will not conflict with the Multiple Species Conservation Plan, and will not adversely affect any environmentally sensitive lands.

3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program. With the adoption of the proposed Community Plan amendment and Local Coastal Program amendment, the proposed development would be consistent with the Peninsula Community Plan/LCP as the site would then be identified for commercial development. The Peninsula Community Plan identifies this area as a "transitional area", where gradual commercial development/redevelopment is underway. The proposal on the subject site, for a mixed-use project with residential and commercial would be compatible with the existing commercial, marine-related and residential uses, both adjacent to the subject site and in the immediate neighborhood. The development would meet the goals of the Peninsula Community Plan/LCP by providing sensitive infill residential development in an area where support commercial and retail services are convenient to the project site within the Point Loma Village area and the Shelter Island vicinity.

The proposed project would provide a corridor to the neighboring Tidelands project, helping to increase opportunities for public access to the water front, implementing the California Coastal Act goals regarding "protection and expansion of public access to the shoreline and recreational opportunities and resources; including commercial visitor-serving facilities. " Also, the neighboring Tidelands project will feature a public plaza where previously none existed, public shoreline pedestrian promenade and include inventory display by tenant boat dealers, enhancing shoreline access and commercial visitor-serving uses.

4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act. Public access to the waterfront is not provided by this proposal, but rather by the neighboring Kettenburg Landing project on Port Tidelands. There is to be a public promenade between the Kettenburg Landing project and San Diego Bay running the width of the subject site and through the neighboring Driscoll boatyard to the east, eventually connecting with Shelter Island Drive. The only public open space along a continuum running from Point Loma Seafoods to the north of the site and Shelter Island Drive would be represented by the Kettenburg Landing site. Public access across the Driscoll site may be interrupted by the occasional transfer of boats as they are pulled from the water and across site for repairs and maintenance work.

Though the subject site does not directly affect coastal access, it enhances it through pedestrian amenities in the right-of-way along both Carleton and Dickens Streets in the form of street trees and transparent commercial street frontage providing interest to the pedestrian. Without the development of the subject site, there would be no opportunity for pedestrian interaction on-site with the planned commercial component. However, public access, and thereby coastal access, is potentially increased and enhanced by directing pedestrians along Carleton and Dickens Streets into the Kettenburg Landing site.

SITE DEVELOPMENT PERMIT – SDMC SECTION 126.0504(A):

1. The proposed development will not adversely affect the applicable land use plan. The Point Loma Townhomes project proposes an amendment to the Peninsula Community Plan and Local Coastal Program to redesignate the subject site from industrial (fishing/marine-related) to commercial which would include the demolition of three (3) two-story commercial structures and associated accessory structures, and the construction of four (4) two-story and one (1) three-story buildings consisting of 47 residential town homes (condominium units), three street-level commercial condominium units above one level of subsurface parking.

The subject site is part of a larger area identified as “blighted” by The North Bay Redevelopment Plan. This proposal creates an opportunity to “enhance the physical conditions of the existing neighborhood through rehabilitation and/or development” and an improvement needed to eliminate both physical and economical conditions of blight, one of the main objectives of the North Bay Redevelopment Plan.

With the adoption of the proposed Community Plan amendment and Local Coastal Program amendment, the proposed development would not adversely affect the Peninsula Community Plan/LCP, as the site would then be identified for commercial development.

The City of San Diego General Plan update adopted March 2008 is guided by the City of Villages strategy to focus future housing, retail, employment, educational, and civic uses in mixed-use village centers of different scales that are pedestrian-friendly, centers of community, and linked to the regional transit system. Implementation of the City of Villages strategy is an important component of the City’s strategy to reduce local contributions to greenhouse gas emissions, because the strategy makes it possible for larger numbers of people to make fewer and shorter auto trips. The project implements the policies of the City of Villages strategy. The

proposed project would include several sustainable building practices consistent with goals for Sustainable Development and Urban Forestry in the General Plan, thereby providing environmental, economic and health benefits for building owners and occupants, as well as helping the broader community by conserving resources and reducing pollution.

If approved, this proposed project would be consistent with the revised land use designation of the Community Plan by providing 47 residential dwelling units and three commercial units. This residential density is within the 15-29 du/ac range identified for multi-family development in the community plan which is consistent with the maximum density allowed by the underlying CC-4-2 zone. The development would meet the goals of the Peninsula Community Plan/LCP by providing sensitive infill residential development in an area where support commercial and retail services are convenient to the project site within the Point Loma Village area and the Shelter Island vicinity.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed development is to demolish an existing three (3) two-story commercial structures and associated accessory structures, and construct a new four (4) two-story and one (1) three-story buildings consisting of 47 residential town homes (condominium units), three street-level commercial condominium units above one level of subsurface parking, hardscape, and landscape on a 72,027 square-foot site. The proposed project includes a left turn pocket lane from south bound Scott Street onto eastbound Carleton Street and provides visibility triangles at street corners and subterranean parking garage driveway to insure enhanced pedestrian safety. The project has been designed and conditioned to protect the health, safety, and welfare of the future residents.

The new residential construction occurs in or near areas historically used for industry; agriculture, commerce or solid waste, contaminated soils and groundwater can be found. As part of the environmental review process steps must be taken to disclose and address the safe removal, disposal and/or remediation of hazardous materials.

An Environmental Assessment was prepared for the project site that revealed a leaking Underground Storage Tank (UST) at 2810 Carleton Street. The Subsurface testing revealed a number of contaminants present on the site, with gasoline impacted soil present at levels that will require remediation to develop the site for residential use. Therefore, compliance with the requirements of the County of San Diego Department of Environmental Health (DEH) would reduce impacts to below a level of significance. As such, this project is subject to a Mitigation, Monitoring and Reporting Program (MMRP) and shall conform to the mitigation conditions as contained in the Mitigated Negative Declaration No. 115083 which would mitigate potentially significant impact to Hazardous Materials/Public Safety to below a level of significance.

The proposed project drainage improvement system layout has been designed to discharge through the curb into four different discharging points onto adjacent streets, which ultimately are conveyed to the Bay. In addition, the proposal would include several sustainable building practices consistent with goals for Sustainable Development and Urban Forestry in the General Plan, thereby providing environmental, economic and health benefits for building owners and occupants, as well as helping the broader community by conserving resources and reducing pollution.

3. The proposed development will comply with the regulations of the Land Development Code. The proposed Point Loma Townhomes project and the request for an amendment to the Peninsula Community Plan and Local Coastal Program from industrial (fishing/marine-related) to commercial is in conformance with all applicable sections of the San Diego Municipal Code regarding the CC-4-2 Zone, as allowed through the Planned Development Permit.

As a component of this project, a deviation from the ground floor restriction of the CC-4-2 zone is requested. SDMC 131.0540(c) prohibits residential use and residential parking on the ground floor in the front half of the lot. Also, within the Coastal Overlay Zone, residential uses are not permitted on the ground floor per SDMC 131.0540(f). The proposed partially submerged garage is considered the ground floor and provides residential parking in the front half of the lot. The project therefore deviates from the ground floor restriction outlined in SDMC.

The intent of the regulations is to avoid visible asphalt vehicle parking fields and street scenes that appear dormant during daylight hours and to further enhance opportunities for public enjoyment of the coastal zone. The Point Loma Townhomes eliminates the undesirable visual elements by proposing an alternative design with street level commercial development as both commercial and residential parking is below grade and not visible from public street.

Notwithstanding these requested deviations, the proposed residential development would fully comply with the development regulations in effect for the subject property as described in Coastal Development Permit No. 388140, Site Development Permit No. 388141 and Planned Development Permit No. 561515, and the regulations/guidelines pertaining to the subject property per the San Diego Municipal Code.

Supplemental Findings--Historical Resources Deviation for in Substantial Alteration of a Designated Historical Resource or Within a Historical District(i);

1. There are no feasible measures, including a less environmentally damaging alternative, that can further minimize the potential adverse effects on the designated historical resource or historical district. The Kettenburg Boat Works site was designated as HRB Site #855 on February 28, 2008. The site was designated as a special element of San Diego's maritime history for its former use in the Kettenburg boat design and manufacturing operations and for its former association with the Kettenburg family and partners for that purpose. The designation excluded all structures on the property, as they had a limited association with the Kettenburg Boat Works operation. Although the structures were not included in the designation, they do provide a context for the Kettenburg Boat Works site. Therefore, their removal will adversely impact the setting, feeling and association of the site. However, the continued use of this site as a boatyard is not a feasible alternative, as the site is not capable of supporting its historic boatyard use or any other water-dependent marine-related use. In 1996 the site lost the access to the water that it enjoyed during its period of significance. Driscoll Inc. purchased Kettenburg Marine from receivership, consolidated operations onto the adjacent Port tidelands leasehold, and erected an asphalt curb and chain link fence along the property's mean high tide line eastern boundary with the Port tidelands. The subject site has no easement or any other rights of access over the Port tidelands property to the water, and therefore can no longer operate as it did historically. While the use of this site for purposes other than its

historic maritime use will result in a loss of historic context; the proposed project will mitigate this impact to the historic setting, feeling and association of the site through the incorporation of an historic plaque and interpretive story board on-site which will detail the history and significance of the Kettenburg Boat works site for the benefit of the public.

2. The deviation is the minimum necessary to afford relief and accommodate the development and all feasible measures to mitigate for the loss of any portion of the historical resource have been provided by the applicant. The continued use of this site as a boatyard is not a feasible alternative, as the site is not capable of supporting its historic boatyard use or any other water-dependent marine-related use. In 1996 the site lost the access to the water that it enjoyed during its period of significance. Driscoll Inc. purchased Kettenburg Marine from receivership, consolidated operations onto the adjacent Port tidelands leasehold, and erected an asphalt curb and chain link fence along the property's mean high tide line eastern boundary with the Port tidelands. The subject site has no easement or any other rights of access over the Port's tidelands property to the water, and therefore can no longer operate as it did historically. While the use of this site for any other purpose other than its historic maritime use will result in a loss of historic context; the proposed project will mitigate this impact to the historic setting, feeling and association of the site. Historical Resource mitigation measures have been developed and adopted within the Project's Final Mitigated Negative Declaration - conditioning issuance of building permits upon prior submittal of a plan showing the design and location of a Kettenburg interpretive story board to be placed proximate to the eastern terminus of Dickens Street and conditioning any Certificate of Occupancy upon prior installation of the approved Kettenburg interpretive story board to preserve the history of the site in the public realm.

3. The denial of the proposed development would result in economic hardship to the owner. For purposes of this finding, "economic hardship" means there is no reasonable beneficial use of a property and it is not feasible to derive a reasonable economic return from the property. The denial of the proposed development would result in economic hardship to the owner. The continued use of this site as a boatyard is not a feasible alternative, as the site is not capable of supporting its historic boatyard use or any other water-dependent marine-related use. Furthermore, any level of redevelopment inconsistent with the historic marine use would impact the historic site and affect aspects of integrity related to setting, feeling and association. There is no reasonable beneficial use of the property that does not require complete redevelopment in order to derive a reasonable economic return from the property.

PLANNED DEVELOPMENT PERMIT – SDMC SECTION 126.0604(A):

1. The proposed development will not adversely affect the applicable land use plan. The Point Loma Townhomes project proposes an amendment to the Peninsula Community Plan and Local Coastal Program from industrial (fishing/marine-related) to commercial which would include the demolition of three (3) two-story commercial structures and associated accessory structures, and the construction of four (4) two-story and one (1) three-story buildings consisting of 47 residential town homes (condominium units), three street-level commercial condominium units above one level of subsurface parking.

The subject site is part of a larger area identified as "blighted" by The North Bay Redevelopment Plan. This proposal creates an opportunity to "enhance the physical conditions of the existing neighborhood through rehabilitation and/or development" and an improvement needed to eliminate both physical and economical conditions of blight, one of the main objectives of the North Bay Redevelopment Plan.

With the adoption of the proposed Community Plan amendment and Local Coastal Program amendment, the proposed development would not adversely affect the Peninsula Community Plan/LCP, as the site would then be identified for commercial development.

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The requested deviation is appropriate for this location and would result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. It allows the achievement of an imaginative and innovative combined project with the immediately contiguous Kettenburg Landing redevelopment and its substantial public benefit. In addition, the proposed development has otherwise been designed and conditioned to ensure conformance to the requirements of the City of San Diego Land Development Code. Therefore, the proposed use will comply with the relevant regulations of the Municipal Code.

The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Coastal Development Permit (CDP) No. 388140, Site Development Permit (SDP) No. 388141 and Planned Development Permit (PDP) No. 561515 are granted to Dean Wilson, Trustee Of The Dean Wilson Living Trust And Axiom Shelter Island LLC, Owners/Permittees, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Marianne Greene
Marianne Greene
Deputy City Attorney

MR:als
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Or.Dept:DSD
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