

# RECORD PACKET COPY

STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, Governor

## CALIFORNIA COASTAL COMMISSION

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

Filed: November 22, 1995  
49th Day: January 10, 1996  
180th Day: May 21, 1996  
Staff: LRO-SD  
Staff Report: December 12, 1995  
Hearing Date: January 9-12, 1996



### STAFF REPORT AND RECOMMENDATION ON APPEAL

**F7a**

LOCAL GOVERNMENT: City of San Diego

DECISION: Approved With Conditions

APPEAL NO.: A-6-PEN-95-153

APPLICANT: David and Jean Purcell

PROJECT LOCATION: 741 Rosecrans Street, Peninsula, San Diego, San Diego County. APN 532-332-06

PROJECT DESCRIPTION: Demolition of an existing 2,327 sq.ft., two-story, single family residence and construction of a new 5,224 sq.ft., two-story, single family residence with a three-car garage on a 9,089 sq.ft. bayfront lot.

Lot Area	9,089 sq. ft.
Building Coverage	2,716 sq. ft. (30%)
Pavement Coverage	3,765 sq. ft. (41%)
Landscape Coverage	2,608 sq. ft. (29%)
Zoning	R1-5000
Plan Designation	Residential
Parking	4
Ht abv fin grade	30 feet

APPELLANTS: Marty Bohl and George Fleming

SUBSTANTIVE FILE DOCUMENTS: Certified City of San Diego LCP/Peninsula segment; City of San Diego Coastal Development Permit No. 95-0215; City of San Diego Report to the Planning Commission dated 8/10/95; City of San Diego Manager's Report dated 10/26/95;

#### STAFF NOTES:

The subject appeal was opened at the December 14, 1995 Commission hearing and continued to the January 9-12, 1996 Commission hearing.

#### SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed.

I. Appellants Contend That:

The proposed development will degrade coastal views along the scenic La Playa footpath, and would impact a scenic coastal resource, by cutting a significant portion of the roots of a landmark Torrey Pine tree, which stands in public open space along the footpath. In addition, the appellant contends that the City did not make the specific finding required by Section 30604(c) of the Act, that development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act. Finally, in a subsequent letter dated 12/14/95, the appellants contend that the applicant removed a Jacaranda tree from the property in violation of the certified LCP and that the City did not cite the proper CEQA finding during review of the project.

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II. Local Government Action.

The Coastal Development Permit was initially approved by the Hearing Officer on June 21, 1995, and subsequently appealed to the Planning Commission on August 17, 1995 and the City Council on October 30, 1995. The City Council, after hearing public testimony, denied the appeal and approved the coastal development permit on October 30, 1995, with several special conditions which included requirements for preserving an existing Torrey Pine off-site tree.

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III. Appeal Procedures.

After certification of a Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Projects within cities and counties may be appealed if they are located within mapped appealable areas. The grounds for appeal are limited to the assertion that "development does not conform to the certified local coastal program." Where the project is located between the first public road and the sea or within 300 ft. of the mean high tide line, the grounds of appeal are limited to those contained in Section 30603(b) of the Coastal Act. Those grounds are that the development does not conform to the standards set forth in the certified local coastal program or the access policies set forth in the Coastal Act.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless it 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 a de novo hearing on the merits of the project.

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. If the Commission conducts a de novo 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, Sec. 30604(c) of the Act requires that 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. In other words, in regard to public access questions, the Commission is required to consider not only the certified LCP, but also Chapter 3 policies when reviewing a project on appeal.

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.

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#### Staff Recommendation On Substantial Issue.

The staff recommends the Commission adopt the following resolution:

Staff recommends that the Commission determine that NO SUBSTANTIAL ISSUE exists with respect to the grounds on which the appeal was filed, pursuant to PRC Section 30603.

#### MOTION

Staff recommends a YES vote on the following motion:

I move the Commission determine that Appeal No. A-6-PEN-95-153 raises no substantial issue with respect to the grounds on which the appeal has been filed.

A majority of the Commissioners present is required to pass the motion.

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#### Findings and Declarations.

1. Project Description. Proposed is the removal and demolition of an existing two-story, 2,327 sq.ft. single family residence and construction of a new, two-story, 5,224 sq.ft. single family residence with three-car garage and swimming pool on a 9,089 sq.ft. bayfront lot. A portion of the home is proposed to be removed and relocated to another site for re-use; the remainder of the home will be demolished. The subject site is located on the east side of Rosecrans Street, west of San Diego Bay in an area of the Peninsula Community known as La Playa, just west of Shelter Island. There is an existing unimproved pedestrian trail on Port District property that runs alongside the bay just to the east of all the residences in this area; it runs

from approximately the eastern terminus of Qualtrough Street to the eastern terminus of Talbot Street. The subject site is approximately one block north of the southern terminus of the bayside trail.

The project was approved by the City Hearing Officer on June 21, 1995. The appellants subsequently appealed the decision to the Planning Commission on August 17, 1995. The appeal was denied. The appellants then appealed the decision to the City Council on October 30, 1995. After public hearing, the City Council denied the appeal and approved the coastal development permit with several special conditions.

## 2. Visual Impacts/Coastal Scenic Area-Significant Vegetation.

a. Community Character-Major Vegetation. As noted previously, the appeal focuses on the appellants' contention that the proposed development "...will degrade coastal views along the scenic La Playa footpath and would impact a scenic coastal resource, cutting a significant portion of the roots of a landmark Torrey Pine tree...". The approx. 60-foot high tree is located within an existing footpath off-site to the east of the subject site on Port District property. The footpath is identified as a public coastal recreational area in the certified Peninsula Community Plan.

The certified Peninsula Community Plan contains a policy which states that existing trees should be preserved where possible. The applicable LUP policy recommendations for urban design guidelines for residential development, is Policy #4 addressing landscaping, which states the following:

"Existing trees should be preserved where possible. New development should be sited and designed to mitigate any harmful impacts to major trees or any significant mature vegetation which is a major asset to Peninsula's residential neighborhoods. Where removal is unavoidable, replacement landscaping should be provided on-site." (p. 114)

The City did an extensive review of this issue at the local level and determined that the tree is a "major" tree within the meaning of this policy. The City concluded that through Condition Nos. 6 and 7 of the permit (Exhibit #4), the tree would be preserved and the project would be sited and designed to mitigate harmful impacts to the tree. The City's conclusion is supported by substantial evidence, including a letter from an arborist. The Torrey Pine tree is situated five feet east of the eastern property line. However, its roots extend underground within the property limits of the subject site. Due to proposed accessory improvements including excavation and backfilling for a swimming pool and construction of a retaining wall, there was the potential for damage to occur to the roots of the tree. As originally proposed, some of the accessory improvements would have been within the drip line of the tree. The "drip line" is an imaginary line around the base of the tree representing the outer extent of the tree's canopy. The significance of the drip line, according to the arborist, is that the tree is adequately protected if the roots under the drip line are protected--even though portions of the roots may extend beyond the drip line. The City worked with the applicant and required the project to be redesigned such that the rear-yard improvements would be

sited further to the west outside of the drip line of the tree. The only exception was for installation of a wrought iron fence along the eastern property line. The fence will not impact the tree's roots, as minimal disturbance is required for its installation.

The appellants' have asserted that the drip line is inaccurately drawn since the Torrey Pine tree used to be larger, due to a second trunk which previously existed. They believe the drip line should follow the previous canopy of the tree but have not provided any evidence of the tree's prior dimensions. However, the arborist's conclusions were based on the tree as it exists today.

Initially, the applicants had proposed installation of a sewer line along the southern property line which would have been within three feet of the trunk of the Torrey Pine tree and would have likely impacted the tree. The applicants were advised at the local level to revise the project and did so, by eliminating the proposed sewer line extension.

In addition, the City required the applicant to consult with a certified arborist to report on the adequacy of the measures to protect the tree during construction. Pursuant to a letter submitted from Atlas Environmental Services, Inc. dated 5/30/95, it was determined that since the proposed retaining wall along the eastern property line would be five feet from the base of the tree and the proposed pool at least an additional five feet from the wall, no problems were anticipated with respect to construction on the site relative to the tree. In addition, it was also noted that there is plenty of root mass that goes in several directions to anchor the tree and provide nutrients for it. It should be noted that this statement was made prior to the applicant's re-siting of the accessory improvements (pool, spa, concrete patio, and pool equipment room) further west from the tree. As such, the proposed improvements are even a greater distance from the tree (approximately 11 feet) than originally proposed (approximately 7 feet), thus resulting in a greater "buffer" between the tree and the proposed accessory improvements (i.e., swimming pool and concrete patio).

Specifically, Condition No. 6 of the City's coastal development permit requires that the the rear yard improvements, including landscaping, hardscape, retaining walls and swimming pool with spa, shall be designed and installed so that no construction or improvement other than a five-foot high wrought-iron fence at the rear property line, will be placed within the dripline of the existing Torrey Pine tree. In addition, Condition No. 7 of the City's permit also requires that if the existing Torrey Pine tree is damaged such that more than one-half of its foliage dies during construction or within a five-year period following completion of construction, the applicant will need to replace it with two 60-inch box size Torrey Pine trees in the same location. The Commission finds that these conditions imposed by the City are sufficient to assure the proposed development is consistent with policies of the certified LUP.

b. Public View Blockage/Bayfront Development. With respect to the appellants' assertion that the proposed development will adversely impact coastal views, Commission staff inspected the subject property and surrounding

area to assess the site conditions and potential impacts to public views to and from the bay. Presently, there are no public views that exist across the subject site while driving along Rosecrans Street looking east towards the bay. Along this section of roadway, there is no sidewalk on the east side of the road and the bay is at a lower elevation below the roofline of the existing one-story home. This situation will remain unchanged after the home is removed and demolished from the property. The new residence will appear as a one-story home from the west (street frontage) and a two-story home from the east (bay frontage). This design is common in this residential area. The proposed residence is also well within the required floor area ratio (F.A.R.) for the existing zone attaining an F.A.R. of .57 where .60 maximum is permitted.

In addition, as viewed from the east, while walking along the pedestrian trail, there is a variety of one-and two-story structures with different designs and architectural styles. The certified LUP also notes that this area is characterized by "...large single family homes of various ages and architectural styles....A number of large estates exist along the bay...." The upper level of the proposed residence will have an open balcony and will be set back slightly (approx. 13 feet) from the lower level which will have an open patio.

The subject site is approximately 180 feet long by 50 feet wide. The existing older residence proposed to be removed is situated at the far western portion of the lot, approximately 116 feet from the eastern property line, well removed from its bay frontage. The newly proposed residence will be larger and sited 28 feet from the eastern property line. However, this pattern of redevelopment in the neighborhood is typical, and many homes along this area are sited close to the bay frontage. In fact, while walking along the path looking west, it can be seen that the pattern of development greatly varies. While some homes are sited closer to their bay frontage, others are set back closer to the street. Siting the proposed home closer to its bay frontage is not out of character with the overall pattern of development along this shoreline.

Furthermore, the proposed home will not affect the public views of the bay for those who use the bayside trail. The Commission finds that the proposed development can be found to be compatible in design and scale with the existing level of development in this area and consistent with the policies of the certified Peninsula Community Plan. The proposed residence will not adversely affect public views in the La Playa beach area--either towards the Bay, or from the Bay. In conclusion, the proposed development is consistent with the LCP policies concerning protection of public views in this area.

3. Public Access. The subject site is located between the Bay and the first coastal road, which in this case, is Rosecrans Street. The appellants contend that the City did not make the necessary finding that the proposed development is in conformity with the public access and public recreation Policies of Chapter 3 of the Coastal Act. However, the City's permit includes a finding which states:

"The proposed development will not encroach upon any existing physical accessway legally utilized by the public or any proposed public accessway identified in an adopted LCP Land Use Plan, nor will it obstruct views to and along the ocean and other scenic coastal areas or public vantage points."

Although the City did not specifically state that the site is located between the first coastal road and the sea and that the existing public access in the area is adequate, the Commission finds the above citation is adequate to address public access finding requirements for this project. The certified LUP contains numerous policies that call for the protection and enhancement of public access in the Peninsula area. The pattern of access in this area includes gaining access to the bay via the existing east-west streetends and an existing footpath that is situated to the east of the residential development in this area. However, as identified in the LUP, while the path is used heavily by joggers and the like, the beach is not used as much due to a lack of sandy area and parking. In addition, the area is not highly visible to the public from the public roadways. The LUP further calls out that in the future, the path may be improved as a pedestrian/bicycle promenade. The proposed development will not adversely affect the public's ability to continue to use the existing footpath or to gain access to the bay and, therefore, the proposed development does not raise a substantial issue regarding conformity with the public access policies of Chapter 3 of the Coastal Act.

4. Other Issues. Finally, two last contentions made by the appellants in a letter dated 12/14/95 are that the applicant removed a Jacaranda tree from the property in violation of the certified LCP and that the City did not cite the proper CEQA finding during review of the project. With respect to the first allegation, in the LUP, under the section for "Recommendations for Urban Design Guidelines", there is a policy for "Area Specific Recommendations" which states the following:

New development in the very low density "wooded area" and La Playa neighborhoods should preserve all trees with a caliper of eight inches or greater and other significant vegetation other than that lying directly on the building pad of the proposed development. Where feasible trees on the building pad should be transplanted elsewhere on the site." (p. 130)

The appellants state the tree was greater than eight inches and was not located on the proposed building pad. However, the removal of a tree from a private, developed site (single-family residence and associated improvements) does not require a coastal development permit. The policies of the certified land use plan are not applicable outside of the discretionary permit process. Thus, no Coastal Act violation has occurred.

With respect to the improper CEQA finding citation, the reference to Section 15302.2 [emphasis added] was an error by the City in checking the wrong box on a form. The City confirmed that the correct citation should have been 15303(a), which states:

## 15303 New Construction or Conversion of Small Structures

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel or to be associated with a project within a two-year period. Examples of this exemption include but are not limited:

(a) Single-family residences not in conjunction with the building of two more such units. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption....

Furthermore, it is the City's responsibility to administer CEQA. The Commission's authority is limited to determining whether the proposed development is in conformity with the LCP. In this case, the Commission is able to make such a finding.

In summary, for all of the above-cited reasons, the Commission finds that there is no substantial issue with respect to the grounds on which the appeal has been filed. Thus, the proposed development can be found fully consistent with policies of the certified Peninsula Community Plan and the public access and recreation policies of the Coastal Act.

(0775A)

SITE

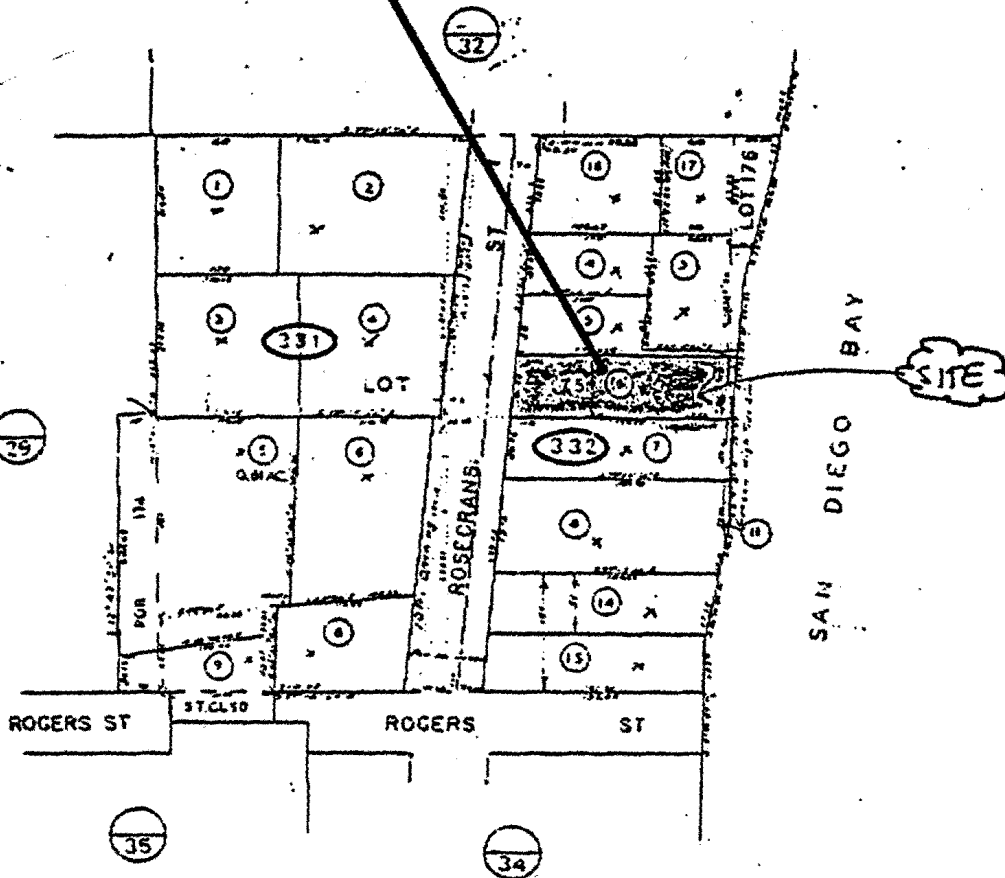
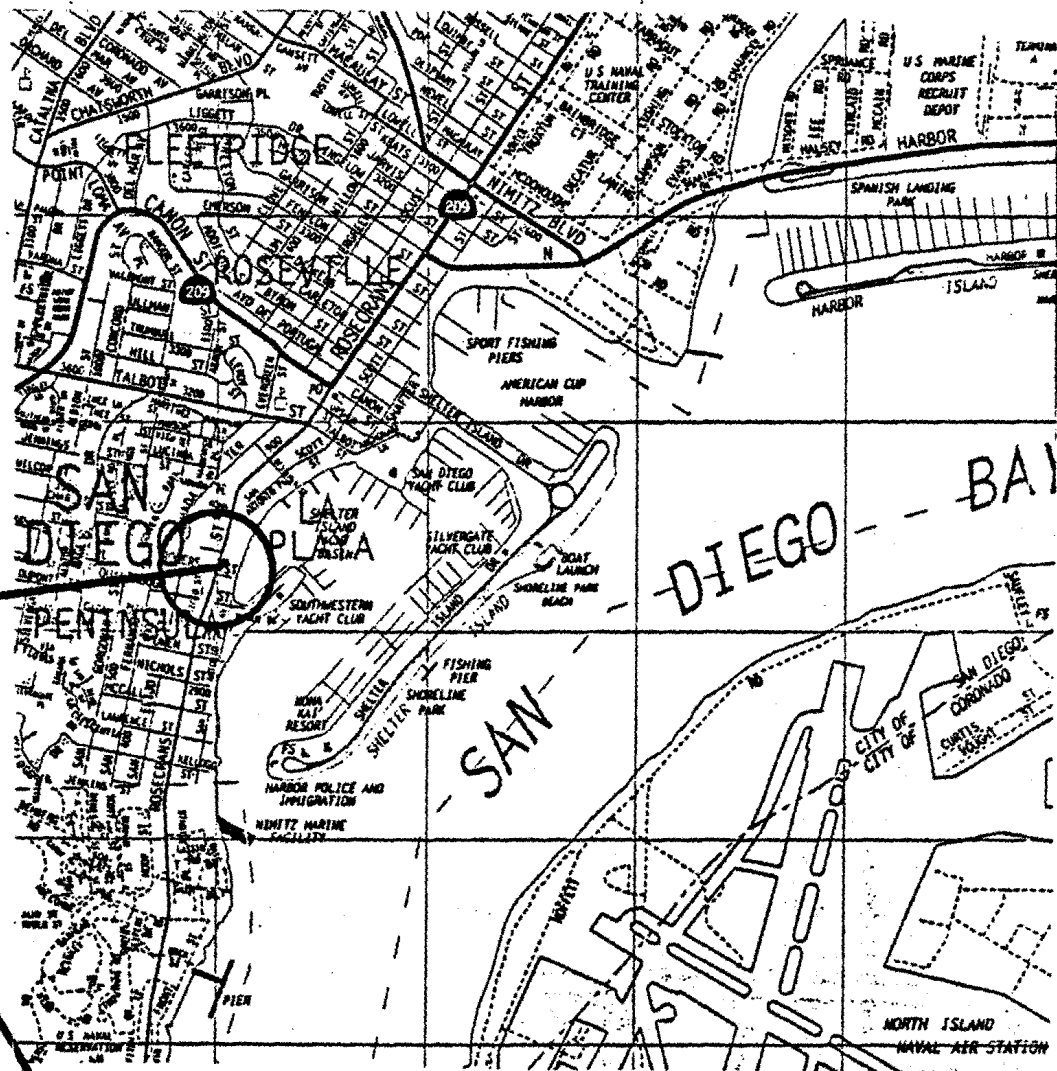


EXHIBIT NO. 1  
 APPLICATION NO.  
**A-G-PEN-95-**  
**Location M**  
 California Coastal Commis

EXH  
APPLI  
*A-6*  
Si  
C



Line: 1-10'

REPORTING AGENCY'S POS.  
 1-761-7813, DAVIS PUBLIC  
 SAFETY, 401  
 504 DOWEN, CO 92106  
 PH: 341-3435

MAIL ADDRESS:  
 744 PONDICENT ST.  
 341 DOWEN, CA 92106

DELIVERED BY:  
 PAPER, 401-7813  
 504 DOWEN, CO 92106  
 PH: 341-3435

1321



California Coastal Commission

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DEVELOPMENT SERVICES DEPARTMENT

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PERMIT INTAKE  
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NOV 7 1995

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT PERMIT NO. 95-0215  
PURCELL RESIDENCE  
CITY COUNCIL

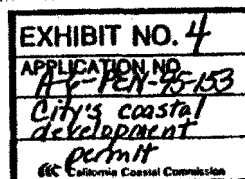
This Coastal Development Permit is granted by the City Council of the City of San Diego to DAVID and JEAN PURCELL, Owner/Permittee, pursuant to Section 105.0201 of the Municipal Code of the City of San Diego.

1. Permission is hereby granted to Owner/Permittee to partially remove and demolish an existing single-family home and construct a new single-family residence located at 741 Rosecrans Street, also described as a portion of the North Half of Pueblo Lot 175, and a portion of Pueblo Lot 176, of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to map thereof made by James Pascoe, in the Peninsula Community Planning area, in the R1-5000 Zone.

2. The facility shall consist of the following:

- a. A 5,101-square-foot single-family residence with three-car garage;
- b. Landscaping;
- c. Off-street parking; and
- d. Incidental accessory uses as may be determined incidental and approved by the Development Services Director.

3. Not fewer than two off-street parking spaces shall be maintained on the property in the location shown on Exhibit "A," dated October 30, 1995, on file in the office of the Development Services Department. Parking spaces shall comply with Division 8 of the Zoning Regulations of the Municipal Code and shall be permanently maintained and not converted for any other use. Parking space dimensions shall conform to Zoning Ordinance standards.



4. No permit shall be granted nor shall any activity authorized by this permit be conducted on the premises until:

- a. The Permittee signs and returns the permit to the Development Services Department; and
- b. The Coastal Development Permit is recorded by the Development Services Department in the office of the County Recorder.

5. Before issuance of any building permits, complete grading and working drawings shall be submitted to the Development Services Director for approval. Plans shall be in substantial conformance to Exhibit "A," dated October 30, 1995, on file in the office of the Development Services Department. No change, modifications or alterations shall be made unless findings of substantial conformity or amendment of this permit shall have been granted.

6. The rear yard improvements, to include backfilling, landscaping, hardscape, retaining walls, swimming pool and spa, shall be designed and installed so that no construction or improvements other than a five-foot-high wrought iron fence at the rear of the property line shall be placed within the dripline of the existing Pinus Torreyana, Torrey Pine tree shown on Exhibit "A" plans dated October 30, 1995. The existing Torrey Pine tree is located directly adjacent to the east side of the subject property on land under Port District jurisdiction with roots and canopy extending onto the subject property.

7. If the existing Torrey Pine tree is damaged such that more than one-half of its foliage dies during construction or within a five-year period following completion of construction, it shall be replaced with two 60-inch box size (minimum) Torrey Pine trees which shall be planted adjacent to the east side of the subject property. A yearly inspection of the existing Torrey Pine tree shall be administered by the Development Services Department to assure that at least one half of the living needles still exist on the tree. If less than half of the living needles remain on the tree, the damaged Torrey Pine tree shall not be removed without the approval of the Development Services Director. The Permittee shall maintain the two replacement trees in a disease, weed and litter free condition at all times during the five-year period required to establish the trees.

8. Prior to the issuance of any building or grading permits, or the beginning of any construction related activities on or adjacent to the property, the Permittee shall submit to the satisfaction of the Development Services Director building/construction plans which shall clearly state that no construction staging nor storage of building materials shall occur within the dripline of the existing Torrey Pine and that

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the area is not to be disturbed in any way. Additionally, such plans shall show the method of installation, construction and removal of a fence to be erected at the dripline of the tree. A preconstruction conference with Development and Environmental Planning Division/Development Services Department staff shall be required to determine the exact location of the fence. Excavation for any post holes to install this construction fence shall be performed manually and shall avoid disturbing any roots over one inch in diameter.

9. The property included within this Coastal Development shall be used only for the purposes and under the terms and conditions set forth in this permit unless authorized by the Development Services Director or the permit has been revoked by the City of San Diego.

10. This Coastal Development Permit may be canceled or revoked if there is a material breach or default in any of the conditions of this permit. Cancellation or revocation may be instituted by the City of San Diego or Permittee.

11. This Coastal Development Permit is a covenant running with the subject property and shall be binding upon the 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.

12. The use of textured or enhanced paving shall be permitted only with the approval of the City Engineer and Development Services Director, and shall meet standards of these departments as to location, noise and friction values, and any other applicable criteria.

13. If any existing hardscape or landscape indicated on the approved plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind per the approved plans.

14. Prior to the issuance of any building permits, the Permittee shall enter into an agreement with the City waiving the right to oppose future sidewalk improvements in the form of a special assessment proceeding initiated for the future improvements to Rosecrans Street.

15. Prior to the issuance of any building permits, the Permittee shall:

- a. Ensure that building address numbers are visible and legible from the street (UFC 10.208).
- b. Show the location of all fire hydrants on the plot plan (UFC 10.301).

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- c. Install a residential fire sprinkler system per NFPA 13-D.

16. This development may be subject to a building permit park fee in accordance with San Diego Municipal Code Section 96.0401 et seq.

17. This development may be subject to impact fees, as established by the City Council, at the time of issuance of building permits.

18. Unless appealed, this Coastal Development Permit shall become effective on the eleventh working day following receipt by the Coastal Commission of the Notice of Final Action.

19. This Coastal Development Permit must be utilized within 36 months after the effective date. Failure to utilize the permit within 36 months will automatically void the permit unless an extension of time has been granted as set forth in Section 111.1122 of the Municipal Code.

20. 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 discretionary 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 special rights which the holder of the permit is obtaining as a result of this permit. It is the intent of the City that the owner of the property which is the subject of this permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property, or the special and extraordinary rights conveyed by this permit, but only if the owner complies with all the conditions of 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 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 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 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.

APPROVED by the City Council of the City of San Diego on October 30, 1995.

PERMITS\AVL\7705

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CITY COUNCIL  
RESOLUTION NO. 2204-PC  
COASTAL DEVELOPMENT PERMIT NO. 95-0215

WHEREAS, DAVID and JEAN PURCELL, Owner/Permittee, filed an application for a Coastal Development Permit to develop subject property located in the Peninsula Community Plan area, described as a portion of the North Half of Pueblo Lot 175, and a portion of Pueblo Lot 176, of the Pueblo Lands of San Diego, according to map thereof made by James Pascoe, in the R1-5000 Zone; and

WHEREAS, on October 30, 1995, the City Council of the City of San Diego considered Coastal Development Permit No. 95-0215 pursuant to Section 105.0201 of the Municipal Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of San Diego as follows:

1. That the City Council adopts the following written Findings, dated October 30, 1995.

COASTAL DEVELOPMENT PERMIT FINDINGS:

- A. THE PROPOSED DEVELOPMENT WILL NOT ENCROACH UPON ANY EXISTING PHYSICAL ACCESSWAY LEGALLY UTILIZED BY THE PUBLIC OR ANY PROPOSED PUBLIC ACCESSWAY IDENTIFIED IN AN ADOPTED LCP LAND USE PLAN; NOR WILL IT OBSTRUCT VIEWS TO AND ALONG THE OCEAN AND OTHER SCENIC COASTAL AREAS FROM PUBLIC VANTAGE POINTS.

The subject property is not identified as a public accessway in either the Peninsula Community Plan or the Local Coastal Program Land Use Plan. Public views will not be obstructed by the demolition of an existing residence and the construction of the new residence.

- B. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT MARINE RESOURCES, ENVIRONMENTALLY SENSITIVE AREAS, OR ARCHAEOLOGICAL OR PALEONTOLOGICAL RESOURCES.

The replacement of a single-family residence is exempted from the California Environmental Quality Act and the proposed development will not adversely affect marine resources, environmentally sensitive areas, or archaeological or paleontological resources.

- C. THE PROPOSED DEVELOPMENT WILL COMPLY WITH THE REQUIREMENTS RELATED TO BIOLOGICALLY SENSITIVE LANDS AND SIGNIFICANT PREHISTORIC AND HISTORIC RESOURCES AS SET FORTH IN THE RESOURCE PROTECTION ORDINANCE,

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CHAPTER X, SECTION 101.0462 OF THE SAN DIEGO MUNICIPAL CODE, UNLESS BY THE TERMS OF THE RESOURCE PROTECTION ORDINANCE, IT IS EXEMPTED THEREFROM.

The proposed development will not negatively impact biologically sensitive lands and significant prehistoric and historic resources as described in the Resource Protection Ordinance. With the exception of a five-foot-high wrought iron fence at the rear property line the proposed rear yard improvements will be modified so that they do not occur within the dripline/root zone of the existing 60-foot-high Torrey Pine tree located on Port District property adjacent to the rear property line of subject property. The permit conditions require that the existing tree be replaced with two 60-inch (minimum) box Torrey Pine trees should the proposed improvements cause the tree to die.

- D. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT RECREATIONAL OR VISITOR-SERVING FACILITIES OR COASTAL SCENIC RESOURCES.

The project site is located in an urbanized residential area and will not adversely affect recreational or visitor-serving facilities or coastal scenic resources.

- E. THE PROPOSED DEVELOPMENT WILL BE SITED AND DESIGNED TO PREVENT ADVERSE IMPACTS TO ENVIRONMENTALLY SENSITIVE HABITATS AND SCENIC RESOURCES LOCATED IN ADJACENT PARKS AND RECREATION AREAS, AND WILL PROVIDE ADEQUATE BUFFER AREAS TO PROTECT SUCH RESOURCES.

The permit conditions require that the existing 60-foot-high Torrey Pine tree, situated off-site, immediately east of the rear property line, be replaced with two 60-inch box size (minimum) Torrey Pine trees should the proposed construction kill the Torrey Pine tree. In addition, grading or the construction of yard improvements, except for a wrought-iron fence to be located on the rear property line, will not be permitted within the dripline of the tree located on the subject property.

- F. THE PROPOSED DEVELOPMENT WILL MINIMIZE THE ALTERATIONS OF NATURAL LANDFORMS AND WILL NOT RESULT IN UNDUE RISKS FROM GEOLOGIC AND EROSIONAL FORCES AND/OR FLOOD AND FIRE HAZARDS.

The minor grading that is proposed will occur primarily within the footprint of the building and will not result in undue risks from geologic and erosional forces and/or flood and fire hazards.

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p. 6 OF 10

- G. THE PROPOSED DEVELOPMENT WILL BE VISUALLY COMPATIBLE WITH THE CHARACTER OF SURROUNDING AREAS, AND WHERE FEASIBLE, WILL RESTORE AND ENHANCE VISUAL QUALITY IN VISUALLY DEGRADED AREAS.

The building bulk and setbacks conform to the City of San Diego Zoning Ordinance and are consistent with other residences in the neighborhood. The proposed project will be visually compatible with the character of the surrounding area.

- H. THE PROPOSED DEVELOPMENT WILL CONFORM WITH THE GENERAL PLAN, THE LOCAL COASTAL PROGRAM, AND ANY OTHER APPLICABLE ADOPTED PLANS AND PROGRAMS.

The project conforms to the General Plan, the Local Coastal Program, the Peninsula Community Plan, the R1-5000 Zone, and the Proposition D Building Height Limitation Ordinance.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the City Council of the City of San Diego, Commission, Coastal Development Permit No. 94-0215 is hereby GRANTED to DAVID and JEAN PURCELL, Owner/Permittee, in the form and with the terms and conditions as set forth in Coastal Development Permit No. 95-0215, a copy of which is attached hereto and made a part hereof.

EX. No. 4  
A-6 PEN-95-153  
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ALL-PURPOSE CERTIFICATE

Type/Number of Document CDP 95-0215

Date of Approval August 17, 1995

STATE OF CALIFORNIA

Ron Buckley, Senior Planner

COUNTY OF SAN DIEGO

On \_\_\_\_\_ before me, BARBARA J. HUBBARD (Notary Public), personally appeared RON BUCKLEY, Senior Planner of the Development Services Department of the City of San Diego, personally known to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

Barbara J. Hubbard

(Seal)

PERMITTEE(S) SIGNATURE/NOTARIZATION:

THE UNDERSIGNED PERMITTEE(S), BY EXECUTION THEREOF, AGREES TO EACH AND EVERY CONDITION OF THIS PERMIT AND PROMISES TO PERFORM EACH AND EVERY OBLIGATION OF PERMITTEE(S) THEREUNDER.

Signed

Typed Name

Signed

Typed Name

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

On \_\_\_\_\_ before me, \_\_\_\_\_ (Name of Notary Public) personally appeared \_\_\_\_\_ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

(Seal)

Ex. No. 4  
A-6-PEN-95-153  
P. 8 of 10

PURCELL RESIDENCE  
CDP 95-0215

ERRATA SHEET

RECEIVED

DEC 07 1995

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

Condition No. 6  
Attachment 4  
Page 2 of 7

6. The rear yard improvements, to include landscaping, hardscape, retaining walls, swimming pool and spa, shall be designed and installed so that no construction or improvements other than a five-foot-high wrought iron fence at the rear property line shall be placed within the dripline of the existing Torrey Pine tree shown on Exhibit "A" Plans dated August 17, 1995, or as otherwise approved by the Development Services Director. The existing Torrey Pine tree is located directly adjacent to the east side of the subject property on land under Port District jurisdiction with roots and canopy extending onto the subject property.

Finding C.  
Attachment 4  
Page 2 of 7

C. THE PROPOSED DEVELOPMENT WILL COMPLY WITH THE REQUIREMENTS RELATED TO BIOLOGICALLY SENSITIVE LANDS AND SIGNIFICANT PREHISTORIC AND HISTORIC RESOURCES AS SET FORTH IN THE RESOURCE PROTECTION ORDINANCE, CHAPTER X, SECTION 101.0462 OF THE SAN DIEGO MUNICIPAL CODE, UNLESS BY THE TERMS OF THE RESOURCE PROTECTION ORDINANCE, IT IS EXEMPTED THEREFROM.

The proposed development will not negatively impact biologically sensitive lands and significant prehistoric and historic resources as described in the Resource Protection Ordinance. With the exception of a five-foot-high wrought iron fence at the rear property line the proposed rear yard improvements will be modified so that they do not occur within the dripline/root zone of the existing 60-foot-high Torrey Pine tree located on Port District property adjacent to the rear property line of subject property. The permit conditions require that the existing tree be replaced with two 60-inch (minimum) box Torrey Pine trees should the proposed improvements cause the tree to die.

Attached - Copy of revised site plan showing all rear yard improvements except for a five-foot-high wrought iron fence outside of the dripline of the Torrey Pine tree.

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A-6-PEN-95-153  
P. 9 of 10



Ex. No. 4  
A-6-PEN-95-153  
p. 10 of 10

George Fleming and Marty Bohl  
735 and 747 Rosecrans Street  
San Diego, California

RECEIVED

DEC 15 1995

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

December 14, 1995

**HAND DELIVERED**

Members of the California Coastal Commission  
c/o San Diego Coast Area Office  
3111 Camino del Rio North, Suite 200  
San Diego, California 92108

Re: Appeal No. A-6-PEN-95-153

Dear Coastal Commission Members:

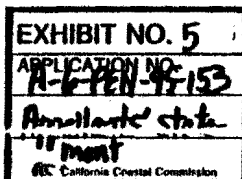
Please accept this letter in support of our appeal of the City of San Diego's decision to approve CDP 95-0215 (Purcell Residence).

**Summary of Reasons for Appeal**

- The development proposed would violate the standards set forth in the City of San Diego's certified local coastal program, in this case the Peninsula Community Plan and Local Coastal Program Land Use Plan (the "LCP"). It would degrade coastal views along the scenic La Playa footpath, a public coastal recreational area recognized in the LCP. It would threaten a scenic coastal resource, cutting a significant portion of the roots of a landmark 60' Torrey Pine tree located in public open space along the footpath. The applicant has already degraded scenic coastal resources through removal of significant vegetation on the property, including a lovely 60-70' tall Jacaranda tree, contrary to the express policies of the LCP.
- The City of San Diego did not comply with the Coastal Act in approving the CDP. Section 30604(c) of the Coastal Act requires a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Act. The City did not make this specific finding.
- The City erred in its determination of an exemption under the California Environmental Quality Act, citing an exemption ("CEQA Guidelines Section 15302.2") that doesn't even exist.

**A. Introduction**

This is no *ordinary* single family residence coastal development permit.



California Coastal Commission  
Appeal A-6-PEN-95-153  
December 14, 1995  
Page 2

The subject property is right on the coast, adjacent to San Diego Bay, in the beautiful La Playa area of Point Loma. The special character of the La Playa area is well-known and recognized in, among other places, the LCP: "This neighborhood is heavily vegetated with a variety of large trees and shrubs that add to the beauty and exclusiveness of the area" ("Neighborhoods - La Playa" LCP at p. 7). This is the only residential area on San Diego Bay.

Between the subject property and the shoreline is the natural La Playa footpath. The footpath is a local treasure. The La Playa footpath is a public recreational park and open space, so designated by the LCP and the Port Master Plan. It is well utilized by joggers, walkers, and users of the adjacent beach and bay. The Port Master Plan recognizes that the La Playa beach corridor provides excellent points of public access and vista points. The LCP recognizes the physical and visual shoreline access the path provides (p. 73, 75).

The subject property is at the southerly end of the path, an area characterized by single family residential development well set back from the path and screened by lush vegetation.

The proposed development would be an intrusive change, bringing a massive, box-like two-story structure and a modern, hardscape frontage in contact with the natural beach open space corridor. It simply would not be compatible with its surroundings. The potential impacts to a landmark 60-70' Torrey Pine located just offsite in public open space, and the impacts of the applicants' already chopping down a lovely, mature Jacaranda on site, are discussed below.

For the reasons discussed in this letter, you will see that the proposed development is inconsistent with the LCP.

**B. Adverse Affect on Recreational Scenic Coastal Resources.**

1. **Coastal Views.** As the LCP and Port Master Plan recognize, the La Playa beach corridor is a recreational and visitor-serving facility and scenic coastal resource. The visual encroachment of the proposed development on this highly visible site will clearly adversely affect the scenic resources of the coastal area. Protruding toward the public open space, the proposed development would visually encroach upon and materially change the lushly landscaped, set-back nature of the views of and along the south La Playa coast. The LCP recognizes "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" (p. 74). The proposed development would "stick out like a sore thumb."

The proposed structure could not have been sited or designed more poorly to protect La Playa's scenic resources. In south La Playa the larger residences are typically uphill along Rosecrans, leaving ample landscaping and natural vegetation buffers between the man-made environment and the natural open space. Developing at the top of the lot along Rosecrans and landscaping the lower portion of the lot along the path would be the most compatible design

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A-6-PEN-95-153  
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and would do the most to maintain and enhance the visual quality of the area. Ignoring the prevalent pattern of development in the area and the existing development of the site, the development would leave the minimum possible buffer from the scenic coastal resources and public open space. A steep driveway, manufactured slopes at a 3:2 ratio, retaining walls and extensive hardscape are required to push the building pad down to the water.

2. Coastal Resources.

a. LCP Standards. The Residential Objectives of the LCP calls for preserving existing landscaping and vegetation within established residential neighborhoods (p. 22). The specific recommendations of the LCP are even more clear:

- Existing trees should be preserved where possible. New development should be sited and designed to mitigate any harmful impacts to major trees or any significant mature vegetation which is a major asset to Peninsula's residential neighborhoods.
- At key locations, specimen trees can become community focal points. Such trees should be designated as community resources and protected.

(p. 114).

b. Endangerment of Landmark Torrey Pine Tree.

The majestic Torrey Pine is an irreplaceable public resource. Located in the public open space (tidelands under the jurisdiction of the San Diego Unified Port District) between the subject property and the La Playa footpath along San Diego Bay, this landmark can be seen the entire length of the path, from either end.

Torrey Pines enjoy a special, protected status in San Diego. They are considered a significant City-wide and coastal resource that should be protected and maintained. Because of their sensitivity and scarcity, the City's Municipal Code Section 63.07 makes it illegal to cut, injure or destroy a Torrey Pine located on public land in the City of San Diego.

This landmark Torrey Pine is a specimen tree that is a "community focal point" that should be designated as a community resource and protected.

The proposed project would jeopardize the Torrey Pine tree through excavation and construction of retaining walls, a swimming pool and a portion of the house through and over a major portion of the root zone of the Torrey Pine.

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The City has merely required that the proposed project's improvements stay out of the "drip line" of the tree -- an imaginary line on the ground underneath the outer canopy of the tree (Condition 6, which the applicant actually protested). The applicant is proposing excavation and improvements as close as possible to the "drip line" of the tree.

The "drip line" analysis, sometimes used to predict the location of tree roots, is flawed in this case. The canopy of this Torrey Pine is artificially distorted into almost a "D" shape, because until a few years ago there used to be a second trunk near the existing one on the flat side of the canopy, inhibiting foliage growth on that side. A circle around the trunk, with a radius of the canopy on the other side of the tree, would be a better predictor of the root system. The difference would be approximately twenty feet. An illustration of this is attached. Also, the drip line analysis only seeks to protect the major roots of the tree. We understand that the overall root system of a Torrey Pine can extend much farther, up to three times the drip line radius.

The City imposed Condition 7 so that if the Torrey Pine perishes, the applicant would have to replace it with two new Torrey Pines. That is simply not enough. A landmark tree like this cannot be replaced. It is a treasure that should be given a conservative *buffer* to prevent harm. It is incredible that the City made finding "E" of the CDP, the project provides an adequate buffer to protect scenic resources located in adjacent parks and recreation areas. The proposal would actually cut a significant portion of the Torrey Pine's roots!

c. Loss of the Landmark Jacaranda

Shortly after the applicants acquired the property, and in preparation for development, they chopped down a beautiful seventy foot Jacaranda on their property but adjacent to (and over) the public open space. Even though this occurred on private property, it clearly violates the LCP, which provides:

New development in the very low density "wooded area" and La Playa neighborhoods should preserve all trees with a caliper of eight inches or greater and other significant vegetation other than that lying directly on the building pad of the proposed development.

(p. 130). The Jacaranda was over three times the size protected and was not even located on the proposed building pad. This is a clear LCP violation.

C. Failure to Make Finding Required by the Coastal Act. The City of San Diego did not comply with the Coastal Act in approving the CDP. Section 30604(c) of the Coastal Act requires that:

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(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that such development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200). [emphasis added].

The City did not make this "specific finding" unequivocally required by Section 30604(c) of the Coastal Act, that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Act. The City made other findings, but it did not make the one finding specifically required by the Coastal Act.

D. **CEQA Error.** The City erred in its determination of an exemption under the California Environmental Quality Act, citing an exemption ("CEQA Guidelines Section 15302.2") that doesn't even exist. CEQA Guidelines Section 15302 (which has sub-parts with letters (a) through (d) -- but no numbers) sets forth the Class 2 exemption, which clearly doesn't apply to this proposed development:

Class 2 consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced . . . .

CEQA Guidelines Section 15302 (emphasis added). Surely this exemption does not apply to demolishing a 2,327 sq. ft. residence built adjacent to a major street and constructing a new residence over twice the size (5,224 sq. ft.) at the other end of the property adjacent to the coast. Thus, even if the City meant to cite the "Class 2" exemption in CEQA Guidelines Section 15302, that exemption would not apply to this project.

E. **Conclusion.** At a minimum, the following matters must be addressed:

- The proposed residence, swimming pool and retaining walls must be relocated out of the root zone of the Torrey Pine. A landmark tree like this simply cannot be replaced. It is a treasure that must be given a conservative buffer to prevent harm. This will also mitigate the visual impacts of the project on the La Playa footpath.

- The impact of cutting down the scenic Jacaranda, in violation of the LCP, must be mitigated.

- Once the project is made consistent with the LCP, the required Coastal Act consistency finding must be considered and, if appropriate, made by the Commission.

- An appropriate review or exemption of the project must be made under CEQA.

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Thank you for your consideration of our comments.

Sincerely,



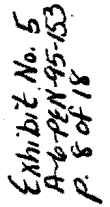
George Fleming and Marty Bohl

Attachments

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## A 2x2 grid of four black and white photographs. The top-left photo shows a person in a dark uniform standing next to a vehicle. The top-right photo shows a person in a light-colored uniform standing next to a vehicle. The bottom-left photo shows a person in a light-colored uniform standing next to a vehicle. The bottom-right photo shows a person in a light-colored uniform standing next to a vehicle.

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# Peninsula Community Plan

## and Local Coastal Program Land Use Plan

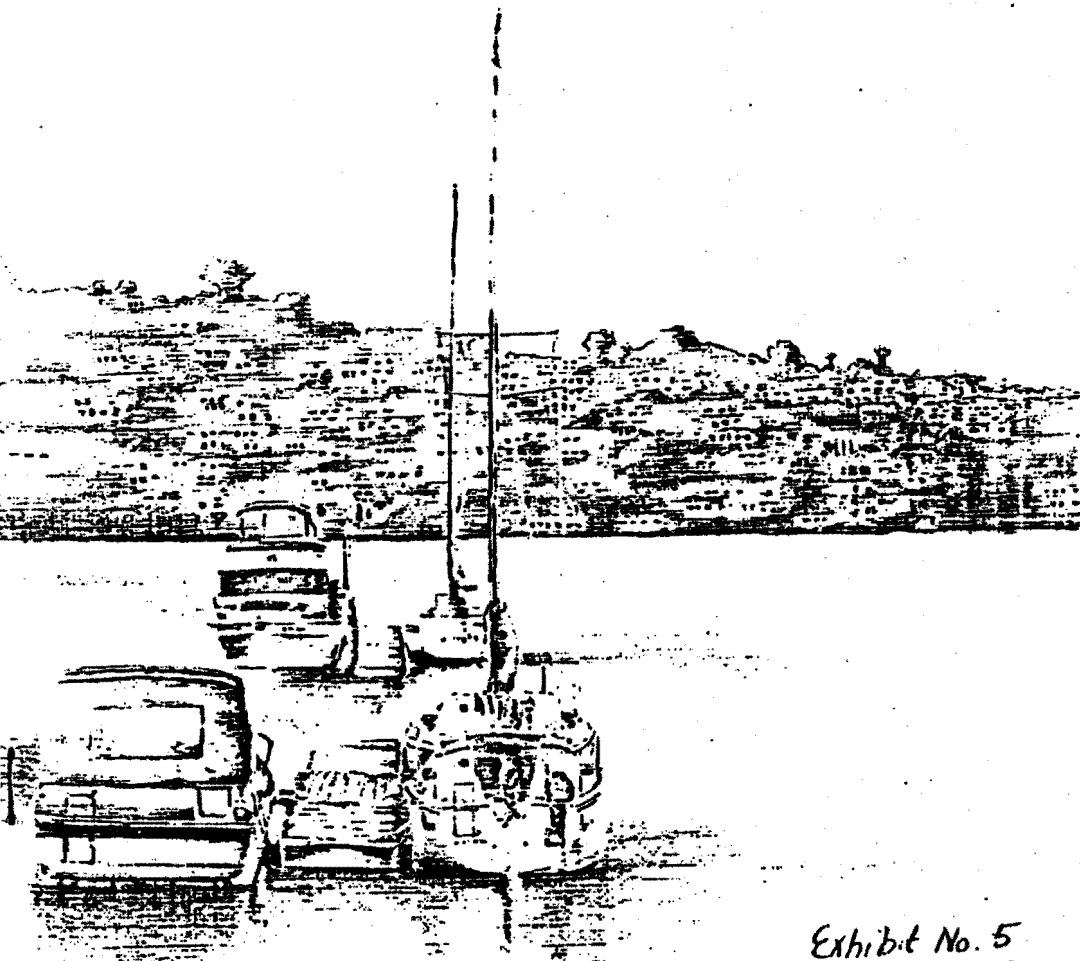
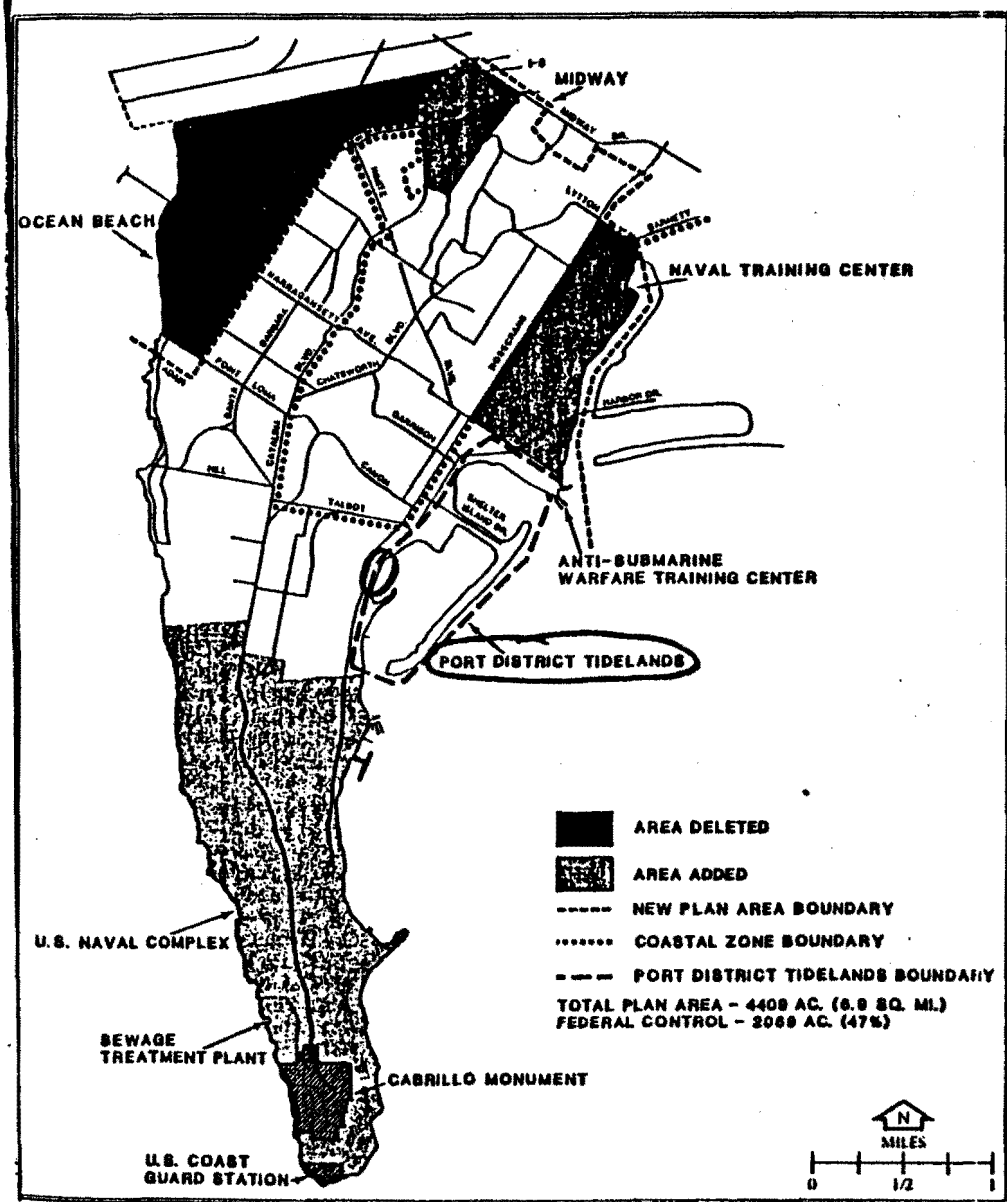


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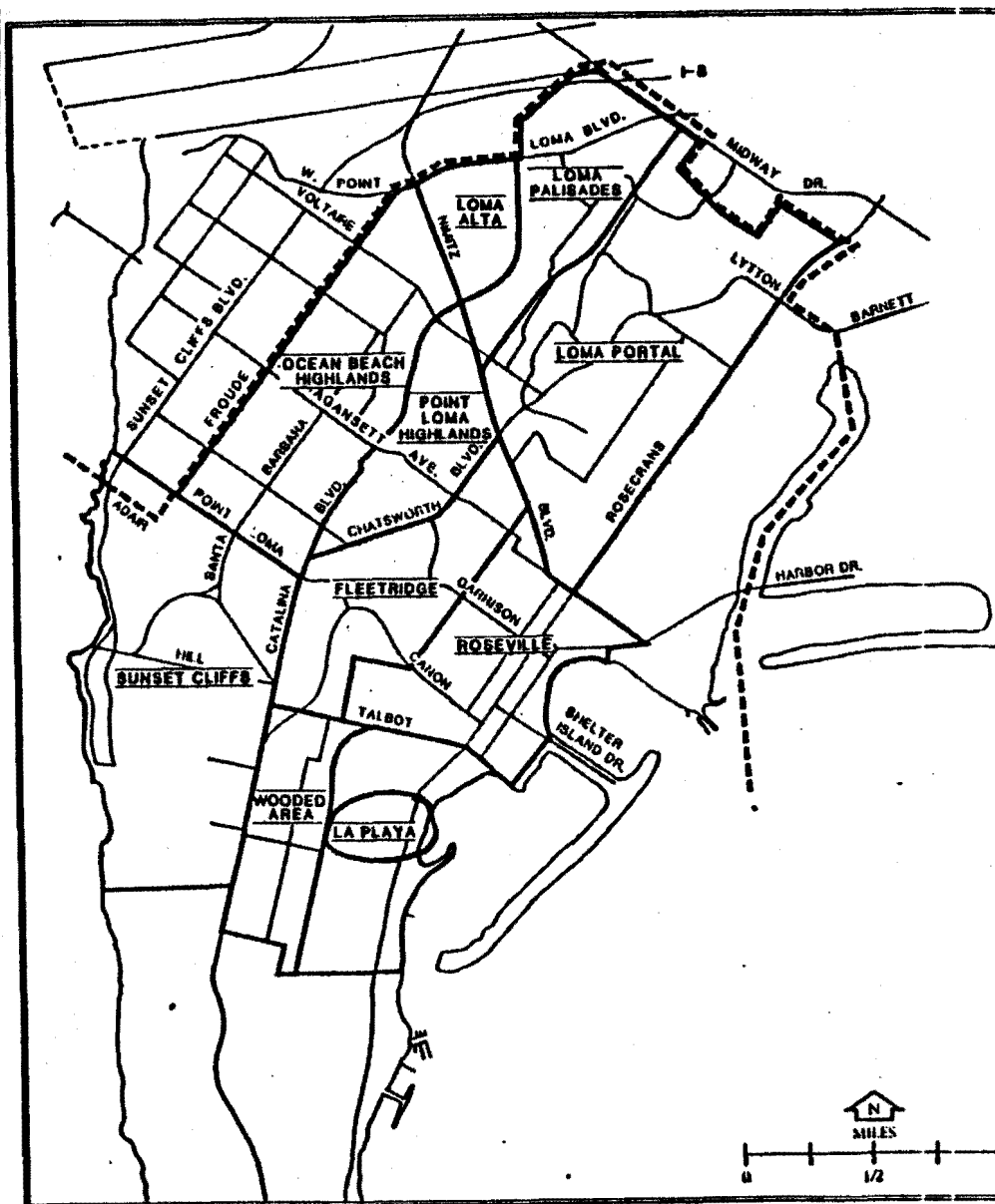


## REVISED PLAN AREA BOUNDARIES

Peninsula Community  
City of San Diego Planning Department

FIGURE  
2

Exhibit No. 5  
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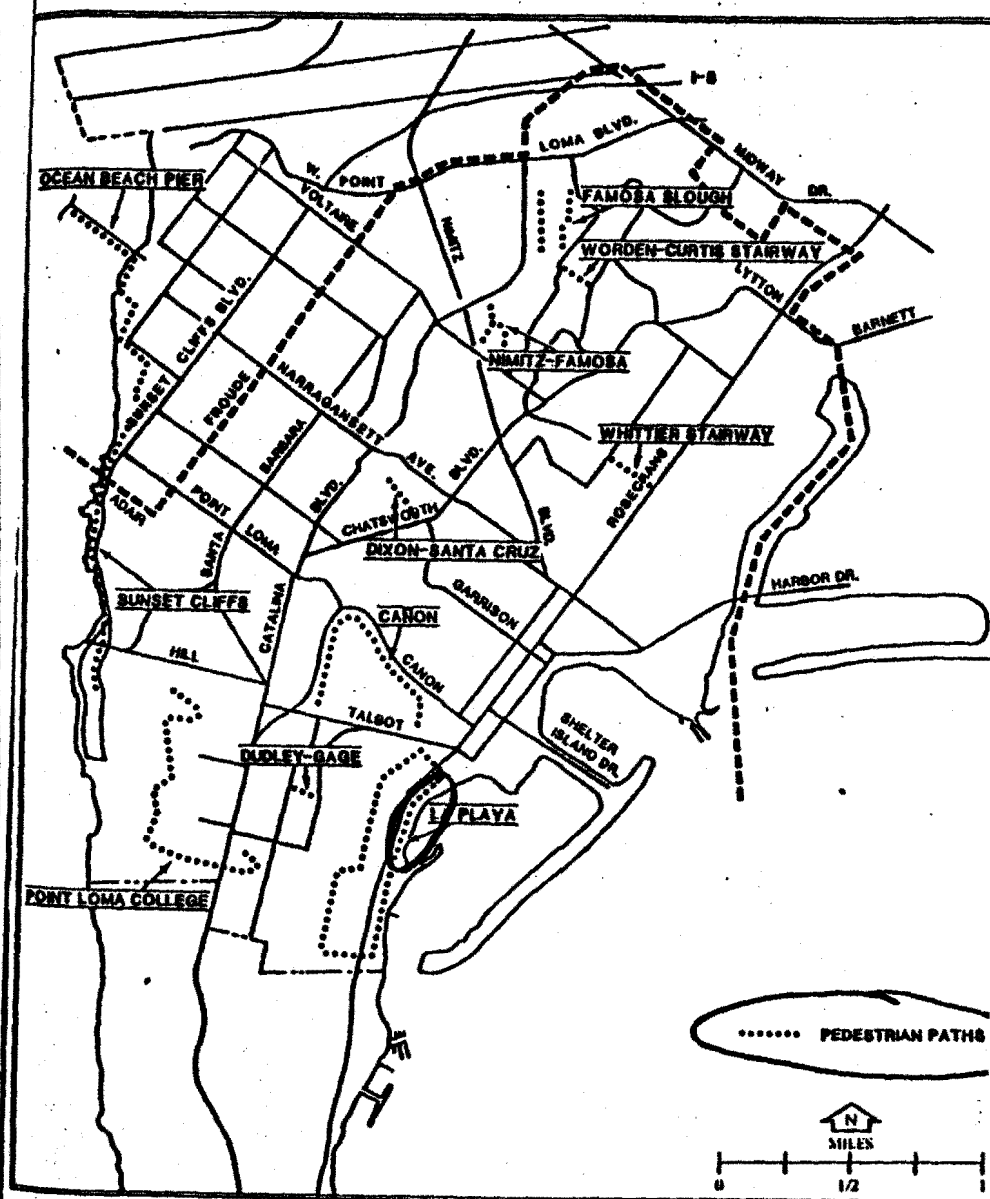
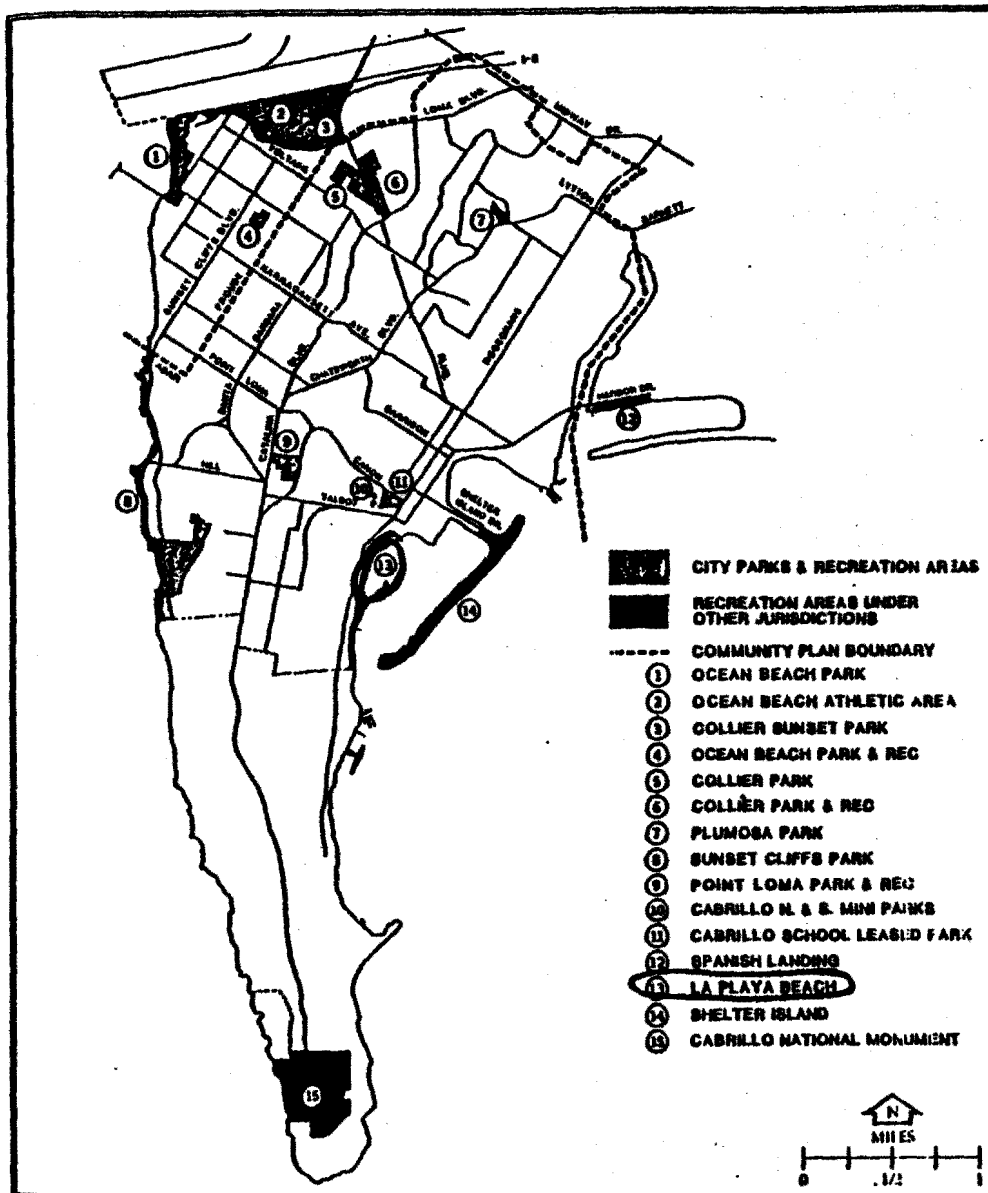


## PENINSULA NEIGHBORHOODS

Peninsula Community  
City of San Diego Planning Department

FIGURE  
3

Exhibit No. 5  
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## PARKS & RECREATIONAL AREAS

Peninsula Community  
 City of San Diego-Planning Department

FIGURE  
 11

FIGURE 11  
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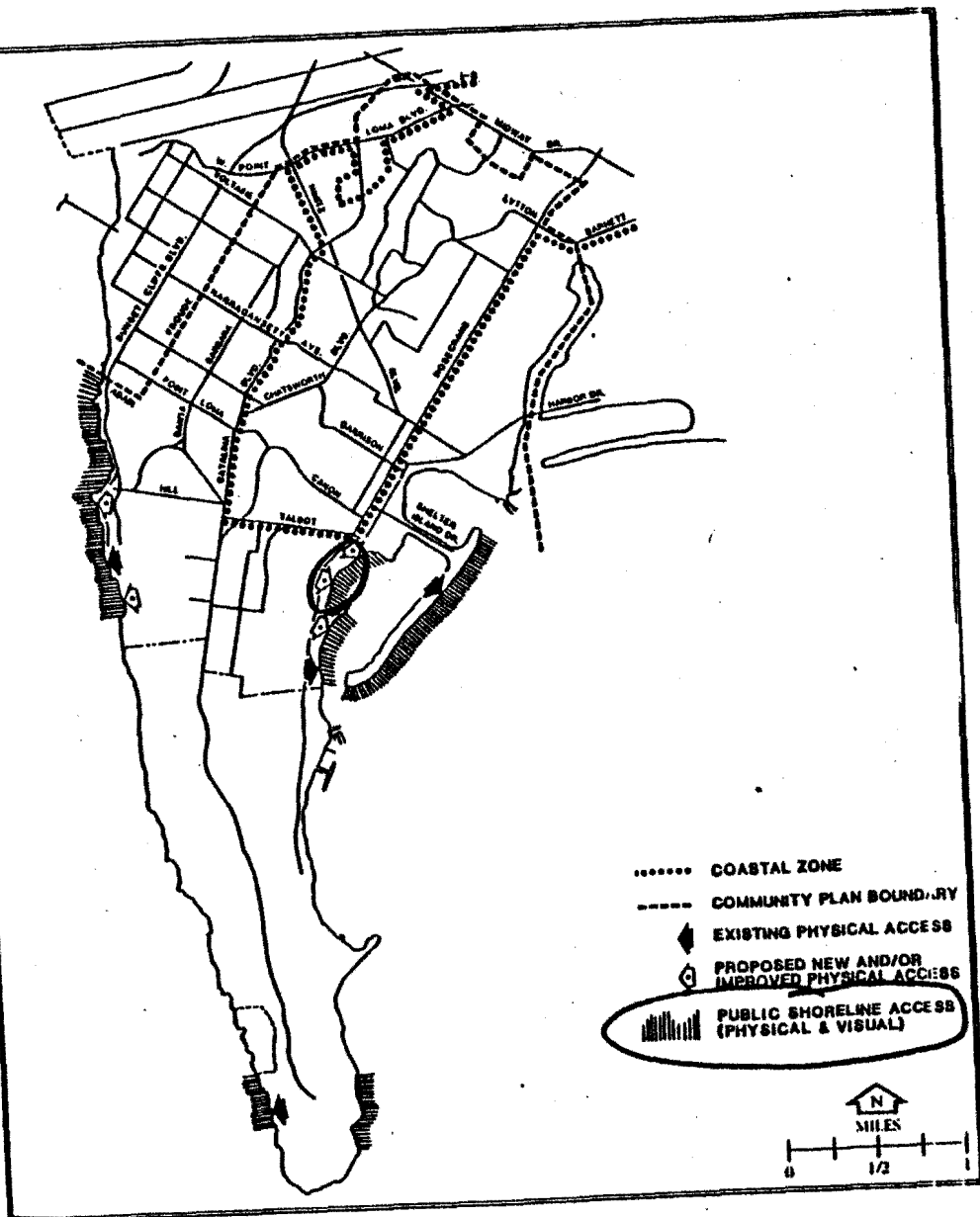


## PEDESTRIAN PATHWAY SYSTEM

Peninsula Community  
 City of San Diego-Planning Department

FIGURE  
 18

FIGURE 18  
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 1-14-95



## SHORELINE ACCESS

Peninsula Community  
 City of San Diego Planning Department

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FIGURE  
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- Facade decoration affects the impression of massiveness as well as the overall pattern of light and shade. New development should compliment the existing facades of the neighboring buildings.
- Entryways, window proportions, facade texture (surface materials) and finish are significant factors in how well a building contributes and relates to surrounding buildings. All of these elements should be taken into consideration to provide consistency between new and existing structures.
- Structures should conform to the pattern and rhythm of spacing of buildings already existing within the block.

### 4. Landscaping

- Landscaping should be considered a major element of the character of established neighborhoods. A consistent and attractive neighborhood landscaping theme should be retained in new development.
- Landscaping should be used to add texture to blank walls, soften edges and provide a sense of pedestrian scale.

- Existing trees should be preserved where possible. New development should be sited and designed to mitigate any harmful impacts to major trees or any significant mature vegetation which is a major asset to Peninsula's residential neighborhoods. Where removal is unavoidable, replacement landscaping should be provided on-site.

- In areas of little or no activity, ground covers or lawns should be planted as alternative to paving.

- At key locations, specimen trees can become community focal points. Such trees should be designated as community resources and protected.

### 5. Parking

- The automobile or parking facilities should not be a dominant element of a neighborhood character. On-site parking should be screened or located in areas not highly visible from the street.

- On-site parking should be underground or located in the rear of buildings and accessed from the rear alley whenever feasible.

specifically tailored to foster compatible infill development and an enhanced commercial district environment in Roseville.

- Improvements to the Sunset Cliffs Shoreline Park and street endings in the La Playa/Kellogg Beach area should encourage the development of vista points. The Coastal Conservancy should be considered in this regard.
- Unimproved street ending should be improved as pedestrian linkages and visual corridors. Specific areas of emphasis should include the Roseville area east of Scott and the La Playa/Kellogg Beach area. Any improvements to street endings which occur on tidelands must conform to the Port Master Plan.
- Infill development in the Loma Portal and Roseville neighborhoods should be compatible with the Spanish Colonial Mediterranean revival and Modern architectural styles and pastel colors which dominate this neighborhood.

New development in the very low density "wooded area" and La Playa neighborhoods should preserve all trees with a caliper of eight inches or greater and other significant vegetation other than that lying directly on the building pad of the proposed development. Where feasible trees on the building pad should be transplanted elsewhere on site.

- Nimitz Boulevard should be upgraded to provide an additional positive entryway into Peninsula. Funding could come from individual property owners along the Boulevard, civic groups and City sources if available. Landscaping the median and sides of Nimitz should be installed where adequate right-of-way exists. Bicycle and pedestrian paths should be separated from auto traffic where feasible. A community identification sign should be erected at the north end of Nimitz where it enters Peninsula.

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P. 17 OF 18

# PLAN

P.002

1/11 NO.0323

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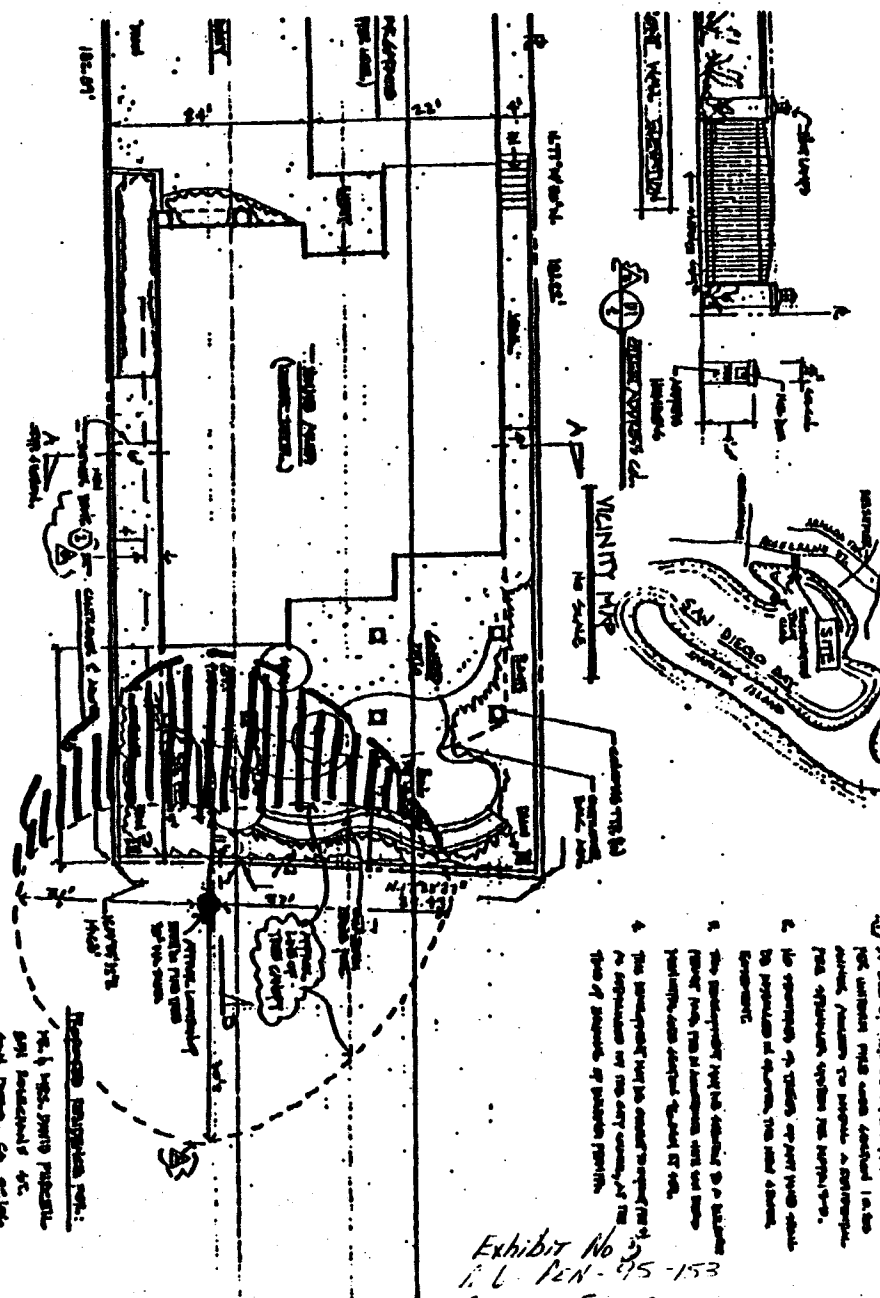


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December 20, 1995

2024.001

Chairman Carl L. Williams  
and Members of the California Coastal Commission  
c/o San Diego District Office  
3111 Camino del Rio North, Suite 200  
San Diego, CA 92108

HAND DELIVERED

Re: Appeal No. A-6-PEN-95-153  
Hearing Date of January 12, 1995, Item No. 8.a.  
David and Jean Purcell

Dear Chairman Williams and Members of the Commission:

We represent David and Jean Purcell, owners of the property located at 741 Rosecrans Street in the Peninsula Community Plan area of the City of San Diego. The subject property is a 9,089 square foot lot located in the La Playa area of Point Loma, a fully developed and urbanized area of San Diego. The property fronts on Rosecrans Street, a major street; the rear portion of the lot is adjacent to Port Authority property along La Playa Cove.

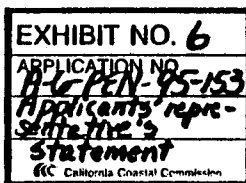
The project includes demolition/relocation of an existing residence and construction of a new residence on the subject property. The owners applied for a Coastal Development Permit (CDP) pursuant to the City of San Diego Local Coastal Program (LCP). The project was approved by the Hearing Officer on June 21, 1995, unanimously approved on appeal by the Planning Commission on August 17, 1995, and unanimously approved on appeal by the City Council on October 30, 1995.

The Appellants, who are the project's immediate neighbors, do not want to see a change in the neighborhood and have delayed approval of the project for six months with appeals. They have not raised any substantial issue in their appeal, however, and we therefore request the Commission find that no substantial issue exists.

I.

THE PROJECT IS CONSISTENT WITH THE LCP

The project is designed to be consistent with the single-family residential land use designation in the Peninsula Community Plan and LCP and the regulations of the R1-5000 zone. It follows the existing development pattern of the neighborhood, maintains a pleasant atmosphere for people using the public pathway along La



Chairman Carl L. Williams and  
Members of the Coastal Commission  
December 20, 1995  
Page 2

Playa Cove and assures the health of the existing Torrey Pine tree on Port Authority property. (See Attachment 1, Project Description.)

Coastal Views and Public Pathway

As stated above, the La Playa area of Point Loma is a fully developed residential neighborhood. The residences have been built over a period of 60 years or more and represent different architectural styles. Any assertion of degradation of coastal views is ludicrous. The entire neighborhood is developed with residences built along the public pathway. The proposed residence, which will have no impact on the users of the public pathway, is set back 43' from the centerline of the public pathway. (See Attachment 2, Rear Lot Profile at Public Pathway.)

In fact, although the Appellants express concern about development encroaching onto the public pathway, development on the Fleming's property is actually closer to the pathway than the Purcell's proposed project. Indeed, it appears that the improvements on the Fleming property encroach 9'-6" onto Port Authority property. No proposed development on the Purcell property encroaches onto the Port Authority property or the public pathway. In fact, the Purcell's proposed fence at the property line is set back approximately 28' from the centerline of the pathway.

In addition, it should be noted that the rear of the proposed residence is behind the "stringline" formed when connecting the line of the two residences on either side of the proposed residence. (See Attachment 3, Scale Drawing of Rear Yards.) This means that the proposed residence is set back farther from the Port Authority property and the public pathway than the neighboring residences.

In comparing sizes of neighboring residences, the Bohl residence has a .72 floor area ratio (FAR) and the Fleming residence has a .54 FAR. The proposed residence has a FAR of .56 which is clearly similar to the neighbors'.

This site is no more visible than the neighbors' residences. It does not protrude as the Appellants assert and will fit in with the established development patterns in the neighborhood.

Impact on Coastal Resources

The Appellants identify two trees as coastal resources. With respect to the Torrey Pine tree, it is a lovely tree, but it is misleading to describe it as a "landmark." It is not an officially

Chairman Carl L. Williams and  
Members of the Coastal Commission  
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designated "landmark." Nevertheless, both the City and the applicant have reviewed the impact of the project on the tree, and the project was specifically modified to assure the health of the tree. Several certified arborists have confirmed that the project as currently designed will not affect the tree and conditions of approval have been incorporated into the project to address worst case situations.

The jacaranda tree was certainly not a landmark. The applicants cleared the property of overgrown, unruly, ornamental landscaping that was inhabited by rodents and sometimes by transients. The jacaranda was part of the unkempt landscaping; it was not a coastal resource. New landscaping will be planted as a part of the project.

#### II.

#### THE APPELLANTS' ACTUAL CONCERNS ARE IMPACTS ON VIEWS AND PRIVACY, WHICH DO NOT CONSTITUTE SUBSTANTIAL ISSUE

We believe the Appellants' real issues are based upon their personal concerns about impacts on views and privacy, which are not relevant to the LCP. The Appellants, who are the immediate neighbors, object to a change in the property next door to them.

The existing residence on the Purcell property was built in 1937. It was the first of the four adjacent residences to be built and enjoyed an expansive and uncluttered view. As the adjacent residences were built and/or remodeled, they narrowed the views from the existing residence on the Purcell's property. The result was an enhancement of the neighbors' views at the expense of the Purcell's views and privacy. Because the residence remained close to the street, the neighbors grew accustomed to being next to what must appear to them as an "open space" lot. (See Attachment 4, Current Photos of Site as Viewed from La Playa Cove.) The Purcells are merely proposing to redevelop their property in a manner that follows the general development pattern established by the Appellants themselves.

There is no doubt that the Appellants' views will be affected, but they will not be blocked. The Fleming's residence is closer to the Bay than the Purcell's, and the Bohl's residence, although behind the proposed project is higher. In any case, private view blockage does not constitute a substantial issue.

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#### III.

#### ALL NECESSARY FINDINGS OF APPROVAL WERE MADE

Pursuant to the City's LCP, in order to approve a CDP, eight findings of fact must be made. These findings are a part of the City of San Diego's certified LCP and require that a project not negatively affect public accessways or public recreation areas. Finding 30604(c) of the Coastal Act is incorporated within those findings. In this case, the necessary findings were made, including the project's conformance with the Peninsula Community Plan and LCP. The findings were adopted by the City Council. The Appellants therefore are in error when they state that Finding 30604(c) was not made.

#### IV.

#### THE PROJECT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The project is exempt from CEQA by Categorical Exemption 15303.(a), single-family residences. The City incorrectly cited CEQA Section 105302.2 in its staff report, however, the project is clearly exempt from CEQA. Regardless of the incorrect citation, whether or not a project is exempt from CEQA is not a basis to determine the existence of substantial issue.

#### V.

#### THERE IS NO SUBSTANTIAL ISSUE

As stated above, no substantial issue exists with respect to this project. The project is consistent with the Peninsula Community Plan and the Local Coastal Program, and the findings to approve a coastal development permit were made. Furthermore, the complaints of the appellants relate not to issues related to coastal resources but of personal concerns. Accordingly, we request that the Commission find that no substantial issue exists.

Very truly yours,

*Lynne L. Heidel*

Lynne L. Heidel  
A Professional Corporation

Attachments

# ATTACHMENT 1

## PROJECT DESCRIPTION

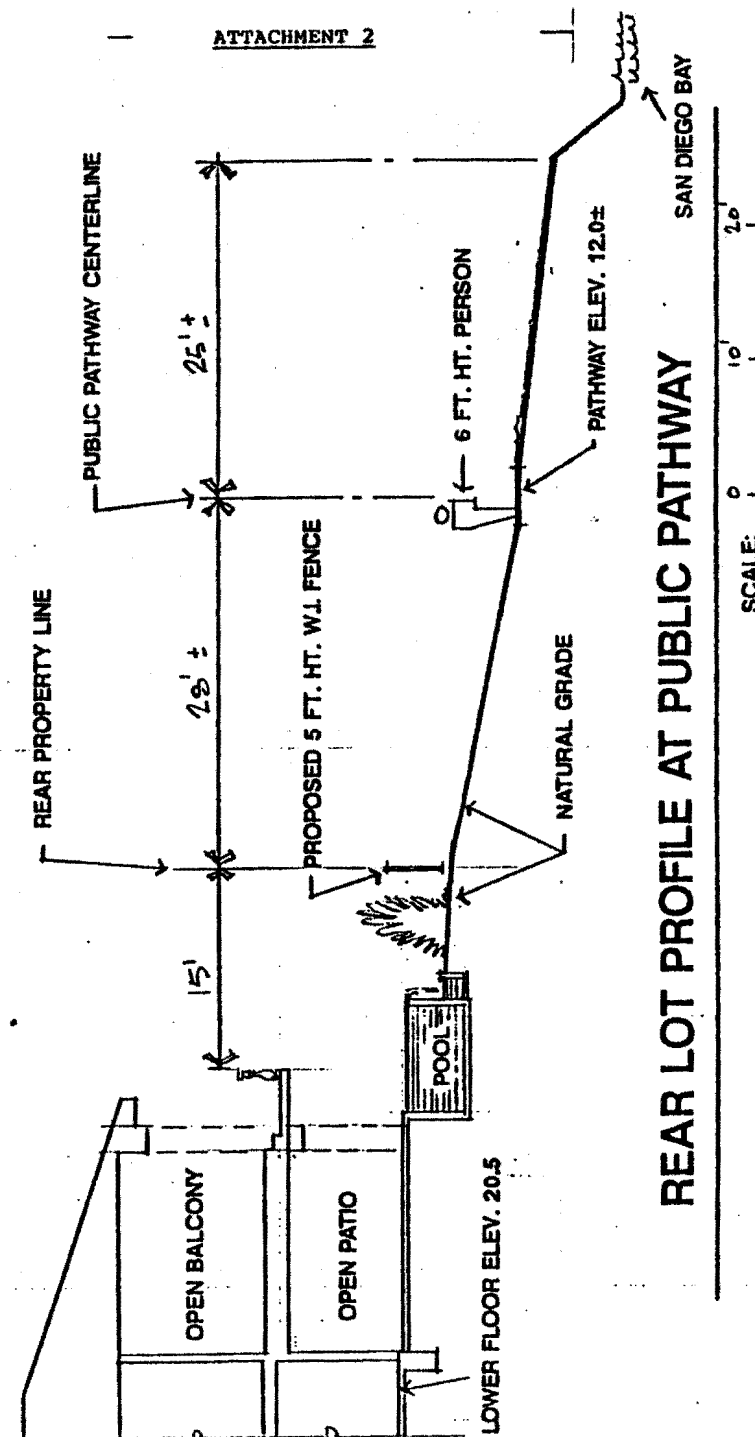
### PURCELL RESIDENCE

The proposed project provides for removal of the upper portion of the existing residence from the site, demolition of the lower portion, and construction of a new, Mediterranean style residence with a total of 4,107 square feet of living area and a 788 square foot garage.

The subject property is approximately 50 feet in width and 180 feet in length. The property slopes down approximately 22 feet from the front of the lot (Rosecrans Street) to the rear (Port Authority property).

A privacy/noise wall is proposed along Rosecrans, and the garage and house are set back to allow room for the maneuvering of vehicles to and from the property onto Rosecrans Street. The set back assures an adequate and acceptable driveway slope. The setting back of the residence also allows the house to be constructed in such a way that it follows the natural topography. The residence steps down the hillside appearing as one story from the street and two-stories from the rear.

# ATTACHMENT 2



CURRENT PHOTOS OF SITE AS VIEWED FROM LA PLAYA COVE

