

CALIFORNIA COASTAL COMMISSION

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

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Permit Application No. 6-96-1/1ro
Date February 14, 1996

ADMINISTRATIVE PERMIT**F4b**

APPLICANT: Michael and Susan Schoff

PROJECT DESCRIPTION: Remodel of an existing two-level, 4,506 sq.ft. single family residence (including removal of 120 sq.ft. from the first floor), construction of an 85 sq.ft. second-level addition, a new 752 sq.ft. third level addition and removal and reconstruction of a second-level deck with stairway, resulting in a 5,223 sq.ft. home on a 15,925 sq.ft. oceanfront lot.

PROJECT LOCATION: 5115 Shore Drive, Carlsbad, San Diego County.
APN 210-031-14

EXECUTIVE DIRECTOR'S DETERMINATION: The findings for this determination, and for any special conditions, are discussed on subsequent pages.

NOTE: The Commission's Regulations provide that this permit shall be reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, a permit will not be issued for this permit application. Instead, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission at the following time and place:

DATE and TIME: March 15, 1996 9:00 a.m., Friday	LOCATION: Radisson Hotel - Santa Barbara 1111 East Cabrillo Boulevard Santa Barbara, Ca
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IMPORTANT - Before you may proceed with development, the following must occur:

For this permit to become effective you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgment and evidence of compliance with all special conditions, we will send you an authorization to proceed with development. BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE PERMIT AUTHORIZATION FROM THIS OFFICE.

PETER DOUGLAS
Executive Director

By: Laurinda R. Owens

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. 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. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. 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.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

Pursuant to Public Resources Code Section 30624, the Executive Director hereby determines that the proposed development, subject to Standard and Special Conditions as attached, is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3, and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. Any development located between the nearest public road and the sea is in conformity with the public access and public recreation policies of Chapter 3.

Proposed is remodelling of, and additions to, an existing two-level, 4,506 sq.ft. single family residence on a 15,925 sq.ft. oceanfront lot. Presently, the home contains a 2,236 sq.ft. basement (first) level and a 2,270 sq.ft. second level, both of which are above ground. As viewed from the west, the home appears as a two-story home, and from the street frontage, as a one-story home. The proposed improvements include construction of an 85 sq.ft. addition

to the second level, construction of a new 752 sq.ft. third level addition, a new 138 sq.ft. third-level deck at the east elevation of the home, and the removal and reconstruction of a new 54 sq.ft. second-level deck with an outdoor stairway, at the western elevation of the home. The remodelling will also include removal of a minor portion of the home including 120 sq.ft. of internal floor area from the east side of the second level. Altogether, including the additions, the remodelled home will total 5,223 sq.ft.

As noted in the geotechnical investigation prepared for the subject site, the building pad consists of a graded stepped pad. Seaward of the pad, the topography of the site consists of "gently rolling coastal terrain" and the site slopes gently to the west. Ground level accessory improvements consist of a concrete patio immediately seaward of the home with a seatwall at the western edge of the patio. The seatwall demarcates the "bluff edge" on the subject site as from this point seaward, the remainder of the lot begins to descend in elevation down to the beach below. Presently, there is an existing rip rap revetment seaward of the home at the toe of the slope.

Relative to shoreline hazards, since the parcel is an oceanfront lot, the Commission has traditionally been concerned with the siting of new development directly along the shoreline. In reliance upon Coastal Act Sections 30235 and 30253, the Certified Carlsbad LCP Mello II segment contains the following policy in its Coastal Shoreline Development Overlay Zone:

4(b) Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply....

With respect to protection of visual resources, the existing residence is visible from the adjacent beach. Upon reliance of Coastal Act Section 30251 regarding preservation of scenic resources, the certified Carlsbad Local Coastal Program (LCP) Mello II segment includes Coastal Development (C-D) overlay policies which address siting of development along the shoreline. The C-D policies establish a "stringline" method for determining the appropriate setback for new projects. This setback serves to assure that development does not adversely encroach upon view corridors along the beach and also addresses concerns about geologic stability. The western facade of the existing home is within the stringline of the principal structures on the lots immediately to the north and south of the subject site. In addition, the proposed reconstruction of a second level deck at the western elevation of the home will not extend further seaward than the existing accessory improvements located at the first level of the home. As such, the development will be consistent with the established stringline of development for the area and will not result in any public view blockage.

Most of the oceanfront residences in this area have decks, patios, and other structures which extend seaward of the principal residential structure. Some residences have private beach access stairways extending down the bluff face

to the beach. In the subject proposal, the majority of the proposed improvements are situated much closer to the street elevation of the site as opposed to the bluff or ocean side of the lot. As such, the proposed improvements are well within the established stringline of development for the area. In addition, there will be no significant adverse impacts on views to and along the coast as a result of this project. The proposed additions to an existing residence will be located in a well-developed single family residential neighborhood, will be compatible in height to other three-level residences in the area, and will be consistent with the existing surrounding development.

With regard to geologic stability, the Commission's concern has been that new development should minimize risks to life and property and should not necessitate the need for future shoreline protective devices, which often alter natural landforms and encroach onto sandy beach areas. A preliminary geotechnical investigation by Engineering Design Group dated February 13, 1996 has been completed and includes recommendations for the design of the proposed improvements. No site instability or faults, etc. have been identified and the site was found to be suitable to support the proposed additions. Furthermore, the geology report indicates that the existing rip rap seaward of the home is "...performing adequately, with no obvious areas of significant structural or erosion concern". In addition, the report also contains findings which indicate that no additional erosion control measures such as seawalls or additional rip rap is necessary. As such, no additional shoreline protection is proposed or warranted through the subject permit.

In the subject proposal, the majority of the proposed improvements to the existing principal residence are being proposed at the eastern elevation of the home. As noted previously, the only improvement on the western side of the home is removal of an existing second-level deck and reconstruction of a smaller deck of a different configuration (semi-circular vs. oblong). However, the second level deck will not extend any further seaward than the accessory improvements at the lower level of the home. As such, since none of the improvements to the principal structure are proposed to encroach further seaward than the existing residence, and the proposed accessory improvements at the western elevation will not extend any further seaward than the existing lower level accessory improvements, the proposal can be found consistent with the shoreline policies contained in the Coastal Development Bluff Overlay regulations in the certified LCP for the area.

However, due to the inherent risk of development on the site from the hazards of ocean waves, and flooding, and the Commission's mandate to minimize risks (Section 30253), the Commission's standard waiver of liability condition has been attached as Special Condition No. 1. Pursuant to Section 13166(a)(1) of the Commission's California Code of Regulations, an application may be filed to remove Special Condition No. 1 from this permit if the applicants present newly discovered material information regarding the existence of any hazardous condition which was the basis for the condition, if they could not with reasonable diligence have discovered and produced such information before the permit was granted.

With regard to public access, Section 30211 of the Coastal Act states:

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 sandy and rocky coastal beaches to the first line of terrestrial vegetation.

In addition, Section 30212 of the Act states, in part:

(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....

Also, Section 30604(c) of the Act requires that a specific access finding be made for any project located between the first coastal roadway and the sea. The project site is located between the ocean and the first coastal roadway (Shore Drive). The applicant's property ownership extends to the mean high tide line (MHTL); this results in the inclusion of some existing sandy beach area on the applicant's property. There is evidence of historic public use of the sandy beach area seaward of the bluff face; thus, potential prescriptive rights to public access may exist. Additionally, this area may be subject to the public trust. However, the proposed additions to the residence do not result in any direct impacts on the public's use of the beach seaward of the site, nor do they adversely affect either vertical or lateral public access opportunities in this area.

Existing public vertical access to the beach is available to the north at Carlsbad State Beach and to the south at South Carlsbad State Beach. The certified LCP also specifies that a new accessway should be provided at Palomar Airport Road, south of this site. Therefore, the project, as conditioned, is found to be consistent with all applicable public access and recreation policies of Chapter 3 of the Coastal Act.

The subject property is located within the jurisdiction of the City of Carlsbad's Mello II segment. Although the Commission approved both the Land Use Plan for the Mello II LCP and the zoning regulations (implementing ordinances), there still remains unresolved issues. As such, the City has declined to implement the certified LCP. It is expected that several amendment requests will be forthcoming to address inconsistencies between the LCP and General Plan, however, effective certification is not anticipated in the immediate future. Therefore, the LCP is the standard of review for the areas subject to Mello II, but the Commission is still responsible for issuing coastal development permits for this area.

The project site is designated for residential use in the certified LCP Mello II segment. The proposed use is consistent with that designation and with

adjacent uses. The Commission finds the project, as conditioned, will also be consistent with the policies of the LCP regarding preservation of scenic resources and geologic stability. In addition, the project will also be consistent with the public access and recreation policies of Chapter 3 of the Coastal Act. No impacts to coastal resources should result from project approval, as conditioned.

SPECIAL CONDITIONS:

1. Assumption of Risk: Prior to the authorization to proceed with development, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from waves during storms and from erosion or flooding and the (b) applicant hereby waives any future claims of liability against the Commission or its successors in interest for damage from such hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens.

ACKNOWLEDGEMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Applicant's Signature

Date of Signing

(6001R)