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**CALIFORNIA COASTAL COMMISSION**

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Hearing Date: 8/12-15/97  
Commission Action:



STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 5-97-061

APPLICANT: Gary & Florence Feldman AGENT: Richard K. Natland

PROJECT LOCATION: 3709 Ocean Blvd., Corona del Mar (Newport Beach)  
Orange County

PROJECT DESCRIPTION:

Addition of 758 square feet of enclosed structural area and 586 square feet of new deck area to the seaward side of an existing single family residence resulting in a 5,290 square foot structure on a coastal bluff face lot.

Lot area:	8,175 square feet
Building coverage:	2,444 square feet
Pavement coverage:	773 square feet
Landscape coverage:	300 square feet
Parking spaces:	2
Zoning:	R-1
Plan designation:	Single Family Detached Residential
Ht abv fin grade:	30 feet

LOCAL APPROVALS RECEIVED: City of Newport Beach Approval in Concept 66-97

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit No. A-80-7091 (Valentine); Coastal Development Permit No. 5-95-146 (Parker); City of Newport Beach certified Land Use Plan

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SUMMARY OF UNRESOLVED ISSUES AND SUMMARY OF STAFF RECOMMENDATION:

Remaining Unresolved Issues: The applicant recognizes that the recommended special conditions are routinely imposed by the Commission for projects on coastal bluffs. However, the applicant is not entirely comfortable accepting the recommended conditions.

Staff Recommendation: Staff recommends approval of the proposed project with special conditions necessary to minimize the risk of development on a bluff, consistent with Section 30253 of the Coastal Act. The special conditions recommended would: 1) require adherence to the geotechnical consultant's recommendations; 2) require all drainage to be conducted off site in a non-erosive manner; 3) require that the applicant record an assumption of risk deed restriction acknowledging the inherent risks of the subject site and relieving the Commission of liability.

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development, located between the nearest public roadway and the shoreline, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 including the public access and recreation policies of Chapter 3, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. 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 this permit is reported to the Commission. 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 in the application for permit, subject to any special conditions 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 project during its development, 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.

### III. Special Conditions.

#### 1. Geotechnical Recommendations

Prior to issuance of the coastal development permit, the applicant shall submit, for the review and written approval of the Executive Director, final foundation plans. These plans shall include the signed statement of the geotechnical consultant certifying that these plans incorporate the recommendations contained in the Limited Geotechnical Investigation prepared by NorCal Engineering, (Project No. 6719-97) for Mr. Gary Feldman dated June 17, 1997. The approved development shall be constructed in accordance with the final revised plans as approved by the Executive Director. Any deviations from said plans shall be submitted to the Executive Director for a determination as to whether the changes require an amendment to this permit. Any deviations that require an amendment shall not occur without an amendment to this permit.

#### 2. Drainage Plans

Prior to issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, a drainage plan, prepared by a licensed engineer, that identifies how drainage will be collected and directed and that demonstrates that all site drainage will be conducted off site in a non-erosive manner.

Site drainage shall occur consistent with the approved drainage plan.

#### 3. Assumption of Risk Deed Restriction

Prior to issuance of the coastal development permit, 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 bluff retreat and erosion and the applicant assumes the liability from such hazards, and (b) the applicant unconditionally waives any claim of liability on the part of the Commission or its successors in interest for damage from such hazards and agrees to indemnify and hold harmless the Commission, its offices, agents, and employees relative to the Commission's approval of the project for any damage resulting from such hazards. The document shall be recorded free of all prior liens and encumbrances which the Executive Director determines affect said interest and shall run with the land and bind all successors and assigns.

### IV. Findings and Declarations

#### A. Project Description

The applicants propose to add 758 square feet of enclosed structural area and 586 square feet of new deck area to an existing single family residence resulting in a 5,290 square foot structure on a bluff face lot. The additions are proposed at the seaward side of the residence. A new 332 square foot habitable area beneath the existing residence is proposed as part of the 758 square foot addition.

The subject site is located on Ocean Boulevard between Little Corona and Big Corona Beaches, in the Corona del Mar area of the City of Newport Beach. Ocean Boulevard is the first public road paralleling the sea. The subject lot cascades down the bluff face between Ocean Boulevard and the ocean. The City's certified LUP identifies Ocean Boulevard as a coastal view area. The existing height of the residence is 2'8" above the top of curb of Ocean Boulevard. No change to the existing height is proposed.

B. Hazard

Section 30253 of the Coastal Act states, in part:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Because of its location, development on bluffs generally tends to involve a greater degree of risk than similar development on inland parcels. Coastal bluff's height and steepness and their susceptibility to ocean forces, particularly wave attack, can lead to instability and possibly failure. However, a number of factors can minimize the hazards inherent to bluff development. These factors include adherence to an adequate setback, proper drainage, and limiting the amount of water introduced to the bluff area.

The proposed addition is a relatively minor development (758 square feet to an existing 4,532 square foot residence). Due to its minor nature, the proposed addition will not significantly increase the risk already associated with the existing structure, including the possible need for a future seawall. The geotechnical consultant's review of aerial photographs did not indicate discernible erosion since 1931. In addition the geotechnical consultant has determined that only minor erosion is anticipated and that the bluff is sufficiently stable to support the proposed addition.

The Commission's adopted Regional Interpretive Guidelines for Orange County recommend a 25 foot setback from the edge of a coastal bluff. The Guidelines also recognize that in a developed area, where new construction is generally infilling and is otherwise consistent with the Coastal Act policies, no part of the proposed new structure, including decks, should be built further seaward than a line drawn between the nearest adjacent corners of the adjacent structures (stringline setback).

The lots along the seaward side of Ocean Boulevard are located on the bluff face. The street serving these lots runs along the bluff top. Development in this area cascades down the face of the bluff. Development down the bluff face along the seaward side of Ocean Boulevard was established prior to the Coastal Act. Because the entire lot is seaward of the bluff edge, a 25 foot setback cannot be applied in this case. The Commission has routinely applied a stringline as a means of controlling seaward development on coastal bluff

parcels in this area. The proposed additions conform to the enclosed structural area stringline and to the deck stringline.

A Limited Geotechnical Investigation was prepared for the site by NorCal Engineering, dated June 17, 1997. The bluff is considered grossly stable. The geotechnical consultant states:

Based on the field exploration, laboratory testing, and geotechnical analyses conducted for this investigation, in our opinion, the proposed project is geotechnically feasible to construct as planned, provided the recommendations presented in this report are incorporated into the project design and construction.

In order to maximize bluff stability the amount of water introduced to the site should be minimized. Typically on bluff face parcels the Commission requires that only low water use, drought tolerant landscaping be allowed in order to minimize the amount of water introduced to the site. However, in this case, the bluff seaward of the residence is so steep that no formal landscaping exists. Nor is landscaping proposed as a part of this project. Consequently, the Commission is not requiring the typical landscaping condition.

Uncontrolled drainage flowing over the bluff also has the potential to cause destructive erosion and decrease bluff stability. Improper drainage, ponded water, flows over slope faces, or other conditions leading to ground saturation should be avoided on bluff parcels. To the maximum extent feasible, drainage should be directed to the street, away from the bluff edge. Minimizing the amount of water along the bluff face reduces the potential for the bluff to be eroded by run-off. However, due to the topography of the site it may be necessary to allow a portion of the site to be drained by piping run-off down the bluff in a non-erosive manner. As a condition of approval, the applicant shall submit a drainage plan, prepared by a licensed engineer, which indicates that site drainage is conducted off site in a non-erosive manner.

The geotechnical consultant has found that the proposed development is feasible provided the recommendations contained in the geotechnical report prepared by the consultant are implemented in design and construction of the project. The geotechnical recommendations address foundations, lateral soil resistance, and settlement analysis. In order to assure that risks are minimized, the geotechnical consultant's recommendations should be incorporated into the design of the project. As a condition of approval the applicant shall submit foundation plans indicating that the recommendations contained in the Limited Geotechnical Investigation prepared by NorCal Engineering, dated June 17, 1997 have been incorporated into the design of the proposed project.

Although adherence to the geotechnical consultant's recommended setback will minimize the risk of damage from erosion, the risk is not eliminated entirely. Therefore, the standard waiver of liability condition has been attached through Special Condition No. 3. By this means, the applicant is notified that the proposed project is in an area that is potentially subject to bluff erosion that can damage the applicant's property. The applicant is also notified that the Commission is not liable for such damage as a result of approving the permit for development. In addition, the condition insures that

the Commission not incur damages as a result of its approval of the coastal development permit. Finally, recordation of the condition insures that future owners of the property will be informed of the risks and the Commission's immunity for liability. Pursuant to Section 13166(a)(1) of the Commission's administrative regulations, an application may be filed to remove Special Condition No. 3 from this permit if new information is discovered which refutes one or more findings of the Commission regarding the existence of any hazardous condition affecting the property and which was the basis for the condition.

The Commission finds that only as conditioned as described above, can the proposed development be found to be consistent with Section 30253 of the Coastal Act. Therefore, as conditioned, the Commission finds the proposed development is consistent with Section 30253 of the Coastal Act which requires that risks be minimized and geologic stability be assured.

#### C. Future Development

The applicant is hereby notified that any future development within 50 feet of the edge of the coastal bluff will require a coastal development permit or an amendment to this permit. Coastal Act Section 30610(a) provides that no coastal development permit is required for improvements to existing single family residences except for those classes of development which the Commission has specified by regulation involve a risk of adverse environmental effect. Section 13250(b)(1) of the California Code of Regulations states that improvements to a single family structure where the residence or proposed improvement would encroach within 50 feet of the edge of a coastal bluff require a coastal development permit.

#### D. Public Access & Recreation

Section 30604(c) of the Coastal Act requires that every coastal development permit issued for any development between the nearest public road and the sea include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3. The proposed development is located between the sea and the nearest public road.

Section 30212 of the Coastal Act states, in relevant 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:

(2) adequate access exists nearby,

The subject site is located between the nearest public roadway and the shoreline. To the west of the subject site is Corona del Mar State Beach which provides shoreline access and public recreation opportunities. Little Corona Beach exists nearby to the east of the subject site. Shoreline access and public recreation opportunities are also available at Little Corona beach. Therefore, the Commission finds that the proposed development would not have significant adverse impacts on public access and is consistent with Section 30212 of the Coastal Act.

E. Local Coastal Program

Section 30604(a) of the Coastal Act provides that a coastal development permit shall be issued only if the proposed development would not prejudice the ability of the local government having jurisdiction to prepare a local coastal program (LCP) which conforms with, and is adequate to carry out, the Chapter 3 policies of the Coastal Act.

The City of Newport Beach Land Use Plan (LUP) was originally certified on May 19, 1982. As conditioned, the proposed development is consistent with the Chapter 3 policies of the Coastal Act. Therefore, approval of the proposed development as conditioned would not prejudice the City's ability to prepare a local coastal program consistent with the Chapter 3 policies of the Coastal Act.

F. Consistency with the California Environmental Quality Act (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of coastal development permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) 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 impact which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the hazard policies of the Coastal Act. Mitigation measures include conditioning the project so that geologic risks are minimized. 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. Further, the proposed development is in an existing urban zone. Since development has already occurred on the site and all necessary utilities needed to serve the proposed project are in place, the proposed development would not have a significant adverse impact on the environment. Therefore, the Commission finds that the proposed project, as conditioned, can be found consistent with the requirements of the Coastal Act to conform to CEQA.

SEE 920 MAP

Subject  
Site

OCEAN

PACIFIC

RECEIVED  
MAR 18 1997  
CALIFORNIA  
COASTAL COMMISSION

Vicinity Map  
5-97-0601  
Exhibit A





Structural Stringline →

Deck  
Stringtime

(N) MID LEVEL  
DECK

(E) GRAVEL ROOF  
TO REMAIN

(N) UPPER DECK

(U) ALTERNATE  
ROOF

(E) UPPER LEVEL  
SOLARIUM ROOF

(E) LOWER LEVEL  
DECK

existing  
lower  
level  
deck

(E) UPPER WALL  
TO REMOVE.

1ND UPPER WALL  
EXTENDED

(E) SKYLIGHTS  
TO REMAIN:

(F) CHIMNEY

(E) UPPER WALL

D MATCH (E) PITCH

2:12

2:12 (VERIFY)

NEW COPPER

(E) ROOF W/NI  
(FRONT, ONLY)

**P.L. 58.20**

EXISTING NEIGHBOR RESIDENCE

Stringline Map  
5-97-061  
Exhibit C

ROOF PLAN / STRING LINE  
SCALE :  $\frac{1}{8}" = 1'-0"$