

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
 3111 CAMINO DEL RIO NORTH, SUITE 200
 SAN DIEGO, CA 92108-1726
 (619) 444-8036



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 49th Day: May 5, 1999
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 Staff: EL-SD
 Staff Report: April 20, 1999
 Hearing Date: May 11-14, 1999

STAFF REPORT: CONSENT CALENDAR

Application No.: 6-99-39

Applicant: Shared Ventures Inc.

Agent: Jorge T. Engel

Description: Lot line adjustment to consolidate three existing 5,162.5 sq.ft. legal lots into two lots (north lot - 8,112.5 sq.ft.; south lot - 7,375 sq.ft.); also, demolition of two existing single-family residences and construction of one new, three-level, 4,462 sq.ft. single-family residence, including two-car garage on the north lot; the south lot will remain vacant at this time and an existing vertical seawall across both lots will remain.

Lot Area	8,112.5 sq. ft. (north parcel only)
Building Coverage	3,245.0 sq. ft. (40%)
Pavement Coverage	2,362.5 sq. ft. (29%)
Landscape Coverage	2,505.0 sq. ft. (31%)
Parking Spaces	5
Zoning	R1-5B
Plan Designation	Medium Density Residential
Ht abv fin grade	26 feet

Site: 1936-1940 Ocean Front, Del Mar, San Diego County
 APNs 299-143-04; 299-146-03; 299-146-10

Substantive File Documents: Certified City of Del Mar LCP Land Use Plan

STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that the development will be in conformity with the

provisions of Chapter 3 of the California Coastal Act of 1976, 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.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Other Approvals. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a copy(s) of the final Certificate of Compliance for the lot line adjustment required by the City of Del Mar in Design Review Permit DRB-98-77.

2. Assumption of Risk: PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant as landowner 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 hazards from tides, storm waves and flooding and the applicant assumes the liability from such hazards; and (b) that the applicant unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission, its officers, agents, and employees relative to the Commission's approval of the project for any damage due to natural hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicant is proposing to consolidate three existing legal lots, which total 15,487.5 sq.ft., into two new parcels. The northern parcel would be 8,112.5 sq.ft. in size, and the southern parcel would be 7,375 sq.ft. in size. Two existing single-family homes on the site will be demolished, and a new single-family residence is proposed on the northern parcel. The proposed home will be a three-level, 26-foot high, 4,462 sq.ft. residence, including a two-car garage. No construction is proposed on the southern parcel at this time and a separate coastal development permit

will be required to develop that site in the future. An existing vertical, concrete seawall fronting both properties will remain.

The project has been approved by the City of Del Mar's Design Review Board. Conditions of that permit, DRB-98-77, require that the applicant process and record a Lot Line Adjustment and Certificate of Compliance, prior to the issuance of building permits. These are not discretionary approvals and do not require any public hearing or notice. However, Special Condition #1 requires that the applicant submit a copy(s) of the final Certificate of Compliance to the Executive Director for the file, prior to issuance of this permit.

2. Hazards/Shoreline Protection. The following Chapter 3 policies of the Coastal Act are applicable to the proposed development and state, in part:

Section 30235

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...

Section 30253

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...

The subject site is located on the beachfront in an area that has been subject to storm waves. The City's certified LCP Land Use Plan (LUP), consistent with the existing Del Mar Municipal Code, includes policies establishing a Shoreline Protection Area (SPA) line, which, for the most part, is contiguous with the western property lines of private properties along the beachfront. With few exceptions, no development is allowed seaward of that line. LUP policies also address appropriate structural setbacks along the shoreline and identify acceptable forms and locations for shoreline protective devices. The two existing older residences on the site are only set back approximately three to five feet from the existing seawall, which would be inconsistent with the LUP's requirement for a fifteen-foot setback for new development.

There is an existing vertical seawall across both proposed parcels, which will remain on the site. It is a portion of an approximately two-block long seawall, designed to protect sixteen existing single-family residences and two public streetends. It was approved by the Coastal Commission under Coastal Development Permit #6-91-127 on July 16, 1991. As permitted, the seawall encroaches up to five feet onto public beach, seaward of the SPA line, since many of the existing homes, including the two on the subject site, were not set back far enough to allow construction of the seawall within the private property lines. All conditions of approval of that permit were met, and the seawall was constructed as approved.

The proposed single-family residence on the newly-created northern parcel will observe the required fifteen-foot setback, such that it will be consistent with the stringline of development being established through the policies of the certified LUP, and implemented as beachfront properties are redeveloped. The existing seawall will continue to provide protection for the proposed beach-level home and for a future home on the southern parcel as well. Thus, the proposed project represents redevelopment of an already protected site.

The existing seawall was designed to protect the private properties from the majority of high tides and storm surges, and is structural capable of withstanding storm events of the 1982-1983 severity. However, the proposed residence, even though it observes the required fifteen-foot setback, may still be subject to some flooding and wave damage due to overtopping during severe winter events. Therefore, Special Condition #2 requires the applicant to record a document acknowledging these hazards and indemnifying the Commission from any liability for its approval of the proposed development. As conditioned, the Commission finds the proposed project consistent with Sections 30235 and 30253 of the Coastal Act.

3. Public Access and Recreation. The Coastal Act emphasizes the need to protect public recreational opportunities and to provide public access to and along the coast. The following Coastal Act policies, which address the protection of public access and recreational opportunities, are most applicable to the proposed development:

Section 30210

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

Section 30211

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

Section 30212

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

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
- (2) adequate access exists nearby....

The subject site is a beachfront property and is thus located between the first coastal road and the sea. The beach seaward of the private property is public and full lateral access along the shoreline is thus assured. There is existing vertical access at every public streetend; the closest streetend to the site is 20th Street, less than 100 feet to the north. The Commission finds that adequate public access exists nearby the site, and finds the proposed development, as conditioned to address other concerns, fully consistent with the cited Chapter 3 policies, and, consistent with Section 30604(a), consistent with all other public access and recreation policies of the Coastal Act as well.

4. Visual Resources. The following policy of the Coastal Act provides for the protection of scenic coastal resources, and states, in part:

Section 30251

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

The subject site is located mid-block along the beachfront in Del Mar. The existing residences on the site are one and two stories in height and set back only approximately five and approximately three feet respectively. The proposed residence on the new northern parcel will be a three-level home, but will not exceed 26 feet in height, as required in the certified LUP and existing Municipal Code. Since it will be set back the required fifteen feet from the SPA line (existing eastern face of the seawall), consistent with the establishing stringline of development, it will be less prominent visually than the existing homes which are being demolished herein. Future development on the southern

parcel will also have to observe the same setback, and will be reviewed in a subsequent coastal development permit. Both parcels are of sufficient size to accommodate the required setbacks and are, in fact, slightly larger than the average beachfront lots in Del Mar. As proposed, and as conditioned to address other concerns, the Commission finds the subject development consistent with Section 30251 of the Act.

5. Local Coastal Planning. Section 30604(a) requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made for the proposed development, as conditioned.

The specific project site is zoned R1-5B and is designated for Medium Density Single-Family Residential development in the certified City of Del Mar LCP Land Use Plan. The proposed lot consolidation and residential construction are consistent with those designations. As conditioned, the proposed project is also consistent with all applicable Chapter 3 policies of the Coastal Act. Thus, the proposed development will not prejudice the ability of the City of Del Mar to complete preparation of its implementation program and attain a fully certifiable local coastal program.

6. California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

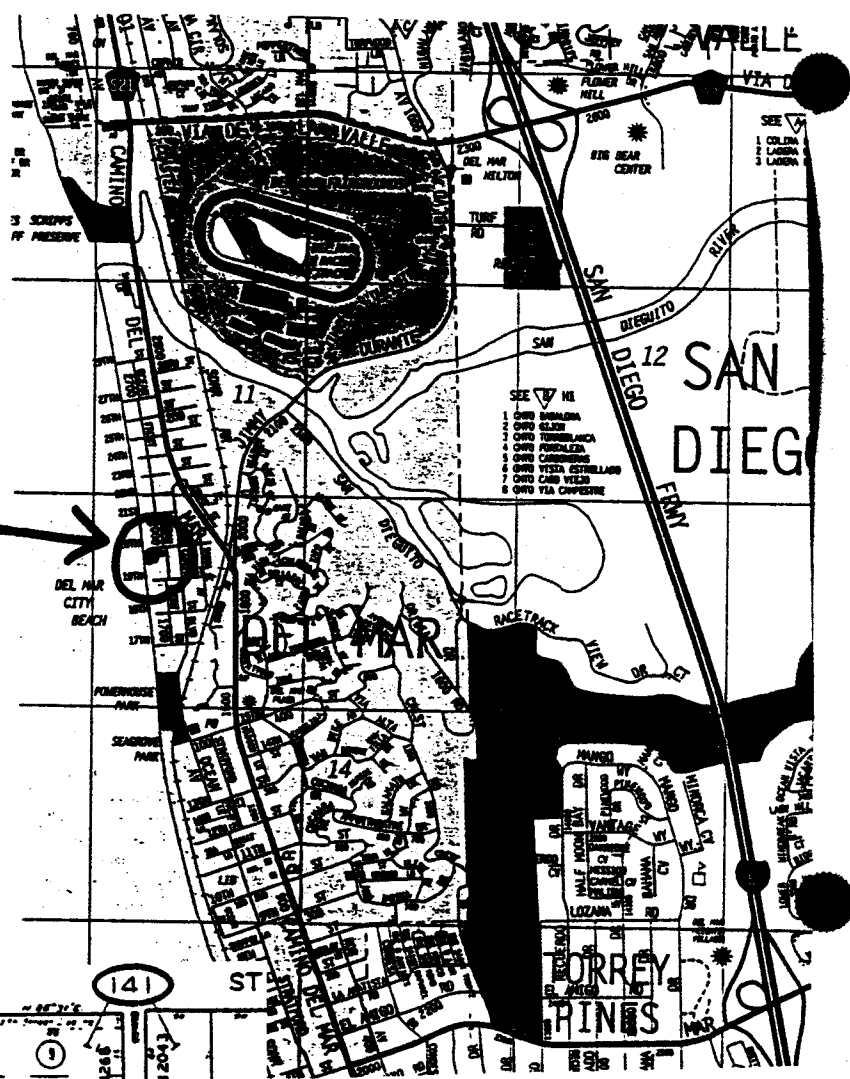
The proposed project has been found consistent with the hazards, public access and visual resource policies of the Coastal Act. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. 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.

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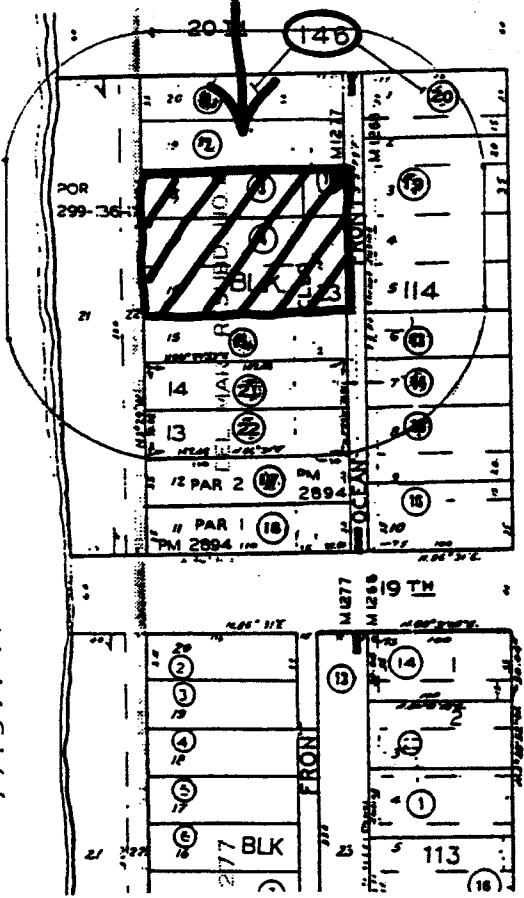


Site



OCEAN

PACIFIC



BOULEVARD

COAST

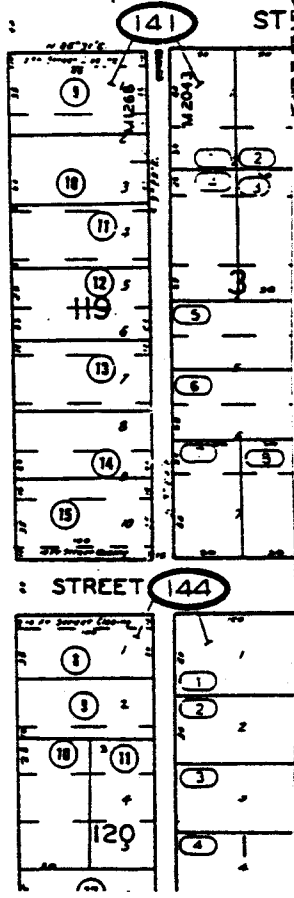


EXHIBIT NO. 1
APPLICATION NO.
6-99-39
Location Maps
California Coastal Commission

6-99-39

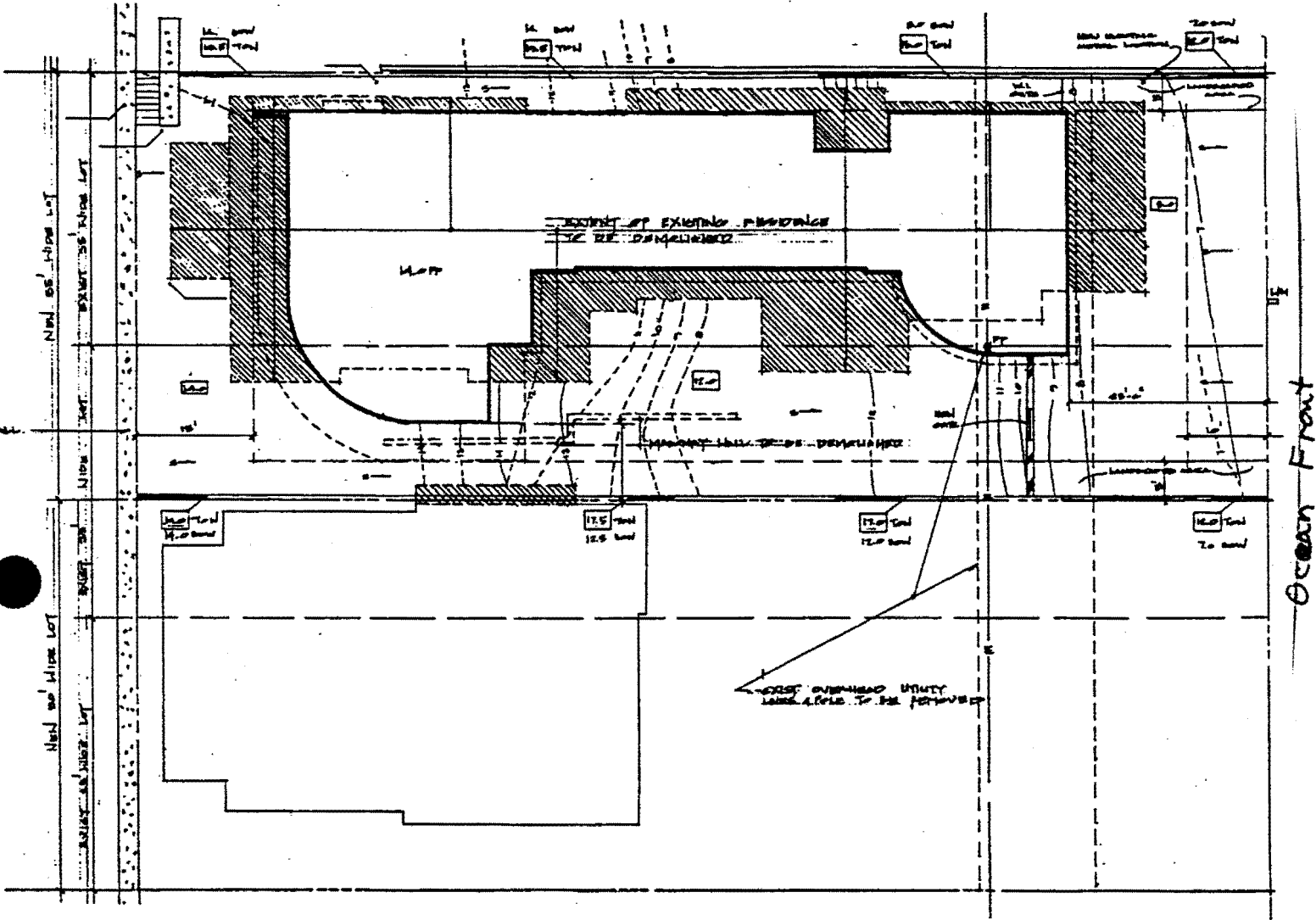


EXHIBIT NO. 2
APPLICATION NO.
6-99-39
Site Plan
California Coastal Commission