

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

3111 CAMINO DEL RIO NORTH, SUITE 200

SAN DIEGO, CA 92108-1725

(619) 521-8036



TH 12a

Staff: LRO-SD
 Staff Report: 5/17/99
 Hearing Date: 6/7-11/99

AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-82-238-A3

Applicant: Prospect Square, LLC

Agent: Lynne Heidel

Original Description: Demolition of five existing one-story commercial retail buildings and construction of a 3-story commercial retail-office building over subterranean parking with 13,738 sq.ft. of retail use, 4,500 sq.ft. of restaurant use and 10,738 sq.ft. of office space provided (total of 29,000 sq.ft.), along with 115 parking spaces.

Proposed Amendment: Amend project to change the usable lease space within the structure by eliminating the usable lease area in parking Level 'A' and providing six additional parking spaces in this location resulting in the provision of a total of 87 on-site parking spaces. The proposed changes will result in a total of 28,866 sq.ft. of usable lease area in the first three stories of the structure consisting of 14,528 sq.ft. of retail use, 4,446 sq.ft. of restaurant use and 9,892 sq.ft. of office use.

Site: 1011-1033 Prospect Street, La Jolla, San Diego, San Diego Co.
 APN 350-091-03

STAFF NOTES:

The subject amendment request was noticed as an immaterial amendment. During the ten-day notice period, adverse comments were received and the project has thus been scheduled for Commission review. Since original project approval in 1982, several changes have occurred to the existing building without benefit of a coastal development permit which have increased the leasehold space from 29,914 sq.ft. to 30,662 sq.ft. as well as resulting in a reduction in on-site parking spaces. However, through the proposed amendment, the leasehold space will be reduced to 28,866 sq.ft. and a total of 87 parking spaces will be provided which is adequate to serve the proposed uses. As such, the proposed permit amendment will result in conformance with the originally approved coastal development permit and the certified LCP.

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the subject amendment request as the proposed amendment, as conditioned, is consistent with the certified LCP.

Substantive File Documents: Certified La Jolla-La Jolla Shores LCP Addendum – 1983;
Certified La Jolla Planned District Ordinance; CDP 6-82-238; 6-82-238-
A1 and –A2

PRELIMINARY 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.

1. Future Development. This permit is for a change in the usable lease space consisting of 14,528 sq.ft. of retail use, 4,446 sq.ft. of restaurant use and 9,892 sq.ft. of office use within the first three stories of the existing structure resulting in a total of 28,866 sq.ft. of usable lease area. Also permitted is the elimination of the usable lease area in parking Level 'A' and provision of six additional parking spaces in this location resulting in the provision of a total of 87 on-site parking spaces. All other changes in use for the building or amount of on-site parking shall require review and approval by the Coastal Commission, or its successor in interest, under a separate coastal development permit or an amendment to this permit.

2. Prior Conditions of Approval. All conditions of the original permit not specifically modified herein shall remain in full force and effect.

III. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History/Amendment Description. The original coastal development permit for the existing structure was approved on 1/29/82 under CDP #6-82-238 and was

for the demolition of five existing one-story commercial retail buildings and construction of a three-story commercial retail-office building over a two-level subterranean parking garage with 13,738 sq.ft. of retail use, 4,500 sq.ft. of restaurant use and 10,738 sq.ft. of office space provided (total of 29,000 sq.ft.), along with 115 parking spaces. The permit required through Special Condition No. 2 that that the first floor be restricted to retail and/or visitor-serving uses through recordation of a deed restriction. Special Condition No. 4 required the applicant enter into an agreement with the Coastal Commission through recordation of a deed restriction stipulating that subject to final certification of the La Jolla Community Plan segment of the City's LCP, the applicant provide additional parking, modify use space with the structure or provide appropriate in-lieu fees for alternative forms of transportation, in order to comply with any future increases in parking spaces or use requirements resulting from the final certification of the LCP. Two other conditions (Nos. 1 and 3 simply required final plans of the proposed uses, etc.).

The permit was subsequently amended through a non-material amendment on 7/11/83 as follows: Increase restaurant use to 4,500 sq.ft., retail use to 13,617 sq.ft., office use to 11,800 sq.ft. (total of 29,917 sq.ft.) and modify on-site parking from 115 spaces to 92 spaces. A second non-material amendment was subsequently approved on 8/2/84. That amendment essentially resulted in changes to the special conditions of the original permit pertaining to parking and use restrictions such that the parking and uses in the structure be permitted consistent with the certified La Jolla Land Use Plan. As such, the permit amendment permitted the usable square footage in the building as follows: 2,305 sq.ft. at Parking Level "A", 8,172 sq.ft. at first level, 8,968 sq.ft. at second level and 10,469 sq.ft. at third level (total of 29,914 sq.ft.). The amendment also specified that the total office/financial uses would not be permitted to exceed 65% (19,444 sq.ft.) of the total gross floor area of the structure (29,914 sq.ft.). Parking was required to be provided on-site based upon the usable square footage and in the following ratios: Office - 1:250 sq.ft., Restaurant, 1:200 sq.ft., Retail - 1:600 sq.ft. and Financial - 1:300 sq.ft. No office use restrictions were placed on Parking Level "A" or the second and third levels of the structure but the first level was restricted such that office use not exceed more than 25% of the floor area (19,444 sq.ft.) on the Prospect Street frontage, pursuant to the La Jolla Land Use Plan. Therefore, CDP #6-82-283-A2 superseded the conditions of approval of the original permit.

The applicant is currently proposing to amend the previous permit by making several changes to the usable lease area in the structure which will include a reduction in leasehold space as well as exterior and interior remodelling of the building. Specifically, the applicant proposes to amend the project to change the usable lease space within the structure by eliminating the usable lease area in Parking Level "A" and providing six additional parking spaces in this location resulting in the provision of a total of 87 on-site parking spaces which will meet the requirements for the total amount of leasehold space proposed. The proposed changes will result in a total of 28,866 sq.ft. of usable lease area in the first three stories of the structure consisting of 14,528 sq.ft. of retail use, 4,446 sq.ft. of restaurant use and 9,892 sq.ft. of office use.

The subject site is located on the south side of Prospect Street between Girard and Herschel Avenues in the downtown commercial core area of La Jolla in the City of San Diego. The site is also located one block inland from Ellen Browning Scripps Park which is a large public recreational area adjacent to the ocean. Many of the commercial areas in downtown La Jolla along Prospect Street are within easy walking distance to the shoreline including the popular visitor-destination points of La Jolla Cove, Ellen Browning Scripps Park, Shell Beach and Seal Rock Marine Mammal Reserve, etc.

The subject site is located in the City of San Diego's LCP permit jurisdiction, however, the applicant is amending a previously approved permit issued by the Commission prior to certification of the City's LCP. Therefore, the Commission must review the amendment utilizing the certified LCP as the standard of review.

2. Discussion of Issues/Objections to Amendment. The subject amendment request was circulated as an immaterial amendment. During the ten-day notice period which began on 4/8/99 for the proposed immaterial amendment, one letter of objection/concern was received dated 4/15/99 (ref. Exhibit No. 3) and as such, the proposed request has been scheduled for review as a material amendment.

The letter of objection raises many concerns regarding the proposed amendment, each which will be addressed herein. The first concern raised is that the proposed project is not qualified for an exemption from the coastal development permit review process, because the project will include improvements and replacement of more than 50% of the existing exterior walls, pursuant to the City's municipal code. In addition, it is further stated that the project is not eligible for an exemption because it involves an intensification of use. In response to this statement, the subject project is not being processed as an exemption but rather, as an amendment to the original coastal development permit approved by the Coastal Commission. The project did not require a permit from the City because the applicant is amending a previously approved coastal development permit issued by the Coastal Commission in 1982 prior to the certification of the City's LCP. The permit has been previously amended in 1983 and 1984. In addition, with regard to the extent of demolition proposed, the applicant has verified that only 16 percent of the exterior walls are being demolished. Pursuant to the City's municipal code, if the development does not involve more than 50% demolition of the exterior walls, then it is not defined as new development which would require a new coastal development permit.

In response to the opponents' statement that the proposed development represents an intensification in use, the Section 105.0204 of the City's municipal code defines an intensification of use as follows:

“...a change in the use of a lot or premises which, based upon the provisions of the underlying zone, requires more off-street parking than did the immediately preceding legal use of such lot or premises.”

The existing uses in the building presently require 100 parking spaces. The changes to the project result in a reduction in the existing square footage of the uses in the building and thus, in the number of parking spaces required. As proposed to be amended through the proposed change in leasehold space, a total of 86 on site parking spaces will be required and 87 are proposed. As such, while the proposed amendment does represent a change in intensity of use, the resulting change is a decrease in intensity, not an intensification of use, pursuant to the City's municipal code.

Another objection raised by the project opponents is that the proposed development is an amendment to the original coastal development permit and as such, should be reviewed pursuant to the City's municipal code which includes conducting public hearings, etc. However, the citations of the municipal code raised by the opponents do not apply to this project because the applicant possesses a valid coastal development permit from the Coastal Commission. As stated in Section 111.0213 of the City's municipal code:

“Any person who has a valid ‘Coastal Development Permit’ from the Coastal Commission is not required to obtain a coastal development permit for that same development the City. The Coastal Commission is exclusively responsible for the issuance of an amendment to the coastal development permit approved by the Commission, regardless of the jurisdiction boundaries governing applications for coastal development permit.”

As such, the applicant is proposing to amend the original coastal development permit issued by the Coastal Commission.

Another concern raised by the project opponents is that the project is located in the central business district of La Jolla and that conditions should be placed upon the proposed development such that construction occurs during the “off season” and not during the “peak season” or the middle of summer. The opponents indicate that the summer months result in the highest volume of traffic within the congested area of downtown La Jolla. The opponents are further concerned with the construction of a barricade along the sidewalk.

In response to this concern, the applicants have indicated that project construction is scheduled to occur between the months of May through October. The applicants have also indicated that all precautions will be taken to assure that there will be no interruption to either vehicular or pedestrian traffic as a result of the proposed project. Two-way pedestrian traffic will be provided in front of the building through a covered pedestrian walk on the sidewalk and existing street parking will be maintained. The Commission has typically required that construction activities that are proposed in heavily congested nearshore areas, such as the subject site, be required to maintain through traffic in both directions along major roadways and coastal access routes. In this particular case, it has been noted that two-way traffic will be maintained along Prospect Street and that the sidewalk will remain available for public use during construction activities, therefore, there is no need to restrict the construction activities such that work does not occur during the summer months.

As noted previously, the subject development, was originally conditioned to require that the applicants enter into an agreement with the Coastal Commission that stipulated that subject to final certification of the La Jolla community plan segment of the City's of San Diego's LCP, that the applicant or successors in interest:

“...shall provide additional parking spaces, modify use space within the existing building, or provide appropriate in-lieu fees for alternative forms of transportation, in order to comply with any future increases in parking space per use requirements resulting from final certification of the LCP. This agreement shall be set forth in a recorded restriction with such restriction being a covenant running with the land.”

The deed restriction was never rescinded, but the provisions of the original permit condition were only required in the event that the parking ratios were increased as a result of the adoption and certification of the LCP. When the LCP was adopted and certified, however, the parking ratios did not increase, therefore, the provisions of the deed restriction were not required.

However, unlike projects that occur either on the beach or in public recreational areas adjacent to the ocean, the proposed project is located in the downtown commercial core area of La Jolla. As such, restrictions are not placed on development proposals in the downtown area or commercial areas of La Jolla as they would be if development were occurring on the beach itself. The proposed development should not adversely affect parking or traffic in the downtown area and if any construction impacts do occur, they will be temporary, in nature.

Another area of concern raised by the project opponents pertains to a community-initiated proposal known as the “Dip” project in La Jolla. The “Dip” refers to a grade separation along Prospect Street where the roadway is divided and the southbound portion contains a “dip” and the northbound section is at a higher elevation. The project opponent raises concerns with regard to the subject proposal's potential ability to prejudice completion of the conceptual “Dip” project.

However, the Dip proposal has not yet been approved by the City of San Diego and it is somewhat premature to regard the subject development as prejudicing the feasibility of the Dip project in the future. When the Coastal Commission reviewed the initial concept of the “Dip” project contained in the updated La Jolla Community Plan in 1995, there were many concerns related to public access associated with such a proposal. At that time, the proposal included recommendations to eliminate the one-way traffic and parking along the upper portion of Prospect Street and to maintain through traffic in both directions along the lower portion of Prospect Street. In the findings for the staff report dated 4/17/95 on the updated Land Use Plan for La Jolla (City of San Diego LCP Amendment No. 2-95B), the Commission included a suggested modification that stated, “...no parking shall be eliminated along the upper portion of Prospect Street unless it is replaced within the immediate area.” It also called for maintenance of through traffic in

both directions along the lower portion of Prospect Street. The updated La Jolla Land Use Plan was approved by the Commission in 1995 but never became effectively certified due to outstanding concerns on the part of the City with regard to public view issues. Any public access concerns associated with such a proposal in the future must be resolved before any final proposal is ultimately approved by either the City or Coastal Commission and prior to incorporation into the community land use plan.

The applicant's representative has also responded to this concern and has indicated that the City has not approved the proposal to close a portion of Prospect Street, therefore, the proposed amendment would not affect the "Dip" project. In addition, the proposed amendment affects only the subject property and does not impact any of the public right-of-way, which is where the Dip project would be located. As noted by the applicant, if the Dip project is approved at some future date, the subject project would not prejudice it from being constructed.

The last concern raised by the opponents is that the project has not been brought to the attention of Promote La Jolla (project opponent) nor has it been presented to the community as a courtesy. According to the applicant, a notice describing the proposed project has been posted on the site since March 18, 1999. In addition, a public notice was mailed to all property owners and tenants within 100 feet of the project site. The applicant further explains that the project was not presented to the recognized community planning groups because it did not require any discretionary permits from the City of San Diego. The applicant has provided adequate notice to the surrounding property owners and has posted the notice of proposed development on the subject property which suffices as adequate notice to the community of the subject proposal, pursuant to Coastal Commission regulations. In summary, none of the objections discussed above or in the letter dated 4/15/99 by the project opponents render the proposed amendment inconsistent with the certified LCP.

3. Parking/Public Access. The City's certified LCP requires that adequate parking be provided in the coastal zone. Upon reliance of Section 30252(4) of the Coastal Act which states, in part, "the location and amount of new development should maintain and enhance public access to the coast by...providing adequate parking....", the certified La Jolla PDO requires adequate parking be available on-site to avoid displacement and usurption of street parking for beach visitors.

In coastal communities, and particularly in their nearshore or key visitor destination spots and along major coastal access routes, the Commission is concerned about assuring the adequacy of off-street parking to support proposed development. This concern arises out of the fact that should sufficient off-street parking not be provided, displacement of available public parking or street parking may result which could have adverse impacts on access to the coastline. In La Jolla, like most other areas of the City of San Diego, there is very little available public parking facilities. Most beach visitors must rely on street parking in the nearshore area for public access. In downtown La Jolla, this situation is exacerbated by the fact that parking is often competitively sought by both patrons of businesses as well as beachgoers.

As noted previously, the project site is located on the south side of Prospect Street between Girard and Herschel Avenues, one block east of Ellen Browning Scripps Park which is adjacent to the ocean. The project site is also within the La Jolla Planned District Ordinance (PDO) which governs the subject area where the site is located and generally covers the commercial core area of La Jolla. The PDO was certified by the Coastal Commission in 1985. The parking standards for this area are: 1 space for each 600 sq.ft. of retail use, 1 space for each 300 sq.ft. of financial institution use, 1 space for each 250 sq.ft. of office use and 1 space for each 200 sq.ft. of restaurant use.

The applicant has indicated that after the initial approval of the structure in 1982, several changes were made to the building which increased the leasehold space from 29,914 sq.ft. to 30,662 sq.ft. and also resulted in a reduction in on-site parking. According to the applicant, some of these changes were approved by the City through issuance of building permits, however, the changes may not have been in conformance with the coastal development permit. These changes occurred without the benefit of a coastal development permit, in an apparent violation of the Coastal Act. Currently, the amount of parking provided in the subterranean parking garage is 81 spaces which is not sufficient to meet the requirements for the present uses in the building. With a current total of 7,623 sq.ft. of restaurant use, 13,000 sq.ft. of retail use and 10,039 sq.ft. of office use in the building, the parking presently required is 100 spaces, pursuant to the requirements the La Jolla Planned District Ordinance (PDO). Through the proposed amendment request, the proposed remodel of the structure will bring the building into conformity with the certified LCP.

The breakdown of uses for the mixed-use building proposed with the subject amendment is 14,528 sq.ft. of retail use, 4,446 sq.ft. of restaurant use and 9,892 sq.ft. of office use. Therefore, the required parking for the proposed uses is as follows:

Retail – 14,528 sq.ft. @ 1:600 sq.ft.	=	24
Restaurant – 4,446 sq.ft. @ 1:200 sq.ft.	=	22
Office – 9,892 sq.ft. @ 1:250	=	<u>40</u>
		86

In addition, through a reduction in the leasehold space and deletion of existing restaurant leasehold space from Parking level "A" of the existing two-level parking garage, six additional parking spaces will be provided at this level for a total of 87 on-site parking spaces. With the provision of a total of 87 parking spaces in the two-level subterranean parking garage, adequate parking will be provided for all proposed uses in the building, consistent with the certified LCP. To further assure that no future changes occur that would adversely affect on-site parking, Special Condition No. 1 is being attached which advises the applicant that any future changes in use or parking shall be reviewed as either a new coastal development permit or as an amendment to the subject permit. As conditioned, the proposed amendment can be found consistent with the certified LCP.

4. **Visual Resources.** The certified La Jolla-La Jolla Shores LCP contains several policies addressing the protection of visual resources and community character. Some of these policies state the following:

"The height and bulk of new buildings should be consistent with that of other buildings in the surrounding neighborhood."

"Ocean views and other scenic vistas should be preserved and enhanced. Development which tends to "wall-off" the central commercial district from the ocean should be prevented."

The proposed amendment will not alter the project's consistency with visual resource protection policies of the certified LCP. The proposed changes, both exterior and interior, are architectural in nature and will not adversely affect public views toward the ocean. The project site is located on the inland side of Prospect Street between Girard and Herschel Avenues just opposite a designated public view corridor. The view corridor commences on the western side of Prospect Street at its intersection with the western segment of Girard Avenue and extends in a westerly direction down across Coast Boulevard and then across Ellen Browning Scripps Park toward the ocean (ref. Exhibit No. 3). In addition, Prospect Street is designated as a scenic roadway in the certified LCP. However, as noted previously, the proposed changes to the building are cosmetic and largely consist of interior renovations and changes in leasehold space within the building. Given that the site is located on the inland side of Prospect Street and is not between the view corridor and the ocean, no impacts to the public view corridor or to public views otherwise will result from the proposed amended project. In addition, on-site landscaping will be retained. Further, the proposed remodeling of the building will remain compatible in scale and character with the surrounding downtown commercial area and will not result in any adverse visual impacts, consistent with the certified LCP.

5. **No Waiver of Violation.** As noted previously, the applicant has indicated that since approval of the original project July of 1982, changes were made to the building which increased the leasehold space from 29,914 sq.ft. to 30,662 sq.ft. These changes occurred without the benefit of a coastal development permit, in an apparent violation of the Coastal Act. Through the proposed amendment request, the proposed remodel of the structure which will result in a reduction in leasehold space to 28,866 sq.ft. and the provision of six additional parking spaces in the subterranean parking garage for a total of 87 on-site spaces, will bring the structure back into conformity with the approved coastal development permit and the certified LCP.

Although development has taken place prior to submission of this permit amendment, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of the permit does not constitute a waiver of any legal action with regard to this violation of the Coastal Act that may have occurred; nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

6. Local Coastal Planning. Section 30604(a) also 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.

The subject site is located within the La Jolla segment of the City of San Diego's certified LCP. The subject site is located in the City's permit jurisdiction, however, the applicant is amending a previously approved permit issued by the Commission prior to the City's permit authority being transferred. As such, the standard of review is the certified LCP. In addition, the proposed amendment results in a change in the intensity of use, which is defined as "development" pursuant to the Coastal Act, and as such, requires a coastal development permit (in this case, an amendment to a coastal development permit). The site is currently located in Zone 1 (Girard Avenue/Prospect Street) of the certified La Jolla Planned District Ordinance (PDO). Zone 1 of the PDO designates the area as the primary retail and visitor-oriented commercial area in the core of La Jolla. For this zone, the PDO require that office uses not exceed 25% of the ground floor, in this case, the Prospect Street frontage. The amended project will result in a total of 9,890 sq.ft. of office use on the third floor of the structure with the entire ground floor occupied by retail use. As such, it is consistent with the certified LCP. Furthermore, the proposed changes and total amount of usable lease area in the structure are fully consistent with the approved project, as last amended, by the Coastal Commission. The proposed remodelling to change the usable lease space within the existing three-story mixed-use structure does not raise any conflicts with these designations and can be found consistent with the City's certified LCP. Therefore, the Commission finds that approval of the amendment, should not result in any adverse impacts to coastal resources nor prejudice the ability of the City of San Diego to continue to implement its fully-certified LCP for the La Jolla area.

7. Consistency with the 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 conditioned in order to be found consistent with the public access policies of the Coastal Act. Mitigation measures, including conditions addressing future development, will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project 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.

AN

SUBMERGED LAND AREA

(PRIVATE)

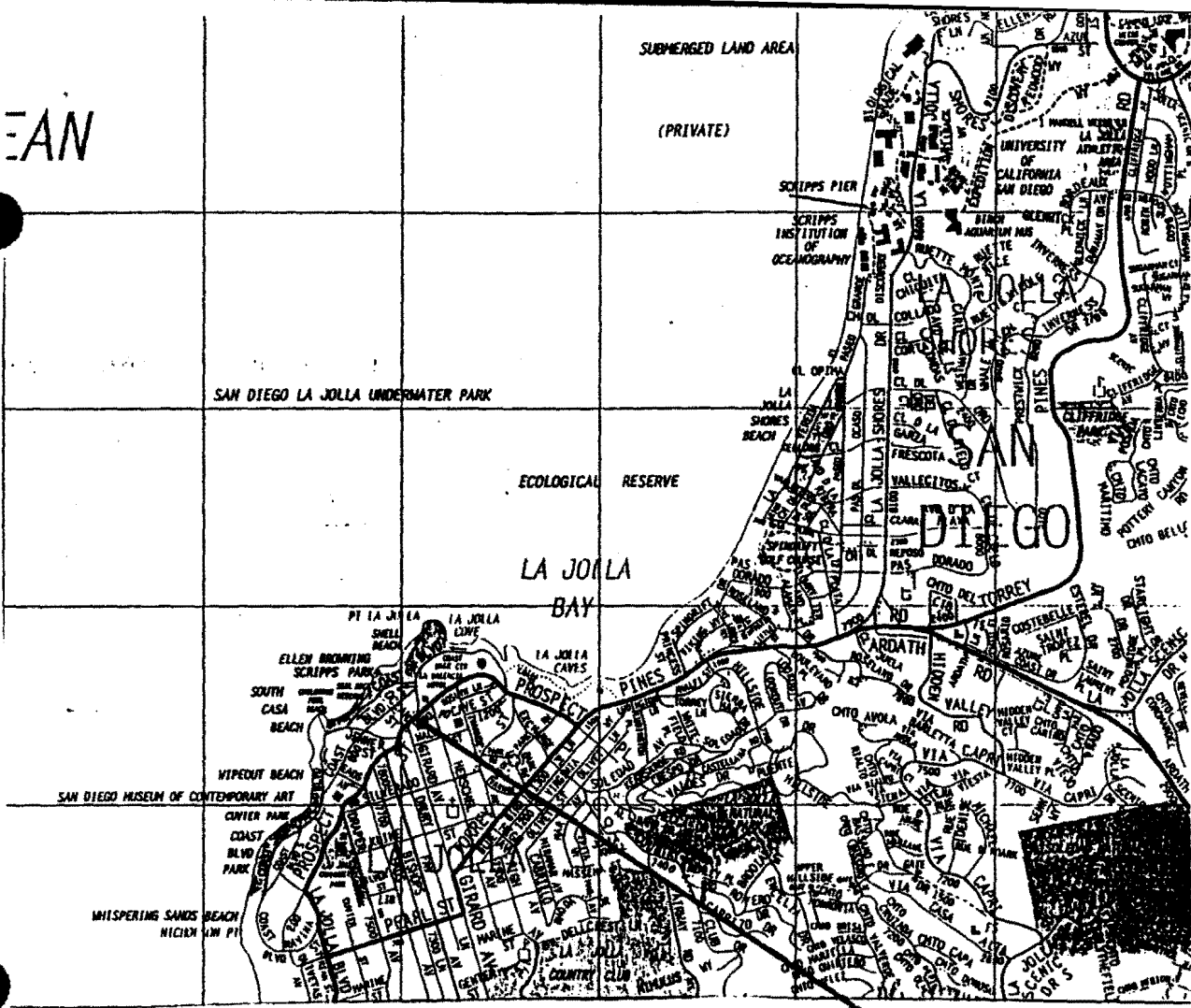
SAN DIEGO LA JOLLA UNDERMATER PARK

ECOLOGICAL RESERVE

LA JOLLA BAY

SCRIPPS PIER
SCRIPPS INSTITUTION OF OCEANOGRAPHY

SAN DIEGO



SITE

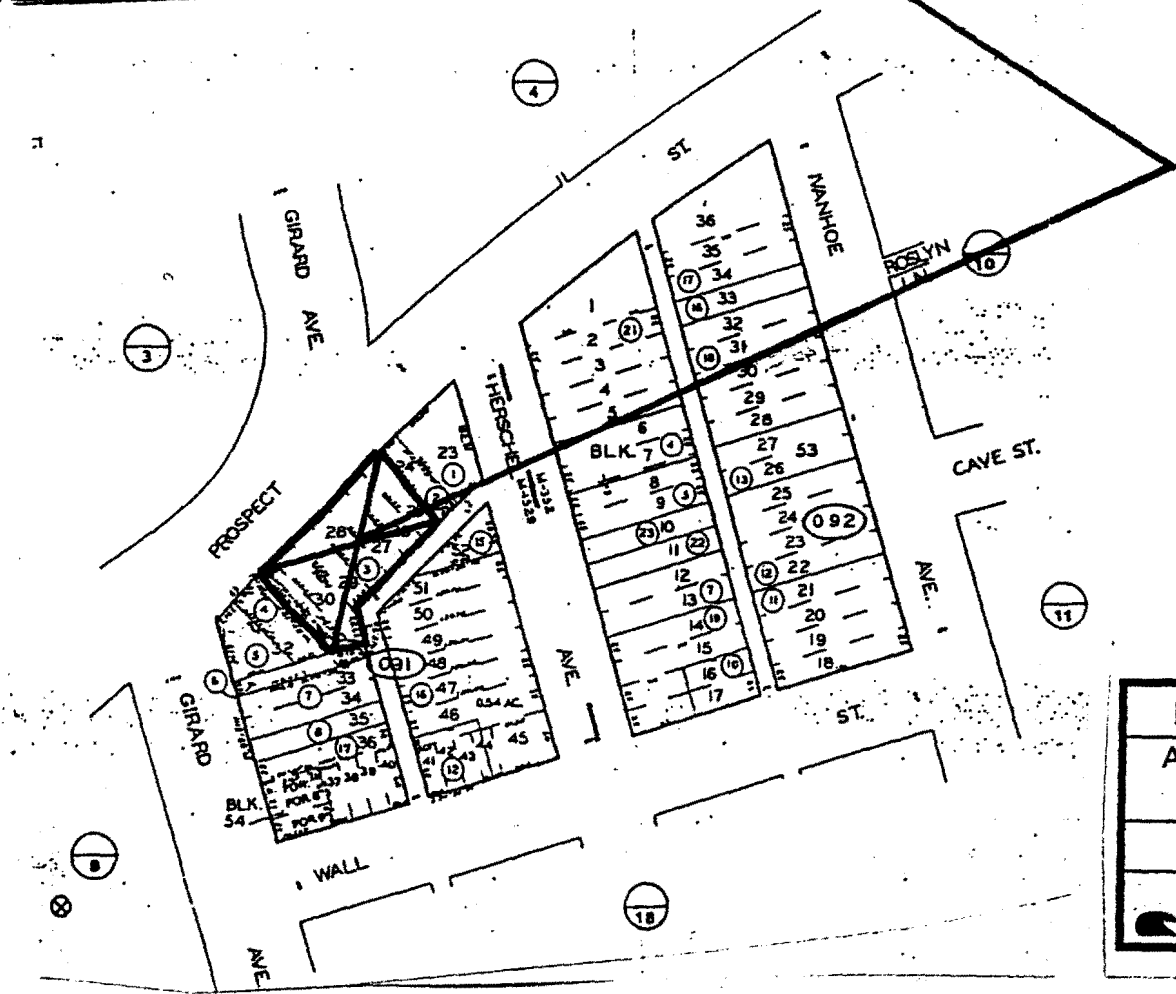

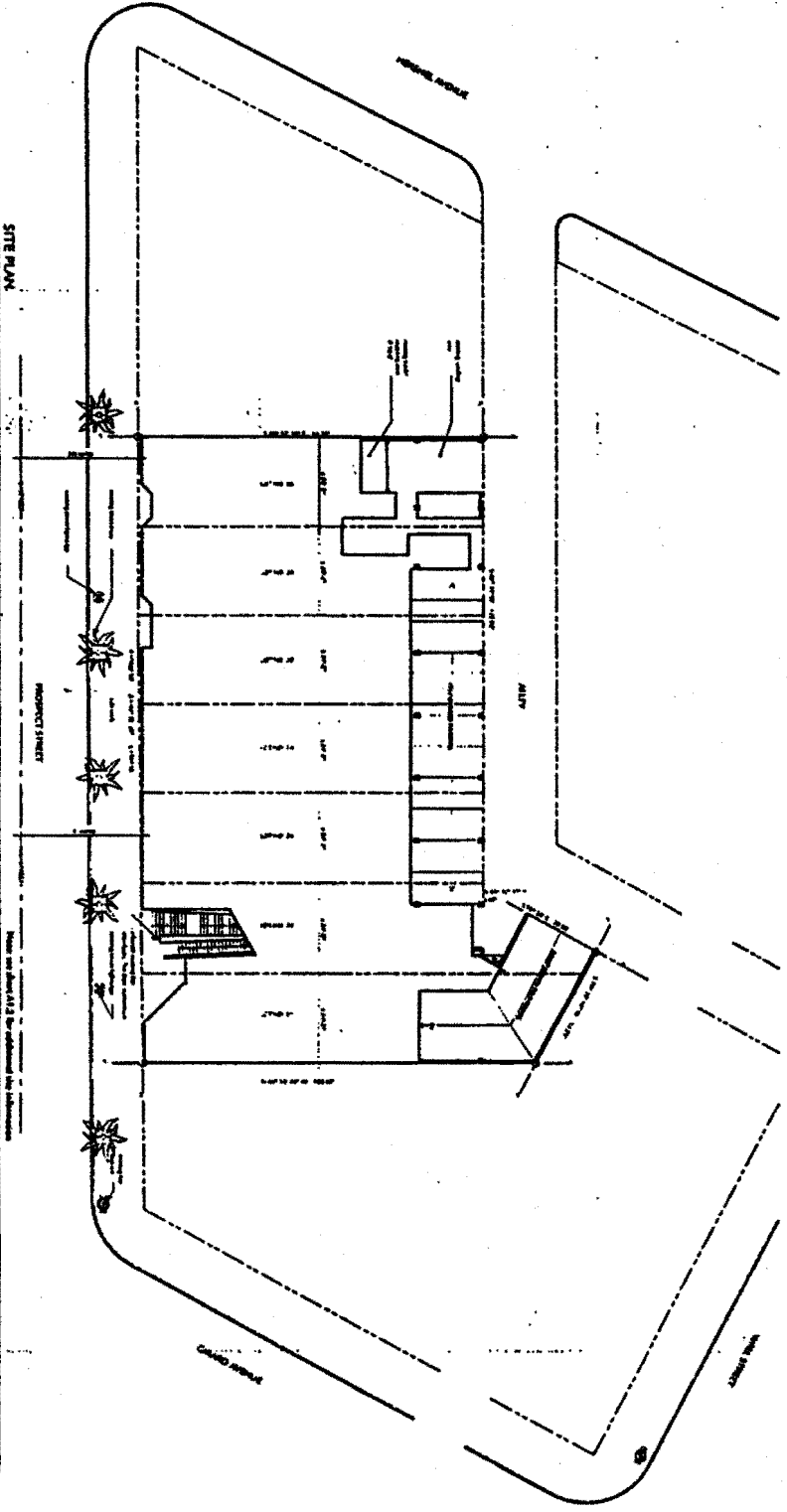


EXHIBIT NO. 1
APPLICATION NO.
6-82-238-A3
Location Map
 California Coastal Commission

RECEIVED

MAY 19 1999

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

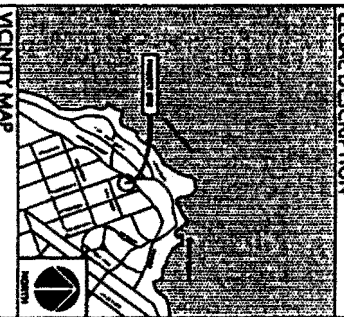


PROJECT INFORMATION

<p>Type of construction: Type I - new home, 1000 sq. ft.</p>	<p>Area: 1000 sq. ft.</p>	<p>Use: Residential</p>
<p>Type II - commercial, 1000 sq. ft.</p>	<p>Area: 1000 sq. ft.</p>	<p>Use: Commercial</p>
<p>Other: 1000 sq. ft.</p>	<p>Area: 1000 sq. ft.</p>	<p>Use: Other</p>
<p>Public Use: 1000 sq. ft.</p>	<p>Area: 1000 sq. ft.</p>	<p>Use: Public</p>

EXHIBIT NO. 2
APPLICATION NO.
6-82-238-A3
Site Plan

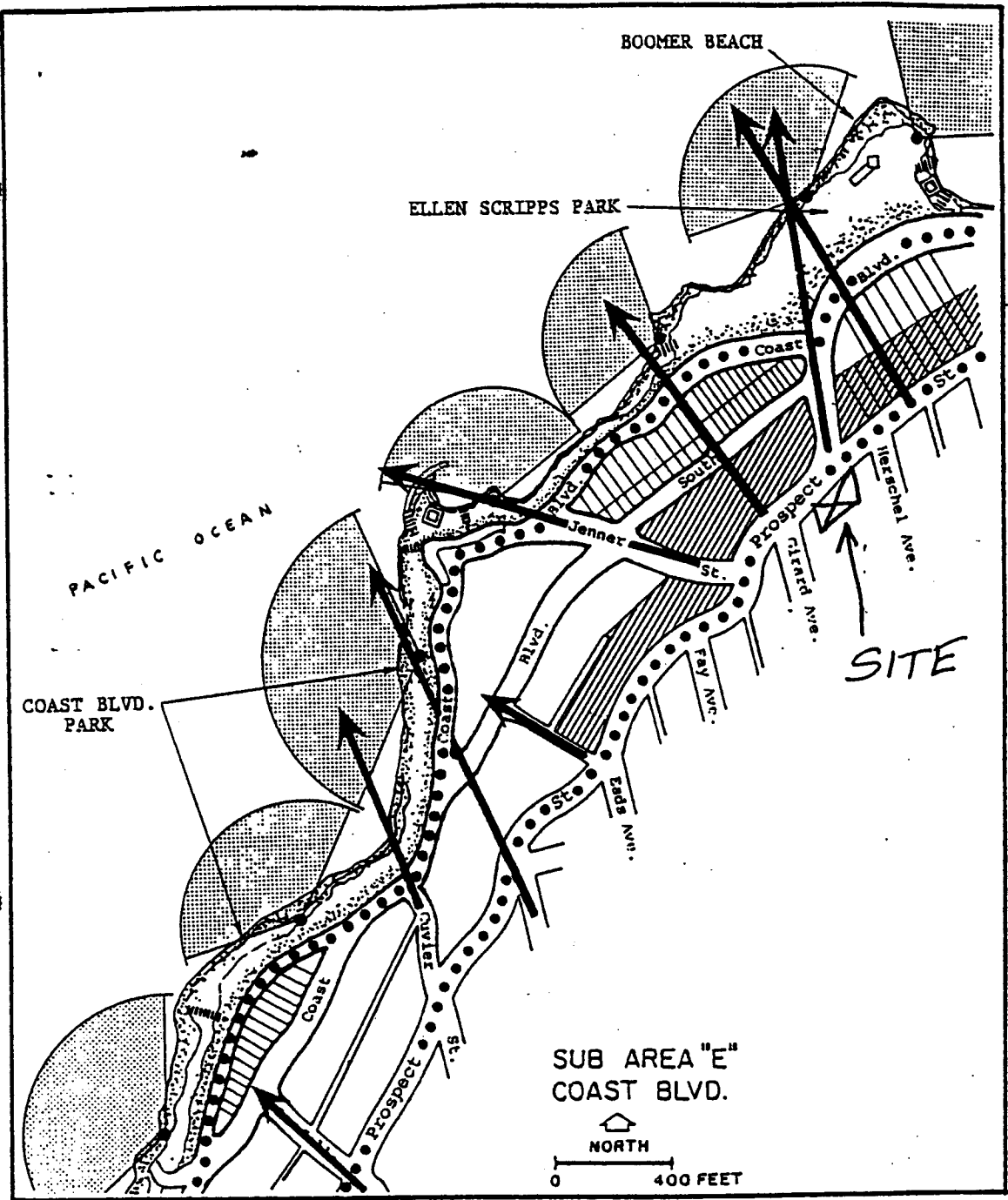
California Coastal Commission



LEGAL DESCRIPTION

add 'i' project info (landscaping)

20' of
100' of
Add Area



La Jolla • La Jolla Shores

LOCAL COASTAL PROGRAM • VISUAL ACCESS



**CITY OF SAN DIEGO
PLANNING DEPARTMENT**

- ● ● SCENIC ROADWAY
- MAJOR VISTA POINT
- ← VISUAL ACCESS CORRIDOR (existing)
- ▨ HIGH POTENTIAL FOR VISUAL ACCESS IN COMMERCIAL DEVELOPMENT

EXHIBIT NO. 3
APPLICATION NO.
6-82-238-A3
Designated Public View Corridor
California Coastal Commission



PROMOTE LA JOLLA INC.
*Administrators for the
La Jolla Business Improvement District*

From the desk of
Joost H. Bende, President

RECEIVED

APR 16 1999

RECEIVED CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

APR 16 1999

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

April 15, 1999

Peter Douglas, Executive Director
California Coastal Commission,
San Diego Area
3111 Camino del Rio North, Suite 200
San Diego, CA 92108-1725

RE: Proposed amendment to the original Coastal Development Permit; permit no: 6-82-238-A3 granted to: Prospect Square Associates (Prospect Square LLC c/o Pacific Equity Properties, Inc.

Dear Mr. Douglas,

Please be notified that Promote La Jolla Inc., the administrators of the La Jolla Business Improvement District, (consisting of 1400 members and California's largest business improvement district) in which the subject property resides, is hereby filing an objection to the amendment of the above mentioned permit. In a motion taken by the Board of Directors of Promote La Jolla Inc., at a regularly noticed and public Board of Director's meeting, strong objection to the amendment of this permit was voiced and heard, and action taken accordingly. As the President of that organization duly authorized by the Board of Director's motion, which passed unanimously, (13-0, 2 absent) I hereby file our objection upon the following grounds:

This project is not qualified for an exemption from the Coastal Development Permit review process, because this project contains improvements and replacement of more than 50% of the existing exterior walls. (San Diego Municipal Code, section 105.0204.A.1)

This project is not qualified for an exemption from the Coastal Development Permit review process, because this project does contain an intensification of use. The uses classified in the project as accessory are clearly a restaurant use, and present an intensification of use. (San Diego Municipal Code, section 105.0204.A.4)

Furthermore, Promote La Jolla Inc. strongly objects to the applicant's obfuscation of the local review process. This project appears to be in violation of section 105.0215 of the San Diego Municipal Code. As this project is an amendment to the above referenced Coastal Development Permit, I hereby cite the code for your clarification:

P.O. Box 9047 • La Jolla, California 92038 • (619) 454-5718 • Fax (619) 4

EXHIBIT NO. 4
APPLICATION NO. 6-82-238-A3
Letter of Objection
California Coastal Commission



PROMOTE LA JOLLA INC.
*Administrators for the
 La Jolla Business Improvement District*

From the desk of:
 Joost H. Bende, President

Section 105.0215 Amendments to Coastal Development Permits

...B. An application for an amendment to a coastal development permit shall be in writing and shall be filed by the owner of the property covered by the permit. The application shall be filed with the Planning Director. In the case of all amendments, the noticing and public hearing requirements of SEC. 105.0206 shall apply. (Emphasis added.) The decision of the Planning Director shall be by resolution and shall contain the findings of fact relied upon in reaching that decision.

Clearly this project is an amendment to the original Coastal Development Permit and as such should go through the proper procedures and public review as required by section 105.0215 of the San Diego Municipal Code.

Furthermore, Promote La Jolla Inc. files this objection based upon the parameters of the project and the effects of it upon the community and its constituency. This project occurs in the hub of the central business district. Conditions must be placed upon this amended permit for construction to occur in the "off-season" and not the "peak season," or the middle of the summer. The summer months represent the highest volume of traffic within the congested village area of downtown La Jolla. The impact of this project upon our local summer economy will be devastating. Construction of a project, inclusive of barricading the sidewalk will literally create a "Berlin Wall" within the community; consideration must be given to the entire business community, as this project will divide it in half.

Promote La Jolla Inc. also objects to the subject property's continual reduction of the capacity of its parking facility. Councilmember Harry Mathis and Mayor Susan Golding have personally recognized the need for additional parking within the village of La Jolla, and the San Diego City Council has created the La Jolla Parking Advisory Committee to solve this issue. An applicant who reduces their existing parking reservoir is in direct opposition of all documented evidence of the needs for additional parking in this highly impacted business and coastal area.

P.O. Box 9047 • La Jolla, California 92038 • (619) 454-5718 • Fax (619) 454-5038



PROMOTE LA JOLLA INC.
Administrators for the
La Jolla Business Improvement District

From the desk of:
 Joost H. Bende, President

Finally and most importantly, Promote La Jolla Inc. is concerned about the possible missed opportunities presented by this project. Please find attached the community-approved proposal for the "Dip" project. The "Dip" project has been approved by all three community groups, the La Jolla Town Council, the La Jolla Community Planning Association, and Promote La Jolla Inc.

The existing garage at the subject property is underutilized. The entry of the existing garage is remotely located at the rear of the property, accessed through a narrow one-way alley. The updated "Dip" project, now known as the "Prospect Plaza," proposes among other items additional underground parking adjacent to the subject property and a direct connection with the subject property to better utilize this parking reservoir through public access from well traveled streets.

Promote La Jolla Inc. has further objections, concerns, and opportunities it wishes to present in a public forum, for the benefit of the applicant and the entire community. Promote La Jolla Inc. is a business organization and favors an appropriate improvement to the subject property. Yet, we are very concerned and object to the manner this large project at the hub of our central business district has been diverted from our attention and has not been presented to the community, even as a courtesy or out of common decency, by the applicant.

Best Regards,

Joost H. Bende, AIA
 President, Promote La Jolla Inc.

cc: Mark Steele, Chair, City of San Diego Planning Commission
 Mark Lyon, President, La Jolla Community Planning Association
 Martin Mosier, President, La Jolla Town Council
 Courtney Coyle, president-elect, La Jolla Town Council
 Claude Anthony Marengo, Chair, L.J. Coastal Development Permit Committee
 William Nelson, Chair, Parking Advisory Committee
 Bob Collins, Chair, La Jolla Traffic and Transportation Board
 Jeff Ramsey, Ramsey Real Estate Group

RECOMMENDATIONS:

Eliminate the one-way traffic and parking along the upper portion of Prospect. Maintain through traffic in both directions along the lower portion of Prospect.

Relocate parking spaces, removed from upper Prospect, to the lower area.

Use the space vacated by the parking and traffic lanes at upper Prospect to create a 15'-30' wide pedestrian promenade with outdoor cafes and seating areas.

Create an overlook to the ocean across Ellen Scripps Park. Plant a specimen Torrey Pine tree in the overlook to relate to the Scripps Park character.

Replace the existing retaining wall with a sloped garden made up of native and ornamental plants found along the La Jolla coast.

Add Mexican Fan Palms along all of the connecting streets to reinforce the link between Scripps Park and "The Dip".

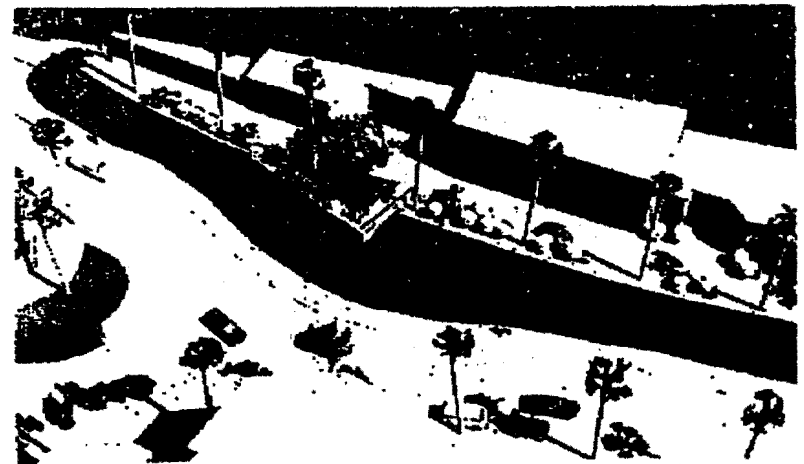
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"THE DIP"

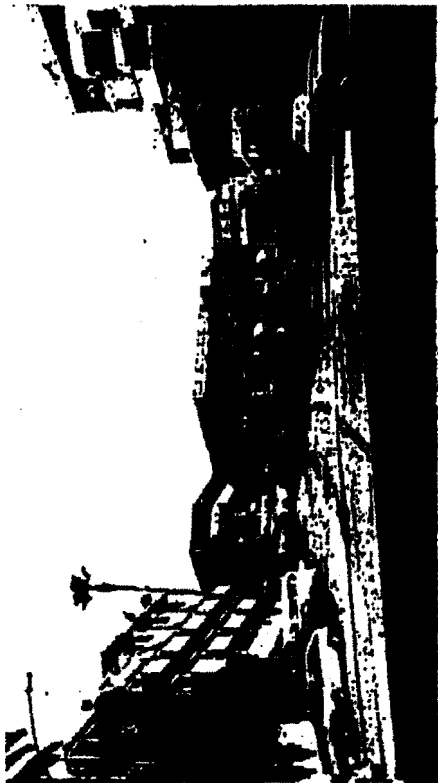
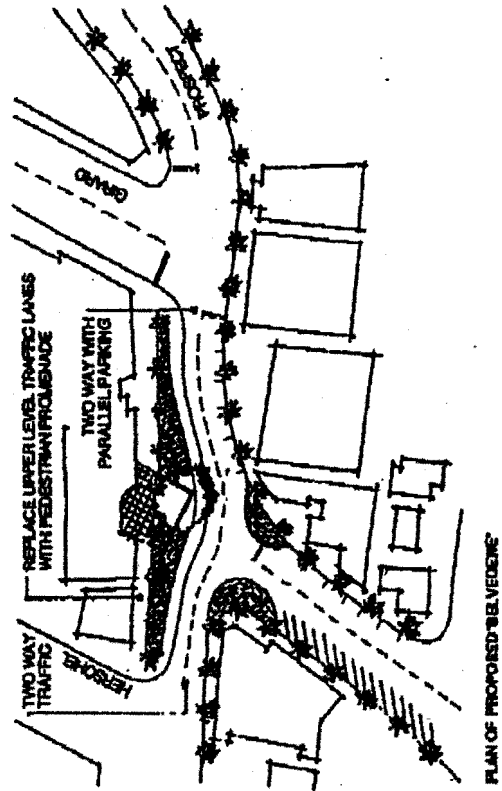
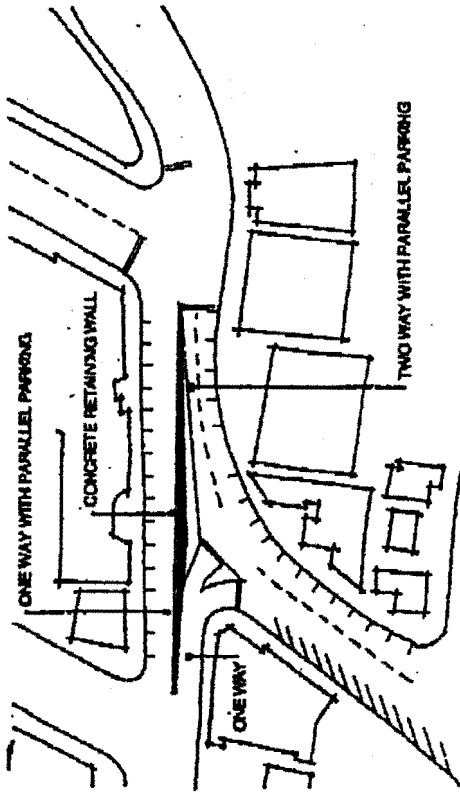
"The Dip" at Prospect Street and Girard Avenue is the most important, yet underutilized, place in the village. It is the link between the village and the sea. It is the one location in the village where the "wall of buildings" along the urban coastal ridge opens up to reveal the ocean view across Ellen Scripps Park.



EXISTING WALL AT PROSPECT STREET



PROPOSED "BELVEDERE" AT PROSPECT STREET



STEPHENSON WORLEY GARRATT SCHWARTZ HEIDEL & PRAIRIE

A LIMITED LIABILITY PARTNERSHIP

LAWYERS

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WRITER'S EXT. 110

April 22, 1999

RECEIVED

APR 26 1999

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

VIA FACSIMILE/FIRST CLASS MAIL

Ms. Laurinda Owens
CALIFORNIA COASTAL COMMISSION
3111 Camino del Rio North, Suite 200
San Diego, CA 92108

Re: Coastal Development Permit Amendment No. 6-82-238-A3

Dear Ms. Owens:

We are in receipt of the letter from Promote La Jolla dated April 15, 1999 that raises objections to the proposed amendment. The letter does not object to the determination of immateriality as defined in Title 14, Section 13166(a)(2) and (3). The letter is based upon erroneous assumptions and incorrect interpretations of City and State codes. In short, the letter presents objections that either do not apply to the project or are simply incorrect. For this reason, we do not believe this letter can serve as a basis upon which to set a public hearing for the amendment.

We have provided the following responses to each of the issues we identified in the letter:

1. Issue: The project is not qualified for an exemption under San Diego Municipal Code Section 105.0204.A.4 because it proposes to demolish more than 50 percent of the existing exterior walls.

Response:

- A. The applicant has not applied for an exemption under Municipal Code Section 105.0204.A.4, but has requested an amendment to the original Coastal Development Permit issued by the Coastal Commission in 1982, with amendments in 1983 and 1984. The existing building was constructed per the approved Coastal Development Permit. The applicant is amending that permit consistent with Municipal Code Section 111.1213 Permits Issued By The "Coastal Commission".

EXHIBIT NO. 5

APPLICATION NO.
6-82-238-A3

Letter from
Applicant's
Representative

California Coastal Commission

B. For the record, the project proposes to demolish approximately 16 percent of the exterior walls.

2. Issue: The project proposes an intensification of use.

Response: Intensification of use is defined in the Municipal Code Section 105.0204 as a change in the use of a lot or premises which, based upon the provisions of the underlying zone, requires more off-street parking than did the immediately preceding legal use of such lot or premises. The existing use of the lot requires approximately 99 parking spaces. The changes to the project as described in the amendment reduce the existing square footage and result in a reduction of the number of parking spaces required. As we indicated in our letter to you dated April 7, 1999, the proposed use will require 86 spaces, where 87 are being provided. Therefore, there is no intensification of use.

3. Issue: The applicant has obfuscated the local review process and is in violation of Municipal Code Section 105.0215.B.

Response: The above-referenced Municipal Code Section does not apply to this project, because a valid Coastal Development Permit from the Coastal Commission exists on the property. The Municipal Code Section that does apply to this project is Section 111.1213 which states the following:

"Any person who has a valid "Coastal Development Permit" from the "Coastal Commission" is not required to obtain a "Coastal Development Permit" for that same development from the City. The "Coastal Commission" shall be exclusively responsible for the issuance of an amendment to a "Coastal Development Permit" which has been approved by the "Coastal Commission", regardless of the jurisdictional boundaries governing applications for "Coastal Development Permits". The City may not grant a "Coastal Development Permit" for the same development on a site which has an approved "Coastal Development Permit" issued by the "Coastal Commission" unless such permit has expired or been forfeited to the "Coastal Commission".

The applicant has applied to amend the existing Coastal Development Permit through the Coastal Commission as required by the Municipal Code.

4. Issue: The project is objectionable because it proposes construction during the summer months and said construction will result in the barricading of the sidewalk.

Response: This objection is not relevant to a determination for approval or disapproval of an amendment to a Coastal Development Permit. The anticipated construction schedule is May to October. Although construction will occur during the summer months, the applicant has taken precautions to ensure that neither vehicular nor pedestrian traffic will be interrupted as a result. Two-way pedestrian traffic will be accommodated in front of the building via a covered pedestrian walk on the existing sidewalk and the existing street parking will be maintained.

5. Issue: The project proposes to reduce the existing parking capacity on the site.

Response: The project does not propose to reduce the number of parking spaces provided in the underground parking garage. In fact, as part of the amendment the applicant is proposing to eliminate the leasable square footage on Garage Level A and to provide 6 additional parking spaces in that location. The parking garage currently has 81 spaces. After the project is completed, the parking garage will have 87 spaces, where 86 spaces are required.

6. Issue: The project represents a "missed opportunity" with regard to the "dip" project.

Response: It is not clear from the letter what opportunity is being missed as a result of this project. To date, the City has not approved the proposal to close a portion of Prospect Street; therefore, there is no project that would be affected by this amendment. Furthermore, the proposed amendment affects only the subject property, and does not impact any of the public right-of-way, which is where the Prospect Plaza would be located. Therefore, if the "dip" project were approved in the future, this project would not preclude it from being constructed.

7. Issue: The project has been diverted from the attention of Promote La Jolla and has not been presented to the community.

Response: The project has not been diverted from the attention of the community or Promote La Jolla. A notice describing the proposed project has been posted on the site since March 18, 1999. In addition, a public notice was mailed to all property owners and tenants within 100 feet of the project site. The project has not been presented to the recognized community planning group, the La Jolla Community Planning Association, because it does not require any discretionary permits from the City.

We do not believe that the issues identified in the letter are valid. The proposed project does not increase the total building square footage and is consistent with the limitations

STEPHENSON WORLEY GARRATT SCHWARTZ HEIDEL & PRAIRIE, LLP

Ms. Laurinda Owens

CALIFORNIA COASTAL COMMISSION

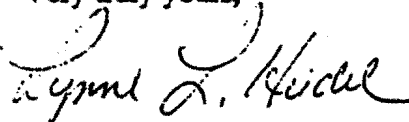
April 22, 1999

Page 4

identified in the existing permit. In addition, the project proposes to add parking within the existing parking garage. Basically, the project is a redistribution of the square footage within the existing building and it is consistent with the current Coastal Development Permit.

We appreciate your attention to this matter and hope to hear from you soon.

Very truly yours,



Lynne L. Heidel

Cc: Bryan Gordan