

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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SAN DIEGO, CA 92108-1725
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RECORD PACKET COPY

**Wed 7b**

Filed: 11/5/99
49th Day: 12/24/99
180th Day: 5/3/00
Staff: LRO-SD
Staff Report: 12/14/99
Hearing Date: 1/11-14/00

STAFF REPORT AND RECOMMENDATION ON APPEAL
SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of San Diego

DECISION: Approved with Conditions

APPEAL NO.: A-6-PEN-99-143

APPLICANT: Craig T. Irving

PROJECT DESCRIPTION: Demolition of a one-story, 1,765 sq.ft. single-family home and detached garage and construction of a new one-story, 8,010 sq.ft. single family residence, a detached garage with guest quarters above totaling 800 sq.ft., installation of a 5-6 ft. high perimeter fence around the project site, widening of an existing paved access drive on the east from approximately 10 feet to 12 feet with four-foot wide shoulders and construction of an approximately 160-foot long, 12-foot wide access driveway for a neighboring lot to the north on a 1.3 acre hillside site consisting of two lots.

PROJECT LOCATION: 3900 Lomaland Drive, Point Loma, San Diego, San Diego County. APNS 532-034-04 AND 532-510-05

APPELLANTS: California Coastal Commissioners Sara Wan and Christine Kehoe; Carolyn "Shammy" Dingus/Friends of Sunset Cliffs; Joanne Pearson/Sierra Club; Ann Swanson/Sunset Cliffs Natural Park Recreation Council; Multiple Species Conservation Program - August, 1998.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that substantial issue exists with respect to the grounds on which the appeal has been filed.

SUBSTANTIVE FILE DOCUMENTS: Appeal Forms; Certified Peninsula Community Plan; City of San Diego Implementing Ordinances; City of San Diego Report to

the Planning Commission dated 9/9/99; Mitigated Negative Declaration LDR No. 98-1074/SCH No. 99041049 dated 7/8/99.

I. Appellants Contend That: The appellants contend that the City's decision approving the subject development is inconsistent with numerous provisions of the certified LCP related to: 1) insufficient analysis of alternatives to avoid direct and indirect impacts to sensitive habitat areas for the proposed home and access and driveway; 2) numerous variances were granted for a new access driveway when not necessary for reasonable use of the subject property; 3) the status of the subject site as a legal parcel; 4) protection of public views ; 5) approval of the site for residential development; 6) installation of a perimeter fence that will fragment park land and impact and reduce an existing wildlife corridor connecting the northern canyon of Sunset Cliffs Natural Park and remainder of the park located to the south (reference attached appeal forms).

II. Local Government Action. The coastal development permit was approved by the Hearing Officer on August 4, 1999. The Hearing Officer's decision was subsequently appealed to the Planning Commission on September 16, 1999. The project was approved by the Planning Commission on that date. The Planning Commission's approval of the permit was then appealed to the City Council. On November 2, 1999 the City Council voted not to hear the appeal pursuant to the Extraordinary Appeal Process. As such, the City Council's decision not to hear the appeal upholds the Planning Commission's decision of September 16, 1999, to deny an appeal of the Hearing Officer's July 21, 1999 approval of the project. The conditions of approval address the following: mitigation, monitoring and reporting program for impacts to biological resources, cultural resources and landform alteration; drainage and hydrology study; off-street parking; guest quarters; shielding of outdoor lighting; pavement of access driveway; brush management agreement; requirements for driveway widening; landscaping, and erosion control.

III. Appeal Procedures.

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

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless it determines that no substantial issue is raised by the appeal. If the staff recommends

"substantial issue" and no Commissioner objects, the Commission will proceed directly to a de novo hearing on the merits of the project.

If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If a substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project. If the Commission conducts a de novo hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Sec. 30604(c) of the Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3. In other words, in regard to public access questions, the Commission is required to consider not only the certified LCP, but also Chapter 3 policies when reviewing a project on appeal.

The only persons qualified to testify before the Commission at the "substantial issue" stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. At the time of the de novo hearing, any person may testify.

MOTION: *I move that the Commission determine that Appeal No. A-6-PEN-99-143 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

Staff recommends a NO vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-6-PEN-99-143 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

Findings and Declarations.

1. Detailed Project Description/Permit History. Proposed is the demolition of an existing one-story, 1,675 sq.ft. single-family residence and a detached garage and the construction of a new, one-story, 8,010 sq.ft. single family residence with a detached garage with an 800 sq.ft. guest house above. The subject site is comprised of two parcels totaling 1.3 acres in size. The easternmost lot (Parcel A) is 1.07 acres and the westernmost lot (Parcel B), which fronts on Stafford Place, is 0.23 acres. The subject site is accessed by an existing paved approximately 10-foot wide road off of Lomaland Drive to the east which is also the main entrance to the Point Loma Nazarene University located to the east and southeast of the subject site. As approved by the City, this access road will be widened from approximately 10 feet to 12 feet with four-foot wide shoulders. The western portion of the site lies adjacent to the cul-de-sac of Stafford Place. Presently, there is an existing 12-foot paved access road off the cul-de-sac of Stafford Place that traverses another vacant and undeveloped parcel (Lot 5) and then goes in a northerly direction across Parcel B of the subject site to provide access to a neighboring parcel to the north (reference Exhibit No. 2). The adjacent property to the north that the access road serves is Lot 3 of Loma Mar Vista Map 3240, the residential subdivision that created the lots that front on Stafford Place.

As part of the subject proposal, the applicant proposes to vacate the access driveway off of Stafford Place that traverses Lots 5 and Parcel B and to construct a new approximately 160-foot long, 12-foot wide paved access road perpendicular to Stafford Place at the far northwest corner of Parcel B of the subject site (reference Exhibit No. 2). According to the City, the permit applicant does not want the neighboring property to gain access across the subject site in the manner that presently exists. The existing driveway is proposed to be removed and then replanted to provide a large lawn area that will be approximately 5,000 sq.ft. in size. Due to the steep terrain of this portion of the site, the construction of this latter access road will also involve the construction of six retaining walls to support the driveway which range in height from 7'10" to 15'10" inches. An existing historic structure, a World War II Base End Station, exists on Parcel B just south of the new proposed access road. The City required that this structure be preserved through recordation of a conversation easement.

The subject site is located within the Point Loma (Peninsula) community of the City of San Diego and just inland and to the east of the cul-de-sac of Stafford Place. The subject property is located immediately adjacent to Sunset Cliffs Natural Park which is a 50-acre park that is largely situated to the west of Point Loma Nazarene University. The park extends to the west where there are steep sandstone bluffs that descend in elevation to the beach below. A smaller "pocket" canyon of the park exists to the north of the subject site. As noted earlier, parkland exists to the north, south and east sides of the subject property (reference page 5 of Exhibit No. 4). The majority of the park affords panoramic views of the ocean looking west, and consists of both flat and steep natively vegetated hillsides. There are also numerous hiking trails throughout the park. The area where the

subject residence is located is relatively flat. However, the site slopes upwards to the south and downwards to the north. The area north of the site is referred to as the "northern canyon" (refer to page 6 of Exhibit No. 4). These steep slopes are predominantly natively vegetated. Parcel B slopes downwards to the west. This latter area contains both native and non-native vegetation.

The standards of review is the LCP that was in effect at the time the project was approved which is the City's LCP as it existed before the City's Land Development Code was certified. The City's Land Development Code does not go into effect until January 1, 2000.

2. Environmentally Sensitive Areas/Steep Slopes/Brush Management. The proposed residence will be situated on an existing level building pad, however, natively vegetated steep slopes exist to the north and south of the building pad in two canyon slopes on the subject site. These areas are within the City's Hillside Review (HR) Overlay Zone and potentially within the City's Multiple Habitat Planning Area (MHPA). According to a slope analysis, 28% of the site contains slopes of 25% grade or greater. 27% of the site contains native coastal sage chaparral on steep slopes within the Hillside Review area of the site. The HR ordinances contain a sliding scale table that allows for encroachment into steep slopes based on the percentage of the site that contains steep slopes. In this particular case, since 75% or less of the site contains steep slopes of 25% grade and over, the HR ordinance would permit, under certain circumstances, a maximum encroachment of 10% into steep slopes of 25% grade and over. As approved by the City, Zone 1 brush management requirements for the proposed development will encroach into mapped hillside review areas with slopes of 25% or greater. The amount of encroachment is 6% (0.03 acres) of the total area of the site containing steep naturally vegetated slopes within the Hillside Review Overlay Zone. The City required that non-building easements be placed in the two canyon slopes of the subject site that are within the HR overlay zone.

The appellants contend that the City's permit did not include an analysis of alternatives to avoid and/or minimize grading and encroachment into steep naturally-vegetated areas or removal of native vegetation for siting of the home or for the location of the access roads. In particular, alternatives such as a reduction in the building footprint of the home to reduce the encroachment into steep hillsides for brush management was not addressed. The certified LCP requires that the home and access road be sited in a manner that has the least damage to the environment.

Specifically, the certified LCP provides the following policies:

Conserve existing open space including canyons, hillsides, wetlands and shorelines. (p. 15)

Encourage sensitive placement of structures in steeply sloped residential areas to minimize removal of natural vegetation, grading and landform alteration. (p. 23)

All projects should minimize grading and maintain the natural topography to [the] greatest extent feasible. Significant canyons and hillsides should not be developed. (p. 102)

Also, the certified HR ordinance states the following:

5. In reviewing an application for a Hillside Review Permit, the Planning Director and/or the Planning Commission shall make the following findings of fact in the review process:
 - a. The site is physically suitable for the design and siting of the proposed development. The proposed development will result in minimum disturbance of sensitive areas.
[...]
 - c. The proposed development retains the visual quality of the site, the aesthetic qualities of the area and the neighboring characteristics by utilizing proper structural scale and character, varied architectural treatments, and appropriate plant material. ...

The Commission has historically been concerned about the adequacy of the residential setback from natural areas to both provide fire protection and preserve the habitat value and scenic quality of naturally vegetated hillsides. In this particular case, the brush management program that will be required in order to protect the proposed residence involves the removal of native vegetation for a total encroachment of 6% into steep naturally vegetated slopes. This encroachment was permitted in an area designed HR and subject to encroachment limitations in the certified LCP. However, the City did not review alternatives that could avoid the need for this encroachment, such as a reduction in the size of the home or alternative siting of the home. While the HR ordinance does provide for encroachments into steep sensitive slopes, such encroachment is only permitted when no other feasible alternative exists to provide reasonable use of the site and avoid the encroachment. In this particular case, the City has approved an 8,010 sq.ft. house and other improvements that will require encroachment into steep slope areas for brush management without considering what appear to be feasible alternatives that could avoid such encroachment altogether. Therefore, the Commission finds the project, as approved by the City, raises a substantial issue with regard to consistency with the HR provisions of the certified LCP.

In addition, the appellants contend that the proposed road will result in the removal of mature habitat in the park's Multiple Habitat Planning Area (MHPA) and will result in the fragmentation of parkland, impacting its value and function and obstructing a wildlife corridor between the larger portion of the park to the south and the smaller canyon to the north (Northern Canyon). As noted earlier, as part of the subject permit, variances were approved for construction of an approximately 160-foot long access driveway on the subject site to a neighboring property (Lot 3) to the north. The appellants contend that the construction of the access roadway would include extensive grading and construction

of several timber retaining walls up to approximately 15 feet in height within the portion of the site that is within the HR overlay zone. In addition to potential visual impacts (which is discussed in the following section of this report) the new driveway will remove existing native vegetation. Again, the appellants contend this new driveway is not necessary for use of the site and this raises LCP consistency concerns. The proposed driveway appears to involve extensive landform alteration in an open space area and therefore, may be inconsistent with the certified LCP.

Another potential concern is the City's decision to treat the subject site as if it were not located within the designated Multiple Habitat Planning Area (MHPA). The MHPA is the area within which the permanent Multiple Species Conservation Program (MSCP) preserve will be assembled and managed for its biological resources. The MSCP is a comprehensive habitat conservation planning program that addresses multiple species habitat needs and the preservation of native vegetation communities for a 900-square mile area in southwestern San Diego County. The MHPA is defined in many areas by mapped boundaries and also is defined by quantitative targets for conservation of vegetation communities and goals and criteria for preserve design. The MHPA was cooperatively designed by the participating jurisdictions and special districts in the study areas, in partnership with the wildlife agencies (USFWS and CDFG), property owners and representatives of the development industry and environmental groups. The MHPA includes the majority of public habitat lands in the study areas. As noted in the City's staff report, during review of the proposed project, the City determined that Parcel A, the parcel that contains the existing single family residence that will be demolished, and where the new residence is proposed to be constructed, was erroneously included in the MHPA, in the area identified as Sunset Cliffs Natural Park. Parcel A is surrounded by Sunset Cliffs Park on three sides yet does not appear as a distinct parcel within the park on a subdivision map. The portion of the site mapped MHPA included the residence, driveway, detached garage and lawn area, but excluded the undeveloped area in the southern portion of the property. As further noted in the City's report, although Parcel A is not associated with a subdivision map, it is a legally separate parcel and contains an 89-year old residence. The City considered its modification to the MHPA in this area a "correction" rather than an "adjustment" as it believed that this area was never intended to be included in the MHPA and therefore, should not require an exchange of equivalent MHPA area. As such, the boundary of the MHPA was corrected such that the portion of the site that contains the existing residence was entirely removed from the MHPA. In addition, the City approved the installation of a fence around the entire property. The appellants contend that the fence will fragment parkland and create a narrow passageway that will limit use of the site as a wildlife corridor in Sunset Cliffs Natural Park.

The Fish and Wildlife Service does not agree that inclusion of the site within the MHPA is an error. In a letter dated 5/7/99, the U.S. Fish and Wildlife Service states the following,

"...The assembly and success of the MHPA is dependent upon maintaining the biological integrity of the interconnected habitats. It is critical that corridors are retained to ensure connectivity between habitat patches. The project would result in

the need for a boundary "correction". The boundary "correction" would allow for a perimeter fence (around the entire site, trail system, and landscaping) which may degrade/eliminate connection of habitat in the MHPA on the Point Loma Peninsula. ... We feel that the MHPA was mapped as it currently is to maintain connectivity between patches of habitat. Therefore, we do not concur with the boundary adjustment for the property as presently proposed...."

Consistent with the policies of the certified Peninsula Community Plan cited earlier that state, "Conserve existing open space including canyons, hillsides, wetlands and shorelines" and "Encourage sensitive placement of structures in steeply sloped residential areas to minimize removal of natural vegetation, grading and landform alteration", the exclusion of portions of the site from the MHPA raises a concern with the certified LCP policies addressing protection of environmentally sensitive habitat area.

Thus, the City's approval to modify the boundary of the MHPA and install a fence around the perimeter of the property raises a concern over protection of environmentally sensitive habitat areas as recommended in the certified LCP and this raises a substantial issue with regard to the appellants contention.

3. Visual Impacts/Coastal Scenic Area/Public View Blockage. With regard to proposed development's impact on public views toward the ocean as well as public views within the Sunset Cliffs Natural Park, the subject site is located in the middle of City parkland (Sunset Cliffs Shoreline Park) there remains the potential that the improvements may adversely affect visual resources. As noted earlier, the subject site is surrounded by public parkland on three sides (to the north, east and south). Specifically, the construction of the proposed residence will result in the grading and removal of sensitive vegetation on steep slopes within the Hillside Review Overlay Zone and Multiple Habitat Planning Area for brush management purposes, widening of an existing access driveway in public parklands, grading and construction of an access road on steep slopes with the construction of several retaining walls up to 15' in height, and grading and removal of the existing access road and its replacement with a large (5,000 sq.ft.) lawn area. As such, all of these improvements may lie within the viewshed of other significant public vantage points within the park and may be visible from major coastal access routes (i.e., Western Loop Road on Point Loma Nazarene University property).

Specifically, the certified LCP provides the following:

The Sunset Cliffs are a significant resource of the Peninsula community, utilized as a major vista point. However, these cliffs are experiencing some erosion problems. Adjacent to Point Loma College, within the Sunset Cliffs Shoreline Park, is a canyon that provides a habitat for a variety of wildlife. In addition, this park contains a tidepool area just south of Ladera Street. (p. 87) [emphasis added]

A number of view corridors throughout the Peninsula area provide vistas of the San Diego Bay... In addition, the Sunset Cliffs Shoreline Park, from the Point

Loma Naval Complex to Adair Street, provides an unobstructed view of the ocean. (p. 108)

The appellants contend that the construction of the new access road, along with several retaining walls to support it, will pose an adverse visual impact within the Sunset Cliffs Natural park. The City approved a variance for the construction of several retaining walls for the driveway. The appellants do not believe that the variance is necessary for reasonable use of the applicant's property. The City found that, "...there are special circumstances or conditions applying to the land or buildings for which the adjustment is sought, which circumstances or conditions are peculiar to such land or building and do not apply generally to the land or buildings in the neighborhood." The variances were granted to allow the retaining walls to exceed the permitted height for retaining walls. Specifically, five different retaining walls were permitted, all of which greatly exceed the permitted heights for such walls within the various setback areas of the property. As such, the proposed retaining wall, along with the extensive grading necessary to construct it, may potentially affect public views within Sunset Cliffs Natural Park which is a major vista point as identified in the certified LCP.

In addition, the certified Peninsula Community Plan states the following:

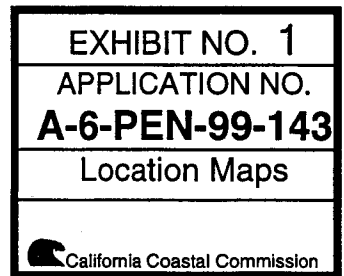
"New development should be consistent with the scale and character of the existing development of the surrounding areas. The fitting in of new development is, in a broad sense, a matter of scale. It requires a careful assessment of each building site in terms of the size and texture of its surroundings, and a very conscious attempt to achieve balance and compatibility in design between old and new buildings." (p. 110)

As such, the size and scale of the proposed residence at 8,010 sq.ft., compared to the existing 1,765 sq.ft. residence which is proposed to be demolished, raises a potential concern with regard to compatibility with the character of the surrounding neighborhood. The appellants also contend that the existing access driveway off of Stafford Place should continue to be used instead of requiring additional grading and construction of a new access driveway adjacent to parklands that may pose an adverse visual impact. In addition, the construction of the proposed fence around the perimeter of the property and installation of an approximately 5,000 sq.ft. lawn area on the site may affect views and the visual character of the surrounding area. Therefore, the Commission finds that given that the proposed residence may adversely affect public views and propose development out of character with the surrounding community and that the certified LCP cites Sunset Cliffs as a major vista point, the proposed development raises a substantial issue regarding conformity with the certified Peninsula Community Plan segment of the City of San Diego's certified LCP.

4. Land Use. Another issue raised by the appellants is with regard to the sale of the subject property from the Point Loma Nazarene University to the permit applicant (Mr. Irving). Specifically, the appellants contend that, consistent with the policies of the certified Peninsula Community Plan, the subject property should have first been offered

for sale to the City of San Diego for possible acquisition by the City as an addition of parkland to Sunset Cliffs Natural Park prior to being offered for sale for private development. The certified Peninsula Community plan contains an objective that states the following, "Evaluate feasibility of developing park and recreation facilities on portions of school sites no longer being used for education purposes" (p. 48). Elsewhere in the community plan a similar policy statement is made, but it refers to "*public* school sites". Specifically, the policy states, "Feasibility studies should be undertaken for any school sites to be disposed of by the San Diego Unified School District in the future to determine the desirability of developing all or a portion of such sites for park and recreation use" (p. 111). The City concluded that these policies do not apply to the subject site because they believed that these policies addressed public school sites and the university is a private institution. In addition, as noted in the City's staff report, the Peninsula Community Plan designates a portion of the project site (Parcel A) for school use. However, the two policies in the certified LUP are conflicting in that one clearly refers to "public schools", the other does not. As such, the subject matter raises a substantial issue with regard to use of this land.

A second related issue and potential LCP inconsistency is with regard to the legality of the subject lot (Parcel A). Specifically, the subject site is located just inland of the cul-de-sac of Stafford Place. There appear to be inconsistencies with regard to the creation of the subject site as a legal parcel as the site is located in the middle of City parkland (Sunset Cliffs Shoreline Park aka Sunset Cliffs Natural Park) that was previously owned by the adjacent Point Loma Nazarene University. It is not clear as to how the parcel was "created" and sold to the applicant and whether or not this constitutes development that requires issuance of a coastal development permit. Therefore, for all of the above-cited reasons, the Commission finds that the proposed development raises a substantial issue with regard to consistency with the certified LCP.



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NORTH



California Coastal Commission

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

3111 CAMINO DEL RIO NORTH, SUITE 200

SAN DIEGO, CA 92108-1725

521-8036

**APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT**

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Sara J. Wan, Chair - California Coastal Commission
Mailing Address: 22350 Carbon Mesa Road
Malibu, CA 90265
Phone Number: 310/456-6605

SECTION II. Decision Being Appealed

1. Name of local/port government: City of San Diego
2. Brief description of development being appealed: Demolition of a 1,675 sq.ft. single-family home and detached garage and construction of a new 8,010 sq.ft., single-family residence and 800 sq.ft. detached garage and guest quarters on two lots, totaling 1.3 acres.
3. Development's location (street address, assessor's parcel no., cross street, etc.):
3900 Lomaland Drive (APNs 532-034-04 and 532-510-05)
4. Description of decision being appealed:
 - a. Approval; no special conditions: ☐
 - b. Approval with special conditions: ☒
 - c. Denial: ☐

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:APPEAL NO: A-6-PEN-99-143DATE FILED: 11/18/99DISTRICT: San Diego

ical appeal also signed by Commissioner Christine Kehoe (not reproduced herein)

EXHIBIT NO. 3
APPLICATION NO.
A-6-PEN-99-143
Appeals
(p. 1 of 29)
California Coastal Commission

5. Decision being appealed was made by (check one):

a. ☐ Planning Director/Zoning
Administrator

c. ☒ Planning Commission

b. ☐ City Council/Board of
Supervisors

d. ☐ Other

Date of local government's decision: 9/16/99

Local government's file number (if any): CDP/HR/CUP/VAR 98-1074

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

Name and mailing address of permit applicant:

Craig Irving
3735 Trudy Lane
San Diego, CA 92106

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

SECTION IV. Reasons Supporting This Appeal

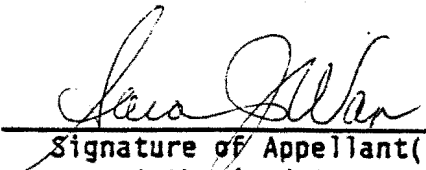
Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or
Authorized Agent

Date _____

NOTE: If signed by agent, appellant(s)
must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning appeal.

Signature of Appellant(s)

Date _____

EXHIBIT 3
P. 3 OF 29

Irving Appeal
Attachment A

The proposal approved by the City involves the demolition of an existing 1,675 sq.ft. single-family residence and detached garage and construction of a new 8,010 sq.ft. single family residence and 800 sq.ft. detached garage and guest quarters on two lots, totaling 1.3 acres. Variances were also approved for construction of an approximately 160-foot long access driveway on the subject site to a neighboring property to the west. The construction of the access roadway would include extensive grading and construction of several timber retaining walls up to approximately 15 feet in height. The proposed residence will be situated on the existing level building pad, however, natively vegetated steep slopes exist to the north and south of the building pad in two canyon slopes on the subject site. These areas are within the City's Hillside Review Overlay zone and and potentially within the City's Multiple Habitat Planning Area (MHPA). Brush management requirements for the proposed development will encroach into mapped hillside review areas with slopes of 25% or greater for Zone 1 brush management purposes. The amount of encroachment is 0.03 acres (6%) of the total area of the site containing steep naturally vegetated slopes within the Hillside Review Overlay Zone.

The proposed development raises the following potential inconsistencies with the certified LCP. The City's permit did not include an analysis of alternatives to avoid or minimize grading and encroachment into steep naturally-vegetated areas or removal of native vegetation for siting of the home or for the location of the access roads. The home and access should be sited in a manner that is the least environmentally damaging alternative.

Specifically, the certified LCP provides the following policies:

Conserve existing open space including canyons, hillsides, wetlands and shorelines. (p. 15)

Encourage sensitive placement of structures in steeply sloped residential areas to minimize removal of natural vegetation, grading and landform alteration. (p. 23)

All projects should minimize grading and maintain the natural topography to greatest extent feasible. [sic] Significant canyons and hillsides should not be developed. (p. 102)

Also, the certified HR ordinance states the following:

5. In reviewing an application for a Hillside Review Permit, the Planning Director and/or the Planning Commission shall make the following findings of fact in the review process:

a. The site is physically suitable for the design and siting of the proposed development. The proposed development will result in minimum disturbance of sensitive areas.

...

c. The proposed development retains the visual quality of the site, the aesthetic qualities of the area and the neighboring characteristics by utilizing proper structural scale and character, varied architectural treatments, and appropriate plant material. ...

A second potential LCP inconsistency is that the subject site is located just inland of the cul-de-sac of Stafford Place. There appear to be inconsistencies with regard to the creation of the subject site as a legal parcel as the site is located in the middle of City parkland (Sunset Cliffs Shoreline Park aka Sunset Cliffs Natural Park) that was previously owned by the adjacent Point Loma Nazarene University. It is not clear as to whether the "subdivision" allowed the sale of the property or if it received a coastal development permit.

A final potential LCP inconsistency relates to protection of public views. Specifically, the certified LCP provides the following:

The Sunset Cliffs are a significant resource of the Peninsula community, utilized as a major vista point. However, these cliffs are experiencing some erosion problems. Adjacent to Point Loma College, within the Sunset Cliffs Shoreline Park, is a canyon that provides a habitat for a variety of wildlife. In addition, this park contains a tidepool area just south of Ladera Street. (p. 87)

A number of view corridors throughout the Peninsula area provide vistas of the San Diego Bay... In addition, the Sunset Cliffs Shoreline Park, from the Point Loma Naval Complex to Adair Street, provides an unobstructed view of the ocean. (p. 108)

As the subject site is located in the middle of City parkland (Sunset Cliffs Shoreline Park) there remains the potential that the improvements may adversely affect visual resources. Specifically, the construction of the proposed residence along with the grading and removal of sensitive vegetation on steep slopes within the Hillside Review Overlay Zone and Multiple Habitat Planning Area and the grading and construction of an access road on steep slopes may lie within the viewshed of other significant public vantage points within the park and may be visible from major coastal access routes (i.e., Western Loop Road on Point Loma Nazarene University property).

CALIFORNIA COASTAL COMMISSION

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

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing
This Form.

SECTION I. Appellant

Name, mailing address and telephone number of appellant:

CARDLYN "SHAMMY" DINGUS - FRIENDS OF SUNSET CLIFFS
1295 SUNSET CLIFFS BLVD
SAN DIEGO 92107 (619) 523-6722
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: CITY OF SAN DIEGO
2. Brief description of development being appealed: MND 98-1074 IRVING RESIDENCE. THIS PROJECT INCLUDES A PRIVATE DRIVEWAY THAT CUTS ACROSS ~~SOME~~ DEDICATED PARKLAND, OBSTRUCTING A WILDLIFE CORRIDOR, AND REQUIRING REMOVAL OF NATIVE HABITAT IN THE PARK'S MHPA.
3. Development's location (street address, assessor's parcel no., cross street, etc.): 3900 LDMALAND, PARCELS # 532-034-04 AND 532-510-05.
4. Description of decision being appealed:
 - a. Approval; no special conditions: ✓
 - b. Approval with special conditions: _____
 - c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-10-PEN-99-143

DATE FILED: 11/12/99

DISTRICT: San Diego

RECEIVED

SEP 30 1999

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

EXHIBIT 3
P. 6 OF 29

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

a. Planning Director/Zoning Administrator

c. ☒ Planning Commission

b. City Council/Board of Supervisors

d. Other

6. Date of local government's decision: 16 September 1999

7. Local government's file number (if any): 98-1074 MMRP

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

CRAIG IRVING
3735 TRUDY LANE
SAN DIEGO, CA 92106

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

- (1) ANN SWANSON - SUNSET CLIFFS NATURAL PARK RECREATION
3611 WARNER ST.
SAN DIEGO, CA 92107 COUNCIL
- (2) JIM PEUGH - SAN DIEGO AUDUBON SOCIETY
2321 MORENA, SUITE D
SAN DIEGO, CA 92110
- (3) CINDY BURRAS CAND, CALIF. NATIVE PLANT SOCIETY
P.O. BOX 121390
SAN DIEGO, CA 92112
- (4) JOANNE PEARSON, SIERRA CLUB
3820 RAY STREET
SAN DIEGO, CA 92104

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

(see attached statement of reasons)

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my knowledge.

Signed Carolyn S. Dargatzis
Appellant or Agent

Date Sept 29, 1999

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed _____
Appellant

Date _____

September 29, 1999

**REASONS FOR THIS APPEAL OF THE CITY OF SAN DIEGO'S PLANNING COMMISSION
DECISION ON 9/16/99 TO APPROVE COASTAL DEVELOPMENT PERMIT/ HILLSIDE REVIEW
PERMIT AND VARIANCES 98-1074 (MMRP) IRVING RESIDENCE:**

- 1) The Peninsula Community Plan and Local Coastal Program Land Use Plan, page 139, states "The Plan recommends that the Sunset Cliffs Shoreline Park (a.k.a. Sunset Cliffs Natural Park) be developed in a manner compatible with resource protection and aesthetic concerns, similar to Torrey Pines State Park." Sunset Cliffs Natural Park surrounds the applicant's property on three sides and has been designated part of the Multiple Habitat Planning Area (MHPA) under MSCP guidelines. The serious potential impacts of the private Irving Project on resource protection within this dedicated, regional, resource-based park and MHPA area are as follows:
 - A. Foremost among the impacts on Sunset Cliffs Natural Park is a 160', 20' wide road easement across dedicated parkland. There are presently two accesses to the Irving property, one from the adjacent Stafford Place and the other through dedicated parkland. Instead of accessing from the adjacent City street, Stafford Place, the applicant chooses to access approximately 1/4 miles from a public street, first through Point Loma Nazarene University, then 160' through dedicated parkland utilizing an antiquated 1957 Road Easement. To use this as a driveway, the 8' wide existing road would be widened to 12' with 4' shoulders on each side. The road alone will include a total of 3,200 square feet of dedicated parkland and necessitate the removal of more than 1,920 square feet of mature habitat in the park's Multiple Habitat Planning Area (MHPA). The road impacts the value and function of the MHPA by fragmentation of the parkland, obstruction of the wildlife corridor from the park's heavily wooded northeast canyon and removal of habitat. In short, this road easement denies the public reasonable use of dedicated regional parkland. We recommend that, if the CDP is to be granted, there be a condition requiring removal of the road easement through SCNP.
 - B. Utilities infrastructure is also planned to traverse this area potentially involving disturbance for construction and through the years as repairs are required. Utilities as well as vehicular access could readily be accessed from the adjacent Stafford Place.
 - C. Habitat in the resource-based park and MHPA would have to be removed to comply with Zone 2 Brush Management requirements due to the proximity of some of the project's structures to parkland. While the applicant maintains he will not remove "sensitive" vegetation, non sensitive vegetation also functions as important habitat and as a valuable part of the park's natural ecosystem.
 - D. Because of the fencing around the perimeter of the parcel, wildlife will no longer be able to freely roam. The wildlife corridor leading from the northern canyon will be narrowed functionally to less than 150' across parkland, not over 200' as is stated in the City staff report. The staff report of over 200' includes a narrow strip of MHPA designated property belonging to Point Loma Nazarene University, which is essentially filled with roads and buildings not conducive to wildlife. The potential cumulative impact of this change to habitat and wildlife is significant, especially since the flow of wildlife from the northern canyon extends approximately 3 1/2 miles through the Point Loma Ecological Reserve to



the end of the Point Loma peninsula. Being located adjacent to the Pacific Ocean's rich intertidal area also extends the habitat value and function for wildlife. Although inland wildlife corridors often connect far larger areas, a three and one half mile wildlife area directly along the Southern California Coast is quite rare and should be greatly valued.

- E. Damage in the Park's northern canyon is possible due to potential bluff instability and failure both during construction and subsequent usage.
 - F. Visual impacts of the 8,010 square foot house and 800 square foot guest house/ garage to park visitors would be substantial as would potential noise.
- 2) Under the City's "Significance Determination Guidelines for CEQA", updated in May 1999, pp. 2 and 3, we believe substantial evidence exists to indicate this project may have a significant effect on the environment and that an EIR should have been prepared instead of the MND. It should be noted that a full EIR is being done for the Sunset Cliffs Natural Park's Master Plan even though the park plan itself is based on protecting the sensitive environment while, at the same time, making it more accessible to the public. We appeal the adequacy of the environmental review for the Irving Property for the following reasons:
- A. Alternative access possibilities to the Irving property were not evaluated. During the hearings before the Hearing Officer and the Planning Commission, unsubstantiated claims were made about potential damage to native habitat if an alternative access were selected. It should be noted that if the present access from Stafford Place were selected, no more native habitat would be disturbed than is currently being planned for the area since the access would proceed a short distance through an area that is being transformed from native habitat to turf. When our sensitive coastal resources are concerned, it is especially important that decisions are based on facts.
 - B. Full environmental impacts of the project to the wildlife corridor leading from the heavily wooded northern canyon were not examined.
 - C. The project allows for degradation of the MHPA and dedicated parkland. It should be noted that no mitigation for environmental impacts on parkland are required. Only impacts on the applicant's property are required to be mitigated.
 - D. The potentially unstable northern slope was not evaluated.
 - E. View impacts were not considered.
 - F. Loss of ambiance and function for park users in this regional, resource-based park were neither explored nor apparently valued. It should be noted that park users share a vision that the park serve as an "alternative to the urban experience." This project, with its 160' driveway through parkland, brings the urban experience directly into the park.
 - G. Construction impacts on the parkland and MHPA were not considered in the MND.
 - H. Although it was agreed that drainage is not to be directed on parkland, we have not seen a final plan indicating the drainage provisions.

- 3) The Peninsula Community Plan and Local Coastal Land Use Plan, page 48, states it is an objective to "Evaluate feasibility of developing park and recreation facilities on portions of school sites no longer being used for educational purposes". The parcel being developed is considered "excess" Point Loma Nazarene University property. Although there has been debate over whether this objective refers to private schools as well as public, the wording on page 48 does not specify. Since elsewhere in the Peninsula Community Plan there is discussion about considering abandoned public school sites for park and recreation use, City staff interprets this statement to apply only to public schools. Yet it is interesting to note the precedent of converting private school property to City park use as established in 1973 when United States International University (U.S.I.U.) Sold the 87 hilltop section to Pasadena College (now Point Loma Nazarene University) and the western 48 acres to the City for open space park use at Sunset Cliffs Natural Park. The strategic location of this property adjacent to and surrounded on three sides by SCNP and the MHPA plus the existence of the historic World War II base end station would make it a natural addition to this dedicated regional park. However, Point Loma Nazarene University did not first offer this "excess" school property to the City for consideration as an addition to Sunset Cliffs Natural Park.
- 4) Page 49 of the City of San Diego MSCP Subarea Plan requires that when there are narrow wildlife corridors, brush management should be located outside of the MHPA. The staff say this doesn't apply since they refuse to recognize the wildlife corridor leading from the north canyon through the hillside section of SCNP and onward 3 miles through the Point Loma Ecological Reserve to the end of the Point Loma peninsula. Being located adjacent to the Pacific Ocean's rich intertidal area also extends the habitat value and function for wildlife. Although inland wildlife corridors often connect far larger areas, a three and one half mile wildlife area directly along the Southern California Coast is quite rare and should be greatly valued.
- 5) The Point Loma Nazarene University CUP/CDP requires a 70' buffer between the campus and the park. When they sell this "excess" school property to the applicant, the buffer no longer will exist. The proposed garage/guesthouse is designed to be located only 4' from the property line.
- 6) We continue to have concerns about compliance with Hillside Review which requires holding back development from erosive slopes. Slope stability was not assessed. Are the proposed cement stairs and cement and metal observation decks environmentally sound on these slopes?
- 7) The six variances for which the applicant has applied would appear to be a design choice, not a necessity for reasonable use of the applicant's property. The variances require excessive grading and construction very near a designated historic resource.

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA

3111 CAMINO DEL RIO NORTH, SUITE 200

SAN DIEGO, CA 92108-1725

(619) 521-8036



NOV 18 1999

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENTCALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICTPlease Review Attached Appeal Information Sheet Prior To Completing
This Form.SECTION I. Appellant

Name, mailing address and telephone number of appellant:

SAN DIEGO SIERRA CLUB - JOANNE PEARSON
1525 BUCKINGHAM DR. (H) 3910 RAY ST. (CLUB OFFICE), S.D.
92037 (A.TOLLA) (858) 459-7041 (H) 92104
Zip Area Code Phone No.
(619) 299-1743 (CLUB)

SECTION II. Decision Being Appealed1. Name of local/port
government: CITY OF SAN DIEGO2. Brief description of development being
appealed: COP/CUP/HAP/VARIANCE NO. 98-1074 to
demolish 16.75 ± SFR, construct 8010 ± SFR, 8000 ± detached
garage, driveway through dedicated public parkland, and 6
retaining walls, with maximum height of 15.'3. Development's location (street address, assessor's parcel
no., cross street, etc.): _____

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: ☒ _____

c. Denial: _____

Note: For jurisdictions with a total LCP, denial
decisions by a local government cannot be appealed unless
the development is a major energy or public works project.
Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:APPEAL NO: A6-PEN-99-143DATE FILED: 11/18/99DISTRICT: San DiegoEXHIBIT 3
P. 12 OF 29

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- a. Planning Director/Zoning Administrator c. ☒ Planning Commission
b. City Council/Board of Supervisors d. Other

6. Date of local government's decision: SEPT. 16, 1999

7. Local government's file number (if any): 1098-1074; SCH 99041049

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

CRAIG IRVING
3735 TRULY LANE
SAN DIEGO, CA 92106

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

- (1) JIM PEUGH
SAN DIEGO AUDUBON SOCIETY
1321 MORENA BLVD., SUITE D
SAN DIEGO, CA 92107
- (2) ANN SWANSON - SCNP Recreation Council
3611 WARNER ST.
SAN DIEGO, CA 92107
- (3) LEAGUE OF WOMEN VOTERS ATTN. DEBRA BLUM
- 2801 CAMINO DEL RIO SOUTH
- SAN DIEGO, CA 92108
- (4) _____

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

Please see attached letter. Appeal
is also based on public record comments
in The Mitigated Negative Declaration
and on analysis of required LCP
findings in letter submitted for the public
record to The San Diego Planning Commission
for the Sept. 16, 1999 hearing.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my knowledge.

Signed *James H. Benson*
Appellant or Agent

Date 11-16-99

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed _____
Appellant

Date _____



SIERRA
CLUB
FOUNDED 1892

Office (619) 299-1743
Conservation (619) 299-1741
Fax (619) 299-1742
Voice Mail (619) 299-1744

San Diego Chapter

Serving the Environment in San Diego and Imperial Counties

TO: CALIFORNIA COASTAL COMMISSION
NOVEMBER 16, 1999

RE: REASONS FOR APPEAL OF LDR 98-1094, IRVING RESIDENCE

The site specific concerns of the San Diego Sierra Club in this project focus on the access road through Sunset Cliffs Natural Park (SCNP), with its multiple associated ramifications and impacts, and the perimeter fence which would surround the site. Other important concerns, however, lie with the environmental and planning analysis, policies, thresholds, and interpretations used by the City of San Diego to reach approval of every design choice of the applicant without any meaningful alternatives analysis or mitigation.

Because the City is using the same approach on other current projects, we ask the Commission to find Substantial Issue in order to correct City implementation of the certified Land Use Plan (LUP) policies and Local Coastal Program (LCP) implementing ordinances. Secondly, we ask for the Commission's help in clarifying and reconciling the City's interpretations with LCP and LUP requirements.

We have addressed this project's failure to meet required findings in our public record communications in the Mitigated Negative Declaration (MND), and in our letter to the San Diego Planning Commission. In each case, in spite of "serious public controversy over the environmental effects of the project" as well as "disagreement between experts," our request for an EIR was denied. Nor has the City's analysis in the MND included any discussion of design or mitigation alternatives. Indeed, it has been the steadfast position of City staff that, under an MND, they are not required to perform an alternatives analysis, so long as the applicant has agreed to mitigate any significant impacts identified by the City. As a result, token mitigation would support every design choice of the applicant at the expense of the LCP, the LUP, and SCNP.

The City's mandatory consideration of cumulative impacts from the project was summarily dismissed with reference to Section B-1, which states "No significant impact would result from construction of one residence." We find this typical City response to be woefully lacking in an understanding of cumulative impacts, given the threat to park resources from the University's potential sale of other excess parcels for redevelopment.

We have therefore appealed the City's decision on the basis of our belief that the City has failed to use its discretion, as it should, to require the applicant to site and design the proposed project in a manner that would protect environmentally sensitive habitat and scenic resources in the adjoining dedicated SCNP, as required by finding 5 of the Coastal Development Permit Ordinance.





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Conservation (619) 299-1741
Fax (619) 299-1742
Voice Mail (619) 299-1744

San Diego Chapter

Serving the Environment in San Diego and Imperial Counties

LDR 98-1074, Irving Residence

Page 2

November 16, 1999

Where the CDP Ordinance further requires adequate buffer areas to protect these resources, City approval would allow the applicant, by means of multiple variances, to create an alternate access to his site via an unmitigated 160' road through SCNP. An alternative design suggestion made during the Planning Commission hearing by architect and Commission Chair Mark Steele to use the existing access from Stafford Place and locate the garage under the house, which would avoid both intrusion into the park as well as the variances and landform alterations associated with the multiple retaining walls, was not accepted for consideration by the applicant.

In regard to the perimeter fence around the entire site, which risks fragmenting 9 acres of park land from the body of the Point Loma Ecological Reserve, we believe the City's "MSCP boundary correction" would also allow trails, structures in Zone 2 Brush Management areas, and elimination of high quality biological on-site habitat in favor of a large landscaped lawn. Please note the third paragraph of comments by U.S. Fish & Wildlife in the MND.

CITY POLICY INTERPRETATIONS

1. **Significance Determinations and Off-site Mitigation:** MND Response #22 states that, in accord with newly certified City Biology Guidelines, "sensitive habitats of less than five acres within small isolated sites can be mitigated through contribution to the City's habitat acquisition fund. Monies from the fund are used to acquire large areas of habitat critical for biodiversity and success of the MSCP." We are concerned that conformance with the certified land use plans and implementing ordinances is being undermined by this policy along the developed San Diego coastline, where few parcels of greater than 5 acres exist any longer, but where any further loss could create a highly significant, cumulative impact.

We do not believe this City position can be found consistent with CDP or Hillside Review (HR) discretionary permit findings, which would require a project, regardless of size, to address landform alteration, habitat preservation, visual impacts, brush management, etc. We see the City's policy as, in effect, cannibalizing remaining coastal resources in order to fund the MSCP; and that at well below market rate. In other words, under this policy, the City has no incentive to protect coastal resources, when the result is that the larger the coastal development impacts, the more the money that would accrue to the MSCP.





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San Diego Chapter

Serving the Environment in San Diego and Imperial Counties

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Voice Mail (619) 299-1744

LDR 98-1074, Irving Residence

Page 3

November 16, 1999

2. Reasonable Use: We are unable to agree with the City's analysis under either the Variance findings (City Staff Report, Sec. B, p. 18 of 23) or Alternative Compliance to Brush Management findings (Ibid, Sec. D, p. 23 of 23) that, absent requested variances and alternative compliance, the applicant would be denied reasonable use of the land. Please note that the record does not indicate Mr.Irving's ownership of the property, nor any current vested interest.

Secondly, through demolition of all onsite structures, the applicant would be starting with a blank slate. The City had every opportunity to require, through discretionary review, a design that would avoid many, if not all, significant LCP project impacts. We further note that, contrary to City analysis, it is our understanding from City staff that neither the Resource Protection Ordinance nor Alternative Compliance to Brush Management have been submitted to the Commission for LCP certification. Therefore, they should not have been used by the City in their project analysis to justify ordinance deviations.

SUMMARY: In conclusion, we strongly support the positions and comments of the U.S. Fish & Wildlife Service, the Sunset Cliffs Natural Park Recreation Council, the San Diego Audubon Society, the California Native Plant Society, and the Friends of Sunset Cliffs Natural Park. We urge staff to find substantial issue with the appeal so that appropriate alternatives and mitigations can be considered for this important project.

We believe, from our review, that, should this project be approved as proposed, it could negatively impact the current update of the Sunset Cliffs Master Plan by precluding resource protection options. We also urge the Commission to consider a long overdue update of the Peninsula Land Use Plan, which appears necessary to secure needed protections of the community's physical and visual resources in light of current development pressures.

Thank you for your consideration of these important issues.

Joanne H. Pearson, Co-Chair
San Diego Sierra Club Coastal Committee



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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NOV 19 1999



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Please Review Attached Appeal Information Sheet Prior To Completing
This Form.

SECTION I. Appellant

Name, mailing address and telephone number of appellant:

Ann Swanson - Sunset Cliffs Natural Park Recreati
3611 Warner St.
San Diego, CA 92106 (619) 222-8141
Zip Area Code Phone No. Council

SECTION II. Decision Being Appealed

1. Name of local/port
government: City of San Diego

2. Brief description of development being
appealed: LDR 98-1074 (MMRP) Irving Residence, private
residence in area previously utilized for school
purposes. Proposed access is through Sunset Cliffs
Natural Park, a City of San Diego regional resource base

3. Development's location (street address, assessor's parcel
no., cross street, etc.): 3900 Lomaland, Parcel #532-034-04
and 532-510-05, San Diego, CA

4. Description of decision being appealed:

a. Approval; no special conditions: ✓

b. Approval with special conditions: _____

c. Denial: _____

Note: For jurisdictions with a total LCP, denial
decisions by a local government cannot be appealed unless
the development is a major energy or public works project.
Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6 PEN-99-143

DATE FILED: 11/19/99

DISTRICT: San Diego

EXHIBIT 3
P. 18 OF 29

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- a. Planning Director/Zoning Administrator c. ☒ Planning Commission
b. City Council/Board of Supervisors d. Other

6. Date of local government's decision: _____

7. Local government's file number (if any): _____

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Craig Irving
3735 Trudy Lane
San Diego, CA 92106

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

- (1) Carolyn Dinaus - Friends of Sunset Cliffs
1295 Sunset Cliffs Blvd.
San Diego, CA 92107
- (2) Jim Peugh - San Diego Audubon Society
2321 Morena Suite D
San Diego, CA 92110
- (3) Jaanne Pearson - Sierra Club
3820 Ray Street
San Diego, CA 92104
- (4) Cindy Burrascano - CA Native Plant Society
P.O. Box 121390
San Diego, CA 92104
- (5) Kay Harris - Point Loma Garden Club
876 Golden Park Ave.
San Diego, CA 92106
- Also: League of Women Voters

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

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See attached

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my knowledge.

Signed Ann E. Swanson, Chair, Sunset Offs Natural Park
Appellant or Agent Recreation Council
Date 11/18/99

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed _____
Appellant

Date _____

November 19, 1999

TO: California Coastal Commission

FROM: Ann E. Swanson, Chair
Sunset Cliffs Natural Park Recreation Council
3611 Warner St.
San Diego, CA 92106
Phone: (619) 222-8141; Fax: (619) 222-9642
E-mail: anns@fastwave.net



RE: Reasons for the appeal of LDR 98-1074 (MMRP) Irving Residence:

II. The Irving Residence is inconsistent with The Peninsula Community Plan and Local Coastal Program Land Use Plan in that it negatively impacts Sunset Cliffs Natural Park which surrounds it on three sides. On Page 50, lines 4-6, the LCP states:

"Sunset Cliffs Shoreline Park should be dedicated and developed in a manner consistent with resource protection. All improvements should be reviewed as to their potential for either direct or indirect impacts on the sensitive resources (i.e. natural topography, significant flora and fauna, and tide pool environment) present in this area."

Currently, a master plan for Sunset Cliffs Park is in process with the first draft scheduled to be ready for review in the spring of 2000. Since the park is in the planning process, it is essential that all planning options for the park be kept open and that the process not be preempted. Park designers are focusing on preserving, restoring and accessing this unique resource based, dedicated regional park. It should also be noted that the hillside section of Sunset Cliffs Natural Park has all been incorporated in the Multiple Habitat Planning Area (MHPA), a designation placed after the LCP was approved.

A. While the Irving project impacts the dedicated parkland and MHPA in numerous ways, probably the most significant is the 160' exclusive private driveway across dedicated parkland. Although a 20' road easement currently exists, the current surface measures 8' in width and, until very recently, was lined with numerous mature native plants which formed a canopy over the road. The applicant plans to widen the road to 12' with 4' shoulders on each side. The shoulders are to be replanted with low growing natives. Although the City permit conditions call for a biologist, park and recreation staff person, and someone representing the MSCP to be present when the mature plants are removed, someone, without the San Diego Park and Recreation Department's authorization, has recently hacked back the plants. Not only is a private road across parkland inconsistent with park goals and the park's dedicated status (Section 55 of the City Charter prohibits private use of dedicated parkland without a 2/3rds vote of the public), the recent cutting demonstrates the area's vulnerability and also the potential risk and misunderstanding associated with extending private rights across public parkland. Since this cutting is immediately adjacent to the road, it would follow that had the road not existed, this particular native habitat removal would not have occurred.

Such vandalism could potentially be avoided in the future by requiring the applicant to access his property using an existing road easement from Stafford Place, the adjacent public street instead of across dedicated parkland.

With the sale of school property to a private individual, there will no longer be any nexus between the college property located on the east side of the park and the applicant's to the west. Since the existing house for which the access served will be demolished, this is the ideal time to orient the new residence to the adjacent City street. Such action would facilitate resource protection for Sunset Cliffs Park as called for in the Local Coastal Plan.

One of the major problems this road poses for resource protection is the fragmentation of the parkland and the disruption of the wildlife corridor leading from the park's northeast canyon, the most pristine and natural canyon within Sunset Cliffs Natural Park. The canyon serves as the home for a variety of animals including the gray fox, opossums, skunks and raccoons as well as smaller animals such as lizards and horny toads. In addition to housing many native birds, the canyon serves as a refuge for a rich variety of migratory birds during their travels along the Pacific flyway. Since the applicant is planning to fence the perimeter of his property, the wildlife corridor will be significantly reduced. Although planning documents indicate the MHPA corridor will be 215' wide after the fencing, much of the eastern side includes Point Loma Nazarene University (PLNU) buildings, roads, and parking lots. The actual corridor will be less than 160' wide, a significant reduction in contrast to what is currently present. It is, therefore, especially important to protect and preserve the function and value of the remaining wildlife corridor which will serve for connectivity from the lush northeast canyon through the park to the protected 640 acre Point Loma Ecological Reserve to the south. This 3 miles of functionally connected wildlife habitat is an especially significant resource in this unique urban coastal setting.

The applicant has stated that using the existing road easement from Stafford Place would necessitate removal of sensitive native habitat. In fact, no native plants would need to be removed if the applicant's drive was extended from either the existing access from Stafford Place or from the access the applicant is planning to build for his neighbor. In contrast, numerous plants in the designated MHPA would be removed if the access is through dedicated parkland.

It should be noted that several variances will be required for the applicant to build the neighbor's access. After considerable removal of native habitat and major land form alteration, the neighbor's driveway will have a 20% grade. That same neighbor currently accesses his property on a road easement from Stafford Place. Although the applicant's attorney has stated the present road easement from Stafford Place also has a 20% grade, most of the slope is quite gentle; minor grading could correct the grade to no more than 10%. We recommend that in return for permitting this new driveway requiring numerous variances that access to the Irving residence be from Stafford Place. In order to minimize further disruption of SCNP for the construction and repair of utilities, we recommend that utilities also be accessed from Stafford Place when at all possible.

Of special concern is the fact that **Zone 2 Brush Management requirements will necessitate the removal of habitat which is part of the existing MHPA ecosystem.** With the current designation of the parcel in question as school property, a 70' setback is required as is consistent with PLNU's current CUP/CDP. With the sale of the property for residential development, the protective setback apparently no longer exists, a change resulting in significant impacts on the park which, as previously mentioned, surrounds the property on three sides.

C. The proposed development will also affect the character of the neighboring park from a visual and aesthetic standpoint. Imagine an 8,000+ square foot house and 800 square foot guest house surrounded on three sides by resource based parkland. Views from the public park toward the Irving residence will be incompatible with the ambience of the surrounding natural park, which features beautiful ocean views and serves as a peaceful retreat from the busy urban environment. This development threatens to obscure ocean views from the eastern area of the park.

D. Another concern is potential bluff instability and failure along the south slope of the park's northeast canyon, which lies within the Hillside Review (HR) area. Although permit conditions require that drainage be directed away from SCNP, the increased impervious surface area may well affect runoff and thus impact the stability of the canyon bluff.

II. According to the City of San Diego's "Significance Determination Guidelines for CEQA", it appears that a full Environmental Impact Report (EIR) should have been required instead of a Mitigated Negative Declaration (MND). Then all of the above concerns would have been fully reviewed within the EIR process. Of paramount concern are the following.

A. With a full EIR, alternatives to access across dedicated parkland would have been explored and carefully evaluated. The City Planning Department reports that the existing access from Stafford Place was not examined with respect to the feasibility of continued use. Yet a visit to the site quickly establishes the fact that the current access from Stafford Place would substantially remove the worst environmental impact to this coastal resource park.

B. The applicant states he would be denied full use of his property by having the access from Stafford Place. We believe the EIR would indicate the applicant would have adequate use of his property if he accessed from Stafford Place but that his access as proposed would significantly negatively impact the value and function of the neighboring Sunset Cliffs Natural Park.

C. The EIR would have examined impacts on the wildlife corridor and the MHPA.

D. Views and compatibility with the neighboring park would have been studied.

E. The unstable northern slope within the HR zone would have been carefully examined.

RECOMMENDATIONS:

1. If the permit is to be approved with its numerous variances, require a permitting

condition that access be from Stafford Place instead of through the dedicated Sunset Cliffs Natural Park.

2. Return the project to the developer for redesign with the goal of eliminating adverse impacts to Sunset Cliffs Natural Park. Especially important would be removing the access through dedicated parkland.

3. Deny the project.

We appreciate your consideration of these concerns. Thank you very much..

18 November 1999

FROM: Ann Swanson, Chair, Sunset Cliffs Natural Park Recreation Council
3611 Warner St., San Diego, CA 92106
Phone: (619) 222-8141; Fax: 222-9642
E-mail: anns@fastwave.net

TO: WHOM IT MAY CONCERN

Testimony, Procedures and Reports regarding LDR 98-1074, Irving Residence, which may have misled the decision makers regarding the significance of the impacts on the Multiple Habitat Planning Area (MHPA) and Sunset Cliffs Natural Park (SCNP) which surround the Irving property on three sides:

1. At meetings of the Peninsula Community Planning Board (PCPB) and the Sunset Cliffs Natural Park Recreation Council, Mr. Irving stated that numerous residences could have been built on these properties instead of just one, therefore making the point that his proposal of building only one residence should be supported since it would have considerably less impact. In fact, only two residences could have been built, one on each of these 2 lots. The community was told that Mr. Irving was asked by Planning Department staff to correct this error. To the community's knowledge, this statement was never corrected. It appeared that this statement significantly influenced the Peninsula Community Planning Board and other decision makers.
2. At both the Project Officer Hearing and the Planning Commission Hearings, Mr. James Dawe, attorney for Mr. Irving, stated that accessing the property from Stafford Place would require removal of sensitive native plants on Mr. Irving's property. He may have been thinking of a driveway through a swale containing dense native habitat which would clearly not be environmentally sound. In fact, a driveway can be extended from either the current Stafford Place access or the proposed Stafford Place access to the Clark residence without removing ANY native habitat.
3. At both the Project Officer Hearing and the Planning Commission Hearings, Mr. James Dawe stated the current access from Stafford Place has a 20% grade. While it is possible that in one limited location the grade is 20%, minor grading in that area could easily correct the slope of the access to a 10% grade or less.
4. The Irving Project was presented as being based on environmentally protective considerations, yet there was no acknowledgment of the significant impacts on the surrounding MHPA and dedicated natural parkland. Furthermore, no mitigation was even considered for the removal of approximately 1,920 square feet of habitat along the proposed private access road.
5. Likewise, in their report to the Project Hearing Officer and the Planning Commission, the

EXHIBIT 3
P. 25 OF 29

Planning Department staff did not mention the significance of the 160 foot road across dedicated parkland which was being proposed for access to the Irving Residence. From the park perspective, this road leads to fragmentation of the park, interference with the wildlife corridor, and would require removal of 1,920 square feet of habitat along the road. This choice could also be questioned on the basis of safety and quick access for the homeowner. To be required to access a residence approximately a quarter of a mile, first through an often congested university campus, then across dedicated parkland doesn't seem like optimal planning for the future property owner.

6. Although surrounded on three sides by the Multiple Habitat Planning Area (MHPA) and the regional resource based Sunset Cliffs Natural Park (SCNP), a mitigated negative declaration (MND) was deemed acceptable for environmental review instead of a full E.I.R. By choosing a MND, the City and community were denied the opportunity to evaluate alternatives which would be protective of the park.

7. The wildlife corridor was not acknowledged as being important even though it connects the lush northeast canyon with the rest of SCNP and the adjacent Point Loma Ecological Reserve. This wildlife corridor will be substantially narrowed thereby contributing significantly to the cumulative impacts on wildlife.

8. Views from Sunset Cliffs Natural Park toward the applicant's property were totally ignored even though the park surrounds the applicant's property on three sides. The 8,000+ square foot residence plus the 800 square foot will be a contrast to the character of its closest neighbor, the natural park, which is proposed to continue to be a peaceful retreat from the urban scene.

9. The stability of the canyon slope was not fully investigated in relationship to the proposed steps and viewing platforms. Likewise, the effect of the runoff from the impervious surfaces was not fully researched.

10. The applicant's representatives testified that utilizing the existing Stafford Place access would essentially bisect his property and thereby affect the full use of his property. He is planning to remove native habitat in order to have an approximately 5,000 square feet lawn, a lawn which could be located differently or made smaller if he decides he prefers to retain more existing native habitat. The applicant chooses instead to bisect the dedicated parkland which significantly affects the value and function of the public's regional park. A third option might be to have shared use of the drive which is being built for the northern neighbor.

11. The project, as currently designed, is not environmentally sound but could potentially be redesigned to accommodate the applicant's goals while protecting the dedicated parkland.

Sunset Cliffs Recreation Council
Ann Swanson, Chair
Warner St.
San Diego, CA 92106

May 11, 1999

To: Dan Stricker, Plan Coordinator
Scott Vurbeff, Environmental Analyst
City of San Diego
Development Services Center
1222 First Ave MSTN 501.
San Diego, CA 92101
From: Dedi Ridenour
EIR Chair
Warner St.
San Diego, CA 92106
Subject: Request for EIR for Irving Residence LDP No. 98-1074

The May 3, 1999 meeting of the Sunset Cliffs Natural Park Recreation Council, the advisory committee for the City park, voted to request that an EIR for LDP No. 98-1074 be prepared.

Upon review of the Draft Mitigated Negative Declaration dated for distribution April 7, 1999 it was noted that the initial review check list (3-10-99) cited substantial impacts to D. Biology (Items 1, 5 and 6); Q. Neighborhood Character/Aesthetics (Items 4 and 6); U. Mandatory Finding of Significance (Item 1). In addition the Peninsula Community Plan (Local Coastal Plan) and the Historical Report for the project and the Biological report by Helix were reviewed. Adequate factual information appeared not to be available for the environmental initial review which affect the finding of significant adverse impact. Findings of significance must be made for the historical complex on this site and adequate mitigation may not be possible, thus the alternatives must be addressed including but not limited to acquisition for incorporation into the surrounding park.

According to California Environmental Quality Act (CEQA) a mitigated negative declaration (MND) may be prepared by the lead agency (City of San Diego) if the project proponent agrees to modify the project to reduce or eliminate any significant or potentially significant adverse effects identified by the lead agency's initial study. [Pub. Resources Code, # 21080, subd. (c)(2)]. The applicant as of this writing has not agreed either verbally or in writing to most of the mitigations requested by City staff to potentially mitigate the adverse effects to insignificant.

CEQA's "fair argument" standard establishes a low threshold for requiring the preparation of an EIR in order to fulfill CEQA's substantive environmental mitigation policies and objectives. As the California Supreme Court has stated, an EIR is necessary to resolve "uncertainty created by conflicting assertions" and to "substitute some degree of factual certainty for tentative opinion and speculation" [No Oil, Inc. v. City of Los Angeles] (1975) 13 Cal.3d 68,85.]

Since the Draft Negative Declaration was issued April 7 the San Diego Historical Sites Board has designated the Base-end Station on this property as a historical site on April 26. Moreover they did not have the Minot house considered for historical designation because the consultant, paid for by the seller of the property, claimed the house was not significant and in the absence of any objective information the environmental analyst concurred with this finding. Subsequently evidence is evolving to show that the house meets at least three of the CEQA mandatory findings of significance.

AGE: A still intact portion of the house is 89 years old.

ACHECTECTURAL: The house is a sample of kit craftsman vernacular architecture.

HISTORIC EVENT: The house was apparently used to house the soldiers who manned the three nearby base-end stations requiring housing for 12-36 personnel during WWII.

CONNECTIVITY AND CONTEXT:

WWII The house is in its exact location and context both historically and physically as it was in 1944 when WWII coastal defenses relied on its usage.

SAN DIEGO EARLY HISTORY The house is part of a historical complex of the Theosophical Institute which had economic, cultural, political and education impact on San Diego's history in the early part of the century.

If only because of the mandatory findings of significance relating to historic sites an EIR would be necessary. But in addition the substantial adverse impacts to the surrounding MHPA and natural park must be fully addressed. In an attachment to this letter the adverse impacts that we see related to this project are detailed in "Initial Checklist" order.

Only an EIR can be required to seriously look at the alternatives for this project. The land's value to the heritage of the citizens of San Diego must be shown in the environmental document so that the discretionary decision makers can make the policy decision to save or not save this valuable parcel in a public meeting.

In closing the Sunset Cliffs Recreation Council thanks you for this opportunity to comment on the available documents. We thank you for the initial work that you have done which has alerted us to the importance of this parcel. Please don't hesitate to call me at 222-8983 or Ann Swanson, Chair of SCNPRC at 222-8141.

The following comments are from SCNPRC's initial review of the III.

ENVIRONMENTAL ANALYSIS: Initial Study Checklist Date 3-10-98 Dep. No. 98-1074. These comments may be revised as further information is made available.

A. Geology/Soils

1. and 2. A substantial possibility of slumping or landslide exists in the Hillside Review Overlay Zone to the north if grading, brush management, construction of paths, wooden observation decks, stairs, irrigation or herbicide usage is allowed. Any collapse of this slope would adversely affect the adjacent public natural park.

Installation of overslope and overheight retaining walls shored up by wood for a drive way adjacent to historic WWII bunker would expose people and property to landslides and potential damage to historic site.

C. Hydrology

DEC 14 1999

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

December 14, 1999

TO: California Coastal Commissioners
3111 Camino Del Rio North, Suite 200
San Diego, CA 92108-1725

FROM: Ann Swanson, Chair
Sunset Cliffs Natural Park Recreation Council (SCNPRC)
3611 Warner St.
San Diego, CA 92106



SUBJECT: 1) Update regarding the brush clearance in the Multiple Habitat Preservation Area (MHPA) which was mentioned in the Sunset Cliffs Natural Park Recreation Council's appeal to A-6-PEN-99-143, Irving Residence; 2) Fire access needs to be resolved before any permit approval.

1) The appeal stated: *"While the Irving project impacts the dedicated parkland and MHPA in numerous ways, probably the most significant is the 160' exclusive private driveway across dedicated parkland. Although a 20' road easement currently exists, the current surface measures 8' in width and, until very recently, was lined with numerous mature native plants which formed a canopy over the road. The applicant plans to widen the road to 12' with 4' shoulders on each side. The shoulders are to be replanted with low growing natives. Although the City permit conditions call for a biologist, park and recreation staff person, and someone representing the MSCP to be present when the mature plans are removed, someone, without the San Diego Park and Recreation Department's authorization, has recently hacked back the plants. Not only is a private road across parkland inconsistent with park goals and the park's dedicated status (Section 55 of the City Charter prohibits private use of dedicated parkland without a 2/3rds vote of the public), the recent cutting demonstrates the area's vulnerability and also the potential risk and misunderstanding associated with extending private rights across public parkland. Since this cutting is immediately adjacent to the road, it would follow that had the road not existed, this particular native habitat removal would not have occurred."*

Follow-up to the brush clearance incident clearly illustrates the vulnerability of the MHPA and natural park when private rights are extended through dedicated parkland. It was discovered that Point Loma Nazarene University (PLNU), current owner of the road easement, had cut the vegetation without the required prior authorization from the City. No permit for this clearance was issued. No biologist, Park and Recreation staff person or MSCP representative was on site.

According to city staff, there had been no clearance along this access road since 1991. Nevertheless, PLNU decided to clear along the road to the current house which was vacated approximately a year ago and which will be demolished if the applicant's permit is approved. Why? A City staff member stated he discovered PLNU was requested by the City Fire Department to do the cutting.

So we checked with Eddie Villacencia of the San Diego Fire Department. Although he said they had not requested the clearing, he would check into it. To make a long story short, he investigated the site, and decided more clearing would be needed in order to accommodate fire access along the

EXHIBIT NO. 4
APPLICATION NO.
A-6-PEN-99-143
Letters from Appellants (with aerial photographs)
(p. 1 of 7)

easement. Before we knew it, on December 2 even more clearance occurred - in fact, even more clearance than the Fire Department requested!

2) In the absence of a full EIR, options for proper fire access were not considered. Indeed, modification of access to the adjacent Clark residence would appear to make fire access to this structure even worse than it now is. Fire access clearance through the existing easement through parkland has already resulted in the destruction of habitat in excess of any envisaged or authorized.

If the permit is to be approved, then the road easement across parkland should be removed and access from Stafford Place required in compensation for the many variances granted. Although the existing access from Stafford may not be adequate, it should be possible to engineer adequate access. If adequate fire access cannot be engineered without use of the easement through parkland, the permit should be denied.



EXHIBIT NO. 4
P. 2 OF 7



December 15, 1999

California Coastal Commission
San Diego Area
3111 Camino Del Rio North, Suite 200
San Diego, CA 92108

RECEIVED

DEC 15 1999

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

**SUBJECT: Appeal A-6-PEN-99-143
Irving Project, MND 98-1074**

Dear Coastal Commissioners:

I would like to briefly summarize the issues that our group believes are most important about this matter, and clarify an issue raised by Mr. Irving's attorneys after we submitted our appeal:

Public Participation Not Effective

- *Public Denied Information* – The public has not been allowed to have copies of key documents that are needed to assess the impact of this project, including the elevations, grading, drainage, or landscape plans – even plans which directly affect the park & MHPA.
- *MHPA Boundary Correction* – The MHPA boundary, which included a substantial portion of this property, was "corrected" without any public review – and in spite of the fact that property itself is surrounded by park on three sides, appears as if it is part of the park, and currently provides substantial habitat for animals in the park.
- *Lack of Consideration* – Although the appeals on this process involved many credible groups, the City staff disregarded virtually all of the statements in our letters as being "speculative" (example: Sierra Club letter with staff comments in the MND); however, certain of the City's key findings (including the view impact from the park across the swale) were based mostly on the staff's opinion or the developer's remarks, rather than on actual field research.
- *Land Use Incompatibility* – The applicable Land Use Map clearly designates the property in question as "school", not residential. However, NO amendment to the land use plan was ever requested, discussed, approved, or certified by the Coastal Commission. Furthermore, the staff chose to ignore the Municipal Code statute that specifically states that in conflicts between the underlying zone and the overlay zone *the Overlay Zone shall prevail*.
- *Abuse of MHPA Parkland* – In the past month, the property owner has severely cut back the native habitat in the MHPA *in the park* land along the easement and *in the MHPA on the property*, destroying many mature native plants. This work was performed without any of the permits required by the municipal code, although the guidelines provided by the Fire Department provide clear warnings that permits are required and instructions on how to obtain them. We believe that it will be impossible to prevent similar activity from being repeated in the future, if the project is allowed to extend into the park, as proposed, for the access road and brush management.

Coastal Permit Findings Not Valid

- *Visual Impact* – The city staff report only considers the project's compatibility with *homes* in the area – although the project is actually surrounded on three sides by the park, and we believe it would obstruct public views of the hillside and ocean from area across the southern swale. Drafts of the park master plan call for the life estates in this area to be demolished



Friends of Sunset Cliffs

and this area to be developed into a public viewpoint. We also believe the project will impact the public's enjoyment of the natural beauty in the park, due to the project's "overlooks", stairs, retaining wall and buildings of undetermined height near the edge of the park.

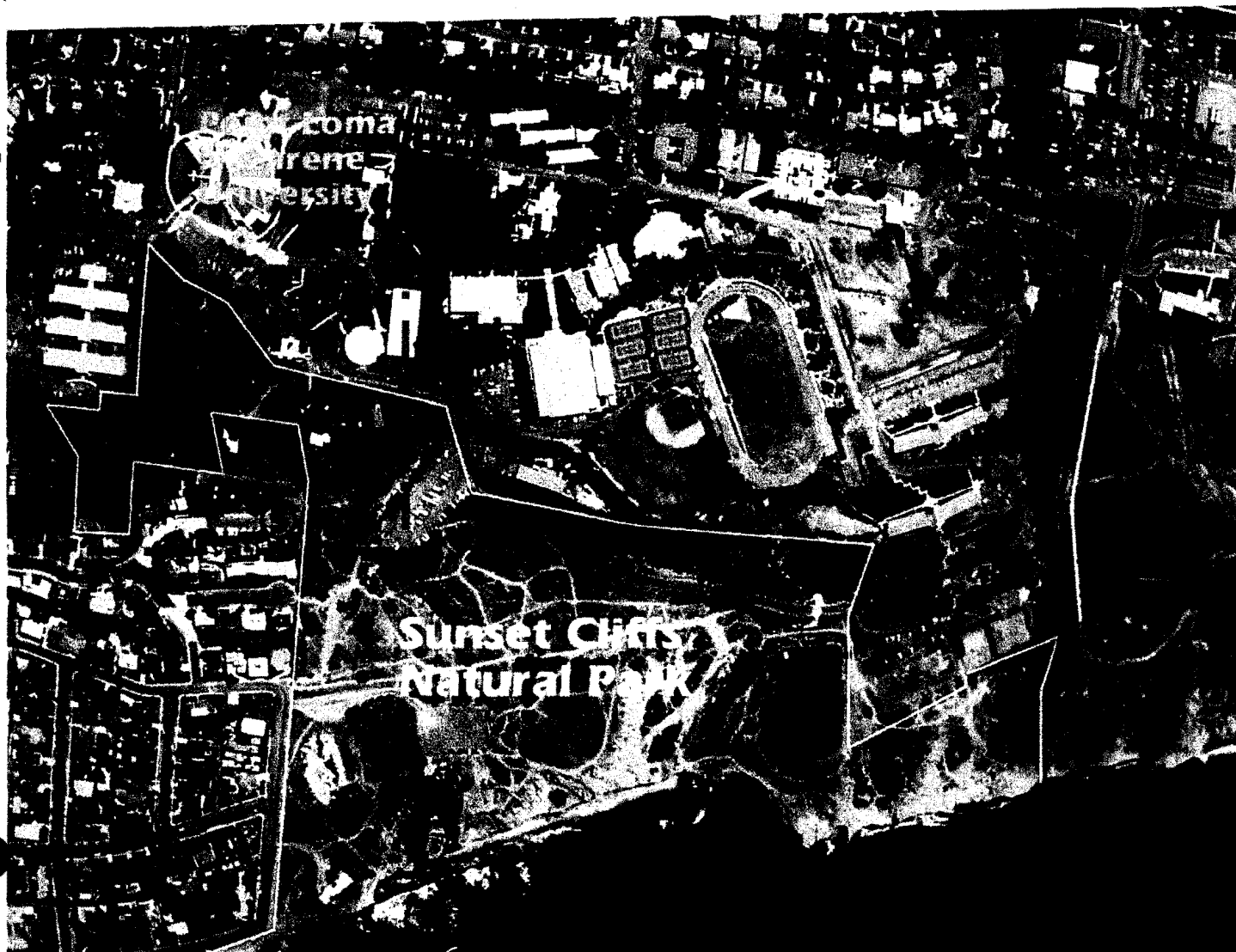
- *Protection of Wildlife Corridor* - The staff refused to acknowledge the park area around the project as a "wildlife corridor", although it is repeatedly referred to by that term in the Biology Report. The project would fence off a substantial portion of the area used by wildlife to travel from the northern canyon to the hillside area of the park and beyond. The primary access road to the project would cross the wildlife corridor at its narrowest point - and this road would also be used for all of the equipment required for grading and construction.
- *Brush Management* - The project does not incorporate an adequate buffer between the residence and the park, requiring Zone 2 brush management to occur on parkland. The findings made by City staff which allow this were focused at protecting only one plant species in the area deemed as endangered, and attribute no value to the plant *community* and biodiversity which currently makes up the habitat.
- *Access Road Across Park* - The proposed primary access road across the park encroaches into sensitive biological resources (MHPA) on public parkland, which is not allowed unless no other access is possible. The City staff never evaluated any alternatives to this proposed access (which they would have been required to do if a full EIR had been required), although an alternative access road from Stafford Place already exists, the use of which would cause far less damage to the environment. The project also proposes massive landform alterations to create a new driveway for a neighbor's house - a tunnel-like road which is 12' wide with no shoulders and 18 ft. retaining walls on both sides.

Finally, I would also like to respond to a claim asserted by Mr. Irving's attorneys, that the Friends of Sunset Cliffs did not have legal standing when the City Council appeal was filed. The fact is that the appeal to the City Council was filed *in my name*, not the "Friends of Sunset Cliffs." I submitted the required City Council Process Three appeal form to Joanne Ward at the City Clerk's office early in the day on September 29, 1999. Later that afternoon I received a call from Tridae Hughes-Ford, the Hearings Supervisor for Land Use Hearings, who explained to me that the City has a policy of only allowing groups that appear on a specific list to file appeals in the name of the group, with all others being forced to pay \$100 and file only in the name of an individual, not the group. After confirming with me that I would still want to proceed on that basis, she told me that she would proceed with filing of the appeal in my name only.

I hope that this letter and the attachments help clarify the basis for our appeal. Please let me know if you have any questions, or I can help explain some of the statements (I tried to present them in an abbreviated fashion, to help draw attention to the main points).

Sincerely,

Carolyn "Shammy" Dingus
President



Key Points:

- ① -- Currently, wildlife uses the entire width of the open space corridor, including the property to be developed (which is not fenced), to reach other parts of the park..
- ② -- When the property is developed and fenced, it will place additional pressure on the remaining narrow strip of habitat behind the residence, where the driveway is planned.
- ③ -- Plans approved for the new residence call for the driveway to be widened from the current 8 ft. with no shoulders to 12 ft. paved plus 4 ft. shoulders on each side (entire 20 ft. easement cleared), with a significant increase in traffic, particularly during construction.
- ④ -- The park's northern canyon would be cut off by the driveway across the park to PLNU.
- ⑤ -- Adequate access to the property is already available from Stafford Place.

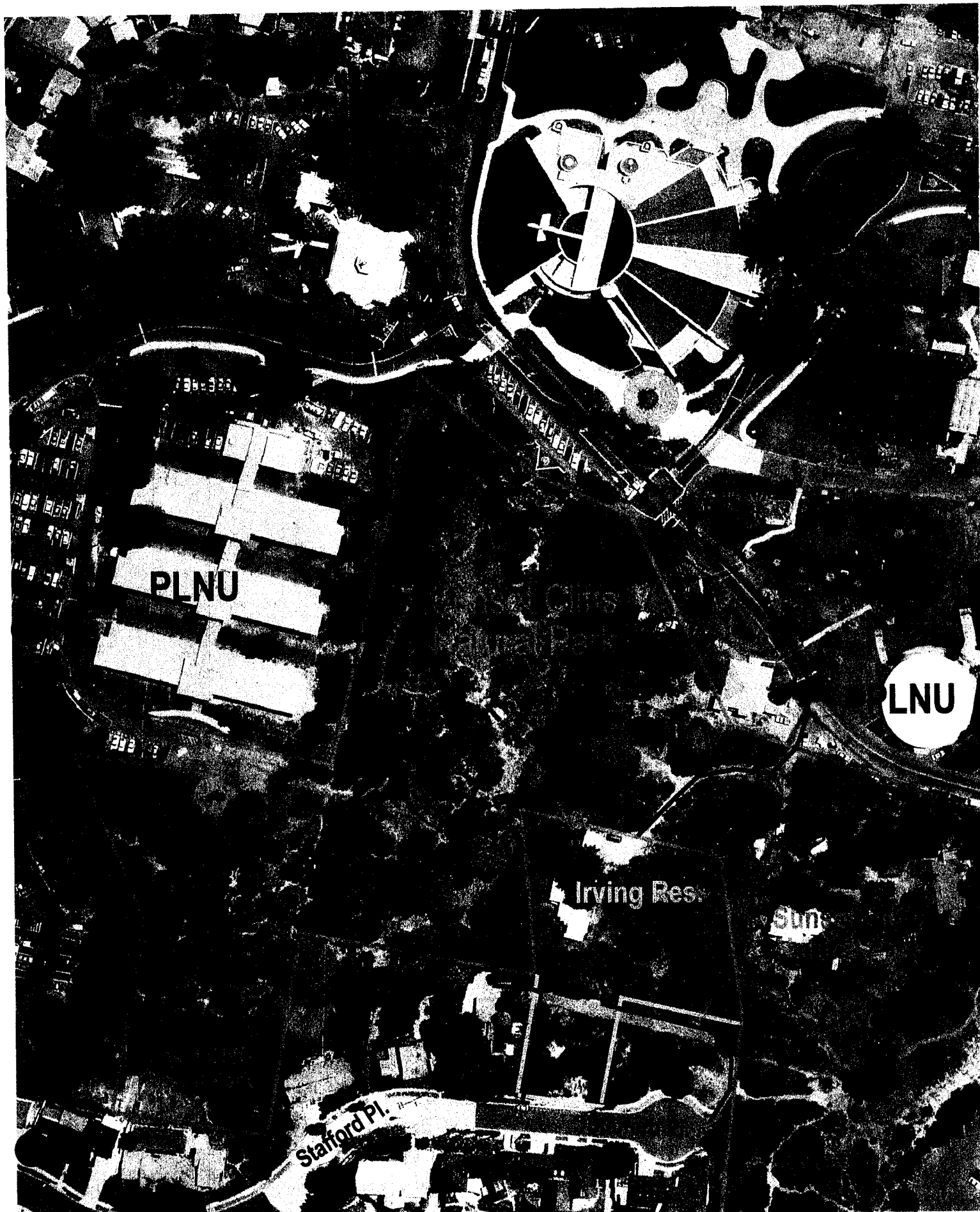
NOTES:

* The City Council should add conditions to the permits and variances being granted for this project, requiring that access to the property be allowed from Stafford Place ONLY. Or, require the developer to abandon and revegetate the easement as on-site mitigation of native habitat removal. If absolutely necessary, the City should condemn and remove the easement.

* Eliminating the easement should involve little or no acquisition expense to the city.

* The precedent of adding private properties to Sunset Cliffs Natural Park via condemnation was established by the acquisition of three properties in 1976 (City Resolution #216153, June 1976)..

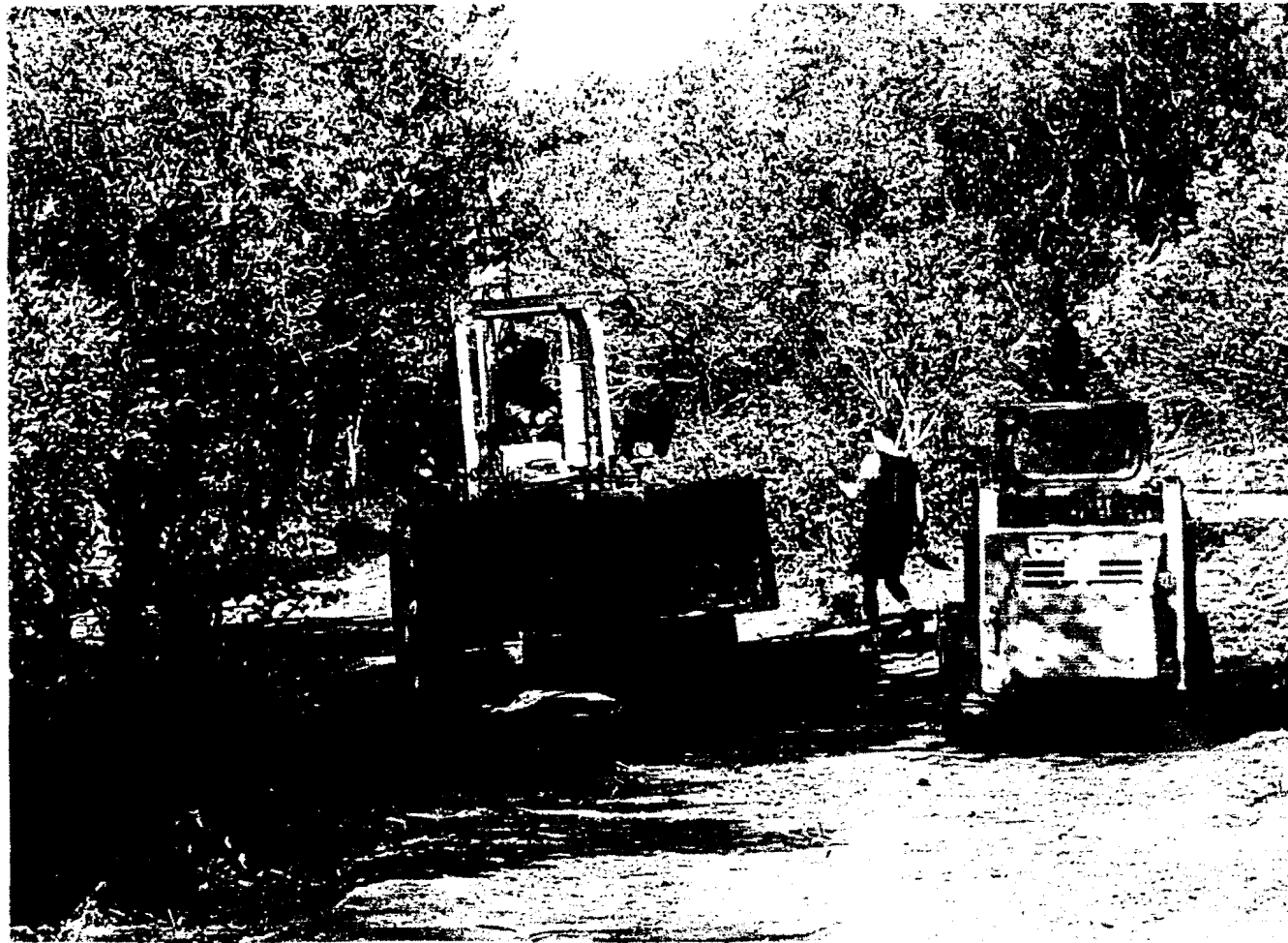
Ex. No. 4
P. 5 of 7



Ex. No. 4
P. 6 of 7



32 FT. CLEARANCE MEASURED AT ENTRANCE





THE LEAGUE OF WOMEN VOTERS OF SAN DIEGO

RECEIVED

DEC 03 1999

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

December 2, 1999

Ms. Laurinda Owens
Coastal Program Analyst
California Coastal Commission
San Diego Coast Area
3111 Camino del Rio North, Suite 200
San Diego, CA 92108-1725

Dear Ms. Owens:

Please distribute the enclosed testimony regarding the Craig Irving Applicant, Permit # A-6-PEN-99-143 to the Commissioners prior to the hearing scheduled for January 11-14, 2000 in Santa Monica.

If you have any questions, please contact me at (858) 459-4406, eflom@ucsd.edu.


Thank you.

Sincerely,

Beryl Flom

Beryl Flom
President

2801 Camino del Rio So., #300G, San Diego, CA 92108
Tel: (619) 542-8401 Fax: (619) 542-8408 Email: lwvsd@aol.com

EXHIBIT NO. 5
APPLICATION NO.
A-6-PEN-99-143
Letters of Concern from Interested Persons
(p. 1 of 11)
 California Coastal Commission



THE LEAGUE OF WOMEN VOTERS OF SAN DIEGO

December 2, 1999

MEMO TO: Commissioners and Alternates
California Coastal Commission

RE: Craig Irving Applicant, Permit # A-6-PEN-99-143

FROM: Beryl Flom, President, (858) 459-4406; eflom@ucsd.edu

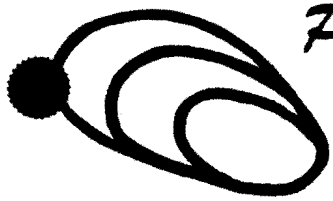
Beryl Flom

In regard to the Plan of Craig Irving to design and build his residence with a personal private roadway, crossing Sunset Cliffs Park, the League of Women Voters of San Diego opposes invasion of private access into a public park. His property does have access off of Stafford Place, but he is trying to permanently eliminate this existing easement and to use access through dedicated parkland.

This case clearly is addressed in the position of the League of Women Voters of San Diego that states, "...roads through parklands for non-park purposes should not be allowed."

In addition, Section 55 of the City Charter states that, "once property owned in fee by the city has been dedicated by ordinance to park use, such property can be used for no other purpose without such other purpose being approved by a two-thirds vote of the electorate." The private use of a road on dedicated parkland violates this section of the Charter.

We ask that you oppose his plans and continue to protect our parks.



*Process
Relational
Possibilities*

RECEIVED

DEC 09 1999

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

December 8, 1999

California Coastal Commissioners
San Diego Coast Area
3111 Camino Del Rio North, Ste. 200
San Diego, CA 92108-1725

RE: Appeal of LDR 98-1074 (MMRP) and the proposed Irving Residence to be situated in the midst of Sunset Cliffs Natural Park, a San Diego City Park located in Pt. Loma that has been incorporated into the Multiple Habitat Planning Area.

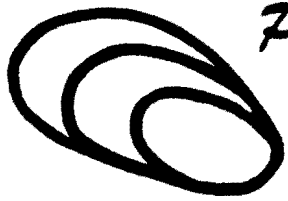
Dear Coastal Commissioners,

I am writing to you as a person who walks along the cliffs for soul inspiration and for the love of Sunset Cliffs' innate beauty. The larger Sunset Cliffs Natural Park won my heart and soul when I first set my eyes on the undulating cliffs reaching out to the Pacific while attending a youth training session the summer of 1959 on the California Western campus above the cliffs. I have lived in San Diego for almost thirty years and visit my favorite park on a weekly basis.

The blight and neglect occurring on the cliff landscape has been startling and painful to observe. Diligent and informed community members have been working with the Park and Recreation Department since 1976 to create a Master Plan that will work toward the restoration of native habitat and create designated paths for walking and enjoyment of the park terrain. In addition the plan will work toward restoring the natural flow of runoff and limit erosive processes created by intrusive and inappropriate structures and irrigation. As a homeowner in the area, I have observed the vigilance and dedication of these fellow citizens and have attended some of the meetings of the Sunset Cliffs Natural Park Recreation Council. I share their deep love and appreciation of the unique and picturesque cliff terrain. The city park has the potential to restore a native coastal habitat—one that covers a cliff terrain that enchants while it educates.

The larger Sunset Cliffs Natural Park area that lies below Pt. Loma Nazarene College has special interest for palentologists and geologists. The Pt. Loma Formation is a geological formation that dates back to the era of the dinosaurs. In 1989, a lower jaw bone of a duck-billed dinosaur was discovered in the Sunset Cliffs' geological layer created during the cretaceous era. Bones of a contemporary of the dinosaur were also found in the Pt. Loma Formation. The bones were of a thirty-foot long marine reptile, the mosasaur. When I asked palentologist Tom Demeré of the San Diego Natural History Museum if I could call the mosasaur a dragon, he say "Why, yes!". This gorgeous cliff area that holds a unique story stirs the imagination.

Barbara Keiller, M.S., MFCC



Process Relational Possibilities

Native plants hold the ability of mitigating natural erosive processes and contribute to the biodiversity of the coastal landscape. Currently the terrain is host to invasive exotic species competing with scattered native plants as the cliffs await their fate. Now the Irving Residence is proposed for a parcel of the Sunset Cliffs terrain. This particular parcel of land extends into the delicate Multiple Habitat Planning Area. Native species living in a canyon on the slope just above the proposed Irving Residence currently nourish and help spread native species — acting much like a “mother board” on a computer in relation to the habitat below. The ambitious design of the Irving Residence, threatens to sever this important habitat corridor as well as exacerbate the process of erosion on this tenuous and endangered landscape.

The almost extinct coastal horned toad once roamed and explored the cliff area. Exotic plant species not native to the coastal desert region introduced the Argentine ant to the cliff area. The Argentine ant thrives on the increased irrigation required by many exotic species. The Argentine ants developed an appetite for the native ant species necessary for the livelihood of the coastal horned toad (study done by Andy Suarez and colleagues at UCSD, 1997). Exotic plant species were introduced into the landscape at the turn of the century beginning with the Lomaland Community created by Madam Tingley and the Theosophists. I add the story about the horned toad as an example of the delicate ecological balance required to restore the native habitat. The Irving Residence proposal threatens to further violate this endangered landscape.

As geologist Patrick L. Abbott states in his new book, Rise and Fall of San Diego, “One of the unfortunate effects of the growing urbanization of San Diego is the wanton disregard for the natural landscape. Beach ridges are being bulldozed and destroyed to make level lots rather than builders adapting to an interesting and significant landscape (p. 196). I urge the Coastal Commission to act on behalf of this precious resource and to take action to prevent further destruction of this rare and ecologically sensitive native habitat that also holds clues to San Diego’s geological past.

With warm regards,

Barbara Booth Keiller

Barbara Booth Keiller, M.S.
Licensed Marriage, Family Therapist
Doctoral Candidate, Pacifica Graduate
University

Barbara Keiller, M.S., MFCC

December 12, 1999

Sunset Cliffs Natural Park Recreation Council
Environmental Review Committee
%Dedi Ridenour, Vice Chair
1071 Sunset Cliffs Blvd
San Diego, CA 92107

California Coastal Commission
San Diego Area
3111 Camino Del Rio North, Suite 200
San Diego, CA 92108-1725

Re: Appeal No.: A-6-PEN-99-143
Irving Project
MND 98-1074

RECEIVED

DEC 13 1999

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Dear Coastal Commissioner,

Thank you for your time in considering this vital action on the destiny of a critical portion of this unique treasure of Coastal San Diego. The Sunset Cliffs Natural Park, a dedicated regional coastal resource-based park is not duplicated anywhere in San Diego or California, thus every inch must retain its full function. Our committee of unpaid volunteers like yourselves is swamped with finalizing our Park Master Plan. We have no extra time for this project yet we must try to explain how environmentally disastrous this project, as currently proposed, is for your park.

Development of this single family residence could be made more compatible with the park but unfortunately one bad decision on choosing access through the city park's MHPA instead of a city street has made the whole project environmentally unacceptable.

City staff early on tried to persuade the applicant to revise his project to not access through the park but take the more logical and environmentally superior option of accessing to the city street (Stafford Place). The applicant does not own the land and has only an option to buy the property if all permits are granted. PLNU owns the land and would benefit by getting these permits to build out this parcel. If it pursued these permits in its own name it would be required by the city to observe a 70 foot set back from the park which borders this 1.3 acre parcel on three sides. The other side is a Stafford Place. But the applicant did not change his plan at all. All further review by the city focussed only on minor mitigation totally ignoring the source of major adverse environmental impacts.

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An EIR must be required under CEQA. The environmentally superior alternative must be documented before any discretionary action is taken by your Commission. Then the facts will be researched and its benefits would be available for your consideration. Please insist that you be given the full environmental impacts of the preferred environmental alternative before you are forced to make a decision which will forever deteriorate the biodiversity and quality and function of this unique park.

The detached "guest house"/garage, and extensive pavement with its noise, light and disruptive impacts right up against the MHPA wildlife corridor can not meet the Coastal Commission findings for resource protection. The building visually disrupts a coastal view and intrudes unnecessarily into the MHPA. The placement of the garage and its concomitant vehicular intrusions only four feet from the MHPA is totally unnecessary and easily changed to Stafford Place. Findings of sufficiency in meeting the Coastal Act's criteria for sensitive resource protection cannot be made with the current design proposal.

CEQA requires that when significant controversy exists or factual information is contested an EIR must be written before any discretionary action is taken.

It is with regret that I formally appeal the adequacy of MND 98-1074. Attached is further documentation of inadequacies and errors in the MND and Manager's report.

Sincerely,

Dedi Ridenour

Attachment: Omissions, Corrections, Etc to MND 98-1074

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From: Sunset Cliffs Natural Park Recreation Council December 12, 1999
Environmental Review Committee %Dedi Ridenour
1071 Sunset Cliffs Blvd San Diego, CA 92107
To: California Coastal Commission
Re: Appeal No.: A-6-PEN-99-143
Irving Project
MND 98-1074 LDR 98-1074

OMISSIONS, CORRECTIONS, ETC, to MND 98-1074

1. Significant environmental impacts to Diegan Coastal Sage Scrub and Inadequate Mitigation

The mitigation does not reduce the enormous environmental impacts to insignificant. This subjective opinion of environmental staff is unsupported by the documentation. The mitigation of the developer's choice is a monetary contribution of less than \$6,000 to the City's Habitat Acquisition Fund. It is alleged that only 0.24 acres are impacted by this project. This assessment discounts the nearly 0.4 acres of "disturbed" coastal scrub to be damaged which has remained untouched except for some invasives for possibly ninety years.

Overlooked also is the approximately 0.3 acre of brush management destruction of the lush previously undisturbed chaparral within the dedicated natural park and MHPA boundaries. No mitigation for this destruction has been required. Plants cut to 6 inches high can hardly be impact neutral as stated in the MND.

Also overlooked is the destruction by the unnecessary widening of the park access road from 12 feet to 20 feet wide the entire length of 160 feet which is 1,280 square feet. The microrhysome community that ensures survival of drought tolerant natives is only several inches deep and once disturbed by grading ensures eventual destruction of the irreplaceable habitat for insects, birds, small mammals and predators. This interconnected biological community cannot be replaced by replanting. The impacts of destruction of the "disturbed" plant community to the established animal habitat was not estimated. The biodiversity of this area depends on this existing wildlife corridor soon to be narrowed by about 80% by this development's placement. Horticultural native plant revegetation does not return full function to the habitat.

Function of the ecosystem is seriously degraded by this project. The connectivity of this parcel to the northern most verdant canyon of the park to the over 40 acres of the Hillside portion of the park which in turn connects to the 640 acre federally protected ecological preserve is significantly impacted. One of the main goals of the park is to restore a viable native habitat supported by native plants. Natural habitat reintroduction is anticipated by the proximity to the over three mile wildlife preservation areas along the Point. Any project that defeats this goal is a serious adverse impact to the coastal ecosystem which is a seriously declining resource.

The only acceptable mitigation must be made in the adjacent park. Abandonment of the easement through park and use of the easement from Stafford Place or any driveway to the street is the only mitigation that reduces the impacts to insignificant.

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Mitigation of placing a no-build easement over some of the south swale which the primary wildlife corridor does not prevent adverse impacts, such as, vegetation destruction, housing of predator pets, or wildlife corridor unobstructed passage. The no-build easement is better than nothing. An open space easement on this and the hillside review section to the north is the preferred environmental requirement.

The MND discounts the significance of this area by calling it an isolated urban island. The isolation is exactly why this last remaining portion of Diegan Coastal Sage Scrub and its habitat must be preserved. The MND overlooks the critical last chance of preserving this "San Diego County sensitive and declining habitat" as classified by State Fish and Wildlife Service. It is a critical link not and island.

The MND incorrectly concludes that MHPA boundary correction to exclude all of this site from the previously mapped MHPA "would not significantly affect wildlife use of this area." Placing a fence and as the developer admits using the area to run his dogs will significantly affect the wildlife's use of this area. All of the parcel except the house served as very viable MHPA area.

MHPA Protection

The admonition by the MND to include lighting restrictions on building and landscape plans to date.(Sept. 16, 1999) This is still and inadequate requirement for nocturnal animals and nesting birds. The light of the garages, paved areas and parking areas is directly adjacent to the narrowest portion (less than 130 feet) of the wildlife corridor. Moreover the corridor is heavily impacted on the east side by existing vehicular and pedestrian traffic on Lomaland Dr. within PLNU.

The MHPA guidelines state "All proposed utility lines, e.g., sewer and water etc) should be designed to avoid or minimize intrusion into the MHPA. These facilities should be routed through developed areas...". It states further, "If avoidance is infeasible, mitigation is required." The MND must be revised to include mitigation for this road's considerable impacts. Utility easements should come from Stafford Place to avoid long term adverse impacts due to construction, repair and replacement.

"Temporary construction areas and roads, staging areas, or permanent access roads must not disturb existing habitat unless determined to be unavoidable." (MHPA Guidelines)

A performance bond of at least \$100,000 should be deposited with the environmental monitoring staff to assure that any construction or later adverse impacts to the MHPA are corrected.

Construction must be required off Stafford St. not through the park.

The CUP should be issued for a free standing garage only on the west side of the property away from the MHPA and the toward the existing urbanization.

NO invasive plants are to be planted says the MND yet the landscape plan (9-16-99) includes many non-natives which readily go "feral". This is inadequate protection of the surrounding MHPA.

MND stated in comment 15 that "Trails and wood decks would be limited to landscaped areas (brush management Zone 1) and would not be permitted in on-site open space.

This comment has been ignored in the current development plan and permit.

An observation deck which is very visually obtrusive to park users sticks into ZONE 2 on the north side of the property. The latest map as of 9-14-99 still showed cement stairs into the park on the fragile unstable hillside to the northeast corner of the property.

MND in comment 16 states the wildlife corridor will be a minimum with of 215 feet after project implementation. This is an error. The width is closer to 150 feet. Apparently staff included in the MHPA a parking lot and a building on PLNU campus to get this incorrect number.

MND comment 17 is incorrect. The visual disturbance of both the 30 foot high massive 8000 sq. ft. residence will be observable from the north, east and south sides of the park adjacent. Most visually obtrusive will be the detached guesthouse/garage with its intrusive cement wall right on the edge of the park. Constructing this detached building is entirely optional and since a CUP is necessary the city should insist the building be pulled back into his property and screened with vegetation. It specifically blocks an existing beautiful ocean view framed by mature chaparral from the park.

What is missing in the environmental document is any understanding of the cultural value of this site to the citizens of San Diego. This is a densely wooded remote corner of the park which truly gives the park user the escape from the urban chaos. Providing a quiet secluded re "creation" experience close in to urbanization is vital to the mental health of this city. The environmental analyst dismissed any and all comments that were not based on facts as "speculative, opinion or irrelevant". The city is supposed to provide the facts and research. The public does not have the resources to research history, biology, drainage and city processes. The Recreation Council is attempting to generously provide a resource for future generations. The environmental review was slanted in the developer's favor. The public at large continues to be the loser to a single private developer's use of the public's land.

Many issues remain which we feel have not been adequately presented by city staff.

1. ROAD THRU PARK

The road easement thru the park does not need to be there. An excellent easement road is already paved and in use. The finished floor level of his main residence is only 8 feet above the existing easement off of Stafford. Existing western easement is a gentle 10% grade from Stafford. The developer's desire for exclusive access to his property and extending his lawn 20 feet to the west does not constitute need that overwhelms the public's need for a fully functioning park. Using the existing easement is cheaper and less

environmentally damaging and places no undue burden on the developer. The undue burden is placed on the citizens of San Diego.

2. **DRAINAGE** Drainage from this property must be conducted to the city street and not allowed to erode, drain or degrade the MHPA (park). Though a condition appears in the text of development documents, the plot plan still shows drain arrows toward park land on the south and north. This is not acceptable.

3. **WILDLIFE CORRIDOR**

Easements for animals must be maintained to prevent MHPA degradation. No provision for wildlife passage or use to escape predators has been made.

4. **PARK USER EASEMENTS**

Easements for park users, existing and prescriptive must be maintained for park users. It should be noted that park users have always cut through this property since the northern slope is so eroded as to be impassable. This new development prevents park user connectivity with the northern nearly nine acres of the 68 acre park.

5. **MHPA PROTECTION**

Lighting, noise, paved areas, vehicular activity should be shifted to the west where existing urbanization dominates. The MHPA narrow connecting corridor must maintain its full function.

6. **HISTORIC**

Historic significance of the area and 89 year old has been determined by staff by an elaborate series of speculative opinions as insignificant. The public's historic resource is destroyed by this project. The access to the San Diego Historic Site Board's designated significant World War II observation bunker is now precluded by this development.

7. **SENSITIVE SPECIES**

The sensitive species, wart stemmed ceonothus, is seriously adversely impacted. These are not growing anywhere in the rest of the 68 acre park. Six of the eight mature very large (up to 10 feet tall and 10 feet in a clump) specimens will be destroyed. They cannot be replaced by containerized horticultural samples. This is a plant community.

8. **VISUAL DEGRADATION**

This massive out of scale residential single family over 8000 square foot building will block currently pristine views from the park overlooks on the east and south. This seriously compromises options in the currently developing Master Plan for the park. The view of the house from the western portion of the park also should be studied. The outlying garage is unnecessarily close to the park boundary and will be a cinder block wall two stories high with no windows in order to meet fire resistance standards. The alternative is to move the garage to the west off Stafford Place and remove the fire protection problem.

No study was made using siting poles or "story boards" to factually document how much visual intrusion this development will make. A very subjective judgement was made by staff.

9. **SLOPE STABILITY**

Slope stability on northern slope is seriously impacted by unassessed extensive burrowing animal activity and drainage from PLNU through the park. Placing an observation deck is likely to cause slope failure now or in the future causing landslides into the park or necessitating ugly very obtrusive retaining walls. The observation deck should be denied. The no build easement should include all of the northern slope

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precluding construction of this observation deck. The entire house should be moved west and/ or south at least ten feet to avoid collapsing this unstable slope. A site visit would easily show that a person's weight on the slope causes slumping.

10. BRUSH MANAGEMENT

This park is MHPA. The development should be scaled down and arranged such that no brush management is allowed ever in the park. The slope to the north and the swale to the south are too fragile to withstand grubbing. Erosion will result. The vegetation and wildlife will suffer.

11. CONSTRUCTION IMPACTS /BOND REQUIREMENT

The whole project's construction impacts must be anticipated and prevented. A performance bond of \$100,000 should be posted by the developer. The City Manager should require that no damage to the park results from this project. If it does immediate remedial action will be taken and the developer's bond money used for this purpose.

In summary an EIR by a qualified unbiased company must be required before this project is considered by the California Coastal Commission.

