

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

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STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL GOVERNMENT: City of San Diego

DECISION: Approved with Conditions

APPEAL No.: A-6-LJS-99-160

APPLICANT: Summit Resources, L.P.

PROJECT DESCRIPTION: Substantial demolition of an existing 9,960 sq.ft. two-story over basement single-family residence and reconstruction of a two-story, 14,630 sq.ft. single-family residence on a .56 acre ocean blufftop lot.

PROJECT LOCATION: 1900 Spindrift Drive, La Jolla, San Diego, San Diego County.
APN 346-440-05

STAFF NOTES:

The Commission found Substantial Issue at the February 15, 2000 meeting. This report is for the de novo permit. The de novo permit was previously scheduled for Commission review at its April 10th meeting. After beginning the public hearing and a discussion of the project, the Commission ultimately voted to continue the matter to the May Commission meeting.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission approve the proposed substantial demolition/remodel of a residence resulting in a 14,630 sq.ft., two-story single family residence on a coastal blufftop lot. The project raises concerns related to blufftop setbacks, geologic hazards, continuance vs. discontinuance of nonconforming rights of older residential structures and protection of public views toward the ocean in the sideyard setback areas. The project involves substantial demolition and remodel of a pre-Coastal Act residence that is located on a bluff top lot and that has a variety of accessory structures, including a seawall on the beach and gunite on the bluff face, that were also constructed prior to the Coastal Act. The bluff was apparently graded or sculpted prior to application of the gunite. The residence is situated almost directly above the gunite, such

that there is no setback between the residence and the gunited bluff edge. The City's LCP requires that all development maintain a 40 ft. bluff edge setback that can be reduced to 25 ft. based upon recommendations of a geology report which documents that such a reduced setback would still provide adequate bluff top setback to assure the new development is safe throughout its anticipated life. The LCP also prohibits the construction of seawalls and bluff protective devices unless necessary to protect an existing structure.

The existing residence, seawall, and gunite do not comply with the LCP. Since the applicant is proposing to essentially reconstruct the house, staff recommends that such reconstruction only be approved if the applicant removes both those portions of the existing residence that are within 25 feet of the bluff edge and the gunite. The applicant has submitted several geology reports and the Commission's staff geologist has reviewed them and concurred that a 25 ft. setback is adequate for the proposed home. Staff recommends that protection of geologic stability associated with the new development be addressed through Special Condition #1 which requires that no portion of the principal residential structure or pool or spa shall be sited closer than 25 ft. from the existing edge of bluff. The condition also requires submittal of plans for the removal of the gunite from the bluff face and that the gunite be removed within 60 days of removal of the portions of the existing residential structure that are located within 25 feet of the bluff edge. In addition, Special Condition #2 notifies the applicant and future property owners that any future repairs or maintenance to the existing non-conforming accessory structures located seaward of the bluff edge requires an amendment to the subject coastal development permit. Protection of visual resources and public views associated with the proposed development will be addressed through landscaping and fence requirements in Special Condition #3. It requires that new landscaping be limited to a height of 3 ft. and that fencing in the sideyards be composed of 50% open materials to prevent a "walled off" effect. Other conditions include: assumption of risk and public rights. With the attached conditions, the project can be found consistent with the certified LCP.

PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

1. **MOTION:** *I move that the Commission approve Coastal Development Permit No. A-6-LJS-99-160 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a YES vote. This will result in adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

SUBSTANTIVE FILE DOCUMENTS: Appeal Forms; Certified La Jolla-La Jolla Shores LCP Land Use Plan; Certified City of San Diego LCP Implementation Plan; City of San Diego Report to the Planning Commission dated 11/24/99; CDP #F5929; A-6-LJS-98-85; A-6-LJS-98-169; Response to California Coastal Commission prepared by Christian Wheeler Engineering, dated 4/18/00; Report of Preliminary Geotechnical Investigation by Christian Wheeler Engineering dated 3/23/99; Report of Slope Stability Analysis by Christian Wheeler Engineering dated 2/25/00; Update/Cover Letter by Christian Wheeler Engineering dated 3/17/00; Geotechnical Engineering Report Update by Christian Wheeler Engineering dated 3/23/00; City of San Diego SCR/CDP #99-0007; San Diego District Staff Report on Substantial Issue dated 2/1/00; Letter from Skelly Engineering to applicant dated 10/15/98.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Final Revised Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final plans for the proposed development including a demolition plan, floor plan, site plan, foundation plan and elevation plan that have been approved by the City of San Diego. Said plans shall be in substantial conformance with the plans submitted with this application by Don Edson Architect dated 9/21/99, except that they shall be revised to reflect the following:

- a. All portions of the residential structure shall be removed or relocated such that no portion of the principal residential structure or pool or spa shall be sited closer

than 25 ft. from the existing edge of bluff, shown on Exhibit #20. The bluff edge cannot presently be determined accurately where it lies beneath the existing gunite or residential structure. Determination of the precise location of the bluff edge requires further examination, either through use of any crawl space that may exist beneath the present structure, or during demolition, following removal of the gunite and/or the existing structures.

- b. Plans for the removal of the gunite from the bluff face. The gunite shall be removed within 60 days of removal of the portions of the existing residential structure that are located within 25 feet of the bluff edge.
- c. All existing and proposed accessory improvements shall be identified. All proposed accessory improvements (patios, decks, etc.) proposed within the 25 ft. geologic setback area must be "at-grade" and located no closer than 5 ft. from the edge of the existing bluff.
- d. No maintenance of the existing non-conforming boathouse/cabana shall be permitted.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Future Development. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in the coastal development permit No. A-6-LJS-99-160; and that any repairs or improvements to the existing boathouse/cabana structure or seawall; stairs; future additions; or, other development as defined in Public Resources Code Section 30106 will require an amendment to permit No. A-6-LJS-99-160 from the California Coastal Commission. The document shall be recorded as a covenant running with the land binding all successors and assignees in interest to the subject property.

3. Revised Landscape/Sideyard Fence Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, revised landscaping and fence plans approved by the City of San Diego. The plans shall be in substantial conformance with the plans as submitted by Don Edson Architect, as last revised and dated 9/21/99, except for the revisions cited below. The plans shall be revised to keep the sideyard setback areas clear to enhance public views from the street toward the ocean. Specifically, the plans shall be revised to incorporate the following:

- a. All existing landscaping in the sideyard setback areas shall be trimmed or removed and replaced with landscaping to be maintained at a height of three feet

or lower to preserve views from the street toward the ocean. All new landscaping shall not exceed a height of three feet.

- b. All landscaping shall be drought-tolerant, native plant species. No irrigation shall be permitted on the site.
- c. A written commitment by the applicant that all required plants on this site shall be maintained in good growing condition and whenever necessary, shall be replaced with new plant materials to ensure compliance with the approved landscape requirements.
- d. Any fencing in the sideyard setback areas shall be composed of a solid base with 50% open materials on top.
- e. The existing palm trees located at the western patio area inland of the existing seawall shall be removed.

The applicant shall undertake the development in accordance with the approved landscape plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is required.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the restrictions stated above on the proposed development. The document shall run with the land for the life of the structure approved in this permit, binding all successors and assigns, and shall be recorded, free of all prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. The deed restriction shall not be removed or changed without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. Assumption of Risk: PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, each applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that each applicant understands that the site may be subject to extraordinary hazard from bluff collapse and erosion and the applicant assumes the liability from such hazards; and (b) each applicant unconditionally waives any claim of liability on the part of the Commission or its successors in interest for damage from such hazards and agrees to indemnify and hold harmless the Commission, its officers, agents, and employees relative to the Commission's approval of the project for any damage due to natural hazards. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction.

This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. Public Rights. By acceptance of this permit, the applicant acknowledges, on behalf of him/herself and his/her successors in interest, that issuance of the permit shall not constitute a waiver of any public rights which may exist on the property. The applicant shall also acknowledge that issuance of the permit and construction of the permitted development shall not be used or construed to interfere with any public prescriptive or public trust rights that may exist on the property.

6. No Shoreline Protection for Accessory Improvements. No shoreline or bluff protection devices shall be permitted to protect any existing or proposed accessory improvements should they be subject to threat in the future.

7. Other Special Conditions of the CDP/SCR No. 99-0007. The following special conditions of the City's CDP/SCR permit #99-0007 are modified herein and are a part of the subject coastal development permit: Special Condition #23 and 29. All other special conditions of the City of San Diego's SCR permit #99-0007 remain subject to the City's jurisdiction.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. Proposed is the substantial demolition of an existing two-story over basement, 9,960 sq.ft. single-family residence and the reconstruction of the residence totaling 14,630 sq. ft. on a 0.53 acre ocean blufftop lot. The project represents redevelopment of a site which was developed prior to the Coastal Act (1928). Due to the nature in which the site was developed, all of the existing structures possess some degree of non-conformity with the Coastal Act and corresponding policies of the City of San Diego certified Local Coastal Program (LCP) which would be applied to new development today. Additionally, the principal residence is approaching the 75 year life expectancy which the Commission and the local government has used to determine the appropriate geologic blufftop setbacks for new development.

The applicant proposes to demolish 4,745 sq.ft. of the inland portion of the residence and construct 9,415 sq.ft. of new floor area in one and two stories (the residence is a two-level home over basement). Approximately 5,215 sq.ft. of the seaward portion of the structure would be retained, although the applicant proposes to make interior renovations. In the portion of the residence that is located within 25 ft. from the bluff edge, an existing room at the northwest corner of the main level will be removed. The floor area is proposed to be retained and used as a deck. At the middle portion of the main level at the western elevation, an existing room is proposed to be removed. The floor area is

proposed to remain as a "view deck". Also proposed is the removal of an existing roof "canopy" overhang at the southwest corner of the main level.

Other proposed changes to the existing portions of the residence as well as new construction include the following:

Main level changes: At the northwest part of the existing residence, an existing study will be enlarged by removing walls and constructing a larger room. The room will be larger in size than the study but will not extend any further west than the facade of the existing building at this location. Presently, there are three bedrooms on the north side of the residence, north of the existing courtyard. This entire area will be enlarged by removing existing walls and constructing a family room, kitchen, office and billiard room and gallery. At the east elevation of the residence, a new entry will be constructed. On the south side of the residence south of the existing courtyard, presently there is a kitchen, breakfast area, laundry and maid's room. Floor area changes include a new office and new circular stair. External changes include a swimming pool and spa.

Upper Floor Plan: At this level, the existing floor plan is L-shaped. At the west side of the floor, there is an existing bath, sitting room, and master bedroom. Proposed changes in this area are to keep the master bedroom but to expand this area to include his and her bathrooms and closets, re-orientation of the bedroom and an elevator and child's room. Presently, along the south side of this level are three small bedrooms with baths and hallway. The entire floor will be enlarged through demolition of existing walls and removal of the existing bedrooms. The new construction will include two new bedrooms at the southeast side of the residence. In addition, the north part of this level will be expanded through demolition of existing walls and construction of two large bedrooms with baths and closets. South of this area, also proposed is a new common area/hallway.

Existing Basement Level: At this level there are presently only two changing rooms with showers, mechanical room and a stairway that lead to the main level. There is also an existing boiler room at the southeast corner of this level which will remain. Proposed changes at this level include demolition of walls and expansion of the entire basement to at least twice its present size through new construction to include a maid's room with bath and closet, a caretaker/storage area with bath, a game room/exercise room and mechanical/pool equipment room and hallway. New mechanical improvements will also include a pool filter and heater at this level for the newly proposed swimming pool and pool and Jacuzzi pumps.

Also proposed is a new swimming pool, spa, covered deck and landscaping. The subject residence includes several accessory improvements located either on the blufftop or seaward of the bluff edge. The applicant proposes to remove an existing 225 sq.ft. detached bunk house located near the northern property line in the area usually reserved as the geologic setback area. Seaward of the bluff edge and at the beach elevation the proposal is to remove an existing fire pit. The City also required the removal of four existing palm trees in this area.

The project site is a blufftop lot. There is an 11 ft. high, 100-foot long seawall located on the beach some distance seaward of the bluff. The majority of the coastal bluff itself has been gunited. Both the seawall and gunite were installed prior to the Coastal Act. The coastal bluff is approximately 22 feet high. Portions of the existing residence are sited at or near the gunite coated face of the bluff. Because the entire bluff face is covered with gunite, it is hard to determine the location of the actual bluff edge (i.e., the natural bluff underneath the gunite). Thus, the actual distance between the existing residence and the existing bluff edge has not been determined. The area between the toe of the gunited bluff and the existing seawall is filled and contains an existing concrete patio, "sandy terrace", firepit, a barbecue with firepit, deck, railing, stairway, a detached boathouse/cabana and palm trees. The distance between the existing seawall and the toe of the gunited bluff is approximately 25 ft.

The portion of the residence that the applicant proposes to retain, is all the square footage located closer than 25 feet from the applicant's definition of the bluff edge. The applicant defines the bluff edge as the location of the bluff as it existed prior to the grading, sculpting, and covering with gunite. Thus, the applicant's definition of the bluff edge results in a location that is seaward of the gunite bluff edge, and seaward of the existing bluff edge. As a result, the portions of the residence that are proposed to be demolished and rebuilt are closer than 25 feet to the gunite bluff edge and to the existing bluff edge.

Remodeling to the residence, including the addition of an approximate 775 sq.ft. second story, was approved by the San Diego Coast Regional Commission in 1977 under CDP #F5929. The special conditions associated with that permit included a condition which stated that in the event any reinforcement or replacement of footings or piers supporting the residential structure were required by the City Building Inspection Department of City Engineer, that the permit would become null and void and a new coastal development permit would be required. The findings of the permit also state that since a Foundation Investigation was submitted that indicated that the existing piers will be capable of bearing the load of the proposed addition without hazard, the project would be consistent with the Coastal Act and that if subsequent investigation by the City provided any opinion to the contrary, a new coastal development permit would be required. Other special conditions also required a deed restriction limiting the use of the premises to a single family dwelling and a hold harmless agreement.

The subject site is located within the La Jolla community of the City of San Diego. The site is located south of La Jolla Shores, a major recreational area which includes a public beach and park. The site is also in close proximity to the La Jolla Beach and Tennis Club and a restaurant (The Marine Room), which are situated two to three lots to the north. The site is bounded on both sides (north and south) by other residential development. The beach at this location is of average width (not unusually wide or narrow) and is passable for lateral access purposes largely from the north from the vicinity of La Jolla Shores. As one walks further south approximately two to four lots south of the subject site, the beach width significantly narrows making it difficult for lateral access. In fact, as noted in the certified La Jolla-La Jolla Shores LCP Addendum, this stretch of shoreline

is designated as "limited or intermittent access". The LCP also notes that lateral access below the bluffs is dependent on tidal fluctuations and is extremely difficult in most locations. The LCP also indicates that several of the residences along Spindrift Drive have constructed seawalls and installed gunite on the coastal bluffs in this area to stop erosion. The two immediate lots to the north and south both have existing seawalls similar to the seawall that exists on the subject property. The majority of the residences in this area are older, non-conforming residences that have yet to be redeveloped and which are located in close proximity to the bluff edge.

The standard of review for the proposed development is the City's certified La Jolla-La Jolla Shores Land Use Plan (LUP), La Jolla Shores Planned District Ordinance (PDO), and other applicable sections of the former implementation plan (municipal code) that was in effect at the time that the proposed development was reviewed and approved by the City. The City of San Diego recently received effective certification of and LCP amendment that replaces its former municipal code with its new Land Development Code Update. The LCP amendment became effective on January 1, 2000. However, the amendment was submitted with a provision that the prior municipal code would continue to be applied to projects for which complete permit applications were submitted prior to the effective date of the LCP amendment. The subject proposal was submitted, acted on by the City, and appealed to the Commission prior to the effective date of the LCP amendment. The commission finds that in this case, the appropriated standard of review is the LCP that was in effect prior to the effective date of the LCP amendment (i.e., the former municipal code).

2. Consistency with LCP/Existing Non-Conforming Structures. All of the structures which exist on the property today are non-conforming with respect to the policies of the Coastal Act and the corresponding policies of the certified City of San Diego LCP. The existing principal structure is located at or very near the bluff edge and does not provide a minimum 40 ft. geologic setback from the existing bluff edge. The entire bluff face has been previously modified, graded in some areas and then coated with gunite. The submitted geotechnical information (10/2/98) indicates the portion of the lot seaward of the structure has been sculpted and some tunnels have been made in the bluff and beneath the house. The report states: "Based on the information available to us, it appears that the seawall was built at about the same time as the original improvements and was not installed due to excessive erosion but rather had been placed as a preemptive measure to protect the boathouse and other improvements near the beach and also to provide increased privacy".

The principal residence, existing gunite coating of the bluff face and the seawall are nonconforming structures because they are inconsistent with the certified LCP, including LUP policies concerning protection of bluffs and beaches, and the SCR overlay ordinance of the City's former LCP Implementation Plan which is attached in its entirety as Exhibit #13. The SCR overlay (101.0480 D. Special Regulations) provides, in part:

Coastal Bluffs

- a. No structure or improvement or portion thereof shall be placed or erected and no grading shall be undertaken, within forty (40) feet of any point along a coastal bluff edge, except for the following uses:
 - 1) Essential bluff top improvements...2) Bluff repair and erosion control measures including, but not limited to, structures needed to repair damage to, or to prevent or retard erosion of the bluff face in order to protect existing principal structures; provided, however, that no such measures or structures shall cause significant alteration of the natural character of the bluff face....3) Accessory structures....
- [...]
- b. A bluff edge setback of less than forty (40) feet but in no case less than twenty-five (25) feet, may be granted by the Planning Director where the evidence contained in the geology report indicates that: 1) the site is stable enough to support the development with the proposed bluff edge setback so that it will neither be subject to nor contribute to significant geologic instability throughout the anticipated life span of the principal structures....

SCR overlay ordinance 101.0480 C.1 states:

Permitted uses shall be those permitted by the underlying zone subject to the regulations and restrictions of the underlying zone, except as limited below.

1. Beach Areas. Permitted uses allowed in the beach areas, as shown on the SCR Zone maps, shall be limited to the following:
 - a. Lifeguard towers and stations and associated life and security facilities.
 - b. Public comfort stations.
 - c. Public piers
 - d. Safety and public information signs.
 - e. Shoreline protective works necessary to prevent bluff and beach erosion, where needed to protect coastal dependent uses, public beach roadways, or existing principal structures in danger from wave and wind action; and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.
 - f. Stairways, ramps, and other physical access structures, as proposed within an adopted community or other applicable plan.
 - g. Public recreational equipment.

The La Jolla-La Jolla Shores LCP Land Use Plan, which is also applicable to the proposed development, states, in part:

2. Coastal Bluff Top Development

The shoreline bluffs are one of La Jolla's most scenic natural resources. Beautiful in themselves, the bluffs provide magnificent vistas of the ocean and shoreline. Understandably, these same qualities provide a tremendous incentive to develop bluff top property. Such development, however, is not without its risks. As indicated on the geologic hazards map (page 108), many of the bluff areas are unstable and prone to landslides. Over time, as the bluffs continue to recede, existing developments will become increasingly susceptible to bluff hazards. In many cases, seawalls, revetments, and other types of erosion structures will be required to stabilize the bluff. Such structures, while necessary to protect private property, are poor substitutes for adequate site planning. Improperly placed structures may accelerate erosion on adjacent properties and seriously impact lateral public access. The proliferation of such structures may cumulatively degrade the natural scenic quality of the bluffs and interfere with nature shoreline processes. Where large comprehensive structure such as breakwaters, groins, or revetments are required, the public may ultimately bear the costs. [p. 109]

In order to reduce such problems in the future, the following guidelines have been recommended for all bluff top development located between the first through coastal roadway and the ocean. The guidelines are to be applied to all bluffs having a vertical relief of ten feet or greater and whose toe is or may be subject to marine erosion.... [p. 109]

Development Guidelines

- A geotechnical report will be required for all bluff top development proposed to be sited within a critical distance from the edge of the bluff, described as the "area of demonstration."... [p. 109]
- The geotechnical report, prepared by a certified engineering geologist, should document that the "area of demonstration" is stable enough to support the proposed development and that the project can be designed so that it will neither be subject to nor contribute to significant geologic instability throughout the estimated lifespan of the project structures. [p. 110]
- Bluff top development should be visually compatible with the scale and character of the surrounding development and respectful of the natural scenic qualities of the bluffs. Structures should be sited and designed to minimize alteration of natural landforms. [p. 110]
- Bluff top developments should not contribute significantly to problems of erosion or geologic instability on the site or on surrounding properties. This includes activities related to site preparation and construction. [p. 110]

- The placement of shoreline protective works should be permitted only when required to serve coastal-dependent uses or to protect existing principal structures or public beaches in danger of erosion and when designed to eliminate or mitigate adverse impacts on shoreline sand supply. [p. 91]
- The placement of any necessary shoreline protective works should not be allowed to encroach on any area utilized by the public unless engineering studies indicate that minimal encroachment may be necessary to avoid significant adverse erosion conditions, and that no better alternatives exist. Any infilling between protective devices shall encroach no further seaward than adjacent functioning protective works. [p. 91]
- New shoreline protective devices should be constructed and designed to be visually compatible in design, materials, and color with the existing natural environment. [p. 91]

The existing residence, gunite and seawall do not conform with the LCP. The residence is not sited at least 25 feet from the bluff edge. The gunite significantly alters the natural landform, degrades the natural scenic quality of the bluffs, interferes with natural shoreline processes, and is not necessary to protect the existing residence. Similarly, the seawall degrades the scenic quality of the shoreline, interferes with natural shoreline processes, is not necessary to protect the existing residence, and has not been designed to minimize encroachment onto the beach. The submitted geotechnical information demonstrates that the subject site is sufficiently stable to support the existing principal structure with or without the gunite in place. Therefore, maintenance of these non-conforming structures would not be consistent with the certified City of San Diego LCP.

The boathouse/cabana and patio improvements are also non-conforming structures. These structures are located on the beach inland of the seawall and seaward of the gunited bluff. Thus, they are also inconsistent with the LCP provisions that prohibit any structures on the beach except public improvements or necessary shoreline protection. The inconsistency of the gunite and seawall with the LCP is discussed more fully in Section 4 of this report.

3. Retention of Non-Conforming Structures. Proposed is the substantial demolition/remodel of an existing two-story over basement, 9,960 sq.ft. single-family residence by demolishing 4,745 sq. ft. and constructing 9,415 sq. ft. of new floor area resulting in a 14,630 sq.ft. residence on a 0.53 acre ocean bluff top lot. Also proposed is a new swimming pool, spa, covered deck, and landscaping. There is an existing seawall, boathouse and patio seaward of the property at beach elevation and a gunited coastal bluff inland of the seawall which are proposed to remain. The applicant proposes to retain western portions of the residence that are closer than 25 feet from the pre-existing bluff edge (i.e., the bluff edge as it existed before it was graded, sculpted, and covered with gunite) as shown on the submitted site plan to retain the non-conforming rights potentially associated with that portion of the structure. The new 9,415 sq.ft. of floor

area would consist of both one and two-story additions to the existing two-story residence.

At issue with the subject project is whether the proposed demolition/remodel is so substantial that the failure to bring the residence and accessory structures into conformance with current standards of the LCP causes the entire project to be inconsistent with the LCP. The demolition/remodel will essentially result in a new residence on this site. As a new residence, the project is inconsistent with the LCP provisions concerning protection of beaches and bluffs. In its approval of past projects involving partial demolition and reconstruction of an existing structure, the Commission has found that if more than 50% of the exterior walls of a structure are being demolished, the proposal constitutes the development of a new structure and therefore, the entire structure must be brought into conformance with the current requirements.

In this particular case, the applicant's architects verbally indicated to Commission staff fairly early in the review process that more than 50% of the exterior walls were being removed; however, there were no demolition plans in the City file to document this assertion. As such, once substantial issue was found by the Commission, Commission staff requested in a letter dated 3/14/00 to the applicant's representative that demolition plans, along with other geotechnical information, would be necessary in order to develop a recommendation for the proposed development. In response to this request, the applicant's representative submitted the demolition plans on 3/20/00 along with the requested geotechnical information. The plans reveal that approximately 59% of the exterior walls are being demolished.

Prior to the April 2000 Coastal Commission hearing on the project, the applicant indicated if the extent of demolition is an issue, the project could be revised to retain three portions of the existing walls within the seaward part of the structure which would bring the percent of demolition down to less than 50%. At that time staff indicated the project's consistency with the LCP would still be an issue given that the project involved such substantial work to, and expansion of, the existing residence such that to allow the nonconforming aspects to remain could be inconsistent with the LCP. The policy question is whether there is a threshold where work to a nonconforming structure essentially constitutes total redevelopment such that it should be brought into conformance with the current codes and standards.

It could be argued that the City's nonconforming use regulations at Section 101.0303 of the municipal code attached in its entirety in Exhibit #13, identify the type of work that can be done without triggering a requirement to bring a nonconforming structure into conformance with current requirements. The regulations indicate that "repairs and alterations which do not increase the degree of nonconformity" may be made provided the aggregate value of such repairs or alterations does not exceed 50 percent of the fair market value of the nonconforming structure, according to the assessment by the County Assessor for the fiscal year when the repairs occur. This standard is also utilized in the Uniform Building Code to determine when existing nonconforming structures must be brought into conformance with the requirements of the building code. Staff has asked the

applicant to provide us with the information necessary to calculate whether the value of the proposed project exceeds 50 percent of the value of the existing residence (in the form of construction bids and estimates); however, the applicant's representative has indicated the information is not available. Additionally, the applicant asserts, and the City concurs (ref. Exhibit #12 – letter from the City) that the 50% valuation standard is not applicable to the existing residence because the residence is governed by the La Jolla Planned District Ordinance, which does not contain this standard.

The applicants assert that the La Jolla Shores Planned District Ordinance (PDO), which applies to this site, allows for the proposed modifications without triggering a requirement to bring the residence into conformance with current requirements. The applicants cite the provisions of the PDO (ref. Exhibit #13) that state:

Section 103.0303.2 Nonconforming Uses and Structures

- A. The lawful use of land which existed at the time the Planned District regulations became effective and which did not conform with said regulations may be continued except when specifically prohibited provided no enlargement or additions to such use is made.

The lawful use of buildings existing at the time the Planned District regulations became effective with which regulations such building did not conform may be continued, provided any enlargement, addition or alterations to such buildings will not increase the degree of nonconformity and will conform in every respect with all the District regulations.

B. [...]

C. [...]

- D. Improvements, repairs and alterations which do not increase the degree of nonconformity of a nonconforming building, structure or improvement shall be permitted.

[...]

The applicable section of the above-quoted ordinance appears to be subsection D. The first three subsections address whether a use of property may continue if that use is inconsistent with currently allowed uses. Clearly the existing use of the property (for a residence) conforms with the allowable uses (residential). Thus, the issue is whether the proposed project constitutes "improvements, repairs and alterations which do not increase the degree of nonconformity" of the existing structures. In the 4/21/00 letter (attached as Exhibit #12), the City indicates that it agrees with the applicant's assertion that the above-quoted ordinance is applicable to this project; the municipal code provision containing the 50 percent standard does not apply.

Attached to the City's letter in Exhibit #12 are two written opinions from the City Attorney to help clarify the City's interpretation of the nonconforming use regulations contained in the Municipal Code. However, again, the City does not believe that standard applies to development within the La Jolla Planned District.

A. Whether the Project Constitutes Improvements, Repairs, or Alterations

The ordinance does not define the terms "improvements," "repairs," or "alterations." These terms must be interpreted in light of the purposes of the Coastal Act and the LCP. The La Jolla Shores Planned District Ordinance section 103.0300 states:

The development of land in La Jolla Shores should be controlled so as to protect and enhance the area's unique ocean-oriented setting, architectural character and natural terrain . . .

Thus, the goal of the LCP is to protect the natural bluffs and beaches of the La Jolla Shores area. In light of this goal, the Commission finds that the terms "improvements" "repairs" and "alterations" are intended to mean minor activities that allow a nonconforming structure to be kept in adequate condition. These terms do not include demolition, expansion, construction of additions, and such other work that results in reconstruction of the nonconforming structure. To interpret these terms otherwise would not allow for achievement of the goals of the LCP. This interpretation is supported by other provisions of the PDO, which use the terms "remodel" and "demolition" as separate terms from "alteration," suggesting that each of these terms have different meanings (see PDO section 103.0302.3, requiring a permit for "the erection of any new building or structure, or remodeling, alteration, addition, or demolition of any existing building or structure.")

The amount of work proposed by the applicant is extensive. Approximately 4,745 square feet will be demolished and approx. 9,415 square feet of new area will be constructed. The portion of the existing structure that will be retained will be renovated. The renovations to the retained portion could be extensive because if the value of the repairs exceeds 50% of the value of the residence, the applicant will be required to bring the retained portion into conformance with current building code requirements (e.g., requirements for plumbing, electrical, insulation, etc.). The Commission finds that the proposed demolition, remodel and renovation are so extensive it does not constitute repairs, improvements, or alterations within the meaning of this ordinance. Rather, the work amounts to a reconstruction of the existing residence.

B. Whether the Project Increases the Degree of Nonconformity. The proposed project also increases the degree of nonconformity of the existing structure. As stated above, the Commission finds there is a significant precedential concern if this ordinance is not interpreted broadly in light of the goals of the LCP and the significance of the coastal resources that are affected by bluff top development. The concern is, if nonconforming use regulations are interpreted to allow substantial demolition and reconstruction of an essentially new development in the same nonconforming location

when only the nonconforming portion is retained and renovated rather than demolished, the line of development will never be moved inland. This is problematic because the setbacks are established based on bluff recession rates over the anticipated life of the structure, typically 75 years. In this particular case, the structure was developed in a manner that is inconsistent with the Coastal Act and the certified LCP and has reached the end of its 75 year life expectancy. The nature of the site improvements which have altered the bluff face and beach to construct private accessory improvements and include a seawall 25 ft. seaward of the bluff would not be permitted today. The Commission finds the redevelopment of the property as proposed increases the degree of nonconformity because:

1. It allows for retention of a significantly larger nonconforming principal residence and increases its value with inadequate geologic blufftop setbacks;
2. It extends the life of the existing nonconforming structure which is at the end of the 75 year lifespan for a typical residence;
3. It precludes option for future site development to be brought into conformance with the certified LCP;
4. It perpetuates retention of the nonconforming gunite on the bluff face which could be removed if the replacement structure is moved inland.

Thus, the proposed project does not constitute "improvements, repairs and alterations which do not increase the degree of nonconformity" of the nonconforming residence. Accordingly, the Commission finds that section 103.0303.1 does not allow for retention of the nonconforming aspects of the existing residence. In addition, the Commission finds that in light of the significance of the resources impacted by the nonconformity of the existing structure, and given substantial extent of the proposed demolition and remodel of the structure, the proposed project is inconsistent with the LCP unless the residence and structures are brought into conformance with the current LCP requirements, regardless of whether the demolition involves less than 50 percent of exterior walls. The basis for this conclusion is discussed more fully in Section C below.

C. Consistency with Certified Local Coastal Program. The portions of the certified City of San Diego Local Coastal Program which are particularly applicable to the subject proposal are the La Jolla/La Jolla Shores LCP Land Use Plan, the La Jolla Shores Planned District Ordinance (commencing with Section 101.0300 of the Municipal Code) and the Sensitive Coastal Resource Overlay Zone (commencing with Section 101.0480 of the Municipal Code). The purpose and intent of the La Jolla Shores Planned District is stated in Section 103.0300 as follows:

The public health, safety and welfare require that property in La Jolla Shores shall be protected from impairment in value and that the distinctive residential character and the open seascape orientation of the La Jolla Shores Area shall be retained and enhanced.

The development of land in La Jolla Shores should be controlled so as to protect and enhance the area's unique ocean-oriented setting, architectural character and natural

terrain and enable the area to maintain its distinctive identity as part of one of the outstanding residential areas of the Pacific Coast. The proper development of La Jolla Shores is in keeping with the objectives and proposals of the Progress Guide and General Plan for the City of San Diego, of the La Jolla Community Plan, and the La Jolla Shores Precise Plan.

In most cases, the provisions of a Planned District Ordinance are intended to supercede other zoning regulations in order to be more specific and adaptive to a specific community's land use requirements. In this particular case, the Planned District Ordinance addresses nonconforming uses and structures, as stated previously, in a manner similar to the city-wide municipal code. The purpose of any nonconforming use regulations is to allow continued use of existing legal nonconforming uses and structures which have become nonconforming due to changes in the zoning code, provided the degree of nonconformity is not increased or expanded. The regulations are not intended to allow redevelopment of a property solely in reliance on the nonconforming regulations without regard to other requirements for discretionary permits, community land use policies and current zoning requirements.

The City staff has indicated that in review of discretionary permits such as the coastal development permit, the decision maker is required to make specific findings and this requirement is not superceded by an assertion that nonconforming rights exist on a property or with a structure. In this particular case, to approve a Sensitive Coastal Resource (SCR) permit, the decision maker must make the following findings:

- a. The proposed development will be sited, designed, and constructed to minimize, if not preclude, adverse impacts upon sensitive coastal resources and environmentally sensitive areas.
- b. The proposed development will not encroach upon any existing physical accessway legally utilized by the public or any proposed public accessway identified in an adopted community plan; nor will it obstruct views to and along the ocean and other scenic coastal areas from public vantage points.
- c. The proposed development will minimize the alteration of natural landforms and will not result in undue risk from geologic and erosional forces and/or flood and fire hazards.
- d. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. Shoreline protective works will be designed to be the minimum necessary to adequately protect existing principal structures, to reduce beach consumption and to minimize shoreline encroachment.
- e. The proposed development will not adversely affect the General Plan, the Local Coastal Program, or any other applicable adopted plans and programs.

The Commission finds these findings cannot be made for the proposed project. To allow what amounts to a reconstruction without requiring that the entire residence be brought into conformance with the LCP would be inconsistent with the intent and goals of the LCP. The extent of work will allow a significant expansion and renovation that will extend the economic life of the residence for another 75 years. Thus, it is essentially resulting in an entirely new residence. The residence should therefore comply with the geologic setbacks requirements, as well as the requirements concerning protection of the bluffs by removal of the existing gunite. The gunite could be removed if the residence is relocated further inland to comply with the setback requirements that exist for new development today. The Commission finds that redevelopment of the site in the manner proposed is not consistent with the applicable policies of the La Jolla Shores Land Use Plan cited previously and therefore, the finding of conformance with the certified Local Coastal Program cannot be made.

4. Shoreline Hazards/Geologic Stability.

A. Consistency with Blufftop Setback Requirements.

The proposed development is inconsistent with the geologic bluff top setback requirements in the certified LCP. The certified LCP requires new blufftop development to be setback 40 ft. from the bluff edge, or between 40 and 25 feet from the bluff edge if a geology report demonstrates the residence can be sited closer than 40 feet without being subject to or contributing to geologic instability for the anticipated life of the structure.

In past review of proposed developments on project sites where there is an existing seawall, the Commission has found that development must be setback 40 feet because the presence of a seawall demonstrates that the site is hazardous such that a reduction of the geologic blufftop setback is not justified. However, in this particular case, the applicant's geologic information demonstrates that the seawall was not constructed for purposes of protecting the residence from erosion, and is not needed for this purpose. Specifically, the applicant's geologist has stated:

(It appears that the seawall was constructed in approximately 1928 but was built to protect the improvements on the beach and increase privacy.) The results of the analysis demonstrate that the stability of the site is not dependent on the seawall.

Thus, the presence of the seawall does not necessarily demonstrate that a 40 foot setback is warranted.

Further, the presence of the seawall and the gunite should not be a factor in determining the appropriate setback. Since the seawall and gunite are not needed to protect the existing residence or the stability of the site, and since they do not conform with the LCP, the house should be sited in a manner that allows for these nonconforming structures to be either phased out (by not maintaining them) or relocated and redesigned consistent with the LCP. According to the applicant's engineer, (Dave Skelly in a letter dated

10/15/98), the seawall and gunite will fail unless repaired and maintained soon. Therefore, new development on the site should not be dependent on retention of the seawall and gunite for protection from bluff erosion or wind and wave action associated with storm conditions. Additionally, siting new development consistent with the geologic setbacks will allow for construction of the full range of alternatives to the existing shoreline protection including complete removal or locating any necessary bluff or shoreline protection further inland should this be contemplated in the future. Such alternatives would avoid or reduce encroachment on sandy beach and eliminate or minimize the adverse effects of protective devices on shoreline sand supply, visual quality and public access.

In order to determine whether or not the proposed development could be sited a distance of 25 ft. from the bluff edge, Commission staff, in a letter dated 3/14/00 to the applicant's representative, asked the applicant's geotechnical engineers to provide an analysis that addressed the stability of the site to support the proposed development as if the seawall and gunite were not presently there. The purpose of the request was to assure that the proposed development will be safe into the future and to assure that new development on the site is not dependent on the seawall or gunite in its current location and configuration as suggested by the original geotechnical report. Also requested was additional data on bluff retreat and potential for slope failure to determine whether or not a reduction of setback from 40 to 25 feet is adequate to assure the new development is safe into the future.

The applicant's geotechnical engineers responded in two letters dated 3/17/00 and 3/23/00. In a letter dated 3/17/00 from Christian Wheeler Engineering, it is stated:

"In response to your letter of March 15, 2000, we are providing, herewith additional information regarding the stability of the site to support the proposed development. The accompanying slope stability analysis (dated February 25, 2000) was performed with the assumption that the seawall at the base of the seacliff was not there. (It appears that the seawall was constructed in approximately 1928 but was built to protect the improvements on the beach and increase privacy and was not built as a result of erosion of the base of the bluff). The results of the analysis demonstrate that the stability of the site is not dependent on the seawall. As noted in both the geologic reconnaissance report and the geotechnical report prepared for the project, the bluff is relatively short and the site is underlain predominantly by well-consolidated, Cretaceous-age sandstone with a relatively thin cap of quaternary-age materials."

The engineers further stated in the letter:

"...In general, we found that a 25-foot setback is appropriate for the site and that the site is suitable for the proposed new construction, provided the recommendations provided in our reports are followed. It can be noted that the 1.5 factor of safety line with regards to slope stability is less than 25 feet from the

edge of the bluff but the City of San Diego and the Coastal Commission both have a mandatory setback of at least 25 feet."

This information demonstrates that the stability of the existing residence, and the site in general, is not dependent on the seawall and gunite.

In addition, bluff retreat rate is further discussed in a report dated 10/2/98 by Christian Wheeler Engineering, as follows:

"The mode of historical recession in the immediate vicinity of the subject site appears to be manifested both as small block falls caused by erosion along the fractures and joints in the Point Loma Formation and by subaerial erosion of the terrace deposits and other surficial materials caused by severe storm conditions and/or drainage conditions. The rate of erosion is variable with periods of very little recession alternating with episodes in which a small block of the Point Loma Formation falls from the face of the seacliff or substantial surficial erosion occurs. Based on the available information, it appears that the overall recession rate of the Point Loma formation at the base of the bluff in this portion of La Jolla is less than one-half inch per year and that the recession rate of the terrace deposits and other surficial materials ranges from less than an inch per year to several feet per year with an average rate of a few inches per year in unprotected areas. It should be noted that there is currently no erosion occurring at the subject site proper at either the base of the bluff nor on the bluff face due to the presence of the seawall and the concrete/gunite placed on the western portion of the lot. The amount of apparent recession from the edge of the bluff shown on the original house plans and the present edge of the flatter portion of the lot appears to be due to previous grading operations instead of natural processes."

In the same report, under "Conclusions", it is further stated:

"5) The site is located largely in Geologic Hazards Category 43 and Hazards Category 11 according to the City of San Diego Seismic Safety Study. Category 43 is assigned to coastal bluffs that are considered to be generally unstable due to unfavorable jointing and local high erosion; the potential risks in Category 43 are considered to be moderate. Category 11 is assigned to areas in the State of California Alquist-Priolo Earthquake Hazard Zone. Our limited reconnaissance indicated that there are faults both north and south of the lot and possibly on the subject proper. The possible small on-site faults should be of only economical consequence to the project; no setback from these small inactive or potentially active faults is anticipated. However, it should be noted that when redevelopment plans are submitted, the City of San Diego may possibly require the property owner to complete a Notice of Possible Geologic Hazard and file it with the County Recorder.

There do not appear to be any geotechnical-related features that make the existing improvements unsuitable for continued use for residential purposes. Most of the native material present at the site is Cretaceous-age Point Loma Formation which

consistent of generally competent, well-consolidated sandstones. However, it should be recognized that no site is entirely without some level of risk; some risks are associated with this site due to the aforementioned geotechnical conditions but the risks appear to be within an acceptable range. Based on the information available to date, it is our opinion that the 40-foot setback from the edge of the bluff can be reduced to that the area located 25 feet or more from the northwestern edge of the existing residential structure can be redeveloped. It is our opinion that "1) the site is stable enough to support the development with the proposed bluff edge setback; and 2) that the project can be designed so that it will neither be subject to nor contribute to significant geologic instability throughout the anticipated life span of the principal structures" (75 years). Continued vigilance and maintenance by the homeowner is recommended to ascertain the adverse conditions do not significantly impact the site."

The Commission's staff geologist has reviewed these letters and other submitted geotechnical information and concluded that a 25 ft. setback would be acceptable for the proposed development and that this setback is not dependent upon retention of the seawall or gunite. However, it should be clarified, that the Commission's staff geologist reached this conclusion based on "the actual extant bluff edge, which is somewhat landward of the most seaward parts of the structure, and not on any previously existing bluff edge that was removed during development." In other words, in determining the necessary setback to assure the proposed residential structure is safe in the future, the edge of the bluff as it currently exists must be used and not the edge of the bluff that existed in the 1920's before the bluff was graded and cut landward.

The applicants contend that the location of the bluff edge for purposes of the measuring the setback of the residence should be based on the City's "Coastal Bluffs and Beaches Guidelines" dated 11/97 (reference Diagram III-3 and Section 3 on page 11 of Exhibit #15). That document states that if a coastal bluff face has been altered by the installation of retaining walls, seawalls or other device, that the coastal bluff edge should be considered the bluff edge as it existed prior to the changes in gradient. Based upon this document, the applicant's surveyor, Precision Survey and Mapping, prepared a topographical map which identifies a hypothetical pre-development bluff configuration based on surveys and floor plans that were prepared prior to the construction of the residence in late 1920's or early 1930's and that showed the approximately bluff edge at that time. While this survey appears to be accurate in its representation of a "pre-existing" bluff edge, the Commission finds that this is not the bluff edge that should be used to determine the geologic setback of blufftop structures. The Commission finds that the applicant has incorrectly interpreted the City's Coastal Bluffs and Beaches Guidelines. The intent of the guidelines relative to this issue is to address a circumstance where the bluff has been altered such that it extends further seaward. In this particular case, according to the geologist, the bluff has been "sculpted and cut back landward from its natural configuration". As can be seen by Figure III-3 of Exhibit #15 attached, the intent of the guidelines is clearly to address circumstances where the bluff was modified seaward of the original bluff edge. In this case, the applicant is asserting that the pre-development bluff edge, now hanging in space seaward of the modified bluff edge,

should be used in order to preserve the pre-development 25-foot setback, even though this 25-foot setback now has no physical meaning.

Specifically, the applicable section of the City's Coastal Bluffs and Beaches Guidelines states:

“(3) Sensitive Coastal Bluff with a Seawall

If the coastal bluff face has been partially altered with the installation of retaining walls, seawall, or other device, the coastal bluff edge shall be considered the pre-existing change in gradient and shall continue to be measured as described in (a) above. That is, the installation of a seawall shall not affect the location of the coastal bluff edge. See Diagram III-3.”

However, after review of the guidelines, Commission staff has determined that the City has not correctly interpreted the statement related to “pre-existing bluff edge”. Where the “alteration” has moved the bluff edge landward, this policy should not be applicable, as in the subject case or in other alterations of the bluff face. The diagram from the guidelines clearly shows that when the seawall has moved the bluff edge seaward, it is the pre-existing bluff edge that is to be used as a datum. However, in this case, modifications to the bluff have moved the bluff edge landward, so the policy should not be applicable in this situation. In Exhibit #20 attached, the Commission's staff geologist has delineated the general locale of the bluff edge that should be used to measure the appropriate geologic setback.

Therefore, given that the site-specific geotechnical report documents that the proposed development will be safe into the future and is not dependent on the presence of the existing seawall or gunite to support the development, the Commission finds that the proposed geologic setback of 25 feet from the existing bluff edge, in this case, can be supported. However, the project as submitted, proposes to maintain portions of the existing home within the 25 ft. geologic setback area. This is inconsistent with the certified LCP addressing the siting of new development which requires a minimum 25 ft. setback. Therefore, no portion of the principal structure should be permitted seaward of the 25 geologic blufftop setback line—as measured from the currently existing bluff edge. Again, from a policy standpoint, the Commission finds that a larger non-conforming structure with an inadequate setback increases the degree of nonconformity and increases the time period that the nonconformity will exist. In this case, the Commission finds that the development clearly increases the degree of non-conformity because it is a substantial demolition and reconstruction of a single-family residence with the proposed retention of those areas that are located within the geologic setback area and which are non-conforming. This particular project is not simply an addition on the inland side of the residence with no effect to the existing structure. The non-conforming portion will also be renovated, and the intent is for it to function as the primary living area for the replacement structure for the extended life of the structure. The proposal will extend the life of not only the additions, but the existing home as well, because the newly proposed construction is not separate in any way from the new portions of the residence. As noted

earlier in the section on non-conforming rights, the proposal should not be treated as simply retaining the non-conforming rights. As cited earlier in the project description, portions of the lower level are proposed to be removed in the geologic setback area yet the upper portions are proposed to remain. From a feasibility standpoint, there is no reason that the entire portion of the residence in this area could not be removed altogether and bring the residence into conformance with the geologic blufftop requirements of the certified LCP.

It is important to note that one of the policies of the certified LUP states, "Shoreline protective devices are poor substitutes for adequate site planning". In this case, where the project results in the total redevelopment of the property and the existing structure is very old, proper siting of development should be required. It is acknowledged that the residence was constructed in the 1920's long before the enactment of the Coastal Act. The existing residence is approaching its 75 year life expectancy which has been used by the Commission and local governments to determine the appropriate bluff top setbacks. If the residence was not reconstructed as proposed, it would likely soon reach the point where a landowner would seek to demolish it altogether. Therefore, it would be inconsistent with the LCP to allow the proposed project, which amounts to a reconstruction of the residence without requiring that the residence be brought into conformance with the geologic setback requirements of the LCP. Therefore, the Commission is requiring through Special Condition #1, submittal of revised building plans that indicates no portion of the principal residential structure shall be permitted seaward of the 25 ft. geologic blufftop setback line (as measured from the existing bluff edge) and that portions within the 25 ft. setback area must be removed or relocated such that no portion of the proposed residence shall be located within 25 ft. of the existing bluff edge.

B. Removal of Gunite.

Available bluff retreat rates provided by the applicant's geologist indicate that the Point Loma formation in the La Jolla area tends to erode due to combined wave attack, surficial erosion, and groundwater processes at the rate of 0.1-0.4 inches per year. These values are somewhat lower than published bluff retreat values of 1-12 inches per year (Benum of and Griggs, 1999; Moore et al., 1999), but these values include erosion of bluffs in which terrace deposits make up a higher proportion of the bluffs than at the subject site. The seawall protects the structure from wave attack, and the gunite is most effective against surficial erosion, although it would provide some protection against wave attack if it were exposed to the surf by removal of the seawall. The removal of the gunite might be expected to lead to bluff erosion rates of between 0.05 and 6 inches per year (half the rates observed in unprotected areas nearby). Removal of both the gunite and the seawall might lead to erosion rates of 0.1 to 12 inches per year. Actual erosion rates would probably be near the lower ends of these ranges because the bulk of the bluff at the subject site is made up of the Point Loma formation, with the terrace deposits only making up a small proportion. At these rates, the principal residence would be at little risk over its effective economic lifetime if the forty-foot geologic setback were adopted.

If the twenty-five foot setback is adopted, there is somewhat more risk, but it may be acceptable given the wide range of bluff retreat rates quoted above.

One benefit of moving the residential structure inland from its present position would be the removal of the unnecessary and unsightly gunite coating on the coastal bluff face. In a letter from Skelly Engineering dated 10/15/98 it is stated, "Both the seawall and retaining wall are in need of maintenance. However, no structural maintenance is required at this time. We suggest the following maintenance activities...." As such, moving the residential structure back would allow for the removal of the gunite. The gunite is a non-conforming structure that would not be permitted under the Sensitive Coastal Resource Overlay. Under the SCR Overlay, structures permitted on coastal bluffs are strictly limited. Specifically, under the special regulations of the SCR overlay addressing coastal bluffs, it is stated:

[....]

2) Bluff repair and erosion control measures including but not limited to, structures needed to repair damage to, or to prevent or retard erosion of, the bluff face in order to protect existing principal structures; provided, however, that no such measures or structures shall cause significant alteration of the natural character of the bluff face.

[...]

In this case, although it is acknowledged that the gunite was installed prior to the Coastal Act, it is nonetheless, a non-conforming structure that is not permitted on a coastal bluff. Given that the gunite is not necessary to protect the principal residence from erosion if appropriate geologic setbacks are adopted and that it is non-conforming, it should be removed. In addition, as noted in a letter dated 10/15/98 from Skelly Engineering to the applicant addressing an inspection of the bluff and seawall on the subject site, it is stated, "Both the seawall and bluff structure have been subject to maintenance over their lifetime."

It is further noted in the letter, "Core samples taken recently show that the thickness of the cover varies from 20 inches to 4 inches in the lower portions of the structure." It was also cited,

"There were several cracks on the order of 1/8 to 1/4 inch wide in the concrete cover, ... These crack[s] are likely due to shrinkage, water seepage, and stresses. In addition to the cracks there were signs of carbonation on the surface of the concrete. The carbonation appears most noticeably as a white deposit on the surface of the concrete. Carbonation is a form of effervescence and deterioration of the concrete. The pH of the concrete is lowered through the chemical reaction. Carbonation if left unchecked can lead to spalling and flaking of the concrete and deterioration of the steel reinforcing ("chicken wire")....

It is concluded in the letter that, "Both the seawall and retaining wall are in need of maintenance. No structural maintenance is needed at this time. We suggest the following maintenance activities.

[...]

Bluff Retaining Structure: Powerwash the concrete and sand blast the areas of carbonation. Clean out cracks and apply an epoxy sealer. Clean out drains. Reapply shotcrete as necessary and re-stain the concrete to match the natural bluff...."

As noted in the previous citations regarding the geotechnical studies that were completed for the project, it has been documented that the existing home is safe where it is presently located with or without the gunite. From a policy standpoint, the proposal should be treated as new development and moved back to adhere to the geologic setback requirements. Furthermore, since the gunite is not needed, then it should be removed, as well. If the existing home were to remain in its current location, maintenance of the gunite would be necessary, as cited by Skelly Engineering. The gunite cannot continue to remain on the face of the bluff indefinitely unless it is maintained. However, because the gunite is a non-conforming structure that is not necessary if appropriate setbacks are adopted, it should not be allowed to be maintained, in which case, it should be removed. By requiring relocation further inland of the portions of the residence that presently are nonconforming, the gunite can be eliminated.

As cited in the policies of the certified LUP, prudent siting of development should occur to avoid the need for shoreline protection devices. In addition, such structures, as in the subject case, are massive and visually obtrusive which detract from the beauty of the coastal bluffs and result in the significant alteration of natural landforms. Over time, as properties redevelop, it is the goal to bring into conformance many of the structures that presently do not conform in order to improve the visual appearance of the coastal bluffs, but to also avoid the need for shoreline protection which adversely affects shoreline processes. Therefore, Special Condition #1 also requires that the applicant submit plans for the removal of the gunite and that the gunite be removed within 60 days of removal of the portions of the existing structure that are within 25 feet of the bluff edge. Since it is not known how the non-conforming portions of the structure at the bluff edge are connected to the gunite, the gunite should be removed after the portions of the non-conforming residence are removed.

There is a square-shaped terrace/concrete patio in the geologic setback area. This terrace is immediately south of existing stairs which descend in elevation down the bluff face to the beach below. The project plans call only for the replacement of the portion of the stairs inland of the bluff edge. Special Condition #1 also calls for the identification of all existing and accessory improvements that all proposed accessory improvements proposed within the 25 ft. geological setback area must be at-grade and located no closer than 5 ft. from the bluff edge. The condition further specifies that no maintenance of the existing non-conforming boathouse/cabana shall be permitted without authorization. Also,

Special Condition #6 requires that no shoreline or bluff protection devices will be permitted to protect any existing or proposed accessory improvements should they become threatened in the future.

The existing non-conforming accessory structure (cabana/boat house) seaward of the geologic blufftop setback was permitted to remain pursuant to the City's permit. The conditions of the City's permit allowed the applicant to remove debris, etc. from the structure in the event of unsafe conditions but that no repair or maintenance to extend the period of use of the structure would be permitted. As such, this structure would deteriorate naturally to the point that it would eventually need to be removed.

In addition, the City required the applicant to remove landscaping (i.e., four palm trees) that had been installed inland of the seawall and seaward of the bluff edge. As noted earlier, the entire bluff face is presently gunited and there is also an existing seawall on the beach seaward of the bluff. These structures were installed prior to the Coastal Act and due to their age, it is feasible that at some point in the future they will eventually fail. Through Special Condition #1 addressed above, the gunite is being required to be removed at the same time as the residential structure. Special Condition #2 addresses future development on the site through recordation of a deed restriction and that requires that no maintenance to the cabana/boathouse or seawall; new additions; or other development on the site shall be permitted without a subsequent amendment to this coastal development permit. The purpose of this requirement is to assure that if a seawall is ever needed in the future to protect the residence, that it be located as far landward as possible to minimize its encroachment on public sandy beach and its effects on shoreline processes, as well as to enhance public lateral access along the shoreline. In addition, Special Condition #3 requires the removal of the palm trees located seaward of the bluff edge as this was a condition of the City's coastal development permit for the subject development proposal.

The Commission also recognizes the inherent risk of shoreline development. There is a risk associated with any shoreline development including damage to the seawall or to property as a result of wave and storm action. Given that the applicants have chosen to construct the proposed residence despite these risks, the applicants must assume the risks. Accordingly, Special Condition #4 requires that the applicants record a deed restriction that evidences their acknowledgement of the risks and that indemnifies the Commission against claims for damages that may be brought by third parties against the Commission as a result of its approval of this permit.

In summary, the proposed substantial demolition and reconstruction of a single family residence represents new development per the above findings. The new home must meet current standards. As conditioned to not permit any portion of the proposed principal residence to be located within 25 ft. of the bluff edge and removal of gunite, the proposal can be found consistent with the applicable LCP provisions. Therefore, only as conditioned, can the proposal be found consistent with the certified La Jolla-La Jolla Land LCP Land Use, La Jolla Shores PDO and the SCR overlay ordinance of the City's former implementation plan of the certified LCP.

5. Visual Access. The proposed development is inconsistent with the following policies of the certified La Jolla-La Jolla Shores LCP Land Use Plan.

"La Jolla's relationship to the sea should be maintained. Existing physical and visual access to the shoreline and ocean should be protected and improved."

"La Jolla's physical assets should be protected in future development and redevelopment; particularly with respect to the shoreline, significant canyons, steep slopes. Ocean views should be maintained and open space retained whenever possible."

"View corridors utilizing side yard setbacks, should be encouraged along shoreline and blufftop areas, in order to avoid a continuous wall effect. Even narrow corridors create visual interest and allow for sea breezes to refresh passersby...."

- Setbacks and view corridors should be kept clear of trash receptacles, utility boxes, storage materials, untrimmed landscaping or any other obstructions which may interfere with visual access.

In addition, the City's previously certified implementation plan (municipal code) required open fencing in the side yard areas not to exceed six feet in height with a three foot solid base and open fencing on top. Given that the proposed development is located between the first coastal road and sea, it is subject to the above-quoted LCP policies and ordinances that protect visual resources. As noted in the findings for substantial issue in the staff report dated 2/1/00, the City did an extensive visual analysis of the proposed development.

The subject site is located opposite of Saint Louis Terrace which is a public street that runs in an east-west direction and is perpendicular to the subject site. While traveling in a westerly direction along Saint Louis Terrace, there are existing horizon ocean views above the roofline of the existing residence (as well as other development adjacent to it). The views diminish as the street descends in elevation while approaching the subject site. In other words, the closer one approaches the site, the residence encroaches into the ocean horizon view above the roofline of the residence. While in front of the residence looking west, there are no longer views due to the presence of an existing very tall hedge. However, even if the hedge were not there, the existing residence would obstruct views across the site. In any case, neither the street that the subject site is located on (Spindrift Drive), nor Saint Louis Terrace are designated public view corridors in the certified LCP. As such, more stringent requirements that apply to designated view corridors do not apply to this site. However, the above-cited policies which provide for protection of views throughout side yards do apply regardless of whether the site or streets leading to the site are designated public view corridors. There is an existing very tall hedge (approximately 10 ft. high) along the eastern property line adjacent to the street frontage which obstructs any views across the site from Saint Louis Terrace at Spindrift Drive. The hedge extends along the entire property line, except at each side yard. The hedge is proposed to remain with the subject proposal. The proposed substantial

demolition/reconstruction of the residence will result in a portion of the roofline of the residence extending into the area where ocean horizon views currently can be seen from the upper portions of Saint Louis Terrace. However, because the subject site is not a designated public view corridor, this does not pose significant conflicts with regard to the policies of the certified LCP addressing protection of designated public view corridors.

However, any newly proposed landscaping or fencing in the side yards should be designed in a manner that enhances public views toward the ocean to prevent a "walled off" effect, consistent with the policies of the certified LCP. The existing side yards are eight feet wide at the south side yard and nine feet wide at the north side yard, where the City requires a minimum width of four feet under its former implementing ordinances (municipal code) for sideyard setbacks for the subject residential zone where the existing residence is located. The existing setbacks are not proposed to be reduced through the proposed development.

The existing tall hedge that is located along the eastern property line does not extend into the side yard setback areas. There appears to be taller, existing vegetation/landscaping currently in the side yard setback areas which presently blocks views toward the ocean. A small glimpse of the ocean is visible from the street looking west across the north side yard area but it is mostly obscured by the existing vegetation in this area. No views are presently available looking across the south side yard due to existing vegetation and other improvements in this location. In the review of past appeals between the sea and the first coastal road, the Commission has found that the LCP requires low landscaping to protect views, etc. In addition, the Commission has also historically required that fencing in the side yard areas be composed partially of open materials for the purposes of opening up views toward the ocean and preventing a walled off effect. The Commission has taken the position in past similar projects (A-6-LJS-98-85/Holmes, A-6-LJS-98-169/Moncrieff) that through installation of open fencing in the side yard setbacks along the eastern frontage of the properties between the first coastal road and sea, a "window" to the ocean in the side yard setback areas can be preserved while looking west from the street elevation, as is supported by the policies of the certified LCP. Even small glimpses of the ocean while driving or walking by give passersby the feel of being close to the ocean and eliminates a continuous wall effect. As noted in the earlier cited LCP policy language, "...Even narrow corridors create visual interest and allow for sea breezes to refresh passersby..." In those cases where views would still not be achieved through installation of open fencing, it is still required to help to prevent a "walled off" effect.

In summary, because the subject site is not located within a designated public view corridor, any proposed encroachment into the ocean horizon views that are visible from the upper portions of Saint Louis Terrace looking west do not raise an inconsistency with the certified LCP. However, for those properties located between the sea and the first coastal road, the LCP policies do call for the opening up side yard areas including keeping side yard areas free of untrimmed landscaping or other obstructions in addition to the installation of open fencing in order to prevent a "walled off" effect as well as to enhance any existing public views toward the ocean. Therefore, Special Condition #3 requires revised landscape/fence plans that includes that existing landscaping be trimmed

and replaced with landscaping to be maintained at a height of three feet. The condition also requires that fencing in the side yard setback areas be limited to six feet in height and be composed of at least 50% open materials. As such, views toward the ocean in the sideyard setback areas will be enhanced and the open fencing will help to prevent a "walled-off" effect, consistent with the policies of the certified LCP. In addition, through Special Condition #1, which requires the relocation of the residence such that it is sited no closer than 25 feet from the existing bluff edge and that the gunite from the bluff face be removed, adverse impacts on visual resources in this area will be significantly enhanced, as viewed from the beach.

6. Public Access/Recreation. Both the certified LCP and the Coastal Act contain policies protecting physical access to the beach and ocean. The subject site is located between the first public roadway and the sea. The beach area is located south of La Jolla Shores which is one of the most popular beaches in San Diego County. The area seaward of the proposed seawall on the subject site is used by residents and beach-goers alike for strolling and other recreational activities. There is an existing improved vertical access easement two lots to the north at the Marine Room restaurant that provides access to this area of beach. While strolling along the beach in a southerly direction from La Jolla Shores, beach-goers can go a few lots south of the subject site; however, the bluffs become quite steep and the beach narrows further south such that physical access around the bluffs to La Jolla Cove is not possible. In addition, the waves come all the way up to the seawall at moderate to high tide conditions making lateral public access at these times not possible.

As noted in the findings for substantial issue, the subject site contains an existing seawall that was constructed prior to the Coastal Act. The seawall was constructed seaward of the natural bluff in order to provide for accessory improvements. Under the standards of the Coastal Act and the certified LCP, if this seawall were proposed today, it would likely be required to be located more landward, along the contour of the natural bluff edge to minimize adverse impacts to public access and sand supply. The existing seawall is within the stringline of other seawalls in the area. As such, the existing seawalls in this area somewhat inhibit the amount of dry sandy beach area that is accessible to the public for lateral public access during higher tide conditions. However, relocating the principal residence further inland away from the bluff edge (pursuant to Special Condition #1), will allow for the seawall to be removed or located closer to the bluff in the future should it be necessary or proposed by the applicant, which could open this area to public use.

Section 30604(c) of the Act requires that a specific access findings be made for any project located between the first coastal roadway and the sea. The project site is located between the ocean and the first coastal roadway (Spindrift Drive). As noted above, there is an existing vertical public access easement located at the Marine Room restaurant two lots to the north of the site which is used to gain access to the beach. In addition, the site is located about one-half mile from Kellogg Park and the La Jolla Shores beach recreational area, where unlimited access to the shoreline is provided. As such, the proposed project will not result in any adverse impacts to physical public access.

Furthermore, as required in Section 30604(a) for development between the first public road and the sea, the project, as conditioned, is found consistent with all other public access and recreation policies of the Coastal Act. Special Condition #6 has been attached which serves notice to the applicant that by acceptance of the permit, the applicant acknowledges the potential public rights and/or public trust which may exist on the sandy beach area of the property and that the Commission's approval of the project may not be used or construed as a means to interfere with any kind of public rights.

7. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act.

The subject site is zoned SF and is designated for residential use in the La Jolla Shores PDO. The proposed existing single family residence is consistent with that zone and designation. The subject site is also located within the Sensitive Coastal Resource (SCR) overlay zone of the City's former implementation plan. The proposed residence, as conditioned, can be found consistent with the SCR overlay.

The certified La Jolla-La Jolla Shores LCP Addendum contains policies which address shoreline protective devices, protection of public access and protection and improvement of existing visual access to the shoreline and that ocean views should be maintained in future development and redevelopment. With regard to the proposed siting of the proposed residence, it has been documented that the proposed development will be safe for its anticipated life and that its proposed siting and configuration is not dependent on the existing seawall located seaward of it. Therefore, only as conditioned for revised building plans such that no development is permitted seaward of the 25 ft. geologic blufftop setback line and removal of the gunite, can the proposed development be found consistent with the certified LCP. In addition, the certified LUP calls for opening up of side yard areas to enhance visual access to the sea. Therefore, as conditioned such that all new proposed plantings within the sideyard setback be low level vegetation so as to not obstruct views toward the ocean in the sideyard setback areas, can the proposed development be found consistent with the Coastal Act and certified LUP. In summary, the proposed development, as conditioned, can be found consistent with the certified LCP and all applicable Chapter 3 policies of the Coastal Act.

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

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

The proposed project has been conditioned in order to be found consistent with the shoreline hazards, public access and visual resource policies of the Coastal Act. Mitigation measures, including conditions addressing geologic setback, removal of gunite from the bluff face, future maintenance of non-conforming accessory improvements, landscaping and fencing, public rights and assumption of risk, will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

Project Site

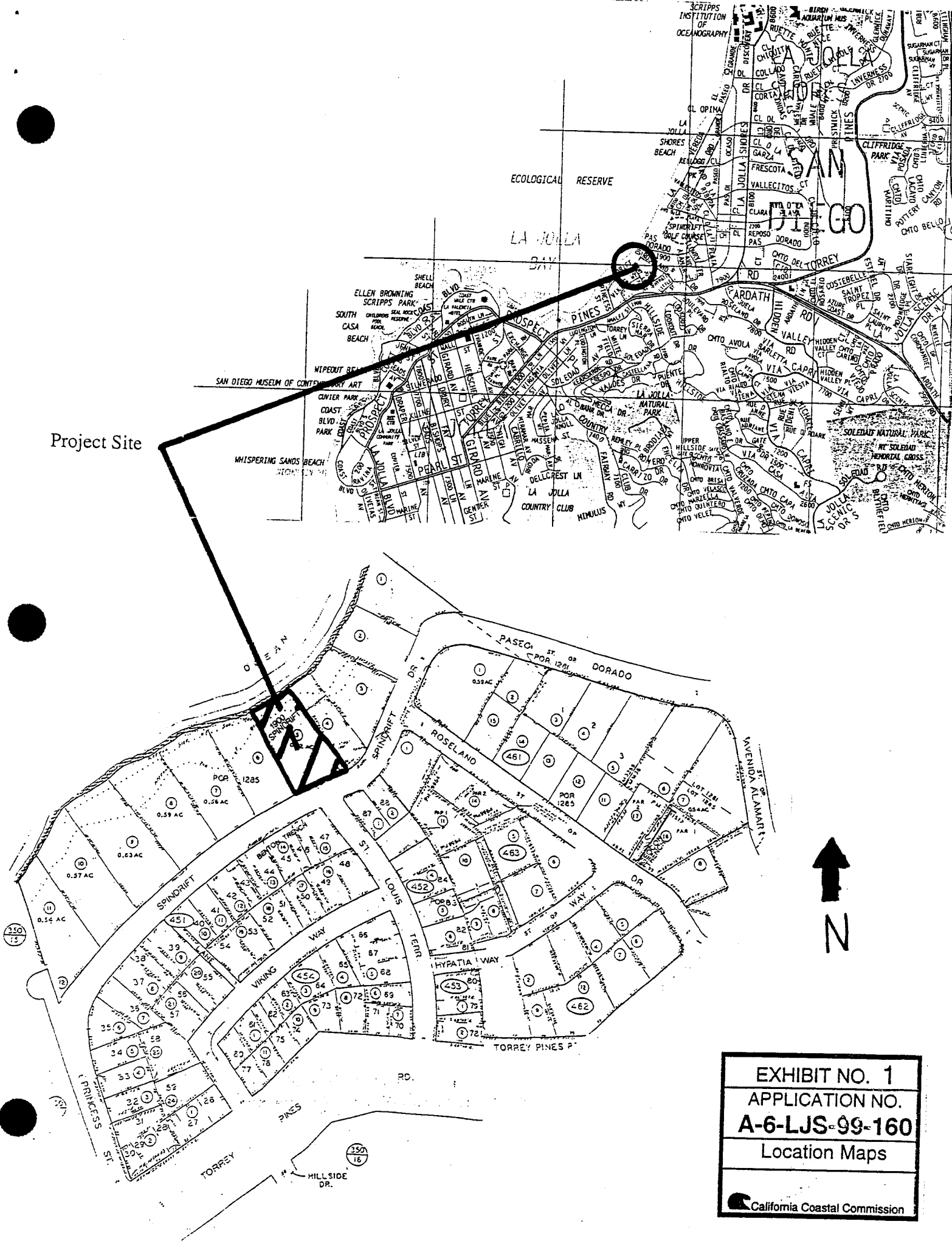

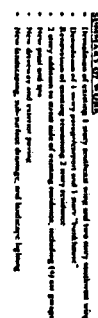


EXHIBIT NO. 1
APPLICATION NO.
A-6-LJS-99-160
Location Maps
 California Coastal Commission

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A rectangular label with a black border. The text is arranged in four horizontal sections: "EXHIBIT NO. 2" in a large, bold, sans-serif font; "APPLICATION NO." in a smaller, bold, sans-serif font; "A-6-LJS-99-160" in a very large, bold, sans-serif font; and "Site Plan" in a medium-sized, sans-serif font. At the bottom left is the California Coastal Commission logo, which consists of a stylized wave and the text "California Coastal Commission".

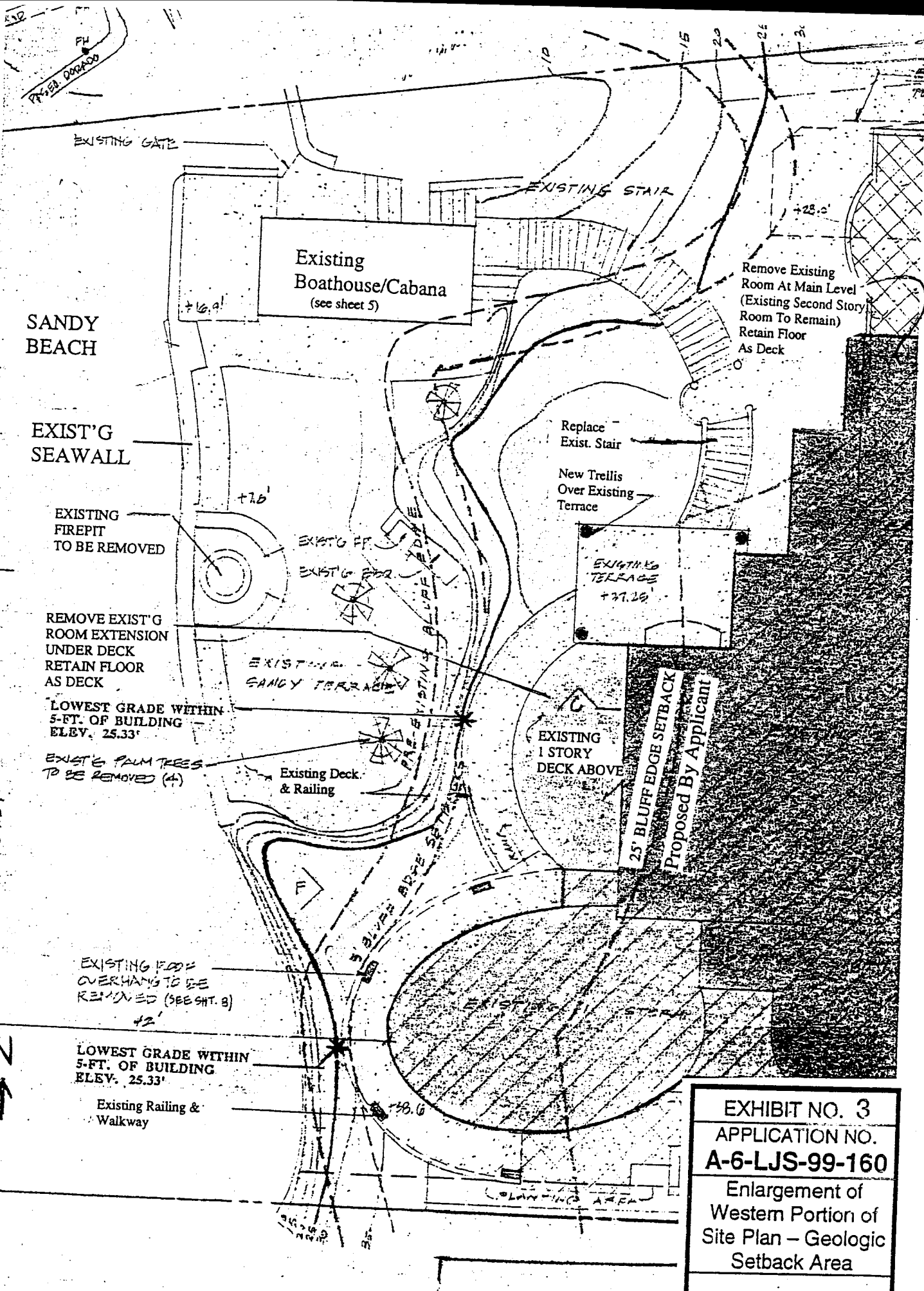
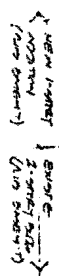


EXHIBIT NO. 3
APPLICATION NO.
A-6-LJS-99-160
 Enlargement of
 Western Portion of
 Site Plan - Geologic
 Setback Area
 California Coastal Commission

ON ARCHITECT
 in Drive, Ste 104
 619.452.1860 (O)
 619.452.7717 (F)
 Constal
 Engineer:
 Dave Skelly

761.942.8379 (O)
 619.452.7717 (F)
 1. Archaeology monitoring shall be performed on site per Planning
 Department requirements.

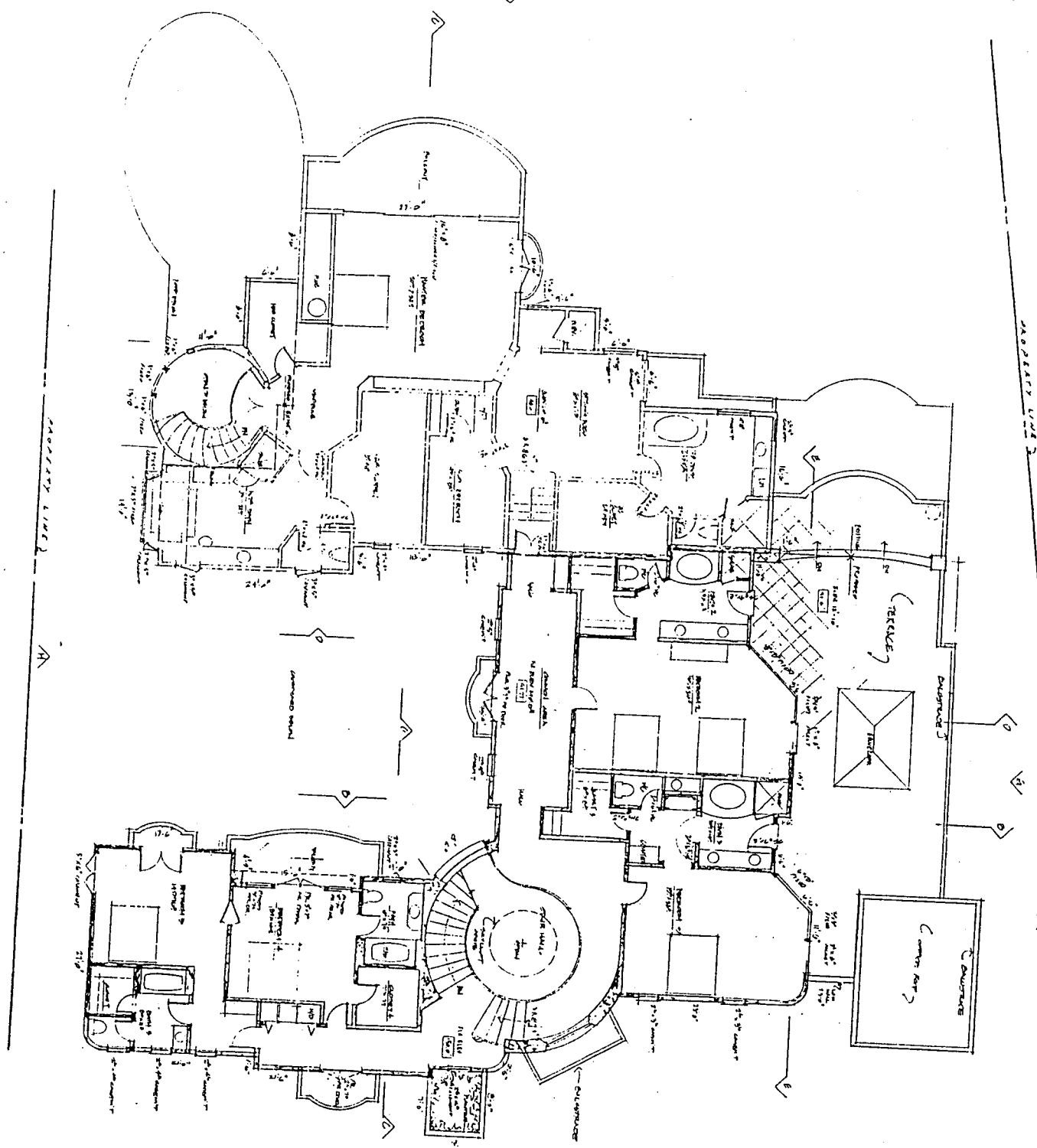


SECTION / PARTIAL ELEVATION (NORTH)

EXTERIOR ELEVATIONS	
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2. Side Elevation	2. Side Elevation
3. Rear Elevation	3. Rear Elevation
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8/14/77

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California Coastal Commission



UPPER LEVEL PLAN

Room	Area	Notes
101	100.00	Office
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119	100.00	Office
120	100.00	Office

DON EDSON
 ARCHITECT AIA 452-1860
 5752 OBERLIN DRIVE-104
 SAN DIEGO CALIF. 92121

10/14/99
 10/14/99
 10/14/99
 10/14/99


1900 SPINDRIFT DRIVE
 LA JOLLA, CA

EXHIBIT NO. 7

APPLICATION NO.

A-6-LJS-99-160

Proposed Upper Level Plan

 **California Coastal Commission**

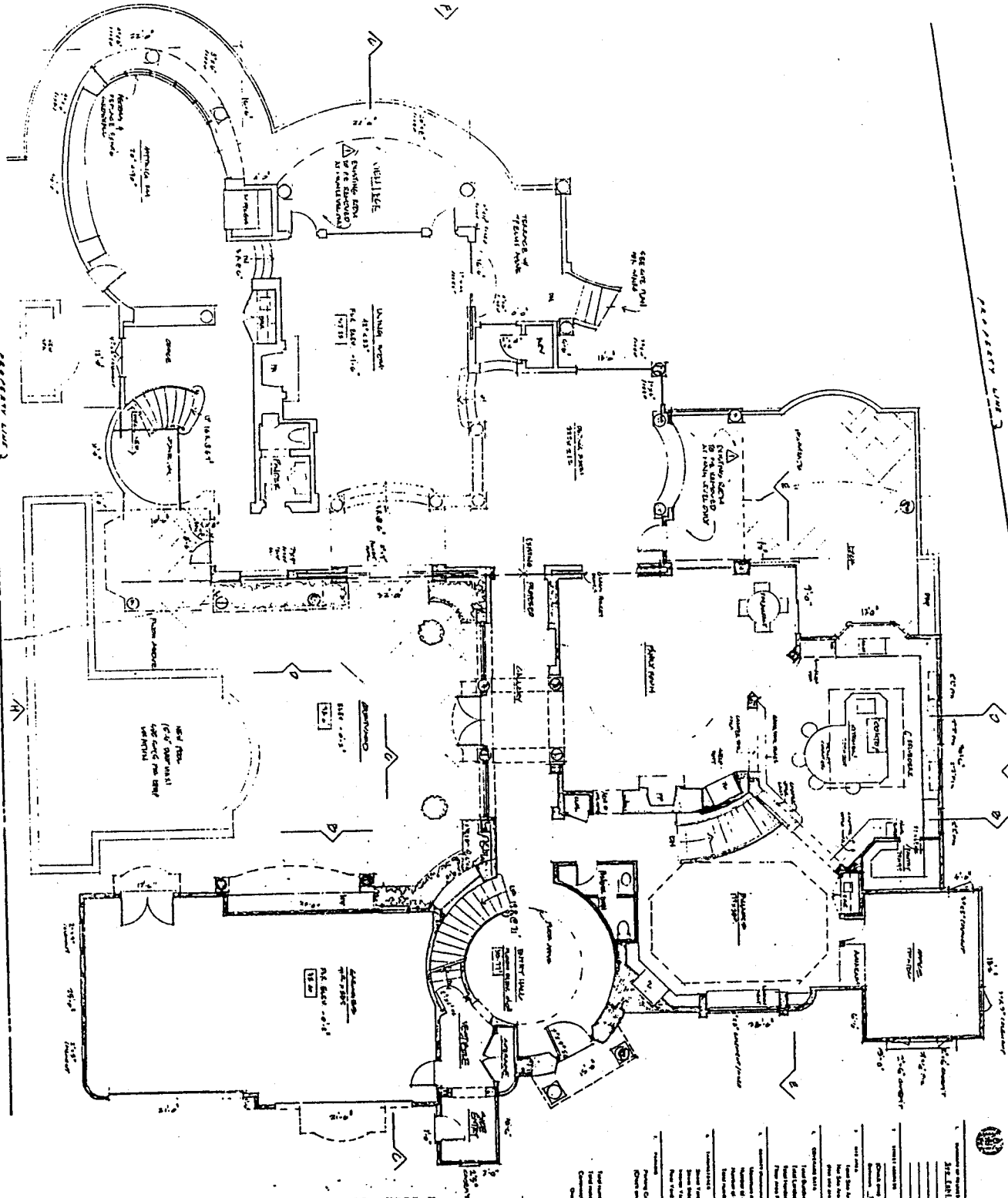


EXHIBIT NO. 8 APPLICATION NO. A-6-LJS-99-160	
Proposed Main Level Plan	
California Coastal Commission	

EXHIBIT NO. 8 APPLICATION NO. A-6-LJS-99-160	
Proposed Main Level Plan	
California Coastal Commission	

EXHIBIT NO. 8 APPLICATION NO. A-6-LJS-99-160	
Proposed Main Level Plan	
California Coastal Commission	

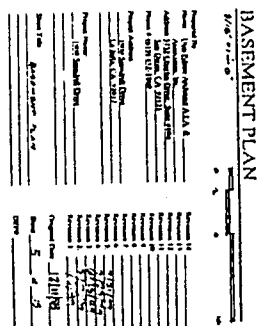
EXHIBIT NO. 8 APPLICATION NO. A-6-LJS-99-160	
Proposed Main Level Plan	
California Coastal Commission	

EXHIBIT NO. 8 APPLICATION NO. A-6-LJS-99-160	
Proposed Main Level Plan	
California Coastal Commission	

DON EDSON
 ARCHITECT AIA 452-1860
 5752 OBERLIN DRIVE-104
 SAN DIEGO CALIF. 92121

5/17/99
 4/14/99
 4/14/99

1900 SPINDRIFT DRIVE
 LA JOLLA, CA



1/2/79
5/7/79
6/10/79
7/21/79
9/15/79


California Coastal Commission

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



21 April 2000

MEMORANDUM

To: Sherilyn Sarb, District Manager
From: Mark Johnsson, Senior Geologist
Re: A-6-LJS-99-160 (Summit Resources); Geologic Issues

At their meeting of 10 April 2000, the Commission raised questions concerning geologic issues at 1900 Spindrift Lane, La Jolla, that were not addressed in the Staff Report of 23 March 2000. This memo is to provide answers to those questions.

1) Safety from geologic hazard of the existing structure, with the existing shoreline protective devices in place.

At my request, Curtis Burdett of Christian-Wheeler Engineering has performed additional slope stability analyses to assess the stability of the existing, modified slope under both static and earthquake-loading conditions. I was provided with a number of analyses performed under a variety of assumptions. These included variations in several important geotechnical parameters (most notably, cohesion of some of the geologic units), making careful comparisons between different conditions difficult. No values of these parameters were available for the materials actually present at the 1900 Spindrift site. Nevertheless, the values adopted appear to be conservative ones consistent with observations on similar materials at nearby sites.

Mr. Burdett has demonstrated to my satisfaction that a minimum factor of safety of 1.5 for the static condition and 1.1 for the pseudo-static (earthquake-loading) condition exists for the bluff at 1900 Spindrift given existing conditions. It is my understanding that the earthquake load imposed is based on a seismic coefficient, k , of 0.2 g. This value is an appropriate coefficient for a magnitude 6.5 earthquake on the Rose Canyon Fault, located within 50 feet of the structure, which may be expected to yield a maximum peak ground acceleration of 0.6 to 0.65 g.

The site as currently protected by the seawall and gunite appears to be at very low risk from bluff retreat. There has been little or no observable bluff retreat since these shoreline protective devices were installed in the late 1920's. Some erosion may be expected at the northwestern corner of the site, where the slope is not protected by gunite and is underlain by alluvium. Given the apparent low retreat rate in the past 70 years, a setback of 25 feet is probably appropriate.

Mr. Burdett has concluded in his letter of 18 April 2000 (as well as in several earlier reports) that the likelihood of surface rupture at the site "can be considered to be low." Although the Rose Canyon

EXHIBIT NO. 10
APPLICATION NO.
A-6-LJS-99-160
Memo from CCC's Geologist
(1 of 4)

Fault has not experienced an earthquake with surface rupture in historic time, its geomorphic expression, geologically recent movement, and seismicity have lead many geologists to consider it to be an active fault (see, for example, Abbott, 1989), although it is officially zoned as "potentially active" under the Alquist-Priolo Act. In the absence of historic earthquake information, it is not possible to quantitatively assess the probability of an earthquake on this fault. Although I concur with Mr. Burdett that it is likewise not possible to quantify the likelihood of surface rupture, it is my professional opinion that if an earthquake were to occur on this fault, then the probability of surface rupture at the site would best be characterized as "high." Due to the uncertainty as to the likelihood of such an earthquake occurring at all, this designation could be downgraded to "moderate."

2) Safety from geologic hazard of the existing structure, if the existing shoreline protective devices were to be removed.

Mr. Burdett also produced slope stability analyses, subject to the same limitations described above, for the existing bluff topography with the gunite that is now present on the slope removed. These were performed, as above, for both the static and earthquake-loading conditions. As for the protected slope, adequate factors of safety of 1.5 for the static and 1.1 for the earthquake-loading condition could be demonstrated. Thus, from the information provided, it appears that the structure would be safe from slope failure at its current position even if the gunite were removed from the slope.

Available bluff retreat rates provided by Mr. Burdett indicate that the Point Lomo formation in the La Jolla area tends to erode due to combined wave attack, surficial erosion, and groundwater processes at the rate of 0.1-0.4 inches per year. These values are somewhat lower than published results of 1-12 inches per year (Benumof and Griggs, 1999; Moore et al., 1999). If both the seawall and gunite protecting the site were removed, it is reasonable to expect that even at the lower values the structure would be threatened by bluff retreat within the economic lifespan of the new development (75 years), since parts of the existing structure actually overhangs the existing bluff face, and the foundation setback appears to be only about four feet, given the cross-sections and plans provided by Mr. Burdett and the project architect, Mr. Donald Edson. It is more difficult to assess the threat to the structure if the seawall alone, or the gunite alone, were to be removed. The seawall protects the structure from wave attack, and the gunite is most effective against surficial erosion, although it would provide some protection against wave attack if it were exposed to the surf by removal of the seawall. There are no data available separating the relative importance of wave attack and subaerial erosion at the subject site. The profile of the unprotected cliff to the southeast of the subject site would suggest that the processes are subequal, given the classification scheme of Emery and Kuhn (1982). Accordingly, removal of the gunite might be expected to lead to bluff erosion rates of between 0.05 and 6 inches per year (half the rates observed in unprotected areas nearby). Removal of the seawall would expose the gunite to wave attack. Without knowing more about the structural design of the lower part of the gunite slope, it is impossible to assess its ability to protect against wave attack. As always when discussing bluff retreat rates, it must be remembered that long-term average rates incorporate periods of much higher and much lower erosion than average, due to the episodic nature of bluff retreat.

The hazard associated with surface rupture would not change appreciably if the shoreline protective devices were removed.

3) Configuration of the bluff edge and significance in establishing geologic hazard and setbacks.

The applicants contend that the bluff edge for this project should be as defined in the document entitled "Coastal Bluffs and Beaches Guidelines," dated November 1997, now incorporated into the Land Development/Zoning Code Update for the San Diego Municipal Code. Quoting from the Christian-Wheeler "Report of Geologic Reconnaissance" dated 2 October 1998:

Subsection III(A)(3) and the accompanying Diagram III-3 refer to seawalls; this subsection states *"If the coastal bluff face has been partially altered with the installation of retaining walls, seawalls, or other device, the coastal bluff edge shall be considered the pre-existing change in gradient."* This section further states *"Note: If a seawall has been installed on a premises due to excessive erosion, that premises shall not qualify for development at a reduced distance from the coastal bluff edge. Since the instability of the sensitive coastal bluff necessitated the installation of a seawall, the sensitive coastal bluff would not be considered stable enough to support development within the 40-foot distance to the coastal bluff edge."*

The applicants contend that the seawall was installed as a prophylactic measure, not as the result of excessive erosion. They base this interpretation in part on the fact that the seawall is built well seaward of the bluff face, allowing space for the installation of a cabana, barbecue, and other amenities. The seawall is, however, continuous with an identical structure that extends several hundred feet southeast of the subject site. This seawall is for the most part installed close to the bluff face, and apparently dates from the same as that at the subject site. In the absence of other documentation, it is impossible at this time to determine whether the seawall was built in response to excessive erosion, as a prophylactic measure, or some combination of both.

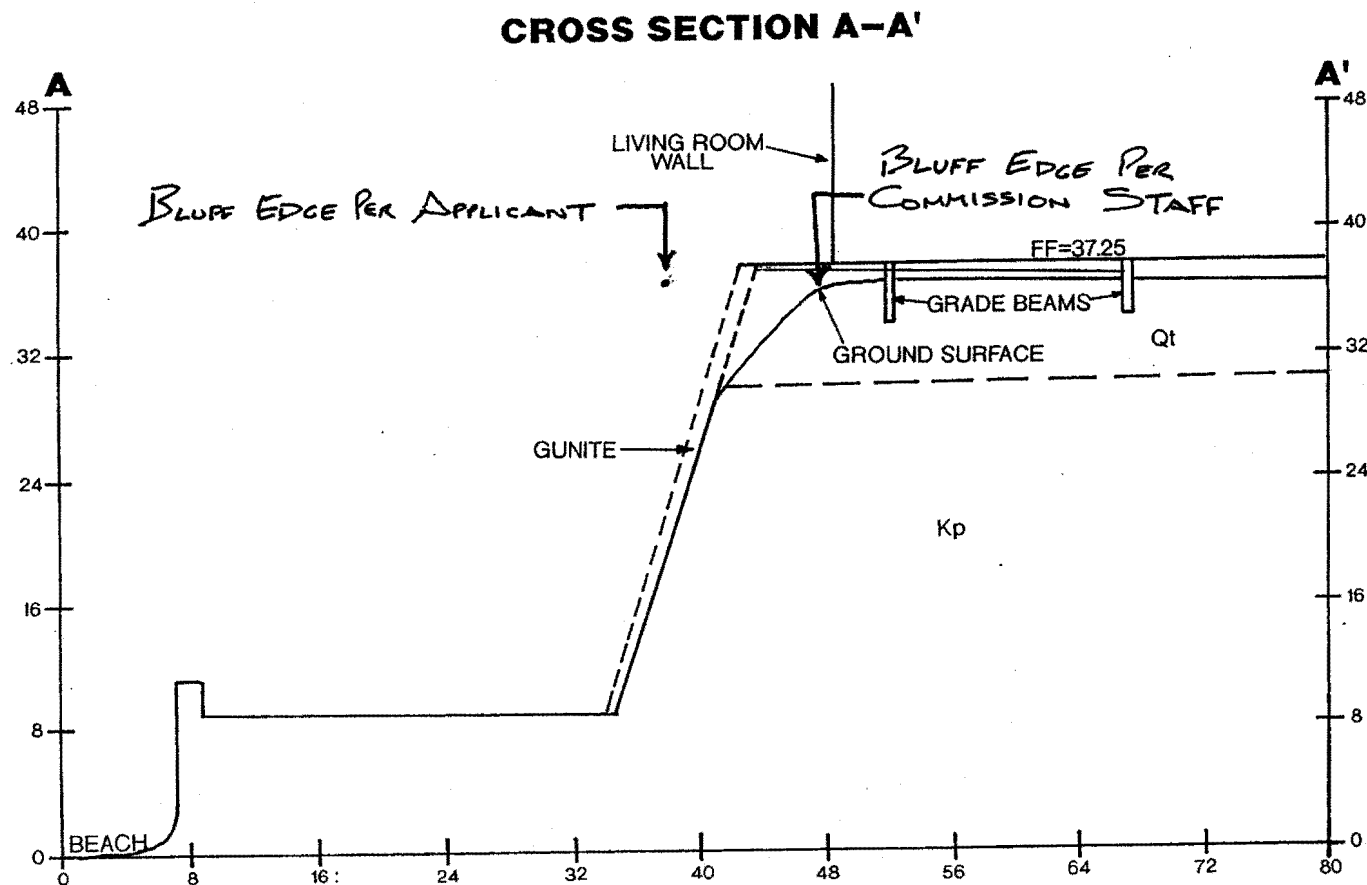
Precision Survey and Mapping provided a topographic map derived from the original house plans, prepared in 1928, which showed the approximate bluff edge at 1900 Spindrift at that time. Since that time, the bluff has apparently been sculpted and cut back landward from its natural configuration. On the basis of the code quoted above, the applicant contends that any setback must be measured from the pre-existing bluff edge as derived from the 1928 house plans.

The intent of the code quoted above, especially in conjunction with the cited figure, would appear to be that an artificially *extended* bluff not be used to move bluff setback lines seaward, not the reverse. In any case, the geologic hazard assessment above is derived from topographic profiles of the *existing* site topography. To a large degree, the definition of the bluff edge is immaterial; the stability of the slope is defined on the basis of critical failure surfaces, that can be precisely located on the basis of the topographic profile used in the analysis. The area that is described as the setback distance, on the basis of those analyses, is measured from the point *where the downward gradient of the land surface begins to increase more or less continuously until it reaches the general gradient of the coastal bluff face*, consistent with the City of San Diego code and with the Coastal Act. That position can be clearly identified by a break in slope on profiles A-A' and B-B' prepared by Christian-Wheeler.

Published References

- Abbott, P., 1989, The Rose Canyon Fault: Why San Diegans shouldn't be complacent: *Environment Southwest*, v. 524, p. 1-7.
- Benumof, B. T., and Griggs, G. B., 1999, The dependence of seacliff erosion rates on cliff material properties and physical processes: San Diego County, California: *Shore and Beach*, v. 67, no. 4, p. 29-41.
- Emery, K. O., and Kuhn, G. G., 1982, Sea cliffs; Their processes, profiles, and classification: *Geological Society of America Bulletin*, v. 93, p. 644-654.
- Moore, L. J., Benumof, B. T., and Griggs, G. B., 1999, Coastal erosion hazards in Santa Cruz and San Diego counties, California: *Journal of Coastal Research*, v. 28, p. 121-139.

EXHIBIT NO. 11	APPLICATION NO.	Cross-Section from	California Coastal Commission
A-6-LJS-99-160	4/18/00	Christian Wheeler	
		Engineering Report	




LEGEND

Qt TERRACE DEPOSITS

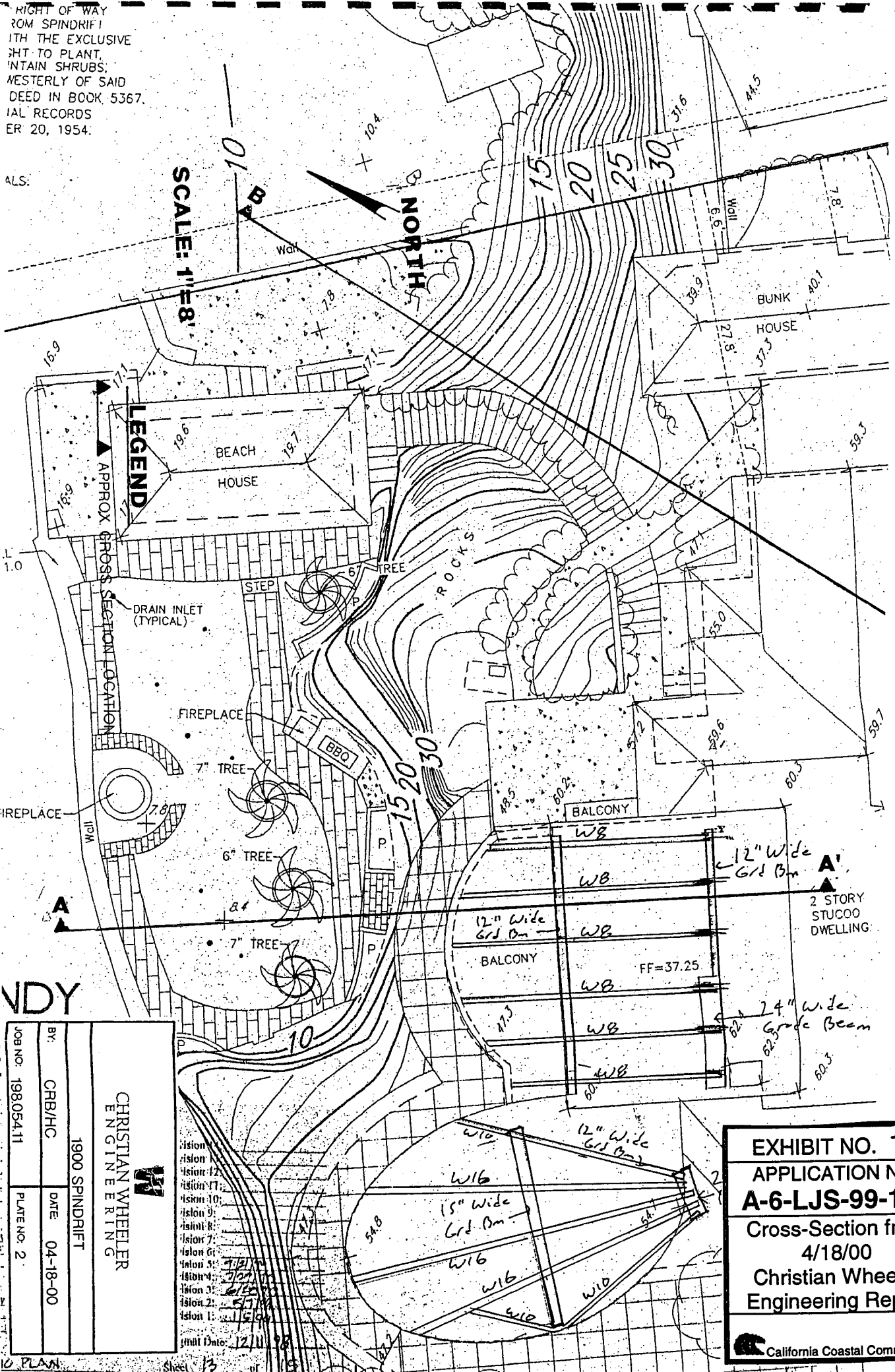
Kp POINT LOMA FORMATION

SCALE: 1"=8'

 CHRISTIAN WHEELER ENGINEERING	
1900 SPINDRIFT	
BY: CRB/HC	DATE: 04-18-00
JOB NO: 198,054.11	PLATE NO: 3

RIGHT OF WAY
FROM SPINDRIFT
WITH THE EXCLUSIVE
RIGHT TO PLANT,
MAINTAIN SHRUBS,
WESTERLY OF SAID
DEED IN BOOK 5367.
SAL RECORDS
SER 20, 1954.

ALS:



VDY

JOB NO: 19805411		DATE: 04-18-00		PLATE NO: 2	
BY: CRB/H/C		DATE: 04-18-00		PLATE NO: 2	
<p>1900 SPINDRIFT</p> <p>CHRISTIAN WHEELER ENGINEERING</p>					

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EXHIBIT NO. 12
APPLICATION NO.
A-6-LJS-99-160
Cross-Section from
4/18/00
Christian Wheeler
Engineering Report
California Coastal Commission



THE CITY OF SAN DIEGO

April 21, 2000

California Coastal Commission
Sherilyn Sarb, District Manager, San Diego Office
3111 Camino del Rio North, Ste 200
San Diego, CA 92101

Subject: Summit Resources; 1900 Spindrift Dr. SCR/CDP/LJS No. 99-0007

Dear Sherilyn:

This letter is written to further clarify our recent discussion on the subject matter and your request for interpretation of San Diego Municipal Code Section 101.0303 dealing with the continuance of nonconforming uses and structures. You have raised questions that pertain to the paragraph which deals with "repairs and alterations" and what is considered "increasing the degree of nonconformity". You have asked how this section relates to bluff top development and for the City to clarify it's own interpretation of "new development".

SDMC Section 101.0303, Continuance of Nonconforming Uses and Structures, states....."Repairs and alterations which do not increase the degree of nonconformity of a nonconforming building, structure or improvement or increase the size or degree of nonconformity of a use may be made provided the aggregate value of such repairs or alterations shall not exceed 50 percent of its fair market value according to the assessment thereof, by the County Assessor for the fiscal year during which the repairs or alterations occur." Our City Attorney has opined that "repairs and alterations" can be any repair or change to the structure (interior or exterior) so long as that change does not increase the degree of nonconformity or exceed fifty percent of the value of the improvements (minus the cost of paint, shingles and exterior stucco)." (see Enclosures, City Attorney's Memo dated November 12, 1997 and March 4, 1998). Our City Attorney has also clarified that a reconstruction project (because of the demolition required) does not constitute a "change from a nonconforming structure" to a more conforming structure and would not constitute abandonment of non-conforming use rights.

As discussed, SDMC Section 101.0303 allows not only bluff top home owners an opportunity to maintain existing structures but it affects many property owners City-wide. As a result of significant code changes over the years, the City of San Diego has created many non-conforming structure and uses. It is not the intent of the City to discourage redevelopment of property. In fact, it allows the City an opportunity to encourage modifications that reduce the degree of nonconformity. Although our offices disagree on this point, the City must continue processing



Planning and Development Review

1222 First Avenue, MS 501 • San Diego, CA 92101-4155
Tel (619) 446-5460

EXHIBIT NO. 13

APPLICATION NO.

A-6-LJS-99-160

4/21/00 Letter from
City of San Diego re
Continuance of Non-
Conforming Uses &
Structures (w/attach.)

(Page 1 of 10)



California Coastal Commission

Ms. Sherilyn Sarb
April 21, 2000
page 2

projects under the purview of "non-conforming" rights as established by long time Department Policy substantiated by City Attorney concurrence.

In the case of the Summit Resource project, the La Jolla Shores Planned District Ordinance (PDO) has it's own section on nonconforming uses and structures. Pursuant to the provisions of the PDO, it was determined that the improvements would not "increase the degree of nonconformity", hence, the project was approved. Although the permit contains a standard condition that is normally applied to city-wide zoned property, the 50% fair market value limitation to proposed repairs, alterations and modifications to legal nonconforming structures is not applicable to this project. According to the LJSPDO (Chapter X, Article 3, Division 3), San Diego Municipal Code Section 101.0303 would be superseded by the PDO.

Your questions on clarifying remodel vs. new development can also be addressed. The Coastal Ordinance specifically defines "Coastal Development" (SDMC Section 111.0107). A Coastal Development Permit (CDP) is required for "coastal development" within the boundaries of the Coastal Zone as illustrated on Map no. C-730.1 unless an exemption can be granted pursuant to San Diego Municipal Code Section 105.0204 (old code). The Summit Resource project is located on a bluff top site and lies within the Sensitive Coastal Resource Overlay Zone. The proposed development exceeds the exemption criteria therefore, is considered "Coastal Development" that would require a Coastal Development and Sensitive Coastal Resource Permits.

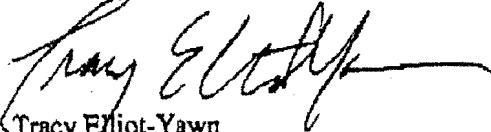
There also seems to be some confusion with respect to remodel vs. new development. The City's Coastal exemptions were amended in 1990 to restrict improvements to an existing structure or structures by limiting the removal of up to 50% of exterior linear walls. This threshold was established to allow the City to look at development within the coastal boundaries. As you know, consistent with the State CC exemptions, the City already has a strict requirement for review of new development (additions, remodels and/or demolition and new construction) that are located within the sensitive areas such as beaches and bluffs, or within 300 ft. of a mean high tide line or within the first public roadway. Outside these areas, the communities desired a higher level of scrutiny on development. Therefore, the City developed several formulas. As a result of public hearings, City Council adopted the "50% rule" which was subsequently certified by the Coastal Commission.

(p. 2 of 10)

Ma. Sherilyn Sarb
April 21, 2000
page 3

I hope you find this information useful. We look forward to our meeting next week to discuss the geological and landscape issues on the subject matter. If you have any questions please call me at 446-5340.

Sincerely,



Tracy Elliot-Yawn
Senior Planner, Coastal Section
City Planning and Development Review

ENCLOSURES

cc: Lee McEachem, Supervisor of Regulation
Laurinda Owens, Coastal Planner
CDP/SCR/LJS file

Office of
The City Attorney
City of San Diego

MEMORANDUM

533-5800

DATE: November 12, 1997

TO: Gary Halbert, Deputy Director, Land Development Review

FROM: City Attorney

SUBJECT: Alteration of Nonconforming Structures

In a memorandum dated November 5, 1997, you asked our office to provide you with an interpretation of San Diego Municipal Code ("SDMC") section 101.0303. Specifically, you have asked whether a project which proposes to demolish and reconstruct nonconforming exterior walls (the value of which does not exceed fifty percent of the fair market value of the improvement) should be considered an abandonment of nonconforming rights which must be reconstructed in conformance with all applicable regulations or a permissible alteration. This memo responds to that issue.

SDMC section 101.0303 reads as follows:

SEC. 101.0303 Continuance of Nonconforming Uses and Structures

The lawful use of land existing at the time the Zone Ordinance became effective, with which ordinance such use did not conform, may be continued provided no enlargement or addition to such use is made.

The lawful use of buildings existing at the time the Zone Ordinance became effective, with which ordinance such building did not conform with respect to the development regulations, may be continued provided any enlargements, additions or alterations to such building will not increase its degree of nonconformity and will conform in every respect with the development regulations of the zone in which the building is located, except as hereinafter provided by zone variance.

(p. 4 of 10)

Gary Halbert
November 12, 1997
Page 2

Any discontinuance of a nonconforming use for a continuous period of two years shall be deemed to constitute abandonment of any nonconforming rights existing at the time of the enactment of the ordinance.

Any change from a nonconforming use of land or buildings to a more restrictive or conforming use shall constitute abandonment of such nonconforming rights.

Repairs and alterations which do not increase the degree of nonconformity of a nonconforming building, structure or improvement, nor increase the size or degree of nonconformity of a use, may be made provided that the aggregate value of such repairs or alterations shall not exceed 50 percent of its fair market value, according to the assessment thereof by the County Assessor for the fiscal year during which the repairs and alterations occur. The terms "repairs" and "alterations" do not include painting or replacement of exterior stucco siding, or shingles.

If any nonconforming building or use be destroyed by fire, explosion, act of God or act of the public enemy to the extent of fifty percent (50%) or more of the fair market value, according to the assessment thereof by the County Assessor for the fiscal year during which such destruction occurs, then and without further action by the City Council, the said building or use and the land on which said building was located or maintained shall from and after the date of such destruction be subject to all the regulations specified by the Zone Ordinance for the district in which such building was located. The provisions of this paragraph shall not apply to any nonconforming building for which a Reconstruction Permit has been or is obtained pursuant to Municipal Code Section 101.0500(B).

If the use is a medical or counseling service and is prohibited pursuant to Sections 101.0410(B)(9)(c), 101.0423(B)(1), 101.0426(B)(1), 101.0427(B)(1), or 101.0435.2(B)(11)(e), and if such use existed on August 13, 1984, it shall become a nonconforming use and shall be governed by the provisions of this section. Any such medical or counseling service existing on the effective date of the ordinance shall have ninety (90)

(p. 5 of 10)

Gary Halbert
November 12, 1997
Page 3

days to cease operation, after which time the service shall be unlawful at that site and shall constitute a violation of this Code unless a Conditional Use Permit is obtained in accordance with Section 101.0513.

If an investigation by the Development Services Department reveals that a particular property contains a legal, nonconforming use or structure, a "Notice of Nonconforming Rights," may be recorded in the County Recorder's office. This notice is designed to provide constructive notice to any successors in interest that nonconforming rights as to the property or structures existed at the time of the recordation of notice. Nothing in this notice shall permit the continuation of a nonconforming use or structure that was subsequently expanded, enlarged, abandoned or destroyed which extinguishes the previous nonconforming right.

If a subsequent investigation reveals that a previous nonconforming right as to the property's use or structure has been lost, a cancellation of the Notice of Nonconforming Rights shall be recorded.

The state of the law in this area is such that "[m]ost nonconforming provisions of local ordinances do not permit structural alterations because they may lead to the creation of a nonconforming building that will better accommodate and make the nonconforming building use more permanent." Longtin's California Land Use section 3.82[4] (1987) (emphasis added). However, as you can tell from reading SDMC section 101.0303, The City of San Diego does not follow the norm. SDMC section 101.0303 does not preclude alterations. Rather, we specifically permit alterations which do not exceed fifty percent of the fair market value of the improvement. The provision with section 101.0303 addressing "Notices of Nonconforming Rights" also provides that "[n]othing in this notice shall permit the continuation of a nonconforming use or structure that was subsequently expanded, enlarged, abandoned or destroyed which extinguishes the previous nonconforming right." This provision further reiterates the point that nonconforming rights can only be extinguished through expansion, enlargement, abandonment or destruction and not by any act qualifying as a repair or alteration.

Evidently, based on your memorandum and my recent conversations with City staff, the sentence in SDMC section 103.0303 which reads "[t]he terms 'repairs' and 'alterations' do not include painting or replacement of exterior stucco siding, or shingles," has been given special meaning. This sentence has historically been interpreted to define the permissible scope of a "repair" or "alteration." I do not believe this is a legally defensible interpretation of the sentence and I

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Gary Halbert
November 12, 1997
Page 4

suggest instead that the sentence must be interpreted and applied within the context of the entire paragraph. I think the correct interpretation of the sentence in light of the whole paragraph is that it provides for an exception to the formula for calculating the value of the repair or alteration. In other words, in calculating whether a repair or alteration constitutes more or less than fifty percent of the fair market value of the improvement, the cost of painting, exterior stucco and shingles should not be included. Therefore, using the application I have suggested, any repair or change to the structure (interior or exterior) is permissible so long as that change does not increase the degree of nonconformity or exceed fifty percent of the value of the improvements (minus the cost of paint, shingles and exterior stucco).

A second issue raised by your question involves whether a proposed alteration or repair of a nonconforming structure which involves demolition and reconstruction constitutes an abandonment of a nonconforming right. On this point, SDMC section 101.0303 contains a sentence which provides that "[a]ny change from a nonconforming use of land or buildings to a more restrictive or conforming use shall constitute abandonment of such nonconforming rights." Precisely, the question is whether a reconstruction project (because of the demolition required) constitutes a "change from a nonconforming structure" to a more conforming use or structure.

I believe that precluding reconstruction under the above referenced provision amounts to an overly restrictive interpretation of the Code. If plans are submitted and building permits are issued which result in a structure that is more conforming to the code, clearly in that situation, all or some partial degree of the nonconforming right is abandoned. The land owner cannot later come back to reclaim the right that was abandoned. The horn book law on this point states:

A change in structure occurs when the landowner modifies an existing building or structure, either by repair or physical alteration of the premises. In most cases, a change in the physical structure involves merely a minor expansion of the same use. However, in some cases a change in the structure, if extensive enough, may amount to a substantial expansion or change of use.

Longtin's California Land Use section 3.82[4] (1987).

The legal definition of the word "abandonment" is: "Knowing relinquishment of one's right or claim to property without any future intent to again gain title or possession." Barron's Law Dictionary, Second Edition. This commonly accepted definition of the term is consistent with the example I used above where permits are issued for a project which results in a structure exhibiting a lesser degree of nonconformity. However, if someone is proposing an alteration to partially reconstruct a nonconforming structure, without expanding the degree of nonconformity, it is generally not their intent to relinquish or forfeit their nonconforming rights. For these reasons, in

Gary Halbert
November 12, 1997
Page 5

a situation where a project proposes demolition and reconstruction, unless the end result of the project amounts to an expansion in the structure, I do not think the reconstruction itself qualifies as a "change" which constitutes "abandonment."

CASEY GWINN, City Attorney

By

Richard A. Duvernay
Deputy City Attorney

RAD:lc:600

cc: Linda Johnson
✓ Tracy Elliot-Yawn
LACUVERNA MEMORANDUM CONCERNING

(p. 8 of 10)

RECEIVED

MAR 05 1998

Office of
The City Attorney
City of San Diego

DEVELOPMENT SERVICES

MEMORANDUM

533-5800

DATE: March 4, 1998
TO: Gary Halbert, Deputy Director, Land Development Review
FROM: City Attorney
SUBJECT: Alteration of Nonconforming Structures in the Coastal Zone

On November 12, 1997, our office issued a legal memorandum providing you with an interpretation of San Diego Municipal Code [SDMC] section 101.0303. Specifically, at that time you were asking whether a project which proposes to demolish and reconstruct nonconforming exterior walls (the value of which does not exceed 50 percent of the fair market value of the improvement) should be considered an abandonment of nonconforming rights or a permissible alteration. Our conclusion was that any repair or change to the structure (interior or exterior) is permissible so long as that change does not increase the degree of nonconformity or exceed 50 percent of the value of the improvements (minus the cost of paint, shingles, and exterior stucco).

You have now asked me to supplement our previously issued memorandum to address how the application of SDMC section 101.0303 would apply in the Coastal Zone.

It is important to understand that the rights contained in Section 101.0303 (Continuance of Nonconforming Uses and Structures) are subject to and must be applied in conjunction with SDMC section 101.0302, which reads as follows:

SEC. 101.0302 -- Existing Ordinances, Rules, Regulations Or
Permits Retained

Except as herein specifically provided, it is not intended by this Chapter to modify or abrogate or repeal any ordinances, rules, regulations or permits previously adopted or issued pursuant to law, relating to the use, management or conduct of buildings, structures, signs, advertising displays, improvements or premises; provided, however, that where this Chapter imposes a greater restriction upon the erection, establishment, alteration or

(p. 9 of 10)

Gary Halbert
March 4, 1998
Page 2

enlargement of buildings, structures, signs, advertising displays, improvements, or premises than is imposed or required by such ordinance, rules, regulations or permits, the provisions of this Chapter shall control.

When the above section is read in conjunction with Section 101.0303 it must be concluded that the right to permissibly alter a nonconforming structure within the context of Section 101.0303 does not supercede or obviate any requirement to obtain any discretionary permit otherwise required to develop property in the Coastal Zone. Typically, development in the Coastal Zone requires a Coastal Development Permit and in certain cases a Sensitive Coastal Resources Permit. These discretionary permits require the decision maker to find that the project is in conformance with the City's Certified Local Coastal Program.

Therefore, at one level, all proposals to modify nonconforming structures in the City must comply with limitations set forth in SDMC section 101.0303; i.e., cannot increase the degree of nonconformity or exceed 50 percent of the value of the improvements (minus the cost of paint, shingles, and exterior stucco). Additionally, if the project is in the Coastal Zone and requires a coastal permit, additional findings must be made with respect to the project's conformance with our Certified Local Coastal Program. In that case, it is appropriate to evaluate whether the aspect or degree of the nonconformity proposed to be maintained by the project negatively impacts implementation of the Local Coastal Program. It is entirely within the discretion of the decision maker, notwithstanding rights provided for in SDMC section 101.0303, to then decide whether or not the development proposal conforms with the policies and development regulations contained in our Certified Local Coastal Program and to act on the project accordingly.

CASEY GWINN, City Attorney


By 

Richard A. Duvernay
Deputy City Attorney

RAD:lc:600x605.3.1
Attachment
cc: Linda Johnson
Tracy Elliot-Yawn
L:DUVERNAY:MEMOS:IN:CO:JMM:10

**APPLICABLE SECTIONS FROM THE CITY OF SAN
DIEGO MUNICIPAL CODE AND CERTIFIED LOCAL
COASTAL PROGRAM**

- 1. City-wide nonconforming use regulations commencing with
Section 101.0301**
- 2. La Jolla Planned District Ordinance commencing with
Section 103.0300 through 103.0303.2 Nonconforming Uses
and Structures**
- 3. Sensitive Coastal Resource Overlay Zone commencing with
Section 101.0480**

EXHIBIT NO. 14
APPLICATION NO.
A-6-LJS-99-160
Sections from City's Municipal Code and La Jolla Shores PDO
(Page 1 of 12)
 California Coastal Commission

DIVISION 3 General Regulations

§ 101.0301 Non-Conforming Uses Permitted

Except as provided herein, the use or uses of all buildings, improvements and premises existing in any of the said zones or districts thereof, respectively at the time of the adoption of this Code may be continued.

Except as provided herein, no building, structure, sign, advertising displays, or improvement now existing shall be altered or enlarged, and no buildings, structures, signs, advertising displays or improvements shall be erected, constructed or established which is designed, arranged or intended for occupancy or use in any of said zones or districts restricted by this Chapter against such erection, construction or establishment.

(Amended 1-17-84 by O-16115 N.S.)

§ 101.0302 Existing Ordinances, Rules, Regulations Or Permits Retained

Except as herein specifically provided, it is not intended by this Chapter to modify or abrogate or repeal any ordinances, rules, regulations or permits previously adopted or issued pursuant to law, relating to the use, management or conduct of buildings, structures, signs, advertising displays, improvements or premises; provided, however, that where this Chapter imposes a greater restriction upon the erection, establishment, alteration or enlargement of buildings, structures, signs, advertising displays, improvements, or premises than is imposed or required by such ordinance, rules, regulations or permits, the provisions of this Chapter shall control.

(Amended 1-17-84 by O-16115 N.S.)

§ 101.0303 Continuance of Nonconforming Uses and Structures

The lawful use of land existing at the time the Zone Ordinance became effective, with which ordinance such use did not conform, may be continued provided no enlargement or addition to such use is made.

The lawful use of buildings existing at the time the Zone Ordinance became effective, with which ordinance such building did not conform with respect to the development regulations, may be continued provided any enlargements, additions or alterations to such building will not increase its degree of nonconformity and will conform in every respect with the development regulations of the zone in which the building is located, except as hereinafter provided by zone variance.

Any discontinuance of a nonconforming use for a

continuous period of 12 months shall be deemed to constitute abandonment of any nonconforming rights existing at the time of the enactment of the ordinance.

Any change from a nonconforming use of land or buildings to a more restrictive or conforming use shall constitute abandonment of such nonconforming rights.

Repairs and alterations which do not increase the degree of nonconformity of a nonconforming building, structure or improvement, nor increase the size or degree of nonconformity of a use, may be made provided that the aggregate value of such repairs or alterations shall not exceed 50 percent of its fair market value, according to the assessment thereof by the County Assessor for the fiscal year during which the repairs and alterations occur. The terms "repairs" and "alterations" do not include painting or replacement of exterior stucco siding, or shingles.

If any nonconforming building or use be destroyed by fire, explosion, act of God or act of the public enemy to the extent of 50 percent or more of the fair market value, according to the assessment thereof by the County Assessor for the fiscal year during which such destruction occurs, then and without further action by the City Council, the said building or use and the land on which said building was located or maintained shall from and after the date of such destruction be subject to all the regulations specified by the Zone Ordinance for the district in which such building was located. The provisions of this paragraph shall not apply to any nonconforming building for which a Reconstruction Permit has been or is obtained pursuant to Municipal Code Sections 101.0500 and 101.0502.

If the use is a medical or counseling service and is prohibited pursuant to Sections 101.0410 B.9.c., 101.0423 B.1., 101.0426 B.1., 101.0427 B.1., or 101.0435.2 B.11.e., and if such use existed on the effective date of the ordinance enacting the provisions of this paragraph, it shall become a nonconforming use and shall be governed by the provisions of this section. Any such medical or counseling service existing on the effective date of the ordinance shall have 90 days to cease operation, after which time the service shall be unlawful at that site and shall constitute a violation of this Code unless a Conditional Use Permit is obtained in accordance with Section 101.0513.

If an investigation by the Planning Department reveals that a particular property contains a legal, nonconforming use or structure, the Zoning Administrator may record a "Notice of Nonconforming Rights," in the County Recorder's office. This notice is designed to provide constructive notice to any successors in interest that nonconforming rights as to the property or structures existed at the time of the recordation of notice. Nothing in this notice shall permit the continuation of a nonconforming use or structure that was subsequently expanded, enlarged, abandoned or destroyed which extin-

guishes the previous nonconforming right.

If a subsequent investigation reveals that a previous nonconforming right as to the property's use or structure has been lost, the Zoning Administrator shall record a cancellation of the Notice of Nonconforming Rights.

(Amended 1-22-91 by O-17585 N.S.)

§ 101.0304 Zoning Use Certificate

A. PURPOSE AND INTENT

The purpose of this section is to provide a procedure by which business uses can be assured of consistency with the underlying zone, Planned District, Planned Development, Conditional Use Permit, or any other discretionary permit regulation. It establishes a preliminary review of the proposed use only.

It is the intent of this section that business uses shall not be inconsistent with the applicable zone or other use standards established by the San Diego Municipal Code.

B. ZONING USE CERTIFICATE REQUIRED

After the effective date of this section, a Zoning Use Certificate shall be required prior to the commencement of any business within the City of San Diego, in addition to any other permits required by the Municipal Code. It shall be unlawful to operate any business herein so regulated without a Zoning Use Certificate or any other required permit. Failure of any business to obtain a Zoning Use Certificate or failure to comply with specified conditions or operational regulations required by the Municipal Code shall constitute a violation and shall be subject to prosecution under Municipal Code Section 13.0201. The City Manager and the Planning Director shall promulgate such rules as may be appropriate for administration of this section.

C. AUTHORITY

The Zoning Administrator, or a designated representative of the Zoning Administrator, shall administer the Zoning Use Certificate.

D. ZONING USE CERTIFICATE

The Zoning Use Certificate is a document issued by the Zoning Administrator which states, based upon the information provided by the applicant on the form provided by The City of San Diego, that the proposed use in the proposed location is in general conformity with the underlying zone, Planned District, Planned Development, Conditional Use Permit, or any other discretionary permit regulations which are applicable. The Zoning Use Certificate may specify conditions of the specific zone or permit necessary for conformance with zoning use standards as established in the San Diego Municipal Code.

E. APPLICATION PROCEDURES

1. Completion of the Zoning Use Certificate information shall be required on City forms before determination of compliance is rendered. This application shall be made on forms provided by Zoning Administration and shall include a description of the proposed use at the proposed location.

Any other information deemed necessary by the Zoning Administrator to judge compliance with the regulations contained herein and other applicable regulations shall also be included with the application.

2. A fee established in accordance with Section 101.0204 of the Municipal Code shall be paid by the applicant. Said fee shall be used to recover the costs associated with the issuance of a Zoning Use Certificate.

F. DETERMINATION

If the proposed use does not conform with the zone's use regulations, or does not constitute a nonconforming use in the general regulations, Sections 101.0301 and 101.0303 of the Municipal Code, then the Zoning Administrator shall not issue a Zoning Use Certificate.

G. REQUIRED PERMITS

The Zoning Use Certificate does not relieve the applicant from obtaining all appropriate permits and licenses required by The City of San Diego. The Zoning Use Certificate does not involve a plan check and as such does not relieve the applicant from complying with all applicable development regulations and restrictions.

H. EXPIRATION

The Zoning Use Certificate will expire one hundred eighty (180) days after issuance if not obtained in conjunction with a certificate of payment. The Zoning Use Certificate shall establish the applicant's right to initiate business operations at the specified location regardless of rezones with the exception of emergency or interim ordinances.

(Amended 1-8-90 by O-17408 N.S.)

§ 101.0305 Crematory Permitted Only Within Cemetery

That, except only within a cemetery in said City now or hereafter established and maintained according to law, it shall be unlawful for any person, firm, association, or corporation to erect, establish, maintain or operate, or cause to be erected, established, maintained or operated within the limits of the City of San Diego, California, any crematory for the cremation of human bodies.

(Incorp. 1-22-52 by O-5046 N.S., contained in O-7939 O.S. adopted 2-25-20 .)

§ 101.0307 Affordable Housing Density Bonus

There is hereby established the Affordable Housing Density Bonus.

(Added 3-23-81 by O-15471 N.S.)

§ 101.0307.1 Purpose and Intent

The purpose of the Affordable Housing Density Bonus is to provide increased residential densities to developers who guarantee that a portion of their housing development will be affordable by persons of low or moderate income.

The Affordable Housing Density Bonus is

intended to materially assist the housing industry in providing adequate and affordable shelter for all economic segments of the community and to provide a balance of housing opportunities for low and moderate income persons throughout the City. It is intended that the Affordable Housing Density Bonus be available for all residential development projects, using criteria and standards provided in the Progress Guide and General Plan as defined by the City Housing Commission.

It is intended that the Affordable Housing Density Bonus implement the provisions of Chapter 4.3 of Division 1 of Title 7 of the California Governmental Code.

(Added 3-23-81 by 0-15471 N.S.)

§ 101.0307.2 Affordable Housing Density Bonus Agreement

A. The Affordable Housing Density Bonus shall be

DIVISION 3
La Jolla Shores Planned District
(Added 5-30-74 by O-11332 N.S.)

§ 103.0300 Purpose and Intent

The public health, safety, and welfare require that property in La Jolla Shores shall be protected from impairment in value and that the distinctive residential character and the open seascape orientation of the La Jolla Shores Area shall be retained and enhanced.

The development of land in La Jolla Shores should be controlled so as to protect and enhance the area's unique ocean-oriented setting, architectural character and natural terrain and enable the area to maintain its distinctive identity as part of one of the outstanding residential areas of the Pacific Coast. The proper development of La Jolla Shores is in keeping with the objectives and proposals of the Progress Guide and General Plan for the City of San Diego, of the La Jolla Community Plan, and of the La Jolla Shores Precise Plan.

(Added 5-30-74 by O-11332 N.S.)

§ 103.0301 Boundaries

The regulations as defined herein shall apply in the La Jolla Shores Planned District which is within the boundaries of the La Jolla Shores Area in the City of San Diego, California, designated on that certain Map Drawing No. C-403.4 and described in the appended boundary description, filed in the office of the City Clerk under Document No. OO-16006.

Amended 7-18-83 by O-16006 N.S.)

§ 103.0302 Administrative Regulations

The administrative regulations as defined herein shall apply in the La Jolla Shores Planned District.

(Amended 6-9-76 by O-11852 N.S.)

§ 103.0302.1 Administration of the La Jolla Shores Planned District

A. The Planning Director shall administer the La Jolla Shores Planned District.

B. Powers and Duties.

It is the duty of the Planning Director to administer and ensure compliance with the regulations and procedures contained within this Division in the manner prescribed herein for both public and private developments; to recommend to the Planning Commission any changes to the regulations, provided such changes are necessary for the proper execution of the adopted plan, and to adopt rules of procedure to supplement those contained within this Division. The Planning Director shall utilize architectural criteria and design standards adopted by the City Council in evaluating the appropriate-

ness of any development for which a permit is applied under this Division. Except as otherwise provided in Section 103.0302.3, paragraph "D," the Planning Director may approve, modify, or disapprove any applications for a permit after receiving the recommendations or comments from the Advisory Board and based upon the conditions of compliance or noncompliance with the adopted regulations and approved criteria and standards.

(Added 5-30-74 by O-11332 N.S.)

§ 103.0302.2 La Jolla Shores Planned District Advisory Board

A. LA JOLLA SHORES PLANNED DISTRICT ADVISORY BOARD CREATED

1. There is hereby created a La Jolla Shores Planned District Advisory Board which shall be composed of seven members who shall serve without compensation. The members shall be appointed by the Mayor and confirmed by the Council. The members shall serve two-year terms and each member shall serve until his successor is duly appointed and qualified. The members shall be appointed in such a manner that the terms of not more than four members shall expire in any one year. The expiration date shall be April 1. During April of each year, the Mayor may designate one member as Chairman; however, in the absence of such designation, the Board shall, on or after May 15, select a Chairman from among its members.

2. At the time of appointment and during incumbency five of the seven-member board shall be resident property owners of the La Jolla Shores Planned District. The sixth member shall be a resident of the district but need not own property and the seventh member shall own property in the district but need not be a resident. Members of the Board shall be persons who shall be specifically qualified by reason of interest, training or experience in art, architecture, land development, landscape architecture, planning, urban design, or other relevant business or profession to judge the effects of a proposed development upon the desirability, property values, and development of surrounding areas. At least one member of such Board shall be a registered architect in the State of California.

3. The Board may adopt rules of procedure to supplement those contained within this Division. Four members shall constitute a quorum for the transaction of business and a majority vote; and not less than four affirmative votes shall be necessary to make any Board decision.

4. The Planning Director or his designated representative shall serve as Secretary of the Board and as an ex officio member and maintain records of all official actions of the Review Board. The Secretary shall not be entitled to vote.

5. All officers of the City shall cooperate with the Board and render all reasonable assistance to it.

6. The Board shall render a report annually on

March 31, or on request, to the Mayor.

B. POWERS AND DUTIES

It shall be the duty of the Advisory Board to review all applications for permits referred to it including applications for Planned Residential Developments (PRD's) within the La Jolla Shores Planned District and to submit its recommendations or comments on these matters in writing within 30 days to the Planning Director. When the California Environmental Quality Act requires that an Environmental Impact Report be prepared in conjunction with an application within the Planned District, the Advisory Board shall review this report before submitting its recommendation to the Planning Director. It shall also recommend to the Planning Commission any changes to the regulations, provided such changes are necessary for the proper execution of the adopted plan, and to adopt rules of procedure to supplement those contained within this Division. The Advisory Board shall utilize architectural criteria and design standards adopted by the City Council in evaluating the appropriateness of any development for which a permit is applied under this Division.

(Amended 6-9-76 by O-11852 N.S.)

§ 103.0302.3 Procedures for Permits Application and Review

A. Applications for permits shall be made in accordance with the Municipal Code, Chapter IX, and Chapter VI, Article 2, before the commencement of any work in the erection of any new building or structure, or remodeling, alteration, addition, or demolition of any existing building or structure within the Planned District or any building which is moved into the Planned District or any grading or landscaping. Approval of the Planning Director is not required for interior modifications, repairs or remodeling, nor any exterior repairs or alterations for which a permit is not now required.

B. The applications shall include the following:

1. The purpose for which the proposed building, structure or improvement is intended to be used.
2. Adequate plans and specifications indicating dwelling unit density, lot area, lot coverage and off-street parking.
3. Adequate plans and specifications for the building and improvements showing the exterior appearance, color and texture of materials, and architectural design of the exterior.
4. Adequate plans and specifications for any outbuildings, party walls, courtyards, fences, setbacks, landscaping, signs, lighting or traffic safety.
5. Within the Coastal Zone, where any portion of a lot contains slopes of twenty-five percent (25%) or greater, the information required to accompany an application for a Hillside Review Permit, as described in The City of San Diego Municipal Code Article 1, Division 4, SEC. 101.0454, Subsection J.2., shall also be required to accompany an application for a

permit in accordance with the La Jolla Shores Planned District.

6. Any other information deemed necessary by the Advisory Board and the Planning Director to judge compliance with the regulations contained herein and other applicable laws and regulations.

C. The Building Inspection Director and the City Engineer shall refer all applications made under "A." above to the Planning Director.

D. The Planning Director may approve, modify or disapprove any application for a permit except that the Planning Director shall process applications for PRD's in accordance with Municipal Code Section 101.0901 after receipt of written recommendations or comments from the Advisory Board. Action by the Planning Director on applications other than those for PRD's shall follow receipt of recommendation or comments from the Advisory Board and shall include a statement that the Planning Director finds that the building, structure, or improvements for which the permit was applied does or does not conform to the regulations contained herein. In the event the Planning Director determines that the proposed development does not conform to the regulations contained herein, the specific facts on which that determination is based shall be included in the written decision provided for in paragraph "E." following. Patio covers, decks, fences under six feet, retaining walls, uncovered swimming pools, unlighted tennis courts, single family residences, landscaping and any addition to or alteration of any structure which the Planning Director determines to be minor in scope may be approved by the Director without receiving a recommendation or comments from the Advisory Board providing the Director can conclude that the application conforms to architectural criteria and design standards adopted by the City Council. The Planning Director may refer an application for any improvement identified in this paragraph to the Advisory Board for a recommendation before taking action on the application.

E. Within 60 days after the submission of a complete application to the Planning Director, the Planning Director shall as required above, send his decision in writing to the applicant, Building Inspection Director and City Engineer, except when the applicant requests or agrees to an extension of time.

F. If the Planning Director approves the application and the Building Inspection Director or City Engineer finds that the application conforms to all other regulations and ordinances of The City of San Diego, the appropriate department shall then issue the permit for the work.

G. Any permit granted by the City as herein provided, shall be conditioned upon the privileges granted being utilized within 18 months after the date of issuance of said permit. Failure to start work within this 18-month period will automatically void the permit unless an extension of time has been granted by the Planning Director as set forth in paragraph "H." below. Construction must actually

be commenced within the stated period and must be diligently prosecuted to completion. If the City should find that there has been no construction substantial in character since the date of the issuance of said permit or that there has been during the course of development a lapse of work for six months, the permit shall be void.

H. The Planning Director may grant an extension of time up to two years on the time limit contained in a currently valid permit. To initiate a request for extension of time, the property owner or owners shall file a written application with the Planning Director in the office of the Planning Department prior to the expiration of the permit. The Planning Director may grant the extension of time if he finds from the evidence submitted that there has been no material change of circumstances since the permit was originally granted.

I. All other applications made under the Building Code and not under Section 103.0302.3 or involving interior work and not subject to any regulation contained within this Division shall be processed in the normal manner without referral to or approval by the Planning Director.

(Amended 10-16-89 by 0-17363 N.S.)

§ 103.0302.4 Appeals to the Planning Commission

A. Any interested person, governmental body or agency may appeal from the decision of the Planning Director to the City Planning Commission within ten days after the decision is filed with the Planning Department. The appeal shall be in writing and filed in duplicate with the Planning Department upon forms provided by the Planning Department. If an appeal is filed within the time specified, it automatically stays proceedings in the matter until a determination is made by the Planning Commission. Any action taken by the Planning Director on those applications which are not submitted to the Advisory Board for review as indicated in Section 103.0302.3 Paragraph D shall be final.

B. Upon the filing of the appeal, the Planning Department shall set the matter for public hearing before the Planning Commission giving the same notice as provided in Section 101.0206. The Planning Director shall transmit to the Planning Commission a copy of his decision and findings, and all other evidence, maps, papers and exhibits upon which the Planning Director made his decision.

C. Decision of the Planning Commission. Upon the hearing of such appeal, the Planning Commission may, by resolution, affirm, reverse, or modify, in whole or in part, any determination of the Planning Director. The decision of the Planning Commission shall be final on the eleventh day following its filing with the City Clerk, except when an appeal is taken to the City Council as provided in Section 103.0302.5.

(Amended 6-23-86 by 0-16670 N.S.)

§ 103.0302.5 Appeal from Decision of the Planning Commission

The decision of the Planning Commission shall be final on the eleventh day following action by the Planning Commission unless a request to be heard on appeal is filed in the office of the City Clerk.

When a request to be heard on appeal is filed with the City Clerk it shall be placed on the Council docket for the limited purpose of determining whether the City Council will hear the appeal. The City Council will accept an appeal for hearing when any of the following situations are found to exist:

1. The appellant was denied the opportunity to make a full and complete presentation to the Planning Commission;

2. New evidence is now available that was not available at the time of the Planning Commission hearing; or

3. The Planning Commission decision was arbitrary because no evidence was presented to the Planning Commission that supports the decision.

The City Council shall rely upon the record of the proceedings before the Planning Commission and the written appeal. No oral presentations shall be made to the City Council by proponents or opponents of the project. A vote on a motion to set the appeal for hearing shall not constitute a vote on the merits of the appeal. If at least five (5) members of the Council vote in favor of hearing the appeal, the City Clerk shall set the appeal for hearing before the City Council and give notice of the appeal in the manner required by the Municipal Code.

(Amended 6-23-86 by 0-16670 N.S.)

§ 103.0303 - General Regulations

The general regulations as defined herein shall apply in the La Jolla Shores Planned District.

(Added 5-30-74 by 0-11332 N.S.)

§ 103.0303.1 Planning, Zoning and Subdivision Regulations Which Shall Apply

Chapter X, Article 1, Division 1 (Definitions and Interpretations), Chapter X, Article 1, Division 9 (Planned Developments), Chapter X, Article 1, Division 4, SEC. 101.0406 (Home Occupations in Residential Zones), and Chapter X, Article 2 (Subdivisions), and Article 1, Division 4, SEC. 101.0458 (Sensitive Coastal Resource Overlay Zone) of the Municipal Code shall apply in the La Jolla Shores Planned District. All other Divisions of Chapter X, Article 1, are superseded in the La Jolla Shores Planned District by the regulations contained within Chapter X, Article 3, Division 3.

(Amended 4-18-88 by 0-17078 N.S.)

§ 103.0303.2 Nonconforming Uses and

2. *LS* Planned District Ordinances MC 10-305

Structures

A. The lawful use of land which existed at the time the Planned District regulations became effective and which did not conform with said regulations may be continued except when specifically prohibited provided no enlargement or additions to such use is made.

The lawful use of buildings existing at the time the Planned District regulations became effective with which regulations such buildings did not conform may be continued, provided any enlargement, addition or alterations to such buildings will not increase the degree of nonconformity and will conform in every respect with all the District regulations.

B. Any discontinuance of a nonconforming use for a continuous period of 12 months shall be deemed to constitute abandonment of any nonconforming rights existing at the time of the enactment of the Division.

C. Any change from a nonconforming use of land or buildings to a conforming use shall constitute abandonment of such nonconforming rights.

D. Improvements, repairs and alterations which do not increase the degree of nonconformity of a nonconforming building, structure or improvement shall be permitted.

E. If any nonconforming building be destroyed by fire, explosion, act of God, or act of the public enemy to the extent of twice the assessed value, according to the assessment thereof by the County Assessor for the fiscal year during which such destruction occurs, then and without further action by the City Council the said building and the land on which said building was located or maintained shall from and after the date of such destruction be subject to all the regulations of this Division. In the event it is determined by the Fire Chief of The City of San Diego the destruction was incendiary in origin then the building may be completely restored or rebuilt not exceeding the size of the original building.

(Amended 12-22-76 by O-11973 N.S.)

§ 103.0303.3 Height Limitation—Measurement Of

The height of the building or structure, and measurement thereof shall be in accordance with this Division and Municipal Code sections 101.0214, 101.0215 and 101.0216.

(Amended 1-6-92 by O-17726 N.S.)

§ 103.0303.4 General Design Regulations

Concurrent with the adoption of this Division, the City Council by resolution adopted architectural and design standards to be used in evaluating the appropriateness of any development for which a permit is applied under this Division; such architectural and design standards shall be filed in the office of the City Clerk as a numbered document.

A. CHARACTER OF THE AREA

In this primarily single-family residential community, a typical home is characterized by extensive use of glass, shake or shingle overhanging roof, and a low, rambling silhouette. Patios, the atrium or enclosed courtyard, and decks facilitate the "inside-outside" orientation of life in Southern California. Spanish Mediterranean and Mexican influences are seen in the prevalent use of the arch and of terra cotta and glazed tiles. The residential and commercial structures incorporate an honest use of natural building materials and, in many instances, are characterized as a truly American style of architecture, fusing the purity and geometry of the Mexican-Spanish period with a simplicity of materials and detail with integrated landscape design.

B. DESIGN PRINCIPLE

Within the limitations implied above, originality and diversity in architecture are encouraged. The theme "unity with variety" shall be a guiding principle. Unity without variety means simple monotony; variety by itself is chaos. No structure shall be approved which is substantially like any other structure located on an adjacent parcel. Conversely, no structure will be approved that is so different in quality, form, materials, color, and relationship as to disrupt the architectural unity of the area.

C. DESIGN REQUIREMENTS

Building materials and color are the most critical unifying elements. For this reason, roof materials within the La Jolla Shores Planned District shall be limited to wood shakes, wood shingles, clay tile, slate or copper of good quality where the pitch is 4 in 12 or greater, or other materials which would contribute to the character of the surrounding neighborhood. Roofs with a pitch of less than 4 in 12 may also be covered with crushed stone of muted dark tone. Exterior wall materials shall be limited to wood siding, wood shingles, adobe and concrete blocks, brick, stucco, concrete or natural stone. White and natural earth colors should predominate. Primary colors may be used for accent.

To preserve the seaside character of the community each building shall be sited and designed so as to protect public views from public rights-of-way and public places and provide for seethroughs to the ocean.

Lighting which highlights architectural features of a structure shall be permitted. Such lighting shall

c. One (1) person for each usable off-street parking space on the premises, developed, located and maintained in accordance with the provisions of Division 8 of this Article, plus one additional person; provided, however, that not more than two (2) parking spaces may be in tandem, nor more than one (1) curb cut per front yard, street side yard or alley be allowed for determining occupancy limits based on parking restrictions.

2. No such rental dwelling unit may be rented if it does not have at least one room, other than a bedroom, with a minimum of 150 square feet of habitable net floor space.

D. ADMINISTRATION

1. The Planning Director, in conjunction with the City Manager, is authorized to promulgate administrative procedures and regulations for the administration and enforcement of this section, and may require a site plan or a certificate description of an affected premise to be furnished for administrative purposes. It is unlawful for an owner, following thirty (30) days notification by the Planning Director, to fail to file any site plan or certificate description required by regulation to be filed pursuant to this subsection.

2. Routine and periodic inspections necessary to verify any information required to be provided by the owner and to generally enforce these regulations shall be conducted in accordance with San Diego Municipal Code section 101.0212 F.

E. ENFORCEMENT

1. Violations of this section may be enforced by criminal or civil judicial actions as provided in San Diego Municipal Code section 13.0201 and 13.0202 or in combination with any of the administrative remedies enumerated in Chapter 1, Article 3 of the Municipal Code.

2. In addition to any other remedy, the Planning Director, in coordination with the City Manager, may notify the State Franchise Tax Board concerning violations of this section pursuant to the provisions and procedures of Revenue and Taxation Code sections 17274 and 24436.5 regarding the nondeductibility of certain rental expenses and deductions respecting structures in violation of code.

F. APPLICATION OF THIS SECTION TO NON-CONFORMING STRUCTURES AND USES

Notwithstanding the provisions of Municipal Code sections 101.0301, 101.0302, and 101.0303 which provide for nonconforming structures and uses, any use of a one-family dwelling in violation of subsection C. of this section, which use existed on July 3, 1991, shall be unlawful from and after July 3, 1992.

(New Sec. 101.0463 — One-Family Dwelling Rental Regulations — added 6-3-91 by O-17652 N.S.; the addition of Sec. 101.0463 made by Ordinance No. O-17652 N.S. shall not apply in the coastal zone until the Coastal Commission unconditionally certifies Ordinance No. O-17652 N.S.)

§ 101.0480 SCR (Sensitive Coastal Resource) Overlay Zone

A. PURPOSE AND INTENT

The purpose and intent of the Sensitive Coastal Resource Overlay ("SCR") Zone is to protect, maintain, and enhance the overall quality of the coastal zone environment and its natural resources; to promote balanced utilization and conservation of coastal zone resources; and to maximize public access to and along the shoreline consistent with sound resource conservation principles and the rights of private property owners. More specifically, these regulations are designed to ensure that new development within this SCR Zone protects public beaches from erosion and adverse impacts on local shoreline sand supply, maintains the geologic integrity of the coastal bluffs, protects identified wetland areas, and provides for physical and visual public access to and along the shoreline.

B. APPLICATION OF THE SENSITIVE COASTAL RESOURCE OVERLAY ZONE

After a public hearing conducted pursuant to Chapter X, Article 1, Division 2, of the Municipal Code, and upon finding that the public health, safety, and general welfare and good zoning practice will be served thereby, the SCR Zone shall be applied to all property located within the boundaries designated on Map Drawing No. C-713, filed in the office of the City Clerk under Document No. OO-17062. Where any portion of a parcel is located within the SCR Zone, the regulations of the SCR Zone shall be applicable to all remaining portions of the parcel located within the Coastal Zone. The regulations of the SCR Zone shall not apply to any property or portion thereof which is removed from the Coastal Zone through proper legislative authority.

C. PERMITTED USES

Permitted uses shall be those permitted by the underlying zone subject to the regulations and restrictions of the underlying zone, except as limited below.

1. Beach Areas. Permitted uses allowed in the beach areas, as shown on the SCR Zone maps, shall be limited to the following:

a. Lifeguard towers and stations and associated life and security facilities.

b. Public comfort stations.

c. Public piers.

d. Safety and public information signs.

e. Shoreline protective works necessary to prevent bluff and beach erosion, where needed to protect coastal dependent uses, public beach roadways, or existing principal structures in danger from wave and wind action; and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

f. Stairways, ramps, and other physical access structures, as proposed within an adopted community or other applicable plan.

g. Public recreational equipment.

2. Coastal Bluff Areas. Permitted uses allowed in

the coastal bluff areas, as shown on the SCR Zone maps, shall be limited to the following:

- a. Bicycle storage facilities.
- b. Bluff repair and erosion control structures necessary to protect existing principal structures. Such erosion control structures include but are not limited to, retaining walls and other appropriate devices.
- c. Public comfort stations.
- d. Public pergolas and gazebos.
- e. Public parking lots.
- f. Public seating benches.
- g. Open fences, provided that they do not interfere with existing or designated public accessways.
- h. Safety and public information signs.
- i. Stairways, ramps, and other physical access structures, as proposed within an adopted community or other applicable plan.
- j. Subject to the special regulations set forth in Subsection D. hereof, single-family residences together with accessory structures and landscape features incidental to residential uses.

3. Wetland Areas. Permitted uses allowed in the wetland areas, as shown on the SCR Zone maps, shall be limited to the following:

- a. Aquaculture, nature study projects or similar resource dependent uses.
- b. Wetland restoration projects.
- c. Incidental public service projects, where there is no feasible, less environmentally damaging alternative, and where mitigation measures have been provided to minimize adverse environmental effects.

4. Wetland Buffer Areas. Permitted uses in the wetland buffer areas, as shown on the SCR Zone maps, shall be limited to the following:

- a. Access paths.
- b. Fences.
- c. Other improvements necessary to protect wetlands.

5. All Areas. Any other use, which the Planning Director or the Planning Commission on appeal may find to be similar in character to the uses enumerated in this section and consistent with the purpose and intent of this SCR Zone, provided that uses proposed for wetland areas shall be limited to those uses authorized under Section 30233 of the State of California Public Resources Code.

D. SPECIAL REGULATIONS

Where a development, grading, landform alteration, the placement or removal of vegetation, except for historic and ongoing agricultural operations, land division or subdivision is proposed on sensitive coastal resource areas, as identified on Map Drawing No. C-713, filed in the office of the City Clerk under Document No. OO-17062, the following regulations shall apply:

1. Coastal Bluffs.
 - a. No structure or improvement or portion thereof shall be placed or erected, and no grading shall be undertaken, within forty (40) feet of any point along a coastal bluff edge, except for the fol-

lowing uses:

- 1) Essential bluff top improvements including, but not limited to, a walkway leading to a permitted beach access facility; drainage facilities; and open fences to provide for safety and to protect resource areas.

- 2) Bluff repair and erosion control measures including, but not limited to, structures needed to repair damage to, or to prevent or retard erosion of, the bluff face in order to protect existing principal structures; provided, however, that no such measures or structures shall cause significant alteration of the natural character of the bluff face.

- 3) Accessory structures and landscape features customary and incidental to residential uses; provided, however, that these shall be located at grade and at least five (5) feet from the bluff edge. Such structures and features may include: walkways, unenclosed patios, open shade structures, decks, lighting standards, walls, public seating benches, signs, and similar structures and features, excluding pools, spas, garages, and upper floor decks with load bearing support structures.

- b. A bluff edge setback of less than forty (40) feet, but in no case less than twenty-five (25) feet, may be granted by the Planning Director where the evidence contained in the geology report (see Subsection E.1.) indicates that: 1) the site is stable enough to support the development with the proposed bluff edge setback; and 2) that the project can be designed so that it will neither be subject to nor contribute to significant geologic instability throughout the anticipated life span of the principal structures.

- c. Where a proposed development would lie wholly or partially upon a coastal bluff, the following shall apply:

- 1) Buildings and other structures shall be sited, designed and constructed so as not to obstruct views to and along the ocean and other scenic coastal areas from public vantage points.

- 2) The design and exterior appearance of buildings and other structures visible from public vantage points shall be compatible with the scale and character of the surrounding development and protective of the natural scenic qualities of the bluffs.

- 3) Landscaping materials shall be installed and maintained so as to assure that neither during growing stages nor upon reaching maturity will such materials obstruct views to and along the ocean and other scenic coastal areas from public vantage points.

- 4) Native and other drought-tolerant plant species shall be utilized in order to minimize irrigation requirements and to reduce potential slide hazards due to overwatering of the bluffs.

- 5) All drainage from the site shall be directed away from any bluff edges.

2. Wetlands.

- a. A buffer zone of one hundred (100) feet in width shall be maintained around all identified wetland areas, unless the applicant demonstrates

that a buffer of lesser width will protect the resources of the wetland, based on site-specific information. Such information shall include, but is not limited to, the type and size of the development and/or proposed mitigations (such as planting of vegetation or construction of fencing) which will also achieve the purposes of the buffer. The buffer shall be measured landward from the wetland. Maps and supplemental information submitted as part of the application shall be used to determine the specific boundaries of the wetland and buffer. The California Department of Fish and Game and the United States Fish and Wildlife Service shall be consulted in such buffer determinations.

b. All buildings or other improvements proposed to be placed or erected, and all grading activities proposed to be undertaken adjacent to a wetland shall be located so as not to contribute to increased sediment loading of the wetland, cause disturbance to its habitat values, or otherwise impair the functional capacity of the wetland.

E. SENSITIVE COASTAL RESOURCE OVERLAY ZONE PERMIT PROCEDURE

1. Permit Application. The application for an SCR Permit shall include site plans, grading plans, sections, elevations, landscaping and irrigation plans, and drainage and runoff control plans. In addition, all applications for shoreline protective works or bluff development shall include a geologic report prepared by a licensed geologist who has specific expertise in coastal bluff erosion processes. For applications on parcels within or partially within the SCR designated wetland and/or wetland buffer areas, the precise wetland boundary and buffer area shall be mapped and environmentally sensitive habitats identified by a qualified biologist who has specific expertise in wetland habitats. When all such plans, documents, and/or reports are received and determined to be adequate by the Planning Director, the application shall be accepted.

2. Public Hearing. The Planning Director shall conduct a noticed public hearing for all project applications in accordance with SEC. 101.0220.

3. Permit Exemptions. An SCR Permit shall not be required for interior modifications or repairs, nor any exterior repairs, alterations or maintenance which does not increase the envelope of an existing building or accessory structure.

4. Administration of Permit. The Planning Director or a designated representative shall administer the SCR Permit. An SCR Permit shall not be issued unless the available information supports the findings of fact as set forth in Subsection E.5. of this section. In issuing an SCR Permit the conditions of permit approval, as set forth in Subsection E.6., and any other applicable conditions, shall be imposed where necessary and desirable to protect the public health, safety, and general welfare.

5. Required Findings of Fact. Based on the information derived from the plans, documents, and studies submitted; from testimony received at the public hearing; and from any field investigations

made, the Planning Director (or the Planning Commission or City Council on appeal) shall decide whether to issue the SCR Permit as requested. A permit shall be issued provided that all of the findings of fact set forth below can be supported by the information available at the time of the hearing and by the conditions imposed:

a. The proposed development will be sited, designed, and constructed to minimize, if not preclude, adverse impacts upon sensitive coastal resources and environmentally sensitive areas.

b. The proposed development will not encroach upon any existing physical accessway legally utilized by the public or any proposed public accessway identified in an adopted community plan; nor will it obstruct views to and along the ocean and other scenic coastal areas from public vantage points.

c. The proposed development will minimize the alteration of natural landforms and will not result in undue risk from geologic and erosional forces and/or flood and fire hazards.

d. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. Shoreline protective works will be designed to be the minimum necessary to adequately protect existing principal structures, to reduce beach consumption and to minimize shoreline encroachment.

e. The proposed development will not adversely affect the General Plan, the Local Coastal Program, or any other applicable adopted plans and programs.

6. Conditions of Permit Approval. In approving the issuance of an SCR Permit, the Planning Director (or Planning Commission or City Council on appeal) shall impose conditions as deemed necessary or desirable to enable the required findings of fact to be fairly made and/or to be sustained in their validity. The conditions imposed shall, where applicable, include but need not be limited to the following:

a. Where property on which a proposed development would be located lies between the shoreline and the first public roadway, as designated on Map Drawing No. C-731, and includes a sandy or cobble beach or passable rock headland, lateral access along the shoreline for passive recreational use shall be offered for dedication as a public easement. Access shall be at a minimum width of twenty-five (25) feet measured from either: 1) the toe of an existing coastal bluff; or 2) the first line of terrestrial vegetation where there is no coastal bluff; or 3) an existing or proposed seawall or other protective device, to the mean high tide line. If the beach or headland width is less than twenty-five (25) feet, the lateral access shall include the entire beach or headland area.

b. Where property on which a proposed development would be located lies between the shoreline and the first public roadway, a vertical and/or visual accessway not less than ten (10) feet in width and running the full depth of the property shall be

offered for dedication as a public easement; provided that the need for such accessway has been identified within an adopted community or other applicable plan, or that no other such easement exists within a lateral distance of five hundred (500) feet of the project site. If there is evidence of an existing public accessway on-site, such accessway shall be retained if feasible; if not feasible, an alternative accessway shall be provided on-site.

c. Where a proposed development would lie wholly or partially upon a coastal bluff:

1) The permittee shall, prior to the approval of the SCR Permit, execute and record a waiver of public liability for the approved development.

2) The bluff face including all the area between the toe of the existing bluff and the bluff edge shall be conserved through a deed restriction, open space easement or other suitable instrument acceptable to the City.

d. Where a shoreline protective device, cliff-retaining wall or similar structure is proposed, the permittee shall, prior to the approval of the SCR Permit, execute and record a waiver of public liability for the approved development.

e. Where a proposed development would be situated on a parcel located within or partially within the SCR designated wetland or wetland buffer area, the documented wetlands or wetland buffer zone, as required in Subsection D.2. of this section, shall be conserved through an open space easement or other suitable instrument acceptable to the City. In reviewing and approving development plans, the Planning Director shall determine that the development is consistent with the special regulations contained in Subsection D. of this section. Where a review of the development plan is sought in conjunction with a conditional use permit, planned development permit or coastal development permit, the Planning Director shall add to such permits, any conditions which are determined necessary to find the development consistent with the requirements of the SCR Zone.

7. Appeal of Permit. The decision of the Planning Director may be appealed to the Planning Commission in accordance with SEC. 101.0230. The decision of the Planning Commission may be appealed to the City Council in accordance with SEC. 101.0240.

8. Final Action. The decision of approving, conditionally approving or disapproving the application by the Planning Director (or Planning Commission or City Council on appeal) shall be filed with the City Clerk, the Zoning Administrator, the Engineering and Development Department, and the Building Inspection Department and a copy shall be mailed to the applicant.

9. Expiration. Any SCR Permit granted as herein provided shall be conditioned upon the privileges granted being utilized within thirty-six (36) months after the effective date thereof, except as otherwise provided within a phasing program contained in: 1) a development agreement entered into between the City and the owners of the subject property; 2) a

specific plan applicable to the subject property; or 3) as otherwise provided by resolution approved by the City Council upon recommendation of the Planning Commission. Failure to utilize such permit within such period will automatically void same, unless an extension of time has been granted by the Planning Director or the Planning Commission as set forth in Subsection E.10. of this section. Construction must actually be commenced within the stated period and must be diligently prosecuted to completion, pursuant to SEC. 101.0508.

10. Extension of Time.

a. The Planning Director may, by resolution, grant one or more extensions of time, with no single extension to exceed thirty-six (36) months, for a valid SCR Permit. To initiate a request for extension of time, the property owner or owners shall file a written application with the Planning Department prior to the expiration of the SCR Permit. The Planning Director may grant the extension of time if it is found from the evidence submitted that there has been no material change of circumstances since the permit was originally granted.

b. The decision of the Planning Director regarding an extension of time may be appealed to the Planning Commission in accordance with SEC. 101.0230. The decision of the Planning Commission may be appealed to the City Council in accordance with SEC. 101.0240.

(Added 4-18-88 by O-17062 N.S.)



San Diego Municipal Code

Land Development/ Zoning Code Update

DRAFT. Coastal Bluffs & Beaches Guidelines

Revised
November 1997

November 1997

Note: This Draft Document was Adopted by City Council on December 9, 1997. The regulations do not become effective until approval by the California Coastal Commission. Commission Hearings are anticipated in March-April 1998.

This information, document, or portions thereof, will be made available in whole or in part upon request.



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EXHIBIT NO. 15
APPLICATION NO.
A-6-LJS-99-160
City of San Diego
11/97 Draft Coastal Bluffs and Beaches Guidelines
(1 of 16)
 California Coastal Commission

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COASTAL BLUFFS AND BEACHES GUIDELINES INTRODUCTION

Approved - November 18, 1997

The Coastal Bluffs and Beaches Guidelines are intended to assist in the interpretation and implementation of the development regulations for sensitive coastal bluffs and coastal beaches contained in Chapter 14, Article 3, Division 1, Environmentally Sensitive Lands Regulations. Every development proposed on a sensitive coastal bluff (within 100 feet of the bluff edge) or on a site containing a coastal beach (where the development will be within 100 feet of the beach) will be subject to the environmentally sensitive lands regulations and will be evaluated for conformance with these guidelines as part of the review process for the required Site Development Permit unless the proposed development is exempt from the environmentally sensitive lands regulations pursuant to Section 143.0110(c). In addition to the findings required for the Site Development Permit, supplemental findings for environmentally sensitive lands must also be made to approve the development. A Coastal Development Permit will be required in addition to the Site Development Permit.

The Coastal Bluffs and Beaches Guidelines are divided into three sections as follows:

Section I: Explanation of Definitions

This section provides additional explanations of the definitions for terms pertaining to coastal bluffs and coastal beaches that are defined in Chapter 11, Article 3, Division 1, Land Development Terms. The distinction between coastal bluffs and sensitive coastal bluffs is clarified.

Section II: Description of Regulations

This section provides detailed explanations for specific regulations contained in the environmentally sensitive lands regulations. The environmentally sensitive lands regulations must be complied with and the Coastal Bluffs and Beaches Guidelines provide details on the regulations and explanations on how compliance can be achieved.

Section III: Coastal Bluff Measurement Guidelines

This section provides detailed guidelines and illustrations for determining the location of the bluff edge for sensitive coastal bluffs and measuring the required setbacks from the bluff edge.

Section I Explanation of Definitions

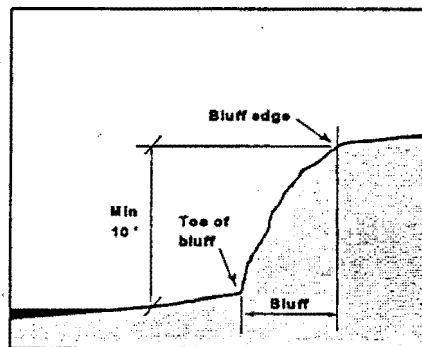
For each of the following terms, the definition is repeated (in italics) from Chapter 11, Article 3, Division 1, Land Development Terms, followed by additional information intended to clarify the definitions. The additional information provided is not part of the definition.

(A) Coastal Bluff

Coastal Bluff means an escarpment or steep face of rock, decomposed rock, sediment, or soil resulting from erosion, faulting, or folding of the land mass that has a vertical relief of 10 feet or more and is located in the coastal zone.

A coastal bluff is a naturally formed precipitous landform that generally has a gradient of at least 200 percent (1:2 slope) with a vertical elevation of at least 10 feet. See Diagram I-1. The gradient of a coastal bluff could be less than 200 percent but the vertical elevation must always be at least 10 feet. A coastal bluff is a form of environmentally sensitive lands that is included in the definition of steep hillsides. The coastal bluff includes the bluff face which is all the area between the toe of the bluff and the bluff edge. Steep Landforms meeting the criteria of coastal bluffs occur both inside and outside the Coastal Zone. These landforms and all other steep hillsides, both inside and outside the Coastal Zone, are regulated by the steep hillside regulations of the environmentally sensitive lands regulations (Section 143.0142) and are subject to the Steep Hillside Guidelines.

Diagram I-1: Coastal Bluff



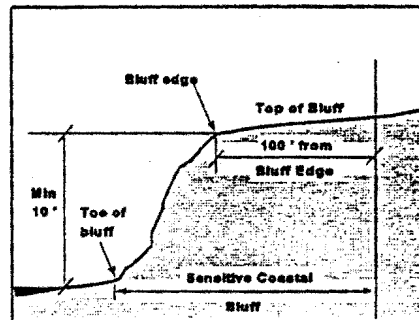
(B) Sensitive Coastal Bluff

Sensitive Coastal Bluff means a coastal bluff that is designated within Hazard Category Numbers 41 through 47, inclusive, on the City's Geologic Hazard Maps plus the area of an additional 100-foot landward strip located landward and contiguous to the coastal bluff edge.

Sensitive coastal bluffs are a form of coastal bluffs that are generally located along the shoreline and adjacent to coastal beaches. Sensitive coastal bluffs include the bluff face and the area of the top of bluff located within 100 feet of the bluff edge. See Diagram I-2. Because of their location, sensitive coastal bluffs are regulated differently than other coastal bluffs (or steep hillsides). Although they technically meet the definition of steep hillsides,

sensitive coastal bluffs are regulated by a separate regulation section in the environmentally sensitive lands regulations (Section 143.0143) and are subject to the Coastal Bluffs and B Beaches Guidelines.

Diagram I-2: Sensitive Coastal Bluff

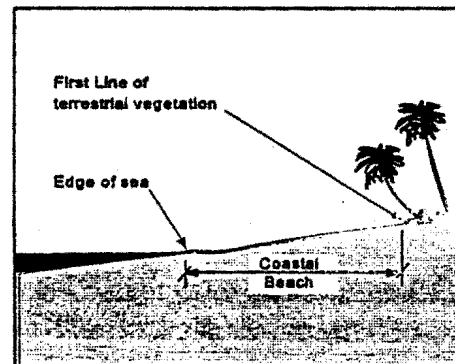
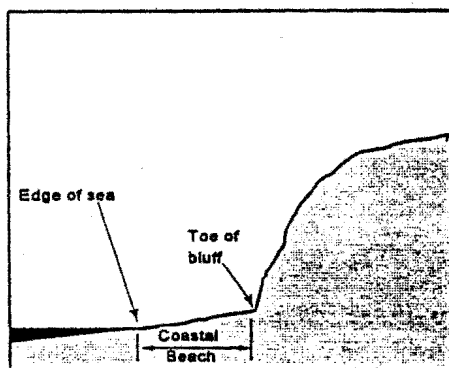


(C) Coastal Beach

Coastal Beach means the land between the edge of the sea and the first line of terrestrial vegetation or development or the toe of an adjacent sensitive coastal bluff or seawall, whichever is most seaward.

A coastal beach is an Environmentally Sensitive Land that is generally defined as the land lying between the shoreline and the toe of the adjacent sensitive coastal bluff or seawall. If no seawall or bluff exists, the landward limits of the coastal beach shall be the first line of terrestrial vegetation. See Diagram I-3

Diagram I-3: Coastal Beach



(D) Coastal Bluff Edge

Coastal Bluff Edge means the seaward-most termination of the top of a sensitive coastal bluff where the downward gradient of the land surface begins to increase more or less continuously until it reaches the general gradient of the coastal bluff face.

The coastal bluff edge is the upper termination of a coastal bluff face where the downward gradient of the top of bluff increases more or less continuously until it reaches the general gradient of the bluff face. When the top edge

of the coastal bluff is rounded away from the bluff face as a result of erosional processes related to the presence of the bluff face, the coastal bluff edge shall be defined as that point at the top of bluff nearest the bluff face beyond which the downward gradient of the land surface increases more or less continuously until it reaches the general gradient of the bluff face. If evidence shows that the rounding is a result of geologic processes other than processes related to the presence of the bluff face, the location of the coastal bluff edge shall be determined through consideration of the available geologic data.

In a case where there is a step like feature at the top of the coastal bluff, the landward edge of the topmost riser shall be considered the coastal bluff edge.

The coastal bluff edge is a continuous line across the entire length of the coastal bluff on the premises from which all bluff setbacks shall be measured.

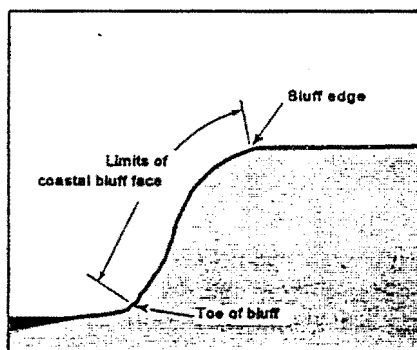
See Section III, part (A) for details on determining the location of the coastal bluff edge for sensitive coastal bluffs.

(E) Coastal Bluff Face

Coastal Bluff Face means that portion of a sensitive coastal bluff lying between the toe of the existing bluff and the coastal bluff edge.

The coastal bluff face is vertical or contains a relatively steep consistent gradient and may be rounded at the top, adjacent to the coastal bluff edge. When the bluff is rounded at the top as a result of erosional processes due to the presence of the bluff face, the bluff face shall include the rounded portion. The coastal bluff face of a sensitive coastal bluff (at least at the toe of the bluff) is typically subject to marine erosion. See Diagram I-4.

Diagram I-4: Coastal Bluff Face



Generally, no development is permitted on the face of a sensitive coastal bluff, except as permitted in Section 143.0143(h) and (I) of the Environmentally Sensitive Lands regulations.

Section II Description of Regulations

The regulations for development proposed on a sensitive coastal bluff are located in Section 143.0143. The regulations for development proposed on a site containing a coastal beach are located in Section 143.0144. The following guidelines are intended to aide in the interpretation and implementation of pertinent development regulations in these sections. The numbers referenced for each development regulation refer to the Code section numbers of the draft environmentally sensitive lands regulations. The text provided for each regulation does not repeat the Code language but rather restates the regulation with more details and explanations.

(A) 143.0143(a) Development on the Face of a Sensitive Coastal Bluff

In general, development is not permitted on the face of a sensitive coastal bluff. Only erosion control facilities, essential public drainage facilities, and public physical beach access facilities are permitted on the face of a sensitive coastal bluff, subject to the regulations in Section 143.0143(g) and (h). Other uses identified in Section 143.0130(a) are permitted on the sensitive coastal bluff, landward of the bluff edge, and only in compliance with the required setbacks from the bluff edge, pursuant to Section 143.0143(f).

Where a stepped bluff landform exists, all of the area of the site that is seaward of the bluff edge (measured at the uppermost riser within the premises) shall be considered the bluff face. This shall include the generally horizontal steps that are below the uppermost riser.

(B) 143.0143(f) Distance from Coastal Bluff Edge of Sensitive Coastal Bluffs

Development proposed on a sensitive coastal bluff, including primary and accessory structures, and grading, shall be located at least 40 feet landward from the coastal bluff edge, except as follows:

- (1) A distance of more than 40 feet from the coastal bluff edge may be required based on current geologic conditions.
- (2) Development may be located less than 40 feet but not less than 25 feet from the coastal bluff edge if there is evidence in a geology report that the site is stable enough to support the development at the proposed distance and if the development will neither be subject to nor contribute to significant geologic instability. In determining the stability of the sensitive coastal bluff, consideration shall be given to the rate of bluff retreat to determine whether the proposed development will be impacted within a reasonable economic life-span, taken to be 75 years. If a development is approved with a less-than-40-foot distance to the coastal bluff edge, future erosion control measures may be precluded if it cannot be demonstrated that the bluff stability is in danger. Air-placed concrete, retaining walls and seawalls will only be permitted when the principal structure or public improvements are in eminent danger.

Note: If a seawall (or other stabilization/ erosion control measure) has been installed due to excessive erosion on a premises, that premises shall not qualify for a reduction of the required 40-foot distance to the coastal bluff edge. Since the instability of the coastal bluff necessitated the installation of the seawall, the coastal bluff would not be considered stable enough to support development within the 40-foot bluff edge setback.

- (3) A distance of five feet from the coastal bluff edge may be granted for landscape features and accessory structures that are located at grade so that they are not elevated at the base or constructed with a raised floor. Permitted features and structures include landscaping, paved walkways, at-grade decks, unenclosed patios, open shade structures, lighting standards, fences and walls, seating benches, and signs. A distance of five feet from the coastal bluff edge may not be granted for buildings, garages, carports, pools, spas, and raised decks with load bearing support structures.
- (4) Fences on the side property lines are not subject to a distance requirement from the coastal bluff edge as long as the fence is an open fence and does not exceed 5 feet in height. This type of fence may extend to the coastal bluff edge only when it is located at the side property line, but in no case may the fence extend onto the coastal bluff face. Any fence proposed across the coastal bluff (i.e. parallel to the coastal bluff edge) must be set back at least 5 feet from the coastal bluff edge, unless it is determined that the fence is needed to provide safety and to protect resource areas, in which case such fence must be an open fence and shall not exceed a height of 5 feet.

(C) 143.0143(g) Erosion Control Measures

Erosion control measures include, but are not limited to, retaining walls, air-placed concrete, and other structures, devices or methods appropriate for controlling or minimizing erosion of the sensitive coastal bluff. All feasible methods of erosion control shall be considered, including sandbags, revegetation, and drainage diversion and improvements.

Erosion control measures do not include those preventive measures required for soil stabilization or drainage.

Air-placed concrete, retaining walls, and buttress fills shall only be used to protect existing principle structures or public improvements and if it is determined that no other feasible less impacting method will accomplish the erosion control. Such measures shall not be used to accommodate proposed development nor to increase the area of the top of bluff.

The installation of erosion control measures shall not affect the location of the coastal bluff edge.

(D) 143.0143 (j) Visual Corridors for Sensitive Coastal Bluffs

A site-specific analysis shall be conducted to determine and quantify the impact of the proposed development upon visual access to the ocean. If a visual corridor is feasible and all criteria in Section 143.0143(j) are met, the appropriate corridor shall be required as a condition of development approval. Consideration may be given to the development of the adjacent property in determining the appropriate width of the view corridor on the subject premises, so that the overall width of the corridor is at least 10 feet when measured across both properties. Any such required corridor shall be created and approved by the City Manager prior to the commencement of any construction on the premises.

No structures or other obstructions that will impede views shall be installed within the boundaries of any required visual corridor. Open fencing and landscaping may be installed within the view corridor provided such improvements do not significantly obstruct views to the ocean.

When remodeling is proposed to an existing structure and the existing development is to be retained which precludes the establishment of a 10-foot wide visual corridor, the preservation of any partial existing visual corridor on the premises will be accepted.

(E) 143.0143 (k) Vertical Public Access Easements for Sensitive Coastal Bluffs

A site-specific analysis shall be conducted to determine and quantify the impact of the proposed development upon vertical access to the ocean. If the impacts of the proposed development justify in nature and scope the need for such access, the appropriate easements shall be required as a condition of development approval. Any such required easements shall be created and approved by the City Manager prior to the commencement of any construction on the premises.

No structures or other obstructions that will impede access shall be installed within the boundaries of any required vertical access easement. Open fencing and landscaping may be installed within vertical easements provided such improvements do not hinder access or significantly obstruct views to the ocean.

If vertical access is determined to be required on a premises where there is evidence that such access exists, the existing access shall be retained, if feasible, through the easement requirement. If not feasible, an alternative access easement shall be provided on the same premises.

In determining whether the proposed development justifies the need for the requirement of a vertical public access easement, the following factors shall be considered:

- Appropriateness of access
- Privacy rights of landowner
- Existing public access
- Historic public use
- Intensification of land use
- Habitat values of the site
- Topographic constraints of the site
- Fragility of environmentally sensitive lands in the vicinity
- Nature of development in the vicinity
- Development's effect on current and projected demands for access and recreation
- Physical obstructions and the aesthetic, visual or recreational value of public use areas
- Recreational needs of the public
- Impact of development on public's use of beach areas

(F) 143.0144(a) Development on Coastal Beaches

Any site that contains any portion of a coastal beach shall be subject to a Site Development Permit unless the proposed development qualifies for an exemption pursuant to Section 143.0110(c). The uses permitted on the coastal beach are only those listed in Section 143.0130(b), all of which are public facilities. If a privately owned premises contains a coastal beach, the private development shall occur on the portion of the premises that does not contain the coastal beach. If no such area exists or if such area is infeasible for development, a deviation from the environmentally sensitive lands regulations must be requested with the Site Development Permit.

(G) 143.0144(c) Visual Corridors for Coastal Beaches

A site-specific analysis shall be conducted to determine and quantify the impact of the proposed development upon visual access to the ocean. If a visual corridor is feasible and all criteria in Section 143.0144(c) are met, the appropriate corridor shall be required as a condition of development approval.

Consideration may be given to the development of the adjacent property in determining the appropriate width of the view corridor on the subject premises, so that the overall width of the corridor is at least 10 feet when measured across both properties. Any such required corridor shall be created and approved by the City Manager prior to the commencement of any construction on the premises.

No structures or other obstructions that will impede views shall be installed within the boundaries of any required visual corridor. Open fencing and landscaping may be installed within the view corridor provided such improvements do not significantly obstruct views to the ocean.

When remodeling is proposed to an existing structure and the existing development is to be retained which precludes the establishment of a 10-foot wide visual corridor, the preservation of any partial existing visual corridor on the premises will be accepted.

(H) 143.0144 (d) and (e) Vertical and Lateral Easements for Coastal Beaches

A site-specific analysis shall be conducted to determine and quantify the impact of the proposed development upon vertical and lateral access to the ocean. If the impacts of the proposed development justify in nature and scope the need for such access, the appropriate easements shall be required as a condition of development approval. Any such required easements shall be created and approved by the City Manager prior to the commencement of any construction on the premises.

No structures or other obstructions that will impede access shall be installed within the boundaries of any required easement. Open fencing and landscaping may be installed within a vertical easement provided such improvements do not hinder access to the ocean.

If vertical or lateral access is determined to be required on a premises where there is evidence that such access exists, the existing access shall be retained, if feasible, through the easement requirement. If not feasible, an alternative access easement shall be provided on the same premises.

If a beach or headland width is less than 25 feet, the lateral access easement shall include the entire beach or headland area.

In determining whether the proposed development justifies the need for the requirement of a vertical public access easement or a lateral access easement, the following factors shall be considered:

- Appropriateness of access
- Privacy rights of landowner
- Existing public access
- Historic public use
- Intensification of land use
- Habitat values of the site

- Topographic constraints of the site
- Fragility of environmentally sensitive lands in the vicinity
- Nature of development in the vicinity
- Development's effect on current and projected demands for access and recreation
- Physical obstructions and the aesthetic, visual or recreational value of public use areas
- Recreational needs of the public
- Impact of development on public's use of beach areas

Section III Bluff Measurement Guidelines

The following guidelines provide details on determining the location of the bluff edge for sensitive coastal bluffs and measuring the required bluff edge setback.

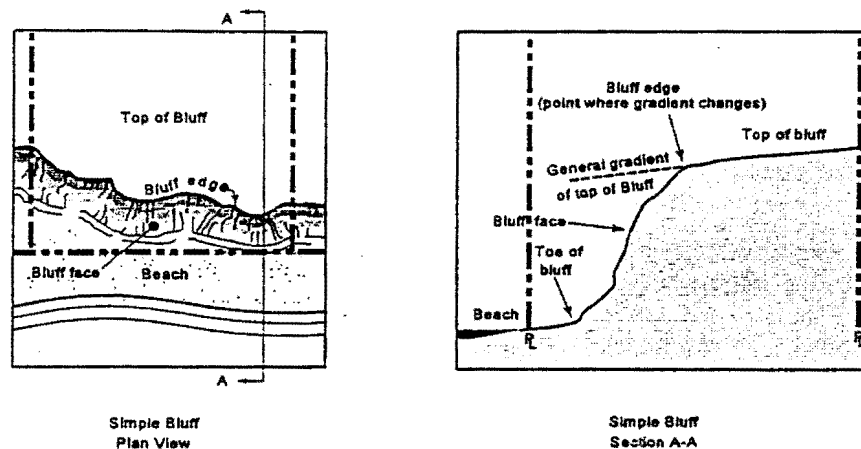
(A) Determination of Coastal Bluff Edge for Sensitive Coastal Bluffs

The following are examples of typical sensitive coastal bluff configurations with the determination of the coastal bluff edge identified:

(1) Simple Bluff

The coastal bluff edge is a line across the sensitive coastal bluff at the seaward edge of the top of bluff. The line of the coastal bluff edge is formed by measuring the uppermost point of change in gradient at any location on the subject premises. See Diagram III-1.

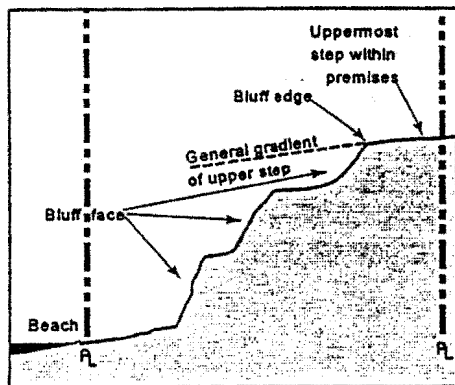
Diagram III-1: Simple Bluff



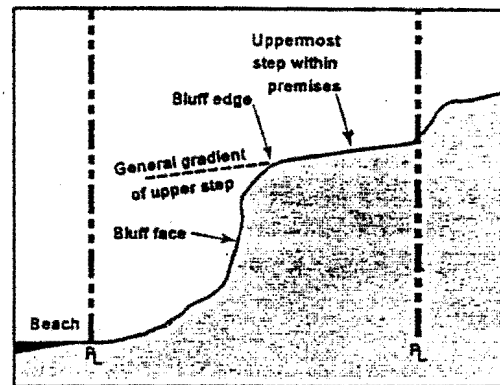
(2) Step-like Bluff Formation:

If the sensitive coastal bluff contains a step-like feature, the coastal bluff edge shall be measured at the change in gradient of the uppermost step within the subject premises. See Diagram III-2.

Diagram III-2: Step-like Bluff Formation



Multiple Steps within Premises



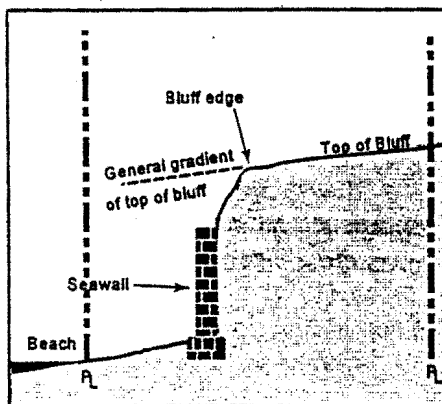
Single Step within Premises

(3) Sensitive Coastal Bluff with a Seawall

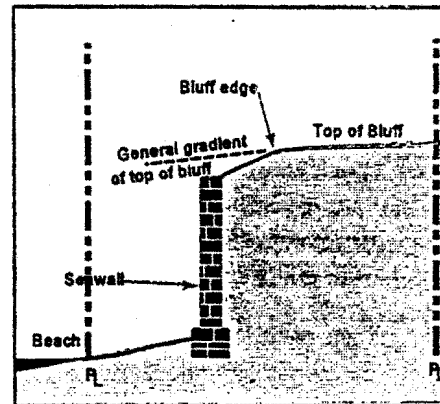
If the coastal bluff face has been partially altered with the installation of retaining walls, seawalls, or other device, the coastal bluff edge shall be considered the pre-existing change in gradient and shall continue to be measured as described in (a), above. That is, the installation of a seawall shall not affect the location of the coastal bluff edge. See Diagram III-3.

Note: If a seawall has been installed on a premises due to excessive erosion, that premises shall not qualify for development at a reduced distance from the coastal bluff edge. Since the instability of the sensitive coastal bluff necessitated the installation of the seawall, the sensitive coastal bluff would not be considered stable enough to support development within the 40-foot distance to the coastal bluff edge.

Diagram III-3: Sensitive Coastal Bluff with a Seawall



Seawall with Extreme Gradient Change

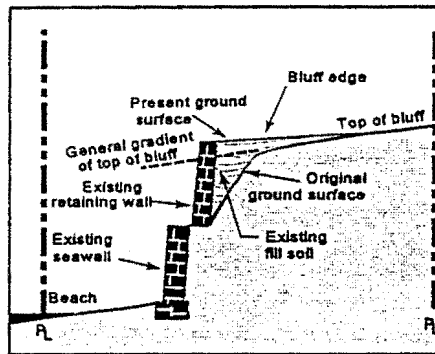


Seawall with Gradual Gradient Change

(4) Modified Landform

Where a coastal bluff face has been altered by grading and/or retaining wall, the coastal bluff edge shall be determined from the original geometry of the natural ground surface, projected to the present ground surface. See Diagram III-4. This may be determined by geotechnical investigation and/or historic documents such as photographs and maps.

Diagram III-4: Modified Landform



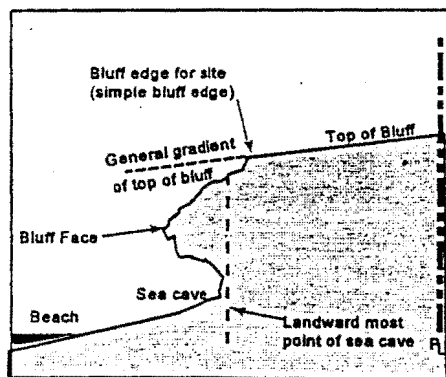
Modified Landform

(5) Sea caves

Where a sea cave (a natural cavity or recess beneath the surface of the earth that is formed by or a result of marine erosion) or overhang exists, the coastal bluff edge shall be either the simple bluff edge (See Diagram III-5(A)) or a line following the landward most point of the sea cave projected to the ground surface above (See Diagram III-5(B)), whichever is more landward.

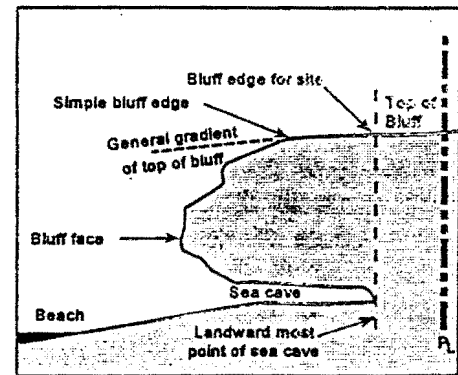
Diagram III-5: Sea Caves

(A)



Shallow Sea Cave

(B)

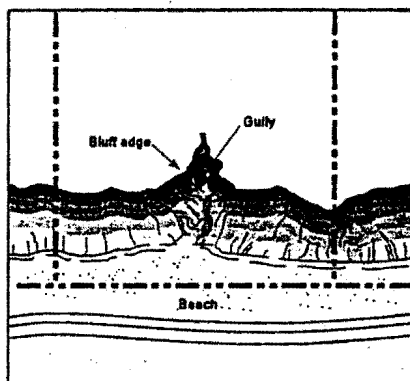


Deep Sea Cave

(6) Gullies

Where a gully (a small, local erosional feature that results in a minor perturbation of the bluff face) has developed that does not accommodate drainage from off-site, the coastal bluff edge shall follow the landward limits of the gully. See Diagram III-6:

Diagram III-6: Gully

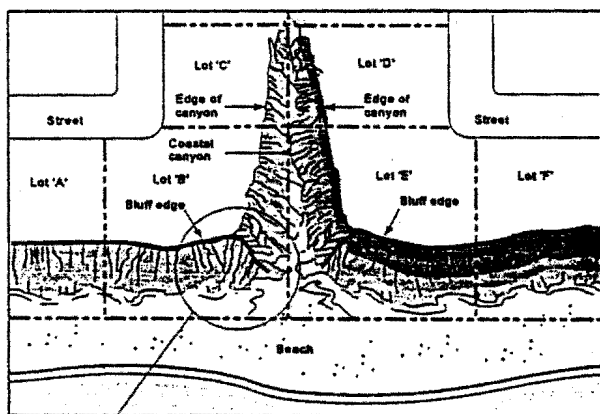


Gully

(7) Coastal Canyons

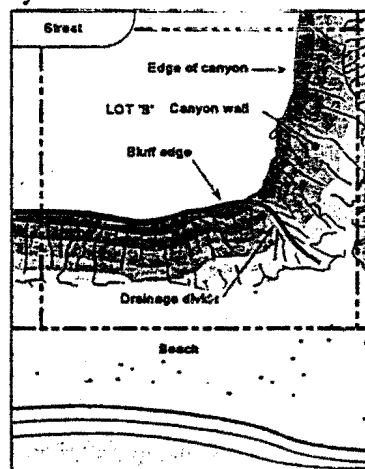
Where a site is bounded on at least one side by a coastal canyon (a large, established regional drainage course that traditionally accepts runoff from off-site), the coastal bluff edge is defined as the portion of the site which drains directly into the ocean. That portion of the site which drains first to the canyon (landward of the drainage divide) is not considered to be a sensitive coastal bluff. See Diagram III-7.

Diagram III-7: Coastal Canyon



See Coastal/Bluff Edge Detail

Coastal Canyon

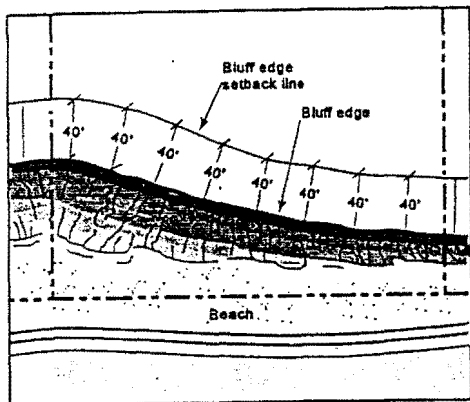


Coastal Canyon/Bluff Edge detail

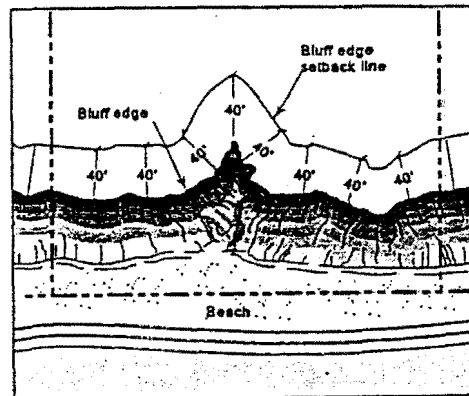
(B) Measurement of Distance from Coastal Bluff Edge for Sensitive Coastal Bluffs

The distance from the coastal bluff edge required for development on a sensitive coastal bluff is measured landward and perpendicular to every point along the coastal bluff edge. The line of the required distance from the coastal bluff edge will result in a line that is parallel to the coastal bluff edge. See Diagram III-8.

Diagram III-8: Distance from Coastal Bluff Edge



Distance from Coastal Bluff Edge



Distance from Coastal Bluff Edge

EDWARD F. WHITTIER
MARSHAL A. SCARR
MATTHEW A. PETERSON
LARRY N. MURNANE
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File No.

4196.004

Via Fax & Messenger

April 12, 2000

RECEIVED

APR 13 2000

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Ms. Sherilyn Sarb, District Manager
California Coastal Commission
3111 Camino Del Rio No., Ste. 200
San Diego, CA 92108-1725

Re: Summit Resources, LP
Coastal Development Permit No. A-6-LJS-99-160
Coastal Commission Meeting May 8-12, 2000

Dear Sherilyn:

Attached please find a copy of a letter addressed to Tim Martin dated April 11, 2000 from Curtis Burdett of Christian Wheeler Engineering. His letter addresses two issues which were discussed at the Coastal Commission meeting on Monday, April 10, 2000.

LANDSCAPING AND IRRIGATION

The first deals with landscaping. It is our client's desire to have Special Condition No. 3B modified to be consistent with the recommendations as contained within the attached letter. It is our understanding having discussed this matter with Lee McEachern and Laurinda Owens that Staff would consider a modification to the Landscaping and Irrigation Condition if it could be demonstrated that landscaping and irrigation (if restricted and controlled) would not adversely affect the stability of the bluff.

EXHIBIT NO. 16
APPLICATION NO.
A-6-LJS-99-160
Letter dated 4/12/00
from Applicant
Representative
w/attachments

(Page 1 of 29)

Ms. Sherilyn Sarb, District Manager
California Coastal Commission
April 12, 2000
Page 2

SAFETY OF EXISTING STRUCTURES

The second issue, which is addressed by the attached letter, is the issue which was brought up by Chairperson Wan and a couple of the other Commissioners. Some of the Commissioners wanted some type of assurance that the existing structure(s) located within the 25 ft. setback are safe and would not be adversely affected by the proposed improvements landward of the 25 ft. setback. As you can see by the attached letter, these assurances have now been made.

NONCONFORMING USES AND STRUCTURES (Municipal Code §103.0303.2)

Based upon the testimony of Ralph Faust, Esq. at the last hearing and the fact that it has been determined inappropriate for Staff to use the 50% demolition of the exterior walls "Rule of Thumb" to classify the project as "new development," our client will proceed with the project as approved by the City of San Diego. As you know, our client's home reduces the degree of nonconformity in certain portions of the existing structure. As Mr. Faust stated, the standard, which is applicable to the project, is contained within the Certified LCP in Municipal Code §103.0303.2. In addition to subparagraph D, which states that improvements, repairs and alterations ... "shall be permitted," we also assert that subparagraph A is applicable. If the Commission were to require demolition, then obviously our client would not be able to "use the building" pursuant to §103.0303.2(A). In

Ms. Sherilyn Sarb, District Manager
California Coastal Commission
April 12, 2000
Page 3

light of these legal determinations, we would again urge the Staff to revise its report consistent with the strikeout/underline, which is attached hereto.

If Staff continues to persist in classifying this project as new development, our client's slightly modified project which retains over 50% of the exterior walls as submitted to Staff last Thursday, April 6, 2000 is still available to the Commission for approval in May.

BLUFF EDGE DETERMINATION

Finally, as we understand it, Staff has taken the position that they do not agree with the City of San Diego's determination of the location of the bluff edge. Please provide us with your Geotechnical, Soils, and Land Surveying Studies and Analysis which substantiate your position in this regard consistent with the City's definition of bluff edge as contained in the Certified LCP. Also, please provide us with an Exhibit or Diagram which depicts Staff's determination of the location of bluff edge on or before Monday, April 17, 2000. Obviously, our client's Development and Design Team would like the opportunity to evaluate Staff's location of bluff edge to determine what effect, if any, the Staff proposed location of the bluff edge will have on the proposed project.

As a final note, if Staff is going to be presenting an Addendum or any Supplemental Information (or revised Conditions) to the Coastal Commission for its hearing in May, we

(3 of 29)

Ms. Sherilyn Sarb, District Manager
California Coastal Commission
April 12, 2000
Page 4

would sincerely appreciate receiving that information by no later than Monday, May 1, 2000 so that our client's Development and Design Team can have an opportunity to evaluate and respond to the Supplemental Information.

Thank you for your courtesy.

Sincerely,

PETERSON & PRICE
A Professional Corporation

Matthew A. Peterson

Enclosure

cc: Chairperson Sara Wan and Members of the California Coastal Commission
Peter M. Douglas, Executive Director
Chuck Damm, Senior Deputy Director
Debra Lee, Deputy Director
Ralph Faust, Esq., Chief Legal Counsel
Lee McEachern, Supervisor of Regulation & Planning
Laurinda Owens, Coastal Planner
Mark Johnson, Senior Geologist, State of CA Coastal Commission
Curtis R. Burdett, C.E.G., Christian Wheeler Engineering
Michael J. Pallamary, Director of Mapping, P&D Consultants, Inc.
Tim Martin, Associate, Don Edson Architects AIA & Associates
Mark C. Mazzarella, Esq., Mazzarella, Dunwoody & Caldarelli LLP
Summit Resources, LP
(All with copies of Enclosures)



CHRISTIAN WHEELER
ENGINEERING

April 11, 2000

Don Edson Architect, A.I.A. & Associates, Inc.
5752 Oberlin Drive, Suite 104
San Diego, California 92121

CWE 198.054.10

ATTENTION: Tim Martin

SUBJECT: RESPONSE TO CALIFORNIA COASTAL COMMISSION, SINGLE-FAMILY RESIDENCE REMODEL, 1900 SPINDRIFT DRIVE, LA JOLLA, CALIFORNIA.

- REFERENCES:
- 1) Geologic Reconnaissance, Single-Family Residence Remodel Project, 1900 Spindrift Drive, La Jolla, California by Christian Wheeler Engineering, Report No. 198.054.1, dated October 2, 1998.
 - 2) Report of Preliminary Geotechnical Investigation, Single-Family Residence Remodel, 1900 Spindrift Drive, La Jolla, California by Christian Wheeler Engineering, Report No. 198.054.5, dated March 23, 1999.
 - 3) Slope Stability Analysis, Single-Family Residence Remodel, 1900 Spindrift Drive, La Jolla, California by Christian Wheeler Engineering, Report No. 198.054.7, dated February 25, 2000.
 - 4) Coastal Development Permit Application #A6-LJS-99-160/Summit Resources, Single-Family Residence Remodel, 1900 Spindrift Drive, La Jolla, California by Christian Wheeler Engineering, Report No. 198.054.9, dated March 23, 2000.

Dear Ladies and Gentlemen:

In accordance with the request of Mr. Matthew Peterson of Peterson & Price, we have prepared this letter to present additional information that was requested orally by the California Coastal Commission in their April 2000 meeting in Long Beach. The two issues discussed in this letter include: 1) the possible effects of on-site irrigation on the stability of the bluff, and 2) the safety of the existing improvements that are within 25 feet of the edge of the bluff.

IRRIGATION

We understand that irrigation is to be limited to those portions of the site greater than 25 feet from the edge of the bluff. The referenced slope stability report indicates that the bluff has a factor of safety with regard to slope failure of at least 1.5 for all portions of the site greater than 25 feet landward of the edge of the bluff. It is our opinion that if the on-site irrigation is designed, installed, and maintained in accordance with the City of San Diego landscaping guidelines, the irrigation will have no

significant adverse impact on the stability of the bluff. In order to ensure that the irrigation will have no adverse effect on the stability of the bluff, the following additional measures are recommended:

- 1) All new landscaping to be located within the 25-foot setback from the edge of the bluff should be drought-tolerant native species.
- 2) No irrigation should be permitted within 25 feet of the edge of the bluff.
- 3) All irrigation systems should incorporate the following:
 - a) Include and install a City-approved, electrically controlled, automatic rain-shutoff device.
 - b) Include and install an electric irrigation controller. The controller should be seasonally adjusted to operate the system with the least practical amount of water applied (minimum evapotranspiration rate).

SAFETY OF EXISTING IMPROVEMENTS

The referenced reports (see above) which were provided to the City of San Diego and to the California Coastal Commission as evidence supporting a 25-foot setback for any new structures indicate that the site is very stable. There is an existing seawall built in the 1920's, as well as gunite that protects the face of the coastal bluff from erosion. These improvements, which were acknowledged and authorized by a California Coastal Commission permit in 1977 (F-5929), have performed well over the years, and although probably not needed to stabilize the site at the time of installation, have effectively stopped both basal erosion and recession of the upper edge of the slope/bluff. A review of available historical photographs indicates that conditions have remained essentially unchanged at the site for the past 50 to 60 years.

The referenced reports indicated that recession of the Cretaceous-age bedrock in the vicinity of the site is generally limited to a few inches per decades, even if there were no seawall, or gunite on the bluff. The recession rate of the Quaternary-age terrace deposits is greater than that of the Cretaceous-age sediments but the terrace deposits are very thin at the project site and have only a minor effect on the overall stability of the site. The referenced slope stability analysis indicates that the factor of safety with regard to gross stability of the westerly-facing slope at the site (even with the seawall and the gunite not present) is at least 1.5 at a horizontal distance of only a few feet landward of the existing edge of the slope. Further, the referenced slope stability report provided, in our opinion, a worst-case scenario utilizing a seismic coefficient of 0.40 for the pseudo-static analysis, rather than the more commonly used industry-standard seismic coefficient of only 0.15.

(6 of 29)

In addition, it should be noted that the southwestern portion of the existing residence, which is the portion of the structure that is closest to the existing edge of the westerly-facing slope, is founded on piers which extend at least 23 feet below existing grade, well into formational materials.

Based on the studies performed and other information available to date, it is our opinion that, with the current site conditions, those portions of the existing residential structure located within 25 feet of the edge of the bluff (whether defined by Coastal staff or as established by our firm in consultation with Precision Survey and Mapping and Mr. Robert Hawk, the City of San Diego geologist, by utilizing the City of San Diego's definition of bluff edge in the certified LCP) are safe and suitable for continued human habitation. Further, as previously stated in the referenced reports, the new structural additions beyond the 25-foot setback from the bluff edge, if constructed in accordance with the structural plans and foundation systems as proposed, will not, in any way, adversely affect the stability of the existing slope/bluff or the existing structures that are located within the 25-foot bluff edge setback.

If you have any questions after reviewing this letter, please do not hesitate to contact our office. This opportunity to be of professional service is sincerely appreciated.

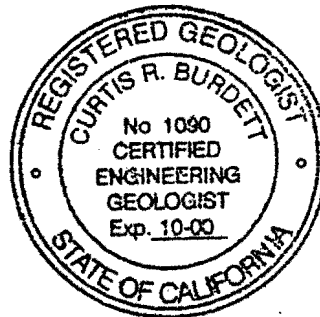
Respectfully submitted,

CHRISTIAN WHEELER ENGINEERING



Curtis R. Burdett, C.E.G. #1090
CRB:crb

cc: (2) Submitted
(1) Client



CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

3111 CAMINO DEL RIO NORTH, SUITE 200

SAN DIEGO, CA 92108-1725

521-8036

~~Mon 24c~~

Filed: 2/15/00
 49th Day: 4/4/00
 180th Day: 8/13/00
 Staff: LRO-SD
 Staff Report: 3/23/00
 Hearing Date: 4/11-14/00

*Revised Report*STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL GOVERNMENT: City of San Diego

DECISION: Approved with Conditions

APPEAL No.: A-6-LJS-99-160

APPLICANT: Summit Resources, L.P.

PROJECT DESCRIPTION: *Remodel* *resulting in* ~~Substantial demolition~~ of an existing 9,960 sq.ft. two-story over basement single-family residence ~~and reconstruction of~~ a two-story, 14,630 sq.ft. single-family residence on a .56 acre ocean blufftop lot.

PROJECT LOCATION: 1900 Spindrift Drive, La Jolla, San Diego, San Diego County.
 APN 346-440-05

STAFF NOTES:

The Commission found Substantial Issue at the February 15, 2000 meeting. This report is for the de novo permit. *Revised* *based upon revisions to the project submitted on 4/6/00.*

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission approve the proposed *remodel* ~~reconstruction~~ of a residence resulting in a 14,630 sq.ft., two-story single family residence on a coastal blufftop. The project raises concerns related to blufftop setbacks and geologic hazards and protection of public views toward the ocean in the sideyard setback areas. The project represents ~~new residential development~~ on a bluff top lot where there is an existing pre-Coastal Act seawall on the beach and gunite on the bluff face. The City's LCP requires that new development maintain a 40 ft. bluff edge setback that can be reduced to 25 ft. based upon recommendations of a geology report which documents that such a reduced setback would still provide adequate bluff top setback to assure the new development is safe throughout its anticipated life. In this particular case, the applicant has submitted several geology reports and the Commission's staff geologist has reviewed them and concurred that a 25 ft. setback is adequate for the proposed ~~home~~. Staff recommends that protection of geologic stability associated with the new development be

*the remodel of a home**New Development/Additions**(8 of 29)*

addressed through Special Condition #1 which requires that no development be permitted seaward of 25 ft. from the bluff edge and that any improvements seaward of the 25 ft. geologic setback line must be at grade and no closer than five feet from the bluff edge. In addition, Special Condition #2 notifies the applicant and future property owners that any future repairs or maintenance to the existing non-conforming accessory structures located seaward of the bluff edge requires an amendment to the subject coastal development permit. Protection of visual resources and public views associated with the proposed development will be addressed through landscaping and fence requirements in Special Condition #3. It requires that new landscaping be limited to a height of 3 ft. and that fencing in the sideyards be composed of 50% open materials to prevent a "walled off" effect. Other conditions include: assumption of risk and public rights. With the attached conditions, the project can be found consistent with the certified LCP.

PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

1. **MOTION:** *I move that the Commission approve Coastal Development Permit No. A-6-LJS-99-160 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a YES vote. This will result in adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

SUBSTANTIVE FILE DOCUMENTS: Appeal Forms; Certified La Jolla-La Jolla Shores LCP Land Use Plan; Certified City of San Diego LCP Implementation Plan; City of San Diego Report to the Planning Commission dated 11/24/99; CDP #F5929; A-6-LJS-98-85; A-6-LJS-98-169; Report of Preliminary geotechnical

Investigation by Christian Wheeler Engineering dated 3/23/99; Report of Slope Stability Analysis by Christian Wheeler Engineering dated 2/25/00; Update/Cover Letter by Christian Wheeler Engineering dated 3/17/00; Geotechnical Engineering Report Update by Christian Wheeler Engineering dated 3/23/00; City of San Diego SCR/CDP #99-0007; San Diego District Staff Report on Substantial Issue dated 2/1/00.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Final Revised Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final plans for the proposed development including a demolition plan, floor plan, site plan, foundation plan and elevation plan that have been approved by the City of San Diego. Said plans shall be in substantial conformance with the plans submitted with this application by Don Edson Architect dated 9/21/99, except that they shall be revised to reflect the following:

4/3/00

- a. ~~All portions of the residential structure shall be removed or relocated such that no portion of the principal residential structure or pool or spa shall be sited closer than 25 ft. from the edge of bluff.~~
- a. ☒ All existing and proposed accessory improvements shall be identified. All proposed accessory improvements (patios, decks, etc.) proposed within the 25 ft. geological setback area must be "at-grade" and located no closer than 5 ft from the edge of bluff.
- b. ☒ No maintenance of the existing non-conforming boathouse/cabana shall be permitted.
- c. ☒ The fire pit located in the rear patio area seaward of the bluff edge and adjacent to the seawall shall be removed.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Future Development. Prior to the issuance of the coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in the coastal development permit No. A-6-LJS-99-160; and that any repairs or improvements to the existing boathouse/cabana structure, gunite on the bluff face or seawall; stairs; future additions; or, other development as defined in Public Resources Code Section 30106 will require an amendment to permit No. A-6-LJS-99-160 from the California Coastal Commission. The document shall be recorded as a covenant running with the land binding all successors and assignees in interest to the subject property.

4/3/00

3. Revised Landscape/Sideyard Fence Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, revised landscaping and fence plans approved by the City of San Diego. The plans shall be in substantial conformance with the plans as submitted by Don Edson Architect, as last revised and dated 5/21/99, except for the revisions cited below. The plans shall be revised to keep the sideyard setback areas clear to enhance public views from the street toward the ocean. Specifically, the plans shall be revised to incorporate the following:

- a. All landscaping in the sideyard setback areas shall be maintained at a height of three feet or lower to preserve views from the street toward the ocean.
- b. All landscaping ^{within the 25ft Bluff Edge Setback} shall be drought-tolerant, native plant species. ^{within the 25ft Bluff Edge Setback} No irrigation shall be permitted ~~on the site~~.
- c. A written commitment by the applicant that all required plants on this site shall be maintained in good growing condition and whenever necessary, shall be replaced with new plant materials to ensure compliance with the approved landscape requirements.
- d. Any fencing in the sideyard setback areas shall be composed of a solid base with 50% open materials on top.
- e. The existing palm trees located at the western patio area inland of the existing seawall shall be removed.

The applicant shall undertake the development in accordance with the approved landscape plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is required.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the restrictions stated above on the proposed

development. The document shall run with the land for the life of the structure approved in this permit, binding all successors and assigns, and shall be recorded, free of all prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. The deed restriction shall not be removed or changed without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. Assumption of Risk: PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, each applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that each applicant understands that the site may be subject to extraordinary hazard from bluff collapse and erosion and the applicant assumes the liability from such hazards; and (b) each applicant unconditionally waives any claim of liability on the part of the Commission or its successors in interest for damage from such hazards and agrees to indemnify and hold harmless the Commission, its officers, agents, and employees relative to the Commission's approval of the project for any damage due to natural hazards. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction.

This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. Public Rights. By acceptance of this permit, the applicant acknowledges, on behalf of him/herself and his/her successors in interest, that issuance of the permit shall not constitute a waiver of any public rights which may exist on the property. The applicant shall also acknowledge that issuance of the permit and construction of the permitted development shall not be used or construed to interfere with any public prescriptive or public trust rights that may exist on the property.

6. No Shoreline Protection for Accessory Improvements. No shoreline or bluff protection devices shall be permitted to protect any existing or proposed accessory improvements should they be subject to threat in the future.

7. Other Special Conditions of the CDP/SCR No. 99-0007. The following special conditions of the City's CDP/SCR permit #99-0007 are modified herein and are a part of the subject coastal development permit: Special Condition #23 and 29. All other special conditions of the City of San Diego's SCR permit #99-0007 remain subject to the City's jurisdiction.

IV. Findings and Declarations.

The Commission finds and declares as follows:

Remodel

1. Detailed Project Description/History. Proposed is the ~~substantial demolition~~ of an existing two-story over basement, 9,960 sq.ft. single family residence ~~and the~~ ^{resulting in a} ~~reconstruction of the residence~~ totaling 14,630 sq.ft. on a 0.53 acre ocean bluff top lot. Also proposed is a new swimming pool, spa, covered deck, and landscaping. The subject residence is an older structure that was built in 1928 and includes several accessory improvements either in the geologic setback area or seaward of the bluff edge. In the 25 ft. geologic setback area, the applicant proposes to remove an existing 225 sq.ft. detached bunk house near the northern property line. Also proposed is the ~~removal of an existing room at the main level of the house at the northwest corner and retention of the second-story room as a deck~~, replacement of an existing stair, construction of a new trellis over an existing terrace, ~~removal of an existing room extension under deck and retention of floor as deck~~ and removal of existing roof overhang at southwest corner of residence. Seaward of the bluff edge and ~~at~~ the beach elevation the proposal is to remove an existing fire pit. The City also required the removal of four existing palm trees in this area.

Slightly above

The project site is a bluff top lot with an existing 11 ft. high, 100-foot long seawall located on the beach. The majority of the coastal bluff itself, between the seawall and the upper portion of the lot, has been gunited. Both the seawall and gunite were installed prior to the Coastal Act. The coastal bluff is approximately 22 feet high. Portions of the existing residence are sited closer than 25-foot to the bluff edge. The distance between the residence and bluff edge varies. Specifically, an existing one-story element of the residence situated at the southwest corner of the site is only approximately nine feet from the bluff edge. The middle portion of the existing two-story element of the residence is located approximately 20 feet from the bluff edge. The existing one and two-story element located at the northwest corner of the residence is located approximately 16 feet from the bluff edge. The area between the toe of the gunited bluff and the existing seawall is backfilled and contains a number of non-conforming structures that include a concrete patio, "sandy terrace", firepit, a barbecue with firepit, deck, railing, stairway, a detached boathouse/cabana and palm trees. The distance between the existing seawall and the toe of the gunited bluff is approximately 25 ft.

within the 25ft bluff edge setback

Remodeling to the residence, including the addition of an approximate 775 sq.ft. second story, was approved by the San Diego Coast Regional Commission in 1977 under CDP #F5929. The special conditions associated with that permit included a condition which stated that in the event any reinforcement or replacement of footings or piers supporting the residential structure were required by the City Building Inspection Department or City Engineer, that the permit would become null and void and a new coastal development permit would be required. The findings of the permit also state that since a Foundation Investigation was submitted that indicated that the existing piers will be capable of bearing the load of the proposed addition without hazard, the project would be consistent with the Coastal Act and that if subsequent investigation by the City provided any opinion to the contrary, a new coastal development permit would be required. Other special conditions also required a deed restriction limiting the use of the premises to a single family dwelling and a hold harmless agreement.

The subject site is located within the La Jolla community of the City of San Diego. The site is located south of La Jolla Shores, a major recreational area which includes a public beach and park. The site is also in close proximity to the La Jolla Beach and Tennis Club and a restaurant (The Marine Room), which are situated two to three lots to the north. The site is bounded on both sides (north and south) by other residential development. The beach at this location is of average width (not unusually wide or narrow) and is passable for lateral access purposes largely from the north from the vicinity of La Jolla Shores. As one walks further south approximately two to four lots from the subject site, the beach width significantly narrows making it difficult for lateral access. In fact, as noted in the certified La Jolla-La Jolla Shores LCP Addendum, this entire stretch of shoreline is designated as "limited or intermittent access". The LCP also notes that lateral access below the bluffs is dependent on tidal fluctuations and is extremely difficult in most locations. The LCP also indicates that several of the residences along Spindrift Drive have constructed seawalls and installed gunite on the coastal bluffs in this area to stop erosion. The two immediate lots to the north and south both have existing seawalls *that are attached to and* similar to the seawall that exists on the subject property. The majority of the residences in this area are older, non-conforming residences that have yet to be redeveloped and which are located in close proximity to the bluff edge.

The standard of review for the proposed development is the City's certified La Jolla-La Jolla Shores LUP, La Jolla Shores PDO, and other applicable sections of the former implementation plan (municipal code) that was in effect at the time that the proposed development was reviewed and approved by the City. The City of San Diego recently received effective certification of an LCP amendment that replaces its former municipal code with its new Land Development Code Update. The LCP amendment became effective on January 1, 2000. However, the amendment was submitted with a provision that the prior municipal code would continue to be applied to projects for which complete permit applications were submitted prior to the effective date of the LCP amendment. The subject proposal was submitted, acted on by the City, and appealed to the Commission prior to the effective date of the LCP amendment. The Commission finds that in this case, the appropriate standard of review is the LCP that was in effect prior to the effective date of the LCP amendment (i.e., the former municipal code).

2. Shoreline Hazards. As noted in the staff report dated 2/1/00 for the findings on substantial issue of the subject project, the proposed development is inconsistent with the geologic bluff top setback requirements in the certified LCP. *as previously submitted was*

Previously Proposed ^{was} is the substantial demolition of an existing two-story over basement, 9,960 sq.ft. single family residence and the reconstruction of the residence totaling 14,630 sq.ft. on a 0.53 acre ocean bluff top lot. Also proposed is a new swimming pool, spa, covered deck, and landscaping. The development involves the substantial remodel/demolition of an existing 9,960 sq.ft. single family residence by demolishing 4,745 sq.ft. and constructing 9,415 sq.ft. of new floor area resulting in the 14,630 sq.ft. single family residence. There is an existing seawall seaward of the property at beach elevation and a gunited coastal bluff inland of the seawall. Other accessory improvements exist on the site. These are a boathouse structure on the beach seaward of the bluff but behind the

Previously

(14 of 29)

existing seawall and a terraced patio area seaward of the residence (less than 25 ft. from the bluff edge). ~~The proposed development also includes installation of a pool, spa, landscaping, deck and changes to the stairs and patio in this area.~~ As noted earlier, the home was constructed in the 1920's and portions of the residence are located closer than 25 ft. from the bluff edge. At the southwest corner of the site, the residence is as close as 9 feet to the bluff edge. In the midwest portion of the site, the residence is approximately 20 feet from the bluff edge, and at the northwest section of the site, the residence is approximately 16 feet from the bluff edge. The applicant proposes to retain these western portions of the residence that are closer than 25 feet from the bluff edge. The new 9,415 sq.ft. of floor area would consist of both one and two-story additions to the existing two-story residence. At the northern portion of the residence, a one-story addition is proposed to be located approximately 26 feet from the bluff edge. At the southern portion of the residence a new second story addition is proposed to be located approximately 32 feet from the bluff edge. The proposed development is ~~is~~ consistent with the certified SCR overlay ordinance of the City's former Implementation Plan which provides, in part:

Coastal Bluffs

- a. No structure or improvement or portion thereof shall be placed or erected and no grading shall be undertaken, within forty (40) feet of any point along a coastal bluff edge, except for the following uses:

- 1) Essential bluff top improvements...2) Bluff repair and erosion control measures...3) Accessory structures....

[...]

- b. A bluff edge setback of less than forty (40) feet but in no case less than twenty-five (25) feet, may be granted by the Planning Director where the evidence contained in the geology report indicates that: 1) the site is stable enough to support the development with the proposed bluff edge setback so that it will neither be subject to nor contribute to significant geologic instability throughout the anticipated life span of the principal structures....

In addition, the following policies addressing bluff top development and shoreline protective devices from the La Jolla-La Jolla Shores LCP Land Use Plan are also applicable to the proposed development:

2. Coastal Bluff Top Development

The shoreline bluffs are one of La Jolla's most scenic natural resources. Beautiful in themselves, the bluffs provide magnificent vistas of the ocean and shoreline. Understandably, these same qualities provide a tremendous incentive to develop bluff top property. Such development, however, is not without its risks. As indicated on the geologic hazards map (page 108), many of the bluff areas are

unstable and prone to landslides. Over time, as the bluffs continue to recede, existing developments will become increasingly susceptible to bluff hazards. In many cases, seawalls, revetments, and other types of erosion structures will be required to stabilize the bluff. Such structures, while necessary to protect private property, are poor substitutes for adequate sit planning. Improperly placed structures may accelerate erosion on adjacent properties and seriously impact lateral public access. The proliferation of such structures may cumulatively degrade the natural scenic quality of the bluffs and interfere with nature shoreline processes. Where large comprehensive structure such as breakwaters, groins, or revetments are required, the public may ultimately bear the costs. [p. 109]

In order to reduce such problems in the future, the following guidelines have been recommended for all bluff top development located between the first through coastal roadway and the ocean. The guidelines are to be applied to all bluffs having a vertical relief of ten feet or greater and whose toe is or may be subject to marine erosion.... [p. 109]

Development Guidelines

- A geotechnical report will be required for all bluff top development proposed to be sited within a critical distance from the edge of the bluff, described as the "area of demonstration,"... [p. 109]
- The geotechnical report, prepared by a certified engineering geologist, should document that the "area of demonstration" is stable enough to support the proposed development and that the project can be designed so that it will neither be subject to nor contribute to significant geologic instability throughout the estimated lifespan of the project structures. [p. 110]
- Bluff top development should be visually compatible with the scale and character of the surrounding development and respectful of the natural scenic qualities of the bluffs. Structures should be sited and designed to minimize alteration of natural landforms. [p. 110]
- Bluff top developments should not contribute significantly to problems of erosion or geologic instability on the site or on surrounding properties. This includes activities related to site preparation and construction. [p. 110]
- The placement of shoreline protective works should be permitted only when required to serve coastal-dependent uses or to protect existing principal structures or public beaches in danger of erosion and when designed to eliminate or mitigate adverse impacts on shoreline sand supply. [p. 91]
- The placement of any necessary shoreline protective works should not be allowed to encroach on any area utilized by the public unless engineering studies indicate that minimal encroachment may be necessary to avoid significant

adverse erosion conditions, and that no better alternatives exist. Any infilling between protective devices shall encroach no further seaward than adjacent functioning protective works. [p. 91]

- New shoreline protective devices should be constructed and designed to be visually compatible in design, materials, and color with the existing natural environment. [p. 91]

At issue with the subject project and as discussed in the findings for substantial issue, is whether the extent of proposed demolition of the residence is so substantial that the applicant should be required to bring the entire residence into conformance with the above-cited policies, which require that bluff top structures be setback 25 to 40 feet from the bluff edge. In its approval of past projects involving partial demolition and reconstruction of an existing structure, the Commission has found that if more than 50% of the exterior walls of a structure are being demolished, the proposal is "new development" as opposed to remodel or an addition to the structure such that the entire structure must be brought into conformance with the current requirements. In this particular case, the applicant's architects verbally indicated to Commission staff fairly early in the review process that more than 50% of the exterior walls were being removed; however, there were never any demolition plans in the City file to document this assertion. As such, once substantial issue was found by the Commission, Commission staff requested in a letter dated 3/14/00 to the applicant's representative that demolition plans, along with other geotechnical information, would be necessary in order to develop a recommendation for the proposed development. In response to this request, the applicant's representative submitted the demolition plans on 3/20/00 along with the requested geotechnical information. The plans reveal that approximately 59% of the exterior walls are being demolished.

The applicants assert that the La Jolla Shores Planned District Ordinance (PDO), which applies to this site, allows for the proposed modifications without triggering a requirement to bring the residence into conformance with the setback requirements. The applicants cite the provisions of the PDO that states:

Section 103.0303.2 Nonconforming Uses and Structures

- The lawful use of land which existed at the time the Planned District regulations became effective and which did not conform with said regulations may be continued except when specifically prohibited provided no enlargement or additions to such use is made.
- The lawful use of buildings existing at the time the Planned District regulations became effective with which regulations such building did not conform may be continued, provided any enlargement, addition or alterations to such buildings will not increase the degree of nonconformity and will conform in every respect with all the District regulations.

On 4/6/00 The Applicant's Architect submitted revised plans which indicated that with some minor modifications to the project that only 20.4% of the exterior walls will now be removed. In addition by the Applicant's Architect's calculation over 52% of the existing structure will be retained.

[...]

- C. Improvements, repairs and alterations which do not increase the degree of nonconformity of a nonconforming building, structure or improvement shall be permitted.

[...]

As noted above, the PDO allows for "improvements, repairs and alterations" to nonconforming structures which do not increase the degree of non-conformity. The provision must be interpreted broadly in light of the significance of the coastal resources that are affected by bluff top development. As indicated by the policies of the LUP, blufftop development affects sand supply, public access, and scenic natural landforms, and raises issues of geologic stability. Since the setback requirements of the LCP are intended to address these potential adverse impacts, the provision that addresses when nonconforming structures must be brought into compliance with current setback requirements must be interpreted and applied broadly. ~~In this particular case, the Commission finds that the above PDO provisions do not allow the proposed project to occur without bringing the entire residence into conformance with the setback requirements. First, proposed development does not qualify as an "improvement", "repair" or "alteration" because it involves substantial demolition—more than 50% of the exterior walls. As such, it is "new development"—in other words, it is as if the entire residence were being demolished and then a new residence constructed in its place.~~

*Since the
reused project
now qualifies
as*

would not be (does not)

Essentially, the bulk of the existing residence is being demolished with only those portions that are nonconforming and within the geologic setback area being retained. Because more than half of the exterior walls of the residence are being demolished, it is feasible that the entire structure could be demolished and the home re-sited so that it conformed with the geologic setback requirements. The proposed development will result in a 14,630 square foot home less than 25 feet from an altered coastal bluff and shoreline where the certified LCP clearly requires that it be set back 40 feet from the bluff edge, or between 40 and 25 feet from the bluff edge if a geology report demonstrated that the residence would not be subject to or contribute to geologic instability for the anticipated life of the structure. Therefore, as "new development", the safety of the site to support the new development must be addressed as well as the required geologic setbacks. Furthermore, even if the proposed demolition of 59% of the walls of the residence could be considered to be an improvement, repair or alteration, the proposed project does increase the degree of nonconformity of the existing residence because it will result in a significantly larger residence in the geologic setback area. As such, the provisions of the PDO addressing nonconforming uses do not allow the applicant to undertake the proposed substantial demolition/reconstruction without bringing the nonconforming aspects of the residence into conformance with the current setback requirements.

In past review of proposed developments on project sites where there is an existing seawall, the Commission has found that since the site warranted a seawall, the site is then

regarded to be located in a hazardous location and that a reduction to the 40 ft. geologic blufftop setback was not warranted. In this particular case the original geotechnical study implied that the seawall was not constructed to protect the existing home. Specifically, the geotechnical report by Christian Wheeler Engineering dated 3/23/99 states,

"A seawall that was constructed at about the same time as the original principal structure is present near the northwestern property line. It appears that this seawall was built as a preemptive measure to protect some of the improvements near the beach and also to increase privacy."

In order to determine whether or not the proposed development could be sited a distance of 25 ft. from the bluff edge, Commission staff, in a letter dated 3/14/00 to the applicant's representative, asked the applicant's geotechnical engineers to provide an analysis that addressed the stability of the site to support the proposed development as if the seawall were not presently there. The purpose of the request was to assure that the proposed development will be safe into the future and to assure that new development on the site is not dependent on the seawall in its current location and configuration. Also requested was additional data on bluff retreat and potential for slope failure to determine whether or not a reduction of setback from 40 to 25 feet is adequate to assure the new development is safe into the future. Staff also clarified that it was not being implied that the existing seawall would need to be removed; only that the setback analysis be done without relying on the seawall.

There remains the possibility that, due to its age, the existing shoreline protection may fail. Therefore, new development on the site should not be dependent on its retention for safety reasons and to avoid damage as a result of wind and wave action associated with storm conditions. Additionally, siting development further inland will allow for construction of the full range of alternatives to the existing shoreline protection including complete removal or locating any necessary bluff or shoreline protection further inland. Such alternatives would avoid encroachment on sandy beach and eliminating or minimizing the adverse effects of protective devices on shoreline sand supply, visual quality and public access.

for new structural improvements

The applicant's geotechnical engineers responded in two letters dated 3/17/00 and 3/23/00. The engineers stated in the letter that they had performed a slope stability analysis with the assumption that the seawall at the base of the seacliff was not there. The engineers also indicated that the seawall was constructed in approximately 1928 for the purpose of protecting the improvements on the beach and increasing privacy but not as a result of erosion of the base of the bluff. The analysis demonstrates that the stability of the site is not dependent on the seawall. The letter also indicates that the bluff is relatively short and the site is most underlain by well-consolidated, Cretaceous-age sandstone with a relatively thin cap of Quaternary-age materials. The engineers concluded in the letter that a 25-foot setback is appropriate for the site and that the site is suitable for the proposed new construction with implementation of the recommendations contained in the report. In addition, the engineers noted that the 1.5 factor of safety line in terms of slope stability indicates that the residence would be safe at a location closer

"from a geologic point of view that only a minimal bluff edge setback is warranted," and that
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than 25 feet from the edge of the bluff even though the City and Coastal Commission have a setback requirement for at least 25 feet. The Commission's staff geologist has reviewed these letters and other submitted geotechnical information and concluded that a 25 ft. setback would be acceptable for the proposed development/^{Now} improvements.

Therefore, given that the site-specific geotechnical report documents that the proposed development will be safe into the future and is not dependent on the presence of the existing seawall to support the development, the Commission finds that the proposed geologic setback of 25 feet, in this case, can be supported. However, the project as submitted, proposes to maintain portions of the existing home within the 25 ft. geologic setback area which is inconsistent with the certified LCP addressing the siting of new blufftop development. As such, Special Condition #1 requires submittal of revised building plans that indicates no portion of the principal residential structure shall be permitted seaward of the 25 ft. geologic blufftop setback line and that existing portions of the residence within the 25 ft. setback area must be removed or relocated.

There is an existing concrete patio seaward of the existing residence in the geologic setback area. However, since no work is proposed to this patio area, it is permitted to remain. Other accessory improvements in the geologic setback area include the replacement of stairs. These stairs descend in elevation down the bluff face to the beach below. However, it appears from the project plans that only the portion of the stairs inland of the bluff edge are proposed to be replaced. Special Condition No. 1 calls for the identification of all existing and proposed accessory improvements that all proposed accessory improvements proposed within the 25 ft. geological setback area must be at-grade and located no closer than 5 ft. from the bluff edge. The condition further specifies that no maintenance of the existing non-conforming boathouse/cabana shall be permitted and that the fire pit seaward of the bluff edge near the seawall shall be removed. Also, Special Condition No. 6 requires that no shoreline or bluff protection devices will be permitted to protect any existing or proposed accessory improvements should they become threatened in the future.

On a related point, the existing non-conforming accessory structure (cabana/boat house) seaward of the geologic blufftop setback was permitted to remain pursuant to the City's permit. The conditions of the City's permit allowed the applicant to remove debris, etc. from the structure in the event of unsafe conditions but that no repair or maintenance to extend the period of use of the structure would be permitted. As such, this structure would deteriorate naturally to the point that it would eventually need to be removed. In addition, the City required the applicant to remove landscaping (i.e., four palm trees) that had been installed inland of the seawall and seaward of the bluff edge. As noted earlier, the entire bluff face is presently gunited and there is also an existing seawall on the beach seaward of the bluff. These structures were installed prior to the Coastal Act and due to their age, it is feasible that at some point in the future they will eventually fail. As such, Special Condition #2 addresses future development on the site through recordation of a deed restriction and that requires that no maintenance to the cabana/boathouse, gunite on the bluff face or seawall; new additions; or other development on the site shall be permitted without a subsequent amendment to this

coastal development permit. In addition, Special Condition #3 requires the removal of the palm trees located seaward of the bluff edge as this was a condition of the City's coastal development permit for the subject development proposal.

The Commission also recognizes the inherent risk of shoreline development. There is a risk associated with any shoreline development including damage to the seawall or to property as a result of wave and storm action. Given that the applicants have chosen to construct the proposed residence despite these risks, the applicants must assume the risks. Accordingly, Special Condition #4 requires that the applicants record a deed restriction that evidences their acknowledgement of the risks and that indemnifies the Commission against claims for damages that may be brought by third parties against the Commission as a result of its approval of this permit. ~~The proposed development for substantial demolition and reconstruction of a single family residence represents new development. As such, the development is subject to the geologic setback provisions of the certified LCP.~~ As conditioned to not permit any portion of the proposed ~~principal residence~~ to be located within 25 ft. of the bluff edge, the proposal can be found consistent with the applicable LCP provisions. Therefore, only as conditioned, can the proposal be found consistent with the certified La Jolla-La Jolla Land LCP Land Use, La Jolla Shores PDO and the SCR overlay ordinance of the City's former implementation plan of the certified LCP.

retain portions
of the structure
within the
25 ft bluff
edge setback

New Development/Accessory

3. Visual Access. The proposed development is inconsistent with the following policies of the certified La Jolla-La Jolla Shores LCP Land Use Plan.

"La Jolla's relationship to the sea should be maintained. Existing physical and visual access to the shoreline and ocean should be protected and improved."

"La Jolla's physical assets should be protected in future development and redevelopment; particularly with respect to the shoreline, significant canyons, steep slopes. Ocean views should be maintained and open space retained whenever possible."

"View corridors utilizing side yard setbacks, should be encouraged along shoreline and blufftop areas, in order to avoid a continuous wall effect. Even narrow corridors create visual interest and allow for sea breezes to refresh passersby...."

- Setbacks and view corridors should be kept clear of trash receptacles, utility boxes, storage materials, untrimmed landscaping or any other obstructions which may interfere with visual access.

In addition, the City's previously certified implementation plan (municipal code) required open fencing in the side yard areas not to exceed six feet in height with a three foot solid base and open fencing on top. Given that the proposed development is located between the first coastal road and sea, it is subject to the above-quoted LCP policies and ordinances that protect visual resources. As noted in the findings for substantial issue in the staff report dated 2/1/00, the City did an extensive visual analysis of the proposed

development. The subject site is located opposite of Saint Louis Terrace which is a public street that runs in an east-west direction and is perpendicular to the subject site. While traveling in a westerly direction along Saint Louis Terrace, there are existing horizon ocean views above the roofline of the existing residence (as well as other development adjacent to it). The views diminish as the street descends in elevation while approaching the subject site. In other words, the closer one approaches the site, the residence encroaches into the ocean horizon view above the roofline of the residence. While in front of the residence looking west, there are no longer views due to the presence of an existing very tall hedge. However, even if the hedge were not there, the existing residence would obstruct views across the site. In any case, neither the street that the subject site is located on (Spindrift Drive), nor Saint Louis Terrace are designated public view corridors in the certified LCP. As such, more stringent requirements that apply to designated view corridors do not apply to this site. However, the above-cited policies which provide for protection of views throughout side yards do apply regardless of whether the site or streets leading to the site are designated public view corridors. ~~There is an existing very tall hedge (approximately 10 ft. high) along the eastern property line adjacent to the street frontage which obstructs any views across the site from Saint Louis Terrace at Spindrift Drive. The hedge extends along the entire property line, except at each side yard. The hedge is proposed to remain with the subject proposal. The proposed substantial demolition/reconstruction of the residence will result in a portion of the roofline of the residence extending into the area where ocean horizon views currently can be seen from the upper portions of Saint Louis Terrace. However, because the subject site is not a designated public view corridor, this does not pose any conflicts with regard to the policies of the certified LCP addressing protection of designated public view corridors.~~

remodel

However, existing and proposed landscaping or fencing in the side yards should be designed in a manner that enhances public views toward the ocean to prevent a "walled off" effect, consistent with the policies of the certified LCP. The existing side yards are eight feet wide at the south side yard and nine feet wide at the north side yard, where the City requires a minimum width of four feet under its former implementing ordinances (municipal code) for sideyard setbacks for the subject residential zone where the existing residence is located. The existing setbacks are not proposed to be reduced through the proposed development.

within the front yard setback area

The existing tall hedge that is located along the eastern property line does not extend into the side yard setback areas. There appears to be taller, existing vegetation/landscaping currently in the side yard setback areas which presently blocks views toward the ocean. A small glimpse of the ocean is visible from the street looking west across the north side yard area but it is mostly obscured by the existing vegetation in this area. No views are presently available looking across the south side yard due to existing vegetation and other improvements in this location. In the review of past appeals between the sea and the first coastal road, the Commission has found that the LCP requires low landscaping to protect views, etc. In addition, the Commission has also historically required that fencing in the side yard areas be composed partially of open materials for the purposes of opening up views toward the ocean and preventing a walled off effect. The Commission has taken

the position in past similar projects (A-6-LJS-98-85/Holmes, A-6-LJS-98-169/Moncrieff) that through installation of open fencing in the side yard setbacks along the eastern frontage of the properties between the first coastal road and sea, a "window" to the ocean in the side yard setback areas can be preserved while looking west from the street elevation, as is supported by the policies of the certified LCP. Even small glimpses of the ocean while driving or walking by give passersby the feel of being close to the ocean and eliminates a continuous wall effect. As noted in the earlier cited LCP policy language, "...Even narrow corridors create visual interest and allow for sea breezes to refresh passersby..." In those cases where views would still not be achieved through installation of open fencing, it is still required to help to prevent a "walled off" effect.

Because the subject site is not located within a designated public view corridor, any proposed encroachment into the ocean horizon views that are visible from the upper portions of Saint Louis Terrace looking west do not raise an inconsistency with the certified LCP. However, for those properties located between the sea and the first coastal road, the LCP policies do call for the opening up side yard areas including keeping side yard areas free of untrimmed landscaping or other obstructions in addition to the installation of open fencing in order to prevent a "walled off" effect as well as to enhance any existing public views toward the ocean. Therefore, Special Condition #3 requires revised landscape/fence plans that includes that all landscaping in the side yard areas be limited to a height of three feet. The condition also requires that fencing in the side yard setback areas be limited to six feet in height and be composed of at least 50% open materials. As such, views toward the ocean in the sideyard setback areas will be enhanced and the open fencing will help to prevent a "walled-off" effect, consistent with the policies of the certified LCP.

*Within the
Front yard
Setback*

4. Public Access/Recreation. Both the certified LCP and the Coastal Act contain policies protecting physical access to the beach and ocean. The subject site is located between the first public roadway and the sea. The beach area is located south of La Jolla Shores which is one of the most popular beaches in San Diego County. The area seaward of the proposed seawall on the subject site is used by residents and beach-goers alike for strolling and other recreational activities. There is an existing improved vertical access easement two lots to the north at the Marine Room restaurant that provides access to this area of beach. While strolling along the beach in a southerly direction from La Jolla Shores, beach-goers can go a few lots south of the subject site; however, the bluffs become quite steep and the beach narrows further south such that physical access around the bluffs to La Jolla Cove is not possible. In addition, the waves come all the way up to the seawall at moderate to high tide conditions making lateral public access at these times not possible.

As noted in the findings for substantial issue, the subject site contains an existing seawall that was constructed prior to the Coastal Act. The seawall was constructed seaward of the natural bluff in order to provide for accessory improvements. Under the standards of the Coastal Act and the certified LCP, if this seawall were proposed today, it would likely be required to be located more landward, along the contour of the natural bluff edge to minimize adverse impacts to public access and sand supply. The existing seawall is

the adjacent
within the stringline of ~~other~~ seawalls in the area. As such, the existing seawalls in this area somewhat inhibit the amount of dry sandy beach area that is accessible to the public for lateral public access during ~~higher~~ *lower* tide conditions.

Section 30604(c) of the Act requires that a specific access findings be made for any project located between the first coastal roadway and the sea. The project site is located between the ocean and the first coastal roadway (Sprindrift Drive). As noted above, there is an existing vertical public access easement located at the Marine Room restaurant two lots to the south of the site which is used to gain access to the beach. In addition, the site is located about one-half mile from Kellogg Park and the La Jolla Shores beach recreational area, where unlimited access to the shoreline is provided. As such, the proposed project will not result in any adverse impacts to physical public access. Furthermore, as required in Section 30604(a) for development between the first public road and the sea, the project, as conditioned, is found consistent with all other public access and recreation policies of the Coastal Act. Special Condition No. 6 has been attached which serves notice to the applicant that by acceptance of the permit, the applicant acknowledges the potential public rights and/or public trust which may exist on the sandy beach area of the property and that the Commission's approval of the project may not be used or construed as a means to interfere with any kind of public rights.

5. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act.

The subject site is zoned SF and is designated for residential use in the La Jolla Shores PDO. The proposed existing single family residence is consistent with that zone and designation. The subject site is also located within the Sensitive Coastal Resource (SCR) overlay zone of the City's former implementation plan. The proposed residence, as conditioned, can be found consistent with the SCR overlay.

The certified La Jolla-La Jolla Shores LCP Addendum contains policies which address shoreline protective devices, protection of public access and protection and improvement of existing visual access to the shoreline and that ocean views should be maintained in future development and redevelopment. With regard to the proposed siting of the proposed residence, it has been documented that the proposed development will be safe for its anticipated life and that its proposed siting and configuration is not dependent on the existing seawall located seaward of it. Therefore, only as conditioned for revised building plans such that no development is permitted seaward of the 25 ft. geologic blufftop setback line, can the proposed development be found consistent with the certified Land Use Plan. In addition, the certified LUP calls for opening up of side yard areas to enhance visual access to the sea. Therefore, as conditioned such that all new proposed plantings within the sideyard setback be low level vegetation so as to not obstruct views toward the ocean in the sideyard setback areas, can the proposed development be found consistent with the Coastal Act and certified LUP. In summary,

New

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the proposed development, as conditioned, can be found consistent with the certified LCP and all applicable Chapter 3 policies of the Coastal Act.

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

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

The proposed project has been conditioned in order to be found consistent with the shoreline hazards, public access and visual resource policies of the Coastal Act. Mitigation measures, including conditions addressing geologic setback, future maintenance of non-conforming accessory improvements, landscaping and fencing, public rights and assumption of risk, will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.

6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

(G:\San Diego\LEEA-6-LJS-99-160 Summit Resources, L.P. DN stfpt.doc)

Project Site

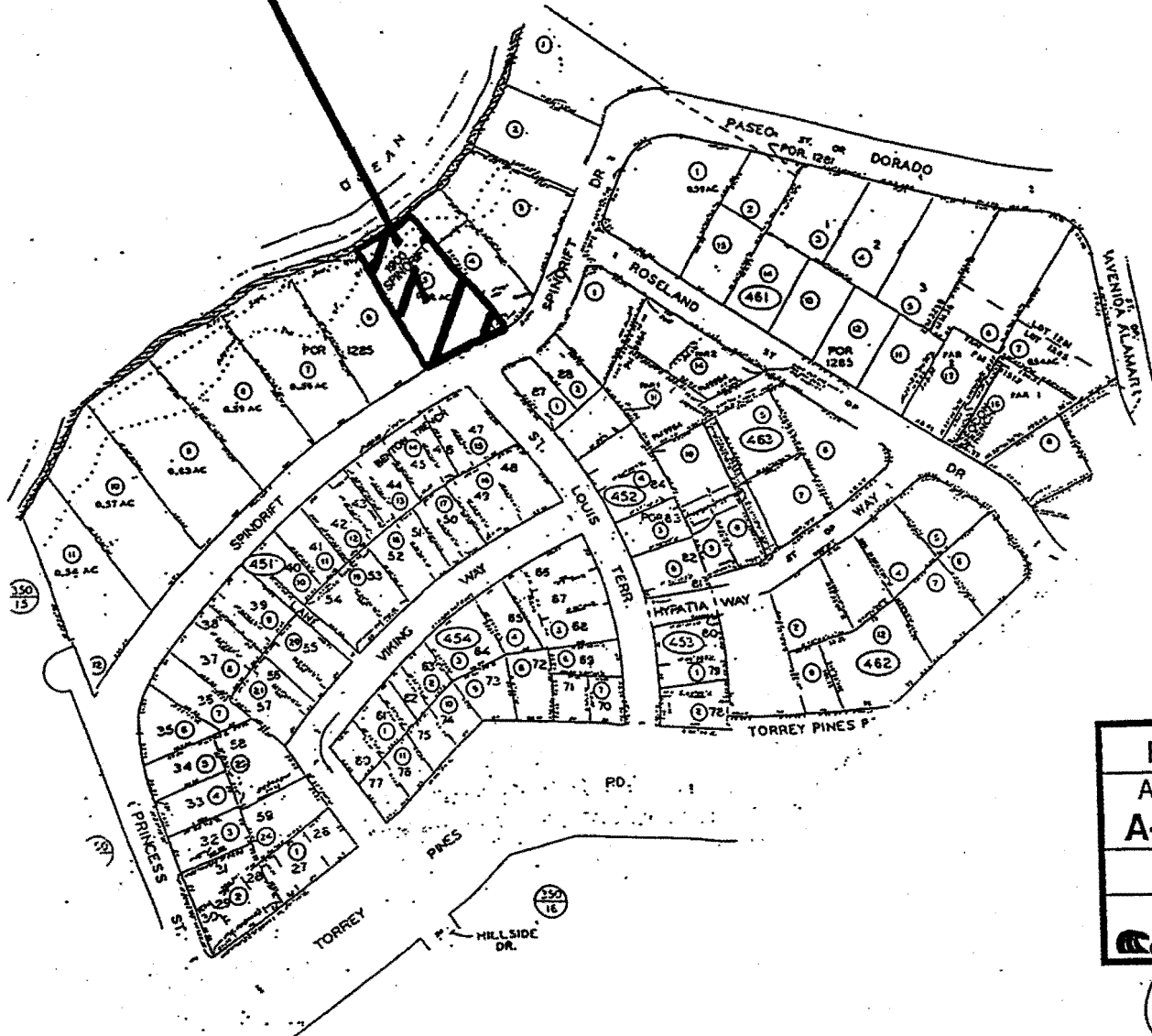
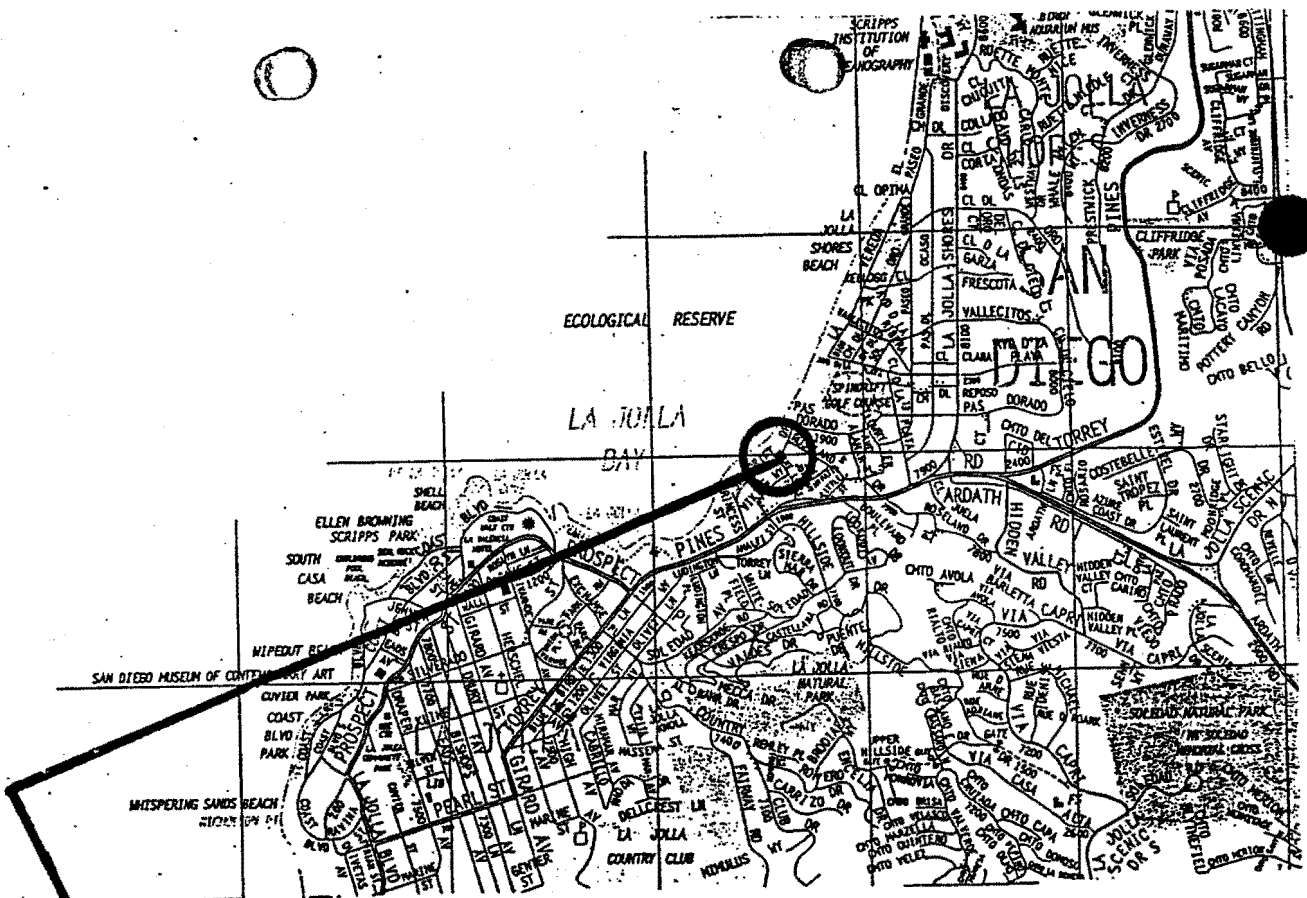


EXHIBIT NO. 1
APPLICATION NO.
A-6-LJS-99-160
Location Maps
California Coastal Commission

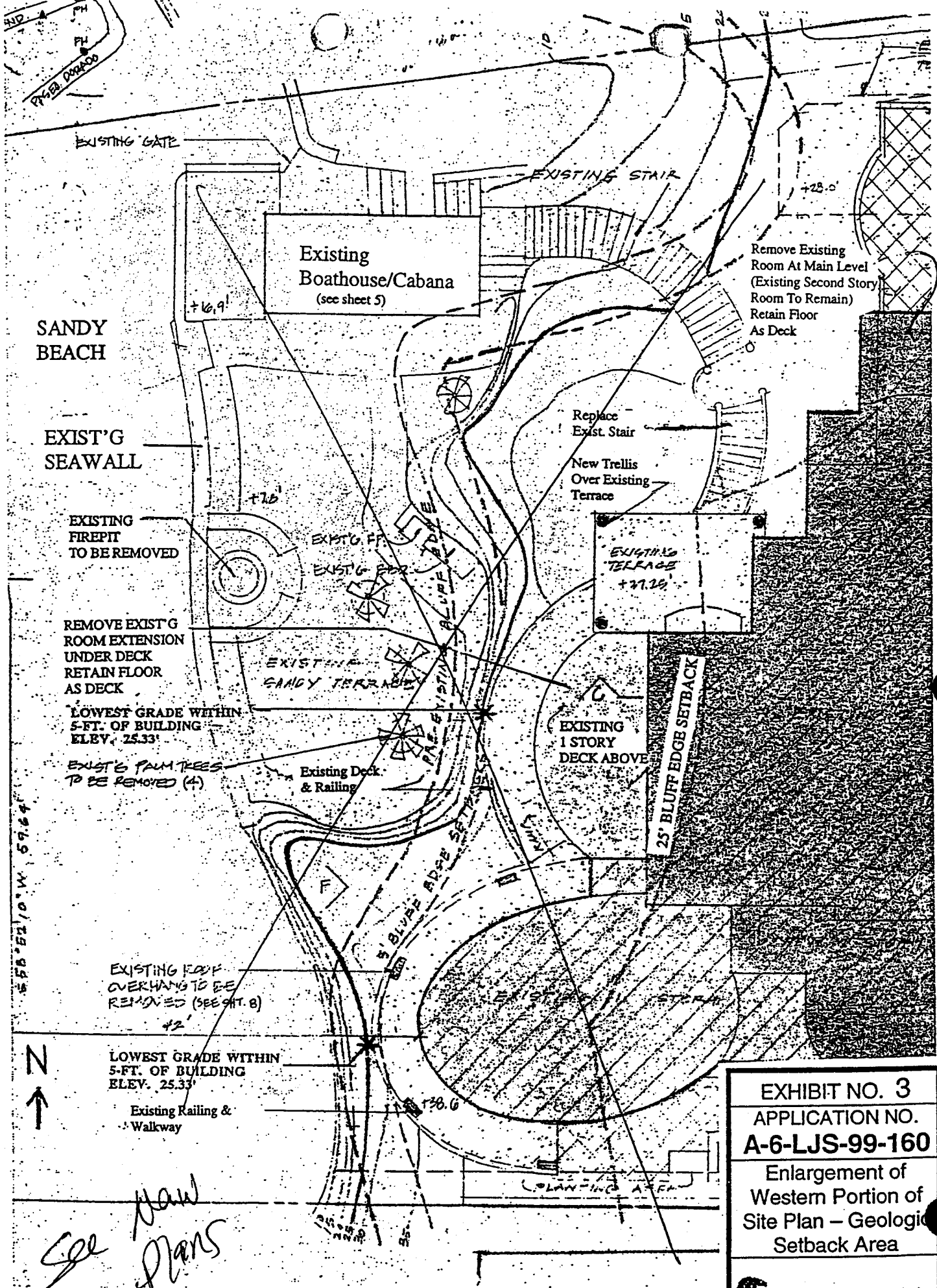


EXHIBIT NO. 3
APPLICATION NO.
A-6-LJS-99-160
Enlargement of
Western Portion of
Site Plan - Geologic
Setback Area
California Coastal Commission

GENERAL NOTES



**SIERRA
CLUB**
FOUNDED 1892

San Diego Chapter

Serving the Environment in San Diego and Imperial Counties

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

RECEIVED

APR 05 2000

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Hon. Sara Wan, Chair
California Coastal Commission
April 4, 2000

SUBJECT: MON 24c:Summit Resources, L.P; A-6-LJS-99-160

Dear Chairman Wan and Commissioners:

The San Diego Sierra Club, through its Coastal Committee, strongly supports the Staff recommendation on appeal for this project. Currently, there are at least seven shoreline projects in the San Diego pipeline which raise similar issues. Of particular importance in these projects are 1) the 50% demolition rule in regard to new development and nonconforming rights for existing structures; and 2) the protection of visual access to the shoreline. Because of the cumulative impacts to the shoreline and visual access from these multiple projects, as well as what we believe to be a serious misinterpretation by both the City and applicants' agents of the Local Coastal Program and Land Use Plan regulations and policies, we urge your adoption of **all** of the Special Conditions as recommended by staff. Such clarification by the Commission as to the correct interpretation of the LCP will help both applicants and the public in addressing future development. As such, the Special Conditions are critical to our support for this project.

1. The 50% demolition rule (SDMC 105.0204 A.1):

Both City staff and applicants' agents make the argument that the 50% demolition rule only refers to whether a CDP exemption may be obtained. Since a CDP was required and obtained, they believe they have satisfied the regulations. Our interpretation, to the contrary, has been that of your staff. We believe the requirement for a CDP indicates that the project constitutes "new development," which, accordingly, requires conformance with current Local Coastal Program and Land Use Plan regulations and policies. In this case, therefore, we believe the proposed project should observe current geologic setback requirements since more than 50% of the existing structure is apparently being demolished.

Should the nonconforming portions of the structure be retained seaward of the geologic setback line, the existing nonconformity would be dramatically increased through the sheer bulk and scale of an essentially new structure in a geologically hazardous location, such that future shoreline protection requirements could become problematic by eliminating the possibility of alternative considerations of the least environmentally damaging alignment and design.

3820 Ray Street, San Diego, CA 92104-3623
www.sierraclub.org



EXHIBIT NO. 17
APPLICATION NO.
A-6-LJS-99-160
Letter From Sierra
Club in Support
of Staff
Recommendation



California Coastal Commission



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

Summit Resources

Page 2

April 5, 2000

2. Visual Access:

Both the Appeal and the Staff Report correctly state the visual resource policies of the certified La Jolla-La Jolla Shores LCP Land Use Plan. While the community anticipated specific implementation of those policies after certification of the 1983 Plan, it rarely happened. Thus, in an effort to insure the implementation intended since 1983, the requisite specificity has been included in the 2000 Land Development Code. Thus, we strongly support Staff's Conditions requiring opening up of side yards and fences in order to prevent the continuous wall effect that has been created since 1983 through failure of both implementation and enforcement. And we believe both the 1999 Municipal Code, as well as the 2000 Land Development Code support Staff's position.

3. Enforcement:

In San Diego, it is well known that enforcement of code violations is almost nonexistent, because of the City's budget choice to restrict funding for both the Code Enforcement Dept. and the Park and Recreation Dept. Currently, much enforcement is allocated to lifeguards. Given this reality, we would appreciate clarification from the Commission as to what mechanism exists, or will be used, beyond the deed restriction, to ensure the prohibition against maintenance and repair of the nonconforming accessory structures and to assure the maintenance of landscaping to provide visual access through the sideyard setbacks. Who will monitor these conditions?

4. Conclusion:

The San Diego Sierra Club greatly appreciates the dedication, persistence, and professionalism of the local Coastal Staff in addressing this difficult project. The Staff recommendations, if adopted, will go far in bringing shoreline development in San Diego into compliance with the letter and intent of the certified LCP and La Jolla Land Use Plan. Thank you for your consideration.

Sincerely yours,

Joanne H. Pearson, Co-Chair

San Diego Sierra Club Coastal Committee



THE WILLIS ALLEN COMPANY

ANDREW E. NELSON
President

Exclusive Affiliate

SOTHEBY'S
INTERNATIONAL REALTY

January 24, 2000

Rusty Areias
Chairman
California Coastal Commission
1400 "N" Street, Suite 9
Sacramento, CA 95814

RECEIVED

JAN 27 2000

CALIFORNIA
COASTAL COMMISSION

RECEIVED

JAN 28 2000

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Re: 1900 Spindrift Drive, La Jolla

Dear Chairman:

I am writing again on behalf of the proposed project to be constructed at 1900 Spindrift in La Jolla, California 92037.

I have reviewed the plans in detail and give my complete endorsement and support for this project. It's not often an architect can create something that matches a site as well as this and I salute the architect, Don Edson, for his work.

The plan shows a home that will fit in well with the established character of La Jolla neighborhoods. The style and setting well represents our La Jolla coastal community.

I urge you to approve the owners design plan. Thank you ahead of time for your thoughtful consideration of this project.

Very truly yours,

Willis Allen Company

Andrew E. Nelson
President/CEO

cc: Peter Douglas
California Coastal Commission
45 Fremont Street, #2000
San Francisco, CA 94105-2219

EXHIBIT NO. 18
APPLICATION NO.
A-6-LJS-99-160
Letter From
Interested Party in
Support of
Applicant's Proposal

858.459.4033 La Jolla Office • Fax: 858.459.7538 • Direct: 858.459.4035 ext
1131 Wall Street, La Jolla, CA 92037 • P.O. Box 1887, La Jolla, CA 92037

 California Coastal Commission

RECORDING REQUESTED BY
CITY OF SAN DIEGO
PLANNING & DEVELOPMENT REVIEW

AND WHEN RECORDED MAIL TO
PERMIT INTAKE
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

LA JOLLA SHORES PLANNED DISTRICT/COASTAL DEVELOPMENT AND
SENSITIVE COASTAL RESOURCE OVERLAY ZONE PERMITS NO. 99-0007


(MMRP)
1900 SPINDRIFT DRIVE
PLANNING COMMISSION

This Permit, is granted by the PLANNING COMMISSION of the City of San Diego to SUMMIT RESOURCES, L.P., Owner/Permittee pursuant to Sections 103.0300, 111.1201, 101.0480 AND 111.0508 of the Municipal Code of the City of San Diego. The 0.56 acre site is located at 1900 Spindrift Drive at the intersection with Saint Louis Terrace in the SF (Single-Family) zone of the La Jolla Shores Planned District within the boundaries of the La Jolla Community Plan area. The project site is legally described as a Portion of Pueblo Lot 1285, Map No. 1762.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/Permittee to remodel an existing 9,960 square-foot residence, demolishing 4,745 square-feet and adding 9,415 square-feet, resulting in a 14,630 square-foot residence with a 0.59 Floor Area Ratio, described as, and identified by size, dimension, quantity, type and location on the approved Exhibits "A", dated December 2, 1999, on file in the Planning and Development Review Department. The facility shall include:

- a. Remodel an existing 9,960 square-foot single-family residence with demolition and new construction resulting in a 14,630 square-foot residence with a FAR of 0.59;
- b. Landscaping (planting, irrigation and landscape related improvements); and
- c. Off-street parking facilities; and
- d. Maintenance of an existing boathouse, walls, fences, decks and mature landscaping.
- e. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted Community Plan, California Environmental Quality Act guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this permit, and any other applicable regulations of the Municipal Code in effect for this site.

1. Construction, grading or demolition must commence and be pursued in a diligent manner within 36 months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within 36 months will automatically void the permit unless an

EXHIBIT NO. 19
APPLICATION NO. A-6-LJS-99-160
City's LJ Shores PDO/CDP/SCR Permit #99-0007
(1 of 15)
 California Coastal Commission

Extension of Time has been granted. Any such Extension of Time must meet all the Municipal Code requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decisionmaker.

2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this permit be conducted on the premises until:

- a. The Permittee signs and returns the Permit to Planning and Development Review; and
- b. The Permit is recorded in the office of the San Diego County Recorder.

3. Unless this permit has been revoked by the City of San Diego the property included by reference within this permit shall be used only for the purposes and under the terms and conditions set forth in this permit unless otherwise authorized by the City Manager.

4. This permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.

5. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.

6. Issuance of this permit by the City of San Diego does not authorize the applicant for said permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. Section 1531 et seq.)

7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and/or site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated December 2, 1999, on file in the Planning and Development Review Department. No change, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted.

9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this discretionary permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded special rights which the holder of the Permit is obtaining as a result of this Permit. It is the intent of the City that the Owner of the property which is the subject of this Permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the Owner of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner complies with all the conditions of the Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable

or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new Permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the Permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove or modify the proposed Permit and the condition(s) contained therein.

10. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the Coastal Commission of the Notice of Final Action, following all appeals.

11. Title Restrictions. Prior to the commencement of any work or activity authorized by this permit, the Owner/Permittee shall execute a Notice of Hazardous Condition-Indemnification and Hold Harmless Agreement, in a form and content acceptable to the Development Services Director, or designated representative which shall provide: a) that the applicant understands that no new accessory structures and landscape features customary and incidental to residential uses shall be developed within five feet of the Bluff Top (as illustrated on approved plan Exhibit "A," dated December 2, 1999, on file in the Planning and Development Review Department) or on the face of the Bluff; and b) that the applicant understands that the site may be subject to extraordinary hazard from coastal bluff erosion and the applicant assumes the liability from such hazards; and c) the applicant unconditionally waives any claim of liability against the City of San Diego and agrees to defend, indemnify and hold harmless the City of San Diego and its advisors relative to the City of San Diego's approval of the project and for any damage due to natural hazards. This Notice of Hazardous Conditions-Indemnification and Hold Harmless Agreement shall be recorded against title to the property and shall run with the land, binding upon all successor and assigns.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

12. The owner/permittee shall comply with the Mitigation, Monitoring and Reporting Program (MMRP) as specified in Mitigated Negative Declaration No. 99-0007 (LDR No. 99-0007), to the satisfaction of the City Manager and the City Engineer. Prior to the issuance of the first grading permit and/or recordation of the first final map, all mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas: Historical Resources and Geology.

ENGINEERING REQUIREMENTS:

13. Prior to the issuance of any building permits, the applicant shall obtain a grading permit from the City Engineer (referred to as an "engineering permit") for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

14. The drainage system proposed with this development is subject to approval by the City Engineer.

15. Prior to building occupancy, the applicant shall conform to the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

16. The "Notice of Geologic Conditions", signed by the owner, must be recorded with the County Recorder before or concurrent with issuance of a permit. The notice reflects the potential for ground rupture along the potentially active fault trace discovered during the investigation.

PLANNING/DESIGN REQUIREMENTS:

17. No fewer than two (2) off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibits "A," dated December 2, 1999, on file in the Planning and Development Review department.

18. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

19. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this permit.

20. A topographical survey conforming to the provisions of the Municipal Code may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this permit or a regulations of the underlying zone. The cost of any such survey shall be borne by the permittee.

21. Any future requested amendment to this permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

22. No building additions, including accessory structures and uses, shall be permitted unless approved by the City Manager.

23. The Owner/Permittee acknowledges that the existing rear coastal bluff pool cabana does not conform to current Municipal Code - Development Standards. The City will not require removal of the non-conforming pool cabana at this time, due to the anticipated adverse effects on the coastal bluff face. It is anticipated that the pool cabana will deteriorate over a period of time. It is the owner/Permittee's responsibility to remove the pool cabana, and associated debris (everything except the cabana's footings) as it deteriorates naturally or in the event unsafe conditions exist. It is also understood by the Owner/Permittee that the non-conforming pool cabana is not to be repaired or maintained to extend the period of use, but simply to let the pool cabana deteriorate naturally to the point at which it needs to be removed, as earlier stated.

24. Pursuant to the San Diego municipal code, the aggregate value of the proposed repairs or alterations to non-conforming structures, shall not exceed fifty (50) percent of the fair market value of the improvements. Prior to the issuance of any building permits, the applicant shall provide property assessment and construction estimates in compliance with this provision.

25. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.
26. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
27. No merchandise, material or equipment shall be stored on the roof of any building.
28. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure and in compliance with the applicable building height regulations.

LANDSCAPE REQUIREMENTS:

29. Prior to issuance of any building permits, complete landscape construction documents, including plans, details and specifications (including a permanent automatic irrigation system unless otherwise approved), shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated December 2, 1999,, on file in the Planning and Development Review Department. No change, modification or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.
30. Prior to issuance of grading permits, interim landscape and erosion control measures for those slopes requiring revegetation, shall be submitted to the satisfaction of the City Manager and City Engineer. All plans shall be in substantial conformance to Exhibit "A," dated December 2, 1999, on file in the Planning and Development Review Department and all other applicable conditions of related permits.
31. Prior to final inspection it shall be the responsibility of the Permittee to install all required landscape and obtain all required landscape inspections and to obtain a No Fee Street Tree Permit for the installation, establishment and on-going maintenance of all street trees. Copies of these approved documents must be submitted to the City Manager.
32. All required landscape shall be maintained in a disease, weed and litter free condition at all times and shall not be modified or altered unless this Permit has been amended. Modifications such as severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit. The Permittee, or subsequent Owner shall be responsible to maintain all street trees and landscape improvements consistent with the standards of the Landscape Technical Manual.
33. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved plans is damaged or removed during demolition, it shall be repaired and/or replaced in kind and equivalent size per the approved plans within 30 days of completion of construction by the Permittee. The replacement size of plant material after three years shall be the equivalent size of that plant at the time of removal (the largest size commercially available and/or an increased number) to the satisfaction of the City Manager.
34. The irrigation system shall incorporate the following items:
 - a. Include and install a City-approved electrically controlled automatic rain shut-off device.

- b. Include and install a City approved moisture-sensing device for turf irrigation circuits.
- c. Include and install low precipitation rate nozzles. Heads shall be located to minimize overspray. Adjustment and timing of the heads shall be coordinated to reduce the potential for run-off.
- d. Include and install an irrigation electric controller. The controller shall be seasonally adjusted to operate the system with the least practical amount of water applied (minimum ETO).

APPROVED by the PLANNING COMMISSION of the City of San Diego on December 2, 1999.

ALL-PURPOSE CERTIFICATE

Type/Number of Document: LJS/CDP/SCR No. 99-0007
Date of Approval: December 2, 1999.

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

Robert Korch, Development Project Manager

On _____ before me, BETH ANN CARROLL (Notary Public), personally appeared Robert Korch, Development Project Manager of Planning and Development Review of the City of San Diego, personally known to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

Signature _____
Beth Ann Carroll

(Seal)

ALL-PURPOSE CERTIFICATE

OWNER(S)/PERMITTEE(S) SIGNATURE/NOTARIZATION:

THE UNDERSIGNED OWNER(S)/PERMITTEE(S), BY EXECUTION THEREOF, AGREES TO EACH AND EVERY CONDITION OF THIS PERMIT AND PROMISES TO PERFORM EACH AND EVERY OBLIGATION OF OWNER(S)/PERMITTEE(S) THEREUNDER.

Signed _____ Signed _____
Typed Name Typed Name

STATE OF _____
COUNTY OF _____

On _____ before me, _____ (Name of Notary Public) personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

PLANNING COMMISSION
RESOLUTION NO.
LA JOLLA SHORES PLANNED DISTRICT/COASTAL DEVELOPMENT AND
SENSITIVE COASTAL RESOURCE PERMITS NO. 99-0007(MMRP)
1900 SPINDRIFT

WHEREAS, SUMMIT RESOURCES, L.P., Owner/Permittee, filed an application with the City of San Diego for a permit to remodel an existing 9,960 square-foot residence; demolishing 4,745 square-feet and adding 9,415 square-feet to result in a 14,630 square-foot residence (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 99-0007, on portions of a 0.56 acre site and;

WHEREAS, the project site is located at 1900 Spindrift drive at the intersection of Saint Louis Terrace in the SF zone of the La Jolla Shores Planned District and within the boundaries of the La Jolla Community Plan area and;

WHEREAS, the project site is legally described as a Portion of Pueblo Lot 1285, Map No. 1762, and;

WHEREAS, on December 2, 1999, the PLANNING COMMISSION of the City of San Diego considered LJS/CDP/SCR Permit No. 99-0007 pursuant to Sections 103.0300, 111.1201, 101.0480 and 111.0508 of the Municipal Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the PLANNING COMMISSION of the City of San Diego as follows:

That the PLANNING COMMISSION adopts the following written Findings, dated December 2, 1999.

FINDINGS:

LA JOLLA SHORES (PDO) ~ (MUNICIPAL CODE SECTION 103.0300)

- A. THE PROPOSED CONSTRUCTION AND USE OF THIS SITE MEETS ALL TECHNICAL REQUIREMENTS SET FORTH IN THE ADOPTED LA JOLLA SHORES PLANNED DISTRICT ORDINANCE AND THE LA JOLLA SHORES DESIGN MANUAL RELATING TO ARCHITECTURAL STYLE, VARIETY AND DIVERSITY IN DESIGN, HEIGHT, LOT COVERAGE, LANDSCAPING, ORIGINALITY, AND NO VARIANCES ARE REQUIRED.

The subject 0.56 acre site is existing fully developed with a 9,960 square-foot single-family residence, accessory bunk house, boat house, guest quarters and other accessory improvements. The project site is within a neighborhood of diverse lot configurations and diverse architectural styles. The project site is on a bluff top over the Pacific Ocean and surrounded on the remaining three sides by

similar development. The existing house dates to 1928 and was designed and resided in by persons of significance and, although the structure and site are environmentally historically significant, the property has not been designated by the Historical Sites Board.

The project proposes to demolish 4,745 square-feet of existing improvements and construct 9,415 square-feet of new improvements resulting in a total floor area of 14,630 square-feet and a Floor Area Ratio of 0.58 and a building height of 28-feet 8-inches. The existing architectural style is being modified with a sense of retention of some of the existing style. Materials utilized for the roof, walls, windows and trim are compatible with the neighborhood, as specified in the La Jolla Planned District Ordinance and consistent with the existing architectural structure. The La Jolla Planned District Advisory Board has reviewed the project and found that it conformed to the PDO and the La Jolla Shores Design Manual.

B. THE PROPOSED CONSTRUCTION AND USE OF THIS SITE IS CONSISTENT WITH THE LA JOLLA SHORES PLANNED DISTRICT ORDINANCE WHICH STATES THAT PUBLIC VIEWS FROM PUBLIC RIGHTS-OF-WAY AND PUBLIC PLACES SHALL BE PROTECTED.

The project site is on the coastal bluff overlooking the Pacific Ocean and is opposite the intersection of St. Louis Terrace which intersects with Spindrift Drive. The site is occupied with existing improvements of a single-family residence and accessory structures on the 24,461 square-foot lot. The property is surrounded by similar development on both sides and has an overheight hedge on the front propertyline. The site is not shown for coastal view on the La Jolla/ La Jolla Shores Local Coastal Program and is not generally accepted as providing any existing views to the coast or ocean from any adjoining public rights-of-ways. The partial demolition and new construction will not alter any existing public views or impact public places.

C. THE PROPOSED USE WILL NOT ADVERSELY AFFECT THE CITY'S PROGRESS GUIDE AND GENERAL PLAN, THE LA JOLLA COMMUNITY PLAN OR THE LA JOLLA SHORES PRECISE PLAN.

The demolition of 4,745 square-feet of an existing 9,960 square-foot single-family home and new construction of 9,415 square-feet of floor area to result in a total of 14,630 square-feet on a 24,461 square-foot lot, will not adversely affect the City of San Diego Progress Guide and General Plan or the La Jolla Community Plan and La Jolla Shores Precise Plan that designate this site for single-family use consistent with the design as proposed and as sited.

COASTAL DEVELOPMENT ~(Municipal Code Section 105.0202)

A. THE PROPOSED DEVELOPMENT WILL NOT ENCROACH UPON ANY

EXISTING PHYSICAL ACCESSWAY LEGALLY UTILIZED BY THE GENERAL PUBLIC OR ANY PROPOSED PUBLIC ACCESSWAY IDENTIFIED IN AN ADOPTED LCP LAND USE PLAN; NOR WILL IT OBSTRUCT VIEWS TO AND ALONG THE OCEAN AND OTHER SCENIC COASTAL AREAS FROM PUBLIC VANTAGE POINTS.

The proposed development will result in the partial demolition of an existing single-family detached residence and accessory structures and the addition of new floor area and improvements to a 24,461 square-foot SF zoned lot located at 1900 Spindrift Drive overlooking the Pacific Ocean from atop a 22-foot high coastal bluff. No existing physical public accessway or proposed accessway exists or is proposed within the La Jolla/La Jolla Shores Local Coastal Program and this Program does not identify any public views or view corridors across this property. This property, by the shape and configuration of the coastline to the north, south and west, affords views of other bluff, beach and coastal improvements and this property is visible from these other locations as well, however, the improvements as ultimately to be built-out, will become the view from these points but will not be in conflict with the provisions of these plans and programs.

B. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT IDENTIFIED MARINE RESOURCES, ENVIRONMENTALLY SENSITIVE AREAS, OR ARCHAEOLOGICAL OR PALEONTOLOGICAL RESOURCES.

This 0.56 acre lot was developed 70 years ago with a single-family residence that has been modified a number of times in the intervening years. The current project proposes a partial demolition and new construction to result in a 14,630 square-foot residence. The site has an existing seawall, boat house and other minor improvements on the ocean bluffs and lower beach areas of the lot as well as structural improvements within the 40-foot blufftop setback and 25-foot blufftop setback permissible with a supporting geotechnical report. The project approval will require removal of landscaping installed on the sandy beach areas. The Environmental Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program No. 99-0007, requires archaeological monitoring and recovery and that a "Notice of Geologic and Geotechnical Conditions" be signed by the owner and recorded that reflects the potential for ground rupture along the fault trace discovered on-site. No other adverse affect have been identified on Marine Resources, environmentally sensitive areas or archaeological or paleontological resources.

C. THE PROPOSED DEVELOPMENT WILL COMPLY WITH THE REQUIREMENTS RELATED TO BIOLOGICALLY SENSITIVE LANDS AND SIGNIFICANT PREHISTORIC AND HISTORIC RESOURCES AS SET FORTH IN THE RESOURCE PROTECTION ORDINANCE, CHAPTER X, SECTION 101.0462 OF THE SAN DIEGO MUNICIPAL

CODE, UNLESS BY THE TERMS OF THE RESOURCE PROTECTION ORDINANCE, IT IS EXEMPTED THEREFROM.

The remodel of an existing single-family residence with a partial demolition and new additions on a 0.56 acre lot in the SF (single-family) zone within the La Jolla Shores Planned District, will comply with the biologically sensitive lands and significant prehistoric and historic resources provisions of the Resource Protection Ordinance. No biologically sensitive lands are within this project area and previously added landscaping on the sandy beach area will be required to be removed. The property and improvements therein, were considered by the City of San Diego Historical Sites Board for possible designation but was not deemed to qualify. Because of the age of the improvements existing on the site and location, requirements for Historical Resources have been identified in the accompanying Mitigated Negative Declaration and made a part of the conditions for approval of the project.

D. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT IDENTIFIED RECREATIONAL OR VISITOR-SERVING FACILITIES OR COASTAL SCENIC RESOURCES.

This site is not identified in the La Jolla/La Jolla Shores Local Coastal Program as a public view corridor to or from the ocean and the site is within a developed single-family neighborhood. A private recreational club is located to the north and a public beach and park lie beyond that. The remodeling of this residence through a partial demolition and new construction will have no adverse affects on these identified recreational and visitor serving facilities and coastal scenic resources.

E. THE PROPOSED DEVELOPMENT WILL BE SITED AND DESIGNED TO PREVENT ADVERSE IMPACTS TO ENVIRONMENTALLY SENSITIVE HABITATS AND SCENIC RESOURCES LOCATED IN ADJACENT PARKS AND RECREATION AREAS, AND WILL PROVIDE ADEQUATE BUFFER AREAS TO PROTECT SUCH RESOURCES.

The existing single-family residence requesting to be remodeled, will have no adverse impacts on scenic resources or parks and recreation areas as specified in Item D above. Private recreation and public parks are located to the north and are not adjacent to this site which shares common lot lines with similar zoned and utilized properties. A geotechnical report has been completed which analyzed stability of the site for the location of the existing and proposed improvements and staff review and completion of a Mitigated Negative Declaration have investigated any possible impacts to sensitive habitats and scenic resources and found that there are no adverse impacts associated with this proposed project.

F. THE PROPOSED DEVELOPMENT WILL MINIMIZE THE

ALTERATIONS OF NATURAL LANDFORMS AND WILL NOT RESULT IN UNDUE RISKS FROM GEOLOGIC AND EROSIONAL FORCES AND/OR FLOOD AND FIRE HAZARDS.

The site is existing improved since the 1920's and is a relatively flat with a slope towards the ocean bluff that descends about 22-feet to the beach area below. The site requires minor alteration of existing grades and through review of a required geotechnical report, has been determined that the partial demolition and new construction to the residence will not result in undue risks from geologic and erosional forces. A seawall already exists on the bluff/beach that has protected the site from natural erosion and also protected the house above which is considered a blufftop improvement. No flood or fire risks or hazards are unaddressed by this project.

- G. THE PROPOSED DEVELOPMENT WILL BE VISUALLY COMPATIBLE WITH THE CHARACTER OF THE SURROUNDING AREA, AND WHERE FEASIBLE, WILL RESTORE AND ENHANCE VISUAL QUALITY IN VISUALLY DEGRADED AREAS.**

This area of the La Jolla Shores Planned District is composed of older single-family homes punctuated by newer construction following demolition and other remodeled homes. It is an area of individually designed and sited homes that offers owners wider choices in design to maintain the character of the area. The area is not considered visually degraded. The partial demolition and new additions proposed to this existing residence will result in a maintaining of architectural integrity and visual quality of the site and neighborhood.

- H. THE PROPOSED DEVELOPMENT WILL CONFORM WITH THE CITY'S PROGRESS GUIDE AND GENERAL PLAN, THE LOCAL COASTAL PROGRAM, AND ANY OTHER APPLICABLE ADOPTED PLANS AND PROGRAMS IN EFFECT FOR THIS SITE.**

The maintenance of this existing single-family residence conforms to the La Jolla Shores Planned District Ordinance, the La Jolla Community Plan and the Progress Guide and General Plans, the La Jolla/La Jolla Shores Local Coastal Program and all other City Ordinances, Codes and Policies for development of this lot. Through this application and review for the goals and purposes of the ordinances and the completion of a Mitigated Negative Declaration, this determination has been made.

SENSITIVE COASTAL RESOURCE ~(MUNICIPAL CODE SECTION 101.0480)

- A. THE PROPOSED DEVELOPMENT WILL BE SITED, DESIGNED, AND CONSTRUCTED TO MINIMIZE, IF NOT PRECLUDE, ADVERSE IMPACTS UPON SENSITIVE COASTAL RESOURCES AND**

ENVIRONMENTALLY SENSITIVE AREAS.

The 24,461 square-foot single-family zoned lot is improved with an existing 9,960 square-foot residence and accessory improvements including a seawall, boat house, landscaping and other minor improvements. The partial demolition and new construction proposed has been sited and designed to meet the City of San Diego bluff top setback as permitted based on a supporting Geotechnical Report and to utilize the large buildable area present. The improvements have been reviewed as well and recommended for approval by the La Jolla Shores Planned District Advisory Board. The proposed development will minimize and preclude to the extent possible, adverse impacts to sensitive coastal resources and environmentally sensitive areas.

- B. THE PROPOSED DEVELOPMENT WILL NOT ENCROACH UPON ANY EXISTING PHYSICAL ACCESSWAY LEGALLY UTILIZED BY THE GENERAL PUBLIC OR ANY PROPOSED PUBLIC ACCESSWAY IDENTIFIED IN THE ADOPTED COMMUNITY PLAN; NOR WILL IT OBSTRUCT VIEWS TO AND ALONG THE OCEAN AND OTHER SCENIC COASTAL AREAS FROM PUBLIC VANTAGE POINTS.**

The proposed development will result in the partial demolition of an existing single-family detached residence and accessory structures and the addition of new floor area and improvements to a 24,461 square-foot SF zoned lot located at 1900 Spindrift Drive overlooking the Pacific Ocean from atop a 22-foot high coastal bluff. No existing physical public accessway or proposed accessway exists or is proposed within the La Jolla/La Jolla Shores Local Coastal Program and this Program does not identify any public views or view corridors across this property. This property, by the shape and configuration of the coastline to the north, south and west, affords views of other bluff, beach and coastal improvements. This property is visible from these other locations as well, however, the improvements as ultimately to be built-out, will become the view from these points but will not be in conflict with the provisions of these plans and programs.

- C. THE PROPOSED DEVELOPMENT WILL MINIMIZE THE ALTERATION OF NATURAL LANDFORMS AND WILL NOT RESULT IN UNDUE RISK FROM GEOLOGIC AND EROSIONAL FORCES AND/OR FLOOD AND FIRE HAZARDS ON SITE.**

Minimal grading is proposed to this existing improved 24,461 square-foot single-family zoned lot located atop a 22-foot coastal bluff. A Geotechnical report has been submitted and reviewed with the City's Geologists accepting the conclusions within the report. No new development will be nearer than 25-feet to the bluff top and the Mitigation Monitoring and Reporting Program in conjunction to the Mitigated Negative Declaration, requires that proof of a "Notice of Geologic and Geotechnical conditions" be signed by the owner/permittee and recorded with the

county Recorder prior to the issuance of building permits. Site drainage and roof top drainage is required to be directed to the City street to the east and not over the bluff to the ocean below in order to minimize risk of erosion to the bluff and beach. The Fire marshal has reviewed the project application and determined that fire risks and hazards have been adequately addressed.

- D. THE PROPOSED DEVELOPMENT WILL NOT CONTRIBUTE TO THE EROSION OF PUBLIC BEACHES OR ADVERSELY IMPACT LOCAL SHORELINE SAND SUPPLY. SHORELINE PROTECTIVE WORKS WILL BE DESIGNED TO BE THE MINIMUM NECESSARY TO ADEQUATELY PROTECT EXISTING PRINCIPAL STRUCTURES, TO REDUCE BEACH CONSUMPTION AND TO MINIMIZE SHORELINE ENCROACHMENT.**

This 24,461 square-foot SF (single-family) zoned lot is improved with an existing 9,960 square-foot residence and accessory uses, including a boat house, seawall and other shoreline improvements. Proposed partial demolition and new construction will result in a total floor area of 14,630 square-feet of improvement. New development, based on a Geotechnical Report, will be a minimum of 25-feet back of the bluff top and through conditions in the accompanying La Jolla Shores Planned District Permit, Coastal Development Permit and Sensitive Coastal Resource Permit, will remove non-approved existing landscaping from the sandy beach area and condition the non-conforming boat house and other improvements to limited repair and maintenance. Improvements to the existing structure and site will not contribute to erosion of public beaches or adversely impact local shoreline sand supply. All surface and rooftop drainage is to be intercepted on site and directed to the street to flow through the City drainage system. No new shoreline protective works are proposed with this permit.

- E. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE CITY'S PROGRESS GUIDE AND GENERAL PLAN, THE LOCAL COASTAL PROGRAM, OR ANY OTHER APPLICABLE ADOPTED PLANS AND PROGRAMS IN EFFECT FOR THIS SITE.**

The proposed demolition of a portion of an existing single-family residence and construction of new additions on a lot located between Spindrift Drive and the Pacific Ocean, has been reviewed by City Staff, the La Jolla Shores Advisory Board and the La Jolla Community Planning Board as the project pertains to the City of San Diego Progress Guide and General Plan, the La Jolla/La Jolla Shores Local Coastal Program, the La Jolla Community Plan and La Jolla Shores Planned District Ordinance and existing SF zoning and all other related codes, ordinances and policies. The project has been found in compliance as proposed and will not adversely affect these identified plans and programs.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the PLANNING COMMISSION, LJS/CDP/SCR Permit No. 99-0007, is hereby GRANTED by the PLANNING COMMISSION to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 99-0007, a copy of which is attached hereto and made a part hereof:

ROBERT KORCH

Project Manager
Planning and Development Review

LINDA LUGANO

Legislative Recorder to the
Planning Commission

Adopted on: December 2, 1999.

ASSESSMENT AND RIGHT OF WAY
A DRIVEWAY FROM SPINDRIFT
E. TOGETHER WITH THE EXCLUSIVE
PERPETUAL RIGHT TO PLANT,
FOR, AND MAINTAIN SHRUBS,
AND VINES WESTERLY OF SAID
OF WAY PER DEED IN BOOK 534
338 OF OFFICIAL RECORDS
DATED SEPTEMBER 20, 1954.

OF AREA EQUALS:
1 50. FT.
C ACRES)

TOP OF SEAWALL
AVG. ELEV. = 11.0

SANDY
BEACH

SAND LEVEL - ELEVATION 4.5
PROPOSED SURVEY STATION

Bluff edge per applicant

NORTH

ROSE CANYON FAULT ZONE

Bluff edge at this point
beneath structure is as
shown on cross-section A-A
of Christian-Wheeler report
(exhibit 11 of this report)

Bluff edge concealed
by vegetation; line
shown is approximate

25 foot setback per applicant

Approximate 25-foot geologic setback line

Bluff edge concealed
by gunitite and struc-
tures; line shown
is hypothetical

25 feet

Exhibit 20 - A-6-LJS-99-160
Approximate location of
existing bluff edge

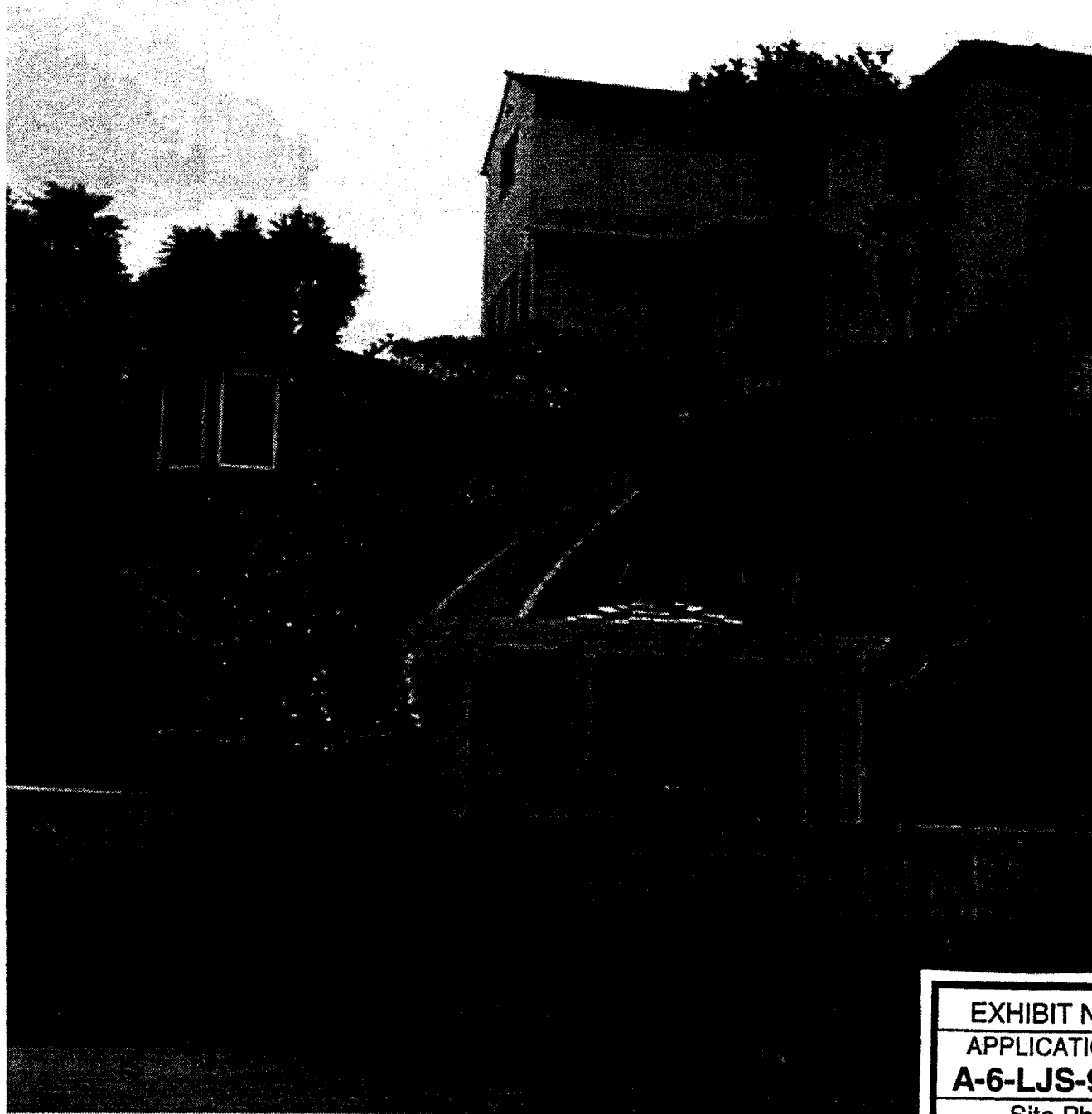


EXHIBIT NO. 21
APPLICATION
A-6-LJS-99-160
Site Photos

