

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
 7575 METROPOLITAN DRIVE, SUITE 103
 SAN DIEGO, CA 92108-4402
 (619) 767-2370



Fri 16f

RECORD PACKET COPY

Filed: July 19, 2001
 49th Day: September 6, 2001
 180th Day: January 15, 2002
 Staff: EL-SD
 Staff Report: October 23, 2001
 Hearing Date: November 13-17, 2001

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-01-113

Applicant: Pacific View Estates, LLC

Agent: Dave Lyon

Description: Construction of a one-story, five-bedroom, 3,782 sq.ft. single-family residence, plus attached two-car garage, with associated spa, drainage and landscaping improvements on a 1.2 acre blufftop site. Also proposed is a 600 sq.ft. accessory building (an orchid house) and a basketball court.

Lot Area (Lot 2)	52,885 sq. ft (1.2 acres)
Building Coverage	5,008 sq. ft. (9%)
Pavement Coverage	15,883 sq. ft. (30%)
Landscape Coverage	20,401 sq. ft. (39%)
Unimproved Area	11,593 sq. ft. (22%)
Parking Spaces	4
Zoning	R1-40
Plan Designation	Low Density Residential
Project Density	.82 DUA
Ht abv fin grade	21 feet

Site: Southwest quadrant of Camino del Mar/Border Avenue intersection, Del Mar, San Diego County. Portion of APNs 298-241-20, 21, 22, and 23

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff recommends approval of the construction of a home with conditions addressing final plans, site hazards and future development. Potential issues include geologic safety, water quality and visual resources. With the special conditions, all potential issues have

been addressed and the project complies with all applicable provisions of the City's certified Local Coastal Program.

Substantive File Documents: Certified City of Del Mar LCP; Del Mar Bluffs Geotechnical Study (January, 2001); CCC File #6-94-027; 6-97-021; and 6-01-112 (staff reports only)

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-01-113 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a YES vote. Passage of this motion will result in approval of the permit as conditioned and 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 certified Local Coastal Program. 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.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Future Development Deed Restriction.

A. This permit is only for the development described in coastal development permit No. 6-01-113. Pursuant to the Coastal Development Permit Regulations of the

certified LCP, the exemptions otherwise provided in that ordinance shall not apply. Accordingly, any future improvements to the single family residence and accessory structures authorized by coastal development permit No. 6-01-113, including but not limited to repair and maintenance identified as requiring a permit, shall require an amendment to permit No. 6-01-113 from the California Coastal Commission or shall require an additional coastal development permit from the California Coastal Commission or from the applicable certified local government.

B. 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, reflecting the above restrictions on development. The deed restriction shall include legal descriptions of the applicant's entire parcel(s). 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 Commission amendment to this coastal development permit.

2. Assumption of Risk.

A. By acceptance of this permit, the applicant, on behalf of itself and its successors and assigns, acknowledges and agrees (i) that the site may be subject to hazards from bluff collapse and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

B. 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 incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. 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 Commission amendment to this coastal development permit.

3. Final Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval, final site plans, building plans, elevations, drainage and landscaping plans for Lot 2, approved by the City of Del Mar, which shall be in substantial conformance with the preliminary plans submitted by the applicant, titled "Pacific View Estates, LLC," by Ronchetti Design, last revised on April 18, 2001.

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

4. No Future Shoreline Protective Device

A(1). By acceptance of this permit, the applicant agrees, on behalf of him/herself and all other successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 6-01-113 including future improvements, in the event that the property is threatened with damage or destruction from bluff collapse, waves, erosion, storm conditions or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of him/herself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

A(2). By acceptance of this permit, the applicant further agrees, on behalf of him/herself and all successors and assigns, that the landowner shall remove the development authorized by this permit, including the single-family residence and all accessory structures, if any government agency has ordered that the structure is not to be occupied due to any of the hazards identified above. In the event that any portion of the development is destroyed, the permittee shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

B. 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 above restriction on development. The deed restriction shall include a legal description of the applicant's entire parcel. 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 Commission amendment to this coastal development permit.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description and Site History. The applicant is proposing to construct a one-story, five-bedroom, 3,782 sq.ft. single-family residence, with an attached two-car garage on a 1.2 acre blufftop site. Also proposed is a spa, a 600 sq.ft. accessory building (an orchid house), drainage and landscaping improvements and a basketball

court. The project site is located on the southwest corner of Border Avenue and Camino Del Mar in the City of Del Mar.

The Commission has acted on a number of previous permits at this site; these are addressed in detail in CDP #6-01-112. The subject application is for development on one of the lots addressed therein. The applicants are proposing construction of a single-family residence on the subject Lot 2, intended primarily to serve as a guesthouse for the large estate development proposed on Lot 1 in CDP #6-01-112. Final plans are required for all site improvements in Special Condition #3, since the preliminary ones on file have not been signed by the City of Del Mar.

This site is located in an area now under the jurisdiction of the certified City of Del Mar Local Coastal Program. However, the application was filed and in process prior to September 26, 2001, the date the City assumed coastal development permit issuing authority. Thus, the subject permit is being processed by the Coastal Commission, with the certified LCP as the legal standard of review.

2. Hazards/Blufftop Development. The City of Del Mar certified LCP includes the following policies and regulations addressing development of blufftop properties and state, in part:

Chapter III-C of the Land Use Plan

A minimum setback of 40 feet from the edge of the coastal bluff top shall be provided in the construction of all principal structures and all accessory structures, such as, but not limited to: pools, spas, storage sheds, gazebos and above grade decks or patios....

A lesser setback of a minimum 10 feet from the edge of the coastal bluff top shall be allowed for associated improvements such as fences, windscreen and benches, provided such improvements are constructed above grade with the use of light weight materials and without the use of grading and/or continuous foundation components.

No grading shall be allowed within a minimum setback of 40 feet from the top edge of the coastal bluff top....

In addition, the Coastal Bluff Overlay Zone in the Implementation Program(IP) includes all the same parameters to regulate blufftop development. In addition, the last sentence of Section 30.55.090.B. states:

In addition, for new development, the applicant shall acknowledge a waiver of all rights to future protective devices for the new development.

This area of coastline has a history of bluff instability, with numerous landslides and failures primarily on the lot immediately north (Lot 1) and properties further to the north.

Therefore, a setback greater than forty feet is appropriate for structures at this site. In this particular case, the proposed spa is setback forty-five feet, but the house itself is setback nearly 70 feet from the bluff edge. The only other proposed improvements seaward of the house, but forty feet or more from the bluff edge, are planters and drainage facilities. The proposed setbacks for the various improvements are supported by the submitted geotechnical report. This data has been reviewed by the staff geologist, and his comments are attached as Exhibit #3. To briefly summarize, the staff geologist concurs with the applicant's geologist that the project, as currently designed, should be safe from coastal erosion processes for its economic life (75 years) and no shoreline protective devices will be required at this site within that timeframe. Special Condition #4 requires a formal waiver of the rights to any future seawall, which is consistent with the Coastal Bluff Overlay regulations in the certified LCP.

In summary, the project includes adequate setbacks for all proposed structural improvements. The design has incorporated the recommendations of the geotechnical report. Because the lots are subject to coastal bluff erosion, Special Conditions #1 and 2 are also added to require an acknowledgement by the applicant of the hazards inherent on this site, and provide that any future additions to structures or modifications to the site require further review by the Coastal Commission. It is not necessary to apply an open space condition to protect the bluff face on this site, as this is addressed at the subdivision level in CDP #6-01-112. As conditioned, the Commission finds the proposed development is consistent with the cited hazard policies of the certified LCP.

3. Public Access/Community Character/Visual Resources. The following LCP policies and ordinances address physical and visual public access concerns related to the proposed development. They state, in part:

Chapter IV.B.IV-3 of the LUP:

Lateral and vertical accessways to and along the shoreline shall be located where they can safely accommodate public use, and shall be distributed throughout the City as much as possible to prevent overcrowding or degradation of resources, minimize parking and traffic congestion, and the misuse of coastal resources....

Chapter IV.B /GOAL IV-C of the LUP:

Preserve existing views and view corridors from public vantage points to the maximum extent possible without preventing reasonable use of private property.

Again, the Del Mar IP contains regulations implementing these goals and policies.

The project site is located at the northwestern corner of Del Mar, with Lot 1 of the lot reconfiguration identified in CDP #6-01-112 forming its northern border and the Pacific Ocean its western one. Lot 3 is to the east, and other residentially-zoned private land lies to the south. The subject lot is similar in size to those of neighboring properties, and the proposed single-family residence is in scale with nearby residential development. The

home is one story in height and separated from Camino del Mar, the major north-south coastal access route in this area, by the currently-vacant Lot 3. The proposed structural setbacks will result in little, if any, of the home being visible from the beach, nor will it be very visible to users of the blufftop viewing area to the north, since it will be screened by the development on Lot 1.

The bluff is approximately 60 feet high in this location and is nearly vertical. The area of sandy beach at the toe of the bluff is very small, and not accessible from adjacent beaches during all tidal regimes. The City has considered the feasibility of constructing a public access stairway down the bluffs in this general location. However, it has determined that the instability of the bluffs in this area makes such a proposal infeasible. Moreover, there is existing public beach access available approximately one block to the north, in Solana Beach, and a couple blocks to the south at the San Dieguito rivermouth. The Commission concurs that this is not an appropriate location for a vertical accessway to the beach, and acknowledges that adequate beach access exists nearby.

The City found it appropriate to require a lateral access offer to dedicate across the sandy beach itself. Because the proposed development does not appear to have any direct impacts on lateral movement along the shoreline, the Commission has not added its own lateral access condition language. As previously described in this finding, the Commission, therefore finds the proposed development, as conditioned to address other concerns, is consistent with the certified Del Mar LCP.

4. Site Drainage/Water Quality. The certified LCP includes many goals, policies and regulations that address drainage and water quality. The LCP provisions most applicable to the subject situation state, in part:

LUP Chapter III.C., Policy III-9.d.

In order to protect coastal bluffs from erosion and degradation, all drainage from the impervious surfaces of the site shall be collected and appropriately discharged in a manner which will prevent drainage and/or erosion related damage to the coastal bluff or any other properties or improvements. Drainage facilities shall be designed and constructed as necessary to convey all drainage away from any coastal bluff face and, where available, into an existing developed storm system...

IP Section 30.55.100.A.7.

All permits shall be subject to the submittal of a polluted runoff control plan. The required plan shall incorporate the use of structural and non-structural Best Management Practices (BMPs), to the extent necessary, to minimize the discharge of pollutants carried by runoff from urban development into surface water drainage, and to maintain post-development peak runoff rate and average volume at levels similar to pre-development levels. The plan shall include, but not be limited to, the following Best Management Practices (BMPs), as applicable: silt traps, catch basins, oil/grit separators, street sweeping and cleaning program, low-maintenance

landscape and pesticide management plan, solid waste management and public education program. Post-construction structural BMPs (or suites of BMPs) should be designed to treat, infiltrate or filter stormwater runoff from each storm, up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor, for flow-based BMPs. The plan shall include a monitoring component to ensure long-term maintenance of BMPs as relevant, and to allow for continued evaluation of the effectiveness of the polluted runoff control plan in meeting the goals of the LUP regarding the protection and enhancement of sensitive resources.

The proposed development meets the above-stated requirements. Submitted drainage plans clearly indicate that the site will be recontoured to direct surface flows and future runoff from impervious surfaces into the existing municipal storm drain system in Camino del Mar. Moreover, all new storm drain inlets shall be equipped with filtration devices to remove pollutants before the discharge enters the public storm drain. The Commission finds the proposed development, as conditioned to address other concerns, fully consistent with the cited LCP provisions.

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. In this case, such a finding can be made.

The subject site is located in an area now under the jurisdiction of the certified City of Del Mar Local Coastal Program. Since the application was filed prior to September 26, 2001, the date the City assumed coastal development permit issuing authority, the permit is being processed by the Coastal Commission, with the certified LCP as the legal standard of review. As noted in previous findings, the proposed home and accessory improvements, as conditioned, are fully consistent with the certified LCP. This site is zoned R1-40 and designated for Low Density Residential development. This means any lot with a minimum of 40,000 sq.ft. can be developed with one single-family residence; the subject lot is 52,885 sq./ft. in size and is thus consistent with the certified LCP. Therefore, the Commission finds that approval of the project, as conditioned, will not prejudice the ability of the City of Del Mar to implement its effectively-certified LCP.

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 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.

As discussed herein, the proposed project, as conditioned, will not cause significant adverse impacts to the environment. Specifically, the project has been found consistent with the Coastal Bluff Overlay and public access provisions of the LCP. Moreover, a mitigated negative declaration has been certified for this development. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity might have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally damaging feasible alternative and is 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. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. 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.
5. 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.



6-01-113

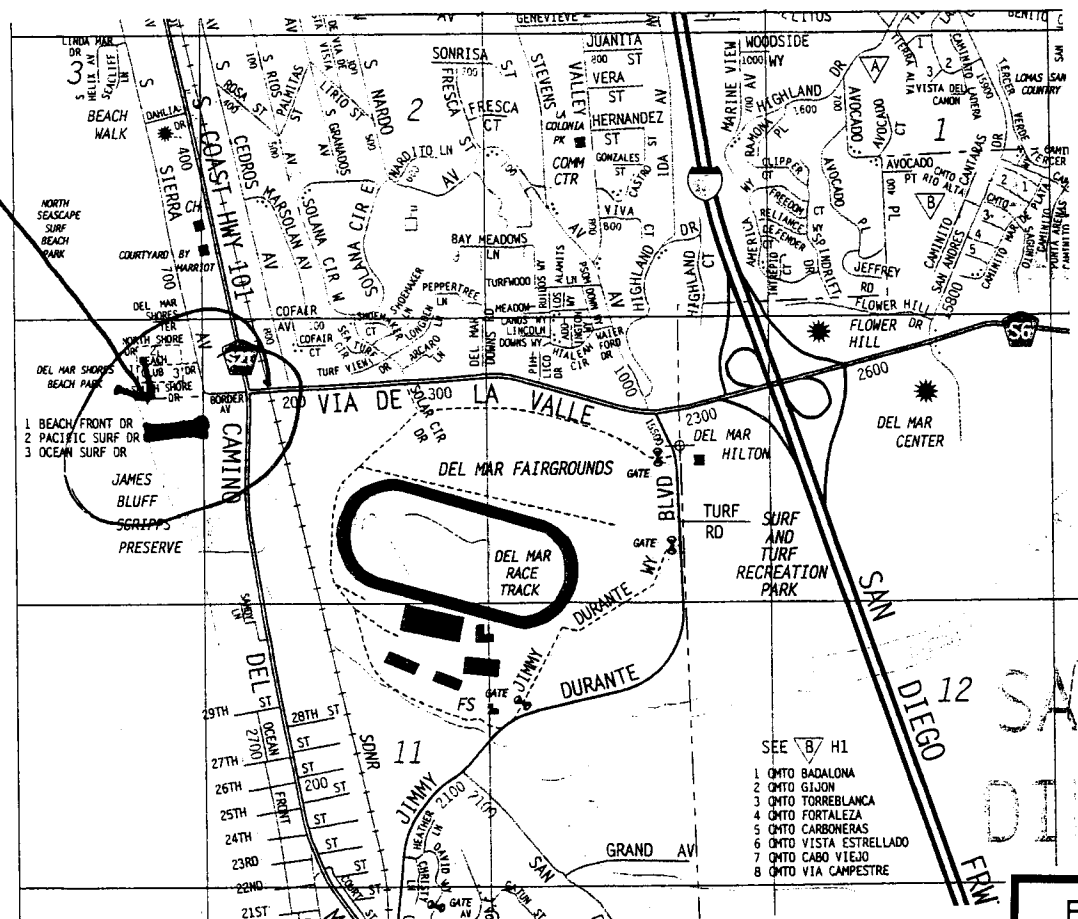
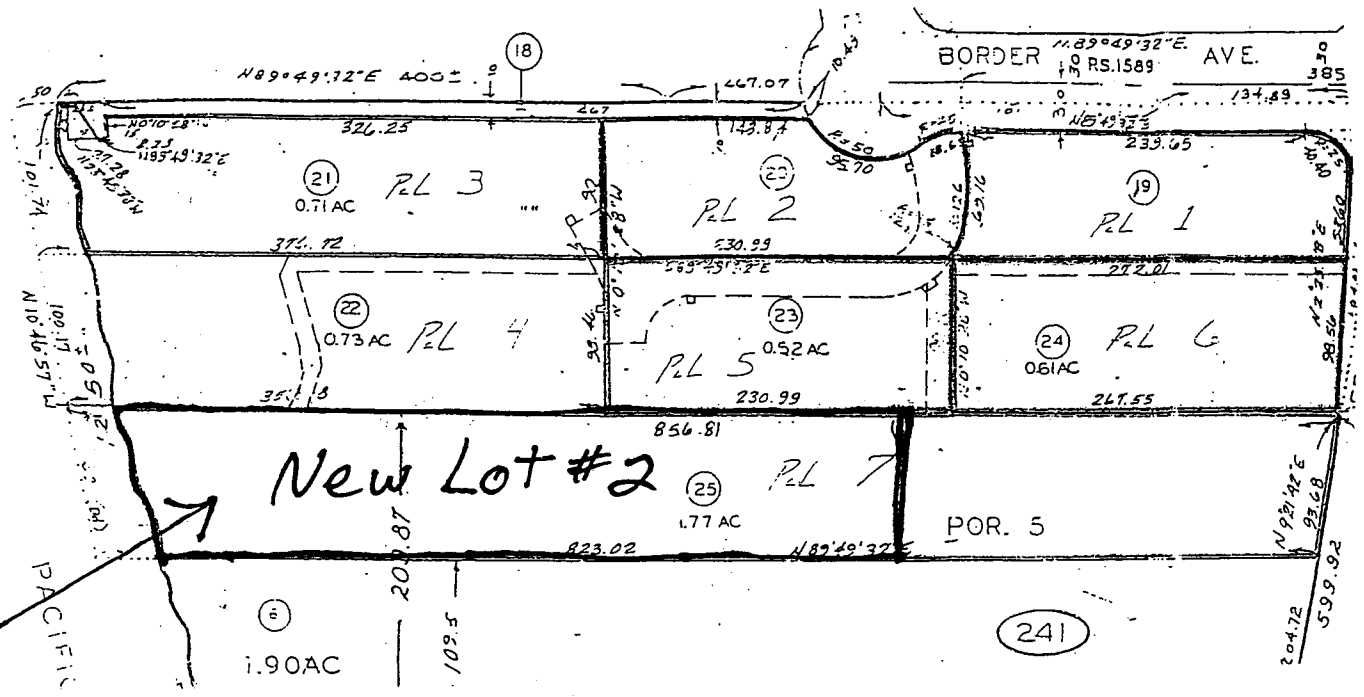


EXHIBIT NO. 1
APPLICATION NO.
6-01-113
Location Maps

California Coastal Commission

CALIFORNIA COASTAL COMMISSION

REMONT, SUITE 2000
FRANCISCO, CA 94105-2219
TELEPHONE AND TDD (415) 904-5200
FACSIMILE (415) 904-5400



24 October 2001

GEOTECHNICAL REVIEW MEMORANDUM

To: Ellen Lirley, Coastal Program Analyst
From: Mark Johnson, Senior Geologist
Re: Pacific View Estates (6-01-112/6-01-113)

In reference to the above applications, I have reviewed the following geotechnical reports:

- 1) Southern California Soil and Testing, Inc. 2001, "Update report, Pacific View Estates, Border and Sierra Avenues, Del Mar, California", 7 p. supplemental geologic report dated 22 January 2001 and signed by D. B. Adler (RCE 36037) and M. P. Farr (CEG 1938).
- 2) Southern California Soil and Testing, Inc. 1997, "Report of geotechnical investigation, proposed Goth residence, Border and Sierra Avenues, Del Mar, California", 20 p. geotechnical report dated 22 October 1997 and signed by D. B. Adler (RCE 36037) and M. P. Farr (CEG 1938).

Although I have not visited the site, I have been to the site immediately to the north.

The topography of the bluff top is complex, making the correct delineation of the bluff edge somewhat difficult. The line labeled "bluff line per US 861 & R of S 2972" on Plates 1 and 2 of reference (2) does not mark the top of bluff as it would be defined under the Coastal Act, CCR Title 14, §13577 (h) (2). According to the definition contained therein, in a situation where, as at the subject site, "there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge." Similarly, the line marked "Shore Protection Line" is only an approximation of the bluff edge line. The actual bluff edge per the definition cited in CCR Title 14, §13577 (h) (2) would be a meandering line landward of either of these lines. This line is not marked on Plates 1 and 2 of reference (2), but a 40-foot setback line is marked. That line is correctly located approximately 40 feet landward of the true bluff edge. Accordingly, it can be concluded that the bluff edge was properly located in reference (2).

As detailed in reference (2), the coastal bluff at the site is in an unstable condition. Shallow slumping, deeper-seated landslides, and cliff undercutting—including the creation of several large sea caves—are occurring at the site. Slope stability analyses indicate that the face of the bluff is unstable or marginally stable, depending on location. Further, reference (1) reports on a substantial amount of erosion that occurred during the El Niño winter of 1997-1998. Coastal bluff retreat rates have been accurately measured here by Moore et al. (1999) and Benumof and Griggs (1999). This work, which

Exhibit #3

represents the current state of the art, indicated that annual bluff retreat rates in this area have historically ranged from average values (1932-1994) ranging from a low of 4 cm/yr to a high of 14 cm/yr, depending on location. In reference (2), a figure of 0.5 foot per year is reported. Although this figure is not well-supported in reference (2), it is consistent with the high end of the Moore et al. and Benumof and Griggs values. Accordingly, I concur with using this value in establishing setbacks.

Reference (2) demonstrates that a 1.5 factor of safety for deep-seated failure can be assured with a 40 foot structural setback from the bluff top. Using Moore, Benumof and Grigg's "high" bluff retreat rate values, the bluff can be expected to retreat approximately 34 feet in a 75-year "useful economic life" of the development. To this should be added a 10 foot buffer to account for uncertainty in these measurements, accelerated erosion due to sea level rise, and to ensure that foundation elements are not actually undermined at the end of the 75-year period, for a total setback of 44 feet. It is my understanding that the proposed development is to be set back a minimum of 68 feet from the bluff edge. Accordingly, it should be safe from coastal erosion processes for its useful economic life.

To ensure that the development is carried out in conformance with the recommendations of the geotechnical consultants, I recommend adding a special condition requiring conformance to the geotechnical reports cited above.

I hope that this review has been helpful. Please do not hesitate to contact me if you have further questions.

Sincerely,

Mark Johnsson, Ph.D., CEG