

## CALIFORNIA COASTAL COMMISSION

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

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**Tue 7a**

Staff: LRO-SD  
Staff Report: 5/24/01  
Hearing Date: 6/12-15/01

STAFF REPORT AND RECOMMENDATION ON APPEAL

Application No.: A-6-LJS-00-67

Applicant: Chart House Enterprises, Inc.

Agent: Steve Kaufmann  
Nancy Lucast

Description: After-the-fact approval for additions totaling 1,768 sq.ft. to an existing three-level restaurant and rehabilitation, remodel and a new addition of 2,760 sq. ft. for a total of 9,327 sq. ft. on a .91 acre site. Also proposed is the provision of ten (10) off-site parking spaces and a public vertical access easement along the eastern portion of the site.

Site: 1270 Prospect Street, La Jolla, San Diego, San Diego County.  
APN 350-050-17

STAFF NOTES:

At its July 11, 2000 hearing, the Commission found Substantial Issue exists with respect to the grounds on which the appeal was filed. Since that time, staff has been working with the City and the applicant to get information regarding past permit history for the site and to try to resolve issues regarding unpermitted development that has occurred on this site. This report represents the de novo staff recommendation.

Summary of Staff's Recommendation:

Staff recommends that the Commission approve the proposed project subject to several special conditions. There are several issues raised by the proposed development. First of all, the restaurant has been significantly expanded, without permits, since the last Commission action for the restaurant in 1981. As such, the proposal includes after-the-fact approval for the 1,768 sq. ft. of previously added restaurant square footage as well as a new addition of 2,760 sq. ft. These expansions raise parking issues as the existing restaurant does not currently include any parking (and there is not place to put on-site parking) and is located within the downtown area of La Jolla, where parking is severely deficient. While the newly proposed restaurant expansion is exempt from parking requirements in the La Jolla Planned District Ordinance (as an expansion of a "Heritage Structure"), the previous expansions, are not. Thus, staff is recommending that the applicant provide 9 off-site parking spaces (one space per 200 sq. ft. of unpermitted expansions) to accommodate the after-the-fact additions. As 10 off-site parking spaces are proposed, the applicant is providing adequate parking.

Opponents of the project do not feel the development, which includes demolition of approximately 44% of the exterior walls, should maintain its "Heritage Structure" status as a good portion of the structure is to be demolished, and instead, feel it represents new development and should include parking for such. However, staff has researched this issue and found that the La Jolla PDO allows for "rehabilitation" of designated heritage structures without changing its status as a heritage structure. As part of the City's review, certain components of the existing structure of "historic, architectural and cultural significance", were required to be maintained. Thus, the structure, with the proposed work, remains a Heritage Structure and, as such, no parking is required for the new development.

Another issue raised by the subject development is continued public access through the site. Currently, the public can access a path/stairway through the site connecting Prospect Street with Coast Boulevard. In order to assure this access is maintained, the applicant is proposing to offer a lateral access easement over this area for public use. As conditioned, the staff has determined that the proposed project is consistent with the certified LCP and the public access and recreation policies of the Coastal Act.

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Substantive File Documents: Certified La Jolla Planned District Ordinance; Certified La Jolla-La Jolla Shores LCP Addendum Land Use Plan; Appeal Forms; City of San Diego Manager's Report dated 3/21/00; City of San Diego Memorandum to City Council dated 4/21/00; Mitigated Negative Declaration LDR No. 98-0755 dated 11/16/99; Historical Assessment of the Chart House Restaurant/Wahnfried Building by Scott Moomjian, M.S., J.D. and Dr. Ray Brandes in consultation with Marie Burke Lia, Attorney at Law - Revised June, 1999; CCC CDP#s F8945, F99655 and #A-93-81.

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**I. PRELIMINARY STAFF RECOMMENDATION:**

**MOTION:** *I move that the Commission approve Coastal Development Permit No. A-6-LJS-00-67 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 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.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Public Vertical Access. PRIOR TO THE ISSUANCE OF A COASTAL DEVELOPMENT PERMIT, the landowner shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an easement for public pedestrian access. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. Such easement shall be offered over five feet of the subject property along the east (northeast) boundary of the property and extend from Prospect Street to Coast Boulevard (ref. Exhibit No. 9b). The accessway shall remain open from 8:00 a.m. to dusk daily and may incorporate retractable gates. The document shall be recorded free of prior liens which the Executive Director determines may affect the interest being conveyed, and free of any other encumbrances which may affect said interest.

The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording. The recording document shall include legal descriptions of both the applicant's entire parcel(s) and the easement area.

2. Off Site Parking. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a La Jolla Planned District Joint Use Parking Agreement for the provision of 10 off-site parking spaces approved by the City of San Diego Planning Director.

3. Conditions Imposed by Local Government. This action has no effect on conditions imposed by the City of San Diego pursuant to an authority other than the Coastal Act.

4. Previous Conditions of Approval CDP #A-6-LJS-91-168-R. By acceptance of this permit, the applicant acknowledges that nothing in this action precludes or reduces the requirements to incorporate all design elements that have been determined to be historically and/or architecturally significant and worthy of incorporation by the Executive Director in consultation with the State Historical Building Safety Board into future development in the restricted area of the site (Lots 30 and 31) pursuant to Special Condition No. 1 and 2 of CDP #A-6-LJS-91-168-R (Green Dragon Colony) which was subsequently amended pursuant to CDP #A-6-LJS-91-168-R-A2. Specifically, one of the significant design elements to be provided in future development on the site is a straight and vertical accessway similar to the one that previously existed on the subject site (reference Exhibit No. 23 p. 20 of 20, vertical stairway at Building #8, 1260 Prospect Street, Jack O-Lantern, as shown on Lot #30).

5. Final Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and written approval of the Executive Director, final site plans approved by the City of San Diego that show the location of the stairway proposed to be dedicated for vertical access that are in substantial conformance with the plans by Architects Mosher Drew Watson Ferguson dated 5/11/98 pursuant to Special Condition #1 above.

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.

6. Landscape Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a detailed landscape plan indicating the type, size, extent and location of all plant materials, the proposed irrigation system and other landscape features. Drought tolerant native or naturalizing plant materials shall be utilized to the maximum extent feasible. Special emphasis shall be placed on identifying the proposed trees to be removed from the subject sit. In addition, the plan shall include any new replacement trees and provide that they be planted in a location that does not impede public views towards the ocean in the west and east side yard setbacks. Said plan shall be submitted to, reviewed and approved in writing by the Executive Director.

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.

7. Sign Plan for Vertical Access Easement. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director a sign plan for the proposed identification signage related to the proposed

vertical access easement. The proposed signage shall consist of monument signs or wall signs, not to exceed two signs total. The signs shall be placed near the subject stairway along both the Prospect Street and Coast Boulevard frontages of the site in a location visible to members of the public. No tall, free-standing pole or roof signs shall be allowed. Said plans shall be subject to the review and written approval of the Executive Director.

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.

8. Future Change in Hours of Operation. The applicant shall provide notice to the Coastal Commission if any change to the hours of operation of the existing restaurant is proposed in the future. Said change to hours of operation of the restaurant (i.e, opening for lunch, etc.) shall require review and approval by the Coastal Commission, or its successor in interest, as an amendment to this permit or under a separate coastal development permit, unless the Executive Director determines that no amendment or coastal development permit is necessary.

#### IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description/Permit History. Proposed is the rehabilitation, remodel and addition of 2,760 sq. ft. to an existing three-level 6,567 sq.ft. restaurant resulting in a two-story, 9,758 sq.ft. restaurant on a .91 acre site. The applicant is also proposing a public vertical access easement along the east side of the site. In addition, the subject permit also represents the after-the-fact approval for a total of 1,768 sq.ft. in additions to the subject restaurant which have been constructed without benefit of a coastal development permit.

The rehabilitation will consist of demolition of approximately 44% of the exterior walls of the main level of the restaurant, expansion of the building footprint and miscellaneous interior remodeling. A portion of the demolition and remodeling is proposed by the applicant to bring the building into conformance with the requirements of the Uniform Building Code. The proposed addition to the restaurant will be at its southeastern side at the main level (refer to Exhibit Nos. 3 and 4). In addition, the applicants also propose a 535 sq.ft. dining deck at the western portion of the main level of the restaurant and 724 sq.ft. outdoor dining deck at the upper level of the restaurant. After the proposed rehabilitation, remodel and additions, the restaurant will be a three-level structure with dining only on two levels. The proposed levels will consist of the following: Lower Level - 1,626 sq. ft. consisting of kitchen, office, employee room, service entrance, freezer and janitor's room; Main Level - 5,290 sq.ft. of dining area and a 535 sq.ft. outdoor dining deck; Upper Level - 1,152 sq.ft. of dining area and a 724 sq.ft. outdoor

dining deck. Presently, there is no on-site parking for the existing restaurant. The applicants propose ten off-site parking spaces in conjunction with the subject proposal.

The site is also known as the "Green Dragon Colony" site as portions of the site previously contained the historic Green Dragon Colony cottages which were demolished in the early 1990's. The building that houses the restaurant was originally constructed in 1904. On 7/24/96, the City's Historical Site Board (HSB) designated several of the Prospect Street-facing buildings, including that occupied by the Chart House restaurant, as heritage structures in accordance with the certified La Jolla Planned District Ordinance. The designation is based on the HSB finding that the structures designed by architect, Robert Mosher, at the Green Dragon Colony site are: an integral part of a neighborhood development style; an important "part of the scene" of urban development; and are worthy of preservation.

Two previous coastal development permit applications (#F8945 and #F9655) were approved in 1980 and 1981 for additions to the existing restaurant. Specifically, pursuant to CDP #8945, a 1,233 sq.ft. addition was permitted to the existing 3,566 sq.ft., two-level restaurant for a total floor area of 4,799 sq.ft. No parking was required because the expansion did not result in an increase in intensity of use of the site. The Commission found that the existing restaurant (prior to the expansion) contained 31 tables for dining and cocktails. After the proposed expansion, the restaurant would have 33 tables. In addition, because the Chart House was only proposing to be open in the evening hours after 5:30 PM, the Commission found that this would minimize any additional or increased parking congestion in the commercial area of La Jolla and thus, did not require any parking for the expansion.

The grounds for the appeal were that parking was severely restricted in the downtown La Jolla area and that piecemeal additions to the restaurant were circumventing the requirements for parking. At that time, appellants argued that the development was increasing the intensity of use and that parking should be provided for the proposed addition as well as the entire restaurant. The Commission approved the project and found that the expansion of the Chart House Restaurant would not result in increased competition for the limited parking available in La Jolla and did not require the provision of any parking. The Commission found that there was excess parking in the evening hours at the Coast Walk underground parking garage during the evening hours. The Commission further found that because the expansion would not result in an intensification of use of the existing facility and that it would be open only during the evening hours, the proposed project could be permitted with a deed restriction limiting the hours of operation of the proposed facility and the number of people that can be seated at any one time to 110 seats.

The special conditions of the permit required a limitation to seating capacity (110 seats) through a recorded deed restriction, a restriction on hours of operation such that the restaurant only be open to the public after 5:30 P.M. and installation of signs to direct patrons to the parking lot (garage) at the Coastwalk Shopping Mall. However, upon review of the permit file, no record of compliance with the special conditions associated

with that permit could be found. Consequently, the permit was never issued. The development was completed, nonetheless. As such, this is unauthorized development.

The subject restaurant is located on a sloping site that consists of three lots (Lots 30-32) which are bounded by Prospect Street to the southeast and Coast Boulevard to the northwest. The restaurant is within 300 feet of the coast. The Chart House restaurant is largely situated on Lot 32 with a portion of the restaurant extending towards the south onto Lot 31 of the site. The Green Dragon Colony previously existed at the far northern portions of Lots 30 and 31 of the subject site. Coast Boulevard is the first public road in the area. Due to the configuration of the coastal bluffs and shoreline in this area, the ocean is northwest of the subject site. The site is located in the commercial core area ("village") of downtown La Jolla in the City of San Diego which is a major visitor destination point. The site contains retail and restaurant leaseholds. The subject restaurant fronts on Prospect Street and overlooks Ellen Scripps Browning Park, La Jolla Cove, La Jolla Caves and Goldfish Point to the west. The restaurant is a split-level structure (three levels) with its upper level fronting on Prospect Street. Additional retail shops are located at a lower level.

The standard of review is the certified La Jolla-La Jolla Shores LCP Land Use Plan Addendum, the La Jolla Planned District Ordinance and the and other applicable sections of the former implementation plan (municipal code) that were in effect at the time that the proposed development was completed for filing by the City as well as the public access and recreation policies of the Coastal Act.

2. No Waiver of Violation. As noted in the previous finding, the subject restaurant received approval for additions in 1980 and 1981 pursuant to CDP #s F8945 and CDP application F9655/A-93-81. The latter permit, as described above, was to rebuild and expand a portion of the restaurant destroyed by fire. It should also be noted that the applicants have asserted that they did not need a permit (CDP #F9655) pursuant in 1981 pursuant to Section 30610(g) of the Coastal Act because they were replacing a portion of the restaurant that had been destroyed by fire. Specifically, Section 30610 of the Coastal Act provides the following:

Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas:

[...]

(g) (1) The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure.

(2) As used in this subdivision:

(A) "Disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner....

As cited above, the replacement structure should not exceed the floor area of the destroyed structure by more than 10%. In this particular case, the applicant proposed to replace the destroyed portion, but also to add 391 sq.ft., which amounted to a 32% increase in floor area of the destroyed portion of the structure. Thus, a permit was required, was applied for by the applicant and was acted upon by the Commission. However, although no record was found in the permit file of compliance with the special conditions of the permit and the permit was never issued, the replacement/addition was constructed.

In addition, there is a discrepancy of 2,707 sq.ft. between the size of the restaurant additions which were permitted pursuant to CDP #s F8945 (the pre-fire 1980 permit) and the size of the restaurant as it exists today. Specifically, in 1980, the Commission approved a 1,233 sq.ft. addition to an existing 3,566 sq.ft. restaurant for a total of 4,799 sq.ft. Aside from the permit noted above pertaining to the fire, no other permits have been approved for expansion of the restaurant. However, as it exists today, the 7,506 sq.ft. (a difference of 2,707 sq.ft. from the 1980 permit).

Therefore, the size of the restaurant that has been authorized pursuant to CDP# F8945, the only CDP ever actually issued for the restaurant, is 4,799 sq.ft. which is 2,707 sq.ft. less than indicated as currently existing on the plans submitted with this application. Commission staff asked the applicant to document when the additions occurred to the restaurant and why there was a discrepancy in the size of the restaurant from what was approved by the Commission. The applicant initially indicated that at the time the additions were done in 1981 the architects may have calculated or measured the size of the existing restaurant in a different manner than the present architects have done. Although this may account for some minor differences in square footage, this would not, however, account for a discrepancy of 1,768 square feet. In addition, the applicant also indicated that the size of the addition constructed in 1981 may have been constructed larger than that originally permitted due to problems meeting fire code safety requirements and the need to construct a fire exit. Another possibility is that the project plans that were submitted in association with the coastal development permit applications in the 1980's did not show all of the existing floor area associated with the existing restaurant at that time. Although this is possible, again, the additions that were contemplated pursuant to CDP application #F9655/A-93-81 were never authorized and it certainly exceeded the size of the restaurant that was permitted based on Commission's file records.

In reviewing the project plans for the current restaurant and comparing them to those approved for the aforementioned coastal development permits, two significant discrepancies were found. The plans in 1980 show a two-level restaurant with 4,799

sq.ft. (after the addition). However, the plans submitted with this application show the existing restaurant as a three-level structure with a "kitchen prep" area indicated in the lowest level. This lowest level is identified as "crawl space" in the 1980 plans. Thus, this appears to be conversion of this area which Commission staff considers to be unauthorized development. The applicant attempted to verify when this construction actually took place by going back through their building records. The applicant submitted a three building permits that show that the lower area was in existence in 1961 and 1964. The building permits as evidence that the kitchen preparation area received a building permit and that improvements to it such as installation of a larger sink, etc., proved its existence at the time. The building permits were for installation of a floor sink, to lower a floor and to install a floor sink that the applicant indicates was in the lower kitchen preparation area. Later, the applicants also stated that the area identified as a "crawl space" on the older project plans did not actually refer to the kitchen preparation area at all but to a different portion of the structure. However, Commission staff does not concur with the applicant on this point. First, as noted previously, the original project plans show the area as a "crawl space" and do not include the square footage of such in the calculation for the square footage of the restaurant. The area was not identified on the project plans as a kitchen preparation area at that time. Secondly, the roof of the kitchen preparation area is very low which would coincide with the assumption that the area was a previous basement and/or crawlspace. As such, it cannot be proven conclusively that this area was a kitchen preparation area in the 1980's.

In addition, the applicant includes a 939 sq.ft. exterior patio area close to the main entrance to the restaurant fronting on Prospect Street as part of the "existing" structure; however, Commission staff questioned whether or not this area was ever authorized as part of the restaurant. The applicants propose to remove this deck area because they contend the patio should be included when determining the size of the existing structure, they argue that they should receive "credit" for making it smaller at this time by removing the square footage associated with it. The applicants indicate that the area has not been used for outdoor dining in the past four years but that it has been used in the past for such purpose and also as a seating/waiting area for people to go in to the restaurant.

In an attempt to prove that this area did not need authorization because it pre-dated the Coastal Act, the owner sent a chain of correspondence and information from the past architect, Robert Mosher, as well as past owners/managers/ employees of the restaurant when it was known as the Holiday House Restaurant in the 1950's era. These people provided affidavits that the outside deck had always been used for dining and serving of beverages, etc. in association with the restaurant. According to a photograph submitted by the applicant taken in the 1950's/1960's, tables and chairs can be seen in the vicinity of the restaurant near its main entrance which is the location of where the existing outdoor patio is now located. The applicant believes this is evidence that the exterior deck has always been used for dining.

The project opponents believe that this area was simply used as a waiting area for patrons until their reservation was called but that it has never been used on a regular basis for serving of food and beverages. In other words, the existing 7,506 sq.ft. restaurant

includes the existing 939 sq.ft. patio area and Commission staff does not concur that the information provided by the applicants is conclusive evidence that this area has been used for dining purposes. Thus, the 939 sq.ft. dining patio should not be included as "existing" square footage as it has never been authorized.

Although development has taken place prior to the submission of this permit request, consideration of the request by the Commission has been based solely upon the certified City of San Diego LCP and the public access and recreation policies of the Coastal Act. Commission action upon the permit does not constitute a waiver of any legal action with regard to the alleged violation of the Coastal Act that may have occurred; nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit.

3. Heritage vs. Historic Structure. The project opponents have raised a number of concerns related to the City's designation of the Chart House as a heritage structure. The opponents further contend that as "new development", the proposal should meet current development standards. Specifically, they assert that because the proposal involves demolition of approximately 44% (or more) of the exterior walls of the structure and an 1,821 sq.ft expansion, it is no longer rehabilitation, but new development. As "new development", the structure should not retain its "heritage structure" status and instead must conform to the current development standards of the La Jolla PDO. The opponents contend that the heritage structure designation could be applied to either an existing building or to a new building after it is constructed, but not to a building which does not yet exist (in this case, the subject building which will be substantially demolished and reconstructed).

The subject restaurant structure (Chart House) has been designated as a "Heritage Structure" as provided in the LCP. Section 103.1203(B)(17) of the La Jolla PDO defines a heritage structure as:

#### 17. Heritage Structure

A heritage structure shall be defined as any building or structure which is found by the City of San Diego Historical Sites Board as worthy of preservation.

The Commission finds that the City's action to designate the restaurant structure as a heritage structure is consistent with the provisions of the La Jolla PDO. Specifically, the City of San Diego Historical Sites Board (HSB) concluded in 1996 that the structure was a heritage structure.

The LCP provides that the HSB's designation of a structure as a heritage structure is final. There are no provisions in the La Jolla PDO that would provide for the removal of the heritage designation once it has been made. Thus, once the City has made that designation, the PDO certified by the Commission does not provide that changes to a heritage structure, such as demolition, renovation or other improvements to the structure, would render it no longer a heritage structure. There are also no provisions which state

that to retain the heritage status, certain criteria must be met such as retention of 50% of the exterior walls of structure, etc. In fact, the La Jolla PDO specifically allows for rehabilitation of structures of historic, architectural and cultural importance to the community. Specifically, Section 103.1203(B)(29) of the La Jolla PDO defines rehabilitation, in part, as :

#### 29. Rehabilitation

Rehabilitation is defined as the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values. [...] The distinguishing original qualities or character of a building structure, or the site and its environment shall not be destroyed. The removal of any historic material or distinctive architectural features should be avoided.

The Commission finds that in this particular case, the proposed heritage structure is being rehabilitated through the proposed demolition and the reconstruction of 44% of its perimeter walls. The purpose of the demolition of the exterior walls is to bring the existing restaurant into conformance with the Uniform Building Code (UBC) with regard to interior building height, electrical wiring and other matters related to fire safety. The proposal to bring the building up to the structural code requirements of the UBC are totally elective on the part of the applicant and were not required by the City of San Diego. The existing dining room ceiling on the first floor is only seven feet tall. In addition, the existing ceiling heights in other portions of the existing restaurant are so low that they do not comply with the building code (reference pages 3-6 of Exhibit No. 16). The applicant has also stated that the proposal will bring the building up to code and comply with ADA requirements; currently, there is no handicapped accessible access to the existing three-story portion of the building.

Also, based upon review of the colored elevations of the remodeled restaurant, for the most part, the exterior architectural style and character of the restaurant is being retained through the proposed modifications to the restaurant. In addition, the HSB specifically designated the proposed remodeled building as a heritage structure based on the fact that it would be designed by Robert Mosher and would reflect the site's vernacular style. The HSB endorsed the proposed locations and designs of all historic features, and required that a visual display of the history of the site be provided to educate the public to the site's history. Specifically, as required by the HSB, the City required the following mitigation measures for the approved development:

- a. reconstruction of the original Wahnfried interior fireplace with mantle (in the original location if possible);
- b. incorporation of the carved beam which is currently above the windows near the southwest corner of the existing dining area into the new construction;

- c. incorporation of the inscribed wood which is currently located above the windows along a south portion of the first floor;
- d. provision of appropriate signage and/or informational plaques explaining the significance of the retained elements and the history and association of the Wahnfried building with Anna Held.

In this particular case, while demolition of a portion of the restaurant is proposed, there are no provisions in the La Jolla PDO which would require that such modifications to a heritage structure be considered new development. With the above considerations, the structure will remain a "heritage structure" after it is rehabilitated and remodeled and the La Jolla PDO allows for rehabilitation of heritage structures as long as those portions and features of historic, architectural and cultural significance are maintained. The Commission finds that the structure is a heritage structure within the meaning of the PDO and that as a heritage structure, the proposed modifications can be made to the structure without changing or affecting its status as such a structure.

In summary, the City's Historical Sites Board has designated the Chart House restaurant as a Heritage Structure because as one of the structures designed by architect Robert Mosher, at the Green Dragon Colony site are: "an integral part of a neighborhood development style; an important "part of the scene" or urban development; and are worthy of preservation". As a heritage structure under the certified LCP there are provisions to modify/rehabilitate such structures. The proposed development is consistent with those provisions.

The certified La Jolla-La Jolla Shores LCP Addendum also has provisions regarding protection of historic structures. As an overview, the LCP provides, in part, the following:

"The special character and charm of La Jolla is intimately related to its abundant natural resources, especially the ocean, shoreline, hillsides, scenic vistas, and mild sunny climate. Of equal importance in maintaining the "village atmosphere" are the many man-made resources – the architectural, cultural, and historical contributions of the past...." [p. 147]

The plan then goes on to state that many of the architecturally and historically important structures are lost due to current economic incentives which tend to favor complete redevelopment. The plan further contains a list of historic conservation incentives and the roles of different agencies to protect such resources. The LCP identifies the role of the San Diego Historical Site Board (HSB) and that it identifies and preserves historical sites. The LCP then outlines the steps in identifying a site as historical. The LCP also contains a section addressing "Permits for Demolition, Alterations or Removal of Historical Sites" and that the HSB may file a written objection to a permit approved for the demolition, alteration or removal of historical sites. A permit to demolish a historical structure may be delayed until the HSB can find an alternative solution to preserve the historical site. If an acceptable means of preservation cannot be found within the

specified time period, then the developer may proceed with the demolition/ removal/ alteration according to the original plans. There are no specific LCP policies that provide protection for buildings that *may* be historic but haven't yet been formally designated as such.

In this particular case, the Historical Site Review Board reviewed the applicant's historical assessment of the structure and concluded that the building does not meet any of the criteria for historical significance, as it has been completely modified and altered since it was first constructed in 1904. Therefore the HSB did not designate the building as "historic". However, given that there was some architectural significance associated with the building, the HSB designated it as a "heritage" structure. As noted above, the LCP allows for changes to heritage structures while pending its designation status. Therefore, the Commission finds that the Chart House Restaurant is not a historic structure and, as such, the proposed development is not inconsistent with historical preservation policies of the certified LCP.

4. Parking. The certified La Jolla-La Jolla Shores LCP Addendum states, "a key component of adequate access is maintenance of existing facilities, including stairways, pathways, and parking areas." The PDO also contains detailed requirements concerning the provision of parking. The Commission acknowledges that based on past Commission action on coastal development permits that were reviewed and approved by the Commission before the City's LCP was certified, that parking shortages and traffic circulation congestion were well documented in the downtown La Jolla area. The area continues to be a highly popular tourist and visitor-destination area and parking is at a peak demand. Currently, the applicants have indicated that the size of the existing restaurant is 7,506 sq.ft. and there is no off-street parking spaces provided for the restaurant nor is there any room on the subject site to do so. The structure that houses the restaurant was constructed in 1902 and the restaurant has not had any off-street parking since it opened in this structure. As noted earlier, the site consists of several retail/office/restaurant structures.

The project as approved by the City did not require any parking. However, the applicant has proposed 10 off-site parking spaces. Related to parking concerns, the subject development raises issues in two areas; parking for the "unpermitted" addition and parking for the proposed new addition. As a way to encourage the adaptive re-use of heritage structures without damaging the integrity of the site, the La Jolla PDO allows additions to heritage structures to be exempted from the parking requirements of the PDO. Specifically, Section 103.1207(D) of the La Jolla PDO states, in part:

#### REHABILITATION PARKING REQUIREMENTS

Parking requirement exemptions shall be provided for rehabilitation projects and heritage structure rehabilitation proposals which are consistent with the use requirements of this Division (SEC. 103.1205), or do not involve a change in use as defined in SEC. 103.1203 of this Division, provided that the existing number of on-site parking spaces is maintained. [emphasis added]

The proposed restaurant is a permitted use under Section 103.1205 and the proposed rehabilitation project does not involve a change in use as defined in Section 103.1203. The proposed new addition to the restaurant therefore qualifies for the parking exemption for projects to rehabilitate heritage structures. The project opponents assert that the heritage structure designation under the provisions of the La Jolla PDO "...is being used questionably to avoid providing parking for the project, even though the La Jolla PDO says that a heritage structure may be exempted from parking requirements." The PDO, however, clearly states that parking exemptions "shall be provided" for rehabilitation projects.

Commission staff has concluded that a heritage structure is exempt from parking pursuant to the PDO regulations. This parking exemption is applicable regardless of the size of the addition being made to it. The opponents contend that if the City had addressed the proposed development as new development as opposed to a remodel, that a total of 47 new off-street parking spaces would need to be provided for the proposed 9,327 sq.ft. restaurant. Currently, there is no off-street parking spaces provided for the restaurant. The structure that houses the restaurant was constructed in 1902 and the restaurant has not had any off-street parking since it opened in this structure. The requirements of the La Jolla Planned District Ordinance provide that one space per each 200 sq.ft of gross floor area must be provided for restaurant uses.

#### Parking for Prior Unpermitted Development

While the proposed new addition is exempt from parking requirements, the after-the-fact additions are not. The requirements of the La Jolla Planned District Ordinance (PDO), which is the current implementation plan for the subject project, became effective in 1985. The PDO provides that one space per each 200 sq.ft of gross floor area must be provided for restaurant uses. At this ratio, 1,768 sq.ft. of after-the-fact development would require 8.84 spaces rounded up to 9 spaces. The PDO contains no provisions for doubling the parking requirement when there is inadequate parking on site. Therefore, given that the current parking requirements are 1:200, the 1,768 sq.ft. after-the-fact development/additions that occurred to the restaurant would require 9 parking spaces. The applicants are proposing 10 off-site parking spaces. The La Jolla PDO permits joint use parking subject to a Special Use Permit provided that the multiple uses of the parking spaces do not conflict with individual parking needs, that the parking facilities are located within a quarter mile radius of the project site and that a La Jolla Planned District Joint Use Parking Agreement application is submitted to the Planning Director.

The Commission acknowledges that based on past Commission action on coastal development permits that were reviewed and approved by the Commission before the City's LCP was certified, that parking shortages and traffic circulation congestion were well documented in the downtown La Jolla area. Twenty years later, there still remains a critical shortage of parking in the downtown area of La Jolla and there may never be sufficient parking to meet the demands of coastal visitors and patrons of the retail establishments in this nearshore area. Off-site parking is limited and often only available

during the evening hours when it does not conflict with the needs for daytime businesses and offices in the area. However, in this particular case, with a requirement for 9 off-site parking spaces, pursuant to the La Jolla PDO, impacts on public access and traffic circulation in the downtown area of La Jolla will be minimized.

The applicant has also mentioned that in the future, they would like to be able to open for business during the lunch time hours in order to offer more service to the public as many other nearby restaurants do. If the restaurant were to begin operating during lunch hours, this could constitute a significant intensification of use and accordingly, may require either an amendment to this permit or a separate coastal development permit. As such, Special Condition No. 8 requires that the applicant provide notice to the Executive Director if any change in hours of operation of the restaurant is proposed and that a new coastal development permit or amendment to the subject permit, may be required.

As noted previously, in order to bring the unauthorized development into compliance with the parking requirements, a total of 9 parking spaces are required to be provided at this time. Since the applicant is already proposing ten parking spaces, no further parking is required. In addition, as a condition of the City's permit, it was required that "at no time shall there be an increase in seating capacity above the existing maximum 294 seats". Special Condition No. 3 makes it clear all conditions imposed by the City pursuant to an authority other than the Coastal Act remain in effect and are enforceable by the City.

The Commission acknowledges that in this particular case, with the provision of 9 off-site parking spaces, the parking requirements for the after-the-fact development that has occurred on the site will be remedied. However, because the certified PDO requires a parking ratio of 1:200, this is the requirement that must be applied today to bring the after-the-fact development into conformance with the certified LCP. It is also important to note that, to a certain degree, a lot of the business that is generated for the existing restaurants and retail shops in the area is pedestrian-oriented. The Commission does not dismiss the fact that there are severe parking shortages in La Jolla, but until the local community devises improvements in traffic circulation and parking in the community (i.e., shuttle programs, inventories of underutilized parking garages, etc.), the most that can be done at this time is to simply assure that new development occurring in this area provide adequate parking pursuant to the requirements of the La Jolla PDO.

In addition, in the case of the currently proposed 2,760 sq.ft. addition to the restaurant, given that no change in use is proposed and that the City has determined the restaurant to be a heritage structure as discussed in the Heritage Structure finding earlier in this report (reference Page 14), the proposed addition is exempt from providing any additional parking. Therefore, the Commission is requiring through Special Condition No. 2 that the applicant comply with the requirements of the Planned District Ordinance for the provision of 9 off-site parking spaces and that such parking be secured through a Planned District Joint Use Parking Agreement. Only as conditioned, can the proposed development be found consistent with the certified LCP and Chapter 3 policies of the Coastal Act addressing public access.

5. Nonconforming Structure. The project opponents also contend that the proposed addition to the existing restaurant is inconsistent with the certified LCP because the La Jolla PDO does not allow additions or enlargements to be made to a nonconforming *structure*.

Specifically, Section 103.1205A(10) of the La Jolla PDO states:

10. Nonconforming Uses

The lawful use of land which existed on the effective date of this Division and which does not conform with this Division may be continued, except when explicitly prohibited, provided that no enlargement or addition to such *use* are made, consistent with regulations contained in Chapter X, Article I, Division 3 of the San Diego Municipal Code. Any change in building facade, materials or colors shall conform to the provision of this Division. [Emphasis added]

As noted, the provisions of the PDO only address nonconforming uses and do not address nonconforming structures. Because the existing and proposed use will remain a restaurant, which is a permitted use on this site in the La Jolla PDO, this provision does not apply. There are no other provisions in the certified PDO that address nonconforming structures. In any case, as discussed in the previous section of this report, the existing structure is only nonconforming in that there is no off street parking provided. All other applicable provisions of the La Jolla PDO are met with the existing structure. The special condition imposed as part of this permit requiring the applicant to provide adequate parking for unpermitted development rectifies any nonconformity.

The project opponents have also indicated that the part of the building constructed in 1981 (Kellogg addition) is nonconforming due to building height. In response to this issue, the applicant has indicated that the structure conformed to the building height at the time it was constructed in 1981 and according to the City, it still conforms to the building height today even if the way building height is calculated was changed in the City's former implementation plan (zoning ordinance). In other words, the method for calculating height has changed, but this doesn't affect the building's consistency with the 30-ft. height limit. The proposed addition to the restaurant will not result in an increase to building height and as such, it is not enlarging the degree of non-conformity of the structure. In summary, the Commission finds that the subject proposal is consistent with the nonconforming use provisions of the PDO and the requirements for building height of the certified LCP and Coastal Act.

6. Other Issues Raised by Project Opponents. The project opponents also state that the piecemeal redevelopment of the Green Dragon Colony site is being used to obscure what is being done to the whole site and that this precludes the development of on-site parking. While it is acknowledged that the provision of adequate parking is a concern for the downtown merchants of La Jolla due to past history related to traffic circulation and congestion, the development of the remainder of the subject site is not part of the subject

coastal development permit. This issue will be addressed in the future when the owner proposes to redevelop the remainder of the site. There is no requirement in the certified LCP that would necessitate that the owner develop all of the portions of the property at one time. In fact, the CDP #A-6-LJS-91-168 (and its subsequent amendment CDP #A-6-LJS-91-168-R-A2) required that the applicant to incorporate the significant design elements worthy of incorporation into future development of the restricted area of the site on Lots 30 and 31 (reference Exhibit #s 25-27). Thus, it is clear that any future development on that portion of the site will be required to meet the requirements of that permit. In addition, as discussed in the subsequent finding for public access in this report, through a special condition of the subject permit, it is made clear that the requirement for a vertical access stairway in the vicinity of the former Green Dragon Colony structures will still be required in the review of a coastal development permit for future development of that portion of the site.

In summary, as a heritage structure, the proposed new addition to the restaurant is exempt from providing additional parking. Nonetheless, the Commission finds that 14 off-site parking spaces must be provided to meet the requirements of the after-the-fact development that has occurred without benefit of a coastal development permit. Therefore, the Commission finds that the subject proposal is consistent with the policies addressing parking in the certified LCP and that any future development or redevelopment of the site will be reviewed at that time for concurrence with the certified LCP.

7. Public Views. The certified PDO requires that visual access be provided in connection with the proposed development. Specifically, Section 103.1206 F.1. of the La Jolla PDO states the following:

In Subareas 1A, 5A and 6A on the seaward side of Prospect Street, in order to provide for visual access corridors to the ocean, buildings shall be located so that the major axis of the structure will generally be at a right angle to the shoreline. An open visual access corridor of ten percent of the lot width shall be maintained open to the sky and free from all visual obstructions from the front property line to the rear property line of the project.

Refuse collection and loading areas shall not be located in any way that interferes into the visual access corridor. (see Appendix B).

Furthermore, the certified La-La Jolla Shores LCP Addendum contains the following applicable provisions, as well:

#### B. 1) Urban Design

In this section, several urban design guidelines have been developed for general application to the entire core of La Jolla including, commercial areas, and where applicable, the adjacent R-3 residential areas. These guidelines will be used as the

basis for the development of a design overlay zone or planned district as discussed in the section on implementation.

### Guidelines

#### (1) The Natural Environment

- Structures should be designed to incorporate views of La Jolla's natural scenic amenities—especially the ocean, shoreline, and hillsides. Developments in prime view locations which are insensitive to such opportunities, diminish visual access and compromise the natural character of the community. Large windows, observation areas, outdoor patios, decks, interior courtyards, elevated walkways, and other design features can be used to enhance visual access and increase the public's enjoyment of the coast.... [Emphasis added] (p. 120)

An open visual access corridor of five feet is currently located along the eastern property line and near the lot lines of Lots 31 & 32 between the Chart House and the existing retail building to the west which will not be affected by the proposed development (reference Exhibit No. 28). Given that the lot widths of Lots 31 and 32 are 51 and 52 feet, respectively, 10% would result in five feet for each lot (reference Exhibit No. 8). The City has indicated that although the subject lots are irregular in shape, the average lot width across the middle of the site is used to determine the width of the visual access corridor required in the PDO. As noted previously, the restaurant is largely situated on Lot 32 but a small portion of it extends south onto Lot 31. Generally, as one drives down Prospect Street, views toward the ocean looking northwest are obstructed by the presence of existing development. Looking across the subject site while driving south of Prospect Street, there is a small glimpse of the ocean at the eastern side of the restaurant. This existing visual accessway is five feet wide and is proposed to be retained. To the west of the restaurant there is an area between the restaurant and the existing retail leasehold to the south that the applicant proposes to enhance by removal of a solid gate/door. Through the proposed improvements, this area will become a viewing area looking west out towards the ocean. The proposed visual accessway will be seven feet wide.

The entrance to the restaurant from Prospect Street is proposed to be constructed with post and beam technique and will include clear glass to assure visual access through the building toward the ocean and coastal bluffs northwest of the site. The City found that these modifications would result in a greater visual transparency through the building than currently exists and determined that this is consistent with the current policies of the certified La Jolla-La Jolla Shores LCP.

In addition, by constructing outdoor dining decks, patrons of the restaurant will be able to look out towards La Jolla Cove and the other coastal resources in this nearshore area. From the west side of the Chart House, views toward La Jolla Cove, Ellen Browning Scripps Park and Goldfish Point are visible. As such, views toward this popular recreation and scenic area will be enhanced through the proposed development. Given that the La Jolla PDO contains requirements for the provision of a visual access corridor

and such a corridor is being provided, including implementation of special design features such as clear glass windows at the southeast corner of the structure, the proposed development can be found consistent with the certified LCP. The applicant also proposes to remove a few trees from the subject site. As such, Special Condition No. 6 requires submittal of a final landscape plan identifying the trees to be removed and any replacement trees. Any new trees on the site shall be planted in a manner that does not obstruct public views toward the ocean in the west and east side yard setback areas. Thus, as conditioned, the Commission finds that the proposed development will not result in any adverse impacts to visual resources or public views, consistent with the visual resource policies of the certified LCP and Coastal Act.

8. Public Access. Both the certified LCP and the Coastal Act contain policies protecting physical access to the beach and ocean. The subject site is not between the first public road and the sea; however, it is located within 300 feet of the coastal bluffs. The La Jolla-La Jolla Shores LCP Addendum contains the following policies addressing protection of public access:

"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." (p. 9)

New development should not prevent or unduly restrict access to beaches or other recreational areas" (p. 10)

The maximum use and enjoyment of La Jolla's shoreline is dependent upon adequate public access. Major recreational areas include La Jolla Shores Beach, Ellen Scripps Park, Coast Boulevard Park, ....(p. 11)

The project opponents contend that the applicant should restore a pedestrian accessway that existed on the Green Dragon property through the subject development proposal. The accessway that the opponents are identifying is one that existed in the vicinity of the previously existing Green Dragon cottages which is south of the Chart House leasehold. The subject site consists of three contiguous parcels (Lots 30-32) with Lot 32 being the northernmost lot. The previously existing accessway associated with the Green Dragon Colony was a straight vertical wooden stairway that was identified to be one of the historical design elements of the previous Green Dragon Colony. The stairway was situated on Lot 30, whereas, the Chart House is situated on Lot 32 (and partially on Lot 31). As such, the proposed remodeling and additions to the Chart House Restaurant will not interfere with the location of a future pedestrian accessway on the part of the site where the Green Dragon Colony previously existed. The provision of that accessway shall be required in any future redevelopment of the portion of the site where the Green Dragon Colony existed pursuant to the special conditions of CDP #A-6-LJS-91-168 which required that the historical design elements of the Green Dragon Colony be incorporated into any future development on the subject property (reference Exhibit #s 25-27). Special Condition No. 4 reiterates this provision of the Green Dragon Colony permit.

On a related point, there is a walkway/existing stairway on the subject site that leads from Prospect Street to Coast Boulevard along the east side of the existing restaurant. According to project opponents, the public has used this access for several years and state it is the stairway shown in the certified La Jolla-La Jolla Shores LCP Addendum (reference Exhibit #12) identified as alternative pedestrian access. As originally proposed and approved by the City, the applicants were proposing to demolish a portion of this stairway and eliminate this access.

In correspondence from project opponents, this accessway is identified as being located between lots 31 and 32; however, this is where the Chart House building is located and there is currently no accessway that goes through the middle of the building. As a means of explanation for this discrepancy, it can be acknowledged that the accessway map shown in the LCP is "conceptual" in nature and *may* be incorrectly drawn in relationship to the specific lot lines in this area (reference Exhibit No. 12/LCP Subarea Maps-Physical Access and compare to Exhibit No. 1/Site Plan). Unfortunately, it remains unclear as to whether this accessway depicted on the map refers to either the existing vertical stairway on the east side of the subject site or the Coast Walk Stairway on the site immediately to the east. The Coast Walk Stairway is just east of the subject site where the Chart House is located and is adjacent to other retail shops east of the Chart House. Identification for the walkway is on the south side of the one retail buildings that reads "Coast Walk/Shops Restaurants Parking". That retail center includes the Crab Catcher Restaurant and numerous retail shops. Although the applicants believe the notation in the LCP maps likely refers to the Coast Walk stairway, project opponents claim that the public has utilized the stairway immediately to the east of the Chart House on the subject site, as well. With regard to the public's use of the stairway on the subject site, the applicants indicate that their business office has been located near the subject property for 23 years and that the stairway on the Chart House property has been infrequently used largely, in part, because its Coast Boulevard frontage is not visible from Prospect Street. While walking along Prospect Street looking west, the stairway or walkway appears to disappear behind the restaurant. There are also trash enclosures in this area making it look "private" in nature or for use by the restaurant employees. Thus, it is not readily apparent that the stairway leads all the way down to Coast Boulevard. The stairway does lead all the way down to Coast Boulevard and nearly parallels the existing walkway on the property to the north known as "Coast Walk".

With regard to the Coast Walk stairway, it is heavily utilized by the public but it is not a dedicated public accessway. The applicants state this accessway was required to be open for public use in 1974. It is located immediately north of other retail shops and it is identified on the side of one of the buildings with white letters that states "Coast Walk/Shops Restaurants Parking". While standing at the top of the Coast Walk stairway, one can see all the way down towards the ocean and to Coast Boulevard and as such, this stairway is much more frequently used by members of the public as a vertical accessway. The proposed development will not interfere with the public's continued use of this public accessway.

In addition, there is another stairway that is accessed through the existing retail/commercial center to the west of this stairway that leads from Prospect Street down to the lower level of the retail center and northwest through the Crab Catcher restaurant. This accessway is a dedicated vertical accessway. It should also be noted that there have been some assertions that another public accessway existed on the subject site to the south of the Chart House restaurant. However, the applicant has stated that an existing gate has been in place at this location for well over 50 years. Robert Mosher, the architect who designed several of the Prospect Street facing structures has submitted a letter dated 9/20/00 (with attachments including a photograph and two architectural drawings) which verifies that as the designing architect, the gate was constructed between the restaurant and the shop show-window to discourage public access, as the stairs beyond the gate, led to a private residence which he and his wife occupied at the time. A photograph taken in 1948 shows the building and gate under construction at the time. He verifies that the gate has not been altered in any way since it was first constructed in 1948. This location is where the applicant proposes to remove the gate/door and create an opening for visual access which is discussed in the previous finding. Commission staff walked in this area of the site during a site meeting with the applicants. The stairway ends at the location where the previous Green Dragon Colony structures formerly existed. One can walk behind the Chart House onto a small concrete paved landing adjacent to the rear of the restaurant. Several small concrete steps lead to nowhere as the site is fenced off and no improvements exist beyond this point to the west.

Regardless of the outstanding questions related to the mapping of the stairway and the frequency of use by the public of the stairway, the Commission finds that it is important to retain whatever vertical access presently exists in this location as the policies of the certified LCP call out for the protection and improvement of existing physical access. Through the proposed remodeling and additions to the restaurant, a portion of the stairway was originally proposed to be removed. However, the applicants have revised their site plan to include constructing a small portion of the stairway that is situated parallel to the eastern property line such that it connects to the two remaining portions of the stairway so that it is continuous and will provide for access from Prospect Street to Coast Boulevard (reference Exhibit No. 2). The applicants have further proposed an offer to dedicate a vertical access easement for this stairway which will remain open from 8 A.M. to dusk daily. The stairway will be parallel to the Coast Walk stairway on the adjacent lot to the east. The Commission finds that retention of this stairway for vertical access is important because the certified LCP calls for enhancing public access opportunities. At one time, there were several vertical accessways that connected Coast Boulevard to Prospect Street. However, over time, these accessways have been closed off for a variety of reasons. It is important that vertical access be maintained because the village area of La Jolla is closely situated to the nearby popular recreational areas such as La Jolla Cove, Goldfish Point, La Jolla Caves and Ellen Browning Scripps Park which are conveniently located close by on the north side of Coast Boulevard and within easy walking distance of the subject site and other retail shops/restaurants on Prospect Street. Many tourists and members of the public alike frequent the coastal areas and then walk up to the village area to dine and shop. The provision of a vertical stairway at this location is very important to continue to provide public access for coastal visitors.

On a related point, the City required the applicant to visually screen the existing trash containers in the east side yard (where the proposed vertical access easement will be provided) with a gate and/or trash enclosure. The installation of a gate that remains closed all day would be inhibiting to pedestrian users even if the area was offered for dedication as a vertical access easement. To address this concern, the applicant has proposed that the gate consist of a sliding gate that can be opened in the morning and closed at dusk. The property owner has indicated that there are a number of transients in the area who sleep and camp on the rear portion of the site that is unimproved (where the Green Dragon Colony formerly existed). This has proven to be a safety problem and serious concern for some of the female employees of some of the retail shops within the subject retail/restaurant complex. As such, Special Condition No. 5 requires the submittal of final plans that depicts the details for the gate and stairway to be installed at the entrance to the pedestrian walkway near its Prospect Street frontage. Special Condition No. 1 is proposed to assure the applicant provides to offer the access in an acceptable form and content. Also, the offer to dedicate a vertical access easement provides for the accessway to be closed at dusk. In addition, Special Condition No. 7 requires the applicant to submit a sign plan for the proposed vertical public access easement. The condition further provides that the proposed signage shall consist of monument signs or wall signs only (no freestanding or roof signs) not to exceed two signs total. The signs shall also be required to be located near the subject stairway along both the Prospect Street and Coast Boulevard frontages of the site in an area visible to members of the public.

It is important to acknowledge that in its action on CDP #A-6-LJS-91-168-R and #A-6-LJS-91-168-R-A2, the Commission required that the applicant incorporate the significant historical and architectural character defining elements of the former Green Dragon into any future development on the site (Lots 30 and 31). This condition was required to be recorded against the subject property. The amendment to the permit (#At-6-LJS-91-168-R-A2 clarified that this requirement applied only to the "restricted area" of the site which is Lots 30 and 31 as opposed to the entire subject property which consists of three parcels (Lots 30-32). As noted previously, the Chart House restaurant is situated mostly on Lot 32. The former Green Dragon Cottages which were demolished were situated on Lots 30 and 31. One of the identified significant design elements required to be provided in new development on the site in the future is a straight and vertical stairway similar to the one that previously existed on the site. Specifically, the design elements report (reference Exhibit #27) includes the following:

Stairways - At Lot 30, it is recommended that a straight and vertical stairway similar to the existing 4 foot wide wood stair that currently traverses the south side of the site from the upper sidewalk to the Coast Blvd. sidewalk be included in new development in the same location or in close proximity to the location of the existing stairway. This stairway is one of the character defining elements of the property and its historical character and public use should be protected.

Any new stairway on the site should include wood steps.

To make in clear that by provision of an offer to dedicate a vertical access easement on the subject site (Lot 32) does not relieve the applicant of the requirement to provide a stairway in any future redevelopment of the area of the site where the Green Dragon Colony structures were previously located, Special Condition No. 4 has been attached. Specifically, the condition requires that by acceptance of this permit, the applicant acknowledges that nothing in this action precludes or reduces the requirements to incorporate all design elements that have been determined to be historically and/or architecturally significant and worthy of incorporation by the Executive Director in consultation with the State Historical Building Safety Board into future development in the restricted area of the site (Lots 30 and 31) pursuant to Special Condition Nos. 1 and 2 of CDPs #A-6-LJS-91-168-R and #A-6-LJS-91-168-R-A2.

Therefore, in summary, with the attached condition incorporating the offer to dedicate a vertical access easement, pursuant to the applicant's proposal, public access will be formalized and continued to be provided from Prospect Street to Coast Boulevard through the subject site. As such, the proposed project can be found consistent with the certified LCP and the public access and recreation policies of the Coastal Act.

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

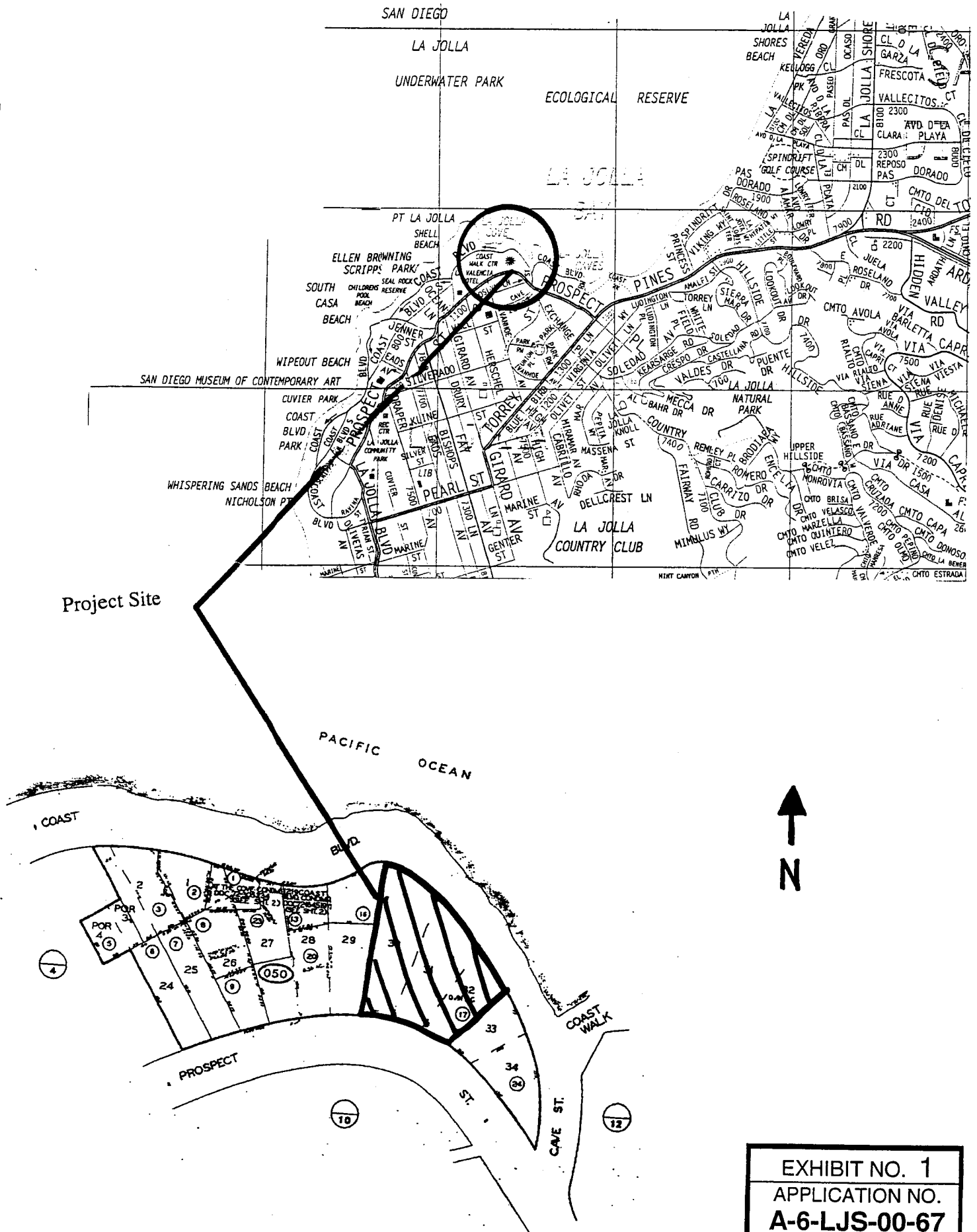
Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A)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

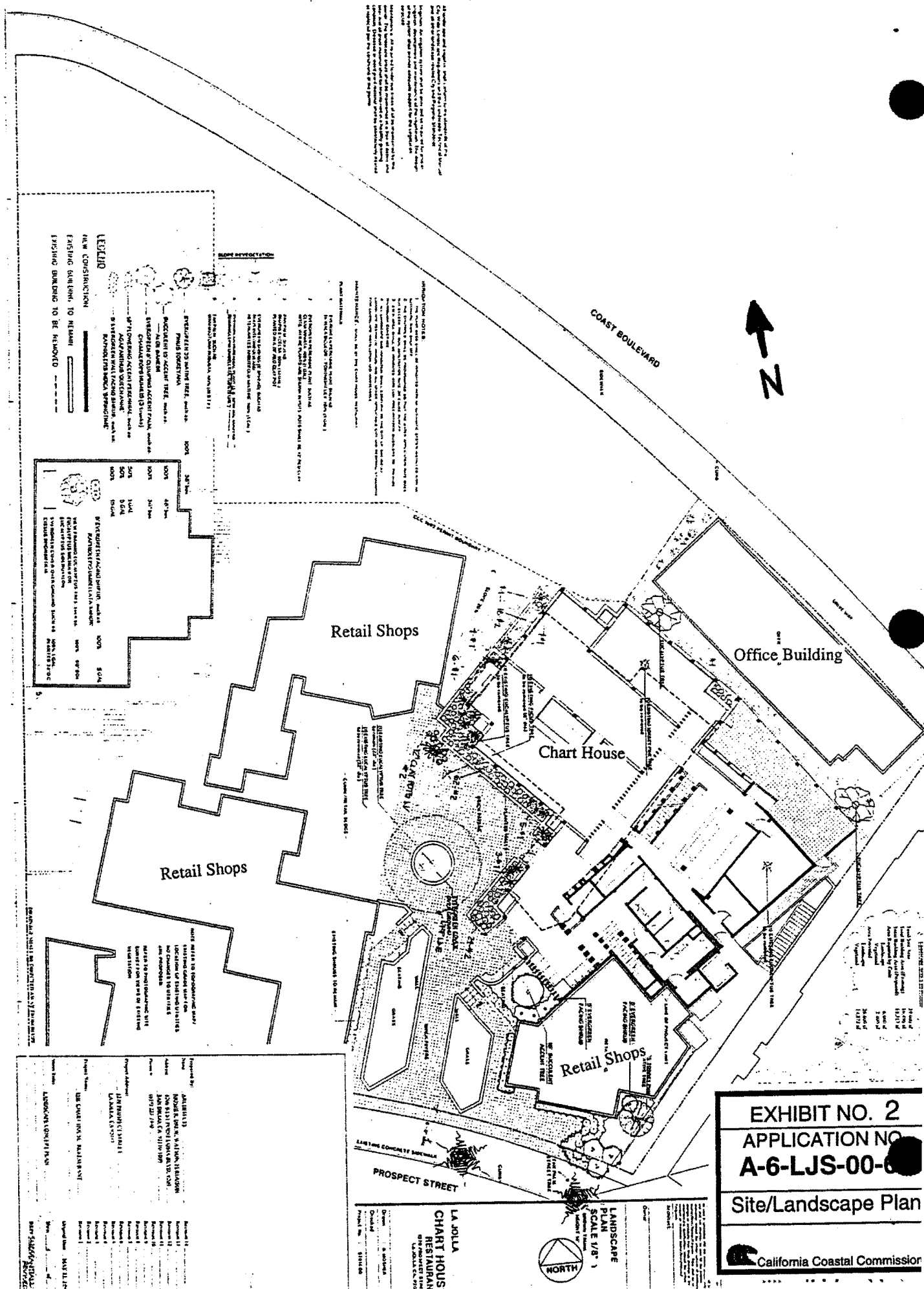
The proposed project has been conditioned in order to be found consistent with the public access and visual resource policies of the Coastal Act. Mitigation measures, including conditions addressing an offer to dedicate a vertical access easement across the subject site and the provision of 14 off-site parking spaces 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. 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.





**EXISTING FOOTPRINT**

MMRP) will be as follows:

- Engineering Record
- Structure (standards)
- with mantle (in the
- the southwest corner
- the report) into the new
- currently located above
- the first full paragraph on
- ing the significance of
- the Wainfield building

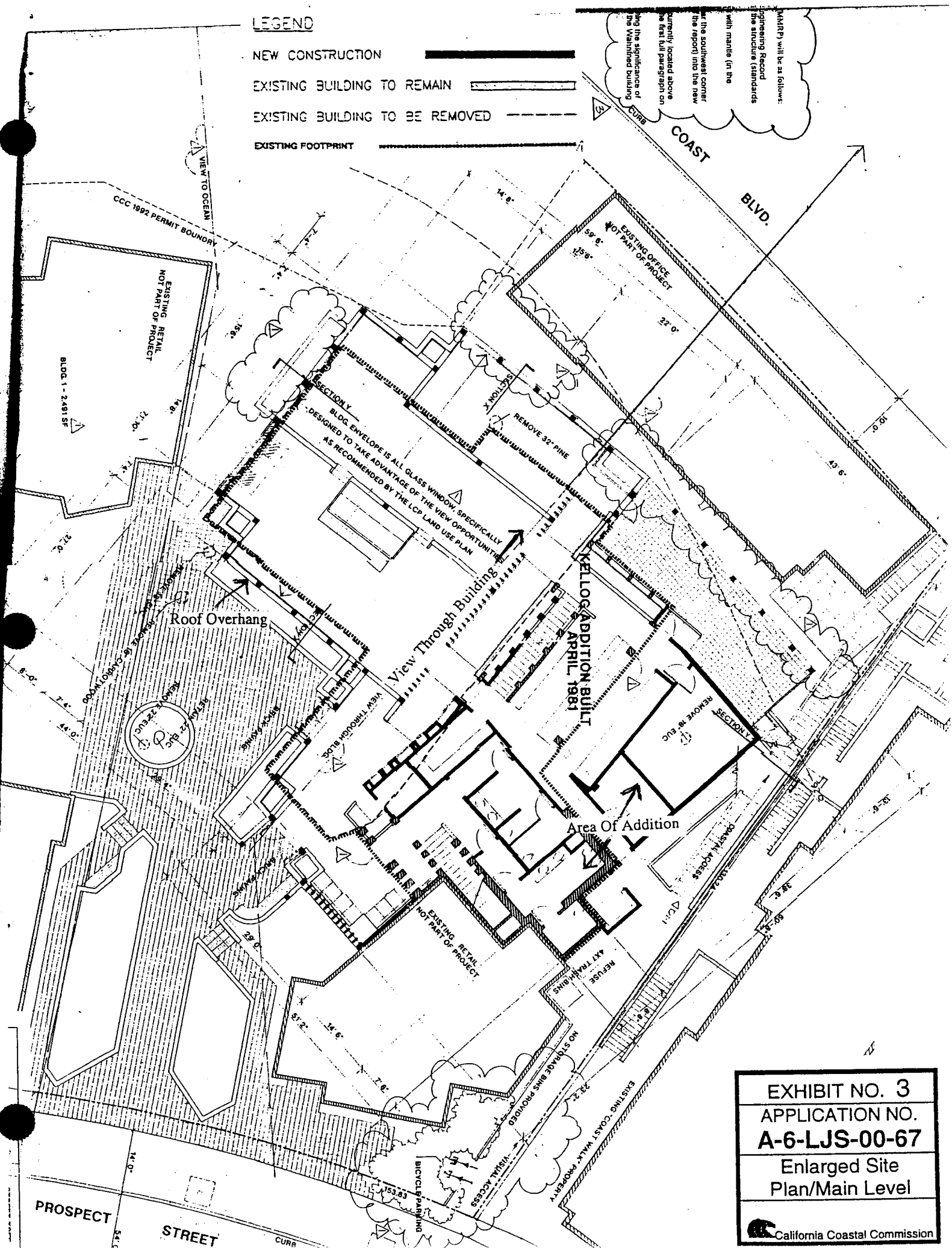
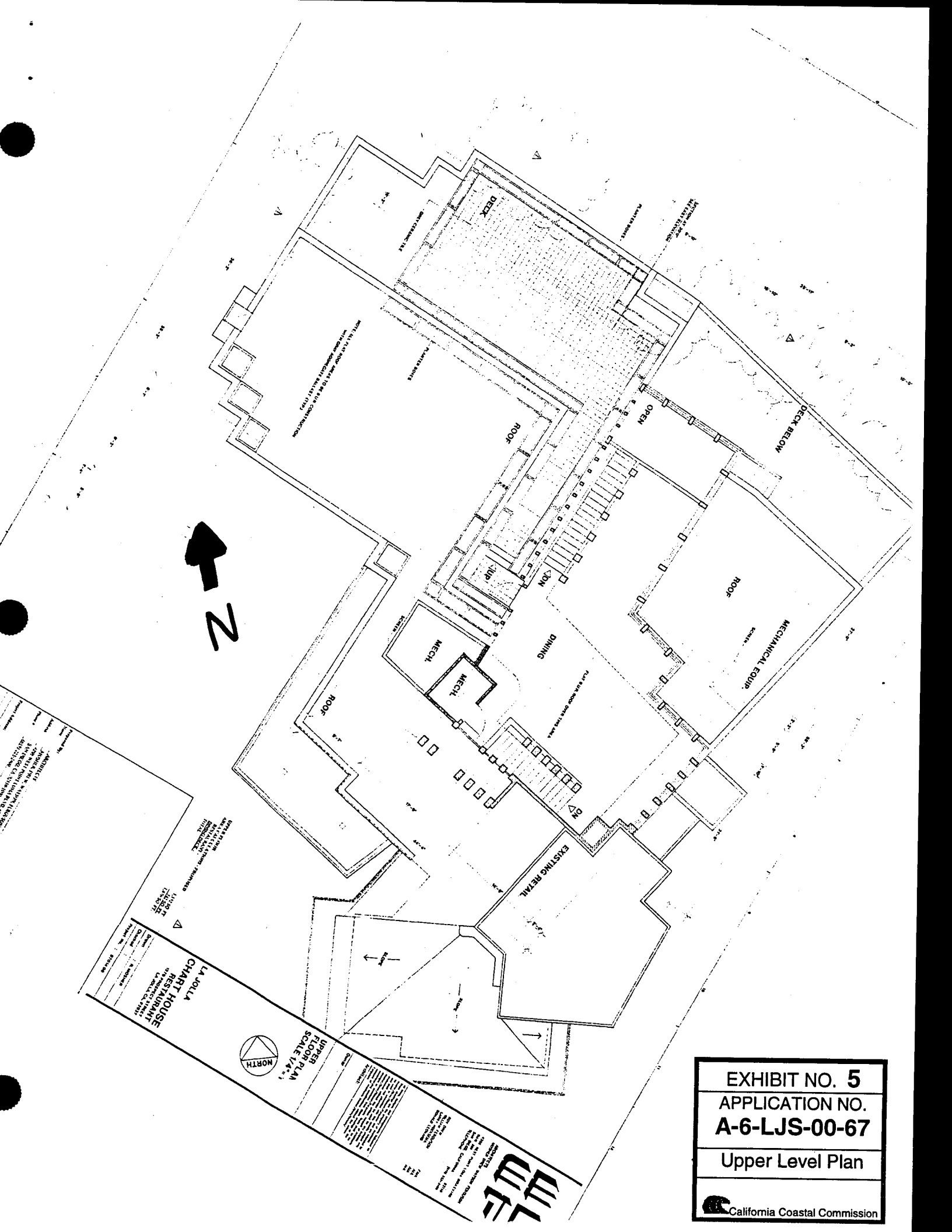


EXHIBIT NO. 3  
APPLICATION NO.  
**A-6-LJS-00-67**  
Enlarged Site  
Plan/Main Level





2

LA JOLLA  
CHART HOUSE  
RESTAURANT  
LA JOLLA, CA 92037



UPPER  
FLOOR PLAN  
SCALE 1/4" = 1'-0"

EXHIBIT NO. 5  
APPLICATION NO.  
A-6-LJS-00-67

Upper Level Plan



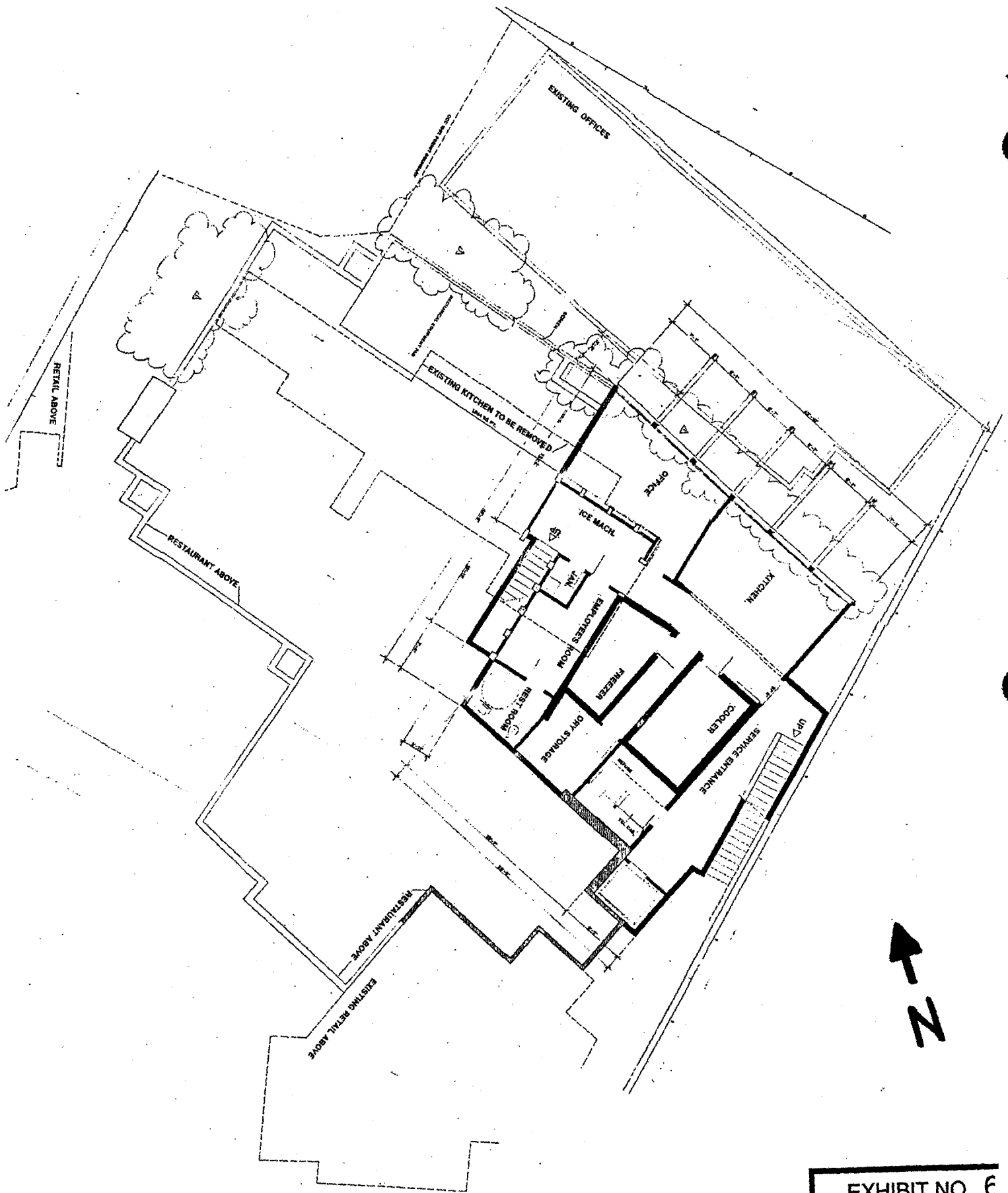


EXHIBIT NO. 6  
APPLICATION NO  
A-6-LJS-00-6  
Lower Level Plan

**CHART HOUSE LA JOLLA**  
SOUTH ELEVATION

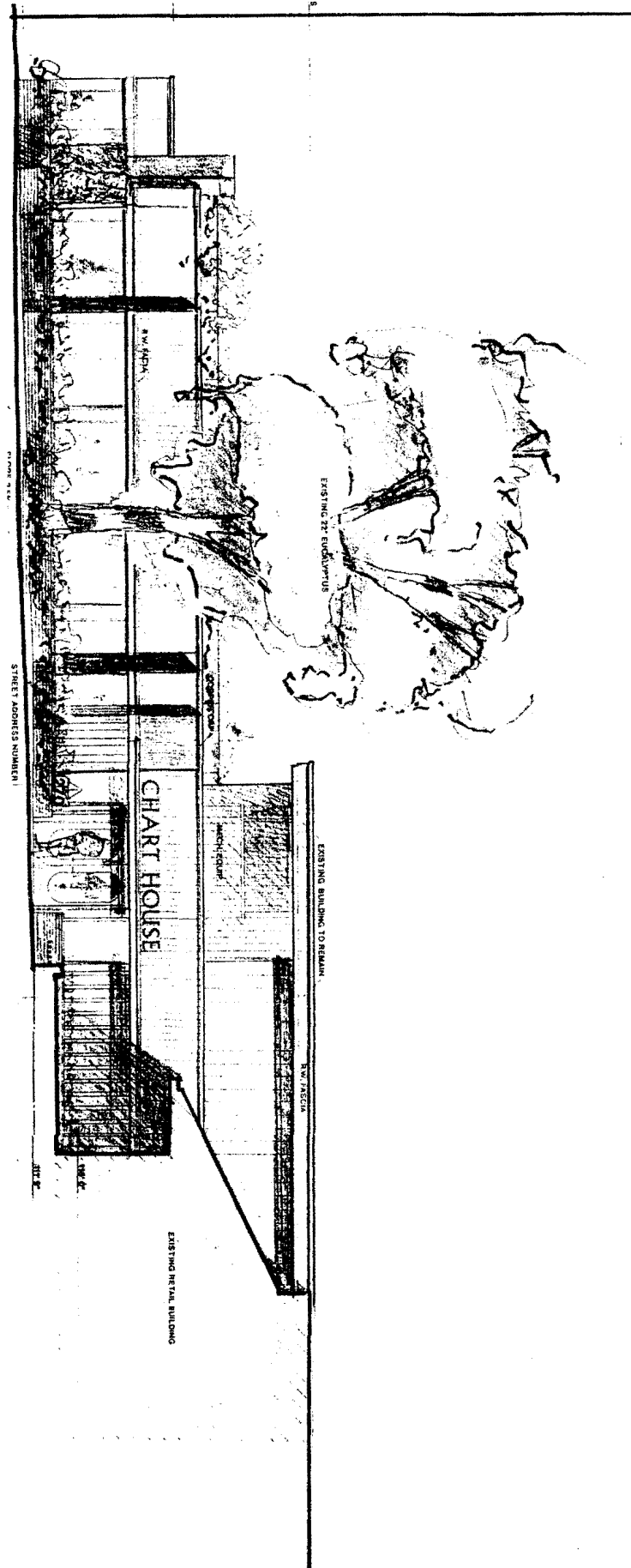
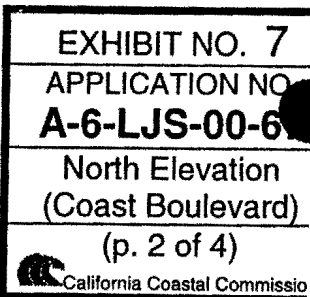


EXHIBIT NO. 7  
APPLICATION NO.  
**A-6-LJS-00-67**  
South Elevation  
(Prospect Street)  
(p. 1 of 4)

**WJE**



**CHART HOUSE LA JOLLA**  
**-EAST ELEVATION**  
*WEST*

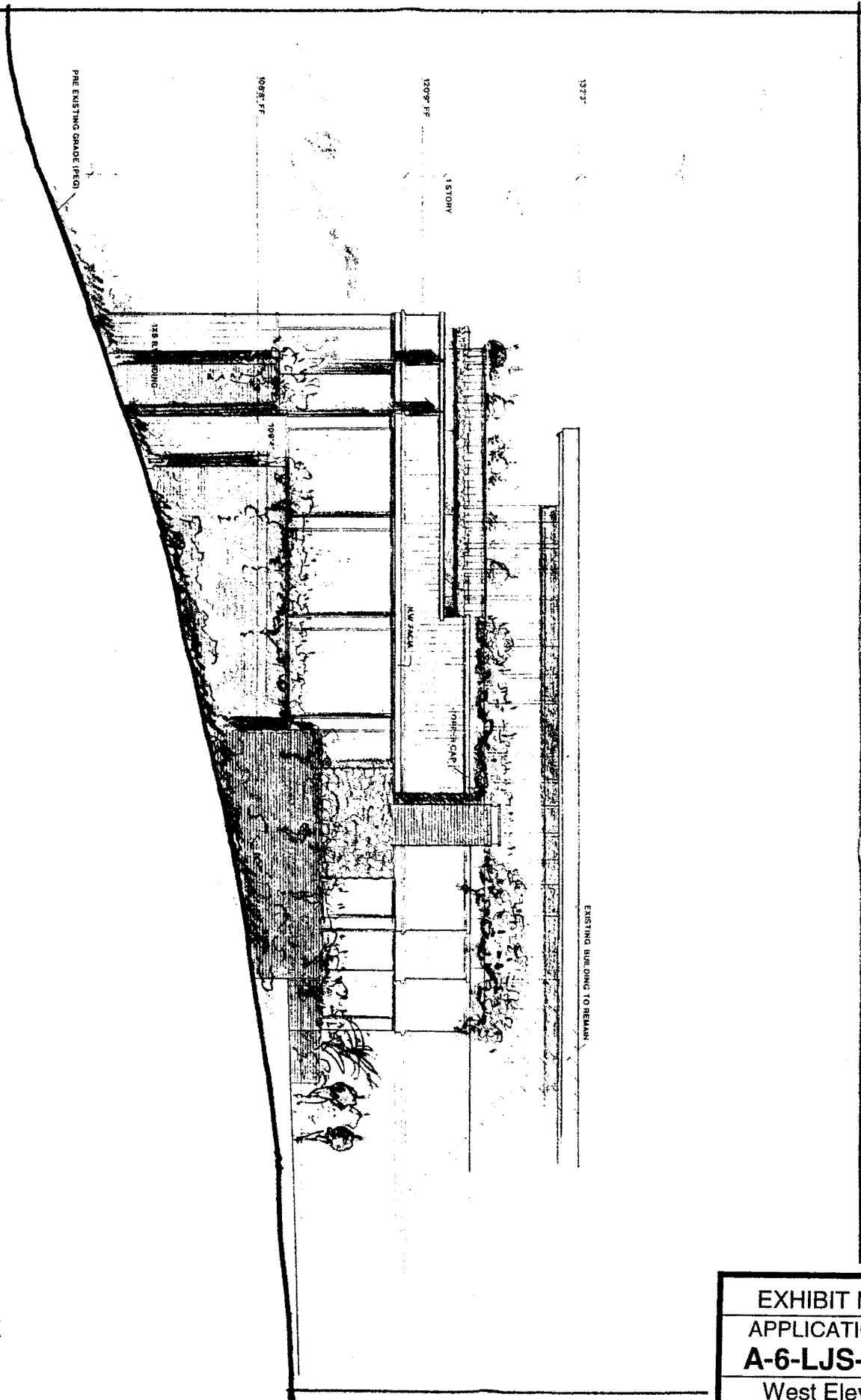

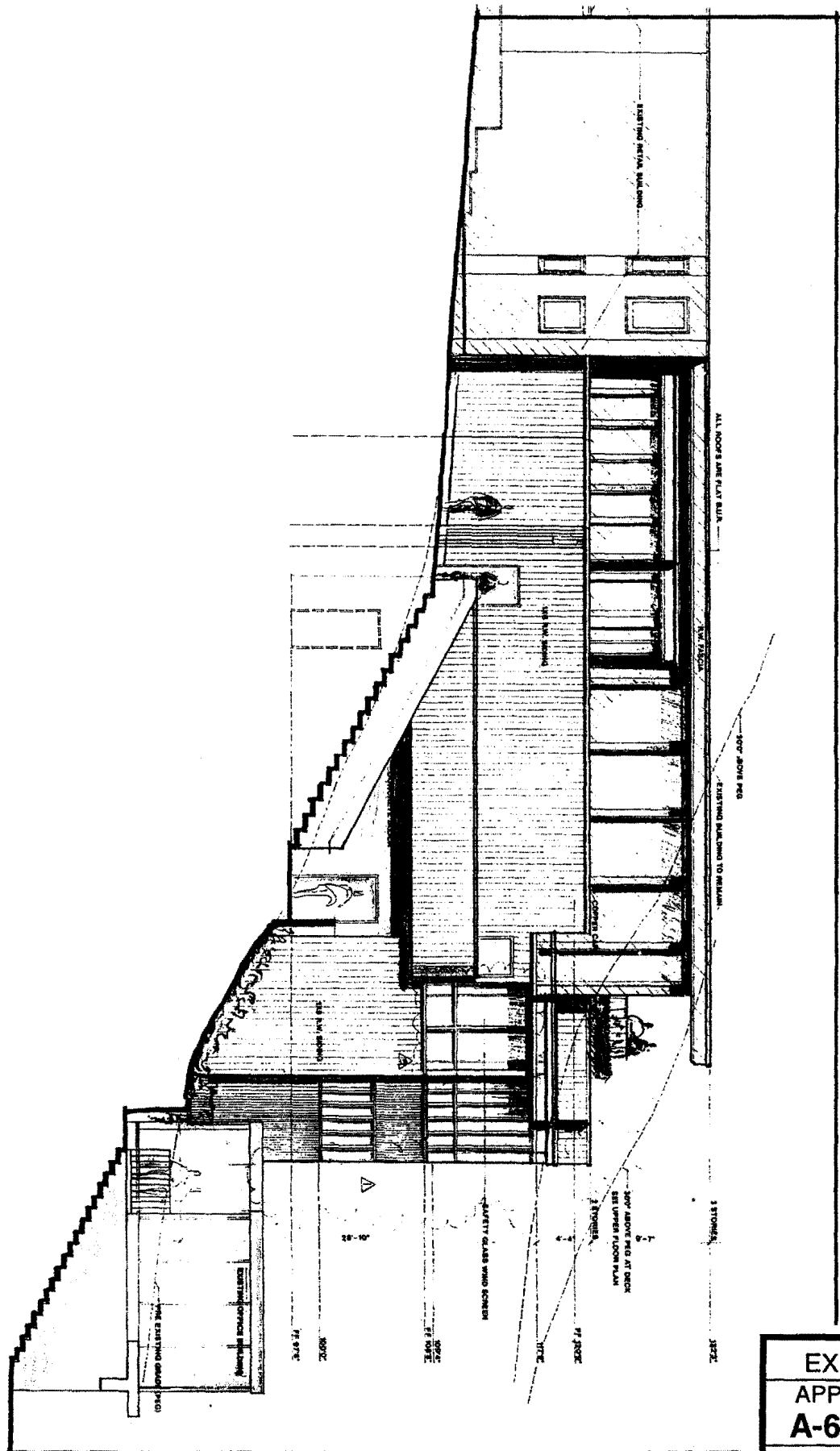


EXHIBIT NO. 7
APPLICATION NO.
<b>A-6-LJS-00-67</b>
West Elevation
(p. 3 of 4)
 California Coastal Commission



FF  
TG



(p. 4 of 4)

# PACIFIC OCEAN

## DEVELOPMENT SUMMARY:

1. Summary of Project: The proposed development consists of a new 10-story office building, a new 10-story hotel, and a new 10-story parking garage. The total area of the development is approximately 1,000,000 square feet. The development is located on a 10-acre site in the City of Los Angeles, California.

2. Project Location: The project is located on the corner of Pacific Ocean Boulevard and Prospect Street, in the City of Los Angeles, California.

3. Project Description: The project consists of a new 10-story office building, a new 10-story hotel, and a new 10-story parking garage. The total area of the development is approximately 1,000,000 square feet.

4. Project Goals: The project goals are to provide a new office building, a new hotel, and a new parking garage for the City of Los Angeles, California.

5. Project Benefits: The project benefits include the creation of new jobs, the improvement of the local economy, and the improvement of the local infrastructure.

6. Project Risks: The project risks include the possibility of delays, the possibility of cost overruns, and the possibility of environmental impacts.

7. Project Conclusion: The project is a major development for the City of Los Angeles, California, and it is expected to provide many benefits to the community.

8. Project Appendix: The project appendix includes a detailed site plan, a detailed floor plan, and a detailed budget.

9. Project Contact: The project contact is the City of Los Angeles, California, and the project is managed by the City of Los Angeles, California.

10. Project Date: The project date is the date of the project, which is the date of the project.

11. Project Location: The project location is the location of the project, which is the location of the project.

12. Project Description: The project description is the description of the project, which is the description of the project.

13. Project Goals: The project goals are the goals of the project, which are the goals of the project.

14. Project Benefits: The project benefits are the benefits of the project, which are the benefits of the project.

15. Project Risks: The project risks are the risks of the project, which are the risks of the project.

16. Project Conclusion: The project conclusion is the conclusion of the project, which is the conclusion of the project.

17. Project Appendix: The project appendix is the appendix of the project, which is the appendix of the project.

18. Project Contact: The project contact is the contact of the project, which is the contact of the project.

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20. Project Location: The project location is the location of the project, which is the location of the project.

21. Project Description: The project description is the description of the project, which is the description of the project.

22. Project Goals: The project goals are the goals of the project, which are the goals of the project.

23. Project Benefits: The project benefits are the benefits of the project, which are the benefits of the project.

24. Project Risks: The project risks are the risks of the project, which are the risks of the project.

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39. Project Description: The project description is the description of the project, which is the description of the project.

40. Project Goals: The project goals are the goals of the project, which are the goals of the project.

**LEGEND**  
NEW CONSTRUCTION  
EXISTING BUILDING TO REMAIN  
EXISTING BUILDING TO BE REMOVED  
EXISTING LOT BOUNDARY

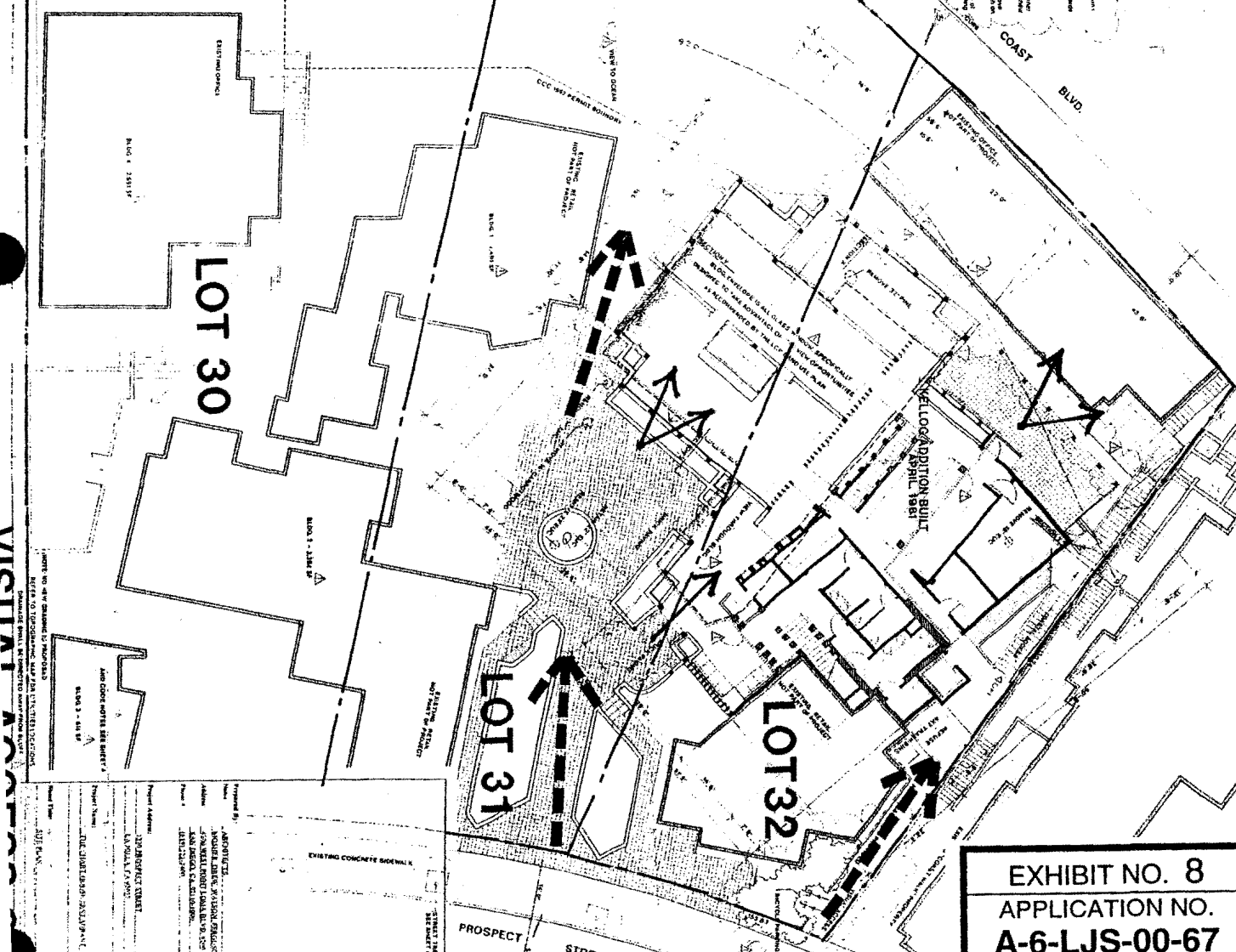


EXHIBIT NO. 8

APPLICATION NO.

A-6-LJS-00-67

Proposed Visual Access Corridors

California Coastal Commission

VICTIM ADVISORY

# COAST BOULEVARI

## EXISTING ACCESS

27, 1914.

BENCHMARK  
FOR THIS SURVEY IS  
PIN IN THE WESTERL  
ST. AND CAVE ST. E

BASIS OF BEA  
FOR THIS SURVEY IS  
AND THE NORTHEAST  
OF SURVEY IN PROCESS  
N47°44'20"W.

SURVEYOR'S STATEMENT

I, LONIE K. CYR, A PROFESSIONAL LAND SURVEYOR  
CALIFORNIA HEREBY STATE THAT THIS SURVEY MAP  
DIRECTION ON NOVEMBER 18, 1997 IS TRUE AND CORRECT.

Lonie K. Cyr  
LONIE K. CYR, PLS 6929  
DATE April 22, 1998

EXHIBIT NO. 9a

**APPLICATION NO.**

6-00-12-A1

Existing  
Stairway/Access  
across subject site

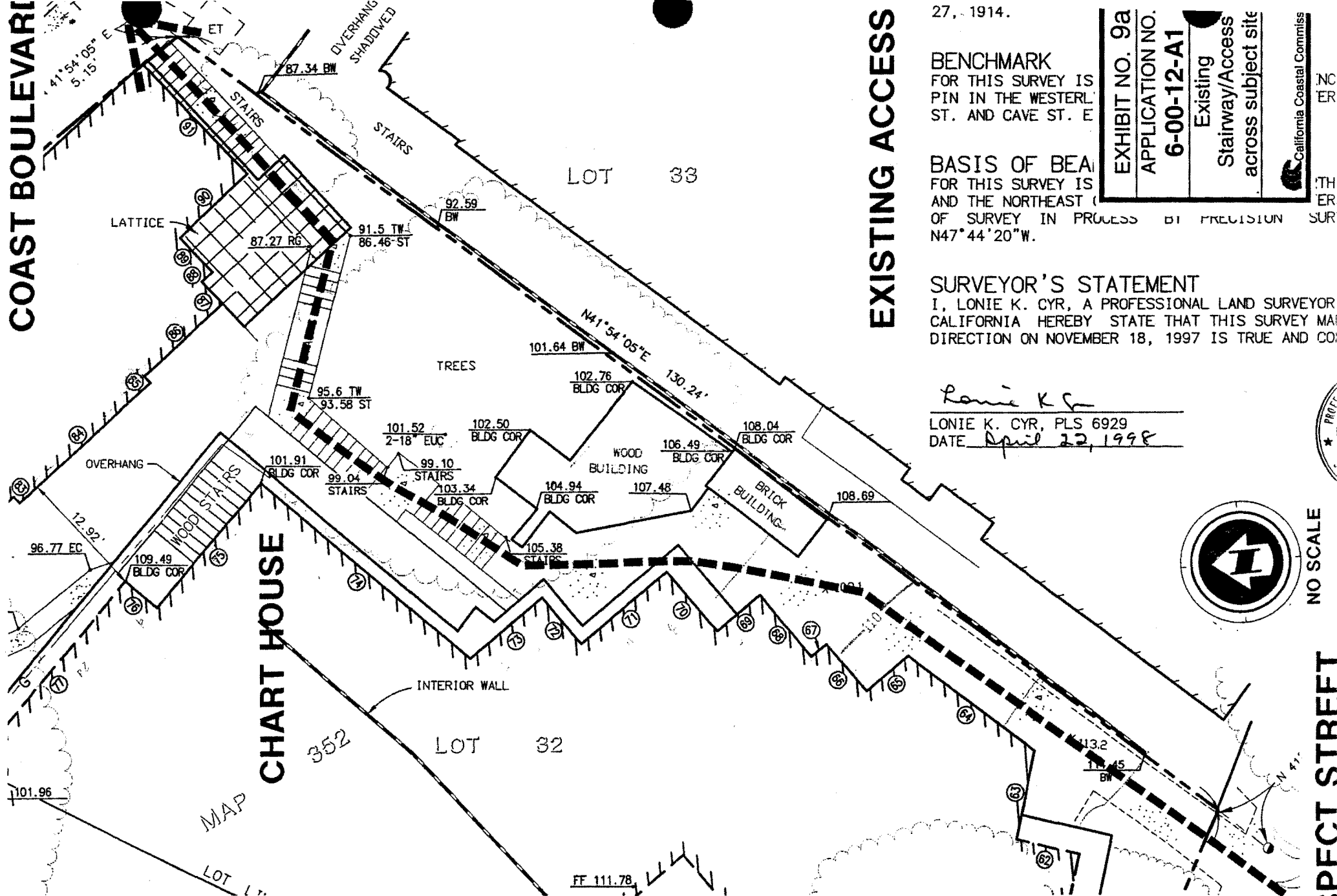
California Coastal Commiss

INC  
ER

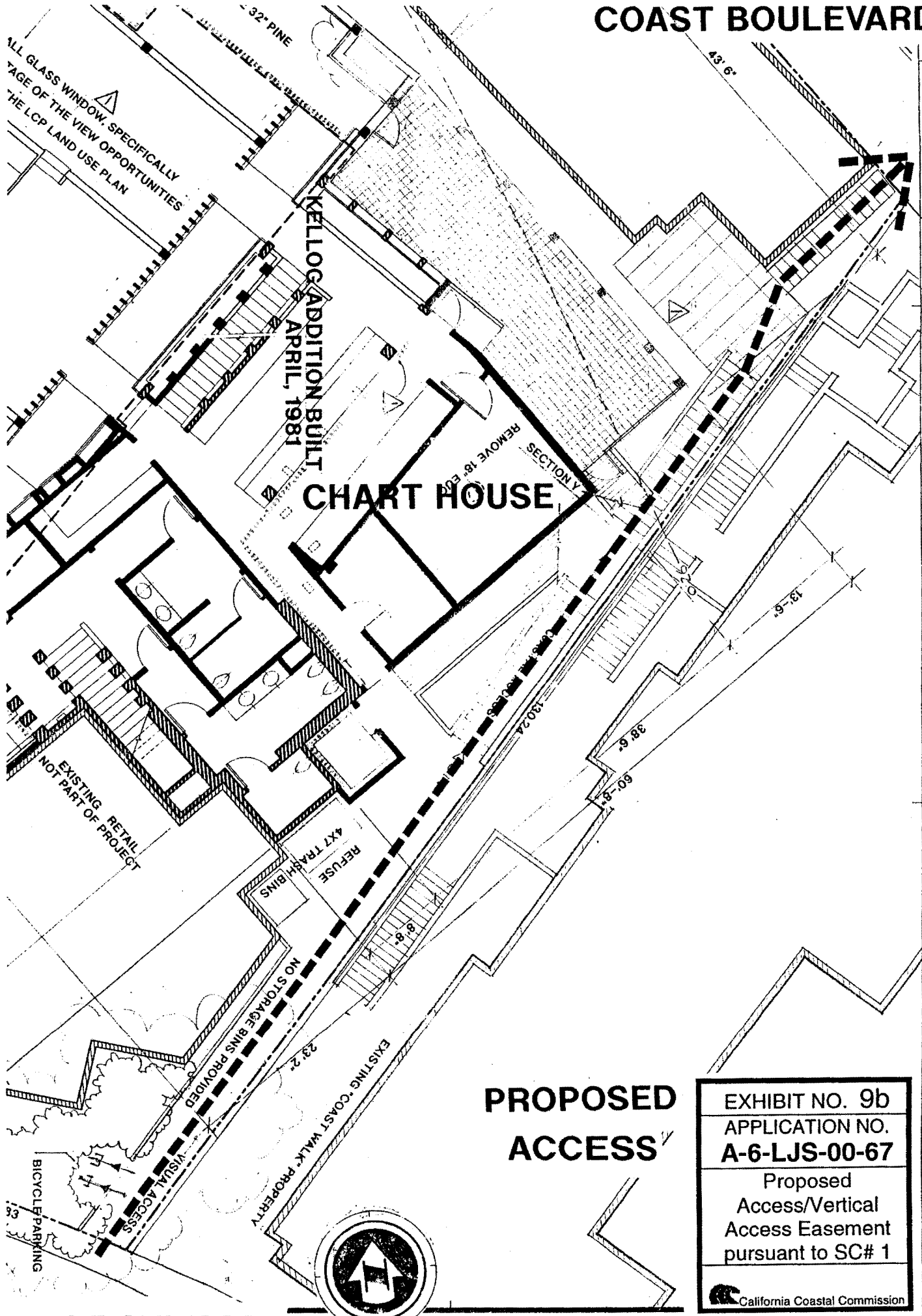
TH  
ER

**NO SCALE**


**PROSPECT STREET**



COAST BOULEVARD



**PROPOSED  
ACCESS**

EXHIBIT NO. 9b
APPLICATION NO.
<b>A-6-LJS-00-67</b>
Proposed Access/Vertical Access Easement pursuant to SC# 1
 California Coastal Commission



PROSPECT STREET

NO SCALE 0' 5' 10' 15' 20' 25' 30' 35' 40' 45' 50' 55' 60' 65' 70' 75' 80' 85' 90' 95' 100'

STATE OF CALIFORNIA—THE RESOURCES AGENCY

GRAY DAVIS, Governor

## CALIFORNIA COASTAL COMMISSION

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

APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT

RECEIVED

MAY 23 2000

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICTPlease Review Attached Appeal Information Sheet Prior To Completing  
This Form.SECTION I. Appellant

Name, mailing address and telephone number of appellant:

La Jolla Town Council

P.O. Box 1101

La Jolla, CA 92038

Zip

( 858 ) 454-1444

Area Code

Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: San Diego

2. Brief description of development being  
appealed: La Jolla Chart House demolition and reconstruction with major  
modifications.3. Development's location (street address, assessor's parcel  
no., cross street, etc.): 1270 Prospect Street in the Zone 1A and Coastal Zones of the  
La Jolla Planned District. Lots 30, 31 and 32 in Block 59 of La Jolla Park per Map No.

352.

4. Description of decision being appealed:

a. Approval; no special conditions: CDP/SCR/LJPD Permit No. 98-0755

b. Approval with special conditions: \_\_\_\_\_

c. Denial: \_\_\_\_\_

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

## TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-LJS-00-067DATE FILED: 5/23/00DISTRICT: San Diego

D/86

EXHIBIT NO. 10

APPLICATION NO.

A-6-LJS-00-6

Appeal w/  
Attachments  
(p. 1 of 20)

California Coastal Commission

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

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

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

6. Date of local government's decision: MAY 2, 2000

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

SECTION III. Identification of Other Interested Persons

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

- a. Name and mailing address of permit applicant:  
ALLISON - ZONGKER, L.P. (owner) / CHART HOUSE ENTERPRISES, INC.  
c/o Marie Burke Lia

427 C Street, Suite 416  
San Diego, CA 92101

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

(1) ORRIN GABSCH  
6105 LA JOLLA SCENIC DRIVE, SOUTH  
LA JOLLA, CA 92037

(2) JACK HOLZMAN  
P.O. BOX 1104  
LA JOLLA, CA 92038

(3) SHERRI LIGHTNER  
8551 LA JOLLA SHORES DRIVE  
LA JOLLA, CA 92037

(4) LA JOLLA TOWN COUNCIL  
P.O. Box 1101  
LA JOLLA, CA 92038

SECTION IV. Reasons Supporting This Appeal

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

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

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

PLEASE SEE THE ATTACHMENTS

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

SECTION V. Certification

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

Signed \_\_\_\_\_  
Appellant or Agent

*as President  
and for the  
La Jolla Town  
Council.*

Date

5-23-2000

*as First Vice  
President and  
for the La Jolla  
Town Council.*

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

Signed \_\_\_\_\_  
Appellant

Date \_\_\_\_\_

0016F

EXHIBIT NO. 10  
(p. 3 of 20)

The City's action on the proposed development raises "a substantial issue" regarding nonconforming structures in a coastal area and the "heritage" designation as applied in La Jolla. The City's action also raises concerns with respect to its implementation and consistency with the visual and physical access policies and the sensitive coastal resources of the certified LCP. The project is located on the parcel commonly known as "The Green Dragon Colony," which is subject to a 1991 Coastal Commission post demolition permit. The City's decision, to allow the demolition and redevelopment of approximately 74% of the structure located on this portion of the Green Dragon site in advance of redevelopment plans for the entire site, raises issues under the California Environmental Quality Act, as well as the certified Land Use Plan, LCP implementing ordinances, and Chapter 3 of the Coastal Act.

More specifically, the City's decision to approve the demolition and redevelopment of this "heritage" designated, nonconforming leasehold raises questions of conformance with current zone requirements for parking, and assurance of public physical and visual access. Under the City's theories, the cumulative impacts from allowing new commercial development to enjoy exemptions granted to older, nonconforming structures in order to insure their preservation, would create an unprecedented interpretation of the LCP, that will result in unacceptable traffic and parking impacts on public access to and along the coast, as well as the community's ability to protect significant manmade resources. Policies at issue include the following:

1. The policies of the LUP, regarding "Conservation of Community Resources," pages 115 and 145ff, which address "the need to protect the natural and manmade qualities which contribute to the special character and charm of La Jolla."
2. The La Jolla Planned District Ordinance Purpose and Intent clause 103.120.G; and implementing regulations Sections 103.1205.A.10, "Non-conforming Uses;" 103.1203.B.17 "Heritage Structure;" 103.1203.B.23, definition of Minor Addition; 103.1203.B.29, definition of Rehabilitation; 103.1208.A. Special Use Permit; and 103.1208.B. "Heritage Structure Preservation and Re-Use;" 103.1206.F.1. "Siting of Buildings, regarding visual access; and 103.1207.A.5, regarding parking requirements. The City's approval would allow ordinance exemptions, intended to insure the conservation and preservation of existing architecturally, historically, and culturally significant existing community resources to be extended to wholly new construction.
3. Public visual and physical access policies of the Land Use Plan, the LCP, and Chapter 3 of the Coastal Act.
4. Without further conditions addressing construction staging, timing, site access and construction runoff, the project would adversely impact findings of the CDP and SCR Ordinances addressing siting, design, and construction "to minimize if not preclude, adverse impacts upon sensitive coastal resources and environmentally sensitive areas."
5. Piecemeal site development would defeat California Environmental Quality Act provisions addressing the need for initial identification of all site impacts and required mitigations prior to project approval. Commission review is needed to address the City's failure to consider these impacts.

The sections of the PDO, LCP and the SDMC, which have been questionably used are those related to parking requirement exemptions, nonconforming uses, minor addition, heritage structure, rehabilitation, public visual access requirements and sensitive coastal resource protection. Each of these will be addressed briefly below and in more detail in the attachments.

1. The proposed "modifications" of the Chart House are substantial. City staff claimed that "the proposed project will maintain fifty-six percent if the exterior walls of the existing building, including a separate tenant space not related to the Chart House tenancy." The applicant has

taken credit for walls, which are not a part of the project. From the drawings, at least 74% of the Chart House will be demolished. It may be more, once demolition begins, in order to meet new building code requirements. The implications of the Chart House being classified as "redevelopment" instead of the claimed "remodel" are:

- The pedestrian access indicated on Figure 11 of the LCP and discussed in Section VIII.A. of the LCP would need to be restored. The pedestrian access on the adjacent property is not the same as the one, which existed prior to the removal of the cottages on Coast Boulevard.
  - Visual access from Prospect Street would need to be improved in accordance with the LJPDO and the LCP. Enhancement of the public visual access cannot be achieved "through the building." The requirement from the LJPDO is from Section 103.1206.F.1. It requires that the major axis of the building shall be located "so that the major axis of the structure will generally be at a right angle to the shoreline," and an open visual access corridor of ten percent of the lot width shall be maintained open to the sky and free from all visual obstructions from the front property line to the rear property line of the project."
  - Adequate **new**, off-street parking would need to be provided. At least 47 **new** spaces per Section 103.1207.A.5.
  - Piecemeal redevelopment of the Green Dragon site is being used to obfuscate what is being done to the whole site. It also precludes the development of on-site parking. Tyrolean Terrace was required to submit development plans for the entire site prior to approval of their project.
  - We believe that the project is redevelopment and that the requirements for redevelopment should be respected.
  - The minor addition rule should not have been used, because the existing Chart House is a nonconforming structure. It provides no parking for its 265 guests nor its estimated employees. Section 103.1205.A.10 of the LJPDO says that no additions or enlargements can be made to a nonconforming structure in accordance with Section 103.0303 of the San Diego Municipal Code (SDMC).
2. The City has assigned a "Heritage Structure" designation to the new building, although it is not yet built. This violates the LJPDO 103.1203.B.17 definition of Heritage Structure as (emphasis added) "any **building or structure** which is found by the City of San Diego Historical Sites Board to be worthy of **preservation**." The new building after it is complete could possibly apply for Heritage designation or the existing building could apply for the designation, but not a building, which does not yet exist. This designation is being used questionably to avoid providing parking for the project, even though the LJPDO says that a Heritage Structure **MAY** (not shall) be exempted from parking requirements. It is not reasonable or responsible to allow a new restaurant of 9300 sq. ft. on Prospect Street to be built without requiring any **new** parking. The LJPDO, 103.1208.B.2 stipulates that the "structure's rehabilitation proposals shall be reviewed by the Historical Sites Board." The key term here is rehabilitation, which is defined in the LJPDO, Section 103.1203.B.29 as (bold-face added), "the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values. Under rehabilitation, every reasonable effort shall be made to provide compatible use for a property which requires **minimal alteration of the building, structure, or site and its environment**. The distinguishing original qualities or character of a building structure, or the site and its environment shall not be destroyed. The removal or alteration of any historical material or distinctive architectural features should be avoided." Given the complete change of the building's exterior façade and interior volume, we do not believe the redevelopment occurring with the Chart House can reasonably be called rehabilitation.

3. As can be seen on the plans, the "minor addition" intrudes into an existing public view corridor on the easterly side of the project. This is in violation of the LCP, which states that "existing physical and visual access to the shoreline and the ocean should be protected and improved."

The attachments to this appeal include:

- La Jolla Town Council's Letter to the Mayor and City Council dated April 10, 2000 with attachments.
- Exhibits submitted at City Council appeal hearing on May 2, 2000.
  1. VISUAL ACCESS
  2. Topics from Stephen M. Haase's letter to the Mayor and City Council dated April 21, 2000.



April 10, 2000

Subj: Proposed La Jolla Chart House Project, CDP/SCR/LJPD Permit No. 98-0755, Item 332, April 11, 2000 City Council Agenda

Dear Mayor Golding and Councilmembers,

The Chart House "remodel" must be denied, as proposed. Our concerns with this development are the misuse of the PDO, the misuse of the term remodel, the misuse of the parking requirements, the misuse of the heritage structure definition, the misuse of the minor addition exemption, the misuse of the public view corridor requirement, the lack of a pedestrian access to the coast and piecemeal development of this site. Each of these will be addressed briefly below and in more detail in the attached letter.

The parking exemptions for this new building are based upon three things. The existing situation, which requires no parking, the misuse of the terms "remodel" and "minor addition," and the misuse of the heritage structure designation.

- **This is not a minor addition or a "remodel."** The existing building is 7506 sq. ft.; the new building will be 9327 sq. ft. of which 7412 sq. ft. is new construction. When the new construction is almost as much as the existing structure, it is not a remodel. It is redevelopment. It is new construction and should be treated as such. The applicant is misusing minor addition by saying that the new building will be 24% larger than the existing structure, but the new construction will comprise 98.7% of the old building and 79.5% of the new, larger building. Since this is a new building, the existing situation of no "offstreet" parking cannot be grandfathered.
- **This will not be a heritage structure.** The square footage of the heritage portion of the new building is *de minimis*. It is not correct to call a new structure, retaining only the bar area and a fireplace mantel of the original building, a heritage structure. In any case, use of the heritage designation does not automatically exempt the applicant from providing parking.

**It is not allowed by the LJPDO to approve a new building, which requires at least 47 parking spaces in downtown La Jolla, with no new parking.**

The applicant is using piecemeal development of this site to avoid providing public view corridors and physical access to the coast as required by the PDO and the LCP, respectively. It is not acceptable to provide a public view corridor through the glass walls of the restaurant. When the shades are down, the drapes closed or plantings mature, the view is gone. The LCP specifies public pedestrian accessways across this parcel. The accessways should be clarified, not left as something for the later development of this site.

**EXHIBIT NO. 10**  
(p. 7 of 20)

When last a project on this site was before you, it was denied, as a part of the Green Dragon Project. Nothing material has changed in this project and no new parking has been created yet in La Jolla, to reach a different conclusion. After you denied the Green Dragon Project, the Mayor's La Jolla Traffic and Transportation Task Force was appointed to address some of the issues raised by the Green Dragon project. You know what the traffic and parking situation is in La Jolla. New construction should not be allowed to rely upon street parking or valet service for a 265-seat restaurant, irrespective of how creatively the applicant misuses the PDO. You must deny this project. If this is not denied, the opportunity for on-site parking for the whole site will be lost and a dangerous precedent set for both residential and commercial redevelopment in La Jolla.

The attachments to this letter include:

- Details about the above topics, including the findings and specific sections of the applicable codes.
- Proposed clarifications for the permit conditions, if the development is not denied.

We ask you to deny this project as proposed -- but if you choose to approve it, to do so with at least 47 new on or off-site parking spaces and incorporate the attached "Revisions to Permit Conditions."

Sincerely,

  
Courtney Ann Coyle, President LJTC

Cc: LJTC Trustees  
California Coastal Commission, Sherilyn Sarb

ATTACHMENT I  
Reasons for Denial of MND and CDP/SCR/LJPD 98-0755

Reasons for Denial of MND and CDP/SCR/LJPD 98-0755

The La Jolla Town Council respectfully requests the Council not to certify the Mitigated Negative Declaration and to deny the Chart House Remodel proposal as submitted. The primary issue with the project before you today is that the proposal is "new development" masquerading as a "remodel." Under the Coastal Development Permit ordinance, if more than 50% of existing walls are demolished, the resulting redevelopment is deemed to be "new construction." With greater than 50% removal having been confirmed by staff, this redevelopment must, therefore, conform to all current, applicable code requirements. Staff has chosen, however, to extend parking exemptions not only to areas involving the minor addition and heritage preservation, but also the entire square footage of new development as well. We dispute all three exemptions.

While parking may be the most disputed requirement, it is far from the only one. (See Findings). According to the City, zero parking spaces are required. We disagree with this interpretation, and believe 49 spaces are required. If this intensification is granted, it would break new ground in allowing demolition and subsequent redevelopment to go forward in La Jolla without providing the required parking. It would create a new precedent whereby an entire site, such as the Green Dragon Colony, could be redeveloped as a series of "minor additions" and "heritage structure exemptions" with no parking required. According to staff, other projects are already in the pipeline, seeking the same exemptions.

Approval of this project prior to submittal of development plans for the entire Green Dragon project would eliminate the potential of creating on site parking for the project. Just such a requirement was required of these same applicants in their demolition and redevelopment of the Tyrolean Terrace into Coast Walk. Why not here? Because of the cumulative impacts on the community that would result from this City interpretation, this proposal must be rejected as submitted.

Questions we believe must be answered before any approvals are granted are:

1. Is this demolition and reconstruction really a "minor addition?" (See Attachment 1).

NO. The applicant calculates 1821 sq. ft., as the allowable "minor addition" to the existing building. But of this existing building, the applicant then proposes demolition of 5591 sq. ft. The following "New Building" calculations total 9327 sq. ft. Even if the total allowable is correct, to calculate a "minor addition" on a building which is subsequently to be essentially demolished defeats the intent of the "minor addition" definition, which provides that the addition be made to an "existing building." Staff's position is that any building can be totally demolished and rebuilt with an additional 30% floor area without any parking being required. This interpretation cannot go unchallenged.

## ATTACHMENT I

Reasons for Denial of MND and CDP/SCR/LJPD 98-0755

2. Is the demolition of approximately 75% of the existing Prospect St. designated structures and reconstruction really a "Heritage Structure Preservation and Re-use?" (See Attachment 2).

NO. When the Green Dragon project was before the Council in 1997, the Historic Sites Board, at the request of Allison-Zongker, designated the Prospect St. facing structures as heritage structures, with the exception of the remaining office building on Prospect St. and Building 6, which was to be demolished along with the carport. Now, just two and a half years later, applicants are asking the Council and the public to approve demolition of 75% of these recently designated structures, with only the mantel, fireplace and a few other remnants to be retained as "heritage elements" and to grant them relief from parking requirements for retaining the "elements."

Such demolition and reconstruction does not conform with the intent or the requirements of the ordinance. Please note the exact language of the PDO "Heritage Structure Preservation and Re-use" ordinance. "The structure shall be evaluated..." "The structure is a part of..." "the structure is architecturally unique..." "The structure is an integral part..." are key findings. While Heritage Structure designation does not forbid demolition, as does Historic designation, it would break new ground to allow applicants relief from parking requirements based on Heritage structures that are to be demolished.

We strongly disagree with staff's interpretation of the Special Use Permit requirements. The PDO would, indeed, require a SUP for this project. The Special Use Permit has three required findings, not merely consistency with 103.1205 as stated by staff. It also requires the project to be consistent with the PDO Purpose and Intent Section (103.1201), and with the standards identified in 103.1208, "Special Use Permit Development Standards," which include in sub section B.1. the Heritage Structure Preservation and Re-use requirements and in subsection B.3 Development Regulations which provide that projects "may be" exempt from use, density, and parking requirements.

3. If an applicant proposes to demolish more than 50% of existing walls, does the subsequent reconstruction lose its grandfathered, nonconforming status? In this case, where the lack of parking was grandfathered because the structures existed prior to adoption of the PDO, should the demolition of those structures not trigger a parking requirement in accordance with current code requirement?

YES. Since a greater than 50% demolition implies new development and not a remodel, the parking provided by the project must meet the current code requirements. To meet the code requirement of 1 space per 200 sq. ft. of gross floor area, the project would be required to provide 49 spaces for the 9758 sq. ft. of new development. Even if the ordinance granted exemptions for the "minor addition," nothing in the ordinance exempts the remainder of the new development from meeting current parking regulations.

ATTACHMENT I  
Reasons for Denial of MND and CDP/SCR/LJPD 98-0755

City staff and applicants believe the 50% rule merely relates to possible exemption from a CDP. Since a CDP was required and obtained, they believe they have satisfied the regulations. In our discussions with staff, we learned they did not independently calculate gross floor area, on which parking is based, since they had already determined the entire project to be exempt. However, F.A.R. for this project is extremely important in the ultimate calculation for the final project buildout, which is subject to a PDO maximum 1.5 for the entire parcel. We need independent analysis of applicant's figures.

**4. Can the findings be made?**

No. They cannot. (Please note for the record our concern with staff's renumbering and rewording of the required findings.)

**CDP:**

**Finding 1:** We continue to insist that staff's and applicant's position that public view protection can be accomplished through glass windows or exterior decks on private property is impermissible, nor would it provide creation of the visual access corridor required by the PDO for new construction. See LJPDO Finding 16 below.

**Finding 2: Conditions requiring Best Management Practices and a construction and stormwater runoff control program are necessary.** This is especially relevant for this blufftop site which drains via public storm drain directly into the ocean at Goldfish Point, a site heavily used by the public visiting the La Jolla Cove area for swimming, snorkeling, and skin diving.

**Finding 3:** We do not believe the retention of "heritage elements" and a plaque can mitigate the demolition of a structure determined by environmental review to be historically significant. Nor do we believe the replacement of the last remaining portions of the "Wahnfried" cottage with contemporary glass walled post and beam construction can possibly be deemed to be "Heritage Preservation and Re-use" of the existing structures. Bar areas to remain are of contemporary design by Ken Kellogg.

Further, conditions are necessary to address timing and location of construction activities. Access grading, staging, and storage are particular concerns, and should not be allowed within the sensitive post demolition area of the site. The ground on which the Green Dragon Colony is located was deemed by the Historic Sites Board to have historic status. There is no discussion in the Staff report of the implications of this status in relation to any grading, clearing, or landform alteration, particularly in the area of the post demolition permit, that might occur in accessing the construction site. In 1997, staging and storage concerns were also raised by adjoining business and property owners.

**Finding 4:** We reject the City's rewording of this finding to include the word "identified." By failing to provide the required parking in this heavily used visitor serving area of the coast, the project would negatively affect public access to and along the coast. Conditions should be added regulating construction timing and activities to insure the least possible impact on access both to the Village and to the shoreline.

ATTACHMENT I  
Reasons for Denial of MND and CDP/SCR/LJPD 98-0755

Finding 8: This finding cannot be made simply by equating conformance with building code and use designation consistency. The finding cannot be made because of public view, access, and historic concerns. Nor, as we have shown above, would the development be consistent with PDO standards.

**SCR:**

Finding 9: See Finding 2

Finding 10: See Finding 1

Finding 13: See Finding 8

**LJPDO:**

Finding 14: A community need is not fulfilled by a project's consistency with land use designation, design guidelines, and development standards for the site. Those are requirements, not a community need. The staff report identifies no community need for expanded restaurant use without parking. Nor is there an identified community need to demolish existing heritage structures in favor of new development without parking.

Finding 16: Once again, the proposed project does not comply with the relevant LCP ordinance provisions. Section 103.1206 F.1. requires that buildings "shall be located so the major axis of the structure will generally be at a right angle to the shoreline. An open visual access corridor of 10% of the lot width shall be maintained open to the sky and free from all visual obstructions from the front property line to the rear property line of the project." There is no such provision in this redevelopment. Please see CDP Finding 1.

Nor does the PDO ministerially grant parking relief under minor addition and heritage preservation provisions for demolition and redevelopment. An SUP has always been required in the past by the City in such heritage projects as the restaurant then known as "Sluggo's" on Fay Ave. Why not now?

5. **Conclusion:** We urge the Council not to approve this project as submitted. We recommend either denial, or continuance until all clarifications have been obtained and concerns addressed. Thank you for your consideration.

## ATTACHMENT I

Reasons for Denial of MND and CDP/SCR/LJPD 98-0755

Attachment 1

MAY 11, 1998

DEVELOPMENT SUMMARY FOR THE CHART HOUSE RESTAURANT IN  
LA JOLLA, CALIFORNIA:

ARCHITECTS MOSHER / DREW / WATSON / FERGUSON

## 1. SUMMARY OF REQUEST

TO BRING THE ENTIRE RESTAURANT INTO CONFORMITY WITH CURRENT BUILDING CODES BY REMODELING THE PORTION OF THE BUILDING WHICH IS INFEASIBLE TO REPAIR OR MAINTAIN ECONOMICALLY, AND TO RETAIN THE PORTION WHICH CONFORMS TO CURRENT BUILDING CODES. THE NEW REMODELED STRUCTURE WILL OCCUPY SUBSTANTIALLY THE SAME AREA AS THAT WHICH IS TO BE REMOVED. SEE EXACT SQUARE FOOTAGE CALCULATIONS SHOWN BELOW AND ON SHEETS # 10 AND 11. ACCESS FOR THE PHYSICALLY HANDICAPPED, PRESENTLY SUB-STANDARD, WILL BE PROVIDED IN ACCORDANCE WITH CURRENT REGULATIONS. THE PROJECT, BEING LOCATED IN AN EXISTING LANDSCAPED AREA, WILL ONLY REQUIRE PLANTINGS WITHIN THE SITE LIMIT AS SHOWN ON THE LANDSCAPE PLAN.

## 2. STREET ADDRESS

1 270 PROSPECT STREET, LA JOLLA, CA., 92037  
BETWEEN CAVE STREET AND HERSCHEL

## 3. SITE AREA

TOTAL SITE AREA: 39,640 SQ. FT. (PROJECT IS A PART OF AN EXISTING COMMERCIAL DEVELOPMENT). SEE SHEET # 2, PRE - EXISTING GRADE PLAN, PROJECT SITE LIMIT.

## 4. COVERAGE DATA N/A

## 5. DENSITY N/A

## 6 YARD/SETBACK

THE PROJECT IS IN A COMMERCIAL ZONE WITH ZERO SETBACKS

## 7. PARKING

SINCE THE REMODELING PROJECT QUALIFIES AS A MINOR ADDITION/ENLARGEMENT UNDER THE LA JOLLA PLANNED DISTRICT ORDINANCE, AND AS PARKING WAS NOT REQUIRED AT THE TIME THE ORIGINAL CONSTRUCTION WAS UNDERTAKEN, PARKING IS NOT REQUIRED.

## LEGAL DESCRIPTION

LOTS 30, 31, AND 32, LA JOLLA PARK IN THE CITY OF SAN DIEGO, ACCORDING TO MAP # 59 FILED MARCH 22, 1887. APM # 350 - 050 - 17

## EASEMENTS

NONE APPLY TO THIS SITE.

EXHIBIT NO. 10  
(p. 13 of 20)

## ATTACHMENT I

Reasons for Denial of MND and CDP/SCR/LJPD 98-0755

Attachment 1

2

## BUS STOP/TRANSIT STATIONS

THERE ARE NONE IN THE IMMEDIATE VICINITY.

## PRE-EXISTING &amp; FINISH GRADES

SEE SHEET # 2, PRE-EXISTING GRADE PLAN, PROJECT SITE LIMIT FOR PRE-EXISTING AND FINISH GRADES. REFER TO THE SUBMITTAL PACKAGE FOR CORRESPONDENCE RELATED TO PRE-EXISTING GRADE AGREEMENTS.

## AREA CALCULATIONS

## EXISTING BUILDING:

DINING TERRACE	939 SQ. FT.
COLD BOX AND STORAGE, OUTSIDE	295 SQ. FT.
RESTAURANT, MAIN FLOOR	2,388 SQ. FT.
RESTAURANT, SECOND FLOOR	915 SQ. FT.
KITCHEN, LOWER LEVEL	1,054 SQ. FT.
BAR, MAIN FLOOR - TO REMAIN	1,237 SQ. FT.
BAR, MEZZANINE - TO REMAIN	678 SQ. FT.
TOTAL EXISTING <u>AREA</u>	<u>7,506 SQ. FT.</u>

30% OF 7,506 = 2,252 SQ. FT.

PLUS EXISTING 7,506 SQ. FT.

ALLOWABLE 9,758 SQ. FT.

## NEW BUILDING:

RESTAURANT, MAIN FLOOR	5,397 SQ. FT.
RESTAURANT, UPPER FLOOR	1,152 SQ. FT.
DINING DECK, MAIN FLOOR	697 SQ. FT.
DINING DECK, UPPER FLOOR	724 SQ. FT.
KITCHEN, LOWER LEVEL	<u>1,788 SQ. FT.</u>
TOTAL AREA	9,758 SQ. FT.

THE ALLOWABLE AREA FOR A REMODELING PROJECT BALANCES WITH THE PROPOSED PROJECT

SEE SHEETS #10, EXISTING MAIN AND LOWER FLOOR PLANS, AND #11, EXISTING UPPER FLOOR PLAN, FOR AREAS OF THE EXISTING BUILDING TO BE RETAINED AND THOSE TO BE REMOVED.

## ATTACHMENT I

Reasons for Denial of MND and CDP/SCR/LJPD 98-0755

Attachment 1

3

## SEATING

## IN THE BAR:

AT STOOLS	7
AT TABLES - 13 AT 4	<u>52</u>
TOTAL	59

## IN THE MAIN DINING ROOM:

AT TABLES:	
1 AT 6	6
1 AT 2	2
20 AT 4	<u>80</u>
TOTAL	88

## IN THE UPPER DINING ROOM:

AT TABLES:	
2 AT 2	4
10 AT 4	<u>40</u>
TOTAL	44

## ON THE MAIN LEVEL DECK:

AT TABLES:	
3 AT 2	6
7 AT 4	<u>28</u>
TOTAL	34

## ON THE UPPER LEVEL DECK:

AT TABLES:	
8 AT 4	32
4 AT 2	<u>8</u>
TOTAL	40

SEATING INDOORS

191

SEATING ON THE DECKS

74

TOTAL SEATING FOR THE RESTAURANT

265

## ATTACHMENT I

Reasons for Denial of MND and CDP/SCR/LJPD 98-0755

Attachment 2

**DIVISION 12**  
**La Jolla Planned District**

**§ 103.1208 Special Use Permit Development Standards**

A. A Special Use Permit (SUP) is required for any of the following projects described in Sections 103.1208(B) through 103.1208(N). An application for a Special Use Permit may be approved, conditionally approved or denied by a "Hearing Officer" in accordance with "Process Three". The "Hearing Officer's" decision may be appealed to the Planning Commission, in accordance with Section 111.0506. The "Hearing Officer" may approve the Special Use Permit if the following findings are made in addition to the findings specified for particular uses:

1. The project is consistent with the Purpose and Intent Section of this Division (SEC. 103.1201);
2. The project is consistent with (Secs. 103.1205, 103.1206 and 103.1207) of this Division; and
3. The project is consistent with the standards identified in this section.

**B. HERITAGE STRUCTURE PRESERVATION AND RE-USE**

Any Heritage structure in Zones 1, 2, 3, 4 and 5 only, proposed for preservation and re-use not consistent with Section 103.1205 of this Division's land use and density requirements, shall comply with all of the following standards:

1. The structure shall be evaluated by the Historical Site Board which shall make a finding that the structure is worthy of preservation if one or more of the following appropriate findings can be made that:

- a. The structure is part of a historical event or personage in the development of the region.
- b. The structure is architecturally significant in that it exemplifies a specific architect, architectural style, or period of development.
- c. The structure is architecturally unique and worthy of preservation.
- d. The structure is an integral part of a neighborhood development style, and an important "part of the scene" of urban development.

2. The project site and structure's rehabilitation proposals shall be reviewed by the Historical Sites Board for consistency with the building's and project site's design and historical conservation elements.

3. Development Regulations are the same as Sections 103.1205, 103.1206 and 103.1207 of this Division except as follows:

- a. The project may be exempt from the use and density requirements of Section 103.1205 of this Division provided it can be proven that it is economically imperative to provide relief from such land use requirements. A "Hearing Officer" may approve, conditionally approve or deny, in accordance with "Process Three". The "Hearing Officer's" decision may be appealed to the Planning Commission in accordance with Section 111.0506. The "Hearing Officer" may approve or conditionally approve the exemption if a finding can be made that the use and density will not negatively impact surrounding properties and the neighborhood, and will be consistent with the community plan.

- b. The project may be exempted from the standard parking requirements consistent with SEC. 103.1207 of this Division.

- c. Landscaping, planting and vegetation standards shall be consistent with Secs. 103.1206 through 103.1208 of this Division, except when these standards conflict with heritage structure preservation or existing matured vegetation on site. The new landscaping proposed shall complement the existing vegetation and landscape design. The Historical Site Board recommendations shall be considered in the Development Services Director's decision.

**EXHIBIT NO. 10**  
 (p. 16 of 20)

ATTACHMENT II  
Proposed Clarifications to Permit Conditions

1. Parking:

- Permittee will construct, purchase or lease 49 new off-site parking spaces, within a 600' radius of the site and within the current PDO boundary, including those for full-time exclusive use by Permittee's employees, will require their employees to use such spaces during their working hours at the restaurant, and will enforce this condition through a placard or similar parking control method so that no other persons can use these spaces.
- The term of this off-site parking lease will be consistent and run concurrent with the term of Permittee's lease of the restaurant premises and therefore will extend to 2016 and, with the exercise of options, to 2026. This objective will be accomplished by amending Permittee's current restaurant lease with Allison-Zongker and by recording the lease and this Agreement. This off-site parking will attach to any successor-in-interest. Permittee will provide City with written proof of such recordation within 90 days of recordation.

1. Street Trees. With reference to Permit Condition # 34, which requires the City's Urban Forester to approve the final selection of street trees for the Prospect Street frontage, City will change the type of palms to be installed as street trees from Washingtonia Robusta Palm trees to Queen Palm trees.

2. Mechanical Equipment. Permit Condition # 30 provides that 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 that respects the height limit.

The Town Council's preference is that mechanical equipment be on the ground and not be visible. When the sizes and locations of such structures are determined, the drawings for same will be brought before the La Jolla Town Council trustees for review and comment at a public meeting. After that, the drawings can then be added to attached Exhibit C. The approved plans are to be maintained on file in the Office of Planning and Development Review.

3. View Corridor. Permittee understands and acknowledges that the transparency through the Chart House structure, which will be created by this project, does not constitute compliance with any View Corridor requirements of the La Jolla Planned District Ordinance, or any other site requirements for same. Required view corridors will be shown on the revised plans.

4. Public Accessways. Permittee represents that the representation that the project will not affect or limit any previous or existing public accessways and these accessways will clearly be shown on the revised plans.

5. Impacts from Construction Operations. Permittee will comply with all requirements imposed by the City's Traffic Control Plan Check Group with regard to alleviation of impacts from staging and construction operations on the surrounding community, including any revisions to said requirements deemed reasonable by the Plan Check Group as the result of community input.

ATTACHMENT II  
Proposed Clarifications to Permit Conditions

Community input will include review of the proposed requirements by the joint La Jolla Traffic & Transportation Board before any staging or construction begins. Permittee's staging and construction activities will not unduly obstruct parking, traffic circulation and pedestrian movement on Prospect.

6. New Torrey Pine Tree. Permittee agrees that a new, healthy Torrey Pine tree of at least 35' in height will be installed and maintained on site at the location indicated on the plans and that the words "such as" will be deleted from the landscape plans with reference to this specimen. Permittee also agrees to salvage, box, move and install the removed Torrey Pine to a location in La Jolla or to move and install the tree to another location onsite.
7. Other On-Site Landscaping. Permittee agrees to use best efforts to preserve the mature ficus at the western corner of the restaurant and will make such notation on all project plans.
8. Retained Elements. As required by the Mitigation, Monitoring and Reporting Program for this project:
  - the carved wood lintel which currently exists above the windows near the southwest corner of the existing dining area is to be incorporated into the new construction. Permittee agrees to consult with the La Jolla Historical Society before removal of the lintel occurs on an appropriate means to safeguard the lintel after its removal from its current location until its re-installation in the redeveloped structure, including storage of this element under the supervision of the Society, if that course is recommended by the Society. The location where the element is to be incorporated is to be shown on revised plans.
  - the original Wahnfried interior fireplace with its mantle near the southwest corner of the existing dining area is to be incorporated into the project and properly reconstructed. Permittee also agrees to consult with the La Jolla Historical Society before documentation and dismantling of this element occurs on Permittee's plans for the professional documentation, dismantling and interim storage of all fireplace elements until its re-installation in the redeveloped structure including storage of this element under the supervision of the Society, if that course is recommended by the Society. The location where the element is to be incorporated as shown on revised plans.
  - Permittee also agrees to consult with the Society upon the inadvertent discovery of any heretofore-unknown potentially historical elements or objects during the project.
10. Informational Plaque. As required by the Mitigation, Monitoring and Reporting Program for this project, an informational plaque explaining the significance of the retained elements and the history and association of the Wahnfried building with Anna Held and the history of the early years in La Jolla will be created and installed at the project site in a visible, publicly used area, such as in the proposed new entrance. Permittee agrees to consult with the La Jolla Historical Society on the wording and placement of said plaque before its creation.

## **VISUAL ACCESS**

### **Sections of the La Jolla PDO:**

#### **103.1203.B.33. Visual Access Corridor (Private Property)**

Any portion of a property located between a public right-of-way and a natural scenic vista which is unroofed, and open to the sky and maintained free of all visual obstructions.

**103.1206.F.1.** In Subareas 1A, 5A and 6A on the seaward side of Prospect Street, in order to provide for visual access corridors to the ocean, buildings shall be located so that the major axis of the structure will generally be at a right angle to the shoreline. An open visual access corridor of ten percent of the lot width shall be maintained open to the sky and free from all visual obstructions from the front property line to the rear property line of the project.

Refuse collection and loading areas shall not be located in any way that interferes into the visual access corridor. (See Appendix B).

### **Page 3 of the Manager's Report, Paragraph 2:**

As required by the La Jolla Local Coastal Plan (LCP), the project proposes to maintain and enhance the existing visual access to coastal resources. The entrance to the restaurant from Prospect Street would be reconstructed with post and beam technique and include clear vision glass to assure visual access through the building to the coastal resources beyond. This modification would result in greater visual transparency through the building than currently exists from the public right-of-way to the coastal resources located beyond the site. The existing views corridors would be retained in accordance with the LCP (Attachment 2).

Topics from Stephen M. Haase's letter to the Mayor and City Council dated April 21, 2000.

Page 1: What is a remodel?

Page 2: Re: Heritage Structure (SDMC Section 103.1207.B.17)

Has the Historical Sites Board reviewed this specific project? When was the hearing noticed? Was the "remodeled" building labeled as a Heritage Structure?

Quoting staff "The proposed project will maintain fifty-six percent of the exterior walls of the existing building, including a separate tenant space not related to the Chart House tenancy." Does this mean that the exterior walls of the existing building will be exterior walls after the remodel and where are these walls located? Is the applicant taking credit for the walls of the "separate tenant space?"

The PDO section on nonconforming uses says that **no addition to the structure** can be made without bringing the rest of the structure into conformance. In this case the structure should conform with the parking requirements. The PDO only allows that a "Heritage Structure" **may** be exempted from parking, not that it is completely exempted from parking requirements.

What is the aggregate value of the repairs or alterations to the building (See Item 3 definition below for rule about repairs and alterations to a nonconforming structure)?

Page 2: Re: Development requirements:

Public View Corridor: The requirement from the LJPDO is that the major axis of the building is perpendicular to the coast and that a "visual access corridor of ten percent of the lot width shall be maintained open to the sky and free from all visual obstructions from the front property line to the rear." The LCP also stipulates that "existing physical and visual access to the shoreline and ocean should be protected and improved." The five-foot wide view corridor along the easterly property line is not quite five feet. It is four feet on Sheet 1 of the drawing. The new addition will actually intrude into the existing view corridor on the easterly property line. The gate and fence on this side of the property could be visual obstructions. The other view corridor is perhaps five feet between the buildings, but where is the property line?

Public Access: The LCP in section VIII. A. states "The existing walkways connecting Coast Boulevard and Prospect Street should be more clearly identified to encourage their use."

Item 3.

See discussion about parking given above.

103.1205.A.10 "Nonconforming Uses.

The lawful use of land which existed on the effective date of this Division and which does not conform with this Division may be continued, except when specifically prohibited, provided that no enlargements or additions to such use are made, consistent with regulations contained in Chapter X, Article 1, Division 3 of the San Diego Municipal Code."

SDMC 101.0303

"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.

June 1, 2000

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

**RECEIVED**

JUN 02 2000

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

Re: Expansion and Remodel of the La Jolla Chart House Restaurant

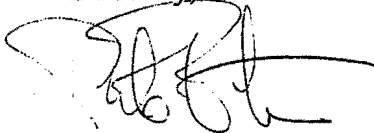
Dear Sirs:

I would like to voice my recommendation that The Commission approve this project for the following reasons:


1. During the last five years, The Commission has given permission to adjacent restaurants to add roughly equivalent amounts of space. It would seem only fair that the Chart House should be granted the same privilege.
2. The remodeling proposed by Chart House is important, since there is deterioration of the structure as a result of exposure to the elements and heavy usage.
3. The principle purpose of the expansion is to create more storage and kitchen space, which would be less than 2,000 square feet. The seating capacity would remain the same, thus there would not be an impact on parking or traffic.
4. As a result of this expansion, the views to the ocean and surrounding coastal area, from the property, would not only be increased for the pleasure of dining customers, but pedestrians, and motorists alike traveling along Prospect Street.

I sincerely hope you consider the aforementioned when making your decision. Chart House has been a good neighbor and responsible business owner, and I think their request should be granted.

Sincerely,



Pete Peterson

EXHIBIT NO. 11
APPLICATION NO.
<b>A-6-LJS-00-67</b>
Letters of Support (p. 1 of 3)
 California Coastal Commission

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JUN 02 2000

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

May 31, 2000

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

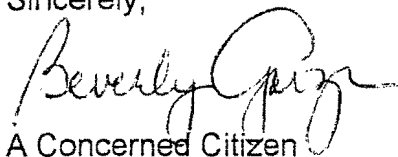
RE: Expansion and remodeling of the Chart House in La Jolla

Dear Sirs:

I urge The Commission to approve this project, for several reasons:

- 1) During the last five years, other restaurants on Prospect have been granted permission by The Commission to expand in degrees equal to or in excess of what Chart House is requesting, which is about 2,000 square feet.
- 2) The new area created will be used for storage and kitchen activity. No more seating will be added, and so the expansion will have no relevance to continuing concerns about congestion, etc.
- 3) The remodeling is designed to restore parts of the building that have deteriorated due to years of wear and tear.
- 4) The expansion will actually increase views of the coast for customers, for pedestrians walking by, and for individuals in cars traveling on Prospect.

Sincerely,



A Concerned Citizen

May 31, 2000

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JUN 02 2000

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

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

Dear Sirs:

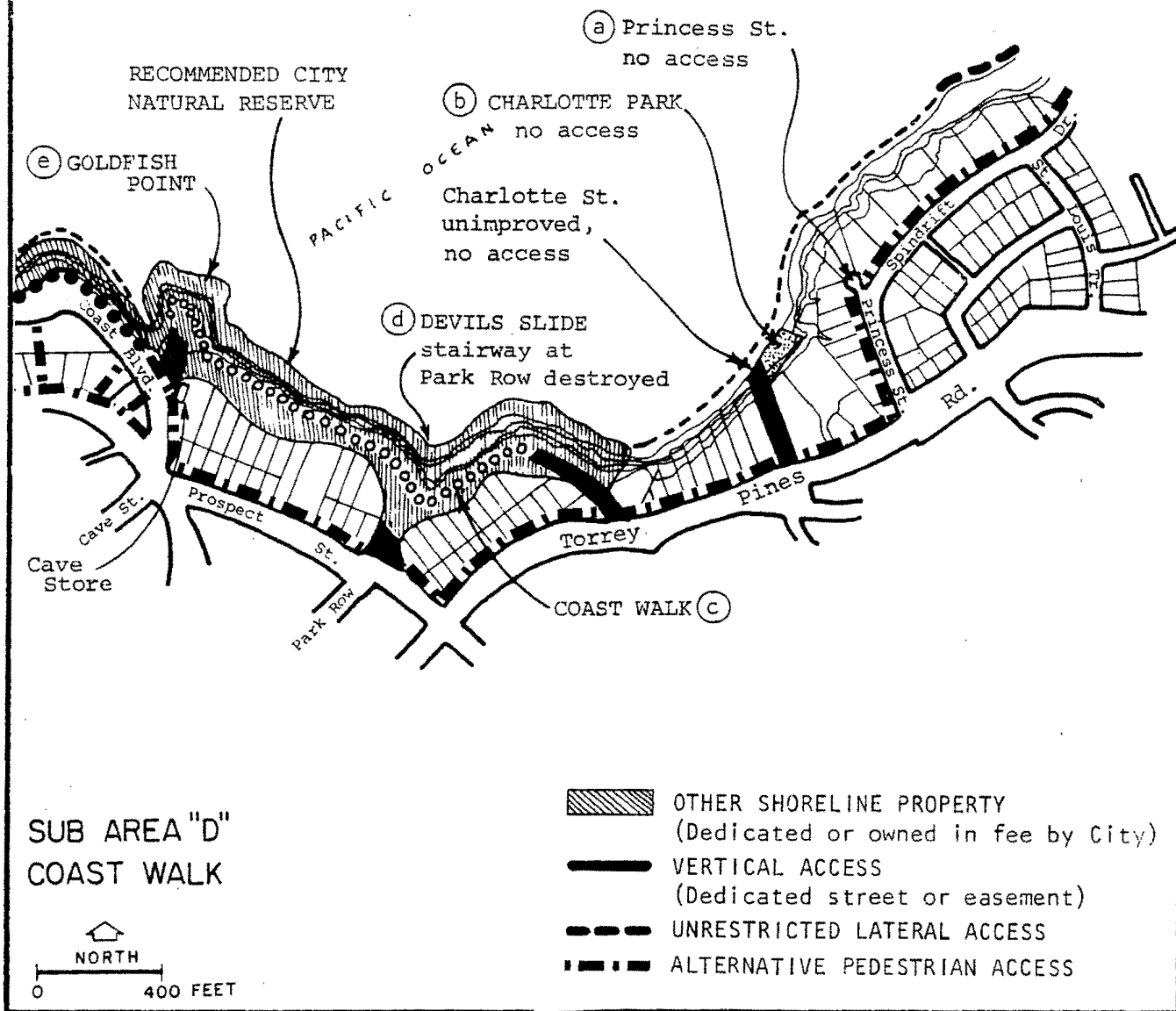
RE: Chart House on La Jolla remodeling and expansion

I write to urge approval of this project, for the following reasons:

1. The remodeling is badly needed due to deterioration of the sections of the consideration here.
2. The expansion of the restaurant amounts to an addition of less than 2,000 square feet and will take place only in the storage and kitchen areas. No additional seating will be added.
3. During the last five years, adjacent restaurants have been granted permission to add space to or in excess of 2,000 square feet. Simple fairness would argue that Chart House should be given the same permission
4. Views to the coastline will be opened up both for customers of Chart House and for pedestrian and automotive passerby.



Lynn Smith  
Concerned Resident



## La Jolla • La Jolla Shores

### LOCAL COASTAL PROGRAM • PHYSICAL SHORELINE ACCESS

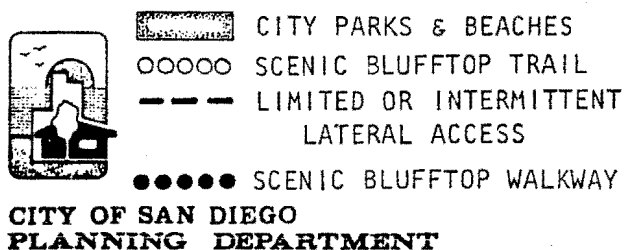
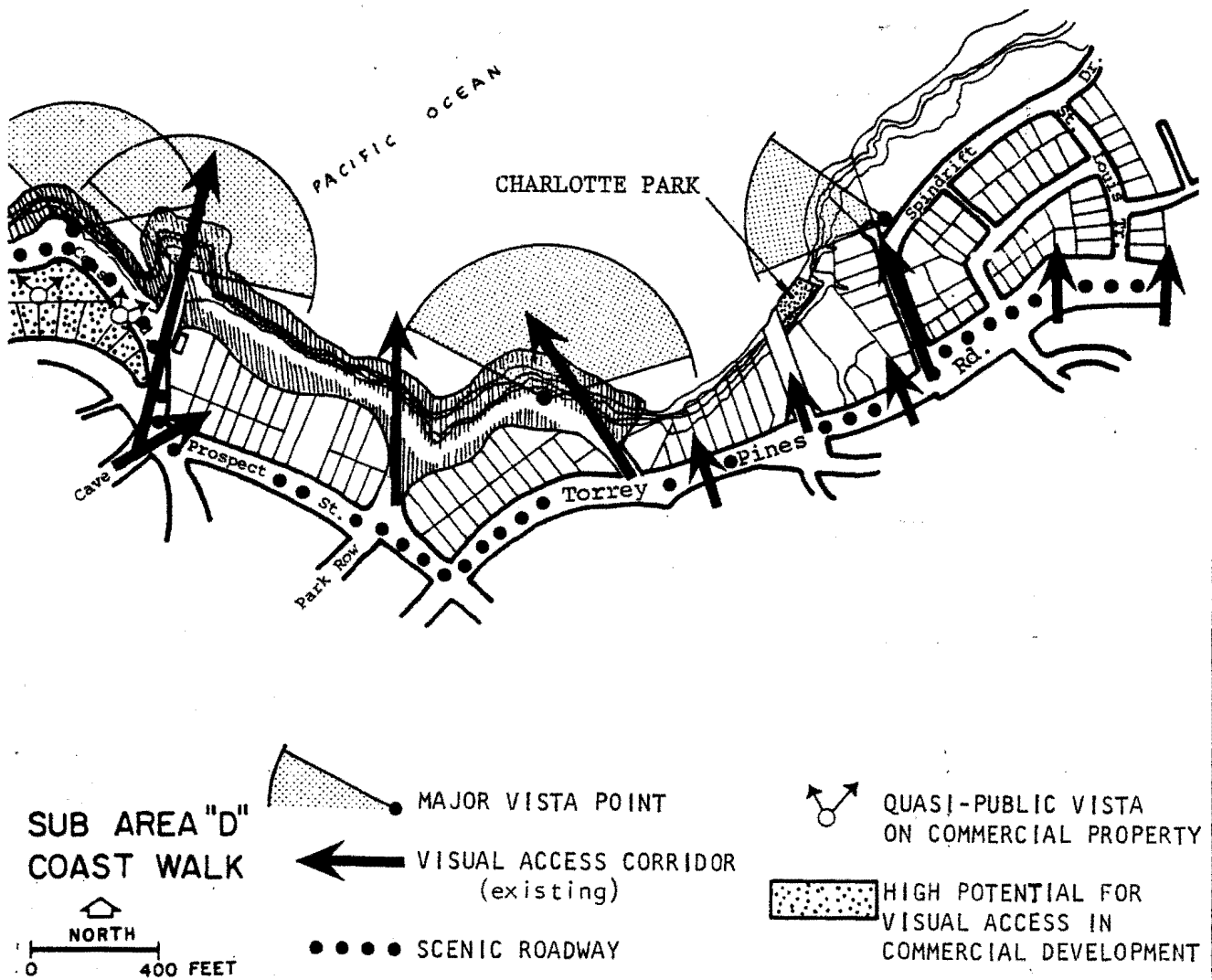


EXHIBIT NO. 12
APPLICATION NO.
<b>A-6-LJS-00-67</b>
LCP Subarea Maps- Physical Access
California Coastal Commission



# **La Jolla • La Jolla Shores** **LOCAL COASTAL PROGRAM • VISUAL ACCESS**



CITY OF SAN DIEGO  
PLANNING DEPARTMENT

EXHIBIT NO. 13  
 APPLICATION NO.  
**A-6-LJS-00-67**  
 LCP Subarea Maps-  
 Visual Access

California Coastal Commission

## CHART HOUSE REMODEL

FILE COPY  
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JUL 2 8 2000

49.8% OF EXISTING BUILDING IS BEING DEMOLISHED = 4,160 S.F.

50.2% OF EXISTING BUILDING IS BEING RETAINED = 4,196 S.F.

4.6% LESS DINING AREA - EXISTING = 3,490 S.F.; NEW = 3,337 S.F.

34% LARGER KITCHEN AREA - EXISTING = 1,925 S.F.; NEW = 2,581 S.F.

### A REMODEL

EXISTING SQ. FT. OF BUILDING = 8,356 S.F.

A MINOR ADDITION ALLOWS A MAXIMUM 2,506 S.F. ADDITION  
(8,356 S.F. X 30% = 2,506 S.F.)

TOTAL SQ. FT. OF BUILDING AFTER REMODEL = 9,727 S.F.

This is an increase of 1,371 S.F., which is less than the 2,506 S.F. allowed.

EXISTING FOOTPRINT OF BUILDING = 4,980 S.F.

NEW FOOTPRINT OF BUILDING = 6,829 S.F.

This is a net increase of 1,849 S.F. or a 37% increase, mainly due to the elimination of the existing three-story portion of the building and replacing it with a one-story building (The overall height is four feet lower) to enhance views of the ocean from Prospect Street and within the restaurant. This also allows the building to be brought up to code and comply with A.D.A. regulations. The existing ceiling heights are so low that they do not comply with the building codes and there is no accessible access to the existing three-story portion of the building.

EXISTING PERIMETER WALLS TO REMAIN = 223.57' (61%)

EXISTING PERIMETER WALLS TO BE REMOVED AND REPLACED = 143.87' (39%)

TOTAL EXISTING PERIMETER WALLS = 367.44 LINEAR FEET

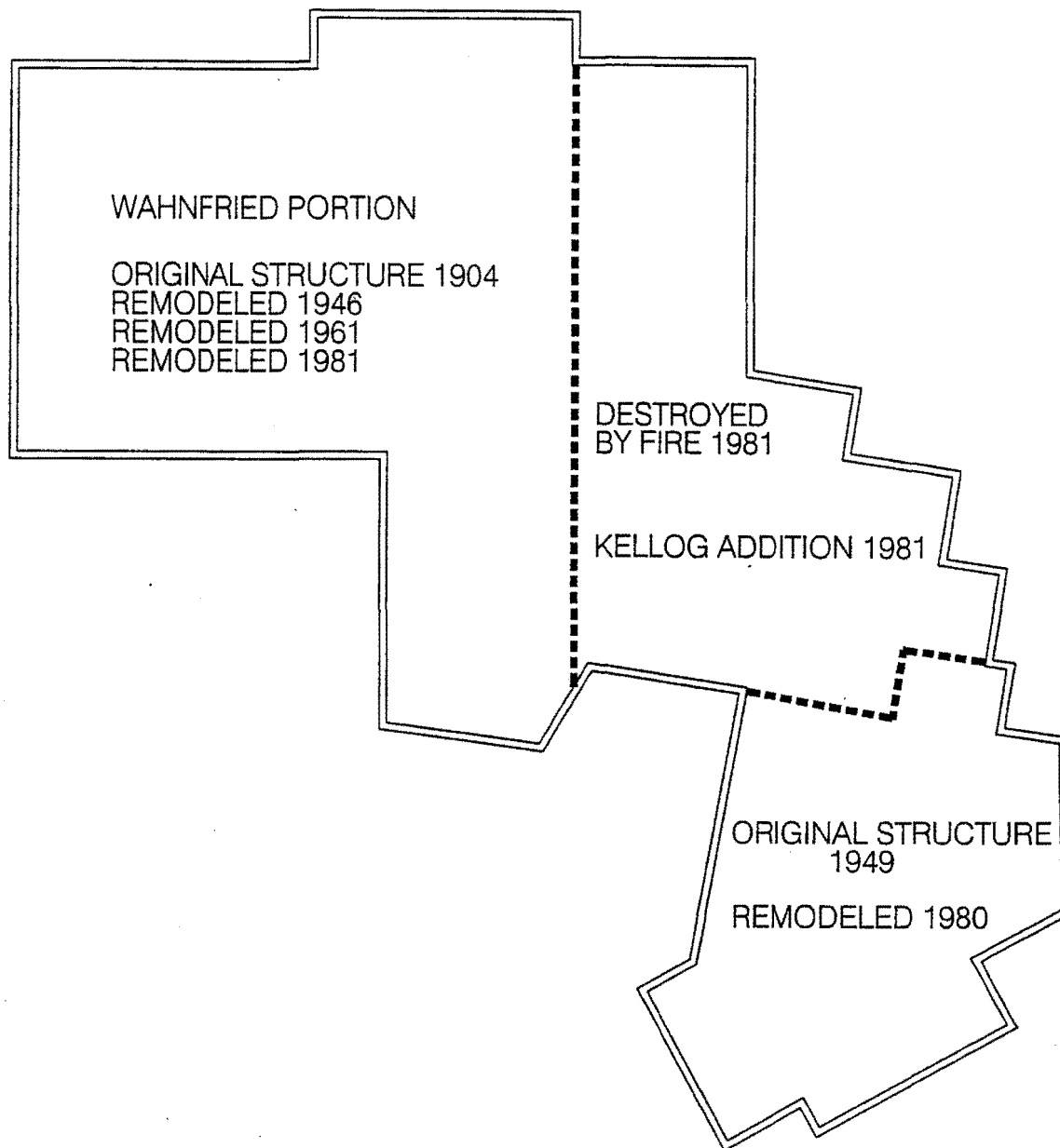
EXHIBIT NO. 14

APPLICATION NO.

**A-6-LJS-00-67**

Info from Applicant  
re: % of Demolition  
& Site Photos  
(p. 1 of 5)

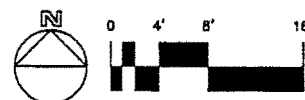




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JUL 2 8 2000

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT



ARCHITECTS  
MOSHER DREW WATSON FERGUSON  
4206 WEST POINT LOMA BOULEVARD  
SUITE 200  
SAN DIEGO, CALIFORNIA 92110  
TELEPHONE (619) 223-2400  
FAX NO. (619) 223-3017

# The Chart House Chronology of Construction

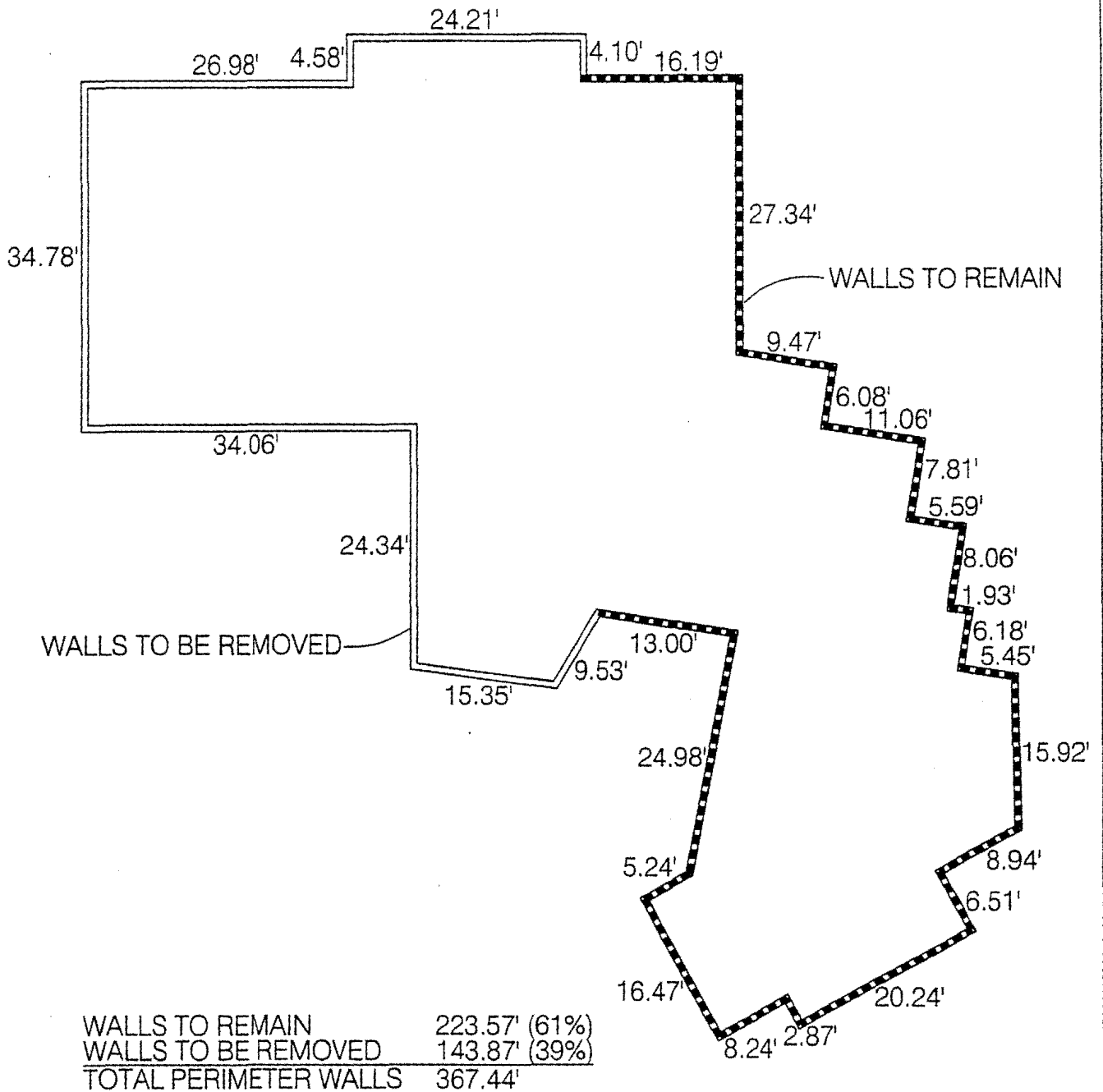
Refer to the Historical Assessment (page 16)

Date: 07/24/00

Sheet:

Project #: 97014.C

Exhibit No. 14  
(p. 2 of 5)



**ARCHITECTS**  
**MOSHER DREW WATSON FERGUSON**  
 4206 WEST POINT LOMA BOULEVARD  
 SUITE 200  
 SAN DIEGO, CALIFORNIA 92110  
 TELEPHONE (619) 223-2400  
 FAX NO. (619) 223-3017

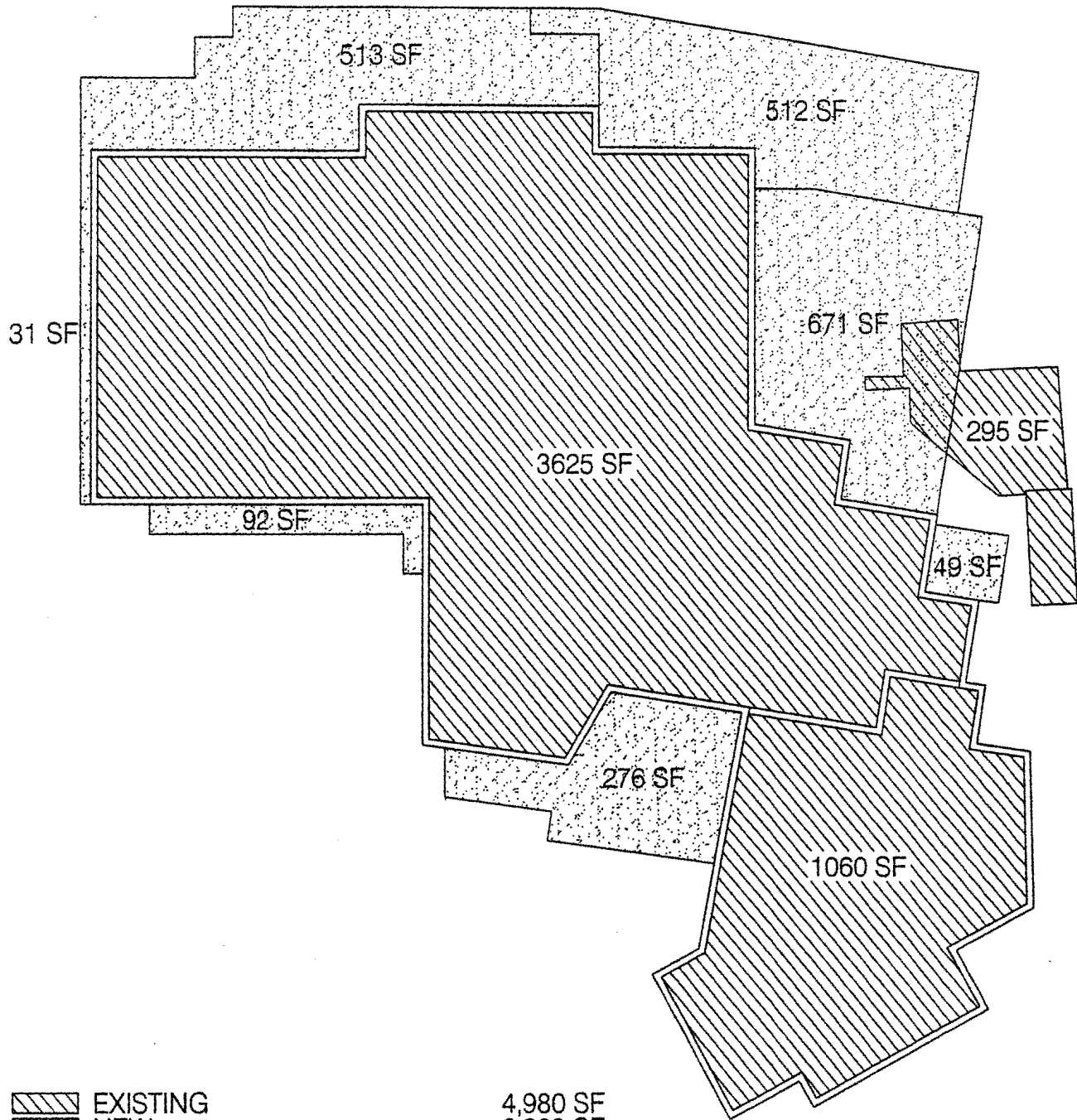
**The Chart House**  
 Walls to Remain

Date: 07/24/00

Sheet:

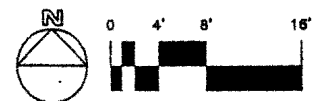
Project #: 97014.03

**Exhibit No. 14**  
 (p. 3 of 5)



FOOTPRINT AREA INCREASE 37%

THIS INCREASE IS MAINLY DUE TO THE ELIMINATION OF THE EXISTING THREE-STORY PORTION OF THE BUILDING REPLACING IT WITH A ONE-STORY BUILDING.



ARCHITECTS  
 MOSHER DREW WATSON FERGUSON  
 4206 WEST POINT LOMA BOULEVARD  
 SUITE 200  
 SAN DIEGO, CALIFORNIA 92110  
 TELEPHONE (619) 223-2400  
 FAX NO. (619) 223-3017

The Chart House  
 Footprint Areas

Date: 07/24/00

Sheet:

Project #: 97014.05

Exhibit No. 14  
 (p. 4 of 5)

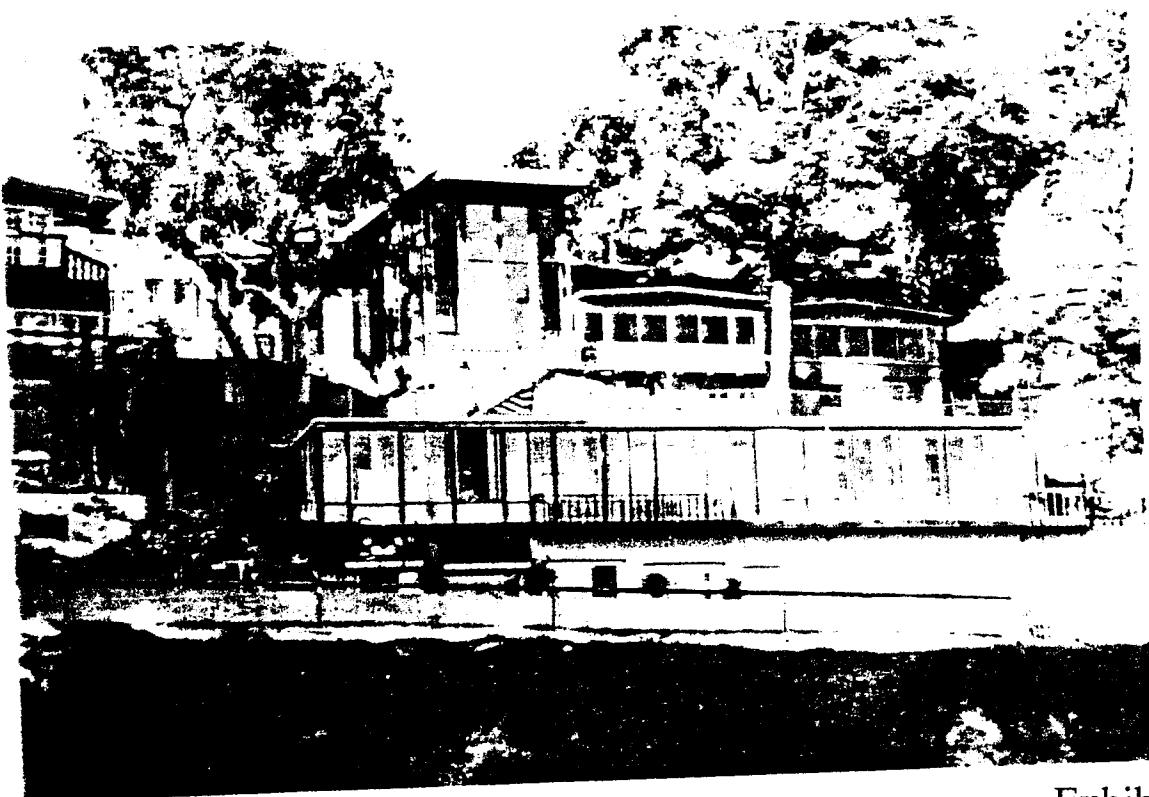


Exhibit No. 14  
(p. 5 of 5)

**RECEIVED**

JUL 31 2000

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICTOffice of  
The City Attorney  
City of San DiegoMEMORANDUM  
MS 59

533-5800

**DATE:** June 21, 2000

**TO:** Tracy Elliot-Yawn, Planning and Development Review

**FROM:** City Attorney

**SUBJECT:** Prop D - Additions or Modifications to Non-Conforming Structures

This memo is in response to your request for clarification regarding additions or modifications to existing non-conforming structures within the coastal zone. Specifically, you inquired whether a roof addition on a nonconforming structure would violate the provisions of Prop D if the addition did not exceed the height of the existing structure.

Municipal Code section 101.0451 establishes that no building or addition to a building shall be constructed with a height in excess of thirty feet within the coastal zone. While the existing, nonconforming use may be continued pursuant to Municipal Code section 101.0301, any additions or modifications must conform to the thirty-foot height requirement. Municipal Code section 101.0303 provides that:

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...

Therefore, any proposed addition or modification which would expand an existing building's nonconformity by increasing the area that exceeds the thirty-foot height requirement would not be permissible. Any additions to a building must observe the thirty-foot height limitation imposed by Municipal Code section 101.0451. However, maintenance, alterations or repairs of a non-conforming building are permissible provided they do not cause any portion of the building to increase in height or floor area or expand the degree of non-conformity.

EXHIBIT NO. 15  
APPLICATION NO.  
**A-6-LJS-00-67**

Info from City re:  
Height of  
Nonconforming  
Structures  
(P.1 of 6)

07/01/2000 MON 07:45 FAX 010 220 3017  
07 28 00 10:40 CITY OF S.D. LDR - 619 213 3017  
NO. 228 P003 OUT

Tracy Elliot-Yawn  
June 21, 2000  
Page 2

This interpretation is consistent with past opinions of our office and the Building Department. For instance, in 1992, in response to an inquiry whether the Proposition D height limit applied to antenna or other communication equipment installed in a facade or on a rooftop on a preexisting structure, the Acting Deputy Director of the Building Inspection Department advised that additions or alterations to an existing illegal condition would not be permissible. Maintenance of legal existing conforming or non-conforming structures, however, would be permissible.

Similarly, in 1973, our office advised that, "the drafters of Proposition D clearly intended that there be no exceptions to the thirty feet height limit. Therefore, it is recommended that penthouses and roof structures be included in the calculation of height of structures within the Proposition D zone."

Further, a 1987 code interpretation memorandum advised that where an existing building is in the Proposition D zone, with portions already exceeding the thirty-foot height limit, an area may be added or enclosed only if that area is below the thirty-foot height limit. It further stated that, "Additions or enclosures must comply with current code requirements." However, "areas above the 30-foot height limit may be remodeled as long as there is no increase in floor area or building height. For example, interior tenant improvements or alterations which do not create any additional floor area and exterior alterations, maintenance or repairs which do not cause any portion or element of a building to increase in height" would be permissible.

As such, adding air conditioning units or skylights to the roof of a building which is above thirty feet in height would not be permissible even if they do not exceed the current height of the non-conforming building.

Attached for your review are copies of the previous opinions referenced in this memorandum. If you have any questions, or would like to discuss this further, please do not hesitate to call me.

CASEY & WINN, City Attorney

By

  
Kristin Schenone

Deputy City Attorney

KS:amp:Civ.

Enclosures

cc: Rick Duvernay, Deputy City Attorney

Bob Didion, Planning and Development Review

Stephen Haase, Assistant Director, Planning and Development Review

Gene Lathrop, Planning and Development Review

# Code Applications and Interpretations

Code Year 1982		Code Section 409	
Subject: Additions in "Proposition D" Areas			
Investigated by: Rideout/Rehoreg	Person Contacted Seniors	Agency BID	Date 1/13/87

**GIVEN:** An existing building in the "Proposition D" 30 foot height limit zone with portions already exceeding the 30-foot height limit.

**QUESTION:** Can you add to, enclose or remodel any floor area in this building?

**ANSWER:** You may add area or enclose existing areas as long as the area being added or enclosed is completely below the 30 foot height limit. Additions and enclosures must comply with current code requirements.

Areas above the 30 foot height limit may be remodeled as long as there is no increase in floor area or building height. For example:

- Interior tenant improvements or alterations which do not create any additional floor area.
- Exterior alterations, maintenance or repairs which do not cause any portion or element of a building to increase in height.



THE CITY OF

# SAN DIEGO

BUILDING INSPECTION DEPARTMENT-CITY OPERATIONS BUILDING-1222 FIRST AVENUE  
SAN DIEGO, CALIFORNIA 92101-4134 AIS 401 (619) 235-6260

August 14, 1992

REF. NO. 93-000079

Matthew A. Peterson  
Peterson & Price  
930 B Street, Suite 2300  
San Diego, CA 92101-4454

Dear Mr. Peterson:

This is to reply to your letter of July 23, 1992 regarding application of the Proposition D height limit to cellular and other communication equipment installed in a facade mounted or a rooftop fashion on a pre-existing structure.

For preliminary planning purposes, we will accept for review, on a case by case basis, applications where the proposed installation would be upon a legal existing conforming or non-conforming penthouse facade or enclosure. Maintenance of legal existing conforming or non-conforming structures will be permitted. Additions or alterations, however, to an existing illegal condition will not be permitted.

Please be advised that installation of such equipment may require additional review and approval from other City departments or agencies.

For further assistance or for a review of a proposed installation please contact Afsaneh Ahmadi, Structural Engineering Senior, at 236-6700.

Sincerely,

*Isam Hasenin*

ISAM HASENIN  
ACTING DEPUTY DIRECTOR

IH:AA:fmk

cc: Rudy Hradecky -  
Fred Conrad  
Records  
File

Aug 17 3 49 PM '92  
CITY ATTORNEY

CITY OF SAN DIEGO  
OFFICE OF CITY ATTORNEY

## MEMORANDUM OF LAW

DATE: June 13, 1973  
TO: Building Inspection Director  
FROM: City Attorney  
SUBJECT: Proposition D

In your memorandum of June 7, 1973 you asked advice regarding various assumptions which were made by your department with respect to Proposition D, and under which you have been operating. The first assumption was stated as follows:

Towers, spires and steeples on the roof of a building may extend above the thirty foot height limitation. The justification for this is in Exception 1 to Section 507 of the Uniform Building Code.

This assumption is incorrect. Proposition D reads, in part, as follows:

The base of measurement of the height shall be in accordance with the Uniform Building Code of 1970.

The base of measurement is that described in Section 507 of the Uniform Building Code. (See memorandum from this office dated January 26, 1973.) However, it is not all of Section 507 which is to be used vis a vis Proposition D - only the method of measuring height. Exception 1 of Section 507, and all other matters contained in Section 507, except the method of measuring, are not relevant.

This position is buttressed by the fact that the drafters of Proposition D, at two places in the ordinance, included terminology indicating an intent not to permit structures higher than thirty feet in the subject zone. The two provisions are the following:

Section 1. Notwithstanding any section to the contrary, no building or addition to a building shall be constructed with a height in excess of thirty feet within the Coastal Zone of the City of San Diego...

...

Jane S. Wiegand, D<sup>e</sup>  
Exhibit No. 15  
(p. 5 of 6)

07/28/00 10:41 CITY OF S.D. LHM - 619 223 3017

10.738 PAGE 007

Building Inspection  
Director

-2-

June

Notwithstanding any section to the contrary, there shall be no exception to the provisions of this Ordinance.

The second assumption made by your department was stated as follows:

Penthouses and roof structures constructed in accordance with the requirements set forth in Chapter 36 of the Building Code may extend above the thirty foot height limitation. The justification for this interpretation is based upon the definition of "Height of Building" in Section 409 of the Building Code. This section indicates that the height should be measured to a roof level defined therein based upon the type and configuration of roof construction. Since Chapter 36 allows penthouses and roof structures to be constructed upon the roof, it has been assumed that these structures would not be limited by the thirty foot height restriction of Proposition D.

This assumption is incorrect. Height of buildings under Proposition D is calculated in the manner set forth in Section 507 of the Uniform Building Code; Section 409 is not relevant.

As mentioned supra, the drafters of Proposition D clearly intended that there be no exceptions to the thirty feet height limit. Therefore, it is recommended that penthouses and roof structures be included in the calculation of height of structures within the Proposition D zone.

JOHN W. WITT, City Attorney

By

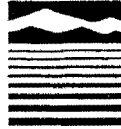
Jane S. Wiegand, Deputy

JSW:cs

cc: E. Meier

FILE COPY

TUE, 9.A.



LUCAST CONSULTING

Coastal Land Use Planning & Advocacy  
6540 Lusk Boulevard, Suite C214  
San Diego, California 92121

July 9, 2000

Chairman Sara Wan and  
Members of the California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105

**Re: Chart House Enterprises (A-6-LJS-00-67)**

Dear Chairman Wan and Commissioners:

I represent the applicant in the referenced appeal. The project involves the renovation of and a small addition to the Charthouse restaurant in La Jolla. The appellants have raised several issues they say point to inconsistencies with the certified LCP. Your staff has thoroughly evaluated the project against the LCP and the public access and recreation policies of the Coastal Act. Staff recommends the appeals raise No Substantial Issue with regard to consistency with both the LCP and public access policies. We support staff's conclusion.

Staff's excellent analysis can be summarized as follows:

- The building was constructed nearly 100 years ago as a residential structure.
- The conversion to restaurant use occurred long before passage of Proposition 20.
- The project has been approved by the La Jolla Community Planning Association (the official advisory group for the community), the City Planning Commission and the City Council.
- The existing building is a designated "Heritage" structure.
- The LCP encourages rehabilitation and minor additions to Heritage structures to insure their continued architectural integrity while still allowing for modern uses.
- To accomplish this, the LCP allows for architectural changes within the vernacular of the original and exempts such projects from parking requirements provided the use remains the same.

EXHIBIT NO. 16  
APPLICATION NO.  
**A-6-LJS-00-67**

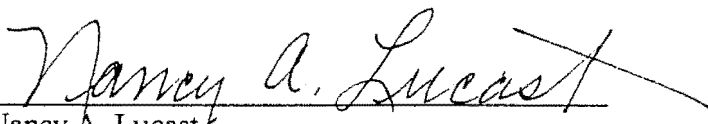
Letter from  
Applicant's  
Representative  
w/attachments  
(p. 1 of 10)

- The proposed renovation is necessary to correct woefully substandard conditions (see photos, Tab 1), to bring the structure up to current code and seismic safety standards and to comply with ADA requirements. There will be no increase in restaurant seating capacity.
- The renovated restaurant and the minor addition maintain the original architectural flavor (see plans, Tab 2) and are exempt from parking requirements per the LCP.
- The applicant has volunteered to provide 10 dedicated parking spaces despite the parking exemption in the LCP. (This has been secured by a City condition.)
- The proposed modifications allow a opening up of a new 7-foot public view corridor to the ocean where only a 5-foot corridor is required.
- The design will allow for additional public views through the restaurant from the street to the ocean by extensive use of clear glass.
- The restaurant itself will offer this same spectacular view to patrons.

In short, the project will correct unsafe and unhealthful conditions, provide new public coastal view opportunities and provide 10 new parking spaces (where none are required) while retaining the existing architectural integrity of the designated "heritage" structure, consistent with the certified LCP.

The Chart House has been a popular dining destination in La Jolla since 1965. We respectfully urge you to support the staff recommendation of No Substantial Issue so it can continue to provide visitors an outstanding coastal experience in a safe environment.

Sincerely,

  
Nancy A. Lucast

cc: Ms. Laurinda Owens  
Mr. Don Allison

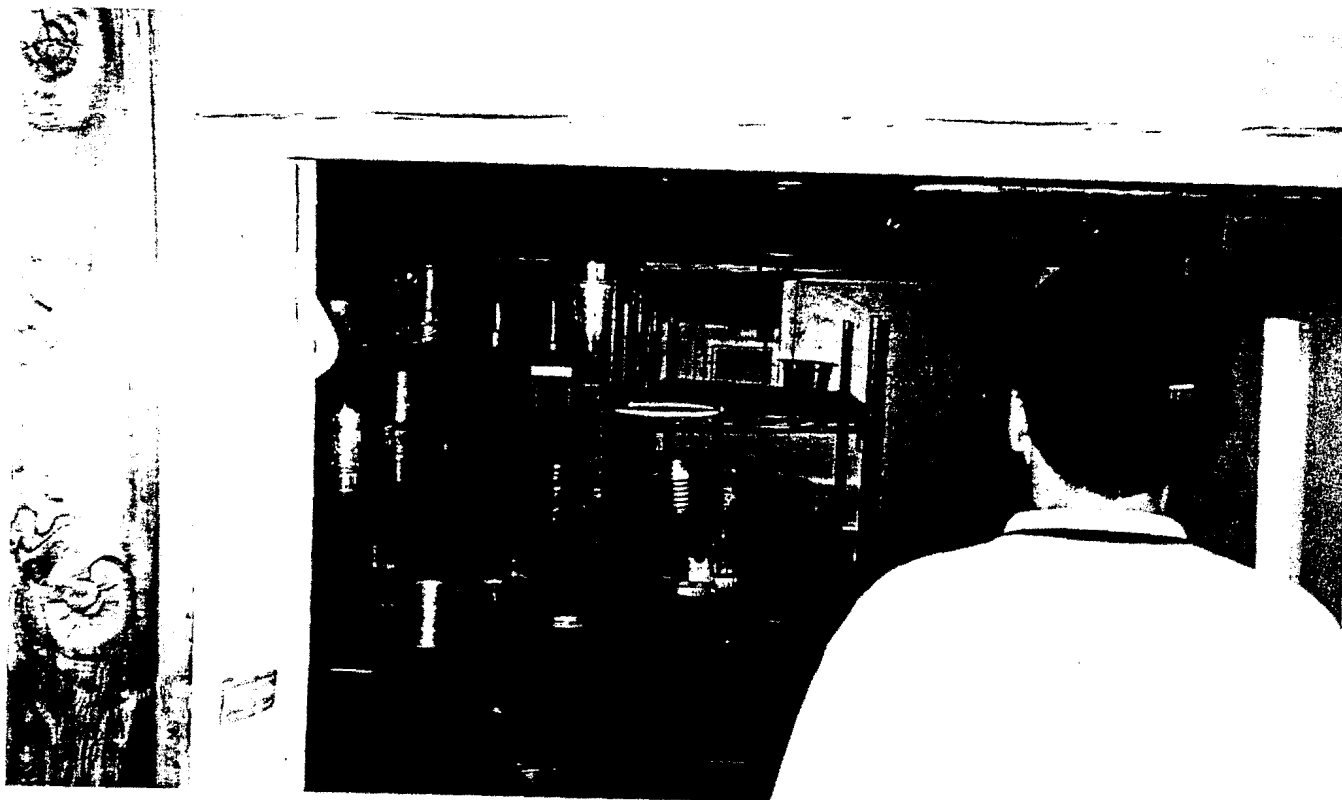
TUE 9A EXISTING FOOD PREP AREA



CEILING HEIGHT: 6'4".....150 S.F.



TUE 9A DELIVERY ENTRANCE.....DOOR HEIGHT: 6'2"



DELIVERY/STORAGE AREA.....CEILING HEIGHT: 6'3"



## TUE 9A HISTORICAL ELEMENTS TO BE RETAINED



EXISTING KITCHEN & PANTRY.....est. 250 S.F.



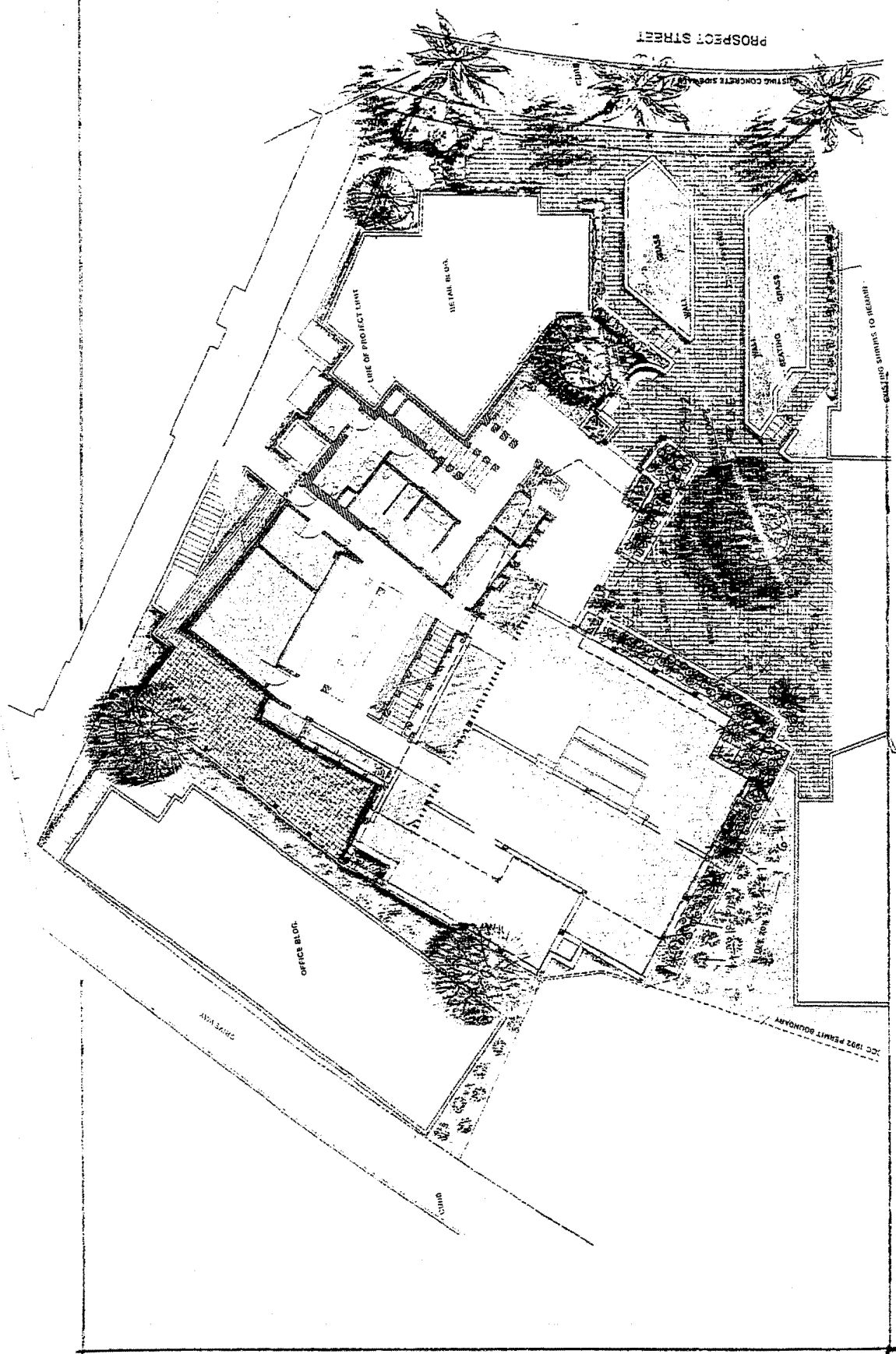
TUE 9A

HALLWAY/STAIRS TO RESTROOMS....LOW CEILING



CHART HOUSE SALAD BAR.....LOW CEILING





**CHART HOUSE LA JOLLA**  
SITE PLAN

EXISTING BLDG. TO REMAIN

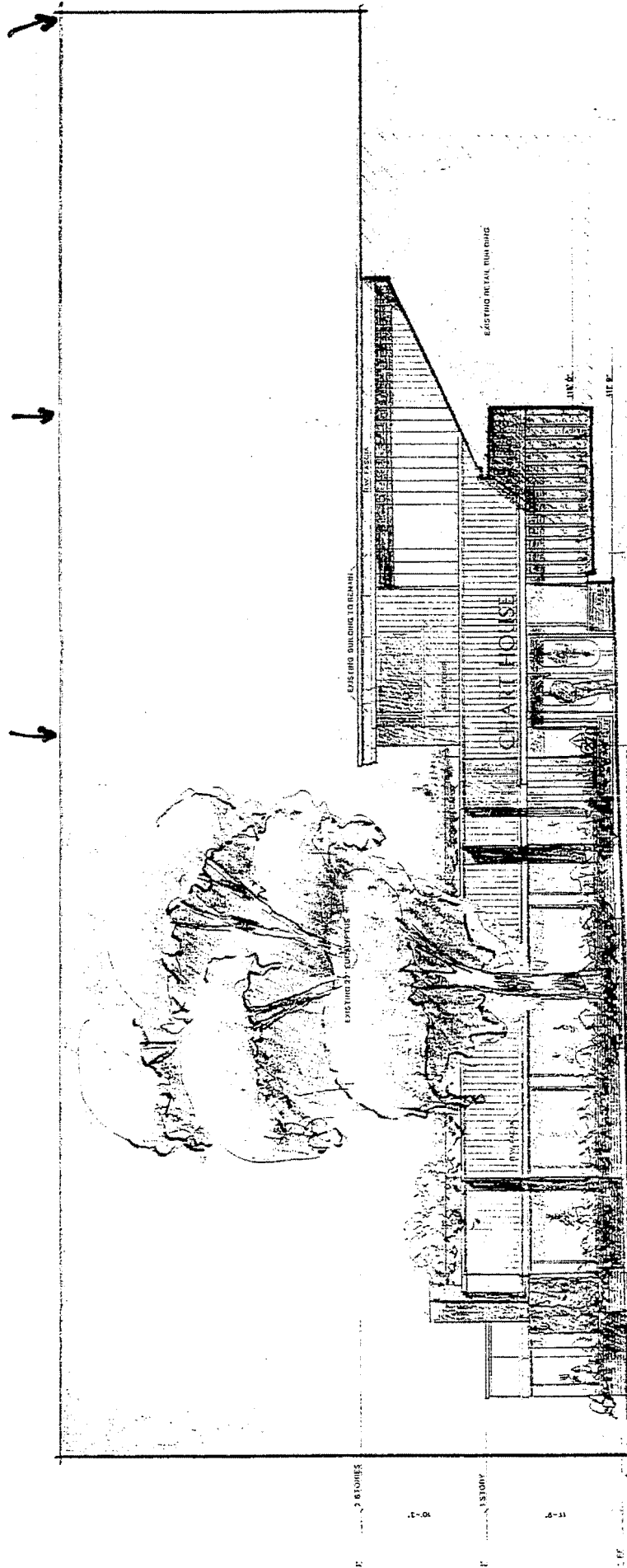


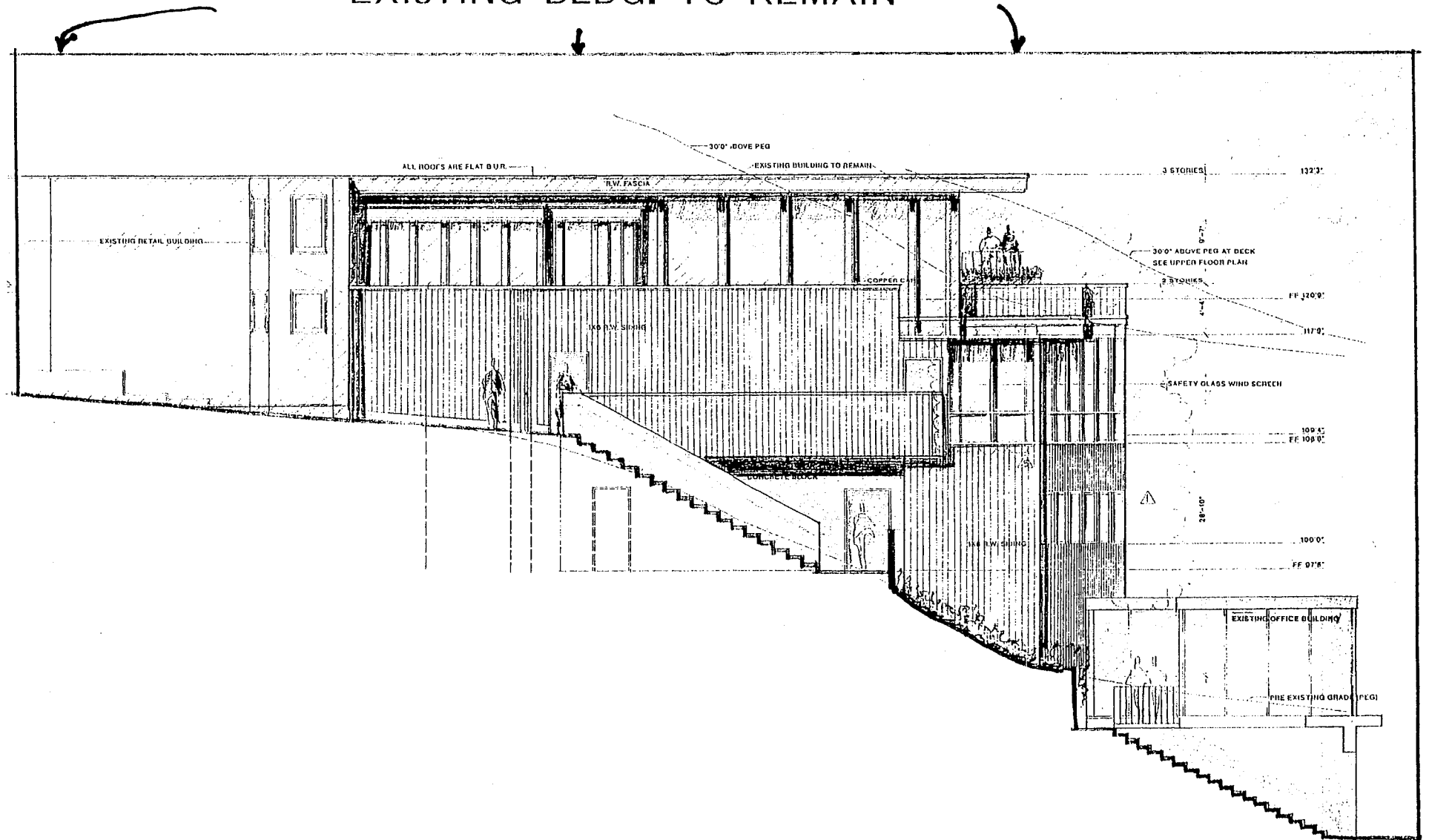
CHART HOUSE LA JOLLA  
SOUTH ELEVATION

WPE  
WPE

DATE: 10/11/10  
BY: J. J. J.

[illegible]

EXISTING BLDG. TO REMAIN



# CHART HOUSE LA JOLLA

EAST ELEVATION



La Jolla Plaza

A-440 ENTERPRISES, INC.

P. O. Box 1125, La Jolla, CA 92038 · (858) 454-7232 · Fax: (858) 454-3401

Via Facsimile (619-767-2370) and Hand Delivery

July 7, 2000

Tue 9A

Chairperson Sara Wan  
Members of The California Coastal Commission  
c/o San Diego Regional Office  
7575 Metropolitan Dr., Ste. 103  
San Diego, CA 92108-4402

Dear Chairperson Wan and Members:

re: Appeal No. A-6-LJS-00-67  
La Jolla Chart House Improvement  
1270 Prospect Street, La Jolla, CA

The Appeal of the La Jolla Town Council ("LJTC") should be denied by the California Coastal Commission.

The LJTC is not the recognized planning group for La Jolla, and its total membership constitutes less than two percent (2%) of community population (memberships are purchased), and its members are not unanimous in this matter. However, the La Jolla Community Planning Association (recognized by the City of San Diego as La Jolla's only official planning group) favors the subject Chart House project. The Appeal is without merit or foundation, as the project has been approved by the San Diego Planning Commission, the San Diego City Council and the supporting staff reports from these respective agencies.

An overwhelming majority of residents, visitors and neighboring businesses would benefit from the proposed Chart House remodel, and there is no known opposition other than from a faction of the LJTC. The company writing this letter owns the buildings and properties across the street from the subject project. We are most immediately and directly affected by the Chart House renovation. We support this remodeling without reservation, which will enhance public views to the ocean, beautify deteriorating structures, revitalize an important tourist attraction and improve the surroundings of our buildings and businesses.

Any delay in the commencement of this project will afford further deterioration of an important historic structure, which is otherwise a resource and asset to this community. Accordingly, we respectfully request the Commissioners to deny the Appeal as without merit or substance.

Sincerely,

A-440 Enterprises, Inc.

Lincoln Foster  
President

/lf

RECEIVED  
JUL 10 2000

CA  
COASTAL  
SAN DIEGO

EXHIBIT NO. 17  
APPLICATION NO.  
A-6-LJS-00-67  
Letter of Support

California Coastal Commission



THE LAW OFFICES OF  
WORDEN, WILLIAMS, RICHMOND,  
BRECHTEL & GIBBS  
A PROFESSIONAL CORPORATION

462 STEVENS AVENUE, SUITE 102  
SOLANA BEACH, CALIFORNIA 92075

VOICE (858) 755-6604  
FAX (858) 755-5198  
Direct Dial (858) 755-5803  
E-Mail [dworden@solanalaw.com](mailto:dworden@solanalaw.com)  
Web Page [www.solanalaw.com](http://www.solanalaw.com)

September 26, 2000

California Coastal Commission  
San Diego Area  
7575 Metropolitan Drive  
Suite 103  
San Diego, CA 92108

**RECEIVED**

SEP 26 2000

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

Re: Appeal No. A-6-LJS-00-67  
Chart House Restaurant; Green Dragon Colony La Jolla


Dear Commissioners:

This office represents the La Jolla Town Council, appellants with respect to the above-referenced matter. In this letter I will present my legal analysis of two key legal issues that we believe preclude approval of the pending Project. The Town Council and I will be prepared to present additional information at your upcoming hearing on the Project addressing and responding to your staff report, which as of this writing we have not seen, and addressing the other important matters at issues, including public access, height, historicity, parking, piece-mealing, demolition, and design issues under the LCP.

**THE PROJECT IS IN VIOLATION OF SEATING RESTRICTIONS  
IMPOSED IN ITS 1981 COASTAL PERMIT. FURTHER EXPANSION OF  
THE RESTAURANT CANNOT BE ALLOWED UNLESS AND UNTIL THE  
1981 VIOLATION IS CORRECTED AND THE RESTAURANT IS  
BROUGHT INTO COMPLIANCE.**

Our research of the files on the Green Dragon property reveal that in 1981 a Coastal Development Permit ("CDP") was issued by the San Diego Coast Regional Commission to allow rebuilding of the Chart House restaurant after a fire and allowing a 32% expansion of the floor area of the restaurant (341 sq. feet added to 1233 sq. feet which predated the fire). This Regional Commission approval was appealed to the State Commission and as approved on appeal, the CDP imposed the following key condition:

- "1. Seating Capacity. Prior to issuance of this permit, the applicant shall record a deed restriction, the form and content of which have been approved by the Executive Director, stipulating that the seating capacity of

<b>EXHIBIT NO. 18</b>
<b>APPLICATION NO.</b>
<b>A-6-LJS-00-67</b>
Letters of Opposition/Concern (p.1 of 5)
 California Coastal Commission



the Chart House restaurant or any successors in interest shall be limited to 110. This document shall be recorded free of prior liens or encumbrances except for tax encumbrances and shall run with the land, binding successors and assigns of the applicant and landowner.”<sup>1</sup>

The 1981 staff report clarifies that the 32% expansion was to be for enlarged restrooms, relocation of the bar, cocktail area, hall, and foyer, but that “...no increase in the number of tables is planned...” (Staff report page 2, III, Findings and Declarations (1)). It seems clear from review of the file documents that at the time the 1981 CDP was approved, recognizing the restaurant had no parking, expansion of the floor area was acceptable only if it did not include expansion of the seating area above what was the pre-fire condition. Rebuilding what existed pre-fire, and some allowed improvement and expansion of non-seating areas is what the Commission approved in 1981, imposing a deed restriction limiting seating “of the Chart House restaurant or any successors in interest” to 110 to ensure that serving areas, and thereby parking demand, would not be expanded.

This office has reviewed a current title report on the subject property which reflects that the deed restrictions were never recorded. This office has confirmed with your staff (September 2000) that the required deed restrictions were never drafted or recorded, and that follow up implementation of these conditions “fell through the cracks,” although the rebuild and expansion of the restaurant were promptly completed. The materials submitted by the applicants with their current application reveal that the restaurant now has seating for 294, or more than double the 1981 deed restriction amount.<sup>2</sup> These facts reveal that the restaurant is, and apparently has been for quite some time, operating in violation of its 1981 CDP.

This office further understands that the applicants, and perhaps staff, are making the erroneous argument that the 1981 seating limitation of 110 only applied to the expansion area of the restaurant approved in 1981, and not to the entire restaurant. This is clearly wrong.

First, the language of Special Condition No. 2 is clear – it restricts the entire restaurant “...the seating capacity of the Chart House restaurant or any successors in

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<sup>1</sup>See, CDP A-93-91, Special Condition No. 1. There were also special conditions attached and to be recorded as deed restrictions limiting the hours of operation of the restaurant to after 5:30 p.m. (Special Condition No. 2) and limiting the signage (Special Condition No. 3).

<sup>2</sup>See, letter from applicant's attorney, Marie Lia dated April 3, 2000, at page 4.

interest shall be limited to 110." (Emphasis added) There is no way to read this clear reference to the entire restaurant as a reference only to the expansion area. Second, as noted above, the 1981 staff report makes clear that the expansion area was for restroom enlargement, halls, foyers, etc., and not for seating area. To now construe the seating limitation to apply only to these areas clearly described in 1981 as non-seating areas, turns the condition on its head! Third, applying the 110 limit only to the expansion area would not achieve the objective that was clearly intended in 1981 – limitation of the seating capacity of the restaurant so as to limit parking demand. If only the foyers, halls, etc. were subject to a seating limit the restaurant would have been free to add as many tables as they wished in the dining areas, a result clearly not intended or allowed by the 1981 CDP. Any doubt in this regard is removed by statements in the 1981 staff report and Findings:

"In order to find the proposed project consistent with the previous Commission actions and the approved Land Use Plan, the Commission must ensure that the expansion of the Chart House restaurant will not result in increased competition for the limited parking available in La Jolla. . . . However, because the proposed expansion will not result in an intensification of use of the existing facility and the number of people who can be seated at any one time, the Commission can find that the proposed project will not generate an increased need for parking . . . With a deed restriction limiting the hours of operation of the proposed facility and the number of people that can be seated at any one time, the Commission can find that the proposed project will not generate an increased need for parking in the La Jolla community and is therefore not required to provide parking." 1981 Staff Report and Findings page 4.

It is hard to image a clearer statement that what was approved in 1981 was allowance to rebuild what was burned without **any** expansion of seating, and addition of 341 square feet of new **non** serving areas, with a 110 seat limit for the entire rebuilt restaurant. The deed restriction was to be key to enforcing these very specific requirements. Responsibility rests with the applicants for their failure to comply with the terms of their 1981 approval by failing to prepare and submit the necessary deed restriction, and then proceeding to rebuild and expand the restaurant anyway, ignoring the seating limitations. Staff has some explaining to do as well as to why there was no follow up monitoring on their end.

It is respectfully submitted that violation proceedings should be commenced for this apparent long-standing violation, and that unless and until the restaurant is brought into compliance with its existing CDP and conditions it is entirely premature for your Commission to consider approval of yet further expansions.



**ANY EXPANSION OF THE SEATING AREA BEYOND 110 WOULD VIOLATE NON-CONFORMING USE RULES.**

The La Jolla Planned District Ordinance ("PDO"), which is part of the certified LCP, allows for the continuance of lawfully established non-conforming uses, but as is typical of such regulations, prohibits their expansion or enlargement. Section 103.1205(A)(10) of the PDO states:

"The lawful use of land which existed on the effective date of this Division and which does not conform with this Division may be continued, except when specifically prohibited, provided that no enlargement or additions to such use are made, consistent with regulations contained in Chapter X, Article 1, Division 3 of the San Diego Municipal Code. Any change in building facade materials or colors shall conform to the provisions of this Division." (Emphasis Added)

Section 103.1205(A)(10) codifies the general rule on this topic. To qualify for non-conforming use status under this provision the applicants must present evidence and prove<sup>3</sup> (1) that the use they claim qualifies for non-conforming status was lawfully existing on the effective date of the PDO<sup>4</sup> and (2) that what they now propose is not an "enlargement or addition" as prohibited by the PDO. Neither can be established in this case.

First, it is now clear that the restaurant has operated in violation of its CDP since 1981, and therefore cannot establish that it was "lawfully existing" on the effective date of the PDO. Case law is clear that unless a use has all required permits and approvals and is operating in full compliance therewith, it cannot qualify for non-conforming use rights. See, e.g. Melton v. City of San Pablo (1967) 252 Cal.App.2d 794 [Court held that plaintiff's use was not "lawfully" established in that, from the beginning, it operated in violation of the City building codes]; Mang v. County of Santa Barbara (1960) 182 Cal.App.2d 93 [grading without a permit was illegal and disqualified project from obtaining non-conforming use rights].

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<sup>3</sup>It is the burden of the party seeking to establish nonconforming rights to present evidence and bear the burden of proof to establish that the requirements for such rights are met. Melton v. City of San Pablo (1960) 182 Cal.App.2d 93,100.

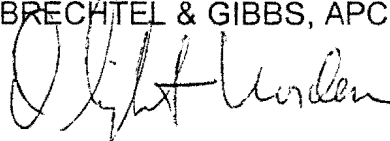
<sup>4</sup>The PDO was initially adopted by the City Council in October 1984 and has been amended several times since then.

Second, if the Commission were to approve the current CDP it would allow an illegal "enlargement or addition" prohibited by the PDO in that it would allow for expansion of the restaurant use from 110 seats (the current and since 1981 lawful limit) to the currently existing 294 seats and beyond. Case law is clear that an expansion of an existing nonconforming use of this type is not allowed, even though the "use" – restaurant in this case – remains unchanged. See, e.g., City of Fontana v. Atkinson (1963) 212 Cal.App.2d 499 [expansion of existing nonconforming dairy yard by 10 acres not allowed even though non-conforming dairy use was lawful]; Edmonds v. County of Los Angeles (1953) 40 Cal.App.2d 642 [owner of lawfully existing non-conforming trailer park with 20 trailers not allowed to enlarge to accommodate 30 trailers]. Just as one cannot add trailers to a nonconforming trailer park, or acres to an existing nonconforming dairy yard, the Chart House cannot add tables to a nonconforming restaurant use, even if that use were lawfully established which in this case it is not.

The issue about the Chart House's nonconforming **use** rights addressed in this letter is different from the nonconforming **structure** issue raised by appellants relating to the proposed demolition and rebuilding of portions of the restaurant that was addressed in your staff report prepared for the substantial issue hearing. Whether or not the Chart House's current proposal to demolish and rebuild parts of the restaurant qualifies for non-conforming **structure** status, which appellants contend it does not, it is clearly a separate, but important matter, that the restaurant cannot expand or enlarge the scope of its non-conforming restaurant **use** by adding more tables or seats.

Sincerely,

WORDEN, WILLIAMS, RICHMOND,  
BRECHTEL & GIBBS, APC



D. DWIGHT WORDEN

DDW:lg

cc: La Jolla Town Council



RECEIVED  
JUL 11 2000  
CITY OF LA JOLLA  
CITY CLERK'S OFFICE

Hon. Sara Wan, Chair  
California Coastal Commission  
July 11, 2000

RE: A-6-LJS-00-67, Chart House, Tues. 9a

Recommendation: Determine that the appeal raises Substantial Issues


Dear Chairwoman Wan and Commissioners:

We strongly urge the Commission to find Substantial Issue with the proposed project because it violates essential policies of the certified Local Coastal Program Land Use Plan (LCP), and the Coastal Act of 1976. The reason the Commission must conduct a full public hearing on appeal is that the City analysis of the project is erroneous, misleading, and inconsistent with the required LCP findings. Moreover, the Commission staff admittedly failed to independently verify critical project parameters which would have required them to recommend a finding of Substantial Issue.

**As presently approved by the City, the project would result in significant adverse impacts to:**

1. **Physical Access,**
2. **Public Views,**
3. **Visual access corridors,**
4. **Historical Coastal Resources,**
5. **Implementation of LCP,**
6. **Parking and Transportation,**
7. **Piecemeal development, and**
8. **Failure to identify reasonable alternatives.**

Furthermore, approval of this project will result in the loss of important conditions and restrictions imposed by the Commission in 1992 on future redevelopment on another part of the same site.

EXHIBIT NO. 19
APPLICATION NO.
<b>A-6-LJS-00-67</b>
Letters of Opposition/Concern (p.1 of 20)
 California Coastal Commission



**1. Physical Access- 30211, LCP pp. 9-47**

As designed, the project would close off the only remaining public access through the property to the sea by turning it into a one-way service exit.

**2. Public Views- 30251, LCP pp. 9-47, LIPDO**

In a 1992 decision (A-6-LJS-91-161/ Green Dragon Colony), the Commission voted to protect the scenic and visual qualities of the site and to protect public views to and along the shoreline with a vista point on the subject property.

Removal of center stairs to be replaced with a raised planter and landscaping will eliminate the public's central access to this vista point. All other access-ways have been closed off by the applicant with chain linked fences and barbed wire without benefit of permits.

**3. Visual Access Corridors (PRC 30251) CUP 9-47**

Coastal staff reliance on City's analysis uses lot widths of 51 and 52 feet for lots 32 and 31, where in fact the legal width is 64 and 75.5 feet respectively. Visual access corridor should thus be to the width of 13.9' where the city required 12. In fact, the drawings indicate 9' total with a 6' high fence and gate which will obscure the view.

**4. Historical PRC 30251 and 30253 (5), Land Use Plan (LUP) pp. 115-157, App. B pp.23-24**

In its 1992 decision the California Coastal Commission (CCC) found it was an important architectural, historical, and cultural site which contributes to La Jolla's designation as "a special community" and visitor destination point of regional and statewide significance as that term is used in PRC 30253.5. They further found that this site is a prominent coastal resource which contributes to the overall scenic and visual qualities of this coastal area.

As proposed, staff recommends the CCC adopt the City's finding that the total destruction of the historically and architecturally significant Wahnfried cottage will result in its preservation. This finding defies both common sense and logic. In fact, as it presently stands, 73.7% of the original historic fabric was preserved in the 1981 Chart House bar addition. The current project would retain and remodel the bar to be a restroom and kitchen service area and would demolish all that remains of the Wahnfried with the exception of a few historic objects.

The Wahnfried will be replaced with a significantly larger contemporary wood and glass structure with none of the distinguishing original architectural qualities and character of the Wahnfried. The new structure would extend as much as 8-14 feet beyond the original footprint. This cannot be considered rehabilitation or historic preservation in any sense of the word.

**5. Local Coastal Program (LCP) Implementation (LJPDO, SCR, CDP)**

This project is inconsistent with the certified implementing ordinances regarding transportation, parking, and protection of culturally significant structures (LJPDO Purpose and Intent). Specifically, the PDO provides for rehabilitation of structures through repair and alteration, "while preserving those portions



and features of the property which are significant to its historic, architectural, and cultural values." The PDO further provides "the distinguishing original qualities or character of a building structure, or the site and its environment, shall not be destroyed."

**As previously stated, 100% of Wahnfried will be destroyed without meaningful design mitigation.**

Appellants contend that at least 55% of the exterior walls and 74% of the floor area of the subject structure will be demolished in contrast to City figures, as supported by staff, which are 25% lower for exterior wall removal. This is not to be confused with projects seeking coastal permit exemptions using the "50% rule". Removal of more than 50% of a structure constitutes "new development." Therefore, this project must be reviewed under Commission and LCP standards for new development.

#### **6. Parking and Transportation (PRC 30211; CDP, SCR, PDO)**

This project's impact on parking and transportation should be reviewed under standards for new development. City's analysis, as supported by staff, is inaccurate. City claims the project will increase from 7,506 sq. ft to 9327 sq. ft. According to applicant's plans, the addition will be 1821 sq. ft plus ancillary areas not included in the analysis. Staff failed to do an independent analysis of gross floor area, resulting in failure to calculate F.A.R. (bulk and scale) of the structure and to analyze the project in terms of its impacts on parking and transportation.

The City imposed an ~~unenforceable~~ condition to limit total restaurant seating. Applicants plan indicates 265 seats, while City's condition approves 294. This discrepancy must be resolved in a public hearing.

**More importantly, there is no parking at present time and staff contends no parking is required.**

Appellants contend a correct analysis would base parking requirements on the normal standard of one space per 200 sq. ft of gross floor area (LJPDO). According to the UBC, dining areas of the new structure could accommodate 513 patrons, as compared to applicant's 265 seats (294 per city permit).

The City's condition that there be no increase in seating is unenforceable and could easily be violated through an innocent act of a restaurant manager to fill up with tables the nearly 81% increase in floor area. Without strict enforceable conditions, this potential intensification could exacerbate "automobile congestion and parking problems in the central area and their impact on public access" (LCP/ LUCP; App. B, pp.2; PRC 30211).

#### **7. Cumulative Impacts (CEQA, 15065(c)).**

Despite identified significant adverse impacts to the environment and long standing public controversy over the redevelopment of the Green Dragon Colony, the City failed to prepare an EIR in favor of a Mitigated Negative Declaration. As a result, cumulative impacts on sensitive coastal resources, public access, visual access, and the scenic and visual qualities of the coastal area have not been adequately addressed.



**8. Reasonable Alternatives (CEQA Sec. 15264(c)).**

Environmentally preferable alternatives have not be considered for this project. Appellant believes that alternatives to the proposed projects, governed by "the rule of reason," must be considered by the City and Commission on appeal. For example, in addition to the consideration of "no project," we believe other on-site location exist which could accommodate the proposed increase in floor area without destroying the original historic Wahfried Cottage.

**9. Piecemeal Development (CEQA Sec. 15165).**

This project, as well as preceding and future permit applications, are resulting in significant sit impacts because of piecemeal review. CEQA requires that the City and the Commission address the significant environmental impacts for the ultimate worst case environmental effects. In this specific case, this project would preclude the implementation of the special conditions imposed in 1992 by the Commission to protect the Public's prescriptive rights of access and overall aesthetic quality of the site.

**SUMMARY:**

In conclusion, there are many Substantial Issues with this project that the Commission should not ignore. Given this community's long term efforts to protect and enhance the Green Dragon Colony as a statewide resource, and the Commission's courageous decisions supporting this effort, we implore you to vote for Substantial Issue. Otherwise, we will not only set a damaging new precedent with this project, we will also give up much of what the Commission achieved in 1992.

Sincerely yours,

  
Sherri S. Lightner  
Vice President, La Jolla Town Council

Attachments: Clarifying photos and news articles

POINT OF BEGINNING

WEST  
HISTORIC ACCESS

LEGEND



STRUCTURES  
DEMOLISHED 1991

INDICATES  
FENCES  
BLOCKING ACCESS

FEET

1

BLDG.#11  
1241 COAST BLVD.  
DOLLY VARDEN

2

STAIRS  
DIESTROYED  
1991

BLOCKED

BLDG.#8  
1260 PROSPECT ST.  
JACK O'LANERN

3

BLDG.#5  
1268 1/2 PROSPECT ST.  
THE GABLES

4

COAST BOULEVARD  
VISTA POINTS

EAST  
HISTORIC  
ACCESS

CENTER  
STAIRS  
TO BE  
REMOVED  
FOR PLANTER  
AND LAND-  
SCAPING

WANFRIED  
COTTAGE  
TO BE  
DEMOLISHED

LOT 30

LOT 31

PROSPECT

LOT 32

ST.

WEST  
HISTORIC ACCESS

CENTER HISTORIC  
ACCESS

EAST HISTORIC  
ACCESS

EAST  
STAIRS  
TO BE  
REMOVED  
AND TO BE  
SERVICE  
EXIT.

SEE SHEET 4 FOR BOUNDARY DATA

SHEET 2 OF 4

REV. 3-30-92

PROPERTY BOUNDARY FOR PERMIT NO. A-6-LJS-91-168

Exhibit No. 19-  
(p. 5 of 20)



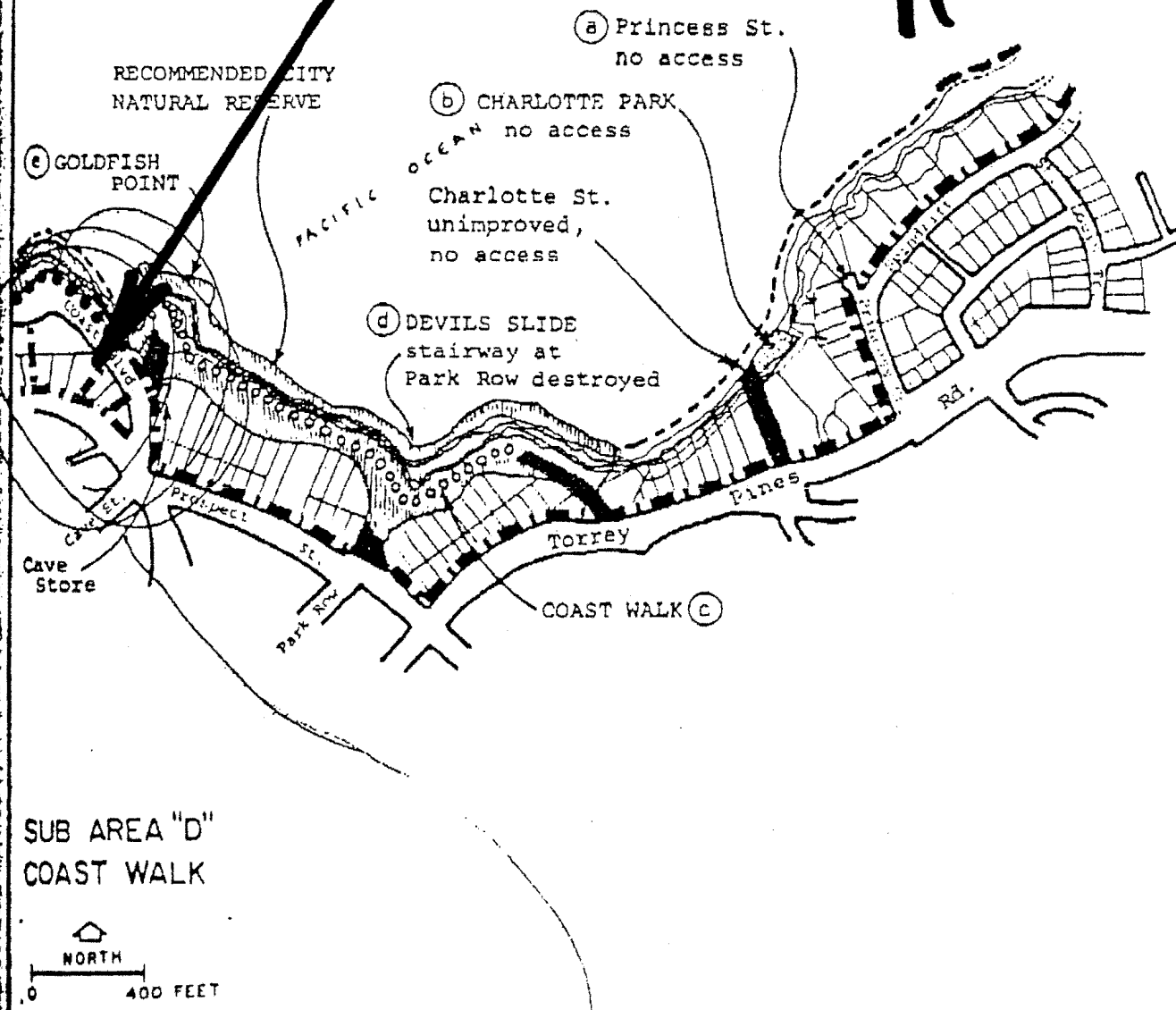
EAST HISTORIC  
ACCESS  
VISTA POINT



WEST  
ACCESS  
BLOCKED

SITE

LCP MAP  
LU ACCESS



**La Jolla • La Jolla Shores**  
**LOCAL COASTAL PROGRAM • PHYSICAL SHORELINE ACCESS**

FIGURE 11

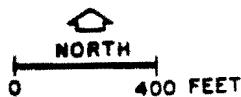
- |  |   |
|--|---|
| CITY PARKS & BEACHES                   | OTHER SHORELINE PROPERTY<br>(Dedicated or owned in fee by City) |
| SCENIC BLUFFTOP TRAIL                  | VERTICAL ACCESS<br>(Dedicated street or easement)               |
| LIMITED OR INTERMITTENT LATERAL ACCESS | UNRESTRICTED LATERAL ACCESS                                     |
| SCENIC BLUFFTOP WALKWAY                | ALTERNATIVE PEDESTRIAN ACCESS                                   |

CITY OF SAN DIEGO  
PLANNING DEPARTMENT

Exhibit No. 19

(p. 8 of 20)

LCP  
LV MAP  
VISUAL



~~FIGURE 12~~



**SECRET**

**CITY OF SAN DIEGO  
PLANNING DEPARTMENT**

● ● ● ● SCENIC ROADWAY

(p. 9 of 20)

# The West

## Wilson signs series of environmental protection bills

By DANIEL C. CARSON, Staff Writer

SACRAMENTO — Gov. Wilson yesterday signed a series of bills strengthening environmental protections, including measures intended to stop illegal development along the coast and to tighten control of the shipment of toxic materials by train.

The signings appeared timed to cushion the blow from Wilson's imminent veto of a major environmental bill that would restrict timber harvesting. The administration is already coming under criticism from environmentalists for Wilson's certain rejection of the bill.

Among the measures signed yesterday was SB 317 by Sen. Ed Davis, R-Chatsworth, which enhances the power of the California Coastal Commission to stop illegal development that could harm the coast.

The measure authorizes the staff of the commission

as well as local agencies which have coastal jurisdiction, to issue cease-and-desist orders to stop activity that is deemed illegal.

Currently, the commission lacks that authority and must go to court to obtain a temporary restraining order — a process that can take several days — when it discovers a violation of the Coastal Act.

"Too often in the past, the commission has been powerless to stop violations before environmental damage has been done," Wilson said.

He cited a recent case in which half of a group of historic cottages in La Jolla were leveled during the 30 hours it took the commission to obtain a court order protecting them from demolition.

Wilson also gave his blessing to a package of four bills intended to tighten regulation of the shipment of

toxic substances by rail and to improve the state's emergency response when toxic spills occur.

The measures were prompted by a July train derailment near Dunsmuir. A railroad tanker car fell into the Sacramento River and ruptured, spilling dangerous chemicals that killed massive numbers of fish and other wildlife.

The package of bills, which includes one by Sen. Lucy Killea, I-San Diego, sets up a "rapid response team" to cope with spills; levies a fee on railroad companies to finance stepped-up safety inspections; and requires the Public Utilities Commission to identify dangerous locations on rail lines and ways to prevent accidents.

Wilson also announced his signing of SB 906, by Sen. Frank Hill, R-Whittier, an administration-spon-

sored measure creating a Riparian Habitat Conservancy.

The new program, which would be run by the existing Wildlife Conservation Board, involves efforts to acquire, restore and protect wildlife habitats along California rivers. The \$15 million needed for the program is contained in a proposed bond issue that has yet to win approval of the Legislature or the voters.

Wilson approved AB 2172 by Assemblyman David Kelley, R-Hemet, which enacts another component of the administration's environmental program.

The bill provides legal authority for a new type of conservation planning under which the state and private parties focus on trying to save an entire type of ecosystem rather than a specific endangered plant or animal species.

Exhibit No. 19  
(p. 10 of 20)

Green Dragon Colony Case  
Helps gain Commission Powers!

July 11, 2000  
A-6-LJS-00-67

# Court Acts Too Late to Save Green Dragon

■ **Preservation:** Wrecking ball does much of its work before a restraining order comes through to halt destruction of historic bohemian cottages in La Jolla. A lawsuit is threatened.

By JOHN M. GLIONNA  
TIMES STAFF WRITER

The Green Dragon Colony, four turn-of-the-century cottages that many say represented the last fragment of La Jolla's architectural and historical roots, was practically demolished by developers Thursday before a restraining order preventing further destruction could be issued.

The wrecking ball's arrival in the heart of the palm-studded seaside town caused a furor as preservationists and state attorneys claimed Thursday that developers ignored state laws in their destruction the day before of remnants of the once-great artist's colony.

In San Diego Superior Court on Thursday, the state attorney general's office won

a temporary restraining order against further demolition until July 23, after arguing that parts of the long-ago boarded-up cottages, such as a few walls, could still be salvaged.

Meanwhile, state attorneys say they are considering additional legal action against the property owners, led by retired La Jolla architect Robert Mosher, who they argue ignored state Coastal Commission laws in beginning demolition without waiting out the routine 10-day appeal period on the project.

"Somebody pulled a fast one," said Deputy Atty. Gen. Jamee Patterson. "There are all kinds of limitations on this kind of demolition under Coastal Commission law. They should have waited before sending in the bulldozers. But they didn't. And we're definitely going to pursue some legal action here."

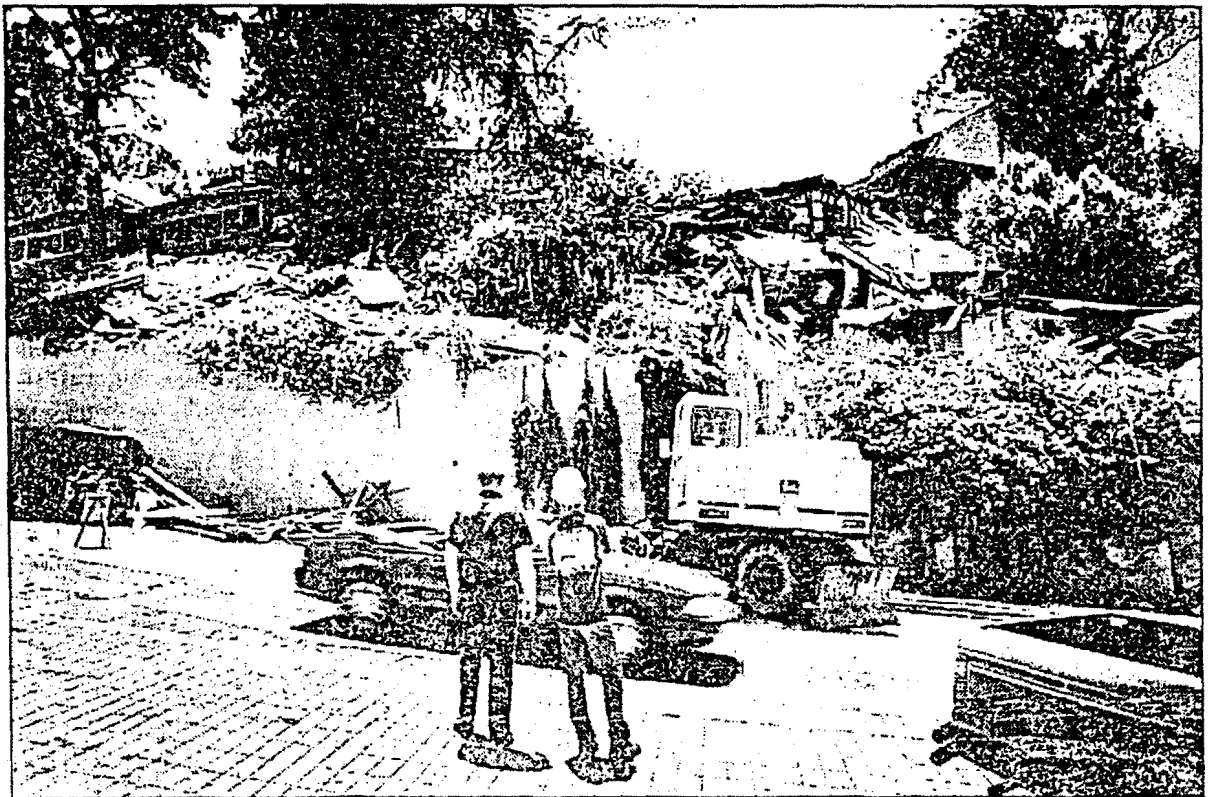
Attorneys for the property owners said Thursday that the demolition marked the end of a long and frustrating battle to clear away the cottages, situated between Prospect Street and La Jolla Cove, which they said had nostalgic but little historic significance.

Besides, they say, the owners had long ago made a standing offer to move the cottages to another site for preservation—one that was never acted upon. No immediate plans have been made to build on the site, although a hotel complex had been considered.

"Those buildings have been offered for years to the city or anyone else who wanted them," said attorney Franne Ficara. "They turned us down."

The demolition was the latest event in a five-year debate over the fate of the board-and-batten cottages, once an internationally famous retreat for the writers, painters and other artists who pioneered La Jolla as a mecca for creative souls.

In February, 1990, the owners filed  
Please see COTTAGES.



BRUCE K. HUFF / Los Angeles Times

A restraining order stopped further destruction of the last of the Green Dragon Colony cottages in La Jolla.

Exhibit No. 19

(p. 11 of 20)

# COTTAGES: Demise Sparks Furor

Continued from B1

permit applications with the city to demolish the structures. But, in succeeding months, they became frustrated with what their attorneys called the city's foot-dragging on granting their requests.

"They were simply trying to delay us by the continued revision of a bogus environmental document," Ficara said, "revising, revising, revising until we would give up."

Recently, the owners filed suit against the city in San Diego Superior Court, seeking \$2.8 million in damages that included the money lost on the value of the property during the preceding year.

The suit also claimed that the city had violated the state's Permit Streamlining Act by not making a decision on the permit application within one year and sought an immediate approval of the application.

On Tuesday, in an attempt to settle the potentially costly lawsuit, the San Diego City Council voted not to oppose a judge's order that the permits be granted.

The following morning, Superior Court Judge Barbara Gamer issued an order for the demolition permits, sending state attorneys and a lawyer hired by local preservationists scrambling for a last-minute stay.

"We ran frantically over to the courthouse, knocking on courtroom doors, but we couldn't find a judge willing to touch it," Patterson said. "It was a frustrating day to say the least."

Rudolf Hradecky, deputy San Diego city attorney, said the City Council went legally into closed deliberations to discuss resolving the lawsuit. The result, he added, was that council members found themselves in a no-win situation.

"We concluded that the streamline act time-frame had indeed run its course and that, if we eventually went to court, we would not have an adequate defense," he said. "It would have created a potential liability for the taxpayers."

But a city official close to the decision, who asked not to be identified, questioned the wisdom of the city's quick surrender at the hands of the developers.

"It sends a really sickening mes-

sage to developers that all they have to do is threaten to sue the city, and the City Council will roll over and play dead. I think it stinks."

Patterson said lawyers from the state attorney general's office returned to court Thursday, when Judge Gamer issued the restraining order.

The judge, she said, was not initially aware that, in addition to the necessary city demolition permit, there were also Coastal Commission permits affecting the property, which require a 10-day waiting period on any demolition until an appeal could be filed.

Patterson also denied claims made by attorneys for the property owners that any appeals provisions would have been outweighed by the conditions of the state's Permit Streamline Act, which holds that the decision on the application was already past due.

"They're mixing apples and oranges," she said. "The Coastal Commission laws still apply here. Obviously the judge had some doubts. She granted us the stay."

Preservationists expressed shock Thursday over the destruction of what many called the last remaining living snapshots of a simpler, less commercial La Jolla that can now never be retrieved.

Ronald Buckley, director of the city of San Diego's Historical Site Board, said the destruction of the cottages was unthinkable. Not long ago, he said, a state historical preservation officer said the four buildings probably qualified for inclusion in the National Registry of Historic Places.

"You can't print my reaction to this," he said of the demolition. "Yeah, I'm angry. This definitely shouldn't have occurred. These aren't just a bunch of rabid people trying to save something for nostalgia's sake."

"These were buildings worth saving. They were the last remnants of the last turn-of-the-century internationally known arts and crafts colony on the West Coast," Buckley said.

Originally known as the Green Dragon Camp, the colony was launched by a German-born teacher named Anna Held, who moved to the area in 1894 and bought the first sliver of land near La Jolla

Cove for \$165.

A generation later, the Green Dragon became a famous bohemian retreat for some of the best-known artists and writers of the 20th Century, and a key element of the Arts and Crafts Movement in those years.

Eventually, however, the land changed hands and the vitality of the colony waned. But the artists' influence remained, with studios and galleries occupying many of the cottages.

In 1943, the Mosher family bought the property. Bob Mosher, whose office was on the site for 38 years, renovated and remodeled some of the cottages. Some of the new buildings, which house art galleries, jewelry stores and the Chart House restaurant, incorporate the walls, foundations and fireplaces of the historic cottages.

The four buildings destroyed Wednesday had been boarded up and unoccupied for several years. The site is now owned by the Mosher Trust, which is administered by San Diego Trust & Savings Bank and includes Robert Mosher as one of its two representatives.

Mosher, an influential local architect who was a founder of La Jolla's two community planning groups, could not be reached for comment Thursday. But, in a 1986 interview with The Times on the value of the cottages, he dismissed them as "those rundown old things" and vowed to eventually demolish them or move from the property.

"Ha! I just laugh when I hear that," he said, referring to their perceived value. "They're old, no one denies that. But saying they have some historical significance as architectural works is simply ridiculous."

Buckley said the city of San Diego "already has a poor reputation nationwide for its treatment of other historical structures, and any offer to move the cottages would have severely diminished their value."

"The property on which they sit gives them the proper historical context," he said. "To move the homes would not have made sense. That was the place where they became famous. That is where they belonged."

DEPARTMENT OF HISTORIC PRESERVATION  
DEPARTMENT OF PARKS AND RECREATION

OFFICE BOX 942896  
SACRAMENTO, CALIFORNIA 94296-0001  
(916) 445-8006



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JAN 04 1990

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

January 4, 1990

Mr. Michael Wornum, Chairman  
California Coastal Commission  
133 Camino Del Rio South, Suite 125  
San Diego, California 92109-3520

RE: Green Dragon Colony, Permit #6-89-149

Dear Mr. Wornum:

As the State Historic Preservation Officer for California, I am writing to confirm my office's strong support for the preservation of the Green Dragon Colony.

We firmly believe, as we have stated in the past, that these buildings and site merit designation in the National Register of Historic Places, at least at the statewide level of significance. These buildings are the last surviving enclave that reflects the historic role of La Jolla in the late 19th century artistic and literary development in California. In this incomparable setting, the Green Dragon Colony evolved, attracting some of the greatest names in the arts of the time.

This small cluster of buildings strongly exemplifies one of the earliest and very last such groupings in California. Our office has worked with the Coastal Commission and La Jolla to assist in the preparation of the Local Coastal Program (see La Jolla LCP pages 156 and Appendix B page 23). In particular we funded an historic survey and the La Jolla Historic Conservation Planning Grant to identify historical resources and a means to protect them within the context of the Coastal Act and Local Coastal Program.

In this special case, we have joined the Coastal Conservancy to provide technical assistance to the interested parties to help preserve this important landmark. It would be unconscionable to allow the demolition of the Green Dragon Colony, and prevent the implementation of the community's Local Coastal Program in which we have all invested so much energy and resources.

Sincerely,

*Kathryn Gualtieri* (E2)  
Kathryn Gualtieri  
State Historic Preservation Officer

cc: San Diego City Council  
Coastal Conservancy

# CALIFORNIA PRESERVATION FOUNDATION

1615 Broadway - Suite 705  
Oakland, California 94612  
Telephone: (415) 763-0972

A Statewide Non-Profit Organization  
Promoting Historic Preservation

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OCT - 6 1989

October 5, 1989

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

Michael Wornum, Chairman  
California Coastal Commission  
1333 Camino Del Rio South, Suite 125  
San Diego, CA 92108-3520


RE: Application No. 6-89-149  
Green Dragon Colony

Dear Mr. Wornum:

There is no question in my mind that the four buildings of the Green Dragon Colony (designated by the San Diego Historic Site Board) are significant, and have a significance far beyond the San Diego area. They also are essential elements to the visual character and scenic quality of one of California's most important waterfront areas.

The past fifteen years' efforts of people in San Diego has established this view firmly as more than just my opinion. When I served as Survey Coordinator for the State Office of Historic Preservation, Pat Schaelchlin documented these buildings and the site for the State Inventory, and I agreed with her that they belonged. Later planning activities associated with the Local Coastal Program provided fuller documentation of the environmental, historic and cultural significance of the site in relationship to La Jolla's special character. Finally, the San Diego Historic Site Board applied rigorous criteria and determined to designate the site.

The California Preservation Foundation does not enter into local discussions without larger issues being at stake. In this case we have several reasons for doing so:

- 
- (1) the Green Dragon Colony is an extraordinarily rich cultural complex with historic, architectural, archaeological, horticultural and environmental meaning; the relationship of this site to similar "colonies" in other parts of California and the historical importance of individuals associated with the Green Dragon Colony are certainly of statewide significance;
  - (2) fifteen years of time, energy, money and personal commitment by the people of La Jolla have demonstrated that the site's future, as well as its past, is highly valued - worthy of LCP protection; the community planning process in La Jolla is one of the best efforts we have observed in California and we would hope the Coastal Commission will uphold that long-term commitment the people of La Jolla have made;
  - (3) demolition of these historic structures to merely make way for a landscaping 'treatment' is not a priority in the Coastal Zone - reuse of the resources to serve the need of California's recreational visitors and the tourism industry are a vital interest to its citizens; and,



## ARCHITECTURAL RESOURCES GROUP

Bruce D. Judd, AIA  
Stephen J. Farneth, AIA

Cathleen Malinström  
Glenn David Mathews  
Hisashi B. Sugaya, AICP  
Kae Johnson

January 3, 1990

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JAN 04 1990

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

Chairman Wornum  
California Coastal Commission  
1333 Camino Del Rio South, Suite 125  
San Diego, California 92108-3520

Re: Green Dragon Colony, Permit #6-89-149

In September 1988 our firm was engaged by the State of California Coastal Conservancy to review the proposed plans and options for the Green Dragon Colony site in La Jolla. Our goal was to analyze the maximum allowable build-out of the site given the revised La Jolla PDO and other codes in effect, and to evaluate the retention of some of or all of the existing buildings, and to study the possible addition of other structures to the site.

As we gathered the necessary data and topographical information in preparation to commence the work, it became apparent that private investment interests to preserve the Green Dragon Colony had swelled, and there was no further need of our firm to provide consultation services to the Conservancy.

I understand that now, despite an attempt to purchase and restore the whole site, the owners have refused that fair market value offer and are seeking a demolition permit from the Coastal Commission.

I have walked the site several times and have inspected the existing buildings. Contrary to some reports, they are not in danger of immediate collapse, nor do they constitute a threat to the public in their current condition. As long as they remain boarded up pending restoration, and the public cannot get inside of them, there should be no danger to people walking around them.

You are most likely aware of the historic James Johnston House on the coast in Half Moon Bay. Our firm has been involved with that project for several years, and I believe its restoration can serve as a positive precedent for restoration of early California wooden framed buildings. Especially important is the contribution of the structure in understanding the early development of California's coastline in terms of rural and coastal villages.

Pier 9 • The Embarcadero  
San Francisco, CA 94111  
(415) 421-1680  
FAX (415) 421-0127

Exhibit No. 19  
(p. 15 of 20)

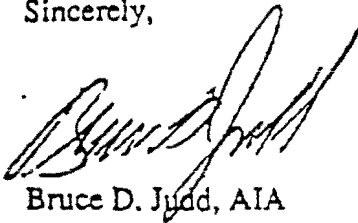
Chairman Wornum  
January 3, 1990  
Page 2

As with the Johnston House, the Green Dragon Colony cottages are carpenter-built, vernacular structures which have served as an inspiration to architects such as Greene and Greene, Irving Gill, and Charles Moore.

These structures serve as valuable resources for the general public, both in gaining an understanding of California's history and for the enjoyment of our scenic coastline.

Please deny the demolition permit in favor of economic revitalization of this complex of historic structures.

Sincerely,



Bruce D. Judd, AIA

cc: San Diego City Council  
Coastal Conservancy  
State Office of Historic Preservation  
California Preservation Federation

PRELIMINARY PLAN FOR THE L A J O L L A C O A S T L I N E

THE L A J O L L A C O A S T L I N E C O M M U N I T Y W O R K S H O P

Further Implement  
ACTION  
VIA  
COASTAL  
CONSERVANCE  
1991

PREPARED BY

THE L A J O L L A C O M M U N I T Y  
WORKSHOP PARTICIPANTS AND VOLUNTEER PROFESSIONALS

THE S P U R L O C K O F F I C E  
LANDSCAPE ARCHITECTS / PLANNERS

W O O D W A R D / C L Y D E  
CONSULTING ENGINEERS

P E T E R S . B R A N D  
WORKSHOP COORDINATOR

MARCH 1989

## COASTAL ZONES

The La Jolla Coast is a varied and changing environment. Interventions made to the Coastline need to be carefully developed to respond to the unique character of each specific site.

The Workshop identified seven distinct zones in the study area between Coast Walk and Hospital Point. These zones can be grouped into two categories:

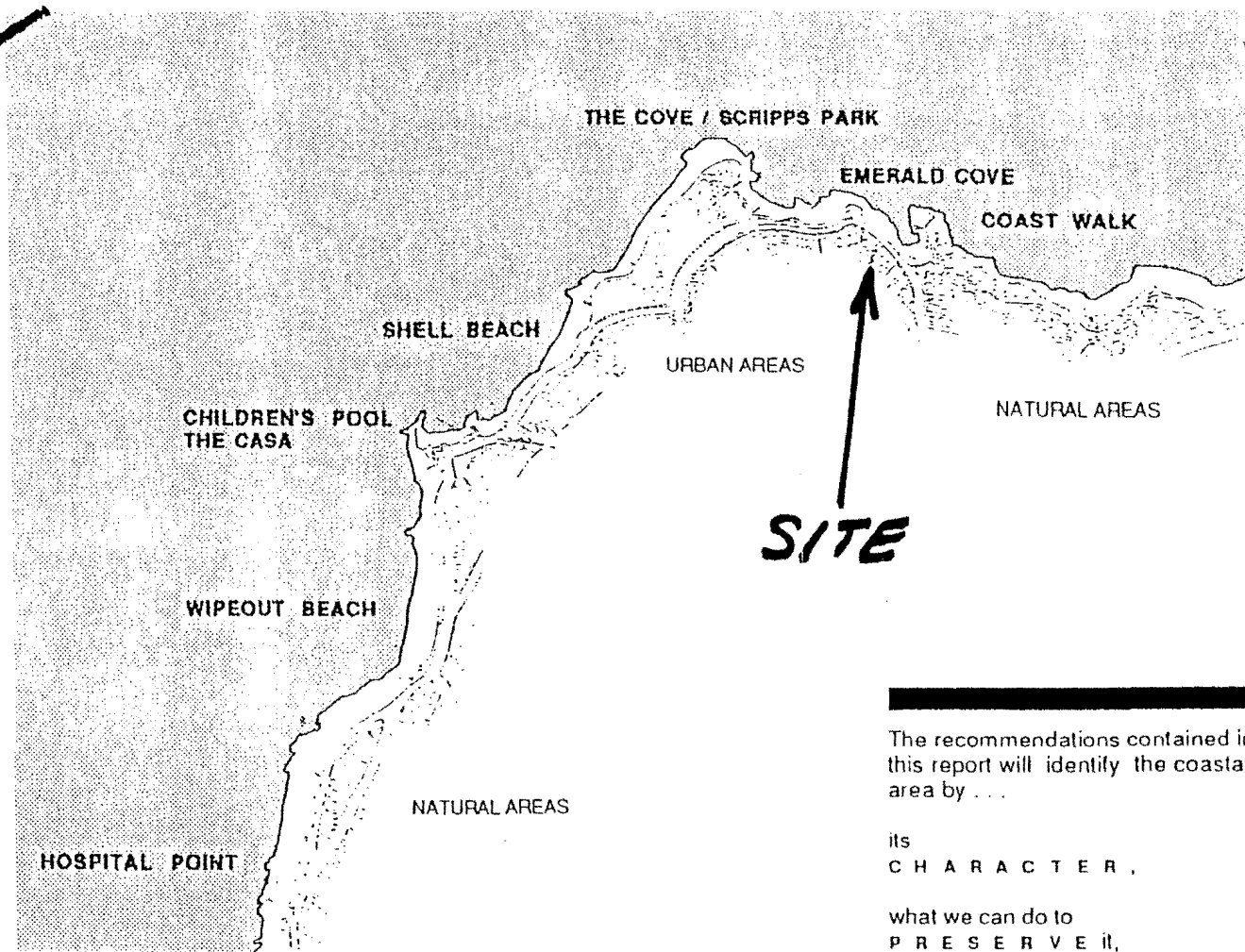
### NATURAL AREAS

COAST WALK  
EMERALD COVE  
WIPEOUT BEACH / MUSEUM  
HOSPITAL POINT

### URBAN AREAS

THE COVE / SCRIPPS PARK  
SHELL BEACH/939  
THE CHILDREN'S POOL / THE CASA

The majority of our recommendations are unique to each of these zones and relate directly to the special conditions found there. However, limited general recommendations for the Coastline, as well as the Natural and Urban categories, can be made.



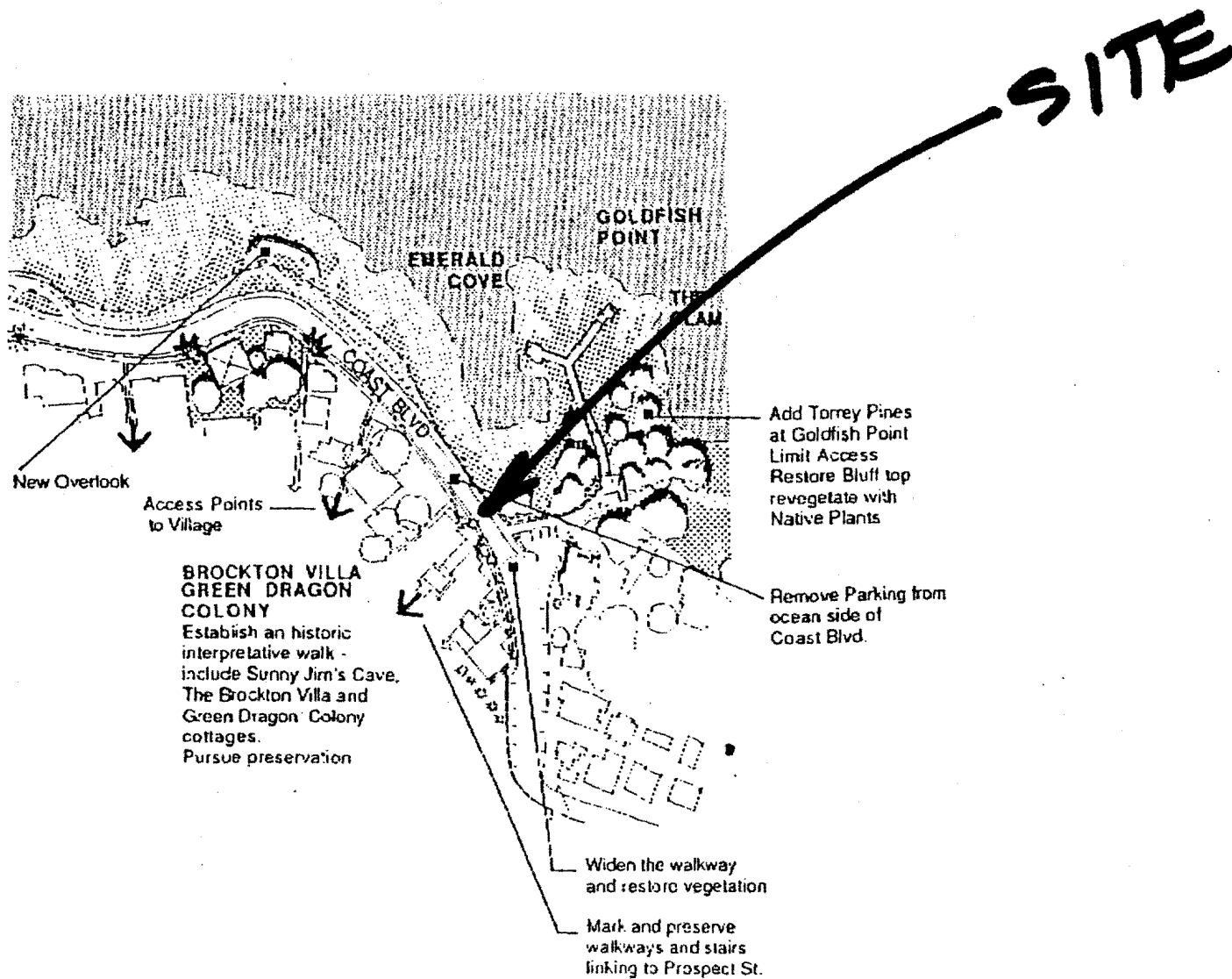
The recommendations contained in this report will identify the coastal area by . . .

its  
C H A R A C T E R ,

what we can do to  
P R E S E R V E it,

what we can do to  
E N H A N C E / R E S T O R E  
what is there -

and what we can add to  
I M P R O V E it.



# C H A R A C T E R

The Emerald Cove is one part of the La Jolla coast where the natural beauty has been severely compromised by man's interventions - most notably the automobile. In a narrow sliver of very steep topography we find not only traffic lanes but parking as well. Exacerbating the problem are the multitude of signs directing traffic and advertising the adjacent commercial uses. The impact of the car overwhelms the pedestrian and makes this area unsuitable for casual enjoyment. Instead one must remain on guard for traffic.

The sidewalk offers fine views down into the clear water and active surf of the Emerald Cove itself. Due to its high elevation and lack of vegetation the ocean side walkway also has great views across to Goldfish Point and the La Jolla Cove. It is a prime vantage point for observing the La Jolla Rough Water Swim. The Village side slopes of this area contain the original Green Dragon Cottages. This area marks the transition from the more urban/public area of the Cove to the more natural/private areas of the Coast Walk.



CARS DOMINATE

# P R E S E R V E

The Emerald Cove has many unique natural features but the dominance of the automobile severely diminishes those qualities. It does not have a character we recommend preserving per se - rather its character must be resurrected. The elimination of two way traffic was a good first step. We recommend that parking in this area be completely eliminated.

The historic steps of Sunny Jim Cave should be maintained and preserved. The Green Dragon Colony and the Brockton Villa are beloved by the community and are representative of the small scale charm of historic La Jolla. Their preservation should be pursued.

# E N H A N C E / R E S T O R E

The elimination of parking along the ocean side of Coast Blvd. will give this zone more 'breathing' space and allow the natural features to dominate. New construction should respond to the more natural character of the area. All chain link fencing be removed and old wooden fences be repaired or replaced. To restrict foot traffic from the sensitive bluff edges we recommend that wooden posts with cable be installed. In hazardous areas white painted wood fences should be used.



INAPPROPRIATE PARKING LOCATION PUSHES WALKWAY AGAINST HAZARDOUS BLUFF EDGE REQUIRING EXTENSIVE FENCING



9a  
Submitted @  
7/11/00 Comm mty

Honorable Sara Wan  
California Coastal Commission  
July 11, 2000

RE: A-6-LJS-00-67, Chart House, Agenda Item Tuesday 9a

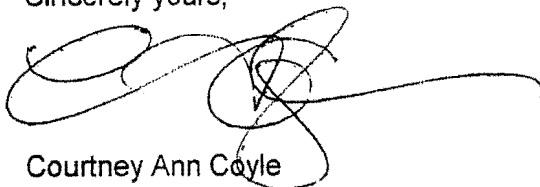
Subject: Amendment Request for Appeal

Dear Chairwoman Wan and Commissioners:

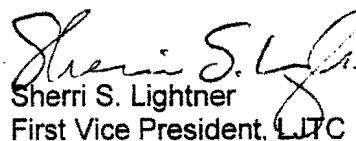
We would like the Commission to allow us to amend the appeal. Recent review of the City and Commission files related to this project, show:

1. **The project is nonconforming with respect to height.** The Kellogg Tower is "legal nonconforming" with respect to height at the present time. When it was built, neither the 30 foot height limit given in the PDO, nor the 40 foot height limit given in Proposition D applied to the building. The Tower exceeds both of these height limits, so it is nonconforming with respect to height. This is considered "legal nonconforming," because it met the laws, which were in effect at the time it was built. Nonconforming structures can be retained as long as nothing is done to increase the degree of their nonconformity. The Chart House project proposes the addition of decks, which will extend the building's footprint further down the slope, thereby illegally increasing the height nonconformity of the structure. The new structure will be approximately 50 feet in height where only 40 feet is allowed.
2. **The project will result in a significantly larger footprint than presently exists,** as shown clearly in the attached sketch, which was in the City's file for this project, but apparently not in the information transmitted to the CCC staff. The increased footprint is shown by the slashed lines for the building at 1270 Prospect in the attached figure. The building footprint will be increased by amounts varying from 8 to 14 feet towards the ocean. This means that rules governing nonconforming structures apply here.

Sincerely yours,



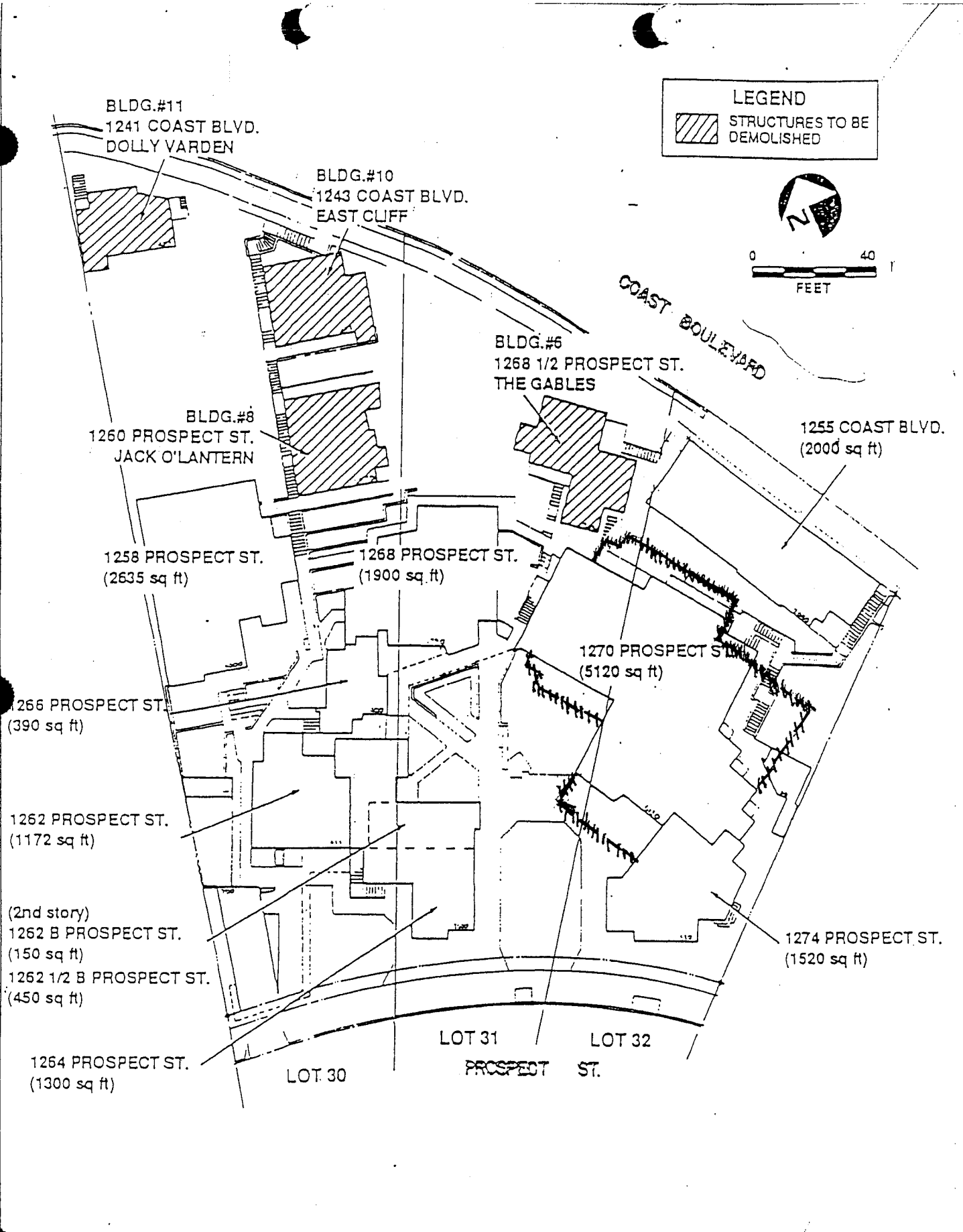
Courtney Ann Coyle  
President, LJTC



Sherri S. Lightner  
First Vice President, LJTC

Att: Chart House Building Footprint  
Encl: Review of Portions of the Staff Report and Recommendation on Appeal /

EXHIBIT NO. 20
APPLICATION NO.
<b>A-6-LJS-00-67</b>
Letters of Opposition/Concern (p.1 of 4)



FIGURE

Exhibit No. 20  
 (p. 2 of 4)

Structures Proposed for Demolition

## Review of Portions of the Staff Report and Recommendation on Appeal A-6-LJS-00-67 (La Jolla Chart House)

### 1) Project Description/Permit History:

- **No height of the project is given.** The drawings show that the project will exceed the Prop D height of 40 feet maximum (measured from lowest point five feet out from the building footprint to the highest point of the structure).
- The public pedestrian accessway identified in the LCP is shown between Lots 31 and 32, but is absent from the project.
- There is an existing public visual and pedestrian access along the easterly property line of Lot 32.

### 2) Response to Appellants Contentions.

#### A) Rehabilitation/New Development.

- **Independent analysis shows that at least 56% of the exterior walls will be completely removed.** The appellants have contested the City's number of 44%, which was given at the City Council hearing on May 2, 2000. The actual demolition includes removal of about 75% of the existing leasehold.
- The demolition will remove all of the existing exterior structure (walls and roof) of the Wahnfried Cottage and replace it with a post and beam/glass structure. This means that the "distinguishing original qualities or character of a building structure"...will be destroyed, which is not in agreement with the PDO definition of rehabilitation.
- The CCC staff asserts that the City's designation of "heritage," as applied to a structure, is final. That is not correct. It defies logic and common sense to say that the heritage designation remains after the structure has been destroyed. Exemptions, which were created to encourage the preservation and rehabilitation of heritage and historic **buildings**, are being turned into loopholes, which allow demolition and new development without parking.
- Staff has left out a key sentence in the definition of rehabilitation. It is: **"Under rehabilitation, every reasonable effort shall be made to provide compatible use for a property which requires minimal alteration of the building, structure, or the site and its environment."** (emphasis added)
- The CCC staff report stated it is "totally elective on the part of the applicant" to bring the building up to the structural requirements of the UBC. Thus, there is no outside "pressure" to alter the existing, in-use structure.
- **The footprint of the building is being increased.**

#### B) Nonconforming Structure.

- Staff contends that the PDO addresses only nonconforming uses and not nonconforming structures. However, in the PDO section on nonconforming uses, the PDO refers to Chapter X, Article 1, Division 3 of the SDMC, which does address nonconforming structures. The structure is nonconforming with respect to parking, the UBC and the Proposition D height limit.

#### C) Parking.

- **This project is new development.** The City's calculation of exterior walls to be retained includes the adjacent tenant space, which is not even shown on drawings 10 and 11 (the drawings which show what is to be demolished and what is to be retained) of the drawing package. This adjacent space, which is being used to misrepresent the amount of demolition, is given on other drawings as "existing retail, not a part of project," and it is located outside the dashed line which defines the project envelope (See exhibits 2 and 3 of the CCC staff report).

- Staff asserts that there is an in-lieu parking program in the PDO. This statement is in error, because there is not one.

#### D) Public Views.

- There is an existing six-foot wide public view corridor on the easterly property line of Lot 32. The **new development** at the rear of the property (northeasterly corner) **will encroach two feet into this view corridor** as shown in Exhibit 3 of the CCC staff report. This means that the existing view is not being retained/protected, in violation of the PDO. Additionally, the "Site Plan" drawing (sheet 3 of the drawing package) shows a "6' High Gate" across this existing public view corridor. **This obstruction must be removed.**
- The public view along the westerly edge of the development needs to account for the roof overhangs of the existing building to the west and the proposed development. It will not be 7 feet, as given in the staff report. As shown by the drawings, the public view will be a maximum of 5 feet.
- The PDO requirement for public visual access is a minimum 10% of the lot width. These are tapered lots and the width increases towards the ocean. The legal width of these two lots is 139 feet. (Note: the legal width of the lot is found by taking the midpoint of the lot lines perpendicular to Prospect Street, in this case; connecting these midpoints with a line, and measuring the length of this line. This is done separately for each of the lots.) This means that compliance with the PDO requires a total view corridor of 13.9 feet on both properties. (Actually, the view corridors should be 6.4 feet on Lot 31 and 7.5 feet on Lot 32). The proposed public view corridors are 5 feet on Lot 31 and 4 feet on Lot 32 - A total of 9 feet, which is **35% smaller than the minimum requirement.**
- **The visual accessways and vista points should be indicated, along with widths, in the drawing package and deed restricted, as the CCC requires of other projects.**
- Public visual access is not just what one sees, "as one drives down Prospect Street," as staff asserts, but also what one experiences walking along or standing on Prospect.
- Visual access is defined in the PDO as "open to the sky and free from all visual obstructions from the front property line to the rear property line of the project." Contrary to Staff's assertion, "Given that the La Jolla PDO contains requirements for the provision of a visual access corridor and such a corridor is being provided, including special design features such as clear glass windows at the southeast corner of the structure, the proposed development can be found consistent with the certified LCP." **Views through the building are an enhancement, but do not satisfy any visual access requirements of the PDO. Views from the dining decks are for the private patrons of the restaurant, not for public access.**

#### E) Other Issues Raised by the Appellants.

- There are two historic pedestrian accessways on this site. They are located on the westerly and easterly sides of the Chart House. The LCP shows that one is located between Lots 31 and 32 in Figure 11 of the LCP. There is also a public pedestrian accessway on Lot 30 (as stated in the Staff report), but it cannot be used to replace the existing historic pedestrian accessways on Lots 31 and 32. These accessways should be defined and protected now, so that they are not lost with the piecemeal, redevelopment of the rest of this parcel.



## Brockton Villa Restaurant

July 10, 2000

To: Honorable Sara Wan, Chair, California Coastal Commission  
Ref: A-6-LJS-0067 Churthouse  
Agenda: Tuesday 9 A

*Submitted  
@ 7/11/00 Community*

**Please accept this letter in OPPOSITION TO COUNCIL'S RECOMMENDATION REGARDING THE ABOVE REFERENCED PROJECT.**

I was present at the March 21, 2000 City Council Hearing, which was continued, however, I was not notified of the follow up hearing by Council. In my opinion, there are substantial issues that have not been resolved or even addressed with regard to this project.

I own a small restaurant at 1235 Coast Blvd, La Jolla. The restaurant is an historically designated La Jolla bungalow (circa 1894) that we successfully restored and permitted for reuse in 1990. Our property sits adjacent to the former Green Dragon Colony, which is now an open hillside lot, owned by the same individual(s) that own the Chart House property.

Between the Green Dragon Colony lot and our cottage, is an open air patio, which features a spectacular ocean view, and is the most desirable seating area for our customers. Our patio comprises 50% of our seating, and is also the only entrance to our restaurant.

It is our deep concern that this open lot will be used as the construction staging area for the Chart House "remodel" and then for future new coastal development.

I have raised the question of where the construction staging area for the Chart House project would be. However, my concerns about the staging area and the direct effect on my business have not been addressed in any document or discussion that I am aware of. And historically, to be quite frank, the property owner has not been forthcoming or direct about this information. My past efforts to receive written specifications which will mitigate any negative effects on my business have been trivialized.


At this point, I would appreciate a specific outline by the property owner of where the staging area will be. If the staging area will be on the property adjacent to the Brockton Villa, I will expect written assurance of the specific measures that will be taken to mitigate any noise, dust and/or unsightly materials, equipment, debris that will effect my customers' enjoyment as well as my revenue.

Thank you very much for your consideration.

Sincerely,

*Megan Heine*  
Megan Heine  
Proprietor

1235 Coast Blvd. La Jolla, California 92037  
(619) 454-7393

EXHIBIT NO. 21
APPLICATION NO.
<b>A-6-LJS-00-67</b>
Letters of Opposition/Concern (p. 1 of 5)
 California Coastal Commission

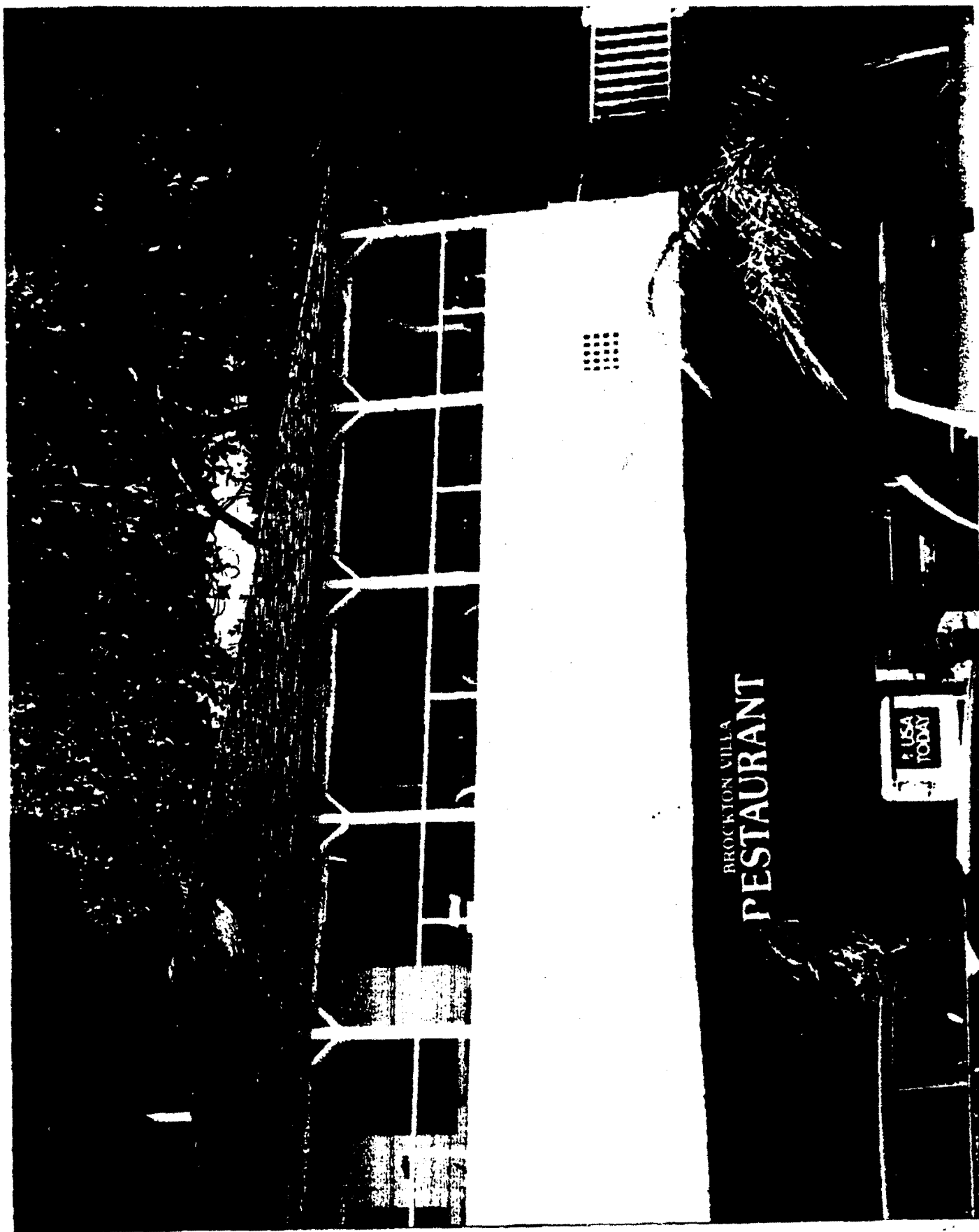


Exhibit No. 21  
(p. 2 of 5)



Exhibit No. 21  
(p. 3 of 5)

# Beverages & Sweets

Brockton Villa Blend, Reg. or Decaf	Hot or Cold	1.50
Hot Tea	.....	1.50
Hot Tea Regular or Herbal	.....	1.50
Coffee or Tea Au Lait	.....	1.85
Espresso	.....	2.20
Cappuccino	.....	2.20
Cafe Latte	.....	2.20
Houseblend Double Espresso topped w/ Brockton Villa Blend	.....	2.50
Kelly Richards	.....	3.75
Ons short shots of espresso topped with Mexican hot chocolate		
Leche California (Freshly Steamd Milk)	.....	1.75
American Hot Chocolate	.....	2.70
Cafe Con Chocolate	.....	1.75
Cafe Mocha	.....	2.20
Espresso Mocha	.....	2.20
Cappuccino Con Chocolate	.....	3.00
White Hot (White Hot Chocolate)	.....	3.50
Almond y Blanco (Espresso & White Hot Chocolate)	.....	2.25
Local Chai	.....	3.00
White Out	.....	2.20
Concentrated Blend (Real Espresso and Mexican chocolate)	.....	2.75
Brockton Villa Smoothie (Our tropical citrus quenchers)	.....	2.70
Soft Drinks	.....	1.80
Son Pellegrino Water	.....	2.20
Freshly Squeezed Juice	.....	2.90
Tomato Juice	.....	2.20
Leavened or Hot Mulled Apple Cider	.....	2.25
Milk	.....	1.75
Live a little! Add Whipped Cream or Steamed Milk	.....	30
Add Tiramisu or Mocha syrup (ask we have lots of flavors)	.....	50
Splachetti! (served after 11:00)	.....	5.00
Wine Cooler (served after 11:00)	.....	4.50
Milkyway (served after 11:00)	.....	5.00

## "Shaken - Not Blended"

Italian Soda	.....	1.80
50/50 Bar	.....	2.00
Green Dragon	.....	1.80
Grape Ape	.....	1.80
Tutti Frutti	.....	1.80

## Desserts

Peanut	.....	4.00
Carrot Cake	.....	4.50
Chocochocolate	.....	4.75
.....	one scoop 2.75	three scoops 5.00
.....	.....	2.25
Perry Seed Cake	.....	2.50
Apple Fruit Cobbler	.....	4.25
Apple Cream Brulee	.....	5.00
Apple Baked Pie	.....	4.75
Shredded Ice Cream Sundae	.....	4.50
Beet	.....	5.00
no Sundae	.....	5.00
in Chocolate Cake	.....	5.00
lots Dipped Strawberries	.....	each 1.10

Exhibit No. 21  
(p. 4 of 5)

# The Story of Brockton Villa

1894: The first beach cottages were constructed along a formerly barren hillside above the La Jolla Cove. Outstanding among them was this house, built as a weekend retreat by Dr. Joseph Roddey, a San Diego physician, who purchased the prime ocean front site for \$165. The architecture is typical of early California bungalows with single wall construction and vertical board-and-batten siding of pure heart redwood with cedar shingles. A hip roof and a wrap-around veranda take advantage of sea breezes.

1900: After Dr. Roddey's death in 1896, the house was taken over by two sisters, Olivia Madgett and Nellie Mills. La Jolla's first rich estate agent. At the turn of the century, it was a hot house trip from San Diego to La Jolla, so weekend cottages were very appealing. Mrs. Mills rented out several beach cottages, including this one, which she named The Brockton Villa in honor of her New England heritage in Brockton, Massachusetts. The daughter of her husband, Aaron Mills, contains many references to the cottage, such as "...today I painted at the Brockton."

1920's: The unusual shell-tiled fireplace was probably built in the 1920's, judging the type of fire bricks and Portland cement used. These rare, overcasted shingle shingles are impossible to find today due to overbuilding.

1940's: For many years, the house was occupied by Marshall MacPhee, known to many as the "Turtle Lady". She is described as a very shy woman who had a performing turtle. Rumor has it that she and her piano-playing pet once entertained President Truman at the White House.

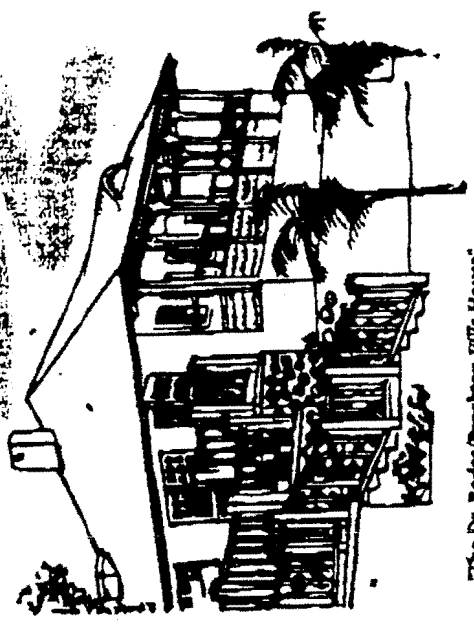
1968: Penultima Coffee and Confectionery opened at 1296 Prospect, specializing in freshly roasted coffee beans and copper cookware. Soon after opening, Copper and Confectionery gave way to Tea and Spice. Penultima's first coffee-roasting plant was located in a garage near the Cove Shore just up the street from Brockton Villa. Today Penultima Coffee and Tea is still a family business with coffee bean stores and cafes around San Diego County.

1990's: In 1990, Penultima Coffee and Tea obtained the lease to this historic but somewhat dilapidated property in order to renovate it and adapt it for use as a restaurant. Penultima has a strong commitment to preserving the commercial 19th architectural heritage, and has renovated and adapted old buildings for several of its locations. In 1993, Penultima Coffee and Tea was the prestigious Orchid Award for Historic Preservation for its distinctive preservation of the Brockton Villa cottage.

1995-1999: The restaurant was one of ten restaurants in San Diego to receive the Silver Plate Award by San Diego Business/Garden Magazine. We also serve wine and beer about 11 am daily and serve appetizers and dinner all year round. The restaurant has been taken over by Megan Lee, formerly Vice President of Penultima's retail and cafe operations, and daughter of the Penultima founders. In whole Brockton Villa Restaurant is now run as an individual establishment, it retains its connection with the La Jolla Penultima tradition.

Please Come Back To See Us Soon!  
Megan Lee, Proprietor

# Brockton Villa



"The Dr. Roddey/Brockton Villa House"  
- The La Jolla Historical Society - circa 1894

# Menu

1235 Coast Boulevard  
La Jolla, California 92037  
(858) 454-7393

# Breakfast

Served 8am till Noon, Monday - Friday

## Brunch

Served 8am - 3pm  
Saturday and Sunday

- Bowl O' Fresh Fruit 4.<sup>50</sup>
- Oatmeal 4.<sup>50</sup>
- Housemade Granola 5.<sup>00</sup>
- Tower of Bagel 7.<sup>75</sup>
- Cove Cakes 6.<sup>75</sup>
- Coast Toast 8.<sup>00</sup>
- Sweet or Savory Crepes 5.<sup>50</sup>/6.<sup>50</sup>
- Cheese Steamers 5.<sup>75</sup>
- Greek Steamers 6.<sup>00</sup>
- Lox o' Steamers 6.<sup>75</sup>
- Mexican Steamers 6.<sup>25</sup>
- Eggs Ipanema 7.<sup>00</sup>
- Cheese Omelette 6.<sup>50</sup>
- Omelette of the Day 7.<sup>50</sup>

### Side Orders

- Potatoes 1.<sup>35</sup>
- Bacon 2.<sup>10</sup>
- Canadian Bacon 2.<sup>25</sup>
- Crab Cake 2.<sup>75</sup>
- Turkey Cranberry Sausage 2.<sup>25</sup>
- English Muffin 1.<sup>50</sup>
- "Bread & Cie" Toast 2.<sup>00</sup>
- Muffin 2.<sup>25</sup>
- Scone 2.<sup>35</sup>
- Cinnamon Roll 2.<sup>50</sup>
- Bagel and Cream Cheese 2.<sup>35</sup>

# Lunch

Served Monday - Friday, 11:30am - 3pm

In 1995, 1997, 1998 and 1999, the Brockton Villa was one of ten restaurants in San Diego to receive The Silver Fork Award by San Diego Home/Garden Magazine.



- Housemade Soup of the Day 5.<sup>00</sup>
- Soup and Field Salad 6.<sup>75</sup>
- Field Salad 5.<sup>00</sup>
- Caesar Salad 6.<sup>00</sup>  
with Grilled Shrimp, add 75¢ each  
with Grilled Chicken, add 3.<sup>00</sup>
- Skinny Dip Salad 9.<sup>00</sup>
- Moroccan Halibut Salad 9.<sup>00</sup>
- Bleu Salad 6.<sup>25</sup>
- Oysters "Brockafeller" 7.<sup>75</sup> / 14.<sup>25</sup>
- Crab Cakes 8.<sup>00</sup>
- Steamed Mussels and Clams 7.<sup>00</sup>
- Layered Brie 7.<sup>00</sup>
- Mediterranean Dip 6.<sup>50</sup>
- Omelette of the Day 7.<sup>50</sup>
- Very Veggie Wrap 7.<sup>00</sup>
- Salmon BLT 8.<sup>00</sup>
- Turkey Burger 7.<sup>00</sup>
- Sloppy Dave 7.<sup>00</sup>
- Reuben Sandwich 7.<sup>00</sup>
- Pulled Pork Quesadilla 7.<sup>00</sup>
- Muffaletta Sandwich 8.<sup>00</sup>
- Tower of Bagel 7.<sup>75</sup>
- Crab Sandwich 8.<sup>50</sup>
- Grandpa George's Chicken Curry 8.<sup>50</sup>
- Four Cheese Lasagna 7.<sup>00</sup>

# Supper

## Appetizers and Salads

- Housemade Soup of the Day 5.<sup>00</sup>
- California Field Salad 5.<sup>00</sup>
- Caesar Salad 6.<sup>00</sup>
- Sunset Salad 5.<sup>50</sup>
- Spinach Salad 5.<sup>50</sup>
- Bleu Salad 6.<sup>00</sup>
- Layered Brie with Fruit 7.<sup>00</sup>
- Veggie Wrap Pinwheels 6.<sup>00</sup>
- Oysters "Brockafeller" 7.<sup>75</sup> / 14.<sup>25</sup>
- 6 Oysters on-the-Half-Shell 7.<sup>00</sup>
- Crab Cakes 8.<sup>00</sup>
- Mussels & Clams 7.<sup>00</sup>
- Bruschetta 6.<sup>00</sup>
- Pulled Pork Quesadilla 7.<sup>00</sup>
- Surf 'n Turf Brochette 9.<sup>00</sup>

## Entrees

- Capellini and Shrimp 12.<sup>00</sup>
- Risotto with Bitter Greens and Sea Scallops 16.<sup>00</sup>
- California Seafood Stew 15.<sup>00</sup>
- Salmon Ensenada 18.<sup>00</sup>
- Grandpa George's Chicken Curry 17.<sup>00</sup>
- Villa Paella 17.<sup>00</sup>
- Four Cheese Lasagna 12.<sup>00</sup>
- Moroccan Halibut 17.<sup>00</sup>
- Lobster 2 Ways! 19.<sup>00</sup> or 22.<sup>00</sup>
- Skinny Dip Chicken 14.<sup>00</sup>
- Rack of Lamb 21.<sup>00</sup>
- Pan-Seared Filet Mignon 21.<sup>00</sup>
- Chef's Mixed Grill (AQ)



THE LAW OFFICES OF  
WORDEN, WILLIAMS, RICHMOND,  
BRECHTEL & GIBBS  
A PROFESSIONAL CORPORATION

482 STEVENS AVENUE SUITE 102  
SOLANA BEACH, CALIFORNIA 92075

VOICE (858) 755-6004  
FAX (858) 755-5198  
www.solanalaw.com

E-Mail [dworden@solanalaw.com](mailto:dworden@solanalaw.com)  
Direct Dial (858) 755-5083

May 24, 2001

**RECEIVED**

MAY 24 2001

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

Via Facsimile & U.S. Mail

Laurinda Owens  
California Coastal Commission  
7575 Metropolitan Drive, Suite 103  
San Diego, CA 92108

Re: La Jolla Town Council Comments on Proposed Staff Recommendation Re: Chart  
House La Jolla

Dear Laurinda:

Again, thank you for alerting me by voice mail as to the proposed staff recommendation on the La Jolla Chart House which I understand is being scheduled for June hearing. Per your suggestion that I get you any concerns in time for consideration by staff before a report and recommendation are finalized, I submit the following. Since these are legal issues I am copying Jamee Patterson and Ralph Faust as well and would recommend that staff seek review and input from its lawyers. The Town Council may submit further concerns on its own as I know the Council has issues beyond the legal issues I am addressing.

As I understand it from your message, staff is leaning towards a recommendation of approval on the condition that the project provide 14 parking spaces. Staff thinking is, in effect, that the 14 spaces will be a "make up call" for enlargements/construction since 1981 done without permits, reflecting parking that would have been required had permits been sought. The currently proposed further expansion, in staff's current view, does not require parking because the building is a heritage structure which can be expanded up to 30% without providing parking per the La Jolla PDO, and therefore staff is not recommending parking for the proposed expansion.

The Town Council does not support this staff position. My primary legal concerns can be outlined as:

1. **1981 PERMIT.** There is an existing 1981 CDP that imposes a maximum seat limitation of 110 seats for the Chart House restaurant. 1981 Findings made by the Commission make clear the 110 seat limit applies to the *entire* restaurant. The 1981 CDP is addressed in some detail in my letter on file dated September 26, 2000. The restaurant has been operating in violation of this limitation--by the applicant's written admissions as of fall 2000 there were 294 seats in the restaurant, or more than double the 110 seat limit. The fact that the

EXHIBIT NO. 21

APPLICATION NO

**A-6-LJS-00-6'**

Letter of  
Opposition/Conce

(p. 1 of 3)



California Coastal Comm



Laurinda Owens  
May 24, 2001  
Page 2

developer failed to record the required deed restriction, and that staff failed to police condition compliance, does not nullify the 1981 permit or its conditions.

The staff position ignores this 1981 CDP. The staff and the Commission have a duty to enforce this outstanding permit. The restaurant should be returned to a maximum 110 seat configuration and violation proceedings commenced to impose penalties for the apparent 20 years of violation.

2. **EXEMPTION.** Steve Kaufman, counsel for the Chart House, has implied in his letters that the Chart House had a right under Section 30610(g) of the Coastal Act and under the Buckley case to rebuild and expand up to 10% in 1981 following the fire without a coastal permit, and therefore that the 1981 permit and its restrictions can be ignored. See, Kaufman letter dated January 2, 2001 page 2.

Mr. Kaufman is wrong. First, the law is clear that a developer cannot accept a permit and its benefits and later challenge the conditions. Rosco Holdings Inc. v California Coastal Commission (1989) 212 CA 3d 642. The Chart House applied for and accepted the 1981 permit and cannot now, 20 years later, disavow it.

Second, Section 30610(g) allows a rebuild post fire with expansion up to a maximum of 10% only where the reconstruction complies with "...applicable existing zoning requirements...". The applicant must come to the Commission for this determination of zoning conformance. Neither the applicant on his/her own nor the city can make this determination on their own in a manner that binds the Commission. See, South Coast Regional Commission v Gordon (1977) 18 Cal3d 832 (claim of exemption must be brought to Commission). It is clear to the Town Council that the expansions since 1981 were not in conformance with zoning requirements in a number of respects, and staff has conceded non-conformance at least as to parking.

Third, The Buckley case is distinguishable.

3. **EXPANSION OF NON CONFORMING USE.** The Chart House proposal would constitute the illegal expansion of a non-conforming use. This issue was also addressed in some detail in my September 26, 2000 letter. Adding more seating, as was done in the last 20 years and as is now proposed, expands the scope of a non-conforming use in violation of both the PDO and established case law cited in my letter. Moreover, the Town Council does not believe the Chart House has acquired non conforming rights because it has never established that its uses have been fully lawful, as is also discussed in my letter.

4. The Town Council and I would be happy to meet with staff, on short notice if needed, to discuss our concerns further.

5. The Town Council will likely directly submit further concerns on its non-legal issues.

Laurinda Owens

May 24, 2001

Page 3

4. As noted, I would recommend that you seek review of these legal issues by the Commission counsel, and to facilitate that I have provided copies of this e mail to Jamee and Ralph, recognizing that they respond to requests from staff and not from me.

Please provide me with a copy of the staff report when it is complete. I appreciate your efforts to keep us in the information loop, even though we do not agree with your analysis.

Sincerely,

WORDEN, WILLIAMS, RICHMOND,  
BRECHTEL & GIBBS, APC

  
D. DWIGHT WORDEN

DDW:lg

cc: Ralph Faust  
Jamee Jordan Patterson



A-6-LJS-00-67

Submitted by  
Jing Chen  
City of Commerce  
7/11/00

TUES 94

To Whom It May Concern

From: Bob Collins

Date: May 9, 2000

## EVIDENCE OF LARGER PROJECT & PIECEMEAL DEVELOPMENT REVIEW

Don Allison, Bob Collins and Orrin Gabsch met on 5/5/00 at Don's request to discuss his pending development on the Green Dragon property.

### Information regarding Discussions:

Don did not discuss the Chart House project in great detail other than to say it will have approximately 20 fewer seats than at present, and that the view corridor will be there. In reviewing the site plans with him, we asked why the westerly walkway from the top to bottom had been removed. He stated it was removed by the owner when they tore down the old houses, even though it was clear that the walkway was beyond the old houses. He said the operator of the Brockton House complains about its removal as it would be a nice feeder for them. The reason for removing it has little validity.

He advised that they are looking at a revised condo plan for 3 units for the Coast Blvd. frontage with approximately 6 underground parking spaces for each unit. They would be 3 stories each but would protect the views from above though he said the roof level would be at the floor level of the restaurant (so don't try to look down). Curb cuts (3) were 16' wide and we mentioned that as the garage configuration won't allow two-way traffic in and out, that they could narrow those to 10-12'.

➔ He informed us that he wants to put in a 9000 square foot, two-story restaurant with large deck areas just across from Chart House, which we noted from his plans would fill up most of the area between the two areas and severely impact the view corridor. His plan is to demolish all the buildings southwest of the large garden/patio area except the Sickel's occupied office structure and replace them with commercial shops along the Prospect frontage with the restaurant to the rear behind them. The stores would number 3 or so.

The restaurant, he agrees, would require 45 spaces and the commercial about 12-13 spaces. Total, say 58. This doesn't include any for the Sickel's office structure as he says he wouldn't touch that. But, of course, it's on the same lot(s) being developed. If Chart House requires 10 spaces, that's a total of 68. If it requires 49 spaces, that's a total of 107 spaces and it still doesn't count Sickels or the Commercial in front of Chart House.

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He states his current Cave Street lot has 45 spaces (but we believe current City regulations would only allow 39) and he agrees. He says if the two Cave Street houses are removed on Cave Street, he can get 24 more spaces. Total:  $39 + 24 = 64$  total. With valet he says he can park 100 cars. On top of the 63 he says he rents (short-term) 30 spaces in the Christian Science Church parishioners' rear lot, except for Wednesday evenings and Sunday mornings. We asked if the Church's CUP allowed them to rent out spaces on a continuous basis for non-church function, remote commercial purposes. He didn't know. We suggested he might want to look at that CUP to be certain he is on solid ground. He indicated he wasn't interested in doing so (someone should).

If those 30 spaces are not legally available, then he is way short. Likewise, if the houses don't move, he is short. To put all this additional parking on Cave Street would mean traffic until 2 a.m. on this street which has significant residential use, and that seems a violation of that zoning and the PDO's intent. We also question whether the access distance from Green Dragon meets the distance requirements to allow consideration of the 30 spaces as meeting the parking requirements along with their other possible defects, i.e. times not available, month to month, a residential area and zoning and CUP issues.

He suggested asking the City to leave the TOT generated in the village in a fund for construction of parking garages. He believes if that was done for two years we would have 2.5 million/year or 5 million  $\pm$  for that purpose. This could work under Recreation Center but could be difficult under private property.

Let's discuss as he already has plans.

- CH - Appeal Form
- Tam - Plan to invite + make rec. Ant'ees
- Mon-conforming

# A-6-LJS-00-67

STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, Governor

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA  
2111 CAMINO DEL RIO NORTH, SUITE 200  
SAN DIEGO, CA 92108-1725  
(619) 521-8036

Staff: LRO-SO  
Staff Report: February 4, 1991  
Hearing Date: January 13-16, 1992



### REVISED FINDINGS

Tu 9a

APPEAL NUMBER: A-6-LJS-91-168-R

LOCAL JURISDICTION AND DECISION: City of San Diego  
Approved with Conditions

APPLICANT: San Diego Trust and Savings

PROJECT LOCATION: 1241 - 43, 1260 and 1268 1/2 Coast Boulevard, La Jolla, San Diego, San Diego County. APN 350-050-17

PROJECT DESCRIPTION: Demolition/removal of four historic cottages known as 'the Green Dragon Colony', and specifically known as 'Dolly Varden', 'The Ladies', 'East Cliff' and 'Jack O'Lantern'.

Lot Area	39,640 sq. ft.
Building Coverage -	
Green Dragon Colony	2,754 sq. ft. ( 7%)
Other Building and	
Landscape coverage	36,886 sq. ft. (93%)
Parking Spaces	0
Zoning	Zone 1A - La Jolla Planned District
Plan Designation	Commercial

APPELLANTS: Anthony Ciani; Joan Jackson; California Coastal Commission

DATE OF COMMISSION ACTION: January 14, 1992

COMMISSIONERS ON PREVAILING SIDE: Glickfeld, MacElvaine, Malcolm, McInnis, Moulton-Patterson, Oso, Neely, Wright, Cervantes, Giacomini and Gwyn

### SUMMARY OF COMMISSION ACTION:

The staff report recommends that the Commission adopt the following revised findings in support of the Commission's action to approve the proposed demolition of four historic cottages with the requirements that the applicant submit historical information for the structures proposed to be demolished for purposes of determining what design elements are historically and/or architecturally significant and worthy of replication into any future development on the site; submittal of site and building plans of all structures proposed for demolition; recordation of an agreement to incorporate

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California Coastal Commission

the following into future development on the site: design elements determined to be historically or architecturally significant; completion of a reuse and feasibility study to be conducted by an appropriate agency for purposes of determining the appropriate type and intensity of use for the site; that the scale and character of the demolished development shall be retained in new development; that a signage plan be developed for purposes of informing the public regarding the history of the site; and that a coastal development permit shall be obtained for any new development on the site; that the applicant submit a written agreement making the four structures and any removed and salvaged materials available for a period of 90 days following issuance of the permit to interested persons for educational or historical off-site preservation purposes; and a condition regarding public rights.

---

STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Special Conditions.

The permit is subject to the following conditions:

1. Historical Information/Building Plans. Prior to the issuance of the coastal development permit and within 30 days of Commission action, the applicant shall submit the following to the Executive Director for review and written approval:

a) Information (i.e., photographs, sketches, etc.) which has been developed from the Green Dragon Colony site by the applicant pursuant to the City's coastal development permit, or by the State Historical Building Safety Board and/or other qualified historical expert(s).

Upon review of the information, the Executive Director shall determine, in consultation with the State Historic Preservation Safety Board, what design elements are historically and/or architecturally significant and worthy of incorporation through replication into any future development pursuant to the recorded agreement required in Special Condition #2.

b) Site and building plans of all structures proposed for demolition.

drawn to scale, including the height and bulk of the structures. The site plan shall also indicate the location and size of all other structures existing on the subject property.

2. Implementation of Historical Design Elements into New Development. Prior to the issuance of the coastal development permit and within 30 days of Commission action, the applicant shall execute and record an agreement in a form and content acceptable to the Executive Director, to incorporate the following features into any future development on the subject property (APN #350-050-17):

a) Incorporation of all design elements which have been determined to be historically and/or architecturally significant and worthy of replication by the Executive Director in consultation with the State Historical Building Safety Board pursuant to Special Condition #1 of COP #A-6-LJS-91-168;

b) Prior to any new development being approved, the applicant shall request the preparation and completion of a 'pre-use' feasibility study for the site, to be prepared by the State Historical Building Safety Board, the Coastal Conservancy and/or the National Trust for Historic Preservation. Such study would be subsequently utilized in determining the appropriate type and intensity of use for the site.

c) The scale and character of the demolished structures shall be retained in the new development design to the maximum extent feasible utilizing the criteria and design elements identified in this agreement.

d) A signage plan shall provide for the installation of signage on the subject property for purposes of informing the public of the history of the Green Dragon Colony and Anna Held's contribution to the La Jolla community.

e) That a coastal development permit shall be obtained for any new development on the site from the City or the Coastal Commission on appeal.

The agreement document shall be recorded as a covenant running with the land and binding all successors and assigns in interest to the subject property, free of prior liens and encumbrances, prior to the issuance of the permit.

3. Building Materials/Artifacts. Prior to the issuance of the permit and within 30 days of the Commission action, the applicant shall submit to the Executive Director for review and written approval an agreement to make the four structures and any removed and salvaged materials available for a period of ninety (90) days following issuance of the permit, to interested representative(s) of organizations qualified in the field of historical preservation, for salvage of any or all materials for education and/or historic preservation purposes. Any representatives from organizations interested in salvage of materials shall have adequate insurance for such purpose. Upon the expiration of ninety (90) days, demolition of the four structures may commence under the terms of this permit. This agreement shall be recorded as a covenant running with the land in a form and content acceptable to the Executive Director, and binding all successors and assigns

in interest to the subject property, free of prior liens and encumbrances, prior to the issuance of the permit.

4. 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 shall not be used or construed to interfere with any public prescriptive or public trust rights that may exist on the property.

NOTE: The above conditions were previously adopted by the Commission on January 14, 1992 and are reproduced here for information purposes only.

### III. Standard Conditions.

See attached page.

### IV. Findings and Declarations.

The Commission finds and declares as follows:

#### 1. Project Description.

a. Site History. The subject appeal represents the demolition of four wood-frame cottages known as the Green Dragon Colony. The demolition has already occurred in apparent violation of the Coastal Act. The subject applicants first submitted a proposal for demolition only of the four cottages to the Coastal Commission in August of 1989 under CDP #6-89-149. A staff report and recommendation of denial was written based on inconsistency with the Coastal Act and potential prejudice to the La Jolla - La Jolla Shores Local Coastal Program. The applicants postponed the project and eventually withdrew their application prior to the project's review at the Commission hearing. This occurred shortly after the City of San Diego assumed permit jurisdiction for the La Jolla area. The applicants subsequently pursued obtaining a coastal development permit through the City of San Diego.

Over the next two years the applicants sought approval from the City for demolition of the Green Dragon Colony. Due to the necessity for environmental review, the project was delayed. Eventually the applicants filed suit against the City for violation of the Streamlining Act (failure to expedite the processing of their permit in a timely manner). As a result, the Superior Court issued a Writ of Mandate dated July 10, ordering the City to issue the coastal development permit for demolition of the structures.

When the Commission staff was alerted of this situation, staff contacted the City Attorney's office to inform them that notification of the final action of the City's coastal development permit must be made to the Coastal Commission since the project was located in an appealable area and that the permit could not be issued until the ten-day appeal period had expired with the Commission. Nevertheless, despite this direction, the City released the

coastal development permit to the applicant, and demolition began on July 10, 1991 in an apparent violation of the Coastal Act. The Commission staff and State Attorney General's office then obtained a Temporary Restraining Order which prevented further demolition of the structures from occurring until the Attorney General's office brought the matter before the Court of Appeals.

Since that time, the Court of Appeals has ruled that the Permit Streamlining Act does not apply to appeals of permits issued by local governments and therefore, the Commission has jurisdiction to hear an appeal approved by operation of law due to local government's failure to comply with the time requirements of the Permit Streamlining Act. The Court of Appeal also held that since the Trust had not given notice to the Commission that the Trust's permit application to the City of San Diego would be deemed approved by operation of law, the permit was not deemed approved by operation of law. Therefore, the time in which to appeal to the Commission commenced upon issuance of the permit by the City of San Diego and this permit was timely. The Trust petitioned the California Supreme Court for review. Review was denied by the Supreme Court on November 27, 1991 and the Court of Appeal decision remains intact. The Commission has jurisdiction to hear the appeal of the City of San Diego's issuance of the Trust's permit.

b. Historical Background/Setting. Regarding the structures themselves, the Green Dragon Colony is identified as an historical structure in the La Jolla-La Jolla Shores An Historical Survey. The four buildings were constructed at the turn of the century (1898-1900) and are generally named as follows: The Gables, Dolly Varden, Jack O'Lantern and East Cliff. It was first known as the Green Dragon Camp and became the social and cultural core of the community and a significant center of the Arts and Crafts movement. The colony became an internationally known retreat for some of the greatest known artists and writers of the early 20th century.

The Green Dragon Colony is situated on a legal parcel consisting of three contiguous lots which are bordered by Coast Boulevard to the west and Prospect Street to the east in the community of La Jolla within the City of San Diego. The Green Dragon Colony itself comprises 2,754 sq.ft. (.33 acres) of an .91 acre parcel and the structures are located across two of the three lots. The remainder of the site contains other commercial uses which include retail, restaurant, residential and office structures. The subject site is a steeply sloping property which overlooks the ocean and the nearby popular La Jolla Caves and La Jolla Cove recreational areas. The structures located closest to Coast Boulevard are visible from these areas. All the structures proposed for demolition have been vacant since approximately May of 1988 but were previously used as residential units up until that time.

2. Consistency with the Certified Local Coastal Program. The project site is located within Subarea 1 of the La Jolla Planned District. Because of its identified significance, in terms of being identified as a visitor destination area and residential community character, the Commission in the certified LCP designated La Jolla as a "special community" of regional and state-wide significance. Due to these designations and its charm and character, policies were developed in the certified La Jolla-La Jolla Shores

LCP Addendum to maintain and preserve the community character.

The policies contained within the certified La Jolla-La Jolla Shores LCP are designed to protect and conserve the community resources including the architecturally and historically important structures and public recreational areas. The policies were developed in order to : "1) protect important community resources within La Jolla; 2) to establish a more active program to encourage the conservation of historic sites and neighborhoods, and 3) to extend preservation incentives to property owners."

As noted earlier, the subject site is identified in the La Jolla - An Historical Inventory and is designated historically significant by the City of San Diego Historic Site Board. The inventory was one document which was prepared in response to a policy within the LCP which requires assessment of the community's historical resources. The historical resource policies in the LCP are in response to Section 30253 of the Coastal Act. The LCP generally requires review of identified historical sites through the Historic Site Board.

In addition, the certified La Jolla-La Jolla Shore LCP Addendum states the following:

"The special character and charm of La Jolla is intimately related to its abundant natural resources, especially the ocean, shoreline, hillsides, scenic vistas.... Of equal importance in maintaining the "village atmosphere" are the many man-made resources - the architectural, cultural, and historical contributions of the past and present which convey a sense of meaning and place to the community... Also important are the aesthetically pleasing but less notable structures which help to maintain a particular neighborhood scale or architectural theme. Such buildings are essential to the fabric of many neighborhoods and by contrast support and enhance the significance of the more prominent buildings.

Despite the concern given to the conservation of community resources in the La Jolla Community Plan, many architecturally and historically important structures continue to be lost due to current economic incentives which tend to favor complete redevelopment. Additionally, new development is often incompatible with the scale and character of La Jolla's traditional village structures and the community's many natural resources. The cumulative result is an increasing loss of the "village" character of La Jolla. Older urban developments, which were built under less intensive market pressures, are typically less standardized and have a more sensitive relationship to the natural setting, climate, and surrounding neighborhoods. By contrast, new development is often highly standardized and not as sensitively oriented to the site and the urban fabric of the neighborhood."

The LCP addendum details a number of active programs to establish conservation of historic sites and neighborhoods including preservation incentives to property owners. One of these methods includes review by the San Diego

Historical Site Board (HSB) which is the primary City entity involved with efforts to preserve historical structures. The HSB is responsible for reviewing all permits for demolition, substantial alteration, or removal of buildings listed in the register of historic places, or within designated historic districts. The HSB has the power to stay the issuance of a permit up to a maximum of 360 days in order to seek an acceptable means of preservation, otherwise the developer would be permitted to proceed with demolition/removal/alteration according to the original plans.

At the time of the initial proposal for demolition of the Green Dragon cottages in 1989 which was scheduled to be reviewed by the Commission, the Green Dragon Colony had undergone this discretionary review process and had been recommended for preservation by the Historical Site Board. The City Council could not support public acquisition of the site nor the expenditure of City monies for purposes of preserving the structures but encouraged Chart House Enterprises to pursue its own appraisal via private acquisition efforts. The City Council also directed City Planning staff to inform the Coastal Commission that the City Council strongly supported private efforts in the acquisition and historic preservation of the property.

The Chart House, which is a restaurant situated on the subject site, has been actively initiating private acquisition of the property for preservation purposes over the last several years (see Exhibit 8 of the staff report and preliminary recommendation on appeal dated December 4, 1991). In 1989 the Chart House completed an appraisal for the Green Dragon Colony utilizing a City-approved appraiser (David J. Yerke, MAI). The appraisal report concluded that a fair market value estimate of the property was \$6,100,000 at that time. The Chart House attempted to submit an offer to the Jack M. Mosher and Alice F. Mosher Trust to purchase the property for \$6.1 million; however, the Trust informed the Chart House in October 1989 that it had accepted another offer for a "substantially higher sum". It is not known at this time what offers may have been made between 1990 and the present. However, apparently the property was never sold and currently there is a real estate sign posted on the site which would indicate it is presently for sale.

At one point, a La Jolla resident, Bob Barrymore, also made an offer to buy the property and turn it into a coastal park with the historic architecture preserved. That offer was rejected much earlier than that of the Chart House's. Both proposals were rejected because the amounts offered were below market value, according to Mosher. The Coastal Conservancy was actively involved in assisting with the preservation of the Green Dragon Colony in conjunction with Mr. Barrymore and expressed this support at City Council hearings at the project's first review at the City level two years ago. The Conservancy has been concerned for many years about the conservation of La Jolla's historic waterfront and conducted a workshop where the public sentiment expressed strong support about preserving the remains of La Jolla's historic seaside village with special emphasis on the preservation of the Green Dragon Colony and nearby Red Rest and Red Roost Cottages. In the subject case, there were feasible alternatives, specifically—the potential for private acquisition as previously described, for preservation purposes.

It should be noted that the State Historic Preservation Officer in a letter dated October 14, 1986 to the City Council expressed strong support for the retention of the Green Dragon Colony. Also stated was that the buildings merit historical designation not only in the local community but in the national register of historic places at least at the statewide level of significance.

Of significant importance is the City's Resource Protection Ordinance (RPO) which addresses, on a city-wide basis, essentially the same environmental issues as the implementing ordinances for the City's LCP. To avoid redundancy however, the Resource Protection Ordinance specifically exempts those portions of the Coastal Zone where the City has assumed authority for issuing coastal development permits, except for biologically sensitive lands and significant prehistoric and historic resources. The City's Coastal Development Permit Ordinance references those provisions in the Resource Protection Ordinance. This additional language was added to the City's certified LCP and approved by the Coastal Commission in February 1990. The new language essentially requires the applicant to conduct a feasibility study and document that retention of such resources is not economically feasible.

Specifically, that language states, in part:

"Development shall not be permitted in significant prehistoric or historic sites or resources unless all feasible measures to protect and preserve the significant prehistoric or historic site or resource are required as a condition of development approval...."

Therefore, the City's coastal development permit ordinance requires that all feasible measures to preserve the resource are required as a condition of development approval. In this case, as previously-mentioned, the coastal development permit and review of the project by the Planning Department was never completed due to a lawsuit filed against the City by the applicant. As a result of this lawsuit, a Peremptory Writ of Mandate was issued by the Superior Court, requiring the City to issue the demolition permit.

As cited by the Commission staff in its earlier review of the project two years ago, due to the potential for acquisition efforts to occur, approval of the project would be premature. Such approval would result in an irretrievable loss of historical structures which are regarded as a man-made resource that has been identified as possessing historical significance at the statewide level by the State Office of Historic Preservation. Furthermore, given that the certified LCP specifically contains as one of its goals and objectives to retain historically-significant structures and that there existed feasible alternatives for the beneficial and continued use of the structures, the Commission finds that demolition only is inappropriate.

As noted previously, the subject permit is an after-the-fact permit and the structures have already been demolished in apparent violation of the Coastal Act. Due to this action by the applicants, preservation intact is no longer a possibility. In light of this fact, the applicants have directly forced a new

issue pertaining to maintenance of the historical character of the area through any potential new development. Since the structures were still existing at the time, this issue was not addressed when the Commission staff reviewed the project two years ago.

Inasmuch as these structures represented community resources, their removal has adversely impacted the visual quality and established physical scale and character of the area. Additionally, removal of the structures is inconsistent with the certified Local Coastal Program for the La Jolla community, particularly if all feasible measures to protect and preserve the historic site and resources aren't first pursued. For these reasons, the Commission is requiring through special conditions that prior to issuance of the coastal development permit, and within 30 days of Commission action, the applicants submit historical information and building plans to the Executive Director for review and written approval. This information may consist of photographs, sketches, and narrative material developed from the Green Dragon Colony site by the applicants or by the State Historical Building Safety Board and/or other qualified experts(s). For purposes of clarification, this information is that which has been developed in the process of gaining approval through the City including, but not limited to, environmental review and the coastal development permit. In consultation with the State Historic Preservation Safety Board and/or other qualified experts, it will be determined which design elements are historically and/or architecturally significant and worthy of replication into any future development on the site. For clarification, all conditions referenced herein are applicable to the western portion of the property where the Green Dragon Colony was situated—as opposed to the entire subject site.

Secondly, the applicants will be required to record and execute an agreement to incorporate the following into any future development on the subject property: a) incorporation of all design elements which have been determined to be historically/architecturally significant and worthy of replication by the Executive Director and SHPSB, b) that prior to any development being approved, the applicant shall request the preparation and completion of a "re-use" feasibility study for the site to be prepared by the State Historic Building Safety Board, the Coastal Conservancy and/or the National Trust for Historic Preservation. Such study would be subsequently utilized in determining the appropriate type and intensity of use for the site; c) that the scale and character of the demolished structures shall be retained in the new development design to the maximum extent feasible utilizing the criteria and design elements identified in the agreement; d) installation of signage on the site for purposes of informing the public of the history of the Green Dragon Colony and Anna Held's contribution to the La Jolla community; and e) that a coastal development permit be obtained from the City, or the Commission on appeal, for any future development on the site.

For purposes of clarification, with respect to condition 2(b) above, in determining the appropriate type and intensity of use for the site, any future development shall not only be consistent with the LCP, but of a similar scale and character, and density and intensity of use representative of the four structures that comprised the Green Dragon Colony prior to demolition. As was noted earlier, the photographs and sketches which were required as mitigation

measures of the City's permit shall be utilized for purposes of incorporating the historical and architectural features of the Green Dragon Colony into a new development such that the historical significance of the site and community character of the area is maintained through the new development.

As a result of a court order requiring an inventory of existing materials on site, it was the intent of the court to allow a mechanism for preserving what could be salvaged from the four structures in terms of loose materials that could be carried off site for purposes of reuse. Because the demolished structures represented a state of disarray and could further deteriorate, the court order allowed the removal of loose debris from the site to be stored at a separate location for safekeeping such as a storage bin or dumpster. After this has occurred, then any remaining ruins, or trash, can be taken to the dump or thrown away. This information has been developed from the City's chief building inspector and a representative from the State Historic Site Board who is an architect specializing in historic preservation. These officials have identified the items that can remain on site and the items that can be salvaged, stored in a location for safekeeping, and possibly later reused elsewhere off-site.

In the development of these aforementioned conditions, the Commission considered at length, former special condition #2 previously approved by the Commission for the subject appeal which essentially required the applicants to incorporate all building materials and/or artifacts which have been determined to be useable and worthy of preservation, in consultation with the State Historical Building Safety Board into new development on the site. However, the Commission finds that the incorporation of any existing salvageable material into new development on the site may be an unnecessary burden on the applicant for several reasons. One of these is that it is not known at this time how long the site will remain vacant. The retention and preservation of existing building foundations and other building materials on site for future incorporation into future development on the site, would not seem feasible for an indefinite period of time. Secondly, it is unlikely that anyone other than historical experts would actually be able to determine whether particular elements of the new development on the site are original or replicated. The Commission does not find any valid basis for reincorporating existing salvaged materials into future development on the site but strongly agrees that the replication of the design elements that reflect the historical character of the Green Dragon Colony including bulk, scale and density are necessary in future development on the site. Therefore, the applicant is not required to do an inventory or to save the building materials. However, the applicant instead is required through imposition of a third condition, to make available for a period of 90 days, access to the site so those materials can be gathered by representatives from organizations who want to salvage those materials for educational purposes or for historical preservation purposes, such as incorporation into other structures off-site. This is also inclusive of those materials which have already been removed from the site without authorization. After the 90-day period has expired, the applicant would then be permitted to demolish the four structures pursuant to the terms and conditions of this permit.

For additional clarification, the Commission is only deleting the special condition which required the applicants to incorporate building materials salvaged from the site into future development on the site. All other terms and conditions of the permit remain unchanged by the Commission's action on January 14, 1992. The Commission finds that only through implementation of all facets of these conditions can the proposal for demolition of these historical cottages be found consistent with the certified LCP. The applicant's demolition without authorization eliminated the only other feasible means to preserve the heritage and historical significance of the site for future generations.

3. Historical and Visual Significance/Special Communities. The following Coastal Act policies are applicable to the proposed project and state:

Section 30251:

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

Following are other applicable Sections of the Coastal Act:

Section 30001.b states:

"That the permanent protection of the state's natural and scenic resources is a paramount concern to present and future residents of the state and nation."

Section 30002(a) states in part, "....the Commission has prepared a plan for the orderly, long range, conservation, use and management of the natural, scenic, cultural, recreational and manmade resources of the coastal zone."

Section 30244 of the Act states:

"Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required."

Section 30253(5) states:

"New development shall, where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses."

Upon reliance of these Coastal Act policies, the following policies were incorporated into the certified La Jolla-La Jolla Shores LCP. Those policies include, in part:

"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....Ocean views should be maintained...."

"Ocean views and other scenic vistas should be preserved and enhanced...."

"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."

"Visual attractiveness should be fostered."

As stated previously, in the certified La Jolla - La Jolla Shores LCP Addendum, and in response to the above-cited Coastal Act policies, La Jolla has been designated a "special community" of regional and statewide significance due to its significance as a visitor destination area and its residential community character. La Jolla is well known world-wide for its "village character". The Green Dragon Colony is a historically designated group of cottages which is significant to the community character and village-like atmosphere of this area.

Demolition only of the Green Dragon Colony without a proposal of any kind for construction of new buildings on the site eliminates the ability to preserve the existing community character of the area or address the issue in association with the new development. Any future replacement with other structures permitted by the La Jolla PDO could result in a change to the presently existing low-scale development along this strip of Coast Boulevard. Such replacement of said structures could also lead to an erosion of the community character of this seaside area and in essence, detract from its "visitor destination" appeal by changing the visual composition and character of this area.

The public views from a public recreational area of statewide significance could be adversely affected. As recreational and visitor attractions to the coast, distinctive coastal neighborhoods such as La Jolla are of value to their residents and the public at large. Maintenance of their quality is dependent upon maintaining the prevailing scale and mix of development. Because the Green Dragon Colony is situated in a location that is visually prominent from a major recreational and public access area, (i.e., La Jolla "village", the Cove, Coast Walk, La Jolla Caves, Ellen Scripps Park), it can be found its removal and any potential replacement structures will affect and could adversely affect public views to and from adjacent public roads, surrounding recreational areas and along the coast. The project site fronts primarily on Coast Boulevard, which is a major coastal access route frequented by large numbers of people on a daily basis, including tour buses. Elimination of the scale and character of these structures and what they represent will affect the scenic qualities and historical attributes of this

nearshore area. In addition, inasmuch as these historical structures represent community resources, their removal will seriously diminish the "village" community character in this immediate area--a unique quality which is a major factor La Jolla was designated as "special" in the LCP. Furthermore, the elimination of these four historic structures will in itself be incompatible with the established physical scale and character of the area.

The Green Dragon Colony acquired its historical significance designation, in part, due to it being "one of the first cultural centers in the United States", according to Robert Andrews of the La Jolla Historical Society. Ms. Anna Held's (governess to U.S. Grant Jr. between 1894-1904) collection of carpenter gothic cottages became an internationally known retreat for some of the greatest known artists and writers of the turn of the century. As such, it became the social and cultural core of the community and a significant center of the Arts and Crafts movement. The Green Dragon Colony site was originally designated by the Historical Site Board in 1973. In May, 1986, the Board amended its designation of the site to also include four of the cottages as historical structures.

In this case, the subject project represents an after-the-fact permit; the structures have already been demolished. Therefore, the applicants, through unauthorized action have altogether eliminated the option of preservation of the Green Dragon Colony intact. In the absence of any attempts to preserve the structures, and/or an alternate development proposal, and had demolition not already occurred, the Commission would deny the proposal since demolition could not be found consistent with the historical and special community designations associated with the site and the structures found in the certified LCP.

In review of a "before-the-fact" permit application for demolition of these historical structures, the Commission would have had two viable options 1) to deny demolition, or 2) to approve demolition of the structures with special conditions which would require the incorporation of the specific historical and architectural design elements worthy of replication into any future development on the site. The Commission can also assure that any new development does not exceed the bulk or scale of the existing development. Only through implementation of one of these two options can the project be found consistent with the policies of the certified LCP. As noted above, the applicant has eliminated the first option altogether through demolition of the structures without authorization. The fact that demolition has already occurred, however, does not preclude the Commission from requiring the latter option at this point in time.

In aiming to achieve this requirement, the State Historical Building Safety Board is a state agency which has jurisdiction regarding this type of situation. Specifically, this agency's power is authorized pursuant to the Health and Safety Code (SHBSB) Section 18954 which states:

"The building department of every city or county shall apply the provisions of alternative building standards and building regulations adopted by the SHBSB pursuant to Section 18959.5 in permitting

repairs, alterations and additions necessary for the preservation, restoration, rehabilitation, moving or continued use of an historical building or structure. A state agency shall apply the alternative building regulations adopted by the SHBSB pursuant to Section 18959.5 in permitting repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, moving or continued use of an historical building or structure."

The State Historic Building Code was established as a result of a need to develop a building code that would meet the intent of protecting the public health and safety while retaining "flexibility to allow restoration of a historic feature while still retaining its historic integrity."

The State Historical Building Code states:

"All state agencies that enforce and administer approval, variances, appeal procedures, ordinances, effecting the preservation or safety of historical aspects of historical buildings shall use the alternative provisions of this part and shall consult with the state historical building safety board to obtain its review prior to undertaking action or making decisions on variances or appeals which effect historical buildings."

In this particular case, the Green Dragon Colony is a designated historical structure which qualifies it for review pursuant to the State Historic Building Code. In situations where historical structures have been damaged by disasters such as war or earthquakes, the SHBSB contains "alternative building regulations" referenced above, which essentially regulate the methods for reconstruction or reconstitution of such historical structures. The State Historical Building Safety Board has stated that it considers the Green Dragon Colony, in its demolished state, such a "disaster". Given that this particular project falls within the jurisdiction of the State Historical Building Code, the SHPSB has jurisdiction in any efforts to restore or reconstitute the Green Dragon Colony in order to maintain the historic integrity of the site.

Demolition of these structures absent any knowledge of or controls on what type of development will replace them fails to address the impacts of the project on public views and preservation of the existing community character. Therefore, the Commission finds that demolition of these historic structures can only be found consistent with the certified LCP if conditioned such that any future development proposed on the site would maintain the historic character of the Green Dragon Colony. In light of the fact that the structures have already been demolished, the Commission finds the only way to achieve this means is through the attached special conditions which require submittal of historical information and building plans such as archaeologic surveys, photographs, etc. which have been developed of the Green Dragon Colony site by the applicant, State Historical Building Safety Board and/or other qualified historical experts. The purpose of this information is to identify, in consultation with SHBSB, those design elements that are historically and/or architecturally significant and worthy of incorporation

*Submitted  
@ 7/11/00  
Community*

through replication into any future development on the site. The applicant will also be required to submit site and buildings plans of all structures proposed for demolition, including height and bulk of structures for purposes of comparing any new structures on site with those which were demolished.

The applicants will also be required to record and execute an agreement that would require incorporation of those design elements in new development on that site that have been identified in consultation with the SHBSS. The agreement shall provide that a re-use feasibility study for the site be prepared in consultation with qualified organizations or experts to determine the appropriate type and intensity of use for the site. The scale and character of the demolished structures will be required to be retained in the new development for the site to the maximum extent feasible. The applicants shall also be required to submit a sign plan that includes installation of signage on the site for purposes of informing the public of the history of the Green Dragon Colony and Anna Held's contribution to the La Jolla community. Lastly, the Commission has added an additional condition which would make the four structures and any removed and salvaged materials available for a period of 90 days following issuance of the permit, to interested persons and organizations qualified in the field of historical preservation, for similar and educational purposes.

As noted previously, the Commission does not find that incorporation of existing materials should be required into future development on the site; however, in order to make such materials available to those interested, prior to the removal or demolition of the structures, this agreement will allow interested individuals to extract and retain those historical artifacts desired from the site for historical preservation and educational purposes.

It should also be stated the certified LCP contains identified public accessways for each of its coastal subareas in La Jolla. In this area of La Jolla, the maps in the certified LCP depict two or three stairways that are utilized for purposes of gaining access from Prospect Street to the east to Coast Boulevard to the west which fronts La Jolla Cove and and the Pacific Ocean. These stairs have been frequently utilized by members of the public for gaining access to these popular recreational areas. It has been noted that there was a stairway across the subject site which connected Prospect Street to Coast Boulevard which was utilized by members of the public on an ongoing basis for gaining access to the coastal areas from the central core areas of downtown La Jolla to the beach and vice versa. These stairs were demolished, in part, along with the demolition of the four structures which has occurred. Because the public utilized these stairs for public access purposes, this is indicative of the existence of potential prescriptive rights on the site. Along with the condition which requires the identification of those design features which are considered architecturally significant and worthy of preservation into future development on the site, the Commission finds the retention of the stairs would be one of those design elements that should also be replicated in future development on the site.

Therefore, in recognition of potential prescriptive rights, the Commission is requiring Special Condition #4 which advises the applicant that issuance of

*overlaid onto photo*

the permit shall not be used or construed to interfere with any public prescriptive or public trust rights which may exist on the site. Again, only as conditioned, can the project be found consistent with the certified LCP and related Chapter 3 policies of the Coastal Act.

4. Past Commission Action Regarding Historic Preservation. Both the Regional and State Commissions have previously considered development proposals that involved historic preservation of existing structures. As noted previously, historic preservation policies have been developed to implement the Coastal Act via Section 30253 to protect special communities and neighborhoods which have been defined as "areas characterized by particular cultural, historical, or architectural heritage that is distinctive in the coastal zone."

In Santa Barbara, both the Regional and State Commissions twice denied development proposals for old Stearn's Wharf which could have destroyed the historic significance of the structure with the proposed modern designs (Appeal No. 139-78).

In Cambria, San Luis Obispo County, the Regional Commission approved the proposed demolitions of the old Bank of America structure and other structures. The regional staff recommended the permit be granted subject to a condition that, prior to issuance of a permit for approval of the proposed demolition, that the applicant secure the engineering services of an independent consultant to determine the cost-effectiveness of restoration of the building. Also, staff recommended that prior to demolition, qualified persons such as architects and historians be allowed to enter the building to determine its architectural and historical significance.

Of relevance is Section 30612 of the Act which states:

"An application for a coastal development permit to demolish a structure shall not be denied unless the agency authorized to issue that permit, or the commission, on appeal, where appeal is authorized by this division, finds, based on a preponderance of the evidence, that retention of that structure is feasible."

The project was appealed to the State Commission which found that retention of the bank building was feasible and the demolition was therefore denied.

Concerning the demolition of the Green Dragon Colony, at the time the applicants were first considering review by the Commission in the fall of 1989, the State Coastal Conservancy had completed an economic analysis which revealed that rehabilitation of the four vacated structures which comprise the Green Dragon Colony was economically feasible.

Based on all information that has been made available it is well known that there were extensive efforts for private acquisition of the site which indicated that retention of the structures was feasible. As previously noted, the applicant has eliminated the possibility for preservation of the structures since they have already been demolished. Nevertheless, this

finding documents the Commission's past involvement and precedents in historical preservation issues as related to Section 30251 of the Coastal Act.

5. No Waiver of Violation. Although development has taken place prior to consideration of the appeal, consideration of the appeal by the Commission has been based solely upon the applicable standards of review for both the substantial issue determination and the permit on appeal. Approval of the permit does not constitute a waiver of any legal action with regard to this violation of the Coastal Act that may have occurred; nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

6. Consistency with the Provisions of the California Environmental Quality Act (CEQA). As previously found, the proposed demolition of the historically-designated Green Dragon Colony will result in the permanent loss of a significant historical site and resource. The end result of demolition without conditions is a significant and unmitigated adverse environmental impact. The Commission finds that feasible alternatives exist which would substantially lessen the significant adverse impacts which the proposed development would have on the coastal zone environment.

One such alternative would be retention of the structures or the "no project" alternative. Since demolition has already commenced and is substantially completed without benefit of a coastal development permit, this option, from a practical standpoint, has been eliminated. Another feasible alternative is preservation and replication of the historical character and significance of the structures in redevelopment of the property. This could be achieved through public or private acquisition efforts; however, acquisition is not required. This option has not altogether been eliminated and would have been considered a feasible alternative to mitigate the impacts of demolition, had the Commission had the ability to review the proposed demolition "before-the-fact".

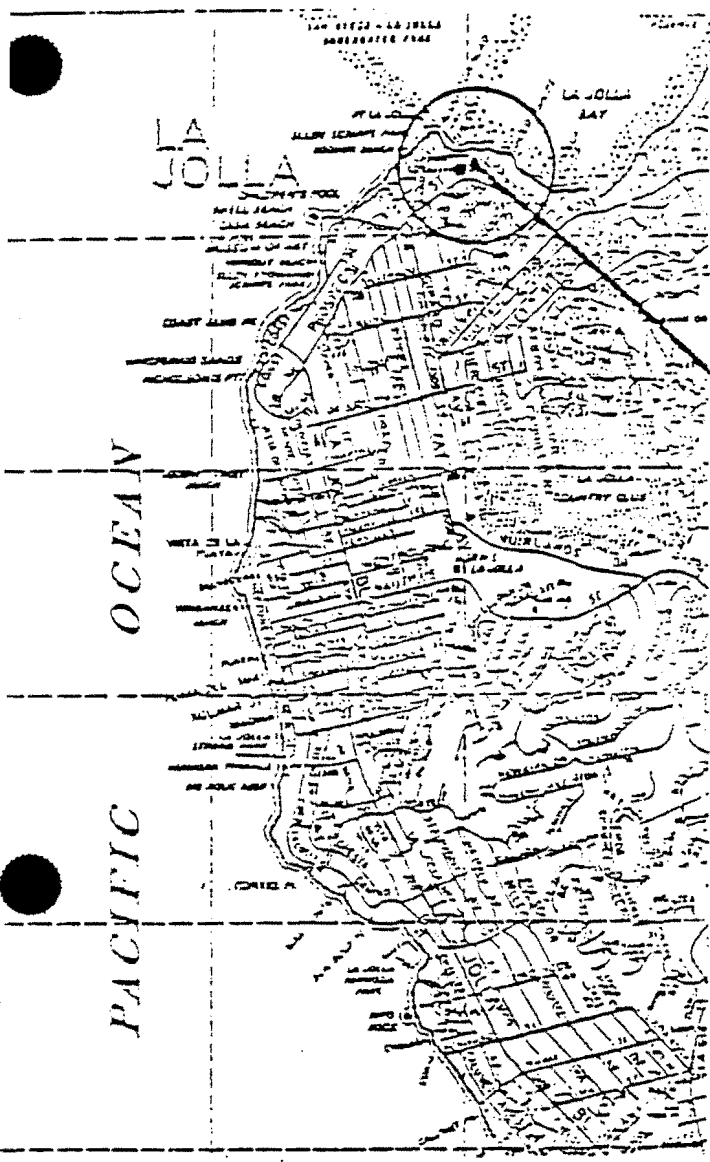
The City's coastal development permit processing ordinance indicates that development should not be permitted in historic sites unless all feasible measures to protect and preserve the significant historic site or resource are required in conditions of development approval. The attached conditions are designed to bring the project into conformance with this and all provisions of the LCP which address maintenance of public viewsheds, visual access and La Jolla as a "special community", and to lessen and mitigate the impacts of demolition alone. Unless such mitigation measures are applied as conditions of approval, under the certified LCP, the application should be denied.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. 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.

(7234A)



SITE

PACIFIC OCEAN

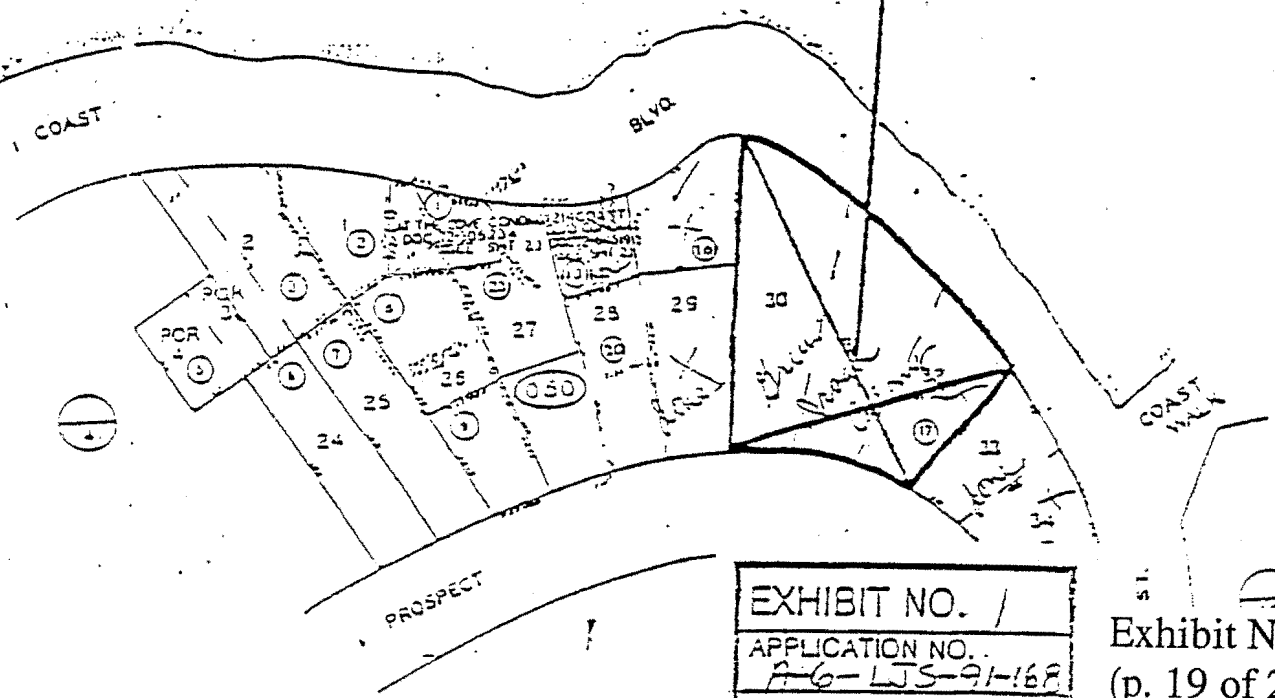


EXHIBIT NO. 1  
APPLICATION NO.  
A-6-LJS-91-168

Exhibit No. 23  
(p. 19 of 20)

BLDG.#11  
1241 COAST BLVD.  
DOLLY YARDEN

BLDG.#10  
1243 COAST BLVD.  
EAST CLIFF

BLDG.#8  
1250 PROSPECT ST.  
JACK O'LANERN

BLDG.#6  
1258 1/2 PROSPECT ST.  
THE GABLES

COAST BOULEVARD

LOT 31

LOT 32

LOT 30

PROSPECT ST.

LEGEND



STRUCTURES TO BE  
DEMOLISHED



0 40  
FEET

REDUCED SITE PLAN

EXHIBIT NO. 23  
APPLICANT  
A-61 (p. 20 of 20)  
Site Plan

6-8

**CHART HOUSE**  
**NEW DEVELOPMENT**

-----

**74% DEMOLISHED**

**81% MORE DINING**

**54% LARGER KITCHEN**


**NOT A REMODEL**

**NOT A HERITAGE STRUCTURE**

**NOT A MINOR ADDITION**

*9a*

*Submitted @  
7/11/00 Comments*

EXHIBIT NO. 24
APPLICATION NO. <b>A-6-LJS-00-67</b>
Information Submitted by Project Opponents
 California Coastal Commission

## CALIFORNIA COASTAL COMMISSION

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

COASTAL DEVELOPMENT PERMIT NO. A-6-LJS-91-168-R

Page 1 of 4



On January 14, 1992, the California Coastal Commission granted to San Diego Trust and Savings this permit for the development described below, subject to the attached Standard and Special Conditions.

PROJECT DESCRIPTION: Demolition/removal of four historic cottages known as "the Green Dragon Colony", and specifically known as "Dolly Varden", "The Gables", East Cliff" and "Jack O'Lantern".

Lot Area	39,640 sq. ft.
Building Coverage -	
Green Dragon Colony	2,754 sq. ft. ( 7%)
Other Building and	
Landscape coverage	36,886 sq. ft. (93%)
Parking Spaces	0
Zoning	Zone 1A - La Jolla Planned District
Plan Designation	Commercial

PROJECT LOCATION: 1241 - 43 Coast Boulevard, and 1260 and 1268 1/2 Prospect Street, La Jolla, San Diego, San Diego County.  
APN 350-050-171

Issued on behalf of the California Coastal Commission by

PETER DOUGLAS  
Executive Director  
and

*Laurinda R. Owens*

**IMPORTANT:** THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGEMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE.

## ACKNOWLEDGEMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

**RECEIVED**

OCT 20 1992

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

*10/20/92*  
Date

*John Williams*  
Signature of Permittee

EXHIBIT NO. 25  
APPLICATION NO.  
**A-6-LJS-00-67**

Original Permit for  
Green Dragon  
Colony Permit  
A-6-LJS-91-168-R  
(p. 1 of 4)

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. 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.

SPECIAL CONDITIONS:

The permit is subject to the following conditions:

1. Historical Information/Building Plans. Prior to the issuance of the coastal development permit and within 30 days of Commission action, the applicant shall submit the following to the Executive Director for review and written approval:

a) Information (i.e., photographs, sketches, etc.) which has been developed from the Green Dragon Colony site by the applicant pursuant to the City's coastal development permit, or by the State Historical Building Safety Board and/or other qualified historical expert(s).

Upon review of the information, the Executive Director shall determine, in consultation with the State Historical Building Safety Board, what design elements are historically and/or architecturally significant and worthy of incorporation into any future development pursuant to the recorded agreement required in Special Condition #2.

SPECIAL CONDITIONS, continued:

b) Site and building plans of all structures proposed for demolition, drawn to scale, including the height and bulk of the structures. The site plan shall also indicate the location and size of all other structures existing on the subject property.

2. Implementation of Historical Design Elements into New Development. Prior to the issuance of the coastal development permit and within 30 days of Commission action, the applicant shall execute and record an agreement in a form and content acceptable to the Executive Director, to incorporate the following features into any future development on the subject property (APN #350-050-17):

a) Incorporation of all design elements which have been determined to be historically and/or architecturally significant and worthy of incorporation by the Executive Director in consultation with the State Historical Building Safety Board pursuant to Special Condition #1 of CDP #A-6-LJS-91-168;

b) Prior to any new development being approved, the applicant shall fund, prepare and complete a feasibility study for the redevelopment of the site, in consultation with the State Historical Building Safety Board, the Coastal Conservancy and/or the National Trust for Historic Preservation. Such study would be subsequently utilized in determining the appropriate type and intensity of use for the site.

c) The scale and character of the demolished structures shall be retained in the new development design to the maximum extent feasible utilizing the criteria and design elements identified in this agreement.

d) A signage plan shall provide for the installation of signage on the subject property for purposes of informing the public of the history of the Green Dragon Colony and Anna Held's contribution to the La Jolla community.

e) That a coastal development permit shall be obtained for any new development on the site from the City or the Coastal Commission on appeal.

The agreement document shall be recorded as a covenant running with the land and binding all successors and assigns in interest to the subject property, free of prior liens and encumbrances, prior to the issuance of the permit.

3. Building Materials/Artifacts. Prior to the issuance of the permit and within 30 days of the Commission action, the applicant shall submit to the Executive Director for review and written approval an agreement to make the four structures and any removed and salvaged materials available for a period of ninety (90) days following issuance of the permit, to interested representative(s) of organizations qualified in the field of historical preservation, for salvage of any or all materials for education and/or historic preservation purposes.

SPECIAL CONDITIONS, continued:

Any representatives from organizations interested in salvage of materials shall have adequate insurance for such purpose. Upon the expiration of ninety (90) days, demolition of the four structures may commence under the terms of this permit. This agreement shall be recorded as a covenant running with the land in a form and content acceptable to the Executive Director, and binding all successors and assigns in interest to the subject property, free of prior liens and encumbrances, prior to the issuance of the permit.

4. 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 shall not be used or construed to interfere with any public prescriptive or public trust rights that may exist on the property.

(8493P)

## CALIFORNIA COASTAL COMMISSION

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

AMENDMENT TO COASTAL  
DEVELOPMENT PERMIT NO. A-6-LJS-91-168-R-A2  
Page 1 of 4



On January 14, 1992 and as amended on August 12, 1992 the  
California Coastal Commission granted to  
San Diego Trust & Savings  
this permit for the development described below, subject to the attached  
Special Conditions.

## Original

Description: Demolition/removal of four historic cottages known as "the Green Dragon Colony", and specifically known as "Dolly Varden", "The Gables", "East Cliff" and "Jack O'Lantern".

Lot Area	39,640 sq. ft.
Building Coverage -	
Green Dragon Colony	2,754 sq. ft. ( 7%)
Other Building and	
Landscape Coverage	36,886 sq. ft. (93%)
Parking Spaces	0
Zoning	Zone 1A - La Jolla Planned District
Plan Designation	Commercial

Proposed  
Amendment:

Modification of all references to the subject site and subject property by deletion of Lot 32 therefrom, and modification of Special Condition #1(b) to clarify its reference to APN 350-050-17 (which covers Lots 30-32), and modification of Special Condition #2 to clarify its reference to the restricted area only, i.e. the western portion of Lots 30 and 31 (where the four cottages are located).

Site: 1241 - 43 Coast Boulevard, and 1260 and 1268 1/2 Prospect  
Street, La Jolla, San Diego, San Diego County. APN 350-050-17.

Issued on behalf of the California Coastal Commission by

PETER DOUGLAS  
Executive Director  
and

RECEIVED  
OCT 20 1992  
CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

*Laurinda R. Owen*

EXHIBIT NO. 26

APPLICATION NO.

**A-6-LJS-00-67**

Subsequent

Amendment to permit

**A-6-LJS-91-168-A2**

(p. 1 of 4)



California Coastal Commission

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGEMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE.

ACKNOWLEDGEMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

10-20-92  
Date

[Signature]  
Signature of Permittee

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. 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.

SPECIAL CONDITIONS:

The permit amendment is subject to the following conditions which shall replace Special Condition No. 1 and 2 of the original permit in its entirety:

1. Historical Information/Building Plans. Prior to the issuance of the coastal development permit and within 30 days of Commission action, the applicant shall submit the following to the Executive Director for review and written approval:

a) Information (i.e., photographs, sketches, etc.) which has been developed from the Green Dragon Colony site by the applicant pursuant to the City's coastal development permit, or by the State Historical Building Safety Board and/or other qualified historical expert(s).

Upon review of the information, the Executive Director shall determine, in consultation with the State Historical Building Safety Board, what design elements are historically and/or architecturally significant and worthy of incorporation into any future development pursuant to the recorded agreement required in Special Condition #2.

b) Site and building plans of all structures proposed for demolition, drawn to scale, including the height and bulk of the structures. The site plan shall also indicate the location and size of all other structures existing on APN 350-050-17 which covers lots 30-32.

2. Implementation of Historical Design Elements into New Development. Prior to the issuance of the coastal development permit and within 30 days of Commission action, the applicant shall execute and record an agreement in a form and content acceptable to the Executive Director, to incorporate the following features into any future development on the restricted area (described as Area "A" on the site plan and also described as Exhibit "A" to the Deed Restriction, a copy of which is attached hereto) of the subject property (Lots 30 and 31).

a) Incorporation of all design elements which have been determined to be historically and/or architecturally significant and worthy of incorporation by the Executive Director in consultation with the State Historical Building Safety Board pursuant to Special Condition #1 of CDP #A-6-LJS-91-168;

b) Prior to any new development being approved, the applicant shall fund, prepare and complete a feasibility study for the redevelopment of the site, in consultation with the State Historical Building Safety Board, the Coastal Conservancy and/or the National Trust for Historic Preservation. Such study would be subsequently utilized in determining the appropriate type and intensity of use for the site.

c) The scale and character of the demolished structures shall be retained in the new development design to the maximum extent feasible utilizing the criteria and design elements identified in this agreement.

SPECIAL CONDITIONS, continued:

d) A signage plan shall provide for the installation of signage on the subject property for purposes of informing the public of the history of the Green Dragon Colony and Anna Held's contribution to the La Jolla community.

e) That a coastal development permit shall be obtained for any new development on the site from the City or the Coastal Commission on appeal.

The agreement document shall be recorded as a covenant running with the land and binding all successors and assigns in interest to the subject property, free of prior liens and encumbrances, prior to the issuance of the permit.

HISTORICAL AND ARCHITECTURAL CHARACTER DEFINING ELEMENTS  
OF THE GREEN DRAGON COLONY

Site Relationships Including Setting and Scale - Refer to the attached site plan for Areas 1,2,3 and 3A referenced below.

The relationship between the four structures and the site, including space between structures and the following physical elements, are significant design elements representative of the scale and character of the Green Dragon Colony. Structures should include a mix in design (i.e., bungalow style, etc.), size, and quantity, reflective of the historic structures which also comprised a variety of design styles. The orientation and relationship of the structures to the property lines is shown on the attached site plan and photographs submitted by the applicant pursuant to Special Condition No. 1.

Site Materials

Walkways -

New walkways should have field stone lined or faced borders. Exposed retaining walls should be faced with field stone.

Some walkways should be covered and contain wood handrails

Stairways-

At Lot 30, it is recommended that a straight and vertical stairway similar to the existing 4 foot wide wood stair that currently traverses the south side of the site from the upper sidewalk to the Coast Blvd. sidewalk be included in new development in the same location or in close proximity to the location of the existing stairway. This stairway is one of the character defining elements of the property and its historical character and public use should be protected.

Any new stairways on the site should include wood steps

Landscaping

Existing mature trees should remain on the site and be protected.

New landscaping materials introduced to the site should be native Californian species and compatible in character with the landscaping shown on photographs dated 7/3/91 and plans submitted on 3/23/92 to the Commission.

Overstory Plants - No palms should be used on the site. Efforts should be made to enhance the existing theme using Torrey Pines, Eucalyptus and Monterey Cypress trees.

A. COASTAL COMMISSION

1. L. 1000 P. 1000

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A-6-LJS-91-168-R

1(a)

L.R. Owen

3/7/92

(Revised 8/7/92)

EXHIBIT NO. 2

APPLICATION NO.

A-6-LJS-00-6

Historical and

Architectural

Character Defining

Elements of

Green Dragon

(Design Element

Report)

(p.1 of 4)

Building Element	Area 1.	Areas 2,3 & 3.A
View Corridor -	A view corridor exists in area 3A and a comparable corridor should be maintained across the site in new development.	

### Buildings and Architectural Elements

Exterior Materials	horizontal shiplap clapboard siding w/ corner boards 1X6s max. dimension. vertical board & batten siding, average size 1X4, but in no case to exceed 1X12	vertical board & batten siding, avg. size 1X4 to 1X12
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Board and batten siding should express the floor line w/ a water stop at the run of the board and battens at the floor line. The waterstop should be flush with the battens. At eaves, trim board should be flush with the battens. Blocking should be used between the rafters.

Foundations	Where exposed faced w/rounded river bottom stone, 6-12 inches in diameter, typical size	Same as Area 1
-------------	--	----------------

<u>Floors</u>	<u>Horizontal floor plates</u>
---------------	--------------------------------

Projecting Bay	Recommended with shed roofs located below the main building roof with rafters that project a minimum of 6 inches.
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Projecting Floors	Recommended when supported by decorative brackets similar to those existing.
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Windows	<u>Bungalow Style Windows with decorative headers</u> Projecting bays w/small panes, multi- light wood casement windows w/wood muntins, simple trim.	Some windows w/diagonal leaded glass, all windows wood sash trim, 1X3 or 1X4 max., windows double hung, casement and sliding
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Building Element	Area 1.	Areas 2,3 & 3.A
	<p>Windows in each building should have a combination of small and large window types. Each facade should have a combination of these features: windows, doors, wall materials.</p> <p>Where existing windows have been salvaged, these should be used as models for similar new windows.</p>	
Doors	<p><u>Dutch Door X Bracing</u></p> <p><u>Craftsman Doors</u> (multi-paneled)</p>	
Chimneys	<p>At least one chimney shall be included and be composed of brick.</p>	
Roof Forms		
.Shed Roofs	<p>gently pitched</p> <p>fire retardant wood shingles, <u>with irregular patterns</u>, shakes not recommended</p>	<p>fire retardant wood shingles shakes not recommended</p>
.Gable Roofs	<p>On Lot 31, pitch 4 in. 12, gently curving sweeping gables with fire retardant wood shingles. Shakes not recommended.  <u>Stickwork gables</u></p>	
.Hip Roofs	<p>Moderately sloped 2 in. 12 min. w/ fire retardant wood shingles. Shakes not recommended.</p>	
.Shallow Pitch	<p>Composition shingles or roll roofing w/ membrane roof w/ cap sheet or roll roofing.  <u>w/ and w/out overhangs</u></p>	

The size and facing of exposed rafter tails on board and batten sided buildings and clapboard sided buildings should be similar to those originally contained in the structures.

All of the following should be consistent with the original size and facing: the projection of the roof at the gable end, the eave projection of gable roofs, the projections of the hip and shallow pitch flat roofs.

New Light Fixtures - Exterior new light fixtures should be reproduction "Craftsman" period fixtures.

<u>Building Element</u>	<u>Area 1.</u>	<u>Areas 2,3 &amp; 3.A</u>
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#### Orientation

Generally, orientation of buildings should be similar to those shown on the attached site plan.

On Lots 30 and 31, buildings should be oriented in a similar direction to those that previously existed as shown on the attached site plan.

#### Offsets and Planes

Original buildings were broken up into many planes with small offsets. It is recommended that new construction not have any wall run longer than 20 feet horizontally. More often, walls should be broken up with bays, recesses or projections or a change in the wall surface material.

#### Fenestration Patterns

Patterns - grouping of larger bands of windows on the facades. View windows on the north and northwest should be located high on the facade. Tall windows should be 1 to 1 1/2 or 1 to 2 vertically oriented. Fifty percent of the facade may be glazed in groupings of windows of 2 to 3 elements.

Small windows and small projecting bays should have smaller panes with vertical or horizontal emphasis.

#### Colors

The palette of colors should relate to and be similar to that used on the existing buildings. Color tests should be conducted on material salvaged from the existing buildings to determine exact colors used. Generally colors were muted oranges, grayed greens, burnt umbers and other muted weathered colors of a warm hue.

#### Porches - Covered

Note: Underlined design elements listed herein (other than headings and/or titles) indicate design elements from applicant's list.

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