

CALIFORNIA COASTAL COMMISSION

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Staff: LRO-SD
Staff Report: 9/24/03
Hearing Date: 10/7-10/03

STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL GOVERNMENT: City of San Diego

DECISION: Approved with Conditions

APPEAL NO.: A-6-LJS-03-21

APPLICANT: Dr. Stephan Lemperle AGENT: Robert Hitchcock Hayes

PROJECT DESCRIPTION: Demolition of an existing one-story single-family residence and construction of a new three-story (over basement), 2,576 sq.ft. single family residence with two-car carport on a 4,296 sq.ft. blufftop lot.

SITE: 5672 Dolphin Place, La Jolla, San Diego, San Diego County.
APN 357-421-05

STAFF NOTES:

At its July 9, 2003 hearing, the Commission found Substantial Issue exists with respect to the grounds on which the appeal was filed. This report represents the de novo staff recommendation.

Summary of Staff's Preliminary Recommendation:

Staff recommends the Commission approve the de novo permit with several special conditions. The proposal raises the issues of geologic hazards with regard to adequate setback from the bluff edge given the presence of gunite on the bluff face and rip rap at the toe of the bluff. Protection of public views is also an issue. The City's LCP requires that all development maintain a 40 ft. bluff edge setback that can be reduced to 25 ft. based upon recommendations of a geology report which documents that such a reduced setback would still provide an adequate blufftop setback to assure the new development is safe throughout its anticipated life. The LCP further states that if there is a seawall or other stabilization or erosion control measure installed due to excessive erosion on a site, that a reduction in the required 40-foot setback is not permitted. The Commission's geologist has reviewed the project and has concluded that in this particular case, the gunite on the bluff face of the subject site that was installed prior to the Coastal Act does not function as shoreline protection and that the proposed residence is not dependent on it to be safe for its 75 year design life with a 25 ft. blufftop setback. Protection of visual

resources and public views associated with the proposed development will be addressed through landscape and fence requirements in Special Condition #2. It requires that new landscaping be limited to a height of 3 ft. and that any fencing in the north and south yards of the house be composed of 75% open materials to prevent a "walled off" effect. In addition Special Condition #6 requires that the applicant waive all future rights to shoreline protection.

Other conditions include assumption of risk and submittal of construction Best Management Practices plan. With the attached conditions, the project can be found consistent with the certified LCP.

Substantive File Documents: Appeal Forms; Certified La Jolla-La Jolla Shores LCP Addendum; Certified City of San Diego LCP Implementation Plan; City of San Diego Report to the Hearing Officer dated 12/18/02; Mitigated Negative Declaration No. LDR 42-0252 dated 12/4/02; Geological Reconnaissance Report by Michael W. Hart, Engineering Geologist dated October, 2001; and updated 8/25/02 & 8/21/03; CCC Staff Report and Recommendation on Appeal for Substantial Issue dated 6/19/03

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. A-6-LJS-03-21 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 the certified LCP and the public access policies of Chapter 3 of the Coastal Act. 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. Final Revised Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final building, site, foundation and grading plans for the proposed development that have been approved by the City of San Diego. Said plans shall be in substantial conformance with the revised basement level plans submitted by Jonathan Segal/AIA, dated 8/14/03, except that they shall be revised to include the following:

- a. The proposed residential structure will be set back a minimum of 25 ft. from the bluff edge and the inland-most extent of the sea cave on the subject site.
- b. Foundation plans that document that no portion of the structure will be cantilevered beyond or seaward of the 25 ft. geologic setback line.
- c. All existing and proposed accessory improvements shall be identified. All accessory improvements (including, but not limited to, patios, decks, walkways, and open shade structures) proposed within the 25 ft. geologic setback area must be "at-grade" and located no closer than 5 ft. from the edge of the existing bluff, as shown in concept, on Exhibit No. 2.
- d. No maintenance of the existing gunite on the bluff face or rip rap at the toe of the coastal bluff shall be permitted and the existing gunite and rip rap shall be allowed to deteriorate over time.

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 legally required.

2. Revised Landscape/Yard Area Fence Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, revised landscaping and fence plans approved by the City of San Diego. The plans shall be in substantial conformance with the plans as submitted by Jonathan Segal/AIA, dated 12/20/02, except for the revisions required by this condition. The plans shall be revised to keep the north and south yard areas (or

setbacks) clear to enhance public views from the street toward the ocean. Specifically, the plans shall be revised to incorporate the following:

- a. A view corridor a minimum of 4 ft. wide shall be preserved along both the north and south yard areas. All proposed landscaping in the north and south yard areas shall be maintained at a height of three feet or lower to preserve views from the street toward the ocean.
- b. All landscaping shall be either drought-tolerant and native or non-invasive plant species. No permanent irrigation shall be permitted on the site.
- c. A written commitment by the applicant that all required plants on this site shall be maintained in good growing condition and whenever necessary, shall be replaced with new plant materials to ensure compliance with the approved landscape requirements.
- d. Any fencing in the yard areas shall permit public views and have at least 75 percent of its surface area open to light.

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

3. Runoff/Drainage Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a drainage plan, approved by the City of San Diego, which shows that drainage and runoff from the roof, driveway and other impervious surfaces shall be directed away from the coastal bluff and toward the street into the storm drain system.

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 legally required.

4. Assumption of Risk, Waiver of Liability and Indemnity.

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from waves, storm waves, bluff retreat and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to

indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

5. Other Special Conditions of the CDP 5509/SDP No. 5509 and VAR 5510. Except as provided by this coastal development permit, this permit has no effect on conditions imposed by the City of San Diego pursuant to an authority other than the Coastal Act.

6. No Future Bluff or Shoreline Protective Device

A(1) By acceptance of this permit, the applicant agrees, on behalf of itself and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. A-6-LJS-03-21 including, but not limited to, construction of a new, approximately 2,576 sq.ft., two-story single family residence, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future. By acceptance of this Permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

A(2) By acceptance of this Permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this Permit, including construction of a new, approximately 2,576 sq.ft., two-story single family residence, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

7. Deed Restriction. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the

deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. Proposed is the demolition of an existing one-story single-family residence and other landscape features on a 4,296 blufftop lot. The existing residence is located approximately 7-20 ft. from the bluff edge. Also proposed is the construction of a new, approximately three-story (over basement), 2,576 sq.ft., single-family residence with an attached garage and landscape improvements. The new residence is proposed to be sited a distance of 25 ft. from the bluff edge. In addition, the City granted a variance to allow a zero (0) front yard setback (adjacent to the street) where fifteen feet is required to provide necessary on-site parking in the setback area, similar to other single family residences along this street. The subject site is located on the west side of Dolphin Place in the community of La Jolla in the City of San Diego. The residences along the seaward side of Dolphin Place are situated on blufftop lots. Access along this shoreline is gained from Bird Rock Avenue six lots north of the subject site where there is an existing improved vertical access way.

2. Shoreline Hazards. As approved by the City, the proposed residence on the subject site was proposed to be sited a distance of 40 feet from the bluff edge with a portion of the residence cantilevered 25 feet from the bluff edge. There is existing gunite on the bluff face of the site and rip rap at the toe of the coastal bluffs. The City allowed the structures to remain and deteriorate over time but conditioned the permit to prohibit the applicant from repairing or maintaining the gunite on the bluff face of the subject site and the rip rap seaward of it.

The geotechnical report completed for the project states that the proposed residence located at 25 ft. from the bluff edge will be safe from threat and not affect stability of the bluff. However, an earlier geotechnical report for the site recommended repairs to the gunite and that an existing sea cave be filled to avoid block falls.

Pursuant to the City's certified LCP, all proposed development on a coastal bluff must observe a required setback of 40 feet from the bluff edge unless a site-specific geology report is completed which makes findings that a lesser setback can be permitted. Specifically, Section 143.0143 addressing Development Regulations for Sensitive Coastal Bluffs states the following:

- (f) All *development* including buildings, *accessory structures*, and any addition to existing *structures* shall be set back at least 40 feet from the *coastal bluff edge*, except as follows:

- (1) The City Manager may permit *structures* to be located between 25 and 40 feet from the bluff edge where the evidence contained in a geology report indicates that the site is stable enough to support the *development* at the proposed distance from the *coastal bluff edge* and the project can be designed so that it will not be subject to or contribute to significant geologic instability throughout the anticipated life span of the primary *structures*, and no shoreline protection is required. Reductions from the 40-foot setback shall be approved only if the geology report concludes the *structure* will not be subject to significant geologic instability, and not require construction of shoreline protection measures throughout the economic life span of the *structure*. In addition, the applicants shall accept a deed restriction to waive all rights to protective devices associated with the subject property. The geology report shall contain:
 - (A) An analysis of bluff retreat and coastal stability for the project site, according to accepted professional standards;
 - (B) An analysis of the potential effects on bluff stability of rising sea levels, using latest scientific information;
 - (C) An analysis of the potential effects of past and projected El Nino events on bluff stability;
 - (D) An analysis of whether this section of coastline is under a process of retreat.
- (2) Accessory *structures* and landscape features customary and incidental to residential uses shall not be closer than 5 feet to the *coastal bluff edge* provided, however, that these shall be located at *grade*. Accessory *structures* and features may be landscaping, walkways, unenclosed patios, open shade *structures*, decks that are less than 3 feet above grade, lighting standards, *fences* and wall, seating benches, *signs*, or similar *structures* and features, excluding garages, carports, building, pools, spas, and upper *floor* decks with load-bearing support *structures*.

In addition, the City's certified Coastal Bluffs and Beaches Guidelines contain the above same citation but have a footnote at the end of Section 104.0143(f) which states the following:

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

In order to determine whether or not the proposed residence can be sited 25 feet from the bluff edge, it is necessary to determine if the structure on the bluff face is in fact a shoreline protection device that was installed due to excessive erosion. In addition, the policies of the certified LCP also require that structures be located between 25 and 40 feet from the bluff edge when supported by the findings of a geology report that indicates the site is stable to support the development at the proposed distance from the coastal bluff edge without contributing to significant geologic instability throughout the life span of the principal structures and that no shoreline protection is required.

The geotechnical report for the project identified a sea cave at the southern toe of the bluff on the adjacent property to the south that extends approximately 20 feet into the bluff on the subject site. The sea cave is about 10 feet wide at its mouth, narrowing to only one foot wide at its inland extent (Ref. Exhibit No. 3 attached). The City's Bluffs and Beaches guidelines indicate how a bluff edge should be determined in those situations where there is a sea cave. Specifically, Section III(A)(5) of the guidelines states:

(5) Sea caves

Where a sea cave (a natural cavity or recess beneath the surface of the earth that is formed by or a result of marine erosion) or overhang exists, the coastal bluff edge shall be either the simple bluff edge (See Diagram III-5(A)) or a line following the landward most point of the sea cave projected to the ground surface above (See Diagram III-5(B)), whichever is more landward (Ref. Exhibit No. 5).

Related to the issue of adequate setback from the bluff edge, originally the applicant was intending to cantilever a portion of the proposed residence (second level deck) approximately six feet beyond the proposed 25 ft. blufftop setback into the geologic setback area. In addition, the plan sections for the proposed development also showed a note that referred to a "non-structural slab into setback" at the ground level which extended between 40 ft. to 25 ft. from the bluff edge. As noted above, there is existing gunite on the bluff face and there is also a sea cave on the subject site (Ref. Exhibit No. 6). Both of these conditions were evaluated by the Commission's staff geologist. It has been suggested by the applicant that at the time the gunite was placed on the bluff face of the subject property, the existing home was not threatened and that the gunite was installed only as a preventative measure. As such, a setback of 40 feet is not required and the proposed residence can be set back 25 ft. from the bluff edge.

With regard to the presence of a sea cave on the subject site, at first it was referred to as a "surge channel" so the requirement in the certified LCP which states that if a sea cave exists on the property, that the geologic setback should be measured from the inland extent of the cave was not made clear. The Commission's staff geologist met on site with the applicant's geologist and City geologist to visually inspect the existing surge channel and/or sea cave. It was determined at that time that the geologic formation is, in fact, a sea cave. In addition, the Commission's staff geologist has concluded that a 25-foot setback from the bluff edge and the inland extent of the sea cave is sufficient for the

proposed residence. He has further indicated that this setback for the proposed new residence would be adequate even if there were no gunite or rock revetment at the site. Given that gunite, in general, is a visual eyesore and adversely affects the visual quality of the natural coastal bluffs, it would be preferable for it to be removed to be consistent with the policies of the certified LCP. However, in this case, the Commission's geologist and coastal engineer agree that removal of the gunite could adversely impact the bluff. Again, the applicant has suggested that the gunite was not installed due to excessive erosion but more as a preventative device. Although it cannot be determined whether or not the gunite was installed due to excessive erosion, the Commission's geologist and coastal engineer agree that currently it does not function as a shoreline protective device and is not necessary to protect the proposed home with a 25 ft. blufftop setback. Therefore, Special Condition #1 requires that the property owner shall not maintain the existing gunite and that it shall be allowed to deteriorate in place. The condition further requires submittal of final plans which document that the proposed development is set back 25 feet from the bluff edge and requires submittal of final foundation plans (documenting that no cantilevering is proposed).

With regard to the potential removal of the rip rap on the site, the rip rap was installed years before the Coastal Act was adopted. In past historical review of other projects sites along the Bird Rock shoreline, it has been determined that the rip rap was installed in the 1950's or 1960's by the U.S. Army Corp of Engineers. In any case, the Commission's staff geologist has also indicated that the erosion rates in the area for unprotected bluffs is considered to be low and the new house would not be considered to be threatened within 75 years. Furthermore, the rip rap at the toe of the coastal bluff seaward of the subject site was not installed due to excessive erosion, but more as a preventive measure. In any case, removal of a portion of the revetment immediately seaward of the subject site would result in a gap in the rip rap which might result in a slight increase in the erosion rate. The Commission's geologist has stated that this could lead to accelerated bluff retreat and potential stability problems.

In any case, it is not necessary to provide stability to the project site in association with any proposed development. Therefore the proposed residence will be sited a distance of 25 feet from the bluff edge and is not dependent on the existing gunite for structural support or stability. In addition, given that the applicant's consultant and the Commission geologist have also concurred that the proposed new development will be adequately set back from the bluff edge, the construction of any future shoreline protection devices to protect the new development are not warranted.

In addition, the policies and guidelines of the certified La Jolla-La Jolla Shores LCP also contains the following related provisions:

"The shoreline bluffs are one of La Jolla's most scenic natural resources...Over time, as the bluffs continue to recede, existing developments will become increasingly susceptible to bluff hazards. In many cases, seawalls, revetments, and other types of erosion control structures will be required to stabilize the bluff.

Such structures, while necessary to protect private property, are poor substitutes for adequate site planning....”

The LCP then goes on to cite the following guidelines:

[...]

“The geotechnical report...should document that the “area of demonstration” is stable enough to support the proposed development and that the project can be designed so that it will neither be subject to nor contribute to significant geologic instability throughout the estimated lifespan of the project structures....”

Many of these policies were incorporated into the Environmentally Sensitive Lands regulations of the City’s Land Development Code (implementation plan) addressing development on coastal bluffs which states, in part,

“...Reductionis from the 40-foot setback shall be approved only if the geology report concludes the structure will not be subject to significant geologic instability, and not require construction of shoreline protection measures throughout the economic life span of the structure. In addition, the applicants shall accept a deed restriction to waive all rights to protective devices associated with the subject property....” [Emphasis added]

As such, Special Condition #6 has been attached which requires the applicant to waive all rights to future protection for new development on the blufftop. Such a condition will assure that the bluff will be protected from unnatural alteration of the bluff for shoreline protection purposes. In addition, it should be noted that the entrance to the sea cave is located on the adjacent property to the south, but the remainder of the cave is on the subject site. Therefore, although the subject applicant is required to waive future rights to the construction of shoreline protection, should the adjoining neighbor to the south ever need to fill the sea cave in the future for purposes of protecting their residence(s) from the threat of erosion, Special Condition #6 does not preclude them from doing so.

Also, due to the inherent risk of shoreline development, Special Condition #4 requires the applicant to waive liability and indemnify the Commission against damages that might result from the proposed development. In order to assure that future owners of the property receive notice of the conditions of this permit, Special Condition #7 requires that the terms and conditions of this permit be recorded as a deed restriction.

Therefore, in summary, the Coastal Commission’s geologist has concurred that the gunite on the bluff face is not a stabilization or erosion control structure and that the proposed residence will be adequately set back from the bluff edge (25 feet) and that the existing gunite on the bluff face is not necessary to support the new development, consistent with the provisions of the City’s certified LCP. In addition, the rip rap at toe of the coastal bluff was installed as a preventive measure rather than to address excessive erosion. As such, future shoreline protection is not necessary for the proposed development. The

existing gunite on the bluff face cannot be removed at this time as it will potentially result in damage to the bluff. However, it will be allowed to deteriorate over time. As such, the geologic integrity of the coastal bluff will be assured and the landform will be restored to its natural appearance after removal of the structures in the future, consistent with the geologic and blufftop stability provisions of the City's certified LCP. Therefore, the proposed development is consistent with the provisions of the certified LCP addressing geologic hazards and blufftop setbacks.

3. Public Views. Landscaping and fencing in the north and south yard areas of the house have the potential to obstruct public views of the ocean. Section 132.0403 of the Land Development Code states the following:

- (a) If there is an existing or potential public view and the site is designated in the applicable *land use plan* as a public view to be protected,
 - (1) The applicant shall design and site the *coastal development* in such a manner as to preserve, enhance or restore the designated public view, and
 - (2) The decision maker shall condition the project to ensure that critical public views to the ocean and shoreline are maintained or enhanced.
 - (b) A visual corridor of not less than the side yard setbacks or more than 10 feet in width, and running the full depth of the *premises*, shall be preserved as a deed restriction as condition of Coastal Development permit approval whenever the following conditions exist [emphasis added]:
 - (1) The proposed *development* is located on *premises* that lies between the shoreline and the first public roadway, as designated on Map Drawing No. C-731; and
 - (2) The requirement for a visual corridor is feasible and will serve to preserve, enhance or restore public views of the ocean or shoreline identified in the applicable *land use plan*.
 - (c) If there is an existing or potential public view between the ocean and the first public roadway, but the site is not designated in a land use plan as a view to be protected, it is intended that views to the ocean shall be preserved, enhanced or restored by deed restricting required side yard setback areas to cumulatively form functional view corridors and preventing a walled off effect from authorized development.
- [...]
- (e) *Open fencing* and landscaping may be permitted within the view corridors and visual accessways, provided such improvements do not significantly obstruct

public views of the ocean. Landscaping shall be planted and maintained to preserve public views.

In addition, the City's certified implementation plan defines open fencing as "a fence designed to permit public views that has at least 75 percent of its surface area open to light." Given that the proposed development is located between the first coastal road and sea, it is subject to the above-cited LCP policies and ordinances that protect visual resources.

The certified La Jolla-La Jolla Shores LCP Land Use Plan also contains numerous policies addressing the protection of public views toward the ocean which are applicable to the proposed development and these include the following:

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

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

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

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

The subject site is located at the west side of Dolphin Avenue in La Jolla. All structural development (with the exception of the gunite on the bluff and rip rap at the toe of the bluff) is proposed to be removed from the subject property.

The LCP states that the view areas be at least as wide as the distance required for sideyard setbacks but not wider than 10 ft. As noted in the language of the certified LCP cited above, because the subject site is located between the first public road and sea, the proposed development is required to preserve, enhance or restore the designated public view. The Commission has routinely restricted landscaping in the yard areas to a height of no more than 3 ft., as landscape elements that are higher than 3 ft. would have the potential to impede or block views to the ocean along major coastal access routes and other properties between the first coastal road and sea. It is also easier to monitor post-Commission action condition compliance if an exact measurement for the proposed landscaping in these restricted areas is required. In this particular case, restricting landscaping to low-level vegetation in the north and south yards, potential views of the ocean will be enhanced. In addition, as noted above, only open fencing is permitted in the setback areas to enhance public views and to prevent a "walled off" effect. In the

Coastal Overlay Zone of the City's LDC, open fencing must be at least 75 percent "open".

If restrictions on landscape materials and fencing were not imposed in the yard areas of the subject site, public views toward the ocean would not be enhanced, pursuant to the policies of the certified LCP. Presently, there are no views across the subject site in the sideyard setback areas as they are blocked due to an existing solid fence constructed across both the south and north side yard setback areas. In this particular case, all existing development is being removed from the subject site. As such, there is an opportunity to improve and enhance public views toward the ocean in both the south and north yard setback areas of the subject site through requirements to include low-level (no higher than 3 ft.) landscape elements in these areas and that fencing contain open materials as well.

Therefore, consistent with the certified LCP, Special Condition #2 requires the north and south yard areas be restricted for purposes of ensuring public views in this location are maintained. The condition requires that any proposed fencing in the side yard setback areas be composed of open materials to assure any existing public views are maintained and potentially enhanced. In addition, although the existing gunite on the bluff face is visually obtrusive, it cannot be removed at this time as it could cause damage to the bluff. However, over time, as the structure deteriorates, the applicant will be required to apply to remove them, which will visually enhance the bluff, consistent with the visual resource policies of the certified LCP. Special Condition #7 requires that the permit and findings be recorded to let future property owners know of the restrictions placed on this permit.

In addition, the newly proposed two-story residence will be visually compatible in scale and size with the character of the surrounding community. As conditioned, the project is consistent with the certified LCP.

4. Public Access. Section 30211 of the Coastal Act is applicable and states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Upon reliance of these policies of the Coastal Act, the certified La Jolla-La Jolla Shores LCP contains policies to protect public access as well which include the following:

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.

New development should not prevent or unduly restrict access to beaches or other recreational areas.

"The City's beach and parkland along the shoreline should be expanded wherever possible."

"Construction, grading, or improvements of any sort, except those mentioned in this plan, should be discouraged at beach areas. Public access to the shoreline should be increased (or improved) wherever possible." [emphasis added]

"Vertical Access

...In all new development between the nearest coastal roadway and the shoreline the City will make a determination of the need to provide additional vertical access easements based upon the following criteria:

[...]

e) public safety hazards and feasibility of reducing such hazards. [...]"

The subject site is located on a blufftop property on the west side of Dolphin Place in the La Jolla community of the City of San Diego. Sea Rose Lane, a paper street, is located at the toe of the coastal bluff. There is an improved accessway at the streetend of Bird Rock Avenue, six lots north of the subject site but the bluffs are steep and dangerous. Lateral access along the shoreline is also cumbersome due to the presence of existing rip rap at the toe of the coastal bluffs. Adequate vertical access exists in the area and access at this location is not necessary. The safest vertical access to the ocean is at the streetend of Bird Rock Avenue which contains a vertical access stairway. In addition, approximately four-and-a-half blocks south of the subject site, adjacent to Calumet Park, the bluffs are lower in height and access to the beach below is possible through an unimproved foot trail. In summary, the proposed project will not adversely affect public access opportunities in this area and is consistent with the certified LCP and the public access and recreation policies of the Coastal Act.

5. Runoff/Water Quality. Section 30231 of the Coastal Act requires that the biological productivity of coastal waters be maintained by, among other means, controlling runoff:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrapment, controlling runoff,

The proposed development will be located at the top of the bluffs overlooking the Pacific Ocean. As such, drainage and run-off from the development could potentially affect water quality of coastal waters as well as adversely affect the stability of the bluffs. . All drainage from the development site, including run-off from the roof, drain away from the bluff and towards Dolphin Place into the City's storm drain system. Water is also proposed to be captured from the roof with roof drains and internal downspouts which will discharge to street gutter through sidewalk underdrains. In addition, all drainage

from the rear yard and portions of the side yards will be collected and pumped to the street with a sump pump. In order to protect coastal waters from the adverse effects of polluted runoff, the Commission has typically required that all runoff from impervious surfaces be directed through landscaping as filter mechanism prior to its discharge into the street. In this case, however, directing runoff into blufftop landscape areas could have an adverse effect on bluff stability by increasing the amount of ground water within the bluff material can lead to bluff failures. Therefore, in this case, reducing the potential for water to be retained on the site, will be more protective of coastal resources. Therefore, the Commission finds the proposed project consistent with Sections 30231 of the Coastal Act.

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

The subject site is zoned RS-1-7 and is designated for residential use in the certified La Jolla Land Use Plan. The proposed single family residence is consistent with that zone and designation. The subject site is also located within the Sensitive Coastal Bluffs overlay zone of the City's implementation plan. The proposed residence, as conditioned, can be found consistent with the ESL overlay. Special Condition #5 advises the applicant that the subject coastal development permit does not have an effect on conditions imposed by the City of San Diego for the subject development.

The certified La Jolla-La Jolla Shores LCP Addendum contains policies which address shoreline protective devices, protection and improvement of existing visual access to the shoreline and that ocean views should be maintained in future development and redevelopment. With regard to the proposed siting of the proposed residence, it has been documented that the proposed development will be adequately set back from the bluff edge and is not dependent on the existing gunite on the bluff face nor the rip rap at the toe of the coastal bluff seaward of it. In addition, the certified LUP calls for opening up of yard areas (or setbacks) to enhance visual access to the sea. Therefore, as conditioned such that all new proposed plantings within the yard setback (south and north yards) be low level vegetation so as to not obstruct views toward the ocean in the yard setback areas, and that any proposed fencing be composed of 75% open materials, the proposed development is consistent with the public access policies of the Coastal Act and the certified LUP. Therefore, the proposed development, as conditioned, is consistent with the certified LCP and the public access policies of Chapter 3 of the Coastal Act.

7. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible


mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

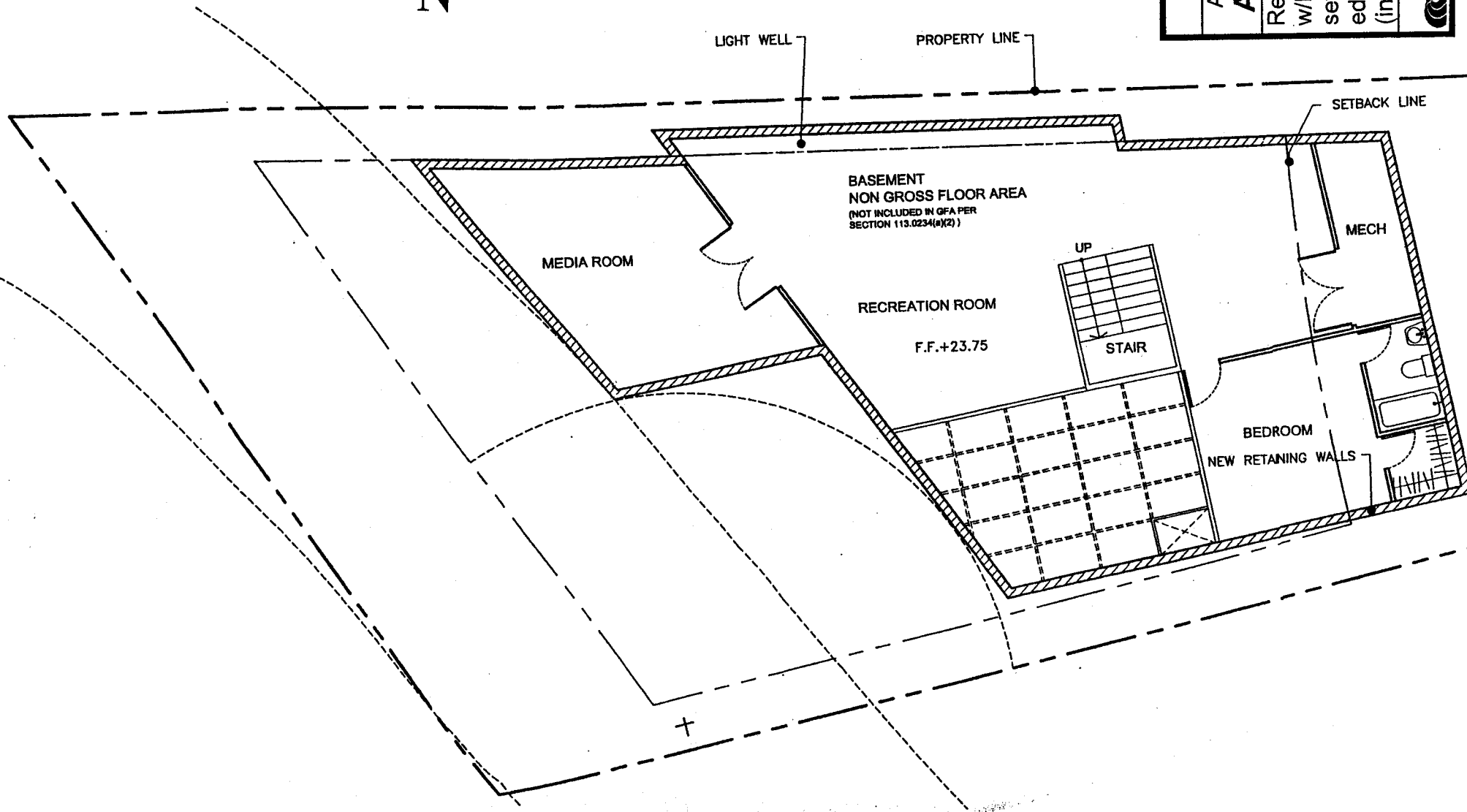
The proposed project has been conditioned in order to be found consistent with the the certified LCP and the public access policies of Chapter 3 of the Coastal Act. Mitigation measures, including conditions addressing geologic setback, landscaping and fencing to enhance public views to the ocean, will 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 is consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.



EXHIBIT NO. 2
APPLICATION NO. A-6-LJS-03-21
Revised Site Plan w/Proposed 25 ft. setback from bluff edge and sea cave (in concept only)
 California Coastal Commission





DRAWING NUMBER	Figure 2
----------------	----------

A'

40

20

edge of bluff

existing res.

D'

D

30

20

0

Sea cave

surge channel

Bay Point Fm

Point Loma Fm.

RECEIVED

APR 28 2003

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

GEOLOGIC SECTIONS A-A' - D-D'

SCALE:

APPROVED BY:

DR.

DATE:

REV

MICHAEL W. HART, ENGINEERING GEOLC
P.O. BOX 261227 SAN DIEGO CALIFORNIA 92196 PH.

DR.

EXHIBIT NO. 4

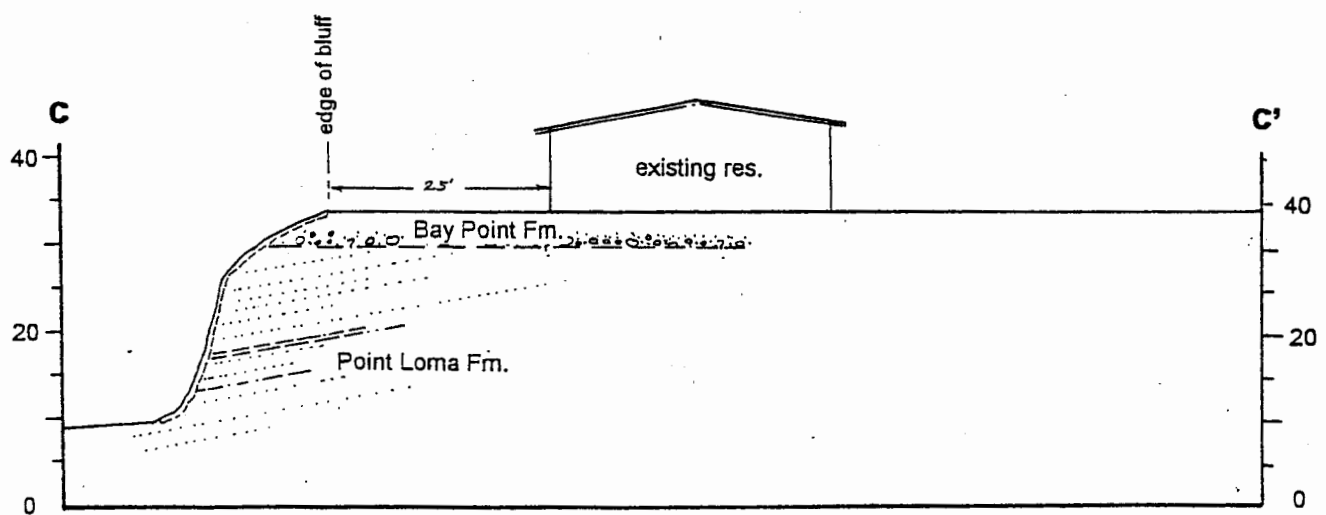
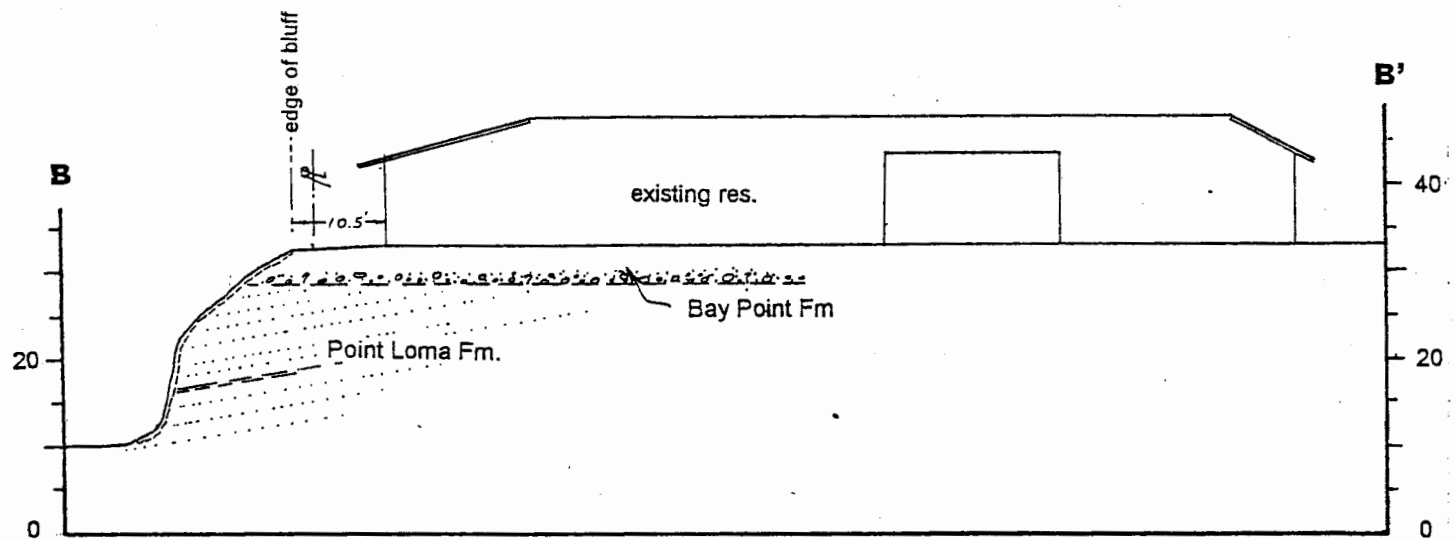
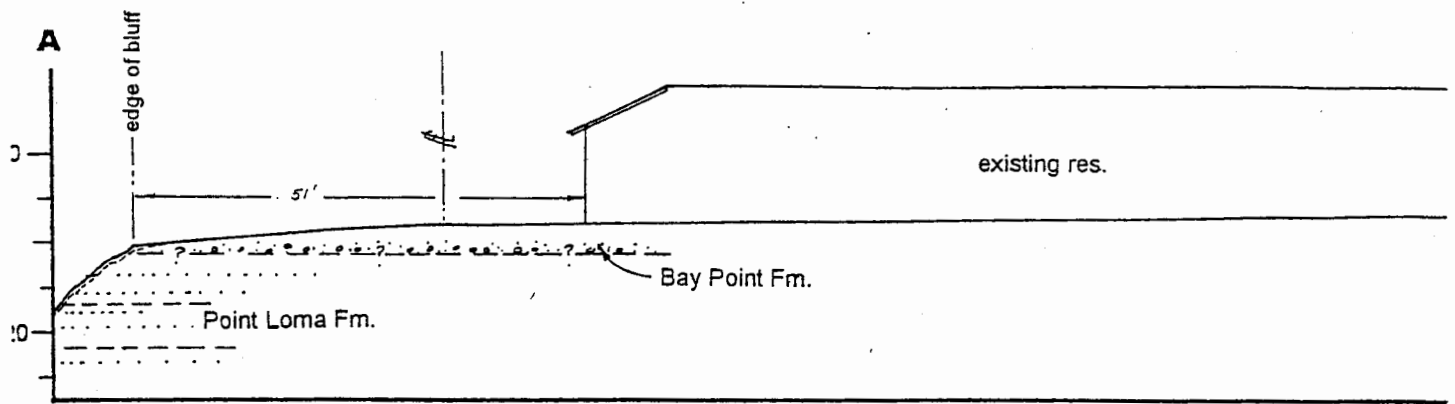
APPLICATION NO.

A-6-LJS-03-21

Cross-Sections from
Geotechnical Rpt

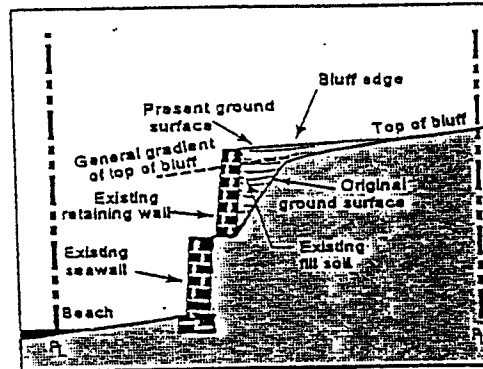


California Coastal Commission



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

Diagram III-4: Modified Landform

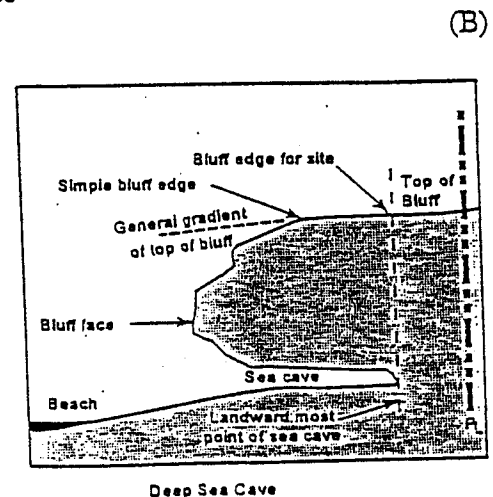
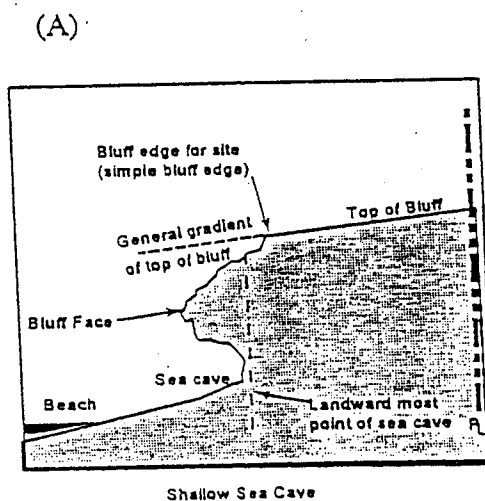


Modified Landform

(5) Sea caves

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

Diagram III-5: Sea Caves



(6) Gullies

EXHIBIT NO. 5

APPLICATION NO.

A-6-LJS-03-21

Exhibit re: sea caves
from LDC Beaches
and Bluffs Guidelines

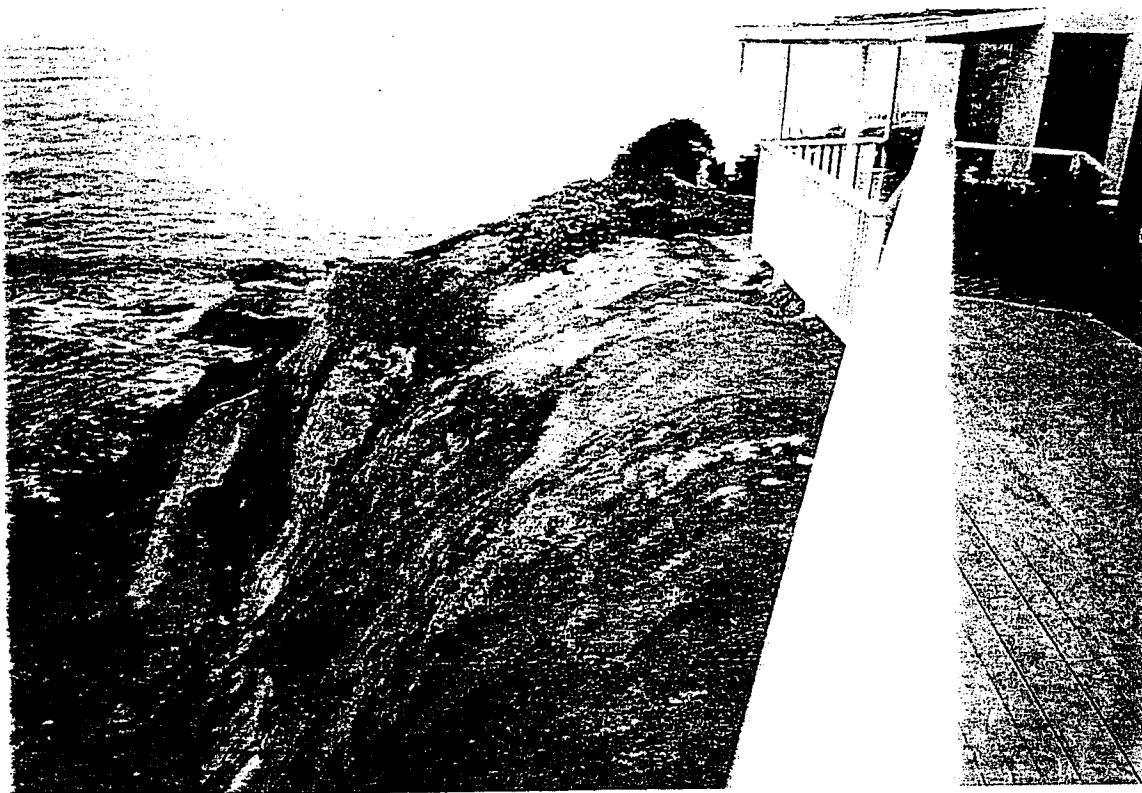


Figure 5. View of gunitite wall looking westerly from top of bluff.



Figure 6. Gunitite covered bluff from beach level. The undermined area is located at the base of the bluff to the left of the vegetation at the end of the wall. The sea-cave is located behind the vegetation near the base of the bluff.

EXHIBIT NO. 6

APPLICATION NO.

A-6-LJS-03-21

Photo from Geolog
Report of Existing
Gunitite on
Subject Site

