

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

RECORD PACKET COPY**F 16 a**

Filed: 1/09/04
49th Day: 2/27/04
180th Day: 7/07/04
Staff: MS-LB
Staff Report: 4/22/04
Hearing Date: 5/14/04
Commission Action:

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NUMBER: A-5-PVE-03-087-A1

APPLICANT: Mary Ann Walker & Tim Dupler

PROJECT LOCATION: 1745 Paseo Del Mar, Palos Verdes Estates, Los Angeles County

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED (A-5-PVE-03-087):

Construction of a 7,407 square-foot, 30-foot high, 2 ½ story single family residence with an attached, 902 square-foot, 3-car garage and a detached, 445 square-foot pool house and a 6,938 square-foot sports court area on a 45,900 square-foot vacant bluff top lot at 1745 Paseo Del Mar in Palos Verdes Estates, Los Angeles County. The applicants propose approximately 1,932 cubic yards of grading and 6 to 8-foot high retaining walls and fencing around the sports court area. The applicants propose to install a row of fifteen 3-foot in diameter, 135-foot long caissons with tie-backs along a line set back 90 feet from the bluff edge on the seaward side of the proposed home.

DESCRIPTION OF AMENDMENT (A-5-PVE-03-087-A1):

Amend Special Condition No. 2 of Coastal Development Permit No. A-5-PVE-03-087. This special condition requires the applicant to refrain from interference with public passage along an existing trail by avoiding development within a 10-foot wide side yard setback along the northern side of the property. The amendment would allow the relocation of the 10-foot wide side yard setback from the northern side yard setback to the southern side yard setback. Both the existing (at present) and the proposed special condition (if approved) are written so that, whichever one applies, it would apply until the applicants provide evidence of a final ruling in a Quiet Title action in which the State was individually joined as a party that proves that no public rights exist to make any use of any portion of the subject property.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends the Commission **APPROVE** the proposed permit amendment with special conditions revising the previously approved permit Special Condition No. 2 requiring the applicant to submit final plans that include the relocation of the 10-foot wide side yard setback from the northern side yard setback to the southern side yard setback. The Commission is requiring the applicant to submit evidence showing that the 10-foot wide southern side yard access area and the 25-foot wide rear yard setback are both free and clear from all obstructions including trees. All previously approved special conditions remain in effect. **The motion is on Page 3.**

setback along the north side of the property free of all structures. The applicant has now proposed to move this open side yard setback area from the north side of the property to the south side of the property. The Executive Director has determined that the change in the location of this open setback would not lessen or avoid the intended effect of the originally approved permit.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. A-5-PVE-03-087 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment 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 A PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. SPECIAL CONDITIONS

1. Prior Conditions

Unless specifically altered by this amendment, all conditions imposed on the previously approved permit and/or amendments thereto shall remain in effect (See Exhibit 3).

2. Final plans

The following shall replace Special Condition 2 that was previously approved by the Commission.

A. PRIOR TO ISSUANCE OF PERMIT AMENDMENT NO. A-5-PVE-03-087-A1, the applicants shall submit final plans for the review and approval of the Executive Director. The final plans shall show:

1. The proposed project shall conform to the revised project plans dated September 8, 2003 that demonstrate the following:
 - a) None of the primary development (i.e. any portion of the residence or subterranean stabilization system) shall be constructed within the 10-foot wide

- 3) If the applicant chooses to have the trees physically removed in lieu of relocating the previously approved development, the trees shall be removed prior to the installation of the first caisson.

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

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description

On October 7, 2003 the California Coastal Commission approved Coastal Development Permit A-5-PVE-03-087 for the construction of a 7,407 square-foot, 29-foot 8-inch high, 2 ½ - story single family residence with an attached 902 square-foot garage and a detached 445 square-foot pool house on a bluff top lot in Palos Verdes Estates. The approved project also included a row of caissons at the seaward edge of the house and a 6,938 square-foot sports court to be located between the downcoast adjacent property and the proposed pool house and pool. The original permit contained nine special conditions requiring protection of public access, conformance to geotechnical and city engineer recommendations, erosion control, non-invasive and low-water use landscaping, conformance to City permit conditions of approval, assumption of risk and no future bluff protective device (Exhibit 3). The proposed amendment does not change any aspect of the previously approved project except for the location of the 10-foot wide side yard setback area that is to remain free and clear of all obstructions that may impede the public's access to the existing bluff trail that extends to the shoreline. All future mentions of this open space area will be referred to as "10-foot wide side yard setback". All previously approved special conditions remain in effect and the findings made with respect to geologic hazards, public views, water quality and landscaping still apply in this amendment. No new impacts are proposed.

As mentioned above, the previously approved project was required to maintain an open side yard area for potential future public access across the property. The applicant agreed to and a condition of approval required a 10-foot wide open space setback area along the northern side yard property line that extended to the bluff edge. The Commission also required that a 25-foot open space setback area be provided along the bluff edge. These areas are to be maintained free of any structures and open in case they are needed to accommodate public access to the existing bluff trail (known as the Cloyd Road Trail in the certified LCP). The applicant is now proposing to relocate the 10-foot wide side yard setback to the southern side yard between the south side property line and the approved tennis court (Exhibit 2).

The project is located at 1745 Paseo Del Mar in Palos Verdes Estates in a zoned R-1 neighborhood (Exhibit 1). The site consists of a 45,900 square-foot lot seaward of Paseo Del Mar, adjacent to existing single family residences on either side of the lot, fronting on an approximately 175-foot high sea bluff. There is a designated parkway (a setback area under the control, management and direction of the City) that abuts the subject property and is adjacent and parallel to the public street (between the front of the property and the street). The site contains various

of the Coastal Act. The proposed development is located between the first public road and the sea on a coastal bluff top lot. The nearest vertical coastal access, as depicted in the City's certified LCP as the Cloyden Road trail, is available on the subject site on the western edge (bluff edge) of the property. This trail is accessed from Paseo Del Mar and extends across the flat pad on the landward side of the property to the top of the bluff where it extends laterally, at an angle, down the bluff face to approximately 45 feet up from the toe of the bluff where the trail joins a city cement storm drain that continues down to the ocean (Exhibit 4).

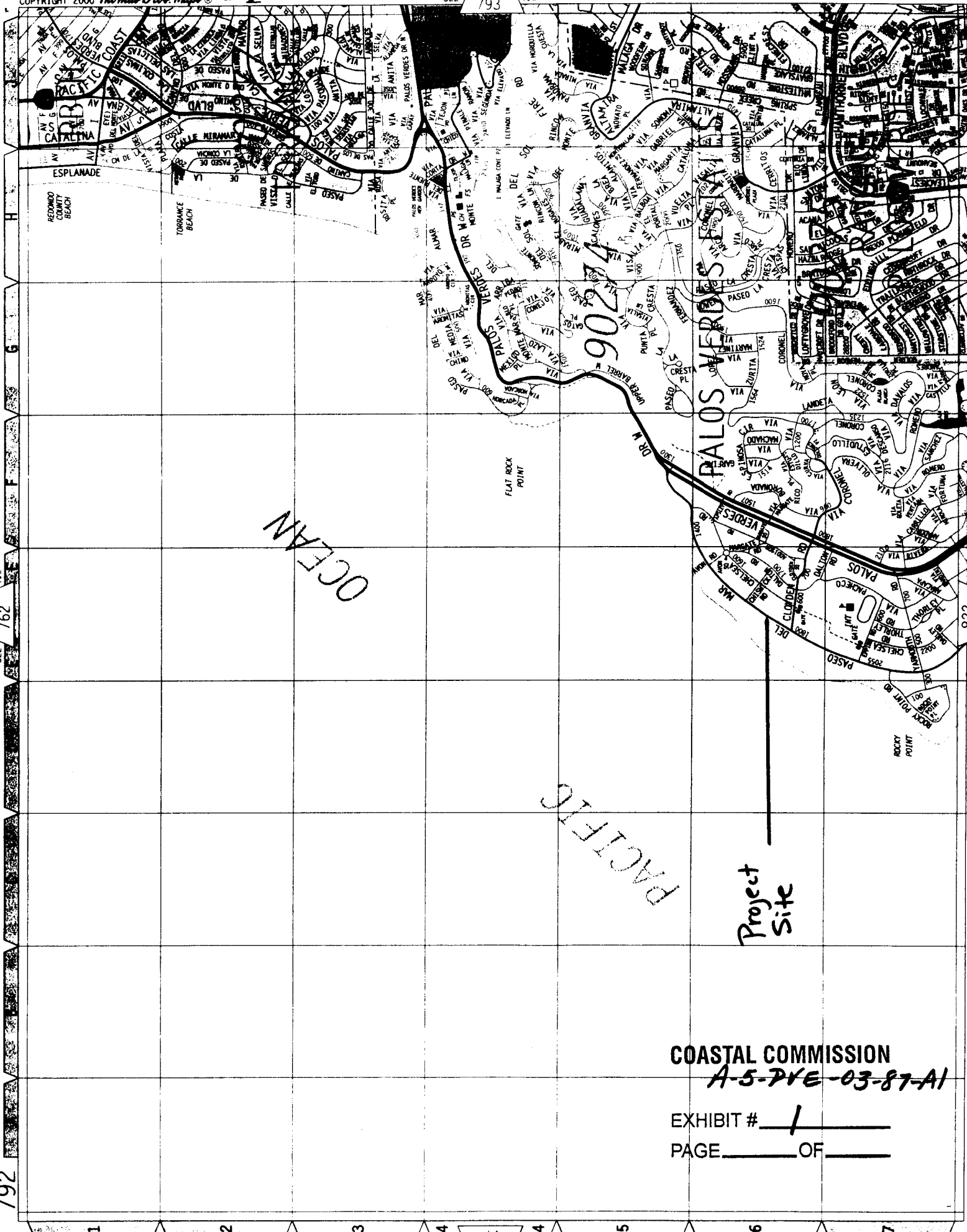
As a result of a prescriptive rights investigation which provided supporting evidence indicating that many members of the public use and have used both the subject property and the Cloyden Road Trail to access the shoreline, the Commission imposed a special condition in Coastal Development Permit No. A-5-PVE-03-87 that requires a 10-foot wide side yard setback along the northern side yard property line and a 25-foot open space setback area from the bluff edge that are to be maintained free of any objects or structures, allowing the public to continue accessing the bluff trail. The applicant is now requesting that Special Condition No. 2 of the original permit be revised to require the 10-foot wide side yard setback be located on the southern side of the property, between the southern side property line and the approved tennis court. The Commission finds that having the 10-foot wide side yard setback on the south side of the property instead of the north side would not interfere with any public right of access to the sea that may exist. The change in location does not change the degree to which access is or is not being provided and actually encourages access because the pathway is not abutting the walls of a family's home, where it may appear secluded and private. A tennis court with surrounding walls provides a more appropriate buffer between the 10-foot wide side yard setback and the owner's home. The Commission finds that revising the original permit's Special Condition No. 2 language to allow the 10-foot wide side yard setback to be relocated to the southern side yard is consistent with the certified LCP and the public access policies of the Coastal Act.

According to the project plans submitted by the applicant reflecting the proposed relocation of the 10-foot wide side yard setback from the northern side yard to the southern side yard, it appears that approximately 5 trees are located along the southern side yard within the proposed 10-foot wide open space access area. The Commission requires the applicant to either provide evidence showing that the proposed 10-foot wide side yard setback is free and clear of any objects, including tree trunks, or if existing trees are located within the 10-foot wide side yard setback, the applicant must show that the 10-foot wide side yard setback avoids the existing trees. The intent of the special condition is to assure that the 10-foot wide side yard setback is maintained free and clear of any obstructions that may block public access. The Commission finds the project as conditioned conforms to the public access policies of the Coastal Act.

C. California Environmental Quality Act

Section 13096 of the Commission's regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, 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 Commission finds that the proposed project, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. All adverse impacts have been minimized and there are no feasible



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EXHIBIT # 1

PAGE OF

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA OFFICE
P O BOX 1450
200 OCEANGATE 10TH FLOOR
LONG BEACH, CA 90802-4325
(562) 590-5071

Date: October 9, 2003

Permit Application No.: A-5-PVE-03-087

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**NOTICE OF INTENT TO ISSUE PERMIT**

(Upon satisfaction of special conditions)

THIS IS NOT A COASTAL DEVELOPMENT PERMIT

THE SOLE PURPOSE OF THIS NOTICE IS TO INFORM THE APPLICANT OF THE STEPS NECESSARY TO OBTAIN A VALID AND EFFECTIVE COASTAL DEVELOPMENT PERMIT ("CDP"). A Coastal Development Permit for the development described below has been approved but is not yet effective. Development on the site cannot commence until the CDP is effective. In order for the CDP to be effective, Commission staff must issue the CDP to the applicant, and the applicant must sign and return the CDP. **Commission staff cannot issue the CDP until the applicant has fulfilled each of the "prior to issuance" Special Conditions.** A list of all of the Special Conditions for this permit is attached.

The Commission's approval of the CDP is valid for two years from the date of approval. To prevent expiration of the CDP, you must fulfill the "prior to issuance" Special Conditions, obtain and sign the CDP, and commence development within two years of the approval date specified below. You may apply for an extension of the permit pursuant to the Commission's regulations at Cal. Code Regs. title 14, section 13169.

On **October 7, 2003**, the California Coastal Commission approved Coastal Development Permit No. **A-5-PVE-03-087**, requested by **Mary Ann Walker & Tim Dupler** subject to the attached conditions, for development consisting of: **Construction of a 7,407 square-foot, 30-foot high, 2 ½ story single family residence with an attached, 902 square-foot, 3-car garage and a detached, 445 square-foot pool house and a 6,938 square-foot sports court area on a 45,900 square-foot vacant bluff top lot at 1745 Paseo Del Mar in Palos Verdes Estates, Los Angeles County. The applicant proposes approximately 1,932 cubic yards of grading and 6 to 8-foot high retaining walls and fencing around the sports court area. A row of fifteen 3-foot in diameter, 135-foot long caissons with tie-backs are recommended by the City of Palos Verdes Estates and proposed by the applicant along a line setback 90 feet from the bluff edge, on the seaward side of the proposed home..** More specifically described in the application file in the Commission offices.

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A-5-PVE-387-A1

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NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions)

Date: **14 April 2004**

Permit Application No.: **A-5-PVE-03-087**

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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.

SPECIAL CONDITIONS:

NOTE: IF THE **SPECIAL CONDITIONS** REQUIRE THAT DOCUMENT(S) BE RECORDED WITH THE COUNTY RECORDER, YOU WILL RECEIVE THE LEGAL FORMS TO COMPLETE (WITH INSTRUCTIONS). IF YOU HAVE ANY QUESTIONS, PLEASE CALL THE DISTRICT OFFICE.

1. **Conformance of Design and Construction Plans to Geotechnical Reports**
 - A. All final design and construction plans, including foundation, grading and drainage plans, shall be consistent with all recommendations contained in the *Geotechnical and Engineering Geologic Investigation, 1745 Paseo Del Mar – Palos Verdes Estates*, prepared by Dale Hinkle, P.E. Inc., dated June 4, 2002 and as supplemented by *Response to City of Palos Verdes Estates' Review Letter dated July 23, 2002*, prepared by Dale Hinkle, P.E. Inc., dated October 29, 2002 and November 15, 2002 and the requirements of the City of Palos Verdes Estates Geotechnical Engineering Review Sheet, dated July 23, 2002.
 - B. The permittee shall undertake development in accordance with the final plans. Any proposed changes to the final plans shall be reported to the Executive Director. No changes to the final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

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EXHIBIT # 3
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NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions)

Date: **14 April 2004**

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- Use efficient irrigation systems to minimize nuisance water runoff and not use in-ground irrigation.
- Direct all rooftop and hardscape drainage to the street.
- The applicants shall employ no invasive, non-indigenous plant species, which tend to supplant native species, as identified on the California Native Plant Society publication "California Native Plant Society, Los Angeles -- Santa Monica Mountains Chapter handbook entitled Recommended List of Native Plants for Landscaping in the Santa Monica Mountains, February 5, 1996, " and/or by the California Exotic Pest Council.
- Vegetation shall be predominantly low water use plants for southern California coastal areas as defined by the University of California Cooperative Extension and the California Department of Water Resources in their joint publication: "*Guide to estimating irrigation water needs of landscape plantings in California*".
- No irrigation, planting or excavation shall occur on the bluff face without an amendment to this coastal development permit.

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

4. Erosion and Construction BMPs

A) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit final drainage and runoff control plans to the Executive Director for his or her review and written approval. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to minimize to the maximum extent practicable the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting engineering geologist to ensure the plan is in conformance with geologist's recommendations, and the submittal shall reflect that review and approval. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

1) Erosion and Drainage Control Plan

(a) The erosion and drainage control plan shall demonstrate that:

- During construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties, the beach, and the bluff face.
- The following temporary erosion control measures shall be used during construction: temporary sediment basins (including debris basins, debris

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EXHIBIT # 3

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NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions)

Date: **14 April 2004**

Permit Application No.: **A-5-PVE-03-087**

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erosion control measures shall be monitored and maintained until grading or construction operations resume.

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

5. Assumption of Risk, Waiver of Liability and Indemnity

A. By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from all applicable specific hazards, such as landslide, bluff retreat, erosion, and earth movement; (ii) to assume the risks to the applicants 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.

6. Future Development Restriction

A. This permit is only for the development described in coastal development permit No. A-5-PVE-03-087. Pursuant to Title 14 California Code of Regulations section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) shall not apply to the development governed by coastal development permit No. A-5-PVE-03-087. Accordingly, any future improvements to the single family house authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), shall require an amendment to Permit No. A-5-PVE-03-087 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

7. Public Rights

The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights that may exist on the property. The permittee shall not use this permit as evidence of a waiver of any public rights that may exist on the property.

8. Pool Leak Prevention Plan

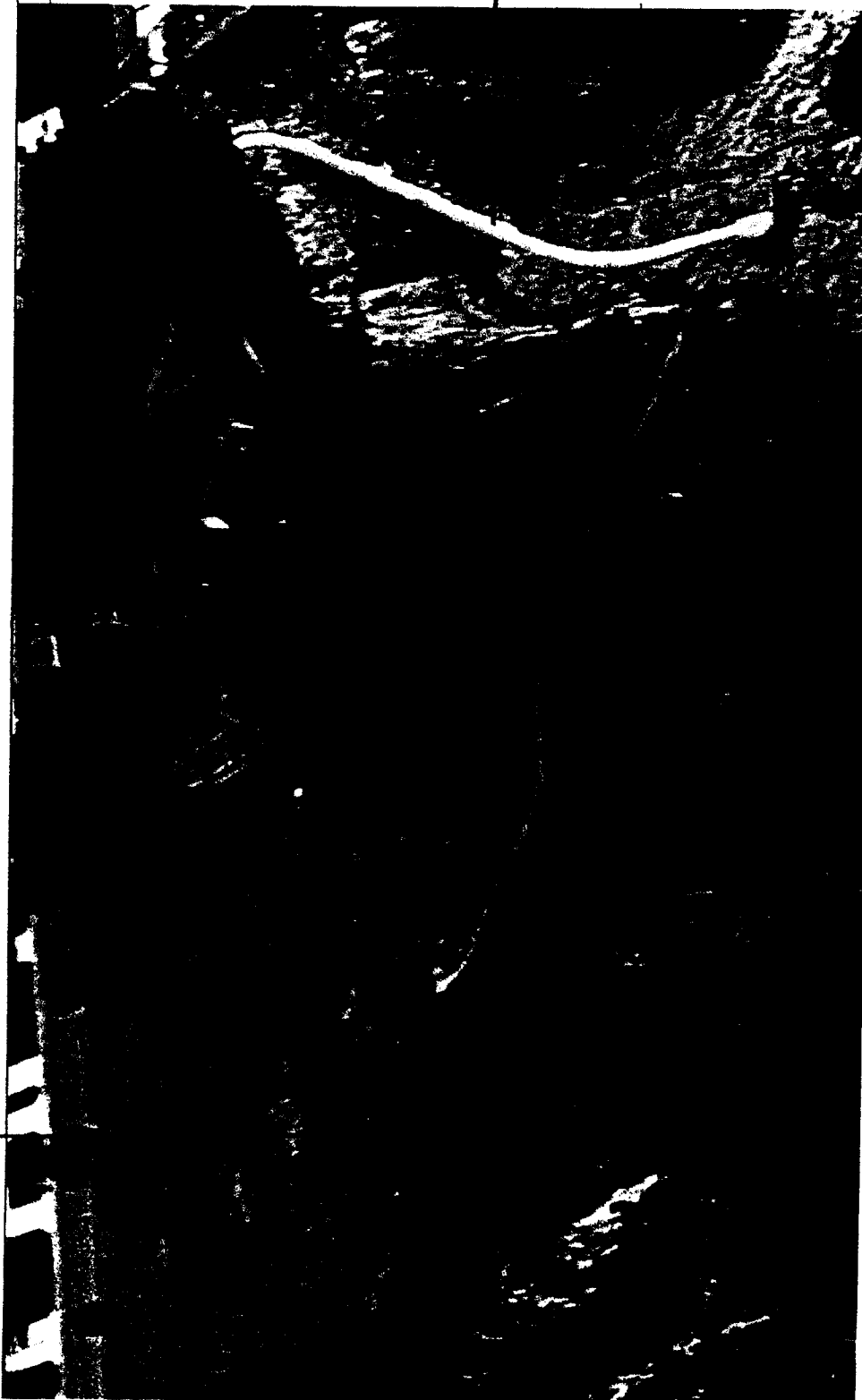
A) Prior to Issuance of the Coastal Development Permit, the applicants shall submit, for the review and approval of the Executive Director, a written plan to mitigate for the potential of

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A-5-PVE-387-A1

EXHIBIT # 3

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Project Site



Storm Drain

Cloyden Rd. Trail

California Coastal Records Project website
www.californiacoastline.org

COASTAL COMMISSION
A-5-PIE-387-A1

EXHIBIT # 4
PAGE _____ OF _____

AMENDMENT REQUEST FORM

RECEIVED

South Coast Region

MAR 29 2004

1. Permit Number A5-PVE-03-087-A1CALIFORNIA
COASTAL COMMISSION

2. Applicant's Name

Tim + Mary Ann Walker-Duplex310/521-9211

(area code and phone no.)

Name, mailing address and telephone number of applicant's representative, if any. Please include all representatives who will communicate on behalf of the applicant or the applicant's business partners, for compensation, with the Commission or staff. (It is the applicant's responsibility to update this list, as appropriate, including after the application is accepted for filing. Failure to provide this information prior to communication with the Commission or staff may result in denial of the permit or criminal penalties.

Tim + Mary Ann Walker-Duplex2129 Paseo Del MarSan Pedro, Ca 90732

Describe Proposed Amendment

More trail access from North side
of property to South side of property
Applicant's Agent Signature3/28/04
DateCOASTAL COMMISSION
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