

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

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**Wed 8d**

Staff: LJM-SD
Staff Report: 9/28/05
Hearing Date: 10/12-14/05

STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL GOVERNMENT: City of San Diego

DECISION: No Coastal Development Permit is Required

APPEAL NO.: A-6-LJS-05-071

APPLICANT: Victor Fargo

PROJECT DESCRIPTION: Demolition of an existing wooden deck and construction of a 25 ft. by 56 ft. split level pool with spa (with wooden decking surrounding it), including grading, on steep hillside in the rear yard of single-family residence on a 15,316 sq. ft. site located between the sea and the first public road parallel to the sea.

PROJECT LOCATION: 2610 Inyaha Lane, La Jolla, San Diego, San Diego County.
APN 344-310-05

APPELLANTS: Patricia M. Masters and Douglas L. Inman

STAFF NOTES:

At its August 9, 2005 hearing, the Commission found that a Substantial Issue exists with respect to the grounds on which the appeal was filed, in that the proposed project does require authorization via a coastal development permit, as it is not exempt from the permitting requirements of the Coastal Act. This report represents the de novo staff recommendation on the merits of the proposed project.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission deny the proposed project as it is inconsistent with the provisions of the certified Local Coastal Program (LCP) pertaining to protection of steep hillsides. The City's LCP includes development regulations for sites that contain steep hillsides. These regulations require that development avoid encroachment into steep hillsides and if encroachment is necessary to achieve reasonable use of the site, that such encroachment be minimized. In this particular case, while the site does contain steep hillsides, reasonable use has already been achieved. The subject site contains a

relatively flat pad where the existing home is located and then slopes steeply down to the west and into a large natural canyon (Sumner Canyon) that extends to the Pacific Ocean. The proposed development will occur entirely on steep hillsides and includes grading of the entire hillside area, excavation of the hillside to accommodate the pool and then construction of the two-level pool down the hillside beginning approximately 20 ft. west of the existing home. The steep hillside regulations of the certified LCP are perfectly clear regarding the siting of accessory uses and specifically prohibit the construction of pools and spas on steep hillsides. Because the pool and spa are proposed entirely on the steep hillside portion of the site, inconsistent with the LCP provisions, staff recommends the Commission deny the proposed request.

STANDARD OF REVIEW: Certified City of San Diego Local Coastal Program and the public access and recreation policies of the Coastal Act.

SUBSTANTIVE FILE DOCUMENTS: Certified City of San Diego Local Coastal Program (LCP); CDP #F6200

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-05-071 for the development proposed by the applicant.*

STAFF RECOMMENDATION OF DENIAL:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY THE PERMIT:

The Commission hereby denies a coastal development permit for the proposed development on the grounds that the development would not be in conformity with the provisions of the certified Local Coastal Program and the public access and recreation policies of the Coastal Act, and would result in significant adverse impacts on the environment within the meaning of the California Environmental Quality Act that are avoidable through feasible mitigation measures and/or alternatives to the proposal.

II. Findings and Declarations.

1. Project Description/Permit History. The proposed project involves the demolition of an existing approximately 18 ft. by 72 ft. wooden deck, grading (unknown amount) and construction of an approximately 25 ft. by 56 ft. split-level swimming pool/spa on a steep hillside in the rear yard of an existing single-family residence at 2610 Inyaha Lane in the La Jolla community of the City of San Diego. The project also includes a deck around the pool, a concrete/gunite slide down the face of the hillside that exits at the pool and landscaping of the remaining slope area. The project has been already partially constructed including the removal of the original deck, grading of the slope and construction of the concrete pool foundations and forming for the pool walls.

The subject site is located on the northwest end (cul-de-sac) of Inyaha Lane, just west of La Jolla Shores Drive (the first public road inland of the sea in this area) in the La Jolla community of the City of San Diego. The 15,316 sq. ft. lot contains a relatively flat pad where the existing home is located and then slopes steeply down to the west and into a large natural canyon (Sumner Canyon) that extends to the Pacific Ocean.

The creation of the lot (through a subdivision) and the construction of the home were originally approved by the City of San Diego Planning Commission on September 8, 1977 as part of a 5-unit Planned Residential Development (PRD) on 2.7 acres (PRD #114). Subsequently, on November 4, 1977, the Coastal Commission approved a coastal development permit (CDP) for the same development (ref. CDP #F6200). The CDP included special conditions that restricted development on those lots bordering the canyon (which includes the subject site) to the flat portions of the site such that no development could occur "west or canyon side of the 72.50 elevation line as indicated" on the project plans and that the development be graded such that drainage into Sumner Canyon was not increased significantly over that which occurred naturally. The 72.50 elevation line corresponds approximately with the edge of the steep hillside portions of the sites where the sloping hillside joins the flat pad on the canyon top. In March of 1978, the Commission approved an amendment to CDP #F6200 to reduce the number of residential units from five (5) to four (4). All other features and special conditions of the original approval remained the same. Upon review of the approved grading plans for the amended project, Commission staff confirmed that no grading was proposed or permitted beyond the canyon edge and no other coastal development permits or amendments to CDP #F6200 have since been approved by the City or the Coastal Commission for grading of the steep hillside.

However, in 1989, the City of San Diego approved an amendment to its original PRD to allow a 100 sq. ft. addition to the existing home at the subject site and a deck and lap pool in the rear yard of the home (ref. PRD #89-0734). At that time, the City had been delegated coastal development permit authority (authority was transferred in 1988). However, the City did not approve a corresponding CDP for the development approved by the PRD, as the Commission had done in 1977. Instead, the City exempted the project from coastal development permit review on the basis that it involved an improvement to a

single-family home located between the sea and the first public road parallel to the sea that did not increase floor area by more than 10% (ref. City of San Diego old Municipal Code section 105.0204(A)3). While the residential addition was subsequently constructed, the pool and deck were not. Subsequently, the City approved further additions to the home, finding that the proposed residential additions were in "substantial conformance" with PRD #89-0734. Specifically, in November of 1993, the City authorized a 476.75 sq. ft. addition to the existing 4,000 sq. ft. home and the addition of a wooden deck in the rear yard extending west over the steep hillside portion of the site (ref. November 16, 1993 letter from Kevin Sullivan to Michael Brekka – Exhibit #5). This time, the proposal included more than a 10% addition of floor area to an existing home located between the first public road and the sea. Therefore, it did not qualify for the exemption in section 105.0204(A)3 of the City's old Municipal Code. Nevertheless, the City did not require a coastal development permit for the proposed addition.

Relative to the subject development, the City of San Diego reviewed the request and found that the new proposed pool located on the steep hillside in the rear yard of the existing home did not require review under the City's delegated Coastal Act authority or issuance of a coastal development permit and on April 5, 2004, issued Ministerial Permit #75384/PTS #29138 allowing the pool to be constructed. Subsequently, construction on the pool began and a number of complaints were filed with the City by neighbors claiming that the steep hillside area of the site was graded and that this grading extended beyond the property line into the open space area of Sumner Canyon. Upon review by City staff, it appeared that grading exceeded that authorized in the ministerial permit and work was required to stop. Since that time, the City has been coordinating with the applicant to get additional information and require plans for restoration of the area where grading extended beyond the property line into the canyon. During this time the project was revised by the applicant, shifting the pool approximately 10 ft. to the north and adding a deck around the pool, relocating the pool equipment and adding landscaping on the slopes surrounding the pool. Recently, the City once again authorized work to commence on this new pool project without requiring a coastal development permit. While the City's records do not indicate when construction was again permitted to continue, a landscape plan approval was stamped as approved by the City on April 29, 2005. Thus, it was sometime after this date that the City authorized the applicant to commence work on the now revised project.

On July 19, 2005 an appeal of the City's decision to not require a coastal development permit for the pool development was filed with the Commission. On August 9, 2005 the Commission found that the appeal raised a Substantial Issue, as the proposed project did not qualify for an exemption from Coastal Act permitting requirements pursuant to either the City's certified LCP or the regulations promulgated by the Commission to implement the Coastal Act.

While the project site is located within the City of San Diego' CDP permit jurisdiction, the project is being reviewed by the Commission on appeal. Thus, the standard of review

is the certified LCP as well as the public access and recreation policies of the Coastal Act.

2. Development on Steep Hillside/Visual Resources. The subject development involves the construction of a pool/spa on a steep hillside area of a site containing an existing single-family residence. Steep Hillside is defined in the City's certified implementation plan (Land Development Code) as follows:

Steep hillside means all lands that have a slope with a natural gradient of 25 percent (4 feet of horizontal distance for every 1 foot of vertical distance) or greater and a minimum elevation differential of 50 feet, or a natural gradient of 200 percent (1 foot of horizontal distance for every 2 feet of vertical distance) or greater and a minimum elevation differential of 10 feet.

The 15,316 sq. ft. project site contains an existing two-story single-family residence on the level portion of the lot adjacent to Inyaha Lane. West of the residence there is an existing tiled patio that extends approximately 16 ft. to 24 ft. from the home. Just beyond the edge of the patio, the site slopes steeply downward (greater than 25% gradient) to the western property line. From the property line westward, the slope continues down and into a large natural canyon (Sumner Canyon) that extends to the Pacific Ocean.

As cited above, in order for the project site to be considered a "steep hillside" under the City's LCP, three criteria must be met: 1) the land must have a slope with a natural gradient; 2) the slope must be 25 percent (4 feet of horizontal distance for every 1 foot of vertical distance) or greater; and, 3) there must be a minimum elevation differential of 50 feet. As is explained below, all three criteria are satisfied in this case.

It is not clear what, if any, vegetation existed on this steep hillside prior to the grading as the entire area has been cleared and graded. However, according to the applicant, native vegetation was not present on the slope as it had been removed to meet necessary brush management requirements for the home/deck. While vegetation on hillside may have previously been removed to meet necessary fire safety regulations, such brush management requirements did not include grading (the presence of native vegetation on the slope is not necessary in determining whether or not the slope gradient is natural) and the gradient of the slope remains natural. As noted in the project description above, when the Coastal Commission approved development of the site, a special condition was placed on the permit to protect the steep hillside area and the adjacent Sumner Canyon which states:

Special Conditions:

1. That no development occur to the west or canyonside of the 72.50 elevation line as indicated on the attached plot plan. [ref Exhibit Nos. 9 & 10 attached] This would prevent any filling or supportive structures which may create or contribute significantly to erosion or geologic instability of the site.

The findings supporting this condition state that:

...adherence to Special Condition 1 will effectively assure that development along the canyon rim will not create nor contribute significantly to erosion or geologic instability **while providing for preservation of the canyon rim natural landforms.** [emphasis added]

Subsequently, the permit was amended to reduce the development from 5 to 4 units (ref. Exhibit #11 attached). Specifically, the amended project description is as follows:

PROPOSED AMENDMENT: The applicant proposes to reduce the number of residences from five to four. The amended project would result in more landscaped open space and less building coverage. **All the special conditions attached to the original approval remain in force.** [emphasis added]

In reviewing the amended project plans, Commission staff determined that the proposed home at 2610 Inyaha Lane, while increased slightly in size (approximately 250 sq. ft.), was re-sited further back from the top of the slope than the originally-approved home and now included a deck extending slightly beyond the top edge of the slope. As the approved grading plans do not show any grading beyond the top of the slope, it is assumed the portion of the deck that extended beyond the top of slope was cantilevered. This would be consistent with the previous special conditions that prohibited development beyond the top of slope to prevent any filling or supportive structures. No other coastal development permits have been issued to authorize development or grading beyond the top of the slope.

The applicant's consultants have suggested that the proposed pool is not on a steep hillside because the slope is not a "natural gradient," as it was previously graded. In support of their claim, they have presented a copy of a grading plan for the original PRD approval that purports to show grading beyond the top of the slope (ref. Exhibit #8 – Page 17 of 62). However, this plan is not the approved grading plan for the project, but instead represents an old plan that was required to be revised by the Commission's approval of the original PRD (but that has also been modified by the consultant). Neither the original approval for 5 units, nor the amended project (4 units) allowed grading to occur beyond the canyon rim. As noted above, the original 5-unit PRD approval by the Commission required that the project be revised such that no development occur beyond the canyon rim (72.50 elevation). Exhibit #9 (attached) is a copy of the original Coastal Commission staff report for the 5-unit PRD that includes an exhibit depicting the canyon area and the 72.50 elevation beyond which no development was permitted to extend. Exhibit #9 also includes a copy of the site plan for the original 5-unit PRD approved by the Coastal Commission, which includes a note "CANYON AREA (not to be developed)" as the darkened area. The topography on the plan that the applicant's representative claim is proposed grading is noted as "existing topography", not proposed grading. In addition, the approved grading plans for the approved PRD, as amended, clearly show no grading

beyond the canyon rim, and no such grading could have been allowed consistent with the conditions listed above.

The applicant's claim, that the amended project deleted the requirement to maintain all development behind the 72.50 elevation, is also not correct. Again, as noted above, the revised project approved by the Commission in 1978 only reduced the project from 5 units to 4 units and specifically noted that "[a]ll the special conditions attached to the original approval remain in force." Thus, if any grading has occurred on the steep hillside portion of the site, it was done without proper authorization and is inconsistent with the Commission's approval as originally issued or as amended. Therefore, the western facing slope where the pool/spa is proposed must be considered a "natural gradient".

It should be noted that there was a violation complaint filed in 1979. This complaint indicated that grading had occurred beyond the edge of the canyon inconsistent with the Commission's approval of the subdivision. While the applicant's representative claims that the Commission did not pursue the complaint because the project had been revised to allow grading over the canyon edge, this too is not correct. No records, other than the violation complaint, exist regarding this matter. There is no records or any evidence that would suggest that the Commission dismissed the complaint because it had allowed grading over the canyon rim. In fact, it is not clear if the complaint even pertains to the slope on the subject site. In any case, this complaint does not in any way support the applicant's claim that the Coastal Commission authorized grading beyond the canyon rim nor that the western facing slope of the subject site should not be considered a "natural gradient".

In addition, the project plans for the original development and the proposed pool documented that the slope on which the pool is proposed has a gradient of greater than 25 percent. Lastly, while the elevational differential on the subject site is less than 50 ft. (approximately 25 ft in elevation drop from the top of the slope to the western property line), the LCP includes a provision explaining how the elevation differential is to be calculated and expressly stating that an off-site analysis of the adjacent property is appropriate to determine whether the slopes on the subject site are part of a steep hillside system that extends off-site and exceeds the 50-foot elevational differential requirement. As cited above, the LCP provides that if the 50-foot elevation is met when considering the extension of the steep hillsides off-site, the subject site will be subject to the steep hillside regulations. In this particular case, the hillside continues well past the western property line with a total elevational differential of greater than 100 ft. Therefore, based on the above discussion, the subject site meets all of the LCP requirements to be considered a steep hillside.

Given that the project site is considered a steep hillside, the Steep Hillside Regulations of the certified LCP apply unless the development is exempt from coastal development permit review. The Commission has already found that project is not exempt from coastal development permit review as detailed in the findings for Substantial Issue, which

are herein incorporated by reference (ref. Coastal Commission Substantial Issue Staff Report #A-6-LJS-05-071 dated July 28, 2005). Therefore, the Steep Hillside Regulations of the City's LCP apply and state, in part:

Policy 4 (Page 51/52) of the Natural Resources and Open Space Element of the certified La Jolla LUP states, in part:

4. Steep Hillsides

- a. The City shall apply the Environmentally Sensitive Lands regulations to all new development on property in La Jolla having slopes with a natural gradient of 25 percent or greater and a minimum differential of 50 feet. The Environmentally Sensitive Lands regulations provide supplementary development regulations to underlying zones such as development encroachment limits for natural steep slopes, erosion control measures and compliance with design standards identified in the Steep Hillside Guidelines. Development on steep hillsides shall avoid encroachment into such hillsides to the maximum extent possible. When encroachment is unavoidable, it shall be minimized and in accordance with the encroachment limitations standards contained in the plan. These regulations assure that development occurs in a manner that protects the natural and topographic character of the hillsides as well as insure that development does not create soil erosion or contribute to slide damage and the silting of lower slopes. Disturbed portions of steep hillsides shall be revegetated or restored to the extent possible.
- b. The City shall not issue a development permit for a project located on steep hillsides in La Jolla, unless all the policies, recommendations and conditions identified in this plan element are met.

Plan Recommendation 5 (Pages 61-64) of the Natural Resources and Open Space Element of the certified La Jolla LUP states, in part:

5. Steep Hillsides

In addition to the recommendations contained in the Residential Element of this plan and the requirements of the Land Development Code, including the Environmentally Sensitive Lands regulations and the Steep Hillside Guidelines of the Land Development Manual, the following Hillside Development Guidelines shall be used as requirements in evaluating new development on all properties containing slopes in La Jolla which equal or exceed 25 percent:

- a. Keep driveways, parking areas, tennis courts, swimming pools, and other accessory uses to a minimum, and locate them on more level portions of the site in slopes below 25 percent.

[...]

- k. Set back large residential structures from the top of steep hillsides so that the design and site placement of a proposed project respect the existing natural landform and steep hillside character of the site. This is especially important for those locations that are visible from natural open space systems, parklands, major coastal access routes and the seashore. The reservation of the natural character of these areas depends upon minimizing visual intrusions.

The Environmentally Sensitive Lands (ESL) Regulations of the City's Land Development Code address development on steep hillsides. The following provisions of the ESL Regulations are applicable to the proposed development.

Section 143.0110 When Environmentally Sensitive Lands Regulations Apply

This division applies to all proposed development when environmentally sensitive lands are present on the premises.

- (a) Where any portion of the premises contains any of the following environmentally sensitive lands, this division shall apply to the entire premises, unless otherwise provided in this division:

- (1) Sensitive biological resources;

- (2) Steep hillsides;

- [...]

Section 143.0113 Determination of Location of Environmentally Sensitive Lands, Applicability of Division and Decision Process

- (a) In connection with any permit application for development on a parcel, the applicant shall provide the information used to determine the existence and location of environmentally sensitive lands in accordance with Section 112.0102(b).
- (b) Based on a project-specific analysis and the best scientific information available, the City manager shall determine the existence and precise location of environmentally sensitive lands on the premises.

Section 143.0142 Development Regulations for Steep Hillsides

Development that proposes encroachment into steep hillsides or that does not qualify for an exemption pursuant to Section 143.0110(c) [not applicable here] is subject to

the following regulations and the Steep Hillside Guidelines in the Land Development Manual.

[...]

- (4) Within the Coastal Overlay Zone, steep hillsides shall be preserved in their natural state and coastal development on steep hillsides containing sensitive biological resources or mapped as Viewshed or Geologic Hazard on Map C-720 shall avoid encroachment into such steep hillsides to the maximum extent possible.

[...]

- (b) All development occurring in steep hillsides shall comply with the design standards identified in the Steep Hillside Guidelines in the Land Development Manual for the type of development proposed.
- (f) Any increase in runoff resulting from the development of the site shall be directed away from any steep hillside areas and either into an existing or newly improved public storm drain system or onto a street developed with a gutter system or public right-of-way designated to carry surface drainage run-off.
- (h) All development on steep hillsides located in La Jolla or La Jolla Shores Community Plan areas, shall, in addition to meeting all other requirements of this section, be found consistent with the Hillside Development Guidelines set forth in the La Jolla – La Jolla Shores Local Coastal Program land use plan.

In order to help the City interpret the development regulations for steep hillsides, the City of San Diego has developed the Steep Hillside Guidelines (which are included as a component of the City's certified LCP). The following provisions of the guidelines are applicable to the proposed development.

Steep Hillside Guidelines Introduction

The Steep Hillside Guidelines are divided into four sections, each providing standards and guidelines intended to assist in the interpretation and implementation of the development regulations for steep hillsides contained in Chapter 14, Article 3, Division 1, Environmentally Sensitive Lands. **Every proposed development that encroaches into steep hillsides will be subject to the Environmentally Sensitive Lands Regulations and will be evaluated for conformance with the Steep Hillside Guidelines as part of the review process for the required Neighborhood Development Permit, site Development Permit or Coastal Development Permit.** [emphasis added]

[...]

Section 1 DESCRIPTION OF REGULATIONS

(A) 143.0110 When Environmentally Sensitive Lands Regulations Apply

Generally, the steep hillside regulations of the environmentally Sensitive Lands regulations are applicable when development is proposed on a site containing any portions with a natural gradient of a least 25 percent (25 feet of vertical distance for every 100 feet of horizontal distance) and a vertical elevation of at least 50 feet....

[...]

(B) 143.0113 Determination of Location of Environmentally Sensitive Lands, Applicability of Division and Decision Process

The determination of the precise location of the steep hillsides on a site shall be made with the information submitted by the applicant, and any other information available, including City maps and records and site inspections....Within the Coastal Overlay Zone, a Neighborhood Development Permit or Site Development Permit is required whenever steep hillsides are located on the premises regardless of encroachment into the steep hillside, and a Coastal Development Permit is required for all coastal development, unless exempt pursuant to Section 126.0704 of the Coastal Development Permit procedures.

[...]

If the site contains steep hillsides but does not have 50 feet of vertical elevation, an off-site analysis of the adjacent property(s) must be made to determine whether the steep hillsides on the subject site are part of a steep hillside system that extends off-site and exceeds the 50-foot elevation. See Diagram 1-2. If the 50-foot elevation is met when considering the extension of the steep hillsides off-site, the subject site will be subject to the steep hillside regulations.

[...]

- (4)(a) Within the Costal Overlay Zone, projects proposing to encroach into steep hillsides shall be subject to the discretionary regulation identified in Section 143.0142(a)(4) of the Environmentally Sensitive Lands regulations. Projects shall be evaluated on a case-by-case basis to determine if encroachment, as defined in Section 143.0142(a)(4)(D) of the Environmentally Sensitive Lands regulations, can be permitted. It is the intent of the regulations and the Steep

Hillside Guidelines that development be located on the least sensitive portions of a site and that encroachment into areas containing steep hillsides, sensitive biological resources, geologic hazards, view corridors identified in adopted land use plans or viewsheds designated on Map C-720, be avoided or minimized if unavoidable. Projects proposing to encroach into steep hillsides shall demonstrate conformance with the Environmentally Sensitive Lands regulations and the Design Standards in Section II of the Steep Hillside Guidelines and result in the most sensitive design possible.

Encroachment shall not be permitted for the following:

- Projects where the encroachment is solely for purpose of achieving the maximum allowable development area;
- **Accessory uses or accessory structures including, but not limited to patios, decks, swimming pools, spas, tennis courts, other recreational areas or facilities, and detached garages, ... [emphasis added]**

[...]

As noted in the project description, the subject site contains an existing single-family residence with a rear yard patio. The western portion of the site slopes steeply down from the patio. Beyond the western property line the steep slopes continue to the west and into a large natural canyon (Sumner Canyon) that extends to the Pacific Ocean. Sumner Canyon and the surrounding area is for the most part natural. Single-family residential development does border the canyon, but is set back along the canyon rim. For the most part, no structures extend beyond the canyon rim into the adjacent steep natural hillsides. The purpose and intent of the Steep Hillside Regulations is to assure that development occurs in a manner that protects the overall quality of the resources and the natural and topographic character of the area. The reservation of the natural character of these areas depends upon minimizing visual intrusions. This is especially important for those locations that are visible from natural open space systems, as is the case with the subject proposal, which is located adjacent to, and is visible from, the Scripps Coastal Reserve.

The proposed development will occur entirely on steep hillsides and includes removal of an existing wooden deck, grading of the entire hillside area, excavation of the hillside to accommodate the pool and then construction of the two-level pool on the steep hillside. The above-cited steep hillside regulations require that development on steep hillsides be avoided and that if unavoidable, development be minimized. The LCP provisions allow for some encroachment into steep hillsides, but only in those circumstances where such an encroachment cannot be avoided due to a predominance of steep slopes rendering the site otherwise undevelopable. For the proposed development, such is not the case. The applicant already has achieved reasonable use of the site with the existing single-family residence and its associated yard and patio areas, which were constructed on the flat, non-

steep portions of the site. As such, based on the above-cited LCP provisions, there is no requirement that encroachment onto steep hillsides be permitted. More importantly, as cited above, the steep hillside guidelines specifically prohibit encroachment into steep hillsides for accessory improvements such as swimming pools and spas. Thus, the proposed swimming pool and spa on steep hillsides is not consistent with the certified LCP and therefore must be denied.

3. Public Access. Section 30210 of the Coastal Act is applicable and states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

In addition, Section 30212 of the Coastal Act pertains to the proposed development and states, in part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

Upon reliance of these policies of the Coastal Act, the certified La Jolla-La Jolla Shores LCP contains policies to protect public access, 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.

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 the northwest end (cul-de-sac) of Inyaha Lane, just west of La Jolla Shores Drive (the first public road in this area) in the La Jolla community of the City of San Diego. The project site contains a relatively flat pad where the existing home is located and then slopes steeply down to the west and into a large natural canyon (Sumner Canyon) that extends to the Pacific Ocean. Currently, no formal public access into Sumner Canyon from the subject site is provided, nor would such access be desirable due to the steepness of the canyon and the need to protect the habitat values of the canyon. There is an access path that loops through the nearby Scripps Coastal Reserve available to the public off of La Jolla Farms Road, approximately 2 blocks north and west of the subject site. However, due to the extensive canyon system, no direct public access to the shoreline is available in the surrounding area. In any case, 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. Violation of Coastal Act. Unpermitted development has occurred on the subject site without the required coastal development permit, and is a violation of the Coastal Act. While the City of San Diego did authorize work to begin on the pool, the City's decision to allow such work to occur without issuing the required coastal development permit for the pool project was appealed to the Coastal Commission on July 19, 2005. On July 27, 2005, the applicant was informed of the appeal by Coastal Commission staff and instructed to stop work on the development, because once an appeal is filed, the City's authorization was "stayed" pending the outcome of the appeal. However, the applicant did not stop work on the development until the Executive Director issued an Executive Director Cease and Desist Order on August 12, 2005.

Although construction has taken place prior to submission of this permit application, consideration of this application by the Commission has been based solely upon the policies and provisions of the certified City of San Diego LCP as well as the public access and recreation policies of Chapter 3 of the Coastal Act. Review of this permit application does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

6. Local Coastal Planning. The City of San Diego has a certified LCP and has been issuing coastal development permits for its areas of jurisdiction, including the La Jolla area, since 1988. The subject site is zoned and designated for residential use in the certified LCP. The proposed swimming pool and spa is consistent with that zone and designation. However, the subject site contains a steep hillside and is subject to the Steep Hillside Regulations of the City's implementation plan. The pool and spa proposed on the steep hillside portion of the site are not consistent with the Steep Hillside Regulations nor the policies and provisions of the certified La Jolla-La Jolla Shores Land Use Plan relative to protection of steep hillsides. Therefore, the Commission finds that the subject proposal would prejudice the ability of the City of San Diego to continue to implement its certified LCP consistently for the La Jolla area of the City of San Diego.

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

As discussed above, the proposed development of a pool and spa on the steep hillside on at the site of an existing single-family residence is inconsistent with the policies of the certified La Jolla-La Jolla Shores LCP Land Use Plan as well as with the Steep Hillside Regulations of the City's Land Development Code. The proposed improvements would not only alter natural landforms, they would also result in visual impacts from public vantage points and scenic areas. In addition, there are feasible alternatives to the proposed development. These feasible alternatives include the no project alternative or siting the swimming pool and spa within the existing tiled patio area on the flat portion of the site next to the home without encroaching beyond the slope edge and into the steep hillside portion of the site. These alternative would eliminate all hillside impacts, alteration of natural landforms and would minimize adverse visual impacts associated with the proposed development. Therefore, the Commission finds that the proposed project is not the least environmentally damaging feasible alternative and must be denied.

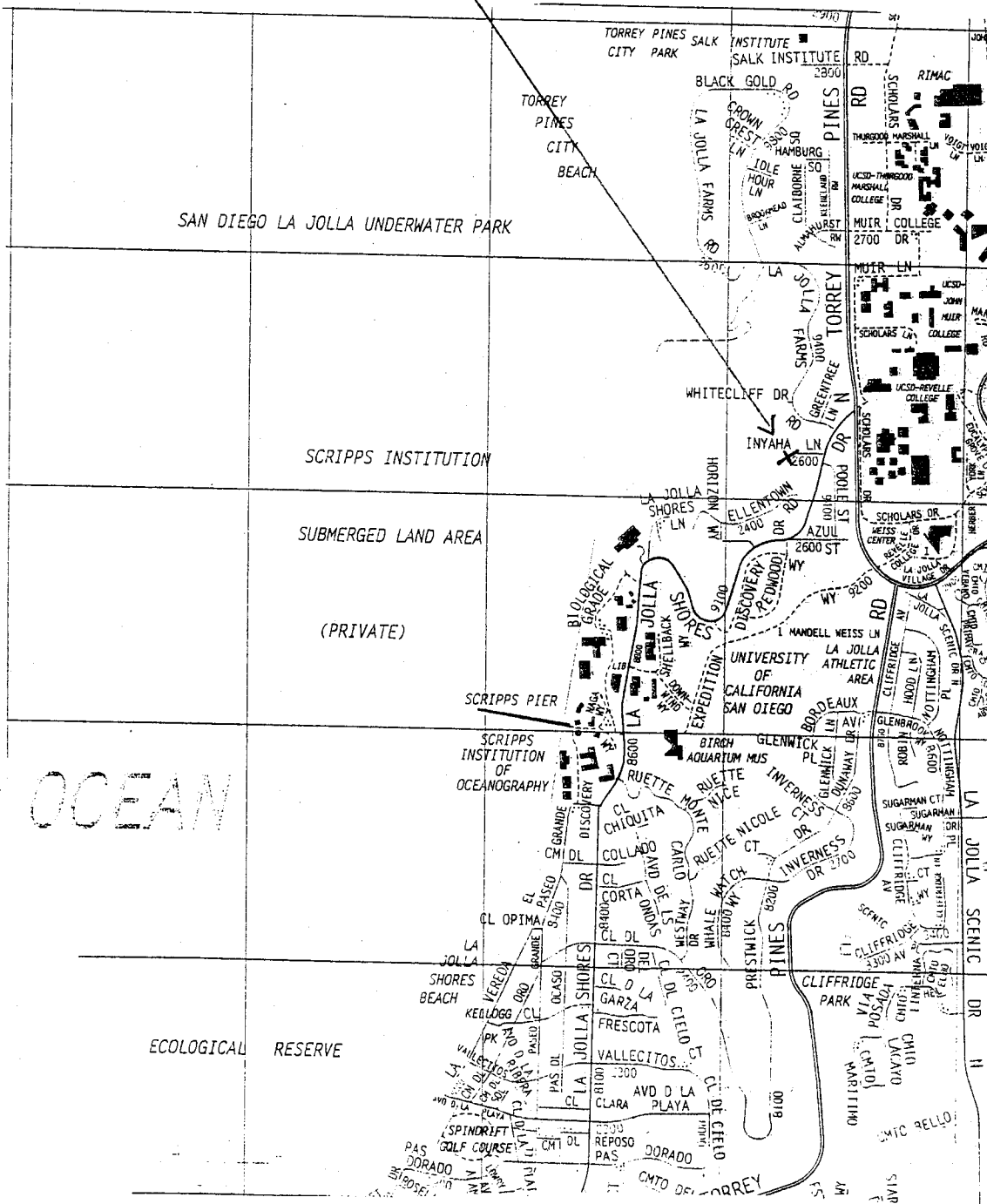
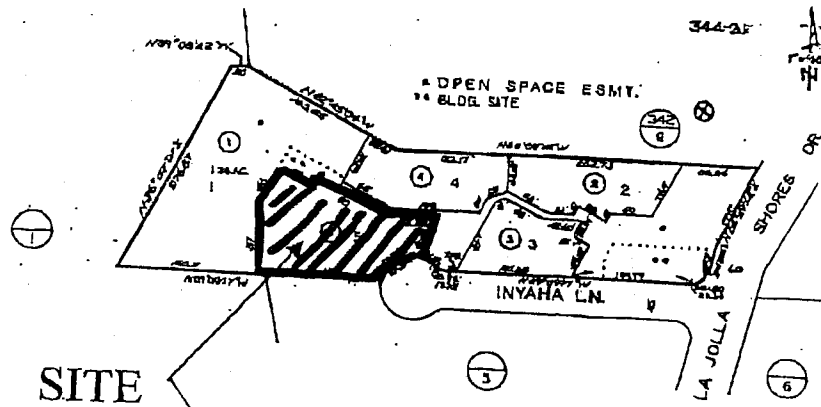


EXHIBIT NO. 1
APPLICATION NO.
A-6-LJS-05-071
Location Map

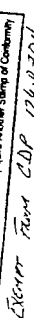
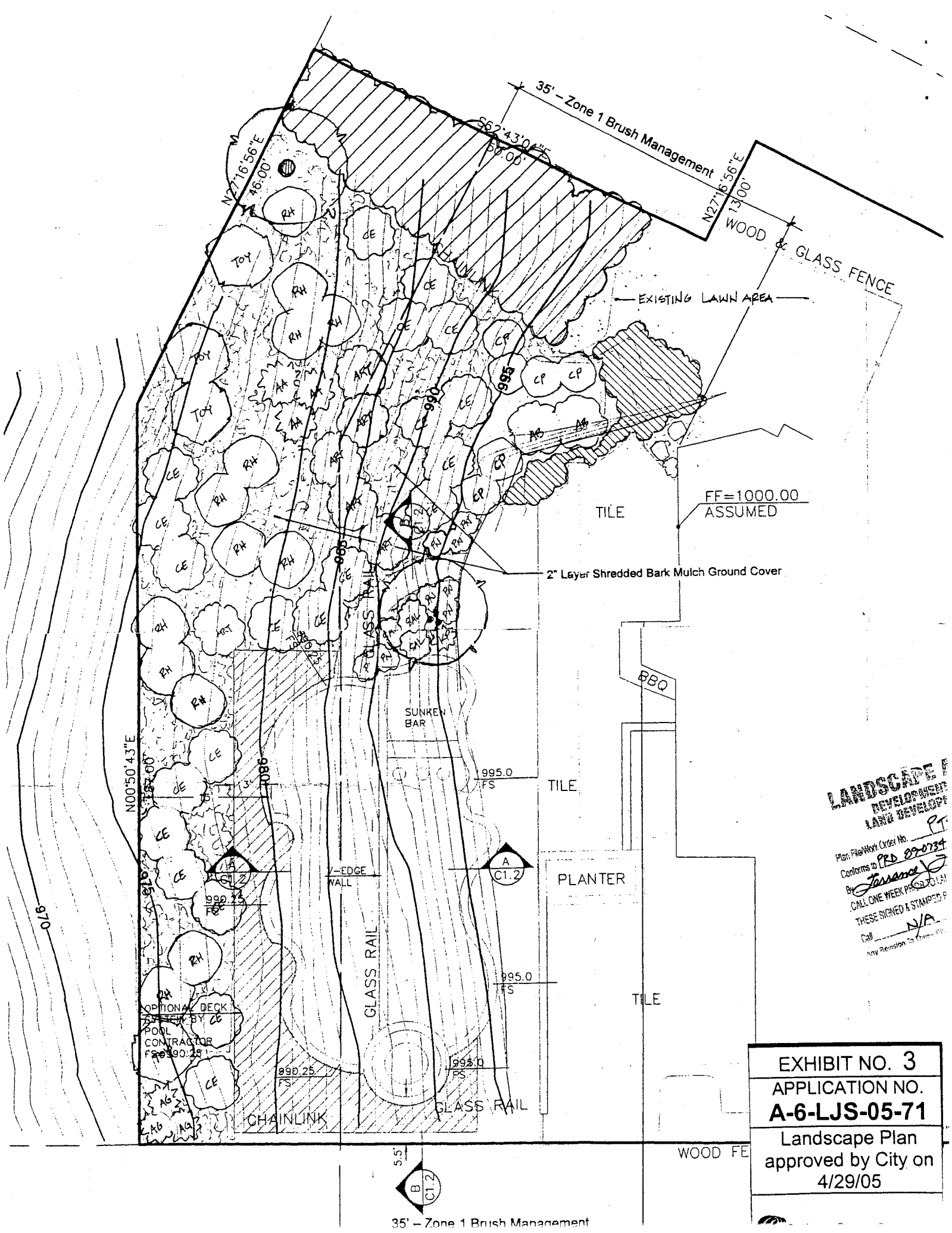


EXHIBIT NO. 2
APPLICATION NO.
A-6-LJS-05-71
Site Plan as
approved by the City



LANDSCAPE DEVELOPMENT
LAND DEVELOPMENT

Plan File/Work Order No. PT
 Conforms to PRD 89-0734
 By Jessence
 CALL ONE WEEK PRIOR TO LAI
 THESE SIGNED & STAMPED
 Call N/A
 Any Revision to Plans: PT

EXHIBIT NO. 3
APPLICATION NO.
A-6-LJS-05-71
 Landscape Plan
 approved by City on
 4/29/05



THE CITY

SAN DIEGO

CITY ADMINISTRATION BUILDING • 202 C STREET • SAN DIEGO, CALIFORNIA 92101

**PLANNING
DEPARTMENT**

Development and
Environmental Planning
Division

November 16, 1993

Michael Brekka
4310 Taos drive
San Diego, Ca 92117

SUBJECT: REQUEST FOR SUBSTANTIAL CONFORMITY REVIEW (PD 89-0734)
2610 INYAHA LANE RESIDENCE

Dear Michael:

The Planning Department has completed its review of your request for substantial conformance approval regarding the proposed modifications to the above-referenced project/permit as described in your letter to the Planning Department dated November 8, 1993.

The requested facilities and site improvement changes to the previously approved permit for this project have been determined to be generally consistent with the intent, terms and conditions of approved permit no. 89-0734, as well as other relevant regulations and development guidelines in effect.

The submitted blueprints and related correspondence pertaining to this request for substantial conformance review shall be stamped approved (revised Exhibit "A") and will be placed in the associated file no. 89-0734.

All applicable and relevant conditions of approval as specified in the approved permit shall remain in full effect for this site, unless otherwise specified by the Planning Director or Designated Representative.

If you have any questions regarding the above, please contact my office at 236-6716.

Sincerely,

Kevin Sullivan

Kevin Sullivan
Associate Planner, DEP

cc: project case file(s)
Marcela Escobar, Planning Department
Ana Maria Guttierrez, Economic Development

EXHIBIT NO. 5
APPLICATION NO.
A-6-LJS-05-71

Substantial
Conformance Letter

MICHAEL L. BREKKA, AIA

4310 TAOS DRIVE

SAN DIEGO, CALIFORNIA 92117

~~(619) 483-7200~~

456-0153

November 8, 1993

CDP
89-0734

Planning Department Review Staff
City of San Diego Planning Department
202 'C' Street, Fourth Floor
San Diego, CA 92101

RE: Minor addition to the residence at 2610 Inyaha Lane,
La Jolla, California.

Dear Review Staff:

This is a request for a Substantial Conformity Review for an addition of 476.75 sq. ft. to an existing residence in a small PRD in La Jolla containing 4 residences. Approval of a similar request was obtained on this property on August 26, 1993.

This request is for a minor modification to the originally approved addition described above. The additions to the residence are in two areas: the west side of the dining room (total addition of 82.00 sq. ft.) and the west side of the family room (total addition of 394.75 sq. ft.).

It is also the desire of this application to obtain permission to extend an exterior terrace on the west side of the property similar to what was approved in the recent PRD #89-0734.

The accompanying site plan indicates the precise location and dimensions of the desired additions to this residence. If you have any questions concerning this project or if you need additional information please feel free to call me at (619) 456-0153. I truly appreciate your time and efforts toward finding this improvement as substantially conforming to the intent and spirit of PRD's #114 and #89-0734.

Respectfully submitted,

Michael L. Brekka
Architect

Handwritten notes and calculations:
+ 395
+ 82
+ 720
Total: 1197

Slide #1

A-6-LJS-05-071 – Fargo Appeal



1994 Aerial view of site and surrounding area

EXHIBIT NO. 7

APPLICATION NO.

A-6-LJS-05-71

1994 Aerial of site
and Surrounding
Area

RECEIVED

SEP 21 2005

PETERSON & PRICE

A PROFESSIONAL CORPORATION

LAWYERS

655 West Broadway, Suite 1600
San Diego, CA 92101-3301
Telephone (619) 234-0361
Fax (619) 234-4786

EDWARD F. WHITTIER
MARSHAL A. SCARR
MATTHEW A. PETERSON
LARRY N. MURNANE
CHRISTOPHER J. CONNOLLY
VICTORIA E. ADAMS
ERIC J. PROSSER
ELOISE H. FEINSTEIN

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

www.petersonprice.com

File No.

6947.002

Via Messenger & By Certified Mail/Return Receipt Requested

September 21, 2005

Mr. Lee McEachern, District Regulatory Supervisor
California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402

Re: Inyaha LLC Pool Construction
Your File No.: Coastal Commission Appeal
#A-6-LJS-05-071/Fargo

Dear Lee:

We have carefully reviewed the Staff Report that you prepared for the Coastal Commission hearing on Substantial Issue and offer the following evidence which contradicts many of the assertions in that Report and upon which the Coastal Commission relied in determining that the untimely appeal raised a Substantial Issue.

As you know, we have sent to Mr. Peter Douglas a letter dated August 25, 2005 which included a tremendous amount of evidence and factual support challenging the appeal, the determination of Substantial Issue, and the Coastal Commission's jurisdiction over the above referenced matter. That letter contained a copy of a letter that was sent to Peter Douglas from Pallamary & Associates dated August 10, 2005, a


EXHIBIT NO. 8

APPLICATION NO.

A-6-LJS-05-71

Letter from
Applicant's
Representatives

1 of 62

 California Coastal Commission

letter addressed to Pallamary & Associates from Christian Wheeler Engineering dated August 11, 2005, a letter to Mr. Pallamary from Farrington Engineering dated August 11, 2005, and a letter to Mr. Pallamary dated August 22, 2005 from Farrington Engineering as well as various photographs and exhibits depicting the current condition of the property.

It is our understanding that the basis for your conclusion that a Substantial Issue exists, is as follows:

1. The original Coastal Development Permit for the PRD established a contour line beyond which development was not authorized.
2. The site contains Environmentally Sensitive Lands ("ESL"), and in particular steep hillsides as defined by the ESL Regulations.
3. The site contains sensitive habitat.
4. The site is geologically unstable.

As you can see by the attached Report provided to me from Pallamary & Associates dated September 19, 2005, all four of the conclusions that you reached in determining Substantial Issue have no validity.

Contour Line

As you know, on March 8, 1978, the Coastal Commission approved a non-material amendment to the original PRD which authorized further development beyond the 72.50 elevation line.

No ESL/Steep "Natural" Hillsides

The site and lot in question does not contain ESL. The slopes were not natural as documented within your own files. The 25% slopes were not natural as there was existing fill, non-native vegetation and other non-native plants present on the site. The minimum elevation differential of 50 feet is not met. As such, the provisions of the ESL Regulations within the San Diego Municipal Code are not applicable to the site.

There is no ESHA on the property as determined both by the biological surveys that were presented to you as well as the information contained within your files. In addition, significant evidence was presented to you in the site reconnaissance and history (see attached September 19, 2005 letter).

Geologic Stability

Finally, as you can see in the attached Report beginning at page 6 and as indicated in the attached Christian Wheeler Engineering letter to Pallamary & Associates dated September 12, 2005 the site is geologically stable. With the exception of the cut slopes that were created for the construction of the pool, all factors of safety are met.

In addition, the factors of safety for the cut slopes will be met when the pool retaining walls and structure have been completed.

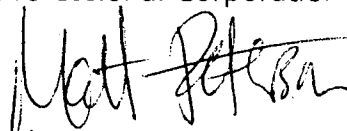
We hope that this information is helpful to you in correcting the previous Staff recommendation which was presented to the Coastal Commission for the determination of Substantial Issue.

We would respectfully request that this letter including all of the attachments be included within the Staff Report for the California Coastal Commission's consideration of the above referenced appeal. As you know, we assert that the appeal was not timely and that the Coastal Commission does not have appellate jurisdiction over a Ministerial Permit which was issued by the City of San Diego for the construction of this pool.

Thank you for your courtesy.

Sincerely,

PETERSON & PRICE
A Professional Corporation

A handwritten signature in black ink, appearing to read "Matt Peterson", written over the printed name.

Matthew A. Peterson

Enclosures
cc: Victor Fargo

Pallamary & Associates
Land Use Consultants

(O) 858-454-4094

(F) 858-454-4667

September 19, 2005

File No. 04-1014

Matthew A. Peterson, Esq.
Peterson & Price, APC
530 B Street
Suite 1700
San Diego, CA 92101

RECEIVED

SEP 22 2005

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Re: Inyaha LLC Pool Construction
2610 Inyaha Lane, La Jolla

Dear Matt,

In accordance with the Cease and Desist Order issued by the California Coastal Commission (CCC) in connection with the above referenced matter, I have reviewed and considered the various documents on file with the CCC. Accordingly I have used this material as the basis for this report. As noted in my previous communications, the CCC has taken an action without availing itself of its duty to first examine the existing files. Once one reviews these file, he/she will learn that the development activity that is occurring has been properly approved and is permissible. In spite of this grave oversight by CCC staff, based upon my review of the CCC files, I have learned the following.

The premises known as 2610 Inyaha Lane was first conceived in 1977 when the City of San Diego (City) and the California Coastal Commission (CCC) approved a five lot residential subdivision permitting development on this site. A short time later, the initial project was revised to allow development into sections of the canyon. The pool and spa currently subject to the Cease and Desist order are located in one of these areas. It is worth noting that when the project was modified, the developer eliminated a proposed foot path into the canyon and the density of the project was reduced from five units to four units. In return, more open space was created. A series of exhibits are enclosed herewith to assist you in following this report. A brief chronology is as follows:

PROPERTY HISTORY

- September 8, 1977 City approves PRD Permit No. 114, a 5-lot subdivision with condition "An open space easement shall be granted and shown on said map on all areas not shown for building sites."
- October 11, 1977 City approves a five residential lot subdivision.
- November 4, 1977 CCC issues Coastal Development Permit No.

Matthew A. Peterson, Esq.

F6200, authorizing PRD No. 114 for the five homes with the proviso: "That no development occurs west or canyon side of the 72.50 elevation line as indicated on the attached plot plan. This would prevent any filling or supportive structures which may create or contribute significantly to erosion or geological instability of the site."

- March 8, 1978 CCC approves a non material amendment "reducing the number of residences to be built from five to four. The amendment resulted in more landscaped open space, less building coverage overall and no increase in building height. This amendment allowed construction of a viewing platform and development of the 2610 Inyaha Lane property to occur west of the canyon side and beyond the 72.50 elevation. This modification to the previously approved project was negotiated between the developer, City and CCC as it reduced the project density and created more open space. The balance of the subdivision was set aside as permanent open space.
- October 13, 1978 CCC issues a one year extension for Permit No. F6200.
- June-July 1979 Grading commences on the approved subdivision and fill material is placed west of the canyon side and beyond the 72.50 elevation in accordance with the approved site plan.
- July 18, 1979 Louise C. Arnold of 2425 Ellen Town Road files a complaint with CCC over an alleged grading violation, to wit: "Grading has pushed dirt over edge of canyon - my recollection is that houses were to be pulled back away from edge so patios and grading would not encroach on canyon. She notes in her description of the project that it is a "5-house PRD." Note: The complaint was based upon the mistaken belief that the conditions associated with the original five lot subdivision were still in effect. With the exception of the permissible encroachment into the canyon, this was true. Because this condition had been revised, the complaint was not pursued by CCC as the revised site plan approved by CCC allowed this activity to occur and the previous restriction on limiting development west of the canyon side and beyond the 72.50 elevation had been rescinded.
- November 16, 1989 City issues an environmental "Negative Declaration" for an amendment to the existing PRD. This permit was for an expansion to the existing home along with the construction of a deck and a swimming pool. In describing the western portion of the property, the City report notes: "The portion of the site, located within the Hillside Review Overlay Zone, has been previously disturbed by grading and landscaping. The area is presently vegetated with weedy grasses and eucalyptus trees." This is consistent with the observations made by Ms. Arnold ten years earlier and it is in accordance with the development activities approved by City and CCC.

Matthew A. Peterson, Esq.

- November 29, 1989 City approves PRD 89-0734 authorizing an expansion to the house along with an elevated deck and a swimming pool. Note: In connection with the issuance of this permit, City required a 35-foot Brush Management Zone 1 adjacent to the existing deck. The Zone 1 Brush Management extends into the open space lot.
- November 16, 1993 City issues a Substantial Conformance plan to allow an additional 82 feet to the dining room and 398 feet to the family room and expand the deck and terrace. Note: The expansion to the existing home and the construction of the elevated deck and terrace were completed, thereby utilizing and vesting PRD 89-0737.
- October 2003 Wild fires ravage San Diego and city canyons are subjected to fire hazard exposure.
- December 5, 2003 City issues revised brush management guidelines requiring extended brush management zone. Note: Owner subsequently notified by City that he has to clear the combustible vegetation behind his home and into the disturbed canyon area.
- April 5, 2004 City issues ministerial building permit No. 75384 (PTS 29138) authorizing removal of the elevated deck and the construction of a pool and spa.
- June 2004 – June 2005 Several neighbors south of the property file a series of complaints with City. Numerous meetings were held, technical reports were prepared and construction was suspended pending the outcome of the review of the various reports. City and CCC staff review the plans and construction activity and construction resumes. Neither City nor CCC expresses any concerns or problems with the permitted work.
- July 19, 2005 The neighbors who filed the complaints over the previous year file an appeal with CCC over City's issuance of the ministerial permit for the appeal. Note: In their appeal, they state that they are appealing the building permit that was issued by City on April 5, 2004 (15 months earlier).
- July 28, 2005 CCC staff issues its report and recommendation that CCC find substantial issue and set the matter for a *de novo* hearing. Note: The staff report was issued without staff having reviewed any of the existing files and approved projects plans. The report was not based upon any factual information.
- August 3, 2005 Representatives for the owner of 2610 Inyaha Lane notify CCC staff of owner's request for continuance of the scheduled August 9, 2005 CCC meeting that staff set for the substantial issue determination. The

Matthew A. Peterson, Esq.

owner challenges this untimely appeal and submits waiver of time limits on August 4, 2005 and August 5, 2005 and formally requests that CCC hearing be postponed to provide owner with an opportunity to review and respond to the untimely and invalid appeal

- August 9, 2005 CCC meeting held. CCC does not take testimony regarding owner's request for postponement and does not allow for any public testimony on the merits of the appeal. CCC does not postpone hearing and finds that the appeal raises a "substantial issue" based upon the erroneous belief that the subject property is Environmentally Sensitive Land (ESL).
- August 11, 2005 CCC issues a Notice of Intent to issue a Cease and Desist Order.
- August 12, 2005 CCC issues the Cease and Desist Order

NO ENVIRONMENTALLY SENSITIVE LANDS/NO ESHA

As noted above, CCC Staff and the Executive Director, in issuing the Cease and Desist Order, have asserted that the site contains *Environmentally Sensitive Lands* (ESL). In order to evaluate the veracity of this assertion, we must refer to the City of San Diego Municipal Code (SDMC). Therein, I note the following provision:

§143.0110 When Environmentally Sensitive Lands Regulations Apply

This division applies to all proposed *development* when *environmentally sensitive lands* are present on the premises. [See definition below]

(a) Where any portion of the *premises* contains any of the following *environmentally sensitive lands*, this division shall apply to the entire *premises*, unless otherwise provided in this division:

- (1) *Sensitive biological resources*;
- (2) *Steep hillsides*;
- (3) *Coastal beaches* (including V zones);
- (4) *Sensitive coastal bluffs*; and
- (5) *Special Flood Hazard Areas* (except V zones).

As is evident, the subject property does not contain Coastal Beaches, Sensitive Coastal Bluffs or Special Flood Hazard Areas. The property is not identified as a beach or

Matthew A. Peterson, Esq.

coastal bluff on Map C-713. The subject lot does not contain any sensitive habitat or ESHA. As noted in the City's 1989 environmental assessment, the west end of the property contained Eucalyptus trees and weeds, none of which are considered to be sensitive biological resources or ESHA. This was recently substantiated in a report prepared by Mooney and Associates. A recent inspection of the unearthed soil discloses the existing of old asphalt and construction debris in the hillside. And, as documented by the CCC 27 years ago, the site was graded and disturbed and did not contain any "natural" slopes. In 1978 the CCC approved additional development in the rear of the property.

The CCC staff report for the substantial issue hearing also erroneously states that the property includes sensitive "steep" slopes. As the basis for this statement, the report cites the offsite open space lot and canyon area as the foundation for this opinion. This opinion is in contradiction with the provisions of the San Diego Municipal Code (SDMC). As is well know, in order to apply this section to the subject Parcel, one must first identify the *premises*. "Premises" is defined in the SDMC as follows:

Premises mean an area of land with its structures that, because of its unity of use, is regarded as the smallest conveyable unit.

CCC Staff subsequently stated that because the subject property "contained" ESL. Even though there is less than 50 feet of relief across the lot (another prerequisite discussed below), staff still asserted that the ESL influence could extend into the subject property because *there was ESL on the adjacent open space lot*. As noted in the CCC files, there has not been any ESL on this property since at least 1978 and perhaps even before that. By definition, the legal premise for purposes of applying ESL definitions is Lot 5 of the approved subdivision map. Therefore and by definition, **one cannot include the adjacent open space lot or canyon area in the determination of the ESL**. Continuing with the SDMC definitions:

Environmentally Sensitive Lands means land containing steep hillsides, sensitive biological resources, costal beaches, sensitive costal bluffs, or Special Flood Hazard Areas.

The SDMC defines *Steep hillsides* as:

"... all lands that have a slope with a natural gradient of 25 percent (4 feet of horizontal distance for every 1 foot of vertical distance) or greater and a minimum elevation differential of 50 feet, or a natural gradient of 200 percent (1 foot of horizontal distance for every 2 feet of vertical distance) or greater and a minimum elevation differential of 10 feet. (Emphasis Added)

A certified survey reveals that there is less than 30-feet of elevation differential across the *premises*. As noted above, the critical minimum elevation differential of 50 feet is not satisfied nor does the property have a natural gradient. The site was previously graded

Matthew A. Peterson, Esq.

and disturbed and it was subsequently covered with asphalt, construction debris and non-native weeds, ice plant, and Eucalyptus trees. By definition, the land does not contain, nor does it qualify as ESL. The Land Development Code also defines Sensitive Biological Resources as:

Sensitive biological resources means upland and/or *wetland* areas that meet any one of the following criteria:

- (a) Lands that have been included in the City of San Diego Multiple Species Conservation Program Preserve;
- (b) *Wetlands*;
- (c) Lands outside the *MHPA* that contain Tier I Habitats, Tier II Habitats, Tier IIIA Habitats, or Tier IIIB Habitats;
- (d) Lands supporting species or subspecies listed as rare, endangered, or threatened under Section 670.2 or 670.5, Title 14, California Code of Regulations, or the Federal Endangered Species Act, Title 50, Code of Federal Regulations, Section 17.11 or 17.12, or candidate species under the California Code of Regulations; or
- (e) Lands containing habitats with Narrow Endemic Species as listed in the Biology Guidelines in the Land Development manual.
- (f) Lands containing habitats of covered species as listed in the Biology Guidelines in the Land Development Manual

As noted in the report prepared by Mooney and Associates last year, none of these resources exists within the subject property. As noted in the existing CCC files, such resources have not existed for many, many years.

THE SITE IS GEOLOGICALLY STABLE

The appellants have also made reference to the Potiker property as the basis for their concerns regarding geological stability. I can assure you that this site bears no relationship to that property whatsoever as I worked on the Potiker property before, during, and after the documented landslide. This subject is covered in my previous report.

In connection with that discourse, I reviewed a report prepared on behalf of The Scripps Estates Associates by Douglas Inman and bearing a date of April 7, 1999. As Dr. Inman so eloquently states, the 2610 Inyaha Lane property is a very safe and stable piece of land. He notes the property is located at the 350-400 foot elevation, which means it is

Matthew A. Peterson, Esq.

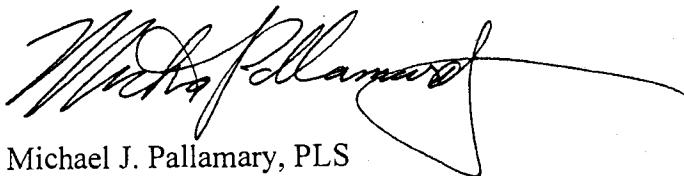
"capped . . . by the resistant Lindavista Formation, a sandstone and conglomeritic material lithified with ferruginous cement." He also states that "The Lindavista terrace acts as a caprock platform that protects the underlying material from erosion." Thanks to his corroborating report, the long term stability of this site has been reaffirmed as his opinion is consistent with the opinion of the owner's geologist and City's Geologist, Rob Hawk.

As can be seen in the Christian Wheeler Study, with the exception of the existing cut slopes (for the pool construction) and the loose fill soils, both of which can be stabilized with the completion of a portion of the pool walls, the site is stable and will support the construction of a pool and spa.

In close, I trust that this report addresses your inquiries. If there is any consolation to my labored efforts, all one has to do is to read the project files to avail themselves of the facts. I am confident that if that had happened, this extensive exercise could have been avoided.

Sincerely,

PALLAMARY & ASSOCIATES

A handwritten signature in black ink, appearing to read "Michael J. Pallamary", with a long, sweeping horizontal line extending to the right.

Michael J. Pallamary, PLS

Encl:

CC: Victor Fargo, Client

Matthew A. Peterson, Attorney at Law, Peterson & Price, APC

Christopher J. Connolly, Attorney at Law, Peterson & Price, APC

Lisa Haage, California Coastal Commission

Sandy Goldberg, Esquire, California Coastal California

Lee McEachern, California Coastal Commission

Pat Veesart, California Coastal Commission

Marsha Venegas, California Coastal Commission

Jamee Jordan Patterson, Supervising Deputy Attorney General, Land Law Section



CHRISTIAN WHEELER
ENGINEERING

September 12, 2005

Pallamary & Associates
7755 Fay Avenue, Suite J
La Jolla, CA 92037

CWE 2050785.2

Attention: Michael J. Pallamary, PLS

**SUBJECT: LIMITED SLOPE STABILITY ANALYSIS, SWIMMING POOL
CONSTRUCTION, FARGO RESIDENCE, 2610 INYAHA LANE, LA JOLLA,
CALIFORNIA**

REFERENCE: Observation of Swimming Pool Construction, Fargo Residence, 2610 Inyaha Lane, La Jolla,
California by Christian Wheeler Engineering, Report No. 2050785.1, dated August 11, 2005

Ladies and Gentlemen:

In accordance with your request, we have conducted a limited slope stability analysis of the subject site. As noted in the referenced report, there are steep (nearly vertical), unsupported cut slopes and stockpiles of loose, uncompacted fill soils at the project site. In order to more fully evaluate these conditions, we have performed some preliminary slope stability analyses of the existing cut slopes and the fill slopes associated with the pool construction.

Where the nearly vertical cut slopes exist, it appears that the 1.5-factor of safety line falls at a horizontal distance approximately equal to the height of the near-vertical cut. Nearly vertical cut slopes in the Lindavista Formation to the height of those at the subject site are usually considered sufficiently stable for temporary conditions (a few days or a few weeks) but are subject to sloughing and other slope instability hazards, if left unprotected and allowed to be saturated. This condition can be mitigated by the completion of the proposed retaining walls.

The stockpiles of loose, uncompacted fill soils also appear to have a factor of safety of less than 1.5 when analyzed for surficial stability. Where the slope angle is steeper than about 1.5:1 (horizontal to vertical), and

12 of 62

the depth of saturation is about two feet or more, the stockpiled fill soils have a calculated factor of safety of less than 1.5. Where the slope angle is steeper than about 2:1 (horizontal to vertical), and the depth of saturation about 2½ feet or more, the stockpiled fill soils have a calculated factor of safety of less than 1.5. If the loose, uncompacted fill soils are allowed to be saturated, it is likely that significant movement will occur. This condition can be mitigated by removing the loose, uncompacted fill soils or by properly compacting the stockpiled soils in approved locations and revegetating the slope.

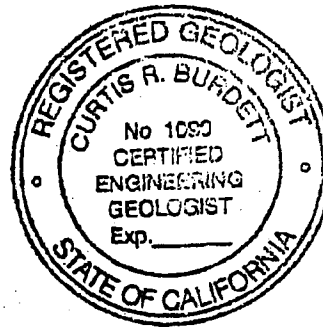
If you have any questions after reviewing this letter, please do not hesitate to contact our office. This opportunity to be of professional service is sincerely appreciated.

Respectfully submitted,

CHRISTIAN WHEELER ENGINEERING


Curtis R. Burdett, C.E.G. #10905

CRB:rb
cc: (4) Submitted



2610 INYAHA LANE LA JOLLA, CA

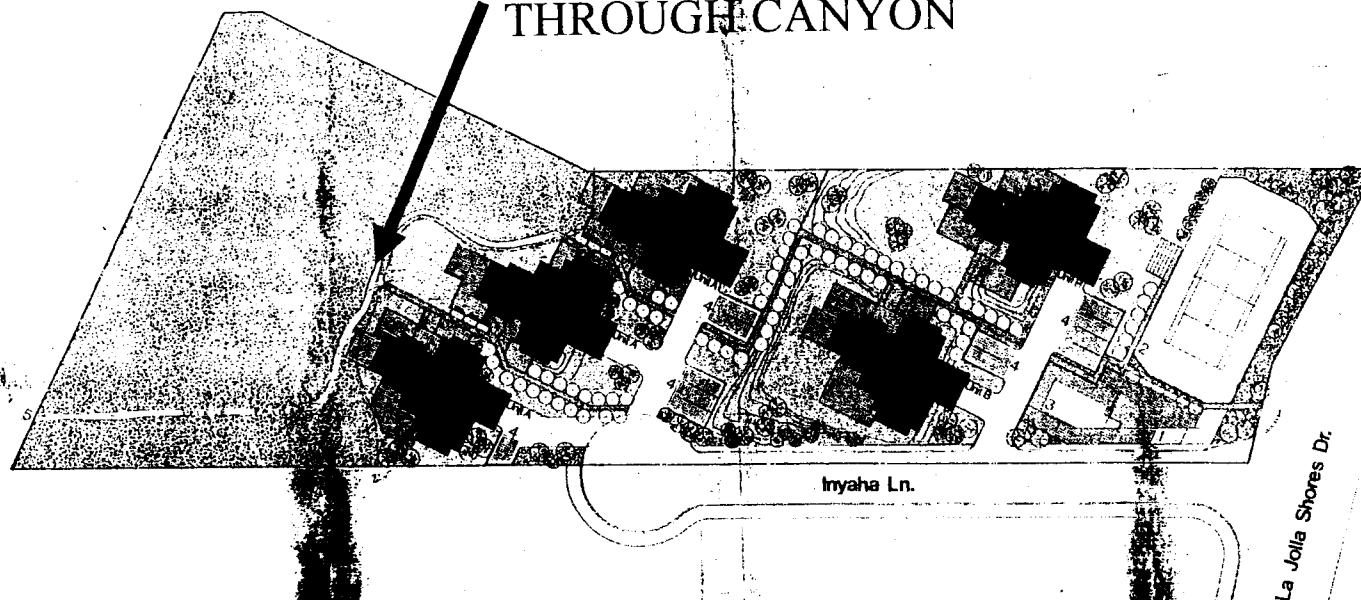
REPORT ON INITIAL SITE ASSESSEMENT MADE BY THE CALIFORNIA COASTAL COMMISSION IN CONNECTION WITH A CEASE AND DESIST ORDER ISSUED ON AUGUST 12, 2005

PREPARED BY PALLAMARY & ASSOCIATES
7755 FAY AVENUE, SUITE J
LA JOLLA, CA 92037

MICHAEL PALLAMARY, PLS 4830

SEPTEMBER 19, 2005

PROPOSED PATH THROUGH CANYON



Legend

Single Family Residence

Brick Paving

Trail



Groundcover: 5 Gallon Xylocarpus
Coccineum at 4'x4'

Existing Groundcover

5 Gallon Pyrus Kawanishi
(Green Plant)



Perimeter Tree: 15 Gallon Platanus
Racemosa (Eucalyptus Sycamora)

Sauna/Dressing

Tennis Court



Swimming Pool

Guest Parking

Path to Beach

3

4

5

Site Plan

1" = 100'

La Jolla Shores

Facilities Development Company (P) 4 South Avenue, San Diego, California 92101 714 272 1965

Legal Description: A Portion of Lot 1 of Parkside, Lot 130
of The Public Lands of San Diego, Hereby Parted Map
No. 94-4 City of San Diego, County of San Diego, State of
California

Kahn Kappe Lotery Boccato Architects Planners

HERBERT KAHN AN ASSOCIATE A/P RYLAND KAPPE P/A REX LOTERY NA GLENN BOCCATO 1333 LINCOLN BLVD. SANTA MONICA, CALIFORNIA 90404 426-77

1

**5 LOT SUBDIVISION APPROVED BY THE CALIFORNIA
COASTAL COMMISSION IN 1977**

CANYON PATH ELIMINATED THROUGH CANYON

Amended B/L

Tabulations

ZONING R-1-20
SITE AREA 114,883 sq. ft.

UNITS 4 SINGLE FAMILY DWELLINGS
SITE AREA / UNIT 3231 sq. ft.
TOTAL DWELLING SITE AREA 13,004 sq. ft.
TOTAL BUILDINGS SITE AREA 13,504 sq. ft.

TOTAL REQUIRED OPEN SPACE 48,000 sq. ft.
TOTAL OPEN SPACE 101,378 sq. ft.
TOTAL OPEN SPACE / UNIT 25,344 sq. ft.

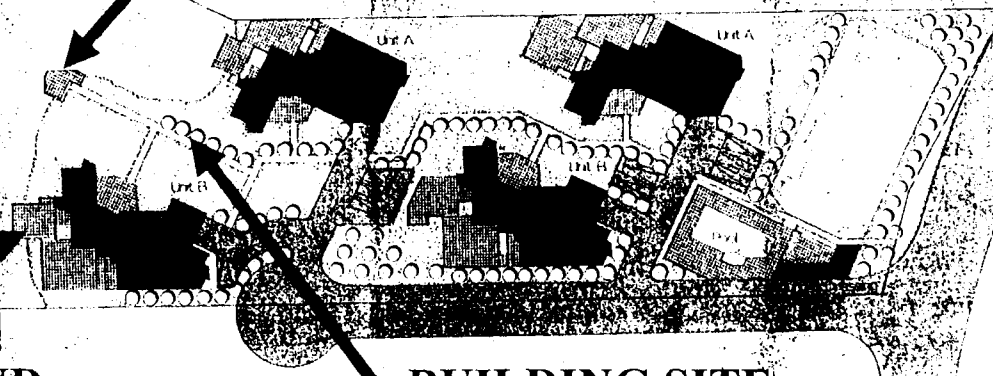
USABLE OPEN SPACE 52,174 sq. ft.
USABLE OPEN SPACE / UNIT 13,044 sq. ft.

PRIVATE COVERED PARKING 8 SPACES
PUBLIC UNCOVERED PARKING 9 SPACES

VIEWING DECK PERMITTED BEYOND TOP OF PAD

STRUCTURES ALLOWED TO DEVELOP BEYOND TOP OF PAD

BUILDING SITE ELIMINATED



Site Plan

La Jolla Shores
Facilities Development Company

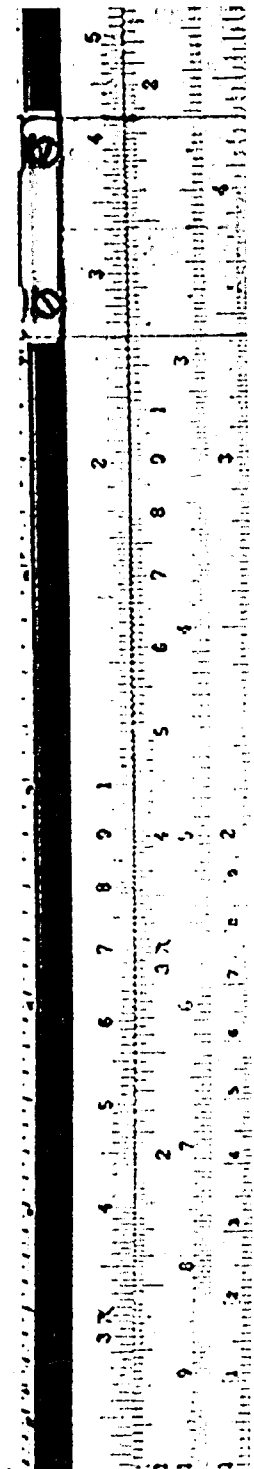


Kahn Kappe Lotery Boccato Architects Planners

1

4 LOT SUBDIVISION APPROVED BY THE CALIFORNIA COASTAL COMMISSION IN 1978

16 of 62

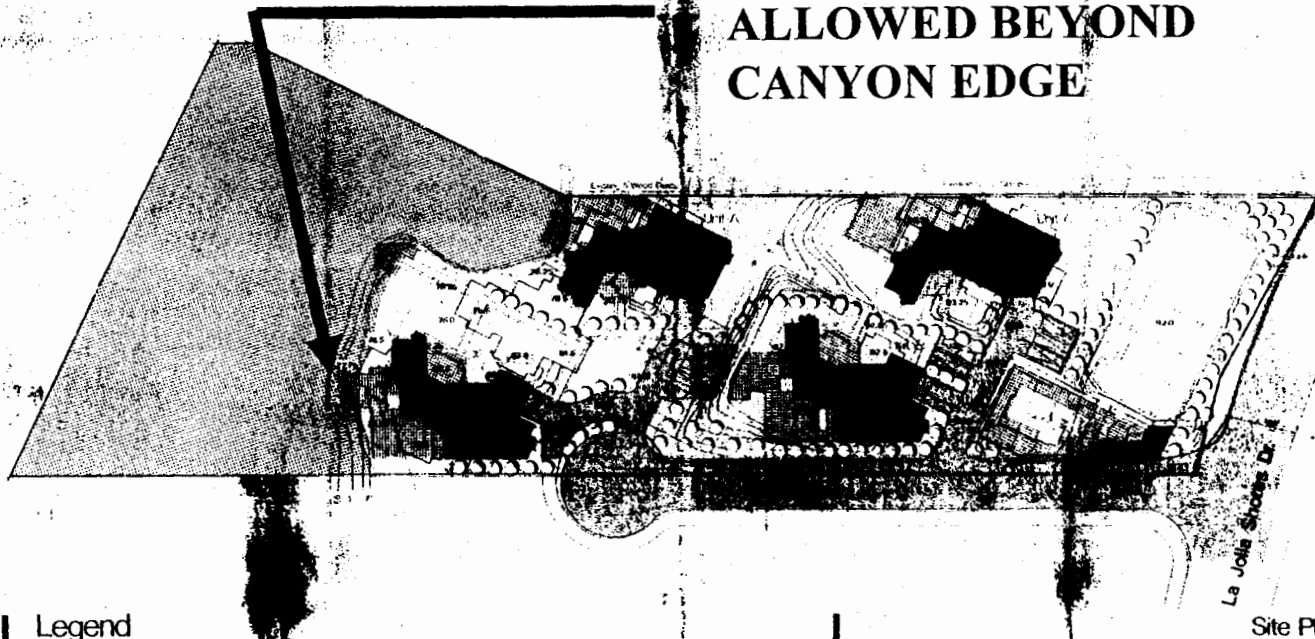


ZONING R-1-20
 SITE AREA 114,883 sq ft
 UNITS 4 SINGLE FAMILY DWELLINGS
 SITE AREA / UNIT 3251 sq ft
 TOTAL DWELLING SITE AREA 13,004 sq ft
 TOTAL BUILDINGS SITE AREA 13,504 sq ft

TOTAL REQUIRED OPEN SPACE 48,000 sq ft
 TOTAL OPEN SPACE 101,378 sq ft
 TOTAL OPEN SPACE / UNIT 25,344 sq ft
 USABLE OPEN SPACE 52,171 sq ft
 USABLE OPEN SPACE / UNIT 13,044 sq ft

PRIVATE COVERED PARKING 8 SPACES
 PUBLIC UNCOVERED PARKING 9 SPACES

DEVELOPMENT AND GRADING ALLOWED BEYOND CANYON EDGE



Legend

Existing Grading
 La Jolla Shores
 Facilities Development Company
 Proposed Elevations
 Slopes Greater Than 2:1



Kahn Kappe Lotery Boccato Architects Planners 1
 10000 KAPPE DRIVE, SUITE 100, SAN DIEGO, CALIFORNIA 92121
 TEL: (619) 594-1000 FAX: (619) 594-1001

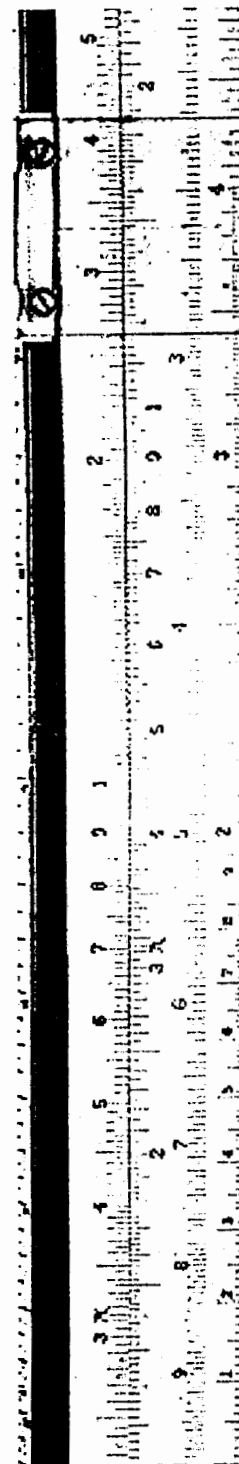
Grading Plan

La Jolla Shores

Kahn Kappe Lotery Boccato Architects Planners 3

OVERLAY OF 4 UNIT SUBDIVISION OVER 5 UNIT SUBDIVISION

17462



COLONY FOUR SUBDIVISION

9153
SHEET 2

NOTES

1. THIS MAP SHOWS THE LOTS IN THE COLONY.
2. THE TOTAL AREA OF THE COLONY IS 1.5 ACRES.
3. THE BOUNDARY OF THE COLONY IS SHOWN BY A DASHED LINE.
4. THE BOUNDARY OF THE COLONY IS SHOWN BY A DASHED LINE.
5. THE BOUNDARY OF THE COLONY IS SHOWN BY A DASHED LINE.
6. THE BOUNDARY OF THE COLONY IS SHOWN BY A DASHED LINE.
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9. THE BOUNDARY OF THE COLONY IS SHOWN BY A DASHED LINE.
10. THE BOUNDARY OF THE COLONY IS SHOWN BY A DASHED LINE.

LEGEND

- 1. FOUND CITY CONTROL MONUMENT, IN
- 2. FOUND CITY CONTROL MONUMENT, IN
- 3. FOUND CITY CONTROL MONUMENT, IN
- 4. FOUND CITY CONTROL MONUMENT, IN
- 5. FOUND CITY CONTROL MONUMENT, IN
- 6. FOUND CITY CONTROL MONUMENT, IN
- 7. FOUND CITY CONTROL MONUMENT, IN
- 8. FOUND CITY CONTROL MONUMENT, IN
- 9. FOUND CITY CONTROL MONUMENT, IN
- 10. FOUND CITY CONTROL MONUMENT, IN

GENERAL NOTES

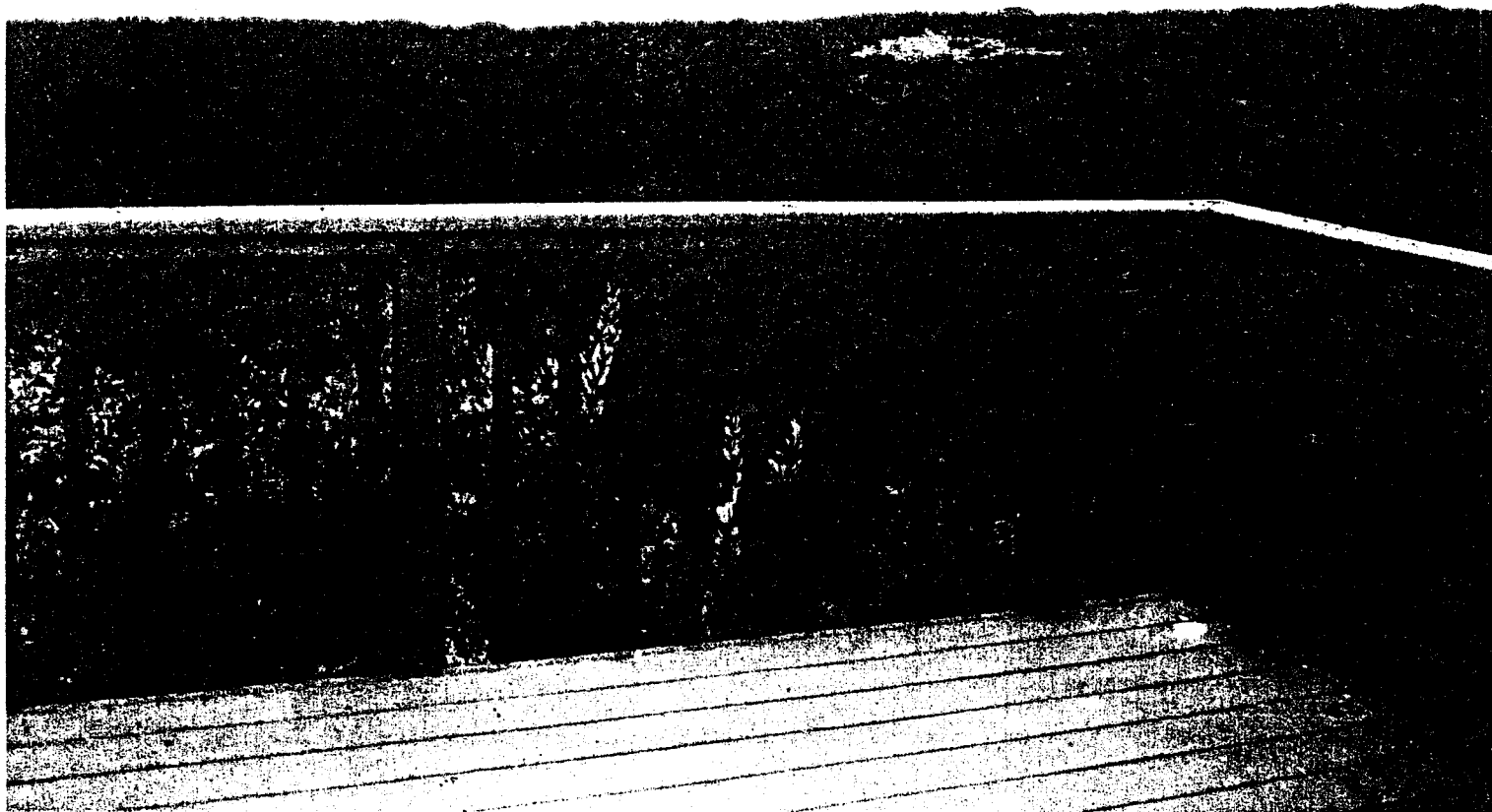
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9. THE BOUNDARY OF THE COLONY IS SHOWN BY A DASHED LINE.
10. THE BOUNDARY OF THE COLONY IS SHOWN BY A DASHED LINE.

**RESERVED OPEN SPACE
LOT SHOWN IN PINK**

**2610
INYAHA LANE**

**LIMITS OF DEVELOPMENT
PERMITTED BY THE COASTAL
COMMISSION**

COASTAL COMMISSION APPROVED SUBDIVISION MAP

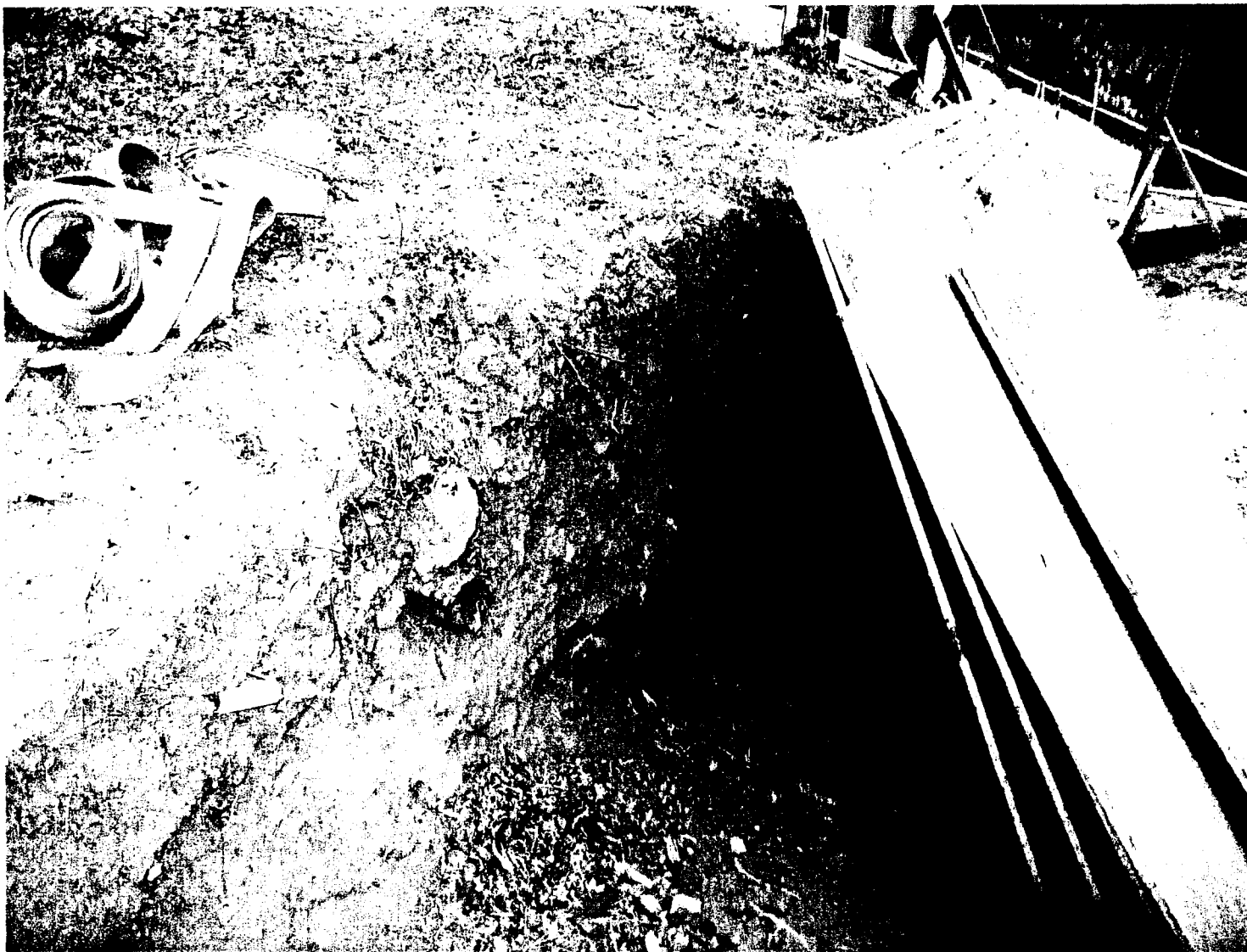


**VIEWING DECK CONSTRUCTED INTO CANYON PER COASTAL
COMMISSION APPROVAL**

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466	467	468	469	470	471	472	473	474	475	476	477	478	479	480	481	482	483	484	485	486	487	488	489	490	491	492	493	494	495	496	497	498	499	500	501	502	503	504	505	506	507	508	509	510	511	512	513	514	515	516	517	518	519	520	521	522	523	524	525	526	527	528	529	530	531	532	533	534	535	536	537	538	539	540	541	542	543	544	545	546	547	548	549	550	551	552	553	554	555	556	557	558	559	560	561	562	563	564	565	566	567	568	569	570	571	572	573	574	575	576	577	578	579	580	581	582	583	584	585	586	587	588	589	590	591	592	593	594	595	596	597	598	599	600	601	602	603	604	605	606	607	608	609	610	611	612	613	614	615	616	617	618	619	620	621	622	623	624	625	626	627	628	629	630	631	632	633	634	635	636	637	638	639	640	641	642	643	644	645	646	647	648	649	650	651	652	653	654	655	656	657	658	659	660	661	662	663	664	665	666	667	668	669	670	671	672	673	674	675	676	677	678	679	680	681	682	683	684	685	686	687	688	689	690	691	692	693	694	695	696	697	698	699	700	701	702	703	704	705	706	707	708	709	710	711	712	713	714	715	716	717	718	719	720	721	722	723	724	725	726	727	728	729	730	731	732	733	734	735	736	737	738	739	740	741	742	743	744	745	746	747	748	749	750	751	752	753	754	755	756	757	758	759	760	761	762	763	764	765	766	767	768	769	770	771	772	773	774	775	776	777	778	779	780	781	782	783	784	785	786	787	788	789	790	791	792	793	794	795	796	797	798	799	800	801	802	803	804	805	806	807	808	809	810	811	812	813	814	815	816	817	818	819	820	821	822	823	824	825	826	827	828	829	830	831	832	833	834	835	836	837	838	839	840	841	842	843	844	845	846	847	848	849	850	851	852	853	854	855	856	857	858	859	860	861	862	863	864	865	866	867	868	869	870	871	872	873	874	875	876	877	878	879	880	881	882	883	884	885	886	887	888	889	890	891	892	893	894	895	896	897	898	899	900	901	902	903	904	905	906	907	908	909	910	911	912	913	914	915	916	917	918	919	920	921	922	923	924	925	926	927	928	929	930	931	932	933	934	935	936	937	938	939	940	941	942	943	944	945	946	947	948	949	950	951	952	953	954	955	956	957	958	959	960	961	962	963	964	965	966	967	968	969	970	971	972	973	974	975	976	977	978	979	980	981	982	983	984	985	986	987	988	989	990	991	992	993	994	995	996	997	998	999	1000	1001	1002	1003	1004	1005	1006	1007	1008	1009	1010	1011	1012	1013	1014	1015	1016	1017	1018	1019	1020	1021	1022	1023	1024	1025	1026	1027	1028	1029	1030	1031	1032	1033	1034	1035	1036	1037	1038	1039	1040	1041	1042	1043	1044	1045	1046	1047	1048	1049	1050	1051	1052	1053	1054	1055	1056	1057	1058	1059	1060	1061	1062	1063	1064	1065	1066	1067	1068	1069	1070	1071	1072	1073	1074	1075	1076	1077	1078	1079	1080	1081	1082	1083	1084	1085	1086	1087	1088	1089	1090	1091	1092	1093	1094	1095	1096	1097	1098	1099	1100	1101	1102	1103	1104	1105	1106	1107	1108	1109	1110	1111	1112	1113	1114	1115	1116	1117	1118	1119	1120	1121	1122	1123	1124	1125	1126	1127	1128	1129	1130	1131	1132	1133	1134	1135	1136	1137	1138	1139	1140	1141	1142	1143	1144	1145	1146	1147	1148	1149	1150	1151	1152	1153	1154	1155	1156	1157	1158	1159	1160	1161	1162	1163	1164	1165	1166	1167	1168	1169	1170	1171	1172	1173	1174	1175	1176	1177	1178	1179	1180	1181	1182	1183	1184	1185	1186	1187	1188	1189	1190	1191	1192	1193	1194	1195	1196	1197	1198	1199	1200	1201	1202	1203	1204	1205	1206	1207	1208	1209	1210	1211	1212	1213	1214	1215	1216	1217	1218	1219	1220	1221	12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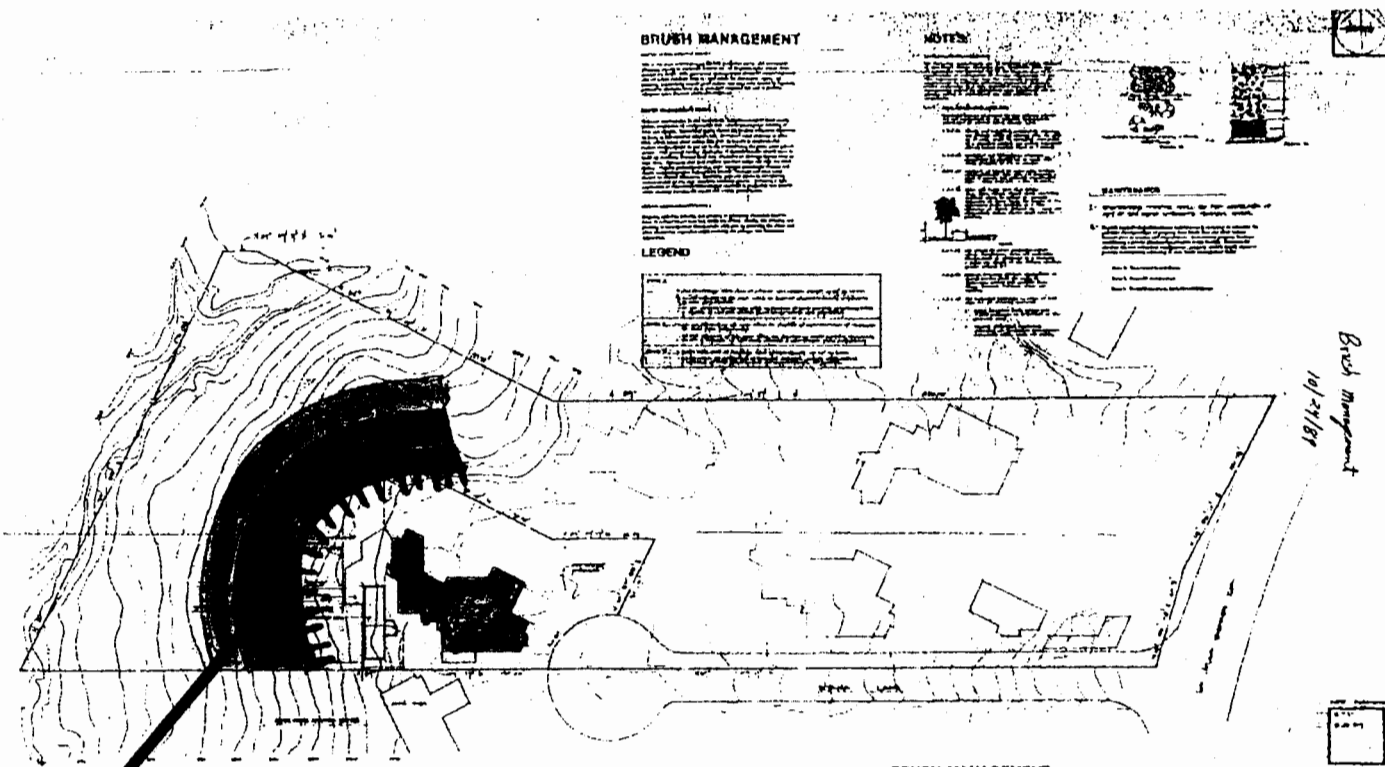
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7 OF 15



**CURRENT PHOTOGRAPH SHOWING ASPAHLT AND RUBBLE
FILL INTO CANYON IN APPROVED DEVELOPMENT AREA**

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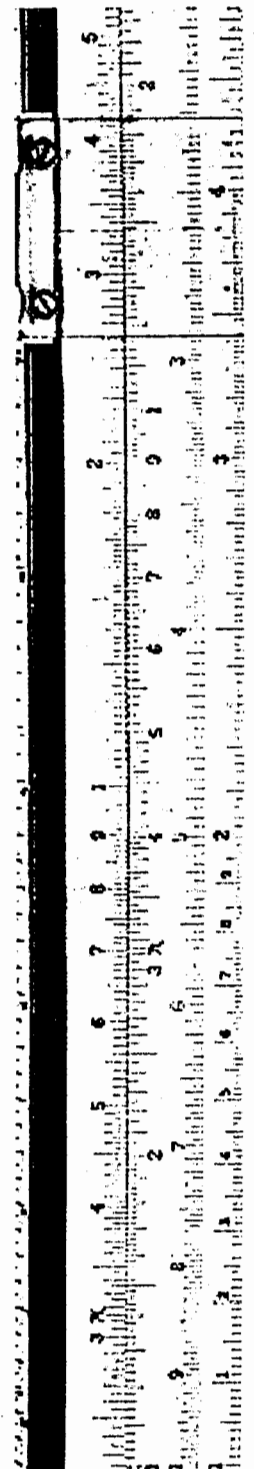


**CITY REQUIRED BRUSH MANAGEMENT
EXTENDS WELL INTO CANYON
OPEN SPACE LOT**

1989 CITY APPROVED BRUSH MANAGEMENT PLAN

21462

8 OF 15



CITY REQUIRED BRUSH MANAGEMENT EXTENDS WELL INTO CANYON OPEN SPACE LOT

ARCHITECTURAL DRAWINGS:

- Site Map:** Shows the building's location relative to the canyon and surrounding area.
- Basement Floor Plan:** Shows the layout of the basement level, including the parking lot and brush management area.
- First Floor Plan:** Shows the layout of the first floor, including the living area and kitchen.
- Second Floor Plan:** Shows the layout of the second floor, including the bedrooms and bathroom.
- Section:** Shows a cross-section of the building, illustrating the relationship between the interior space and the exterior environment.

Text Overlay:

CITY REQUIRED BRUSH MANAGEMENT EXTENDS WELL INTO CANYON OPEN SPACE LOT

Other Text:

- DATE: 1980
- PROJECT: FAMILY ROOM ADDITION
- CLIENT: [Name]
- ARCHITECT: [Name]

9 OF 15

**THE CITY OF SAN DIEGO
FIRE SAFETY & BRUSH MANAGEMENT GUIDE
For Private Property**

(Revised 12/5/03)

Introduction

Proper maintenance of plants and other flammable materials around your home and business can reduce future wildfire impacts on your property. Doing it properly can also avoid creating other hazards such as soil erosion and potential slope failures. This bulletin provides simplified information for you to protect your property and do brush management consistent with the City of San Diego's California Fire Code and other important regulations. In addition, no permits from the City are required if you perform brush management on your property consistent with these guidelines.

Structure Features and Plant Maintenance

Two key ways to create a fire resistant property are to make your structure more fire resistant and to reduce the connection of flammable plant material to existing structures. Before you begin, you should verify where your property boundaries are to insure that the improvements you make are on your property. If you cannot accomplish the brush management recommendations below completely on your property and the adjacent property is City-owned open space or park land, please contact the Park and Recreation Department Brush Management Section at (619) 525-8607.

Structure Features - Many changes can be made to the buildings, fences, and other structures around your home or business to reduce impacts from wildfires. Recommendations include installing fire retardant roofing; making walls, roof eaves and other overhangs one-hour fire-resistant; covering roof eave vents with 1/4 inch non-combustible wire mesh screen; and by eliminating wood fences, wood decks, and other flammable structures that are connected to or in close proximity to your home or business. Please consult with a qualified architect or contractor for specific recommendations that would benefit your property. In addition, proper site maintenance including cleaning roofs and gutters, covering chimney outlets with nonflammable 1/2 inch wire screen, and making sure storage of flammable items is at least 30 feet from structures and other flammable items will add to a safe property.

Plant Maintenance - Reducing the volume of plant material on your property can further reduce the risks from wildfire. To do it properly, you need to follow some basic concepts and rules. As illustrated in Figure 1 below, a property that is not maintained provides a quick path for fire to follow to reach a structure. Figure 2 below illustrates the same property after proper brush management. It illustrates two important areas (Zone 1 and Zone 2) that need to be maintained differently. The Fire Department recommends a combined Zone 1 and Zone 2 dimension of 100 feet, measured from your home or business to the edge of undisturbed vegetation.



Figure 1: Before Brush Management

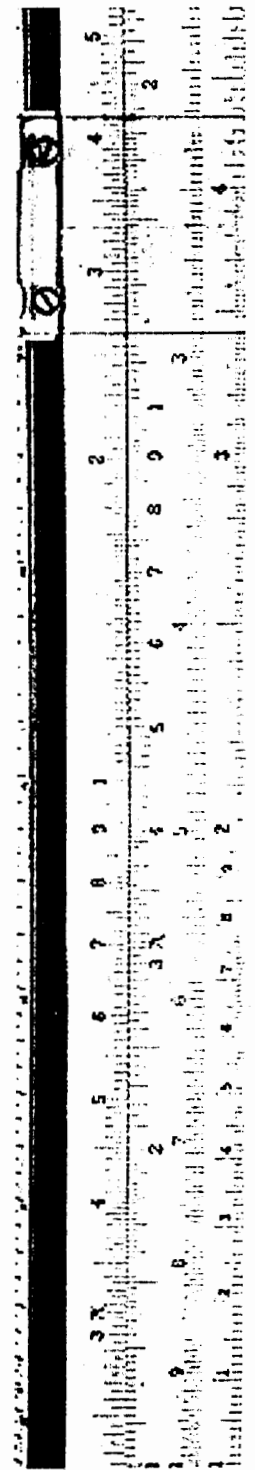
Figure 2: After Pruning and Thinning

Zone 1 - This area is the level area (no steeper than 1 foot of elevation change for each 4 feet of horizontal distance) around your home or business. Plants in this zone should consist of irrigated, ornamental species. This vegetation should be kept in a well-watered condition and cleared of dead material. In this zone, no more than 10 percent of the native, non-irrigated vegetation should be retained. Trees should be pruned away from structures and chimneys in this zone. Wood decks, fences, and other flammable structures and materials should be removed. No irrigation from this area should flow into Zone 2 to avoid encouraging plant growth in Zone 2. Year-round maintenance should be done in this area.

Zone 2 - This area is the first defense for fire safety. In this zone, you should selectively thin and prune native or naturalized vegetation to preserve the natural appearance of the area while reducing the amount of burnable vegetation. In this zone, 50 percent

CURRENT CITY BRUSH MANAGEMENT REQUIREMENTS

23462





September 2, 2004

Mr. Mike Pallamary
Pallamary Associates
7755 Fay Avenue, Suite J
La Jolla, CA 92037

sent via fax (858) 454-4667

Subject: Biological Review of Fargo Residence in La Jolla

Dear Mr. Pallamary:

The purpose of this letter is to provide you with a brief analysis of the biological issues associated with current construction at the Fargo residence in La Jolla. It is my understanding that concern has been raised regarding the ongoing construction of a new pool behind the Fargo residence, with particular concern about potential impacts to adjacent sensitive biological resources.

I performed a site visit on August 13, 2004 to review the condition of the site with respect to biological resources. Preliminary earthwork had been completed and portions of the existing fence along the back of the lot had been removed. It is my understanding that this fence delineated the edge of the biological open space on the Fargo's property. Beyond this fence there is coastal sage scrub habitat dominated by lemonade berry (*Rhus integrifolia*), buckwheat (*Eriogonum fasciculatum*) and California sagebrush (*Artemisia californica*). There are also large patches of houtteot fig (*Carpobrotus edulis*) along the upper portion of the canyon beyond the fence line. Silt fencing had been installed along the previous fence line, however, a small amount of spoil was observed beyond the silt fence. I recommended that the spoils be removed from this area using hand tools and that the silt fencing be repaired to prevent transport of sediments and spoils into the canyon. It appeared that impacts to native vegetation beyond the fence line were negligible and that native shrubs that were crushed by spoils should become re-established as the roots systems were not removed.

Please call me at (858) 578-8964 if you have any questions regarding this letter.

Sincerely,

Ted N. Lee
Principal Biologist

9903 Businesspark Avenue
San Diego, California 92131-1120
www.tlfa.com
(858) 578-8964 FAX (858) 578-0573

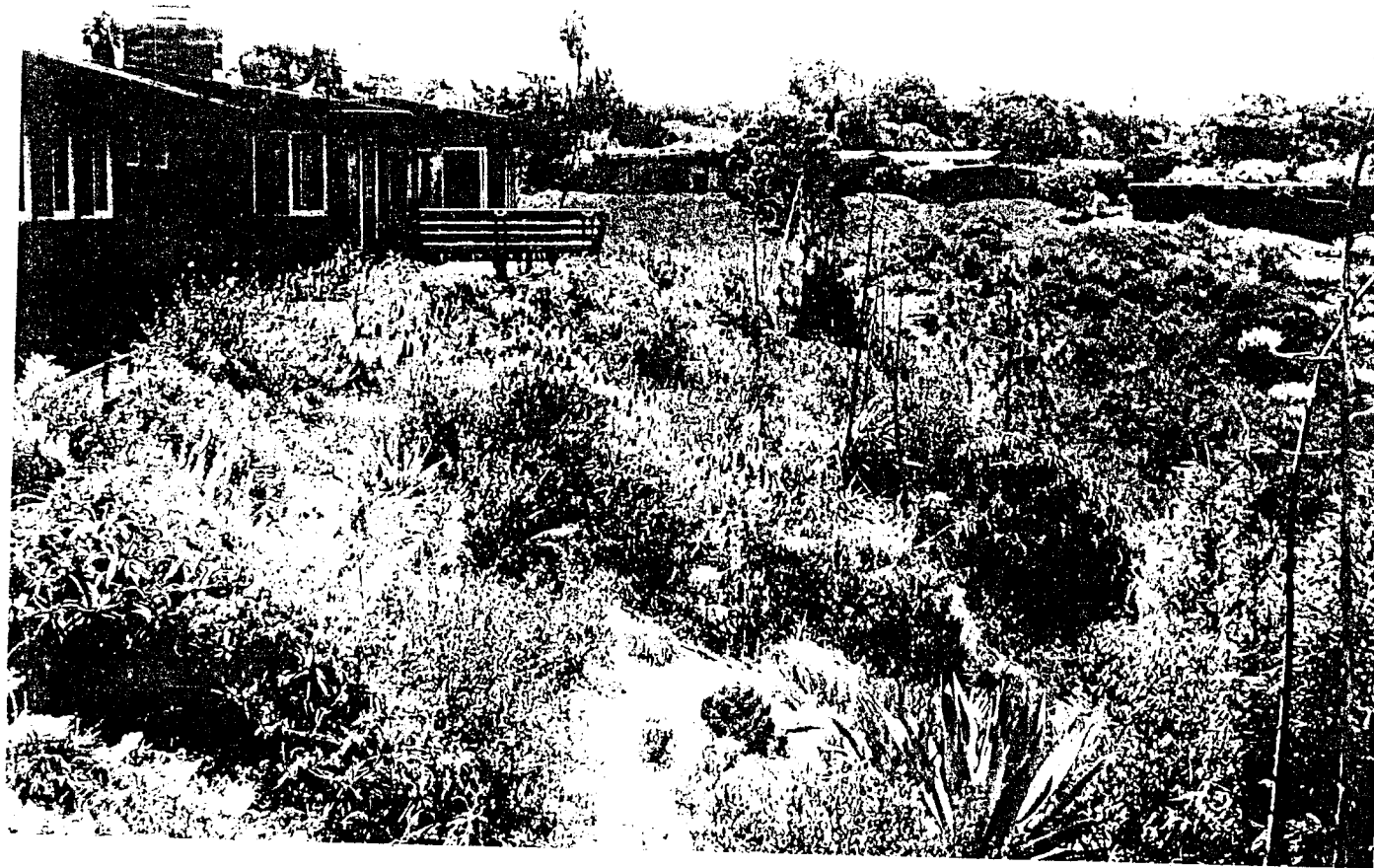
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OPEN SPACE
LOT

CALIFORNIA
DEPARTMENT
OF PUBLIC WORKS

CRANFORD
DEVELOPMENT

[illegible]

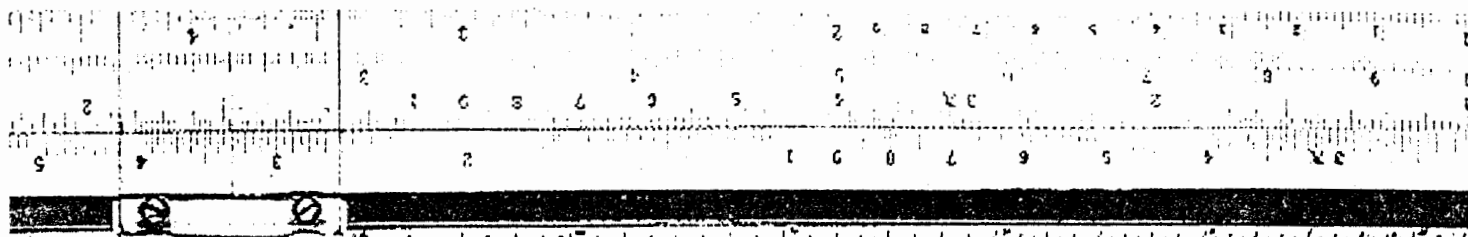


**VIEW TO SOUTH – NOTICE ABUNDANCE OF
NON-NATIVE PLANTINGS AND
CANYON ENCROACHMENT**

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**VIEW TO NORTH - NOTICE ABUNDANCE OF
NON-NATIVE PLANTINGS AND
CANYON ENCROACHMENT**



Pallamary & Associates
Land Use Consultants

(O) 858-454-4094

(F) 858-454-4667

August 10, 2005

File No. 04-1014

Peter Douglas, Executive Director
California Coastal Commission
South Central Coast
89 South California Street
Suite 200
Ventura, CA 93001

Re: Fargo Pool Construction
2610 Inyaha Lane, La Jolla
Stop Work Request

Dear Mr. Douglas,

As you are aware, I have been retained by Mr. Fargo as his land use consultant, in order to assist him in reviewing and processing the various permits associated with construction of the swimming pool in his back yard. The original issuance of the permit from the City of San Diego (29138) occurred in April of 2004.

My involvement arose following a series of questions initiated by the City of San Diego after several of Mr. Fargo's neighbors expressed concerns with the construction of the pool. Upon assuming my role in this matter, I began communicating with the City and I subsequently retained and reviewed all of the work prepared by the various consultants we retained in order to address the City's and the neighbor's concerns. In essence, I am the project quarterback.

I am in receipt of the recent communications from the California Coastal Commission in connection with their delivery of a Notice of Intent ("NOI") to Issue an Executive Director Cease and Desist order for the construction of the City permitted swimming pool located in Mr. Fargo's back yard.

This request is ill-advised and, if Mr. Fargo were to stop work at this stage of construction, he would place his family and his home in jeopardy. A stoppage at this critical juncture would constitute a serious threat to the health, safety and welfare of his family, his property, and his home.

Before I provide you with my reasoning for this position, I must tell you I am very concerned with the Commission's actions. When I met on site with coastal staff, they were aware of the construction activities and we made it very clear that given the nature and state of construction, the site was in a very vulnerable condition. As there were no objections from coastal staff, we all agreed my client would continue his construction in accordance with the approved plans. During the various meetings associated with this matter, City staff informed me that they had extensive communications with coastal staff, that coastal staff was aware of this proposed construction activity for quite some time and that they had no objections, nor did they attempt to stop this work.

In the way of a brief background, on April 5, 2004, sixteen months ago, the City of San Diego issued a ministerial permit, No. 75384, PTS 29138, to construct his pool. In accordance with the approved plans, all the necessary permits were issued. After construction started, in July of last year (some 13 months ago), several neighbors began filing complaints with the City over the work that had commenced. On July 23, 2004, Duke Fernandez from Neighborhood Code Compliance and Edith Gutierrez, a City coastal planner conducted a site inspection and determined that the

Peter Douglas, Executive Director

grading appeared to be too close to the property line and appeared to exceed the permitted scope of work. My client was asked to stop work so that issue could be looked into. 13 months ago, on Tuesday, July 27, 2004, City staff and I met with my client to discuss the extent of work that was occurring.

An inspection revealed that a small amount of dirt had sloughed into the adjacent canyon. As the records will disclose, this area was not graded, it had merely been covered with loose slough material. At the request of City staff, Mr. Fargo retained the services of a biologist to evaluate the impacts of this material. He determined that it was of no significance whatsoever and that all that had to be done was for the dirt to be raked up and redeposited back onto the site. All of the consultants agreed as to this simple solution. Our biologist noted that the area where the dirt had rolled onto was already disturbed and it was covered with non-native ice plant and as such, did not impact anything in the canyon. It is worth noting that City staff informed us that in their opinion, under the terms of the existing permit issued in 1989, this area was supposed to be denuded of plants as it was in an approved brush management zone. It was thus neither environmentally sensitive and, by definition and pursuant to the terms of the existing approved permits, disturbed. All of this, of course, is thoroughly documented in all the City's records (which we will make available to you at any time).

When Mr. Fargo's contractor recommenced construction, problems arose when the grader accidentally slipped on the hillside. In doing so, a small amount of dirt rolled down the hillside to the other side of the fence. As noted and in accordance with our discussions with city staff, their geologist, our biologist, their biologist, our engineer, the City's coastal staff, their code compliance people, all agreed we would sweep up the dirt and install a silt fence to prevent any further spills. The point is, Mr. Fargo has met all City and coastal staff requirements.

Throughout these events, some 14 months ago, the state coastal staff was involved as were the neighbors and their attorney. In addition to these concerns, what is even more troubling is the conversation I had with coastal staff regarding any actions they might be considering. I explained that in my personal and expert opinion, it would be premature for them to do anything until they reviewed the existing files and studies. Instead, and to quote the staff report:

"At the time of this report, Commission Staff has asked for, but not received the City file and thus, has very little information with regard to the City's action."

This statement is a gross misrepresentation of the facts and the truth. When I met with coastal staff, I informed them that my office was five minutes away and that I had complete and detailed copies of all City records and plans and that I would gladly share them with them. My offer was witnessed by City staff and my client and it was made several times to Coastal Commission staff. As is evident, staff has instead elected to adopt this course of action without having reviewed the files which are available to them, have been available to them, and remain available to them to date and are still available. They have thus accepted this appeal before availing themselves of the facts.

As can be seen by the enclosed photos, Mr. Fargo's home and the adjacent canyon system are now in a very vulnerable and fragile condition. There are considerable volumes of uncompacted dirt that could be washed down into the canyon and there are significant hazards that could result in the loss of life, limb and property. My concerns are analogous to stopping a surgeon in the middle of open heart surgery. The time to cease construction has long since passed. The only safe and sound thing is for Mr. Fargo to proceed with his permitted work. Otherwise, there could be grave consequences. If there are, who will be responsible for them? As coastal staff was aware of this construction activity some time ago, why are they now telling Mr. Fargo to stop when they allowed him to proceed to this stage of construction after he has vested his rights? To date, Mr. Fargo has spent in excess of \$100,000. He proceeded in good faith based upon validly

Peter Douglas, Executive Director

issued permits. All approved setbacks and erosion control measures (BMP's) have been implemented.

In the event the Coastal Commission insists that their directive must be followed, the California Coastal Commission must assume and accept complete and absolute responsibility for any problems that may arise in connection with this stoppage. I would also insist that they provide Mr. Fargo with a 5-million dollar liability policy as it is necessary to cover the extraordinary cost and inevitable damages that will arise as a result of this proposed delay. My reasoning and evidence are as follows.

This week, the National Weather Services issued a series of flash flood warnings for San Diego County. Late last month, the *San Diego Union* reported "A summer thunderstorm unleashed over the mountains and deserts last night, dropping record rainfall on the area before retreating. The storm dumped 2.3 inches of rain on Mount Laguna in just under 40 minutes, according to the National Weather Service." As we all know, last year was one of the worst years on record in terms of rainfall and inclement weather. There were a great many mudslides throughout Southern California, several of which resulted in loss of life and property. Consequently, and so the record is clear; if the Coastal Commission stops this project, they will be solely responsible for the consequences of their actions.

In support of my observations, as can be seen on the enclosed photographs, a series of uncompacted staging areas are situated around the base of the pool. Once construction is completed, this material will be compacted and replaced in and around the pool and the resultant slopes will be planted. This will serve to stabilize the slope and protect it from erosion. Until this material can be relocated and the slope stabilized, the home and canyon are at risk. And until the pool is constructed to a point of stability, the dirt cannot be moved.

The foundation has already been poured and there are large sections of rebar exposed and scattered throughout the project. These constitute a health and safety hazard for everyone. Mr. Fargo has a large family and he has been blessed with many grandchildren who will be unnecessarily exposed to physical harm.

I would note that while construction is occurring, the workers keep the area stabilized as this is an ongoing project. On a day by day basis, they keep the area secured and they continue to stabilize the forms while advancing to the next stage of construction. Now, because the Coastal Commission did not protest this work earlier and because the project has advanced to this stage of construction, the forms and rebar are precariously perched. As is abundantly evident, any slope failure or excessive rains will undermine and disrupt this system. Therefore, if this project is stopped, the uncompacted slopes will wash into the sensitive canyon, the forms will collapse and the rebar will become dislodged. The dirt will be undermined and the house will be placed in jeopardy. This will create a very hazardous condition. If this happens, will the Coastal Commission clean the canyon, rebuild the house and hillside? Once the mud and silt destroy the formwork, the rebar will become inundated and once the water and rust set in, the rebar may have to be removed if there is too much water intrusion. The costs could become significant.

Any suggestion to stop construction in light of this potentiality as well as the onslaught of the pending rainy season is irresponsible and reckless and without precedence. It is conceivable that any delay would be extended through bureaucratic manipulation only worsening conditions.

As this action will be contrary to Mr. Fargo's wishes and the advice of his consultants, will the State Geologist be assuming responsible charge of this site and conditions in accordance with his legal duties under the Business and Professions Code? Mr. Fargo's consultants cannot and will not be responsible for the consequences of this ill-conceived action.

August 10, 2005

File No. 04-1014

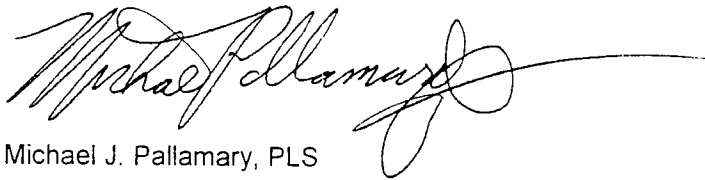
Peter Douglas, Executive Director

I also trust that the commission has engaged the services of qualified individuals in accordance with their duties under state law as well as the California Code of Regulations (CCR). The CCR are a series of regulations that have been formally adopted by state agencies, reviewed and approved by the Office of Administrative Law, and filed with the Secretary of State. These regulations are intended to govern the activities regulated by the state to assure uniformity and consistency between the various disciplines. The California Coastal Commission is bound by the CCR to assure that all safety measures, engineering practices and construction procedures are followed as they will be assuming complete and absolute responsible charge for this project. Assuming they intend to abide by their obligations under law, it would be appropriate for them to submit their plans to Mr. Fargo and his insurance company to assure that these plans are acceptable. Otherwise, he may not have adequate coverage for any disasters that may occur. I would thus assume the Coastal Commission's proposed bond will be nominally adequate for this purpose.

Please note I will continue to document this matter as we are also compiling a response to the staff report which has taken extraordinary liberty in misrepresenting the facts in this case.

Sincerely,

PALLAMARY & ASSOCIATES



Michael J. Pallamary, PLS

Encl:

CC: Victor Fargo, Client

Matthew Peterson, Attorney at Law
Christopher Connolly, Attorney at Law
Lisa Haage, California Coastal Commission
Sandy Goldberg, Esquire, California Coastal California
Lee McEachern, California Coastal Commission
Pat Veesert, California Coastal Commission
Marsha Venegas, California Coastal Commission
Jaime Patterson, State Attorney General
Scott Peters, Council Member City of San Diego
Gary Halbert, City of San Diego
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Rob Hawk, City of San Diego
Werner Landry, City of San Diego
Sheri Carr, City of San Diego
Ted Lee, Mooney & Associates
Mark Farrington, PE
Dave Russell, Christian Wheeler & Associates
Chip Wilson, Landscape Architect



CHRISTIAN WHEELER
ENGINEERING

August 11, 2005

Pallamary & Associates
7755 Fay Avenue, Suite J
La Jolla, CA 92037

CWE 2050785.01

Attention: Michael J. Pallamary, PLS

**SUBJECT: OBSERVATION OF SWIMMING POOL CONSTRUCTION, FARGO
RESIDENCE, 2610 INYAHA LANE, LA JOLLA, CALIFORNIA**

Ladies and Gentlemen:

In accordance with your request, we have conducted a site visit to observe the geotechnical conditions exposed in the area of the proposed swimming pool that is under construction within the western portion of the residential lot located at 2610 Inyaha Lane in the La Jolla area of the city of San Diego, California. We understand that, per the directive of the California Coastal Commission, the construction of the swimming pool has been halted.

As noted during our surface reconnaissance of the site, the existing excavations for the pool bowl indicate that the area of the swimming pool is underlain by Quaternary-age terrace deposits that are locally referred to as the Lindavista Formation. The materials of the Lindavista Formation exposed within the existing excavations were noted to consist of light yellowish-brown to reddish-brown, silty sandstone (SM), which is generally moist and dense to very dense in consistency. Adjacent to the existing excavations, an approximately 18-inch-thick surficial veneer of native subsoil, consisting of moist, stiff to very stiff, sandy clay (CL), was noted to cap the native terrace deposits. Additionally, stockpiles of the soils excavated from the proposed pool bowl exist adjacent to the northern, southern, and western sides of the excavation. Such stockpiles were noted to be up to approximately four feet in height and consist of loose and uncompacted, granular soils, which we anticipate have not been removed from the subject site because they are to be placed as structural backfill around the uphill portions of the pool bowl.

33 of 62

Although the performance of quantitative slope stability analyses was not within our authorized scope of services for this project, it is our professional opinion and judgment that appreciable geologic and geotechnical risks to the subject site and adjacent, downhill areas could arise should the existing pool excavation and stockpiles of loose, granular soils remain exposed in their current conditions for an extended period of time. Specifically, should a rainfall event cause a collection of surface waters within the base of the existing pool excavation, saturation of the near surface soils beneath the pool would serve to decrease the overall stability of the subject site and adjacent, sloping areas. Furthermore, the existing stockpiles of granular soils on-site should be considered susceptible to erosion and surficial slumping in the event of a significant rainfall event. As such, from a geologic and geotechnical perspective, it is our professional opinion that to the greatest degree possible, the exposure time associated with the existing pool excavation and soil stockpiles be minimized so as to not unduly increase the potential for geologic and geotechnical hazards on or adjacent to the subject site.

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

Respectfully submitted,

CHRISTIAN WHEELER ENGINEERING



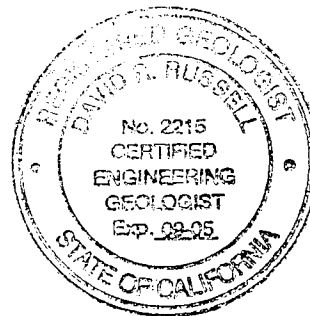
Charles H. Christian, R.G.E. #00215



David R. Russell, C.E.G. #2215

CHC:DRR

cc: (5) Submitted
(1) via fax 858-454-4667



34 of 62

PETERSON & PRICE

A PROFESSIONAL CORPORATION

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LARRY N. MURNANE
CHRISTOPHER J. CONNOLLY
VICTORIA E. ADAMS
ERIC J. PROSSER
ELOISE H. FEINSTEIN

www.petersonprice.com

OF COUNSEL
PAUL A. PETERSON

File No.
6947.002

VIA FACSIMILE & CERTIFIED MAIL

August 25, 2005

Mr. Peter M. Douglas
Executive Director
California Coastal Commission
South Central Coast
89 South California St., Ste. 200
Ventura, CA 93001

Re: Fargo Pool, 2610 Inyaha Lane, La Jolla, CA
Executive Director Issued Cease & Desist Order
No. ED-05-CD-06 Dated August 11, 2005 ("EDCDO")

Dear Mr. Douglas:

We represent Inyaha, LLC, the owner and its Manager, Mr. Victor Fargo with regard to the above referenced matter.

As you know in response to the Notice of Intent to Issue the Cease and Desist Order, Mr. Michael Pallamary sent you a letter dated August 10, 2005 spelling out in detail the history of the matter and indicating that if you were to stop the project at this critical stage of construction, it would place our client's family and his home in jeopardy (see attached copy). He further pointed out to you that such a Stop Work Order would create a serious threat to the health, safety and welfare of our client's family, the property and his home. Evidence of this threat was presented to you in the form of attachments including a letter from a Geotechnical Engineer, a Civil Engineer and detailed photographs and exhibits of the construction of the project.

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As you may or may not know, your Staff had been involved in this case for over a year. Most recently prior to your issuance of the August 11, 2005 EDCDO, your Staff had informed our client to proceed with the construction. On Tuesday, August 23, 2005, we had a meeting with Mr. Lee McEachern and Ms. Marsha Venegas at the site which was in response to our request that the project be allowed to proceed to mitigate the serious threat to the health, safety and welfare of our client, his property and his home created by your issuance of the EDCDO.

We submitted a letter by fax from Mr. Farrington, a registered civil engineer, to Mr. McEachern and Ms. Leslie Ewing on Monday, August 22, 2005 (see attached copy). This letter indicated the best method to stabilize and secure the site. On Wednesday, August 24, 2005, we heard back from Mr. McEachern that Ms. Ewing had determined that she does not concur with Mr. Farrington's recommendations. She apparently concludes, without even the benefit of a site visit that finishing the pool walls, recompacting the site and immediately installing landscaping would not be appropriate in light of the upcoming Coastal Commission hearing concerning the neighbors' appeal.

The Coastal Commission will be served very shortly with a Verified Complaint for Declaratory and Injunctive Relief which challenges the invalid and untimely appeal as well as your issuance of the Cease and Desist Order.

In order for our client's Engineers and Consultants to evaluate Ms. Ewing's conclusions and her decision not to allow appropriate stabilization and securing of the site consistent with

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Mr. Farrington's recommendation, we must insist that her denial of that request be put in writing. In accordance with her duties under the Business and Professions Code we must insist that she sign, stamp and seal her letter. Further, in light of the fact that she will not allow the Cease and Desist Order to be modified to stabilize the site, we must also insist that she issue a formal written opinion as to what measures she as a licensed Civil Engineer believes would be necessary to: 1) stabilize the site, 2) protect the site from erosion and/or slope failure, and render the site safe in light of the protruding rebar and other structural elements already in place.

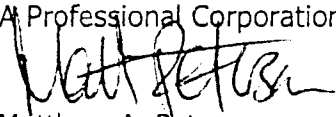
Obviously at this point since the Coastal Commission has stopped construction and our client has not been allowed to stabilize or otherwise make the site safe, we have no choice but to hold all those involved in the issuance of the Cease and Desist Order fully responsible and liable for all property damage, injury and/or death to persons which may occur as a result of the Cease and Desist Order. Furthermore, because of the actions taken by Ms. Ewing wherein she has supplanted Mr. Farrington's recommendations, she and the Coastal Commission are now in "responsible charge" of this project. What this means is Ms. Ewing and the California Coastal Commission have now assumed the role of the "engineer of record" and as such, she and the California Coastal Commission are now legally responsible for the engineering, safety and design of this project. We are also extremely concerned with the Coastal Commission's apparent lack of compliance with its duties under the California Code of Regulations, as Ms. Ewing's initial conclusion and decision is in direct conflict with the safety and engineering standards that regulate the actions of the Coastal Commission. This, of course will have implications relative to the Coastal Commission's relationship with the Attorney General's office.

In summary, your issuance of the Cease and Desist Order has created a dangerous condition and has, as a result of that Order, significantly exposed the Coastal Commission, you and your Staff to liability concerning this matter and the subject property.

We are hopeful that you and your Staff will immediately reconsider your position and allow our client to proceed with the measures outlined in the attached letter. We would respectfully request a response to this letter by no later than Friday, August 26, 2005 at 5:00 p.m.

Thank you for your courtesy.

Sincerely,

PETERSON & PRICE
A Professional Corporation

Matthew A. Peterson

Enclosure

cc: Bill Lockyer, State Attorney General
Jaime Patterson, State Attorney General's Office
(All with copy of enclosures)

Leslie Ewing, California Coastal Commission
Lisa Haage, California Coastal Commission
Sandy Goldberg, Esq., California Coastal Commission
Lee McEachern, California Coastal Commission
Pat Veasart, California Coastal Commission
Marsha Venegas, California Coastal Commission
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Sharren Carr, City of San Diego
Ted Lee, Mooney & Associates
Mark Farrington, PE
Dave Russell, Christian Wheeler & Associates
Chip Wilson, Landscape Architect
Christopher J. Connolly, Esq., Peterson & Price
Victor Fargo
(Only with copy of 8/22/05 letter)

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Pallamary & Associates Land Use Consultants

(O) 858-454-4094

(F) 858-454-4667

August 10, 2005

File No. 04-1014

Peter Douglas, Executive Director
California Coastal Commission
South Central Coast
89 South California Street
Suite 200
Ventura, CA 93001

Re: Fargo Pool Construction
2610 Inyaha Lane, La Jolla
Stop Work Request

Dear Mr. Douglas,

As you are aware, I have been retained by Mr. Fargo as his land use consultant, in order to assist him in reviewing and processing the various permits associated with construction of the swimming pool in his back yard. The original issuance of the permit from the City of San Diego (29138) occurred in April of 2004.

My involvement arose following a series of questions initiated by the City of San Diego after several of Mr. Fargo's neighbors expressed concerns with the construction of the pool. Upon assuming my role in this matter, I began communicating with the City and I subsequently retained and reviewed all of the work prepared by the various consultants we retained in order to address the City's and the neighbor's concerns. In essence, I am the project quarterback.

I am in receipt of the recent communications from the California Coastal Commission in connection with their delivery of a Notice of Intent ("NOI") to Issue an Executive Director Cease and Desist order for the construction of the City permitted swimming pool located in Mr. Fargo's back yard.

This request is it ill-advised and, if Mr. Fargo were to stop work at this stage of construction, he would place his family and his home in jeopardy. A stoppage at this critical juncture would constitute a serious threat to the health, safety and welfare of his family, his property, and his home.

Before I provide you with my reasoning for this position, I must tell you I am very concerned with the Commission's actions. When I met on site with coastal staff, they were aware of the construction activities and we made it very clear that given the nature and state of construction, the site was in a very vulnerable condition. As there were no objections from coastal staff, we all agreed my client would continue his construction in accordance with the approved plans. During the various meetings associated with this matter, City staff informed me that they had extensive communications with coastal staff, that coastal staff was aware of this proposed construction activity for quite some time and that they had no objections, nor did they attempt to stop this work.

In the way of a brief background, on April 5, 2004, sixteen months ago, the City of San Diego issued a ministerial permit, No. 75384, PTS 29138, to construct his pool. In accordance with the approved plans, all the necessary permits were issued. After construction started, in July of last year (some 13 months ago), several neighbors began filing complaints with the City over the work that had commenced. On July 23, 2004, Duke Fernandez from Neighborhood Code Compliance and Edith Gutierrez, a City coastal planner conducted a site inspection and determined that the

Peter Douglas, Executive Director

grading appeared to be too close to the property line and appeared to exceed the permitted scope of work. My client was asked to stop work so that issue could be looked into. 13 months ago, on Tuesday, July 27, 2004, City staff and I met with my client to discuss the extent of work that was occurring.

An inspection revealed that a small amount of dirt had sloughed into the adjacent canyon. As the records will disclose, this area was not graded, it had merely been covered with loose slough material. At the request of City staff, Mr. Fargo retained the services of a biologist to evaluate the impacts of this material. He determined that it was of no significance whatsoever and that all that had to be done was for the dirt to be raked up and redeposited back onto the site. All of the consultants agreed as to this simple solution. Our biologist noted that the area where the dirt had rolled onto was already disturbed and it was covered with non-native ice plant and as such, did not impact anything in the canyon. It is worth noting that City staff informed us that in their opinion, under the terms of the existing permit issued in 1989, this area was supposed to be denuded of plants as it was in an approved brush management zone. It was thus neither environmentally sensitive and, by definition and pursuant to the terms of the existing approved permits, disturbed. All of this, of course, is thoroughly documented in all the City's records (which we will make available to you at any time).

When Mr. Fargo's contractor recommenced construction, problems arose when the grader accidentally slipped on the hillside. In doing so, a small amount of dirt rolled down the hillside to the other side of the fence. As noted and in accordance with our discussions with city staff, their geologist, our biologist, their biologist, our engineer, the City's coastal staff, their code compliance people, all agreed we would sweep up the dirt and install a silt fence to prevent any further spills. The point is, Mr. Fargo has met all City and coastal staff requirements.

Throughout these events, some 14 months ago, the state coastal staff was involved as were the neighbors and their attorney. In addition to these concerns, what is even more troubling is the conversation I had with coastal staff regarding any actions they might be considering. I explained that in my personal and expert opinion, it would be premature for them to do anything until they reviewed the existing files and studies. Instead, and to quote the staff report:

"At the time of this report, Commission Staff has asked for, but not received the City file and thus, has very little information with regard to the City's action."

This statement is a gross misrepresentation of the facts and the truth. When I met with coastal staff, I informed them that my office was five minutes away and that I had complete and detailed copies of all City records and plans and that I would gladly share them with them. My offer was witnessed by City staff and my client and it was made several times to Coastal Commission staff. As is evident, staff has instead elected to adopt this course of action without having reviewed the files which are available to them, have been available to them, and remain available to them to date and are still available. They have thus accepted this appeal before availing themselves of the facts.

As can be seen by the enclosed photos, Mr. Fargo's home and the adjacent canyon system are now in a very vulnerable and fragile condition. There are considerable volumes of uncompacted dirt that could be washed down into the canyon and there are significant hazards that could result in the loss of life, limb and property. My concerns are analogous to stopping a surgeon in the middle of open heart surgery. The time to cease construction has long since passed. The only safe and sound thing is for Mr. Fargo to proceed with his permitted work. Otherwise, there could be grave consequences. If there are, who will be responsible for them? As coastal staff was aware of this construction activity some time ago, why are they now telling Mr. Fargo to stop when they allowed him to proceed to this stage of construction after he has vested his rights? To date, Mr. Fargo has spent in excess of \$100,000. He proceeded in good faith based upon validly

Peter Douglas, Executive Director

issued permits. All approved setbacks and erosion control measures (BMP's) have been implemented.

In the event the Coastal Commission insists that their directive must be followed, the California Coastal Commission must assume and accept complete and absolute responsibility for any problems that may arise in connection with this stoppage. I would also insist that they provide Mr. Fargo with a 5-million dollar liability policy as it is necessary to cover the extraordinary cost and inevitable damages that will arise as a result of this proposed delay. My reasoning and evidence are as follows.

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In support of my observations, as can be seen on the enclosed photographs, a series of uncompacted staging areas are situated around the base of the pool. Once construction is completed, this material will be compacted and replaced in and around the pool and the resultant slopes will be planted. This will serve to stabilize the slope and protect it from erosion. Until this material can be relocated and the slope stabilized, the home and canyon are at risk. And until the pool is constructed to a point of stability, the dirt cannot be moved.

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August 10, 2005

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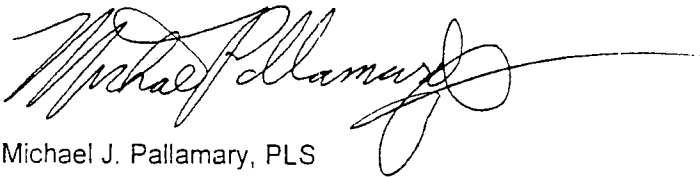
Peter Douglas, Executive Director

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Sincerely,

PALLAMARY & ASSOCIATES



Michael J. Pallamary, PLS

Encl:

CC: Victor Fargo, Client

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Christopher Connolly, Attorney at Law
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Ted Lee, Mooney & Associates
Mark Farrington, PE
Dave Russell, Christian Wheeler & Associates
Chip Wilson, Landscape Architect



CHRISTIAN WHEELER
ENGINEERING

August 11, 2005

Pallamary & Associates
7755 Fay Avenue, Suite J
La Jolla, CA 92037

CWE 2050785.01

Attention: Michael J. Pallamary, PLS

**SUBJECT: OBSERVATION OF SWIMMING POOL CONSTRUCTION, FARGO
RESIDENCE, 2610 INYAHA LANE, LA JOLLA, CALIFORNIA**

Ladies and Gentlemen:

In accordance with your request, we have conducted a site visit to observe the geotechnical conditions exposed in the area of the proposed swimming pool that is under construction within the western portion of the residential lot located at 2610 Inyaha Lane in the La Jolla area of the city of San Diego, California. We understand that, per the directive of the California Coastal Commission, the construction of the swimming pool has been halted.

As noted during our surface reconnaissance of the site, the existing excavations for the pool bowl indicate that the area of the swimming pool is underlain by Quaternary-age terrace deposits that are locally referred to as the Lindavista Formation. The materials of the Lindavista Formation exposed within the existing excavations were noted to consist of light yellowish-brown to reddish-brown, silty sandstone (SM), which is generally moist and dense to very dense in consistency. Adjacent to the existing excavations, an approximately 18-inch-thick surficial veneer of native subsoil, consisting of moist, stiff to very stiff, sandy clay (CL), was noted to cap the native terrace deposits. Additionally, stockpiles of the soils excavated from the proposed pool bowl exist adjacent to the northern, southern, and western sides of the excavation. Such stockpiles were noted to be up to approximately four feet in height and consist of loose and uncompacted, granular soils, which we anticipate have not been removed from the subject site because they are to be placed as structural backfill around the uphill portions of the pool bowl.

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Although the performance of quantitative slope stability analyses was not within our authorized scope of services for this project, it is our professional opinion and judgment that appreciable geologic and geotechnical risks to the subject site and adjacent, downhill areas could arise should the existing pool excavation and stockpiles of loose, granular soils remain exposed in their current conditions for an extended period of time. Specifically, should a rainfall event cause a collection of surface waters within the base of the existing pool excavation, saturation of the near surface soils beneath the pool would serve to decrease the overall stability of the subject site and adjacent, sloping areas. Furthermore, the existing stockpiles of granular soils on-site should be considered susceptible to erosion and surficial slumping in the event of a significant rainfall event. As such, from a geologic and geotechnical perspective, it is our professional opinion that to the greatest degree possible, the exposure time associated with the existing pool excavation and soil stockpiles be minimized so as to not unduly increase the potential for geologic and geotechnical hazards on or adjacent to the subject site.

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

Respectfully submitted,

CHRISTIAN WHEELER ENGINEERING



Charles H. Christian, R.G.E. #00215



David R. Russell, C.E.G. #2215

CHC:DRR

cc: (5) Submitted
(1) via fax 858-454-4667



44 of 62

August 11, 2005

Mr. Michael J. Pallamary
Pallamary & Associates
7755 Fay Ave., Suite J
La Jolla, CA 92037

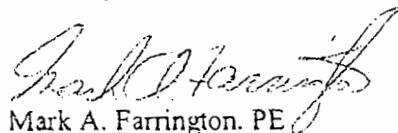
Subject: Fargo Pool Construction Stop Work Notification, 2610 Inyaha Lane, La Jolla

Dear Mike:

Pursuant to you notifying my office of the stop work notice issued by the California Coastal Commission, I hereby rescind any further involvement my company has played to date in the design, permitting, or construction of the pool.

Based on my review of current photos taken of the site, I feel it is extremely irresponsible to leave the site in the condition it is in today with no ability to continue work. The potential for erosion of the site without proper slope stabilization, as well as the completion of the pool for safety reasons makes no sense. As a result, Farrington Engineering Consultants can not be held liable for site conditions we have no ability to recommend changes on in the interest of public safety.

Sincerely,


Mark A. Farrington, PE



2610 INYAHA LANE LA JOLLA, CA

REPORT ON CEASE AND DESIST ORDER ISSUED BY CALIFORNIA COASTAL COMMISSION

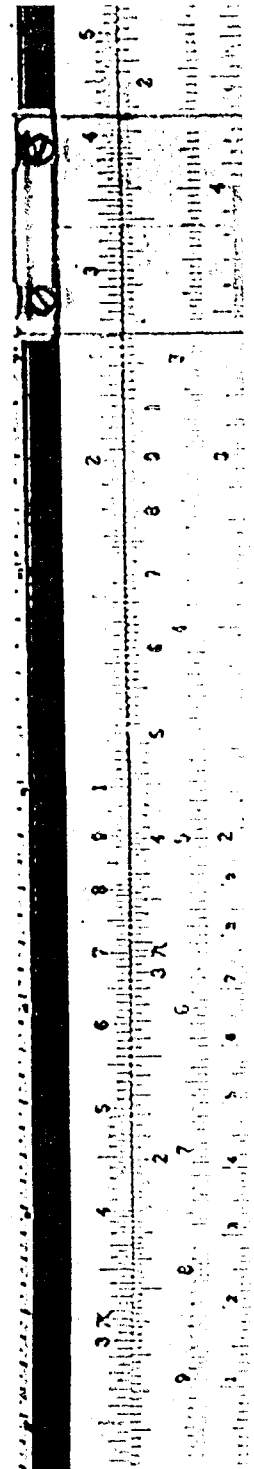
PREPARED BY PALLAMARY & ASSOCIATES
7755 FAY AVENUE, SUITE J
LA JOLLA, CA 92037

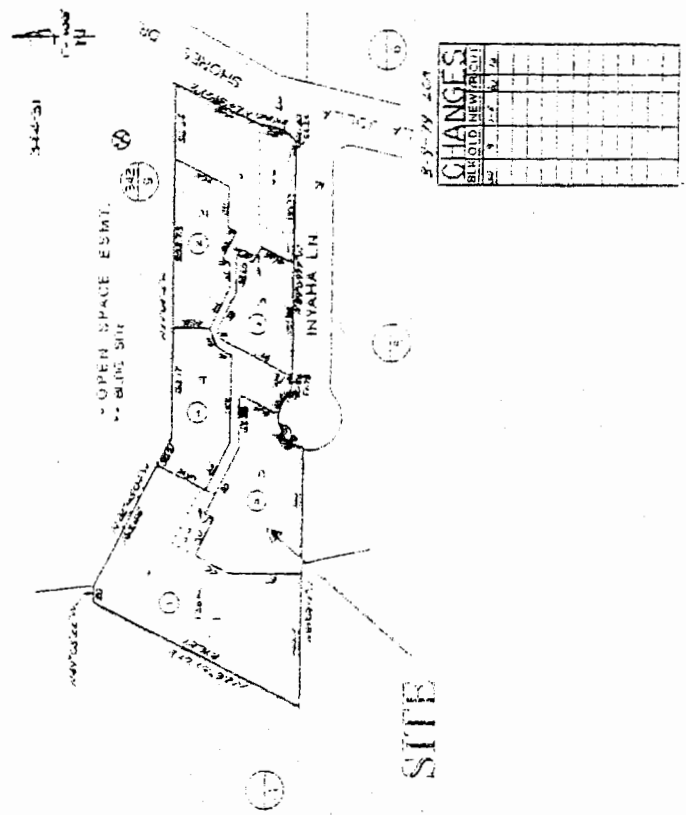
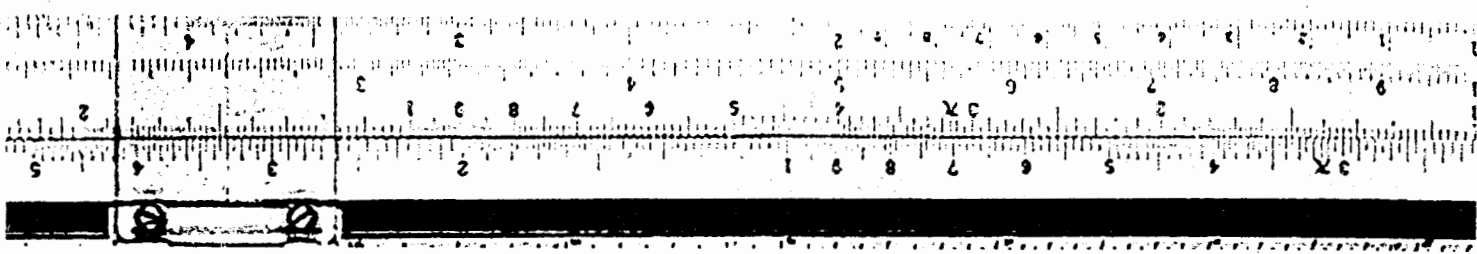
MICHAEL PALLAMARY, PLS 4830

AUGUST 9, 2005

PAA 04-1014
1 OF 14

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29 of 62

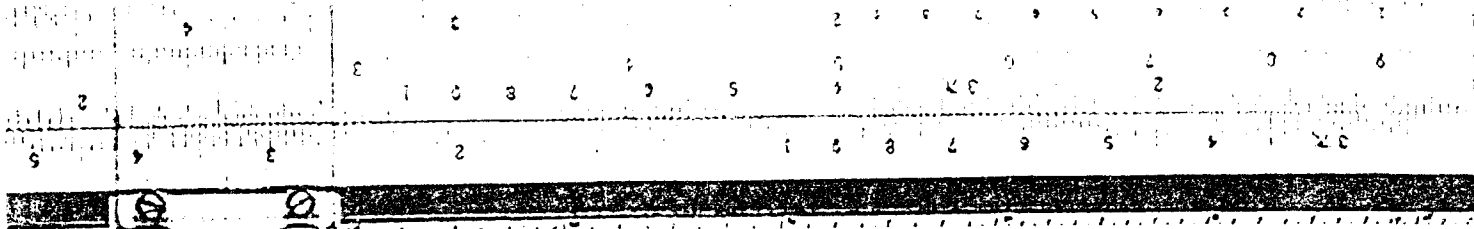




COUNTY ASSESSOR'S PLAT

PAA 04-1014
2 OF 14

47462



AERIAL PHOTO

PAA 04-1014

2004-10-14

FLASH FLOOD WATCH

IMMEDIATE BROADCAST REQUESTED
FLOOD WATCH NATIONAL WEATHER SERVICE
SAN DIEGO CA200 AM PDT SUN AUG 7 2005

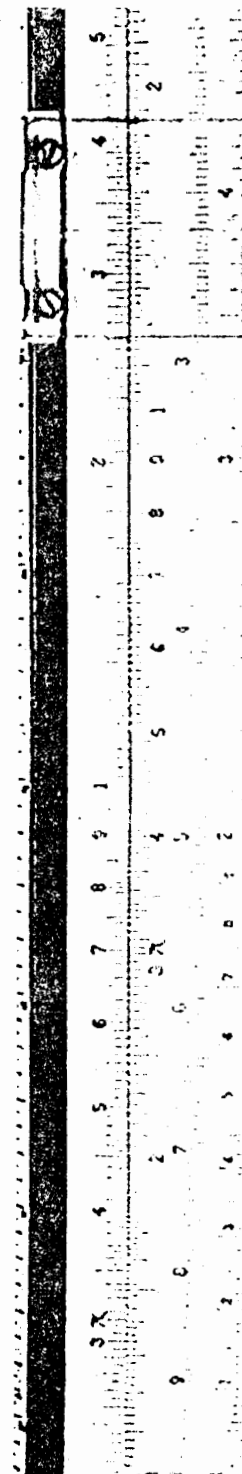
FLASH FLOOD WATCH IN EFFECT FROM 10 AM UNTIL 8 PM
TODAY FOR ... SAN DIEGO COUNTY ...

MOIST UNSTABLE AIR IN EASTERLY FLOW ALOFT WILL
PRODUCE THUNDERSTORMS OVER THE MOUNTAINS
AND DESERTS TODAY. FLASH FLOODING WILL BE
LIKELY ... OVER THE RIVERSIDE AND SAN DIEGO COUNTY
MOUNTAINS AND DESERTS AND OVER THE PORTIONS
OF THE INLAND VALLEYS ADJACENT TO THE MOUNTAINS.

**LOCALLY HEAVY RAINS COULD ALSO
CAUSE MUD SLIDES, ROCK SLIDES AND
DEBRIS FLOWS ...**

4. PAA 04-1014

4 OF 14



BACKCOUNTRY MUDSLIDE MESS

Motorists rescued after rains; no injuries reported

By Jerry Sheeran and Craig Gustafson
Los Angeles Times Staff Writers

August 9, 2005

WATERSPLIT CROSS — Heavy rains triggered mudslides in the backcountry yesterday, trapping motorists in their cars and creating a mess, officials said.

About 4 1/2 miles of county road 52, also known as San Felipe Ford, were affected by the mudslides and about seven cars got stuck or stranded.

A swift water rescue was conducted at mile marker 2, and no one was injured, said a chaplain with the Highland Fire Department.



Rescue workers and firefighters pulled a car out of a mudslide on San Felipe Ford, a backcountry road in San Diego County, yesterday.

AUGUST 9, 2005 - NEWSPAPER HEADLINE

PAA 04-1011
5 OF 14

Rescue workers extract a man after a mudslide in La Conchita, Calif., Monday, Jan. 10, 2005. A huge mudslide crashed down on a coastal hamlet, killing two people, injuring nine and leaving at least six missing as Southern California's saturated terrain began to give way under the onslaught of drenching storms that have sent rainfall totals to astonishing levels.
(AP Photo/Al Cuizon)



RECENT MUDSLIDE DISASTER

PAA 04-1011

6 OF 14

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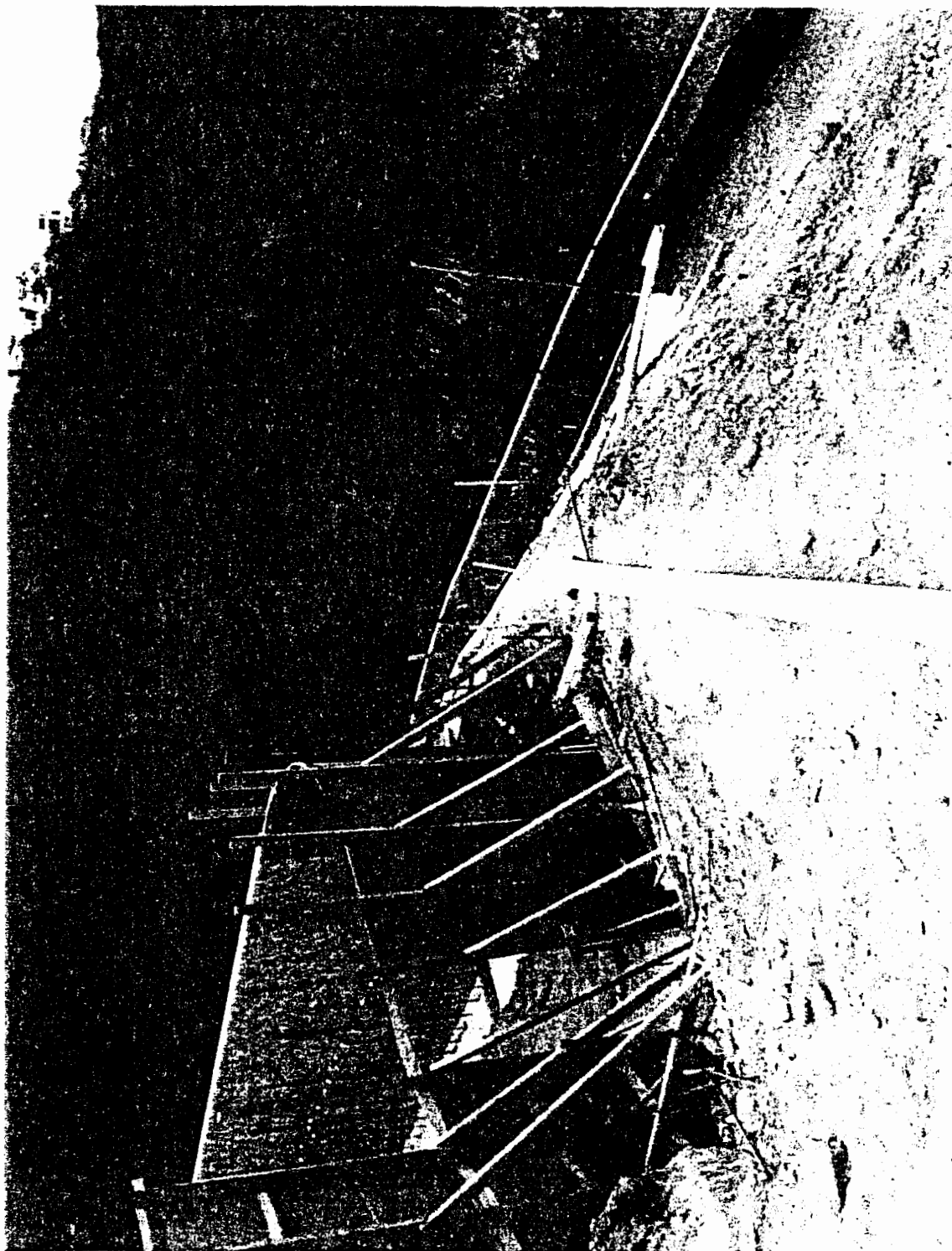
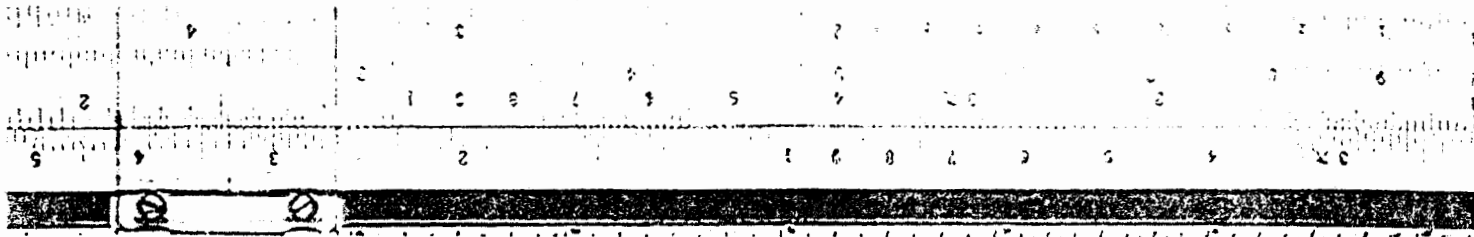
MEMORANDUM FOR THE BOARD OF DIRECTORS

10/10/65

The following information was received from the University of California, Berkeley, California, on October 10, 1965, in response to a letter from the Board of Directors dated September 15, 1965, regarding the University's financial position and the proposed budget for the fiscal year 1966-1967.

The University of California, Berkeley, California, is a public university and is subject to the provisions of the California Education Code, which requires the University to submit a budget to the Board of Directors for approval. The University's budget for the fiscal year 1966-1967 is based on the assumption that the State of California will provide the University with a total of \$100,000,000 in state funds, which is a decrease of \$10,000,000 from the amount provided in the fiscal year 1965-1966.

The University's budget for the fiscal year 1966-1967 is based on the assumption that the State of California will provide the University with a total of \$100,000,000 in state funds, which is a decrease of \$10,000,000 from the amount provided in the fiscal year 1965-1966.

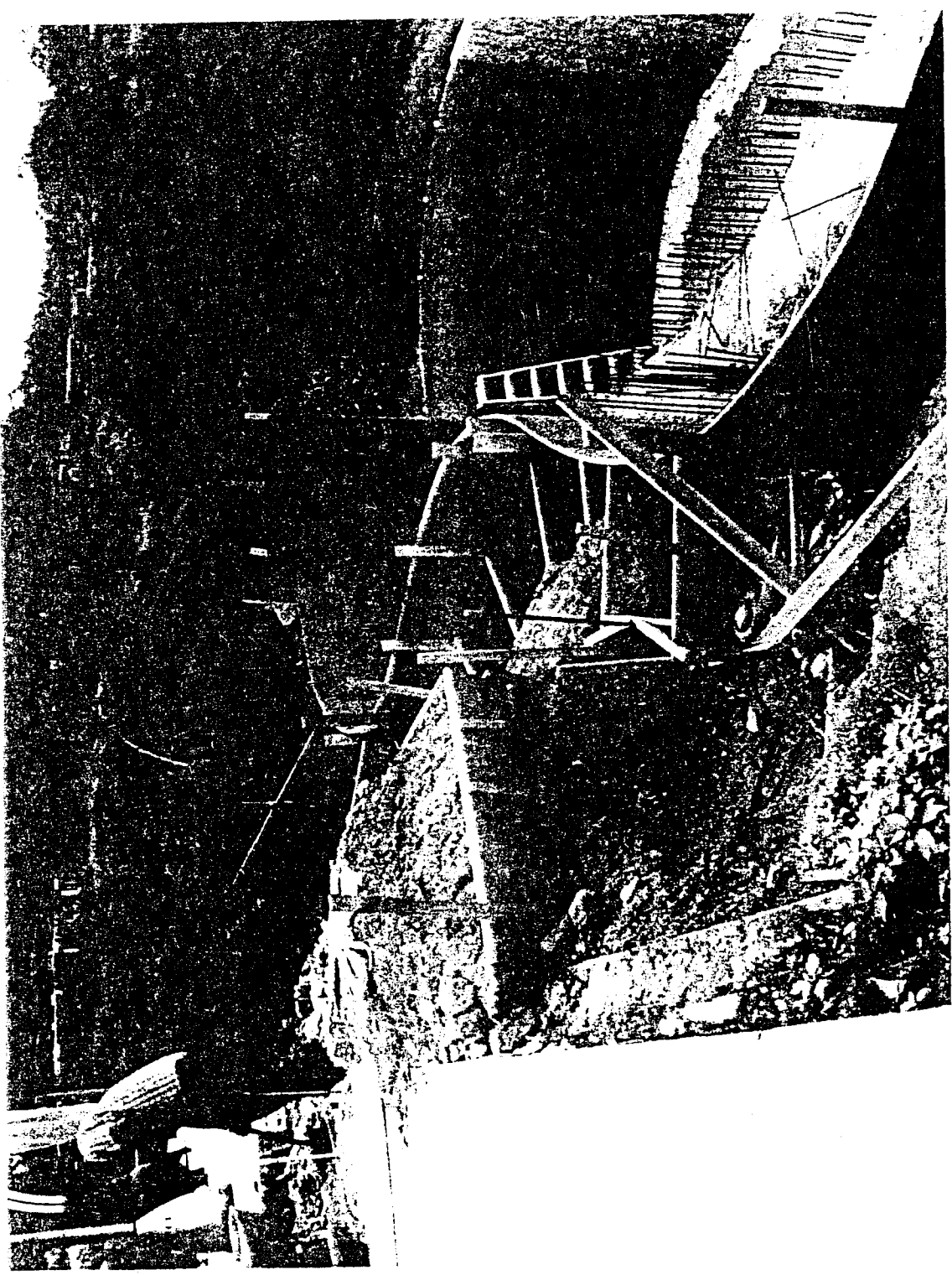


EXISTING SITE CONDITIONS

PAA 04-1011

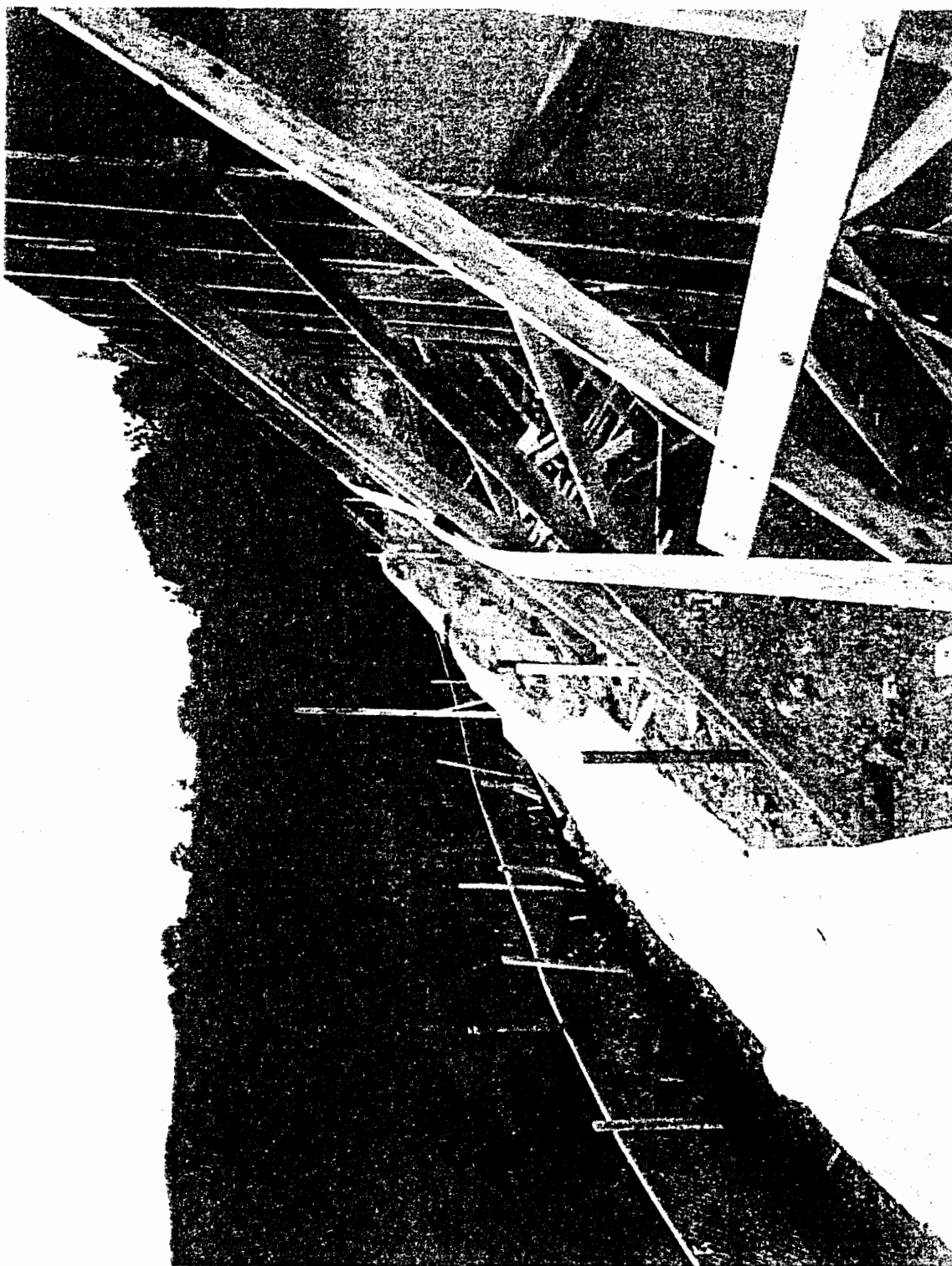
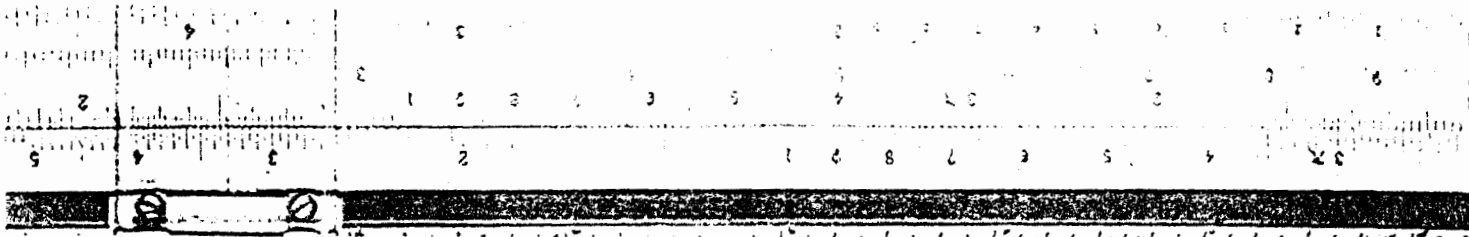
8 OF 14

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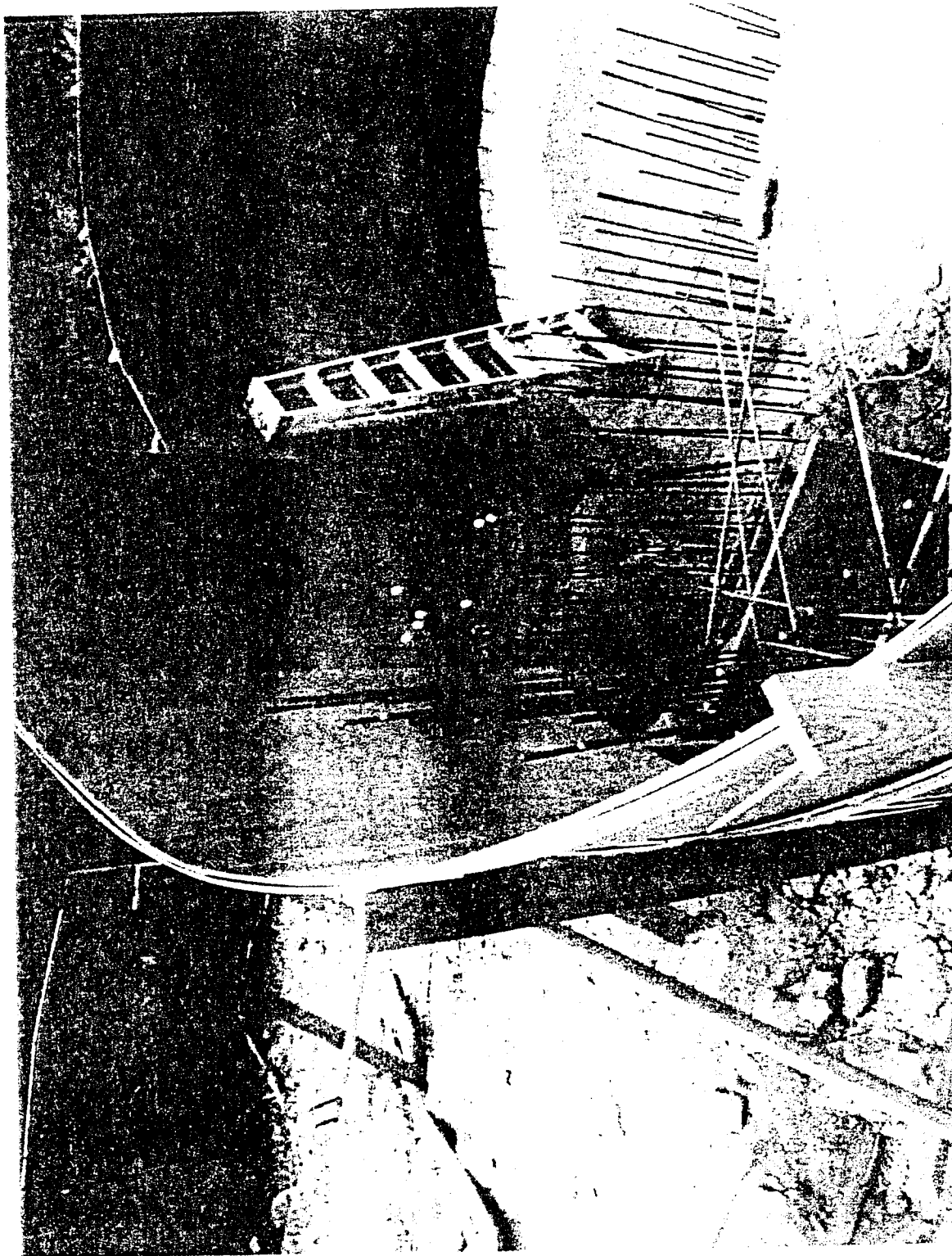
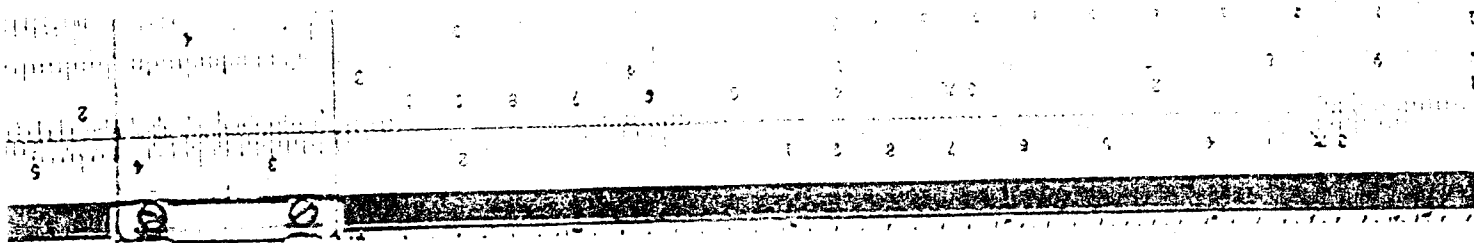
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EXISTING SITE CONDITIONS

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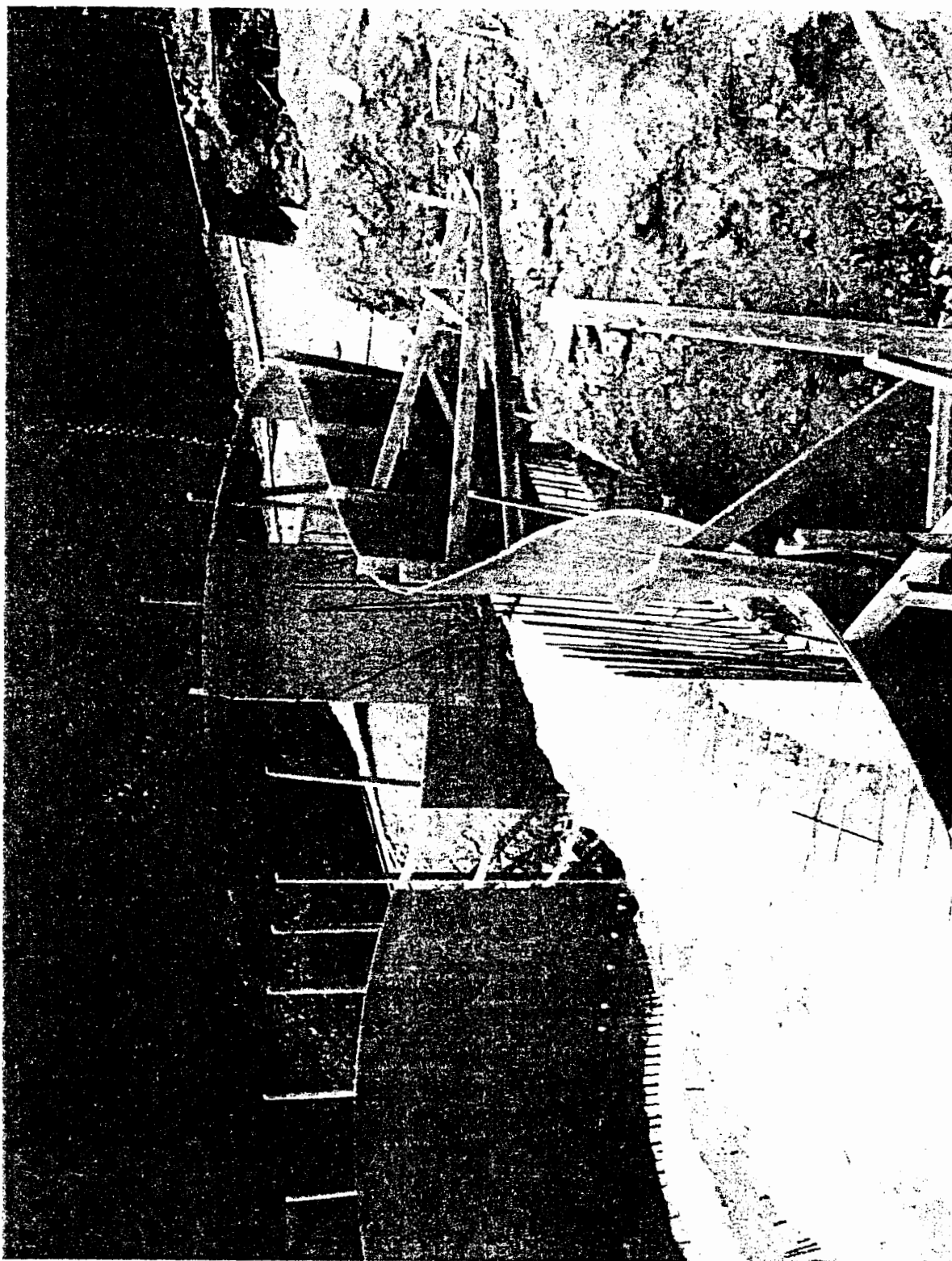
10 OF 14



EXISTING SITE CONDITIONS

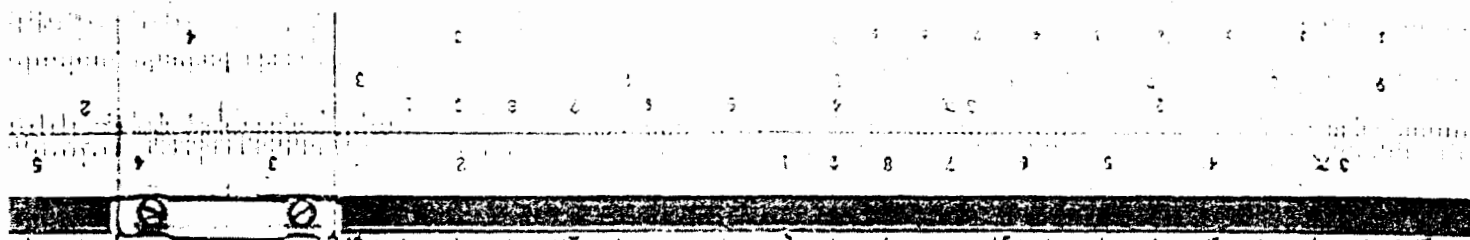
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11 OF 14



EXISTING SITE CONDITIONS

PAA 04-1011
12 OF 14

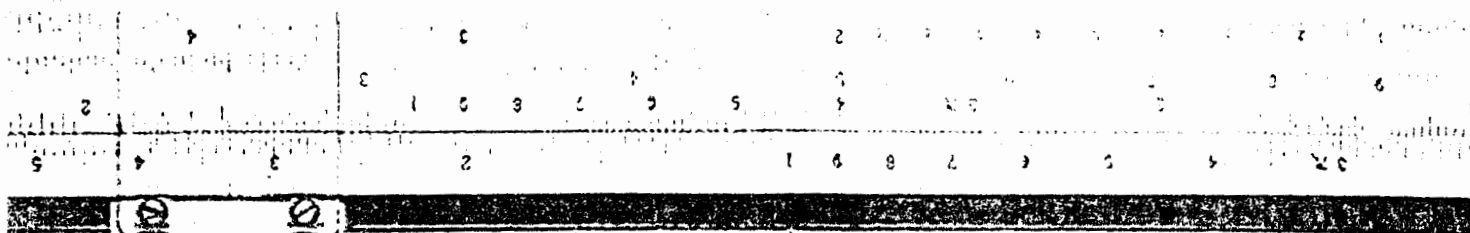




EXISTING SITE CONDITIONS

PAA 01-1011

170014



EXISTING SITE CONDITIONS

PAA 04-1011

14 OF 14

60 0102

August 22, 2005

Mr. Michael J. Pallamary
Pallamary & Associates
7755 Fay Ave., Suite J
La Jolla, CA 92037

Subject: Fargo Pool Construction Stop Work Notification, 2610 Inyaha Lane, La Jolla

Dear Mike:

As you may recall from my August 11, 2005, letter to you regarding the Fargo pool issues, I withdrew my involvement in Mr. Fargo's pool construction based on a stop work notice issued by the Coastal Commission. Without the ability to oversee this project as well as to advise Mr. Fargo as to the resolution of engineering issues, and to recommend any site remediation to contain potential runoff issues that may arise, my company's exposure to a potential lawsuit was in question. Subsequently, I have been asked by you to make recommendations to secure the site from runoff as well as to comment about the effects of the stop work notification on the pool and property.

Acting not as the Engineer of Work for the site design, I can only make recommendations in a manner consistent with health and safety concerns, sound construction and engineering practices as well as the points raised in the Christian Wheeler Engineering letter of recommendation. Please note these opinions are being offered as a courtesy and are not intended to be provided as the Engineer of Work. I believe the best manner in stabilizing the construction around the pool is to complete the pool walls and use these walls to retain the soil that would be placed there in the ultimate configuration. This would allow for proper compaction and keep the temporary slopes from further erosion into the pool. Additionally, landscape material could be planted immediately and established prior to the rainy season taking hold. I strongly recommend against any temporary walls being placed in lieu of the pool walls since this has the potential to cause leakage when the pool is filled. In other words, the pool walls should be constructed consistent with the pool contractor's construction drawings and the method of construction which has been performed to date. With respect to the notion of partial wall construction, because of the nature of this structure, the pool walls should be poured as a continuous system so as to maintain their structural integrity. Otherwise, you run the risk of creating cold joints, thereby compromising the structural integrity of the wall.

Mike, should you have any question, please feel free to call me at your convenience.

Sincerely,

Mark A. Farrington

Mark A. Farrington, PE

Cc: Matthew Peterson, Peterson & Price





SAN DIEGO COAST REGIONAL COMMISSION

6154 MISSION GORGE ROAD, SUITE 220
SAN DIEGO, CALIFORNIA 92120—TEL. (714) 280-6992

ROBERT C. FRAZEE
Chairman

VIRGINIA BRIDGE
Vice Chairman

JEFFERY D. FRAUTSCHY
Representative to the
California Coastal Commission

Bruce H. Warren
Executive Director

PROJECT SUMMARY/PRELIMINARY RECOMMENDATION

CONTROL NO.: F6200

APPLICANT: Facilities Development Co.
1744 - 6th Ave.
San Diego, CA 92101

AGENT: John D. Thelan
530 B St.
San Diego, CA 92101

PROJECT LOCATION: Northwest corner of La Jolla Shores Dr. and Inyaha Ln.,
La Jolla, CA (APN 344-010-09)

PROJECT DESCRIPTION: As part of a planned residential development (PRD), the applicant proposes to construct 5 individual homes with attached, 2-car garages, a swimming pool, sauna, and a tennis court. The homes would be split level—1 and 2 stories. Access to the homes and facilities would be from Inyaha Ln. 12 additional parking spaces would be provided for guest use. Approx. 1,000 cu. yds. of soil would be imported for project construction.

Lot area	118,300 sq. ft.
Building coverage	14,740 sq. ft. (12%)
Paved-area coverage	14,400 sq. ft. (12%)
Landscape coverage	40,800 sq. ft. (35%)
Unimproved area	48,360 sq. ft. (41%)
Parking spaces	2 per home, 12 for guest
Zoning	R-1-20
General plan	low density
Height above average finished grade	- 22'

****SEE SPECIAL CONDITIONS**

STAFF NOTES:

1. Detailed Project Description - The proposed project involves the planned development of 5 individual homes with attached, 2-car garages. A swimming pool, sauna, and a tennis court also would be constructed. Development would occur on the level or eastern portion of the property (approx. 75% of the site), leaving the canyon or western portion (approx. 25% of the site) undisturbed. Approx. 1,000 cu. yds. of fill would be imported for project construction. The buildable portion of the subject property is zoned R-1-20, with proposed density at 1.9 du/net ac. Access to the property would be by way of Inyaha Ln. 10 garage parking spaces would be provided with an additional 12 off-street spaces available for guests. The property is located northeasterly of the main portion of summer canyon, with the westerly approx. 25% of the lot located within the upper reaches of this canyon. This western portion is a west-facing canyon slope. No development is proposed for this portion of the lot.

EXHIBIT NO. 9

APPLICATION NO.

A-6-LJS-05-71

F6200 Original Staff
Report

2. Project Site and Surrounding Area - The project site is presently vacant, with the elevations on the site ranging from 390 ft. MSL near La Jolla Shores Dr. down to approx. 290 ft. MSL within Sumner Canyon. The Sumner Canyon portion of the site has a slope of 35% or greater, while the remainder of the site is relatively level. The ground surface elevation which divides the canyon portion of the lot from the relatively level portion is indicated on the plot plan as 72.50 ft.

As previously indicated, the property is located northeasterly of the main portion of Sumner Canyon, with approx. 25 percent of the lot located within the upper reaches of this canyon. Further to the west on the other side of the canyon are open, vacant lands that belong to the University of California. Low-density, residential development is found immediately to the north and across Inyaha Ln. to the south of the property. La Jolla Shores Dr. borders to the site on the east.

3. Environmental Conditions - The westward-draining main portion of Sumner Canyon lies to the southwest of the project site. This canyon is a private nature reserve owned by the Scripps Estates Associates. This canyon contains an abundant and diverse amount of Southern California coastal sage vegetation. Substantial use of the canyon by wildlife has been noted. Similar vegetative and wildlife conditions are associated with that westerly portion of the site located within Sumner Canyon. A chain-link fence prohibits access from this portion of the property into the privately owned section of Sumner Canyon.

4. La Jolla Community Plan - The land proposed for development has been designated for both very-low density residential use (0-5 du/ac) and open space and parks use by the La Jolla Community Plan. The open space and parks designation generally refers to the western or canyon portion of the property proposed for open space. The zoning to implement the open space portion of the plan under the PRD is HR (Hillside Review) while the present zoning for the buildable portion of the property is R-1-20 to correspond to planned, very-low-density, residential use.

5. Public Access - Section 30604(c) of the 1976 Coastal Act states that: "every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that such development is in conformity with the public access and public recreation policies of Chapter 3."

In regard to public access, Section 30212 states that: "public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway."

Similarly, Section 30211 states that: "development shall not interfere with the public's right of access to the sea where acquired through use, custom, or legislative authorization, including but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation."

Because the project site lies between the sea and the nearest public road, Section 30604(c) of the Act requires that the issue of public access be addressed. Defined paths traverse the property, leading from La Jolla Shores Dr. into Sumner Canyon. However, access to the beach through Sumner Canyon is effectively blocked by a fence bordering the privately owned Sumner Canyon property to the south. This fence was erected some time ago by the Scripps Estate Associates to prevent access from the subject property to the ocean by way of Sumner

Canyon. The nearest beach access is found through Black's Canyon, located just north of Sumner Canyon. There is limited use of the site by the public for view appreciation of the adjacent canyon and nearby ocean.

6. Modification of the Site - Section 30253 of the Coastal Act states that: "new development shall . . . (2) assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs."

Development of the project is not expected to contribute significantly to erosion, or geologic instability of the site. However, plans submitted by the applicant indicate that the proposed north and south residences of Planned Unit A would have patios extending westward or canyonward of the 72.50 ft. elevation line. Development to the west of this canyon demarcation line would require filling or other supportive structures which may be inconsistent with the aforementioned section of the Act.

7. Compatibility with the Adjacent Sumner Canyon - Section 30240(b) of the Coastal Act states that: "development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas." The environmentally sensitive Sumner Canyon habitat area is found along the project's west side. Development on the level portions of the subject lot is not expected to adversely impact upon this sensitive habitat area; however, development of the proposed patio areas of Unit A would require the addition of fill or supportive structures which may increase erosion into Sumner Canyon.

8. Scenic and Visual Qualities of the Project Site - Section 30251 requires that 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."

Presently, there is limited use of the site by the public for view appreciation; most distant views of the ocean along the project site view corridor are experienced from vehicular traffic along La Jolla Shores Drive. Development of the proposed project would reduce such views to the ocean.

KEY ISSUES:

1. Because the proposed development is located between the sea and the first parallel public road (PRC 30604(c)), a determination must be made as to whether adequate public access exists in this area and whether any portion of this site should be reserved for access purposes.

2. Would residential development as proposed create or contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area?

3. Would development adversely affect the habitat resource values of the adjacent Sumner Canyon?

4. What effect would development have on the site's existing scenic and visual qualities?

PRELIMINARY RECOMMENDATION:

Staff recommends that the San Diego Coast Regional Commission ISSUE a permit for the proposed project subject to the following special conditions:

SPECIAL CONDITIONS:

1. That no development occur to the west or canyon side of the 72.50 elevation line as indicated on the attached plot plan. This would prevent any filling or supportive structures which may create or contribute significantly to erosion or geologic instability of the site.
2. That the development be graded and designed so that drainage into Sumner Canyon is not significantly increased over that of natural runoff.
3. No construction shall commence in reliance upon this permit until a detailed landscape plan indicating the type, size, extent, and location of plant materials, and other landscape features has been submitted to, reviewed, and determined adequate in writing by the Executive Director. Drought-tolerant plant materials shall be utilized to the maximum extent feasible. Landscaping used throughout the development should consist of low-growing vegetation to preserve views through the property of the ocean. Use of low-growing vegetation is especially important along Inyaha Ln. and in association with the residences of Unit A.
4. That any fence constructed around the proposed tennis court be of such height and composition as to not obstruct any views of the ocean from La Jolla Shores Dr.

FINDINGS:

1. Applicability of Public Access Policy - Section 30212 of the Act states that: "Public access from the nearest roadway to the shoreline and along the coast shall be provided in new development projects except where it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources. . . ." Even though a defined path leads from the subject property to the ocean by way of Sumner Canyon, access along this path is effectively blocked by a fence along the northern boundary of Sumner Canyon. As was mentioned previously, this fence was placed along this boundary by the Scripps Estates Associates in an effort to restrict access into their privately owned canyon. The Commission believes that access to the ocean along this path would adversely impact upon the sensitive habitat values of this Canyon. Thus, by not requiring access with this particular development, the project can be found to be consistent with Section 30212 through its restriction of access for the protection of fragile coastal resources.

In addition, Section 30211 of the Act provides that: "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." However, even if it is assumed that public prescriptive rights exist, the continued use of such rights would impinge on the fragile ecological reserve which presently exists in Sumner Canyon. The Commission, therefore, finds that the public interest is best served by maintaining the ecologically sensitive habitat area of Sumner Canyon through the continued restriction of access through this canyon.

2. Protection of Existing Landforms - Section 30253 of the Act states that new development shall: "assure stability and structural integrity, and neither create nor

contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs." The adherence to Special Condition 1 will effectively assure that development along the canyon rim will not create nor contribute significantly to erosion or geologic instability while providing for the preservation of the canyon rim natural landforms. . . .

3. Compatibility with the Adjacent Summer Canyon - The project can be found to be consistent with Section 30240(b) (protection of adjacent environmentally sensitive habitat areas) through the restriction of development west of the 72.50 foot elevation line. In this manner, potential erosion hazards from the development are eliminated.

4. Protection of Scenic and Visual Qualities - As stated, development on the site would reduce vista views to the ocean from La Jolla Shores Drive. However, the proposed residences will be sited and designed in such a manner to provide see-through glimpses (view corridors) of the scenic vistas from Inyaha Lane. In this manner, view losses would be mitigated. In addition, the low-growing vegetation required for the see-through vista areas of the project will help to maintain such views.

NOTICE TO APPLICANT AND OTHER INTERESTED PERSONS:

Color slides pertaining to this project may be shown to the Commission at the time of the Final Vote. Those wishing to see these slides, as well as other recent material receive pursuant to this application, are welcome to do so at the Commission's offices prior to the day of the Commission meeting.

IMPORTANT:

All appeals of Regional Commission decisions must be received in the State Commission office no later than 10 working days from the date of the Regional Commission's decision. Appeal forms are available at the Regional Commission office.

WHEREAS

Facilities Development Co., 1744 - 6th Ave., San Diego, proposes As part of a planned residential development (PRD), the applicant proposes to construct 5 individual homes with attached, 2-car garages, a swimming pool, sauna, and a tennis court. The homes would be split level—1 and 2 stories. Access to the homes and facilities would be from Inyaha Ln. 12 additional parking spaces would be provided for guest use. Approx. 1,000 cu. yds. of soil would be imported for project construction.

Lot area	118,300 sq. ft.
Building coverage	14,740 sq. ft. (12%)
Paved-area coverage	14,400 sq. ft. (12%)
Landscape coverage	40,800 sq. ft. (35%)
Unimproved area	48,360 sq. ft. (41%)
Parking spaces	2 per home, 12 for guest
Zoning	R-1-20
General plan	low density
Height above average finished grade - 22'	

SEE SPECIAL CONDITIONS

Site - Northwest corner of La Jolla Shores Dr. and Inyaha Ln., La Jolla,
(APN 344-010-09)

WHEREAS the Regional Commission finds that the proposed development is in conformance with Chapter 3 of the California Coastal Act of 1976 (commencing with Public Resources Code Section 30200);

WHEREAS the Regional Commission finds that the proposed development will not prejudice the ability of any affected local jurisdiction to prepare a local coastal program that is in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976.

WHEREAS the Regional Commission finds that there are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the development as finally proposed may have on the environment.

WHEREAS if the development is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, the Regional Commission finds that the development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976 (Public Resources Code, Sections 30210-30224.)

WHEREAS such determination was made after a duly noticed and held public hearing before the San Diego Coast Regional Commission

THEREFORE; BE IT RESOLVED that the San Diego Coast Regional Commission approve the proposed development as submitted by the applicant provided:

1. That the applicant agrees to adhere strictly to the current plans for the project as approved by the Regional Commission.
2. That the applicant agrees to notify the Regional Commission or the State Commission if there is no Regional Commission of any substantial changes in the project.
3. That the applicant will meet all the local code requirements and ordinances; and obtain all necessary permits from State and Federal Agencies.
4. That the applicant agrees to conform to the permit rules and regulations of the California Coastal Commission.
5. That the applicant agrees that the Commission staff may make site inspections of the project during construction and upon completion.

ADOPTED by the San Diego Coast Regional Commission by vote of ____yes, ____no,

Development occur to the west or canyon side of the 72.50 elevation line shown on the attached plot plan. This would prevent any filling or supportive grading that may create or contribute significantly to erosion or geologic instability.

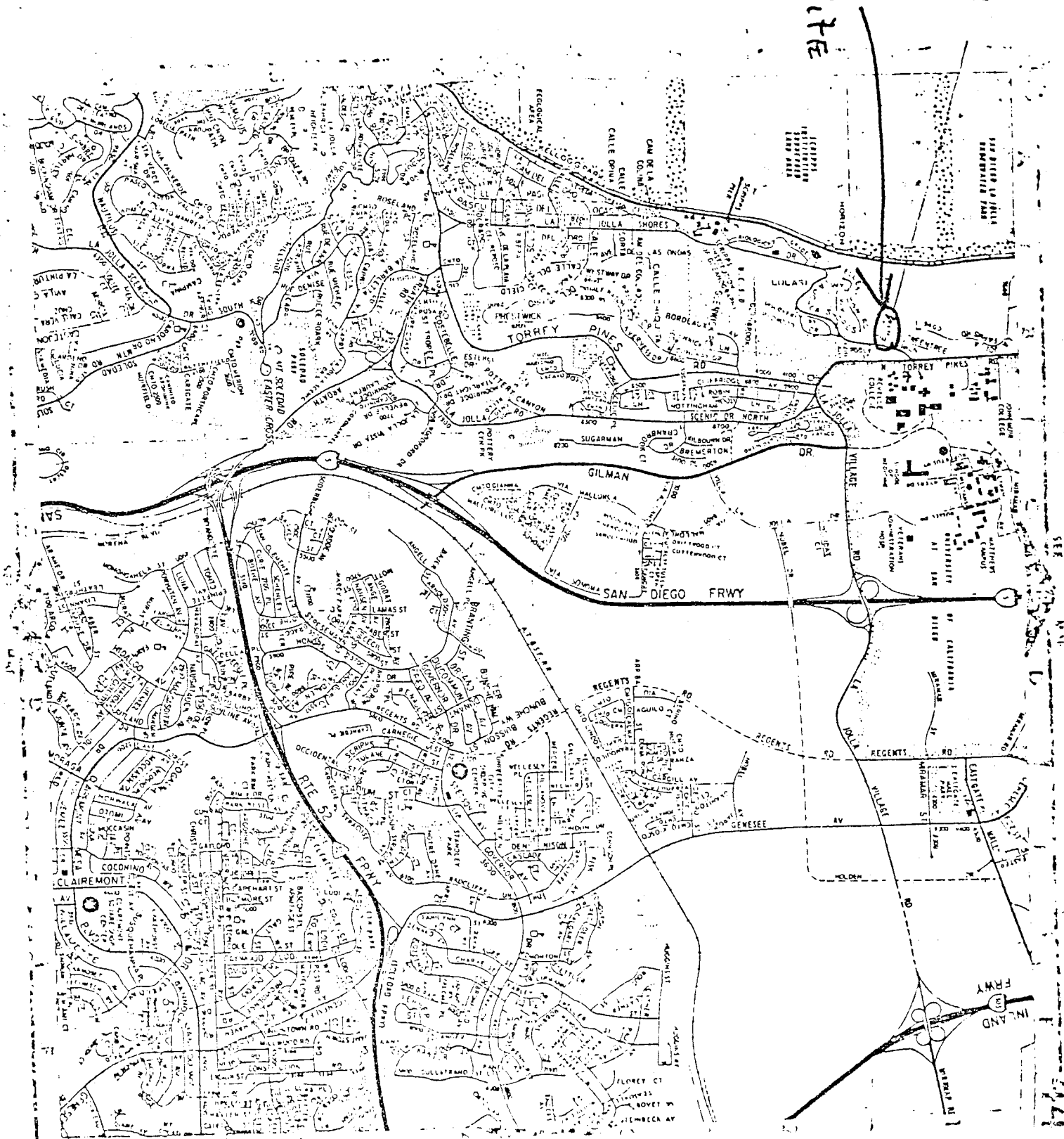
2. That the development be graded and designed so that drainage into Sumner Canyon is not significantly increased over that of natural runoff.

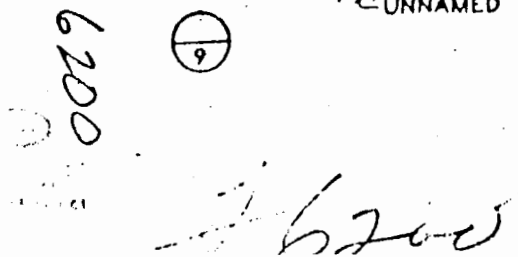
3. That construction shall commence in reliance upon this permit until a detailed landscape plan indicating the type, size, extent, and location of plant materials, and other landscape features has been submitted to, reviewed, and determined adequate in writing by the Executive Director. Drought-tolerant plant materials shall be utilized to the maximum extent possible. Landscaping used throughout the development should consist of low-growing vegetation to preserve views through the property of the ocean. Use of low-growing vegetation is especially important along Inyaha Ln. and in association with the residences of Unit A.

4. That any fence constructed around the proposed tennis court be of such height and composition as to not obstruct any views of the ocean from La Jolla Shores Dr.

SUBJECT
PROPERTY

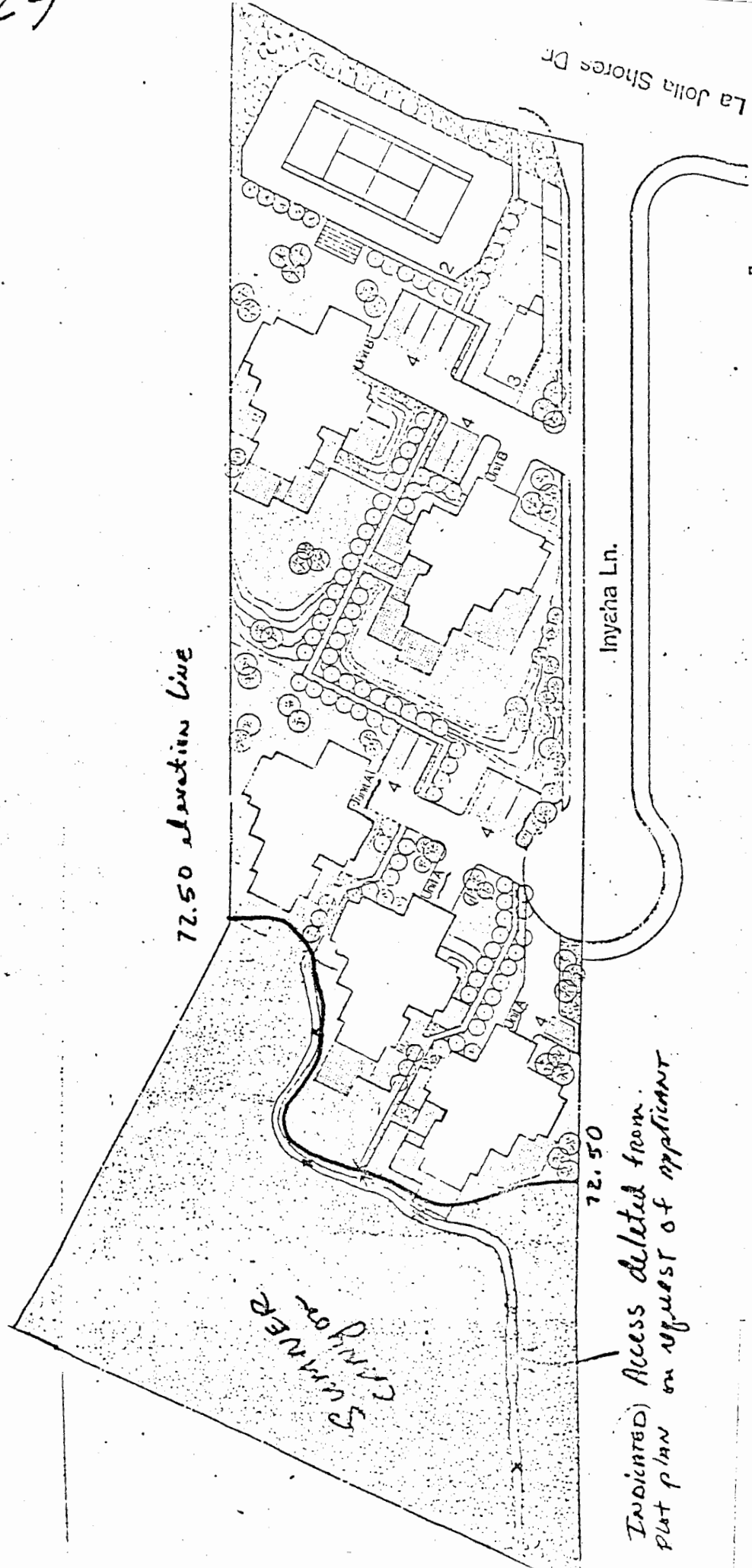
Project Site





MAP 968 - PUEBLO LANDS PARTITION LOTS 1312 & 1313
 FOR LOTS H & I
 RDS 1352.2585

0067



La Jolla Shores Dr

72.50 Aviation Live

Inyeha Ln.

72.50

INDICATED Access deleted from PLAT plan on request of applicant

CANYON



SAN DIEGO COAST REGIONAL COMMISSION

6154 MISSION GORGE ROAD, SUITE 220
SAN DIEGO, CALIFORNIA 92120—TEL. (714) 280-6992

ROBERT C. FRAZEE
Chairman

VIRGINIA BRIDGE
Vice Chairman

JEFFERY D. FRAUTSCHY
Representative to the
California Coastal Commission

Bruce H. Warren
Executive Director

DEVELOPMENT PERMIT

DATE OF COMMISSION ACTION: November 4, 1977

CONTROL NO.: F6200

APPLICANT: Facilities Development Co.
1744 - 6th Ave.
San Diego, CA 92101

AGENT: John D. Thelan
530 B St.
San Diego, CA 92101

PROJECT LOCATION: Northwest corner of La Jolla Shores Dr. and Inyaha Ln.,
La Jolla, (APN 344-010-09)

You are hereby granted a coastal development permit. This permit is issued after a duly held public hearing before the San Diego Coast Regional Commission and after the Regional Commission found that the proposed development is in conformity with the provisions of the California Coastal Act of 1976 including the following:

1. That the development is in conformity with Chapter 3 of the California Coastal Act of 1976 (commencing with Public Resources Code, Section 30200).
2. That the permitted development will not prejudice the ability of any affected local government to prepare a local coastal program that is in conformity with Chapter 3 of the California Coastal Act of 1976.
3. That if the development is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, that the development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976 (Public Resources Code, Sections 30210 - 30224).
4. That there are no feasible alternatives or feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the development as finally proposed may have on the environment.

This permit is limited to development described below and set forth in material on file with the Regional Commission and subject to the terms, conditions, and provisions hereinafter stated:

- A. DEVELOPMENT: As part of a planned residential development (PRD), the applicant proposes to construct 5 individual homes with attached, 2-car garages, a swimming pool, sauna, and a tennis court. The homes would be split level—1 and 2 stories. Access to the homes and facilities would be from Inyaha Ln. 12 additional parking spaces would be provided for guest use. Approx. 1,000 cu. yds. of soil would be imported for project construction.

Lot area	118,300 sq. ft.
Building coverage	14,740 sq. ft. (12%)
Paved-area coverage	14,400 sq. ft. (12%)
Landscape coverage	40,800 sq. ft. (35%)
Unimproved area	48,360 sq. ft. (41%)
Parking spaces	2 per home, 12 for guest
Zoning	R-1-20
General plan	low density
Height above average finished grade	- 22'

SEE SPECIAL CONDITIONS

(Rev. 8/77)

EXHIBIT NO. 10

APPLICATION NO.

A-6-LJS-05-71

F6200 Development
Permit

B. TERMS AND CONDITIONS:

1. That the applicant agrees to adhere strictly to the current plans for the project as approved by the Regional Commission.
2. That the applicant agrees to notify the Regional Commission (or State Commission if there is no Regional Commission) of any changes in the project.
3. That the applicant will meet all the local code requirements and ordinances and obtain all necessary permits from State and Federal Agencies.
4. That the applicant agrees to conform to the permit rules and regulations of the California Coastal Commission.
5. That the applicant agrees that the Commission staff may make site inspections of the project during construction and upon completion.

SPECIAL CONDITIONS:

1. That no development occur to the west or canyon side of the 72.50 elevation line as indicated on the attached plot plan. This would prevent any filling or supportive structures which may create or contribute significantly to erosion or geologic instability of the site.
2. That the development be graded and designed so that drainage into Sumner Canyon is not significantly increased over that of natural runoff.
3. No construction shall commence in reliance upon this permit until a detailed landscape plan indicating the type, size, extent, and location of plant materials, and other landscape features has been submitted to, reviewed, and determined adequate in writing by the Executive Director. Drought-tolerant plant materials shall be utilized to the maximum extent feasible. Landscaping used throughout the development should consist of low-growing vegetation to preserve views through the property of the ocean. Use of low-growing vegetation is especially important along Inyaha Ln. and in association with the residences of Unit A.
4. That any fence constructed around the proposed tennis court be of such height and composition as to not obstruct any view of the ocean from La Jolla Shores Dr.

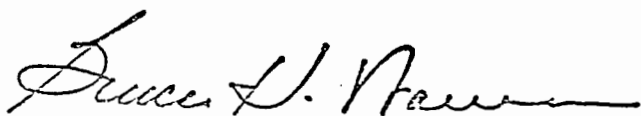
Terms and conditions are to run with the land. These terms and conditions shall be perpetuated, and it is the intention of the parties to bind all future owners and possessors of the subject property to said terms and conditions.

C. STANDARD PROVISIONS:

1. STRICT COMPLIANCE: Permittee is under obligation to conform strictly to permit under penalties established by California Coastal Act of 1976.
2. TIMELY DEVELOPMENT AND COMPLETION: Permittee shall commence development within one year following final approval of the project by the San Diego Coast Regional Commission. Construction shall be pursued in a diligent manner and completed within a reasonable period of time.
3. REQUEST FOR EXTENSIONS: Permittee may request an extension of time for the commencement of construction provided the request is applied for prior to expiration of the permit.
4. ASSIGNABILITY OF PERMIT: This permit is not assignable unless the permittee's obligations under the permit are assumed by assignee in writing within one year and a copy of the required assumption agreement delivered to the Regional Commission or State Commission if there is no Regional Commission.
5. APPEAL - Unless appealed to the State Commission within ten (10) working days following final action by the San Diego Coast Regional Commission, all terms and conditions shall be final.
6. DISCLAIMER: The permit is in no way intended to effect the rights and obligations heretofore existing under private agreements nor to effect the existing regulations of other public bodies.
7. PERMITTEE TO RETURN COPY: This permit shall not be valid unless within ten (10) working days permittee returns a signed copy acknowledging contents to San Diego Coast Regional Commission.

If you have any questions on this permit, please contact the staff of the Regional Commission.

Very truly yours,



Bruce H. Warren
Executive Director

Directions to Permittee: Permittee is to execute below and return one copy of this permit to the San Diego Coast Regional Commission.

I have read and understand the terms, conditions, limitations, and provisions of this permit and agree to abide by them.

Control No.: F6200

Signature of Permittee

Date



SAN DIEGO COAST REGIONAL COMMISSION

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SAN DIEGO, CALIFORNIA 92120—TEL. (714) 280-6992

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BRUCE H. WARREN
Executive Director

NOTICE OF DETERMINATION OF NON-MATERIALITY
OF AMENDMENT TO DEVELOPMENT PERMIT F6200

NOTICE IS HEREBY GIVEN that the Executive Director of the San Diego Coast Regional Commission has found the following amendment to a previously approved development permit to be a non-material change and is prepared to issue an administrative amendment to the permit to allow such change.

ORIGINAL PROJECT DESCRIPTION: As part of a planned residential development (PRD), the applicant proposes to construct 5 individual homes with attached, 2-car garages, a swimming pool, sauna, and a tennis court. The homes would be split level-1 and 2 stories. Access to the homes and facilities would be from Inyaha Ln. 12 additional parking spaces would be provided for guest use. Approx. 1,000 cu. yds. of soil would be imported for project construction. A previous amendment to eliminate lighting of the tennis court has been approved.

PROJECT LOCATION: Northwest corner of La Jolla Shores Dr. and Inyaha Ln.,
La Jolla, CA. (APN 344-010-09)

PROPOSED AMENDMENT: The applicant proposes to reduce the number of residences from five to four. The amended project would result in more landscaped open space and less building coverage. All the special conditions attached to the original approval remain in force.

APPLICANT: Facilities Development Co. ORIGINAL APPROVAL: November 4, 1977
1744 - 6th Avenue
San Diego, CA. 92101

If the San Diego Coast Regional Commission has not received any written objections to the granting of such amendment within 10 working days following the date of this notice, the Executive Director shall issue the administrative amendment.

If objections are received, the matter shall be referred to the Regional Commission for its determination of materiality, following notification of the applicant and any objectors.

Very truly yours,

Bruce H. Warren
Executive Director

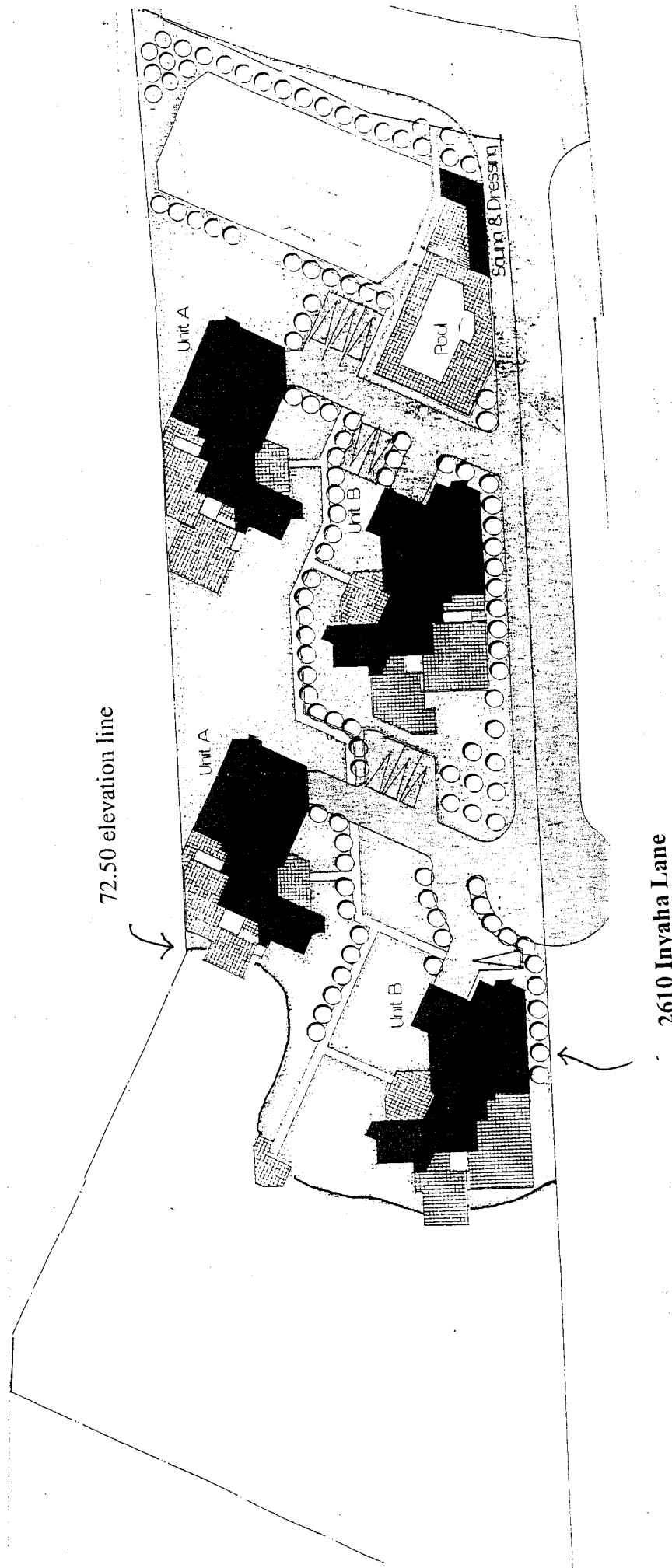
Charles Damm
By Charles Damm

Date of this Notice: March 8, 1978

*No adverse
response
3/30/78*

CD

EXHIBIT NO. 11
APPLICATION NO.
A-6-LJS-05-71
F6200 Non-Material Amendment
California Coastal Commission



REVISED SITE PLAN

EXHIBIT NO. 12
APPLICATION NO.
A-6-LJS-05-71
F6200 Amended Site Plan

