

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

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Staff: LRO-SD
Staff Report: 9/22/05
Hearing Date: 10/12-14/05

AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: A-6-LJS-02-68-A2

Applicant: Sunset View Properties, LLC Agents: John Jensen; Matt Peterson

Original Description: Demolition of an existing single family residence and swimming pool and the construction of a new, approximately 5,790 sq.ft., two-story single family residence with attached two-car garage, pool, hardscape and landscape improvements on a 0.30 acre blufftop lot.

First Amendment: Modifications to the building footprint and architecture of proposed single-family residence resulting in a two-story, 5,756 sq.ft., two-story single family residence with attached three-car garage, pool, hardscape and landscape improvements on a 0.30 acre blufftop lot.

Proposed Amendment: Modifications to the proposed residence to include a reduction in size from 5,790 sq.ft. to 5,119 sq.ft. (gfa), a three-car garage instead of a two-car garage, the addition of a 1,935 sq.ft. basement level while maintaining the previously-approved building footprint and setbacks of the single-family residence resulting in a two-story (over basement), 5,119 sq.ft. home with attached three-car garage, pool, hardscape and landscape improvements on a 0.30 acre blufftop lot.

Site: 5490 Calumet Avenue, La Jolla, San Diego, San Diego County.
APN 357-60-01

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed project, with special conditions. The proposed amendment involves changes to the interior of the home (floor plans) including revisions to the window/door pattern on the elevations and the construction of the basement. The revised home will still observe the same general building footprint and configuration as the originally approved residence but will include a 675 sq.ft. reduction in gross floor area, will be slightly lower in height, will observe a greater setback at the second level adjacent to the designated public view corridor along Midway Street, and will incorporate a change in the design of the roof. The proposed changes to the residence will not alter the project's consistency with geologic stability or protection of

public views. With the special conditions, the proposed amendment is consistent with all applicable provisions of the certified LCP.

Substantive File Documents: A-6-LJS-02-068 and A-6-LJS-02-068-A1; Certified La Jolla Community Plan and Local Coastal Program Land Use Plan (2004); Certified La Jolla-La Jolla Shores LCP Addendum (1983); Certified City of San Diego LCP Implementation Plan; Letter from GeoSoils, Inc. dated 6/6/05; Update to Geologic Reconnaissance Report by Michael W. Hart dated 7/25/04; Update to Preliminary Geotechnical Report by Geotechnical Exploration, Inc. dated 1/15/04; Letter from Skelly Engineering dated 4/24/01; Geological Reconnaissance Report by Michael W. Hart, Engineering Geologist dated 7/25/00 and updated 9/20/01.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. A-6-LJS-02-68-A2 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a YES vote. Passage of this motion will result in approval of the amendment as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE A PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment on the ground that the development, as amended and subject to conditions, will be in conformity with the policies of the certified Local Coastal Program and the public access policies of the Coastal Act. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. Special Conditions.

The permit is subject to the following conditions:

The following condition replaces Special Condition #1 of the original permit in its entirety.

1. Final Revised Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final plans for the proposed development including a site plan that has been approved by the City of San Diego. Said plans shall be in substantial conformance with the plans prepared by John P. Jensen, Architect dated 4/6/04 (elevations, floor plans) and 8/29/05 (plot plan), submitted with the amendment application, except that they shall be revised to include the following:

- a. All existing and proposed accessory improvements shall be identified. All accessory improvements (including, but not limited to, patios, decks, walkways, and open shade structures) proposed within the 25 ft. geologic setback area must be "at-grade" and located no closer than 5 ft. from the edge of the existing bluff, as delineated on Exhibit No. 3 to the September 22, 2005 staff report.
- b. No maintenance of the existing non-conforming wooden retaining structures on the bluff face shall be permitted.
- c. The property owner shall be responsible for monitoring the condition of the non-conforming wooden retaining structures over time. If the monitoring reveals that the wooden structures pose a threat to public safety or that the structures can be safely removed without destabilizing the bluff, the applicant shall apply for a coastal development permit to remove the structures or portions thereof and shall undertake the development approved in that permit.

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

2. Prior Conditions of Approval. All other terms and conditions of Coastal Development Permit No. A-6-LJS-02-68, as amended, not specifically modified herein, shall remain in full force and effect.

III. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History/Amendment Description. The proposed project is an amendment to CDP #A-6-LJS-02-68, approved on 6/12/03, which was for demolition of an existing single family residence and swimming pool and the construction of a new, approximately 5,790 sq.ft., two-story single family residence with attached two-car garage, pool, hardscape and landscape improvements on a 0.30 acre blufftop lot. On 9/9/04, CDP #A-6-LJS-03-68-A1 was approved by the Commission for revisions to the residence which consisted of modifications to the building footprint (siting of SFR 10 ft. closer to

bluff edge), architectural recesses along the east façade that are curvilinear in shape to eliminate a “boxy” look, incorporation of a substantial amount of glass along the western facade to create more of an “open” appearance, slight reduction in square footage from 5,790 sq.ft. to 5,756 sq.ft., a slight reduction in height (approximately three feet) of the new residence from the previous design, an increase in the north yard setback area (approximately 1 ½ feet in width), and a change to the roofline of the residence eliminating a curved and projecting roofline and replacement with a flat roof, resulting in a two-story, 5,756 sq.ft., two-story single family residence with attached three-car garage, pool, hardscape and landscape improvements. However, the applicant never pursued the development under that design change and is now proposing further changes designed by a different architect. The proposed changes include a reduction in the size of the house from 5,790 sq.ft. to 5,119 sq.ft. resulting in 671 sq.ft. less in gross floor area, a slight reduction in height of the proposed residence by approximately two feet, a change in architecture/elevations, changes to the floor plans, a smaller setback at the upper level adjacent to the designated public view corridor and the construction of a new 1,935 sq.ft. basement level to the proposed residence. Also proposed are interior changes to the window/door patterns; however, this latter change does not require a coastal development permit.

The basement level includes a photoshop, storage area and bathroom. Pursuant to zoning requirements, the basement level is not calculated in the gross floor area of the proposed residence. As originally proposed, the residence was a 5,790 sq.ft. in size (with garage). With the proposed changes the new home will be a 5,119 sq.ft., two-story residence (over a 1,935 sq. ft. basement) with three-car garage resulting in a residence that contains 671 sq.ft. less in gross floor area. As proposed, the residence will observe the same general building footprint as the originally proposed residence including a setback from the bluff edge that varies from 42-48 feet (the originally-proposed home observed a 40-foot setback). In addition, a change to the roofline of the residence eliminating a curved and projecting roofline and replacement with a traditional pitched roof (clay tile) that does not overhang or intrude into the public view corridor, will also improve public views while looking west along the designated public view corridor of Midway Street.

In addition, the proposed residence will be approximately two feet lower in height than the originally-approved residence. Along its north elevation at the upper level, it will be approximately 2-3 feet narrower than the originally approved residence. Along its east and west elevations at the upper level, it will also be approximately 14 feet narrower. Because this upper level is terraced back several feet further than the originally approved building footprint, it enhances public views along the designated public view corridor while looking west to the ocean.

With regard to the changes to the floor plans, as approved, the first floor (lower level) consisted of a living room, dining room, office and two-car garage. The revised first floor plan consists of a family room, kitchen, dining area, bathroom, master bedroom and bathroom, and a three-car garage. The originally-approved second floor (upper level) consisted of a master bedroom with bath and three bedrooms. The amended second floor plan consists of a three bedrooms, each with bathroom, family loft, study area and

laundry room. The proposed swimming pool will be sited a distance of 25 ft. from the bluff edge—the same as the originally proposed swimming pool. The applicant's architect has indicated that aside from those changes described above, the remainder of the proposed residence is the same as the originally-approved residence.

The subject site is located at the southwest corner of Midway Street and Calumet Avenue in the community of La Jolla in the City of San Diego. The residences along the seaward side of Calumet Avenue are situated on blufftop lots. There is a paper street (Sea Rose Lane) at the toe of the coastal bluff seaward of the site which provides lateral public access during low tide conditions. Although there is an unimproved foot trail which descends to the beach from Calumet Park about three lots south of the subject site, access to the beach is somewhat difficult due to the steepness of the trail which sometimes becomes wet and slippery, as well. The closest improved vertical accessway is two blocks to the north at the end of Bird Rock Avenue.

The subject site is within the City's coastal development permit jurisdiction but in this particular case, the City's approved coastal development permit was appealed to the Coastal Commission. On June 12, 2003, the Commission found the appeal to raise a substantial issue(s) and approved the permit de novo with several special conditions. The subject project represents an amendment to the Commission-approved coastal development permit, and as such, it is reviewed by the Commission, utilizing the certified LCP and the public access policies of the Coastal Act as the standard of review.

2. Shoreline Hazards. Specifically, Section 143.0143 addressing Development Regulations for Sensitive Coastal Bluffs of the City of San Diego's certified LCP Implementation Plan states the following:

- (f) All *development* including buildings, *accessory structures*, and any addition to existing *structures* shall be set back at least 40 feet from the *coastal bluff edge*, except as follows:
 - (1) The City Manager may permit *structures* to be located between 25 and 40 feet from the bluff edge where the evidence contained in a geology report indicates that the site is stable enough to support the *development* at the proposed distance from the *coastal bluff edge* and the project can be designed so that it will not be subject to or contribute to significant geologic instability throughout the anticipated life span of the primary *structures*, and no shoreline protection is required. Reductions from the 40-foot setback shall be approved only if the geology report concludes the *structure* will not be subject to significant geologic instability, and not require construction of shoreline protection measures throughout the economic life span of the *structure*. In addition, the applicants shall accept a deed restriction to waive all rights to protective devices associated with the subject property. The geology report shall contain:

- (A) An analysis of bluff retreat and coastal stability for the project site, according to accepted professional standards;
 - (B) An analysis of the potential effects on bluff stability of rising sea levels, using latest scientific information;
 - (C) An analysis of the potential effects of past and projected El Nino events on bluff stability;
 - (D) An analysis of whether this section of coastline is under a process of retreat.
- (2) Accessory *structures* and landscape features customary and incidental to residential uses shall not be closer than 5 feet to the *coastal bluff edge* provided, however, that these shall be located at *grade*. Accessory *structures* and features may be landscaping, walkways, unenclosed patios, open shade *structures*, decks that are less than 3 feet above grade, lighting standards, *fences* and wall, seating benches, *signs*, or similar *structures* and features, excluding garages, carports, building, pools, spas, and upper *floor* decks with load-bearing support *structures*.

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

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

In addition, the certified La Jolla Community Plan and Local Coastal Program Land Use Plan (2004) contains the following applicable recommendations/policies with regard to protection of the geologic integrity of coastal bluffs:

Set back new development on property containing a coastal bluff at least 40 feet from the bluff edge so as to not impact the geology and visual quality of the bluff. This setback may be reduced to not less than 25 feet if evidence is provided that indicates the site is stable enough to support the development at the proposed location without requiring construction of shoreline protective measures throughout the economic lifespan of the structure (not less than 75 years). Require applicants to accept a deed restriction to waive all rights to protective devices associated with new development on coastal bluffs.... (Plan Recommendation 4b., p. 59)

Require indigenous, native, non-invasive and drought tolerant plants in all new developments and significant additions along coastal bluffs, to reduce the need for underground irrigation systems that contribute to the erosion of the bluff face due to water runoff over the bluff. (Plan Recommendation 4f., p. 59)

Under the LCP, swimming pools are not considered accessory structures, and therefore must observe the same setbacks as other principal structures are required to observe on a coastal blufftop site (i.e., 40 ft., with a possible reduction to 25 ft. with the necessary findings). In this case, the City allowed the swimming pool to be located a distance of 25 feet from the bluff edge. No changes are proposed to the siting of the swimming pool on the subject site and it is proposed to remain located a minimum distance of 25 ft. from the bluff edge, which the previously reviewed geotechnical report and the Commission found to be an acceptable setback from a geologic safety aspect.

However, as noted earlier, through the proposed amendment, a new basement level addition to the proposed residence will be constructed. This will result in excavation of approximately 8 to 12 feet of material below the footprint of the proposed residence. Because the subject site is a blufftop lot, there is the potential that the proposed excavation could adversely affect the integrity of the coastal bluffs. However, the applicant has obtained an update to the geotechnical report which has addressed this issue. Specifically, the updated geotechnical report states that the addition of the basement will not create any adverse conditions regarding the stability of the bluff. In fact, it is noted that it will reduce any potential instability (related to the building design and construction) because the overall foundation depth will be deeper and no re-compaction will be required. The entire site was also re-assessed and it was determined that the bluff has remained significantly stable over the last several years.

The proposed residence will still observe a minimum distance of 40 ft. (actually 42-48 feet in this particular case) from the bluff edge, which the previous geotechnical reports found to be an acceptable setback from a geologic safety aspect. In addition, the geotechnical report completed for the original project found that the residence was adequately set back from the bluff edge and that the swimming pool located at 25 ft. from the bluff edge will not have an adverse effect on the stability of the bluff provided proper drainage is provided for the deck areas and that the structures would be adequately set back from the bluff edge. As such, the redesigned residence, while maintaining a minimum 40 ft. blufftop setback will continue to be adequately set back from the bluff edge for its estimated life. The Commission's staff engineer has reviewed the proposed changes and concurs that the proposed residence is sited an adequate distance from the bluff edge.

There are existing timber retaining structures on the bluff face of the site but no changes are proposed to these structures. As noted in the original staff report for the original project, the structures are non-conforming structures which were placed on the bluff face by the previous owner after the Coastal Act took effect but absent a coastal development permit. The original permit was conditioned such that the structures are to remain and deteriorate over time and cannot be repaired or maintained.

The applicant has also previously documented that the existing wooden bluff structures are neither existing shoreline protection devices nor are they needed to provide stability to the project site in association with any proposed development. Therefore, the proposed residence, as revised, which will be sited a minimum distance of 40 feet from the bluff edge, and the proposed swimming pool, which will be sited a distance of 25 feet from the bluff edge, are not dependent on the existing wooden structures for structural support or stability.

In summary, the applicants have adequately demonstrated that the newly proposed residence and swimming pool will be adequately set back from the bluff edge (minimum 40 feet and 25 feet, respectively) and that the existing wooden structures on the bluff face are not necessary to support the new development. The Commission's coastal engineer has reviewed the project and determined that the structures may damage the bluff if removed and that they should be abandoned in place and not be maintained. Special Condition No. 1 requires that the existing non-conforming wooden retaining structures on the bluff face not be maintained; that the all structures within the 25 ft. geologic setback area be "at-grade" and located no closer than 5 ft. the bluff edge; and that the property be responsible for monitoring the condition of the non-conforming wooden structures time (and if they become unstable or a potential threat to public safety the applicant must apply for a coastal development permit to remove them, if necessary). All other special conditions of the original coastal development permit remain in full force and effect which include: revised landscaping/yard area/fence plans; runoff/drainage plan; assumption of risk/waiver of liability; a condition stating that the subject CDP has no effect on conditions imposed by the City of San Diego; a waiver for no future bluff or shoreline protective devices; a condition addressing disposal of graded spoils; and, a condition for a deed restriction that requires that the permit and findings be recorded to let future property owners know of the restrictions placed on the coastal development permit (ref. Exhibit No. 4). Therefore, the proposed development, as amended, is consistent with the provisions of the certified LCP addressing geologic hazards and blufftop setbacks.

3. Public Views. The certified LCP Implementation Plan contains numerous policies regarding protection of public views in the side yards, planting of low level vegetation to protect views toward the ocean and open fencing in side yards on project sites located between the first coastal road and sea or sites that have been identified in the local community plan as containing a significant public view to be protected.

Specifically, Section 132.0403 of the Land Development Code states the following:

- (a) If there is an existing or potential public view and the site is designated in the applicable *land use plan* as a public view to be protected,
 - (1) The applicant shall design and site the *coastal development* in such a manner as to preserve, enhance or restore the designated public view, and

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

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

The following policies of the certified La Jolla Community Plan and Local Coastal Program LCP Land Use Plan are also applicable to the subject project:

"Public views to the ocean from the first public roadway adjacent to the ocean shall be preserved an enhanced, including visual access across private coastal properties at yards and setbacks". (p. 50).

"Protect public views to and along the shoreline as well as to all designated open space areas and scenic resources from public vantage points as identified in Figure 9 and Appendix G (Coastal Access Subarea maps). Public views to the ocean along public streets are identified in Appendix G. Design and site proposed development that may affect an existing or potential public view to be protected, as identified in Figure 9 or in Appendix G, in such a manner as to preserve, enhance or restore the designated public views." (Plan Recommendation 2.c., p. 56)

"Implement the regulation of building envelope to preserve public views through the height, setback, landscaping and fence transparency regulation of the Land Development code and that limit the building profile and maximize view opportunities." (Plan Recommendation 2d., p. 56)

"Where existing streets service as public vantage points, as identified in Figure 9 and Appendix G including, but not limited to, view corridors and scenic overlooks and their associated viewsheds, set back and terrace development on corner lots and/or away from the street in order to preserve and enhance the public view provided from the public vantage point to and along the ocean...." (Plan Recommendation 2e, p. 56)

"Plant and maintain landscaping or vegetation so that it does not obstruct public views of coastal resources from identified public vantage points as identified in Figure 9." (Plan Recommendation 2g., p. 57)

"Where new development is proposed on property that lies between the shoreline and the first public roadway, preserve, enhance or restore existing or potential view corridors within the yards and setbacks by adhering to setback regulations that cumulatively, with the adjacent property, form functional view corridors and prevent an appearance of the public right-of-way being walled off from the ocean." (Plan Recommendation 2h., p. 57)

As noted above, the City's certified implementation plan requires low level landscaping and open fencing in the side yards to protect and enhance public views to the ocean. In this particular case, as noted in the original permit findings, the subject site is located at the southwest corner of Midway Street and Calumet Avenue. Midway Street is a designated public view corridor in the certified La Jolla Community Plan Local Coastal Program Land Use Plan. Midway Street runs in an east-west direction and is perpendicular to the subject site.

As noted in the certified La Jolla Community Plan, the Midway street end is a dedicated blufftop view point which provides visual access to the ocean. While traveling in a westerly direction along Midway, there are existing horizon ocean views looking west and there is a viewshed associated with the view corridor at the end of the street. All structural development (with the exception of the bluff retaining devices) is proposed to be removed from the subject property including some of the landscaping improvements in order to construct the new proposed development.

The subject site is a corner lot, with more frontage along Calumet Avenue than on Midway Street. As such, "side yards" as defined by the City's certified implementation plan (i.e., Land Development Code) and as referenced in the La Jolla-La Jolla Shores LCP Land Use Plan and the newly certified La Jolla Land Use Plan and Local Coastal Program Land Use Plan (2004) are actually on the west and east sides of the residence which are areas that would not provide public views to the ocean. Instead, it is the north and south areas of the site that are the actual "side yards" that provide the potential views to the ocean. Specifically, the south yard area is 13 feet wide and the north yard area is 15 feet wide. Through the proposed redesign of the residence, no reduction in width to either yard is proposed; in fact, the contrary will occur. The newly proposed redesign will result in a greater setback from the street at the second level along its northern frontage adjacent to the designated public view corridor which terraces the second level approximately 14 feet further back along its northern frontage as compared to the originally-proposed residence at this elevation. In this case, the north and south side yards were conditioned in the original coastal development permit to be preserved as a view corridor, consistent with the certified LCP. Special Condition No. 2 attached to this amendment request requires that all other terms and conditions of Coastal Development Permit No. A-6-LJS-02-68, not specifically modified herein, shall remain in full force and effect.

In addition, with regard to the proposed landscaping, both landscaping and fencing in the north and south yard areas of the house have the potential to obstruct public views of the ocean. However, as noted in the language of the certified LCP, because the subject site is located between the first public road and sea and it is also designated as public view corridor in the certified land use plan, the proposed development is required to preserve, enhance or restore the designated public view. The new design will open up views along the view corridor to a greater degree than the originally-proposed residence and all of the original special conditions still remain in effect, particularly the condition that requires that a 10-foot wide view corridor be preserved in the north and south side yards including planting of landscaping to be maintained at a height of three feet or lower and open fencing to preserve views from the street toward the ocean.

Presently, there are views on the north side of the residence looking west along Midway Street toward the ocean. However, there are no views in the south yard as it is obstructed by existing landscaping. In this particular case, all existing development is being removed from the subject site. As such, there is an opportunity to improve and enhance public views toward the ocean in both the south and north yard setback areas of the subject site through requirements to include low-level (no higher than 3 ft.) landscape elements in these areas and that fencing contain open materials as well. Through the proposed amendment, no changes to the height of the proposed planting in the yard area setbacks are proposed. Through the currently proposed redesign to the residence, with an increased setback from the northern frontage which is the designated view corridor, public views toward the ocean will be enhanced more so than in the originally designed and previously-approved residence. The increased setback at the upper level of the proposed residence adjacent to Midway Street will significantly improve public views

along the designated public view corridor. Furthermore, since the street slopes downward in elevation, views over and across the proposed residence toward the ocean will also be increased.

The original conditions of approval included revised landscape/yard area fence plans to assure that a view corridor of a minimum of 10 ft. wide will be preserved along both the north and south yard areas and that fencing in the yard area be composed of at least 75 percent open materials. The language of the original landscape special condition remains the same.

In addition, the change in architecture has also resulted in a change to the roof of the proposed residence. Whereas, the original roof was arched in shape and protruded into the designated public view corridor while looking west and southwest, the new roofline is a traditional pitched roof which eliminates all projections/overhangs into the ocean horizon or blue sky view across the subject site (ref. Exhibit Nos. 6 & 6).

Also, the newly proposed design to the proposed two-story residence will remain visually compatible in scale and size with the character of the surrounding community, consistent with Section 30251 of the Coastal Act. In summary, the proposed new design of the residence including a slight reduction in building height and recessed upper level will open up more views to the ocean along the designated public view corridor (Midway Street) looking west, consistent with the certified LCP and Chapter 3 policies of the Coastal Act addressing protection of visual resources. As conditioned, the project is consistent with the certified LCP.

4. Public Access. Sections 30210 and 30212 of the Coastal Act are applicable and state:

Section 30210.

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.

Section 30212.

(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 Community Plan Local Coastal Program also contains numerous policies to protect public access. The subject site is located on a blufftop property at the southwest corner of Calumet Avenue and Midway Street—which is between the first public road and the sea. Sea Rose Lane, a paper street, is located at the toe of the coastal bluff. There is no improved accessway at the streetend of Midway Street and the bluffs are steep and dangerous. Adequate vertical access exists in the area and access at this location is not necessary, consistent with Section 30212, cited above. The safest vertical access to the ocean is two blocks to the north at the street end of Bird Rock Avenue which contains a vertical access stairway. In addition, approximately three lots south of the subject site, adjacent to Calumet Park, the bluffs are lower in height and access to the beach below is possible through an unimproved foot trail. In summary, the proposed project, as amended, 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. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the geologic hazard and visual resource policies of the Coastal Act. Mitigation measures, including conditions addressing final plans, will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed amended project, as conditioned, is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

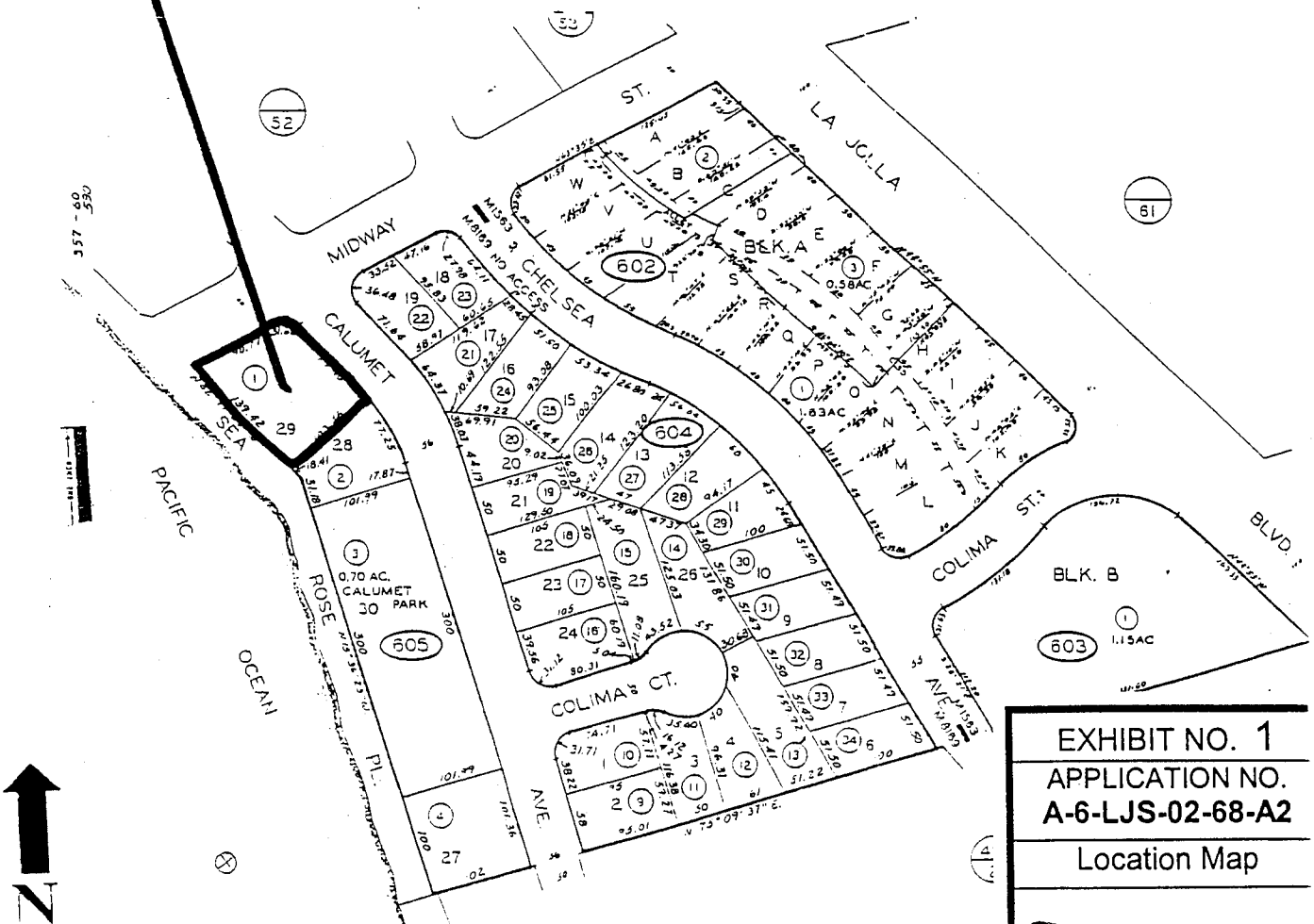
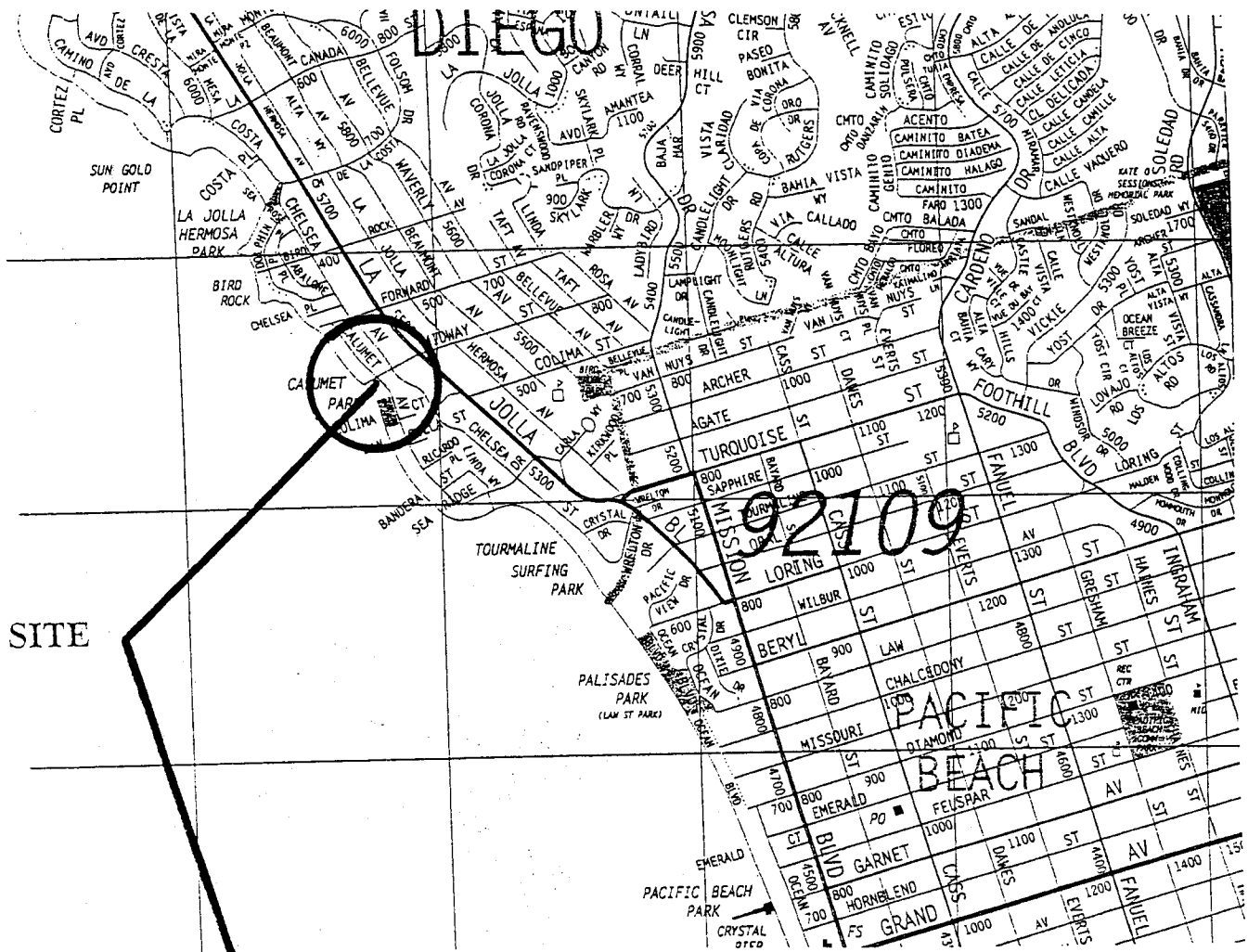


EXHIBIT NO. 1
APPLICATION NO.
A-6-LJS-02-68-A2
Location Map

APPLICATION NO.
A-6-LJS-02-68-A2

[illegible]

SITE PLA

CALIFORNIA COASTAL COMMISSION

San Diego Coast Area Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421
(619) 767-2370



Page: 1

Date: June 17, 2003

Permit Application No.: A-6-LJS-02-068

COASTAL DEVELOPMENT PERMIT

On June 12, 2003, the California Coastal Commission granted to

Poseidon Point, LLC, Attn: Bruce Tabb

this permit subject to the attached Standard and Special conditions, for development consisting of

Demolition of an existing single family residence and swimming pool and the construction of a new, approximately 5,790 sq. ft., two-story single family residence with attached two-car garage, pool, hardscape and landscape improvements on a 0.30 acre blufftop lot.

more specifically described in the application filed in the Commission offices.

The development is within the coastal zone at

5490 Calumet Avenue, La Jolla, San Diego (San Diego County)

Issued on behalf of the California Coastal Commission by

PETER M. DOUGLAS
Executive Director

By: **Laurinda Owens** (fw)
Coastal Program Analyst

ACKNOWLEDGMENT:

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

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part that: "A Public entity is not liable for injury caused by the issuance. . . of any permit. . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

Date

Signature of Permittee

EXHIBIT NO. 4**APPLICATION NO.
A-6-LJS-02-68-A2****Approved Coastal
Development Perm
(with conditions)**

Date: June 17, 2003

Permit Application No.: A-6-LJS-02-068

STANDARD CONDITIONS:

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

SPECIAL CONDITIONS:

The permit is subject to the following conditions:

1. **Final Revised Plans.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final plans for the proposed development including a site plan that has been approved by the City of San Diego. Said plans shall be in substantial conformance with the plans submitted with this application by Kawasaki, Theilacker Ueno & Associates dated 5/11/01, except that they shall be revised to include the following:
 - a. All existing and proposed accessory improvements shall be identified. All accessory improvements (including, but not limited to, patios, decks, walkways, and open shade structures) proposed within the 25 ft. geologic setback area must be "at-grade" and located no closer than 5 ft. from the edge of the existing bluff, as delineated on Exhibit No. 3.
 - b. No maintenance of the existing non-conforming wooden retaining structures on the bluff face shall be permitted.
 - c. The property owner shall be responsible for monitoring the condition of the non-conforming wooden retaining structures over time. If the monitoring reveals that the wooden structures

Date: June 17, 2003

Permit Application No.: A-6-LJS-02-068

pose a threat to public safety or that the structures can be safely removed without destabilizing the bluff, the applicant shall apply for a coastal development permit to remove the structures or portions thereof.

- d. The proposed swimming pool shall be constructed with a deepened foundation, double wall construction including a drain between each wall and a leak detector.

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

2. Revised Landscape/Yard Area Fence Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, revised landscaping and fence plans approved by the City of San Diego. The plans shall be in substantial conformance with the plans as submitted by Kawasaki, Theilacker Ueno & Associates, dated 5/11/01, except for the revisions cited below. The plans shall be revised to keep the north and south yard areas (or setbacks) clear to enhance public views from the street toward the ocean. Specifically, the plans shall be revised to incorporate the following:

- a. A view corridor a minimum of 10 ft. wide shall be preserved along both the north and south yard areas. All proposed landscaping in the north and south yard areas shall be maintained at a height of three feet or lower to preserve views from the street toward the ocean.
- b. All landscaping shall be drought-tolerant native or non-invasive plant species. No permanent irrigation shall be permitted on the site.
- c. A written commitment by the applicant that all required plants on this site shall be maintained in good growing condition and whenever necessary, shall be replaced with new plant materials to ensure compliance with the approved landscape requirements.
- d. Any fencing in the yard areas shall permit public views and have at least 75 percent of its surface area open to light.

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

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

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

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

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


5. Other Special Conditions of the CDP/SDP No. 1505. Except as provided by this coastal development permit, this permit has no effect on conditions imposed by the City of San Diego pursuant to an authority other than the Coastal Act.


6. No Future Bluff or Shoreline Protective Device

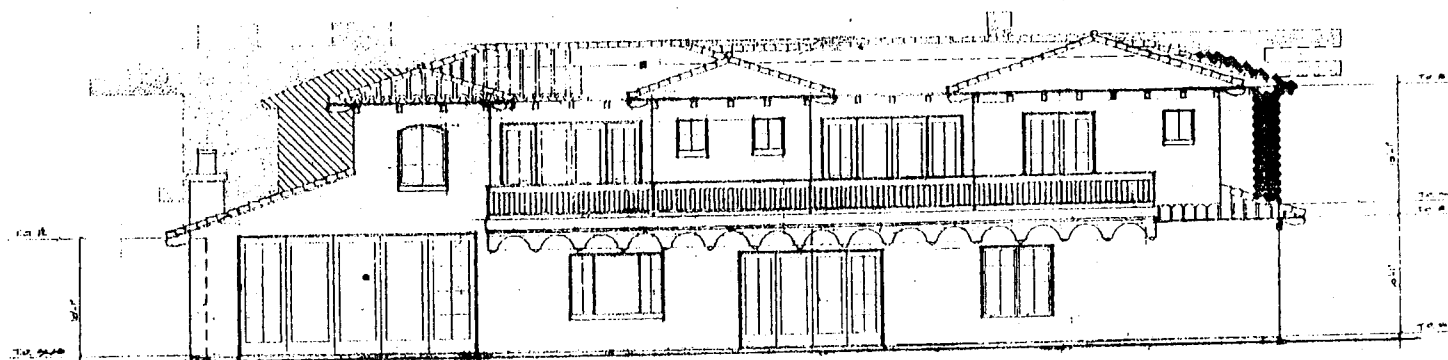
- A (1) By acceptance of this permit, the applicant agrees, on behalf of itself and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. A-6-LJS-02-68 including, but not limited to, construction of a new, approximately 5,790 sq. ft., two-story single family residence with attached two-car garage, swimming pool, and hardscape and landscape improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future. By acceptance of this Permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- A (2) By acceptance of this Permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this Permit, including construction of a new, approximately 5,790 sq. ft., two-story single family residence with attached two-car garage, swimming pool, and hardscape and landscape improvements, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

7. Disposal of Graded Spoils. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall identify the location for the disposal of graded spoils. If the site is located within the coastal zone, a separate coastal development permit or permit amendment shall first be obtained from the California Coastal Commission or its successors in interest.

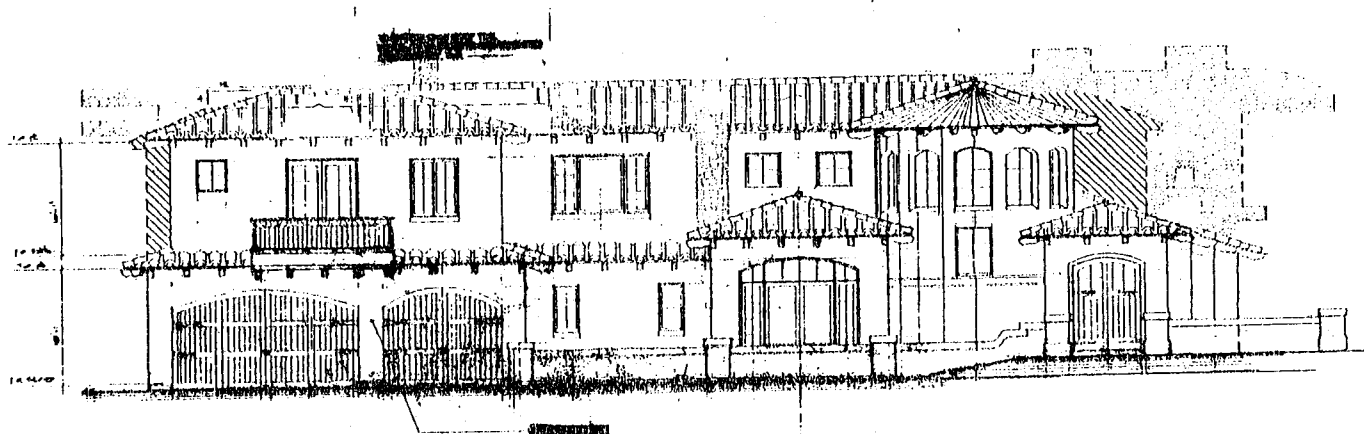
8. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and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

 HATCHING INDICATES EXHIBIT "A" COASTAL PERMIT APPROVED JUNE 12, 2003
(APPLICATION # A-6-LJS-02-068-A1) SILHOUETTE

 HATCHING INDICATES EXHIBIT "B" COASTAL PERMIT AMENDED SEPTEMBER 9, 2004
(APPLICATION # A-6-LJS-02-068-A1) SILHOUETTE



West elevation

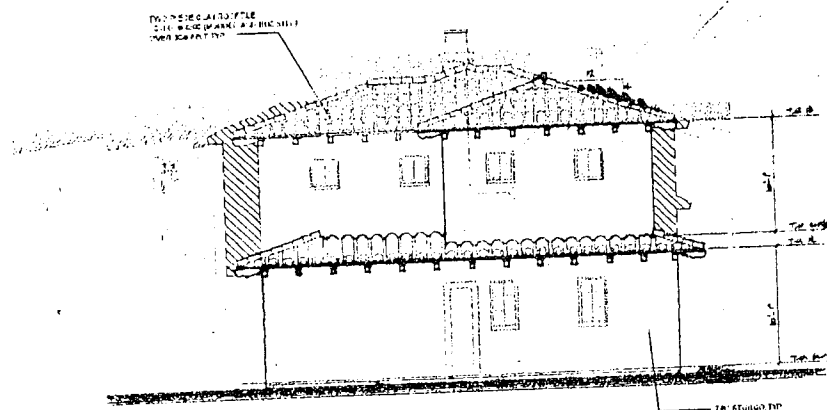


East elevation

RECEIVED

SEP 2

CALIF.
COASTAL CC
SAN DIEGO CC



NORTH ELEVATION

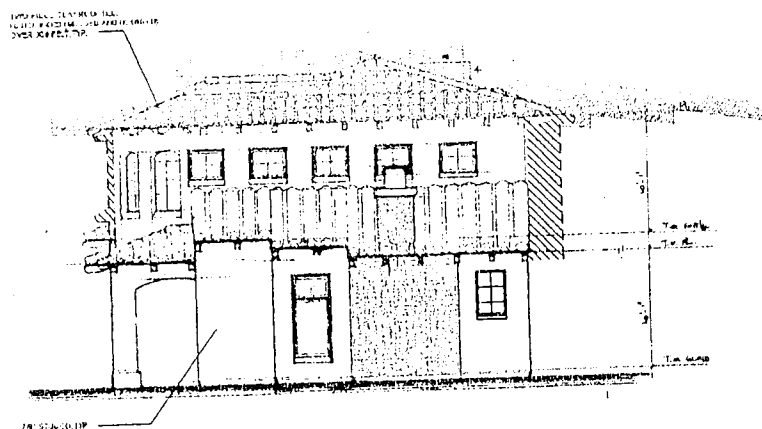
1" = 20'



HATCHING INDICATES EXHIBIT "A" COASTAL PERMIT APPROVED JUNE 12, 2003
(APPLICATION # A-6-LJS-02-068-A1) SILHOUETTE



HATCHING INDICATES EXHIBIT "B" COASTAL PERMIT AMENDED SEPTEMBER 9, 2004
(APPLICATION # A-6-LJS-02-068-A1) SILHOUETTE



South elevation

EXHIBIT NO. 6
APPLICATION NO.
A-6-LJS-02-68-A2
North & South
Elevations

