

CALIFORNIA COASTAL COMMISSION

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

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Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NO.: 5-04-466

APPLICANTS: Camden L.L.C., Attn: Bruce & Kathy Elieff

AGENT: Brion S. Jeannette & Associates, Inc., Attn: Brion S. Jeannette

PROJECT LOCATION: 177 Shorecliff Road, Corona Del Mar (City of Newport Beach)
(Orange County)

PROJECT DESCRIPTION: Demolition and construction of a new 9,540 square foot, two-story plus basement single-family residence with a 293 square foot 1st floor one-car garage and a 2,444 square foot subterranean six-car garage on a coastal bluff top lot. In addition, hardscape and landscape work is proposed. The foundation of the residence will consist of a combination of conventional footings and retaining walls in conjunction with a caisson and lagging shoring system. Grading will consist of 7,780 cubic yards.

SUMMARY OF STAFF RECOMMENDATION:

The subject site is a coastal bluff top lot located between the first public road and the sea in Corona Del Mar (Newport Beach). The applicants propose to demolish an existing single-family residence and construct a new single-family residence on a bluff top lot. Therefore, the project is considered new development and the proposed structure must be appropriately setback from the bluff edge. A minimal bluff edge setback would achieve the required setback.

Section 30251 of the Coastal Act states that permitted development should minimize landform alteration and visual impacts. Establishing a limit of development and setting development further back from the edge of the coastal bluff decreases a development's visibility from public vantage points, thus protecting views and the scenic quality of the area as well as preventing alteration of the natural landform. For these reasons, the Commission typically imposes some type of bluff top set back. Therefore, the Commission has often used either 1) a string line evaluation; or 2) a minimal 25-foot bluff edge setback in areas where geologic conditions are such that the site can be presumed stable for the useful economic life of the development. At this site, application of a stringline would not be appropriate due to the topography of the adjacent lots. The bluff edge of the adjacent sites and area undulate widely from lot to lot, so a setback based upon stringline (which would allow development seaward of the bluff edge and upon the bluff face) would not adequately protect the bluff landform. A more equitable approach at this site is application of a minimal 25-foot bluff edge setback for habitable structures and a minimal 10-foot bluff edge setback for any hardscape and appurtenant features. Portions of the proposed residential structure would at minimum be located adjacent to the bluff edge (i.e. a zero foot setback) and at maximum approximately 13-feet from the bluff edge. Hardscape and appurtenant features would be located at the bluff edge as well as upon the bluff face. Therefore, portions of

the proposed residence and hardscape and appurtenant features do not adhere to the typically required 25-foot and 10-foot bluff edge setbacks. In addition, the City of Newport Beach recently updated their Land Use Plan (LUP) and in this update it states that for bluff top development, a minimal 25-foot bluff edge setback for structures and a minimal 10-foot bluff edge setback for any hardscape and appurtenant features is required. Thus, as proposed, the project is inconsistent with Section 30251 of the Coastal Act and the recently updated City of Newport Beach LUP.

Section 30253 of the Coastal Act requires that new development 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. As proposed, the new development is reliant upon a protective device (caissons). Over time, the caissons would affect the recession of the bluff and become exposed, more specifically the caisson located at the rear of the proposed residence and on the bluff, which would alter the natural bluff landform. Thus, the Commission finds that the project, as currently proposed, is not consistent with the geologic hazards policy of the Coastal Act. New development, such as the proposed residence, should be sited and designed so that no protective device is necessary to protect the structure over its anticipated life (usually taken to be 75 years).

The primary issues addressed in this staff report are the conformance of the proposed development with the visual resources, geologic hazard, and public access policies of the Coastal Act. Staff recommends that the Commission **DENY** the request.

Furthermore, alternatives to the proposed project exist. For example, the existing residence could be remodeled or the existing residence could be demolished and rebuilt consistent with the typically imposed setbacks for bluff top development as described above. Such alternatives would preserve the integrity of the coastal bluff and would avoid the oceanward encroachment of development.

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of Newport Beach only has a certified Land Use Plan (LUP) and has not exercised the options provided in 30600(b) or 30600.5 to issue its own permits. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. The certified LUP may be used for guidance.

LOCAL APPROVALS RECEIVED: Approval-in-Concept (#2659-2004) from the City of Newport Beach Planning Department dated December 3, 2004.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach Certified Land Use Plan; *Preliminary Geotechnical Investigation for New Single Family Residence, 177 Shorecliff Road, Corona Del Mar California, Project No. 71486-00/Report No. 04-5376*, prepared by Geo Firm dated August 17, 2004; Letter to Brion Jeannette Architecture from Commission staff dated January 7, 2005; Letter from Brion Jeannette Architecture to Commission staff dated March 31, 2005; *Response to California Coastal Commission Notice of Incomplete Application dated January 7, 2005, 177 Shorecliff Road, Corona Del Mar California, Project No. 71486-00/Report No. 04-5499r*, Permit Application 5-04-466, prepared by Geo Firm dated March 14, 2005; Letter from KNA Engineering, Inc. to Brion Jeanette Architecture dated March 29, 2005; Letter from Geo Firm to Brion Jeannette Architecture dated March 31, 2005; Letter from Commission staff to Brion Jeannette Architecture dated April 29, 2005; Letter from Brion Jeannette Architecture to Commission staff dated May 5,

2005, Letter from Brion Jeannette Architecture to Commission staff received September 13, 2005; Letter from Brion Jeannette Architecture to Commission staff received October 11, 2005; and . Letter from Brion Jeannette Architecture to Commission staff received October 21, 2005

EXHIBITS

1. Vicinity Map
2. Assessor's Parcel Map
3. Aerial Plan/Stringline Plan by Applicant
4. Site Plan/Stringline Plan by Applicant
5. Commission staff Stringline Plan
6. Commission staff Stringline Plan/Foundation Plan
7. Floor Plans
8. Section Plan
9. Proposed Foundation Plan from the Geotechnical Report by Geo Firm dated March 14, 2005

STAFF RECOMMENDATION:

I. STAFF RECOMMENDATION OF DENIAL

Staff recommends that the Commission **DENY** the coastal development permit application by voting **NO** on the following motion and adopting the following resolution.

A. Motion

I move that the Commission approve Coastal Development Permit No. 5-04-466 for the development proposed by the applicant.

B. 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.

C. Resolution to Deny the Permit

The Commission hereby **DENIES** a coastal development permit for the proposed development on the ground that the development will not conform with the policies of Chapter 3 of the Coastal Act and will prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

II. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares as follows:

A. PROJECT LOCATION, DESCRIPTION AND PRIOR COMMISSION ACTION

1. Project Location

The proposed single-family residence at 177 Shorecliff Road is located on a coastal bluff top lot situated on the oceanward side of Shorecliff Road in the community of Shorecliffs in Corona Del Mar (Newport Beach) (Exhibits #1-3). The lot size is approximately 21,459 square feet and the City of Newport Beach Land Use Plan (LUP) assigns two different land use designations for different portions of the subject site. The base of the bluff and the adjacent beach area is designated Recreational and Environmental Open Space and the area from the base up to the street is designated Single-Family Detached Residential. The project is located within an existing developed urban residential area and the existing house is setback approximately 10-35 feet from the bluff edge and the existing pool is setback approximately 5-feet from the bluff edge. To the North of the project site is Shorecliff Road. To the East and West of the project site are existing single-family residential development. To the South of the project site is an undeveloped vegetated bluff, Little Corona Beach and the Pacific Ocean. The project site consists of a quarter-acre level building pad supported above a generally natural coastal bluff face. The overall height of the slope is approximately 50-feet. The slope ratio is variable, with the lower slope near 3.5:1 (horizontal: vertical) and the upper slope near 1.5:1, but overall, the slope is near a 2:1 ratio. In the project area, the lower slope is mantled with an apron of slopewash. At the base of the bluff is a narrow beach area that transitions from sandy beach to rocky beach.

2. Project Description

The proposed project consists of demolition of an existing single-family residence with an attached garage and construction of a new 9,540 square foot, two-story single-family residence plus basement, a 860 square foot 2nd floor deck, a 441 square foot roof deck, a 293 square foot 1st floor one-car garage, and a 2,444 square foot subterranean six-car garage, which is part of the basement level on a coastal bluff top lot (Exhibits #4-9). This proposed development would be located at the bluff edge (i.e. zero foot bluff edge setback). In addition, the following project components are proposed in the rear yard and upon the bluff face (i.e. seaward of the bluff edge): a new pool and spa, which will be double lined and have a matte-drain system, hardscape work comprising of simulated eroded bluff face design and landscape work consisting of native drought tolerant vegetation. Also, new steps and a pathway and retaining walls on the bluff face leading to Little Corona Beach are proposed. The applicants state that there is an existing "Scratch Trail" from the beach to the 27-foot contour line and that they propose to follow the natural contours from the rear yard of the house downward to connect with the upper section of this existing "Scratch Trail" pathway. The applicants do not clearly define what the "Scratch Trail" comprises of, but after observation of some aeriels of the project site it appears to be an unimproved, pioneered, dirt footpath. Grading will consist of 7,780 cubic yards (3,890 cubic yards of cut, 270 cubic yards of fill and 3,620 cubic yards of export to a location outside of the coastal zone). The foundation of the residence will consist of a combination of conventional footings and retaining walls in conjunction with a caisson and lagging shoring system.

3. Prior Commission Action in Subject Area

See Appendix A

B. SCENIC RESOURCES

Section 30251 of the Coastal Act states, in relevant part:

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...

The City of Newport Beach Land Use Plan (LUP) was certified on May 19, 1982. Since the City only has an LUP, the policies of the LUP are used only as guidance. The recently updated (October 2005) Newport Beach LUP includes the following policies that relate to development at the subject site:

Require all new blufftop development located on a bluff subject to marine erosion to be sited in accordance with the predominant line of existing development in the subject area, but not less than 25 feet from the bluff edge. This requirement shall apply to the principal structure and major accessory structures such as guesthouses and pools. The setback shall be increased where necessary to ensure safety and stability of the development.

On bluffs subject to marine erosion, require new accessory structures such as decks, patios and walkways that do not require structural foundations to be sited in accordance with the predominant line of existing development in the subject area, but not less than 10 feet from the bluff edge. Require accessory structures to be removed or relocated landward when threatened by erosion, instability or other hazards.

Section 30251 of the Coastal Act requires that scenic and visual qualities of coastal areas be protected. The project is located on a coastal blufftop lot overlooking Little Corona Beach and the ocean below and is visible from these sites. Because the project will potentially affect views from public vantage points any adverse impacts must be minimized. Pursuant to Section 30251, it is necessary to ensure that the development will be sited to protect views to and along the bluffs and minimize the alteration of existing landforms.

Establishing a limit of development and setting development further back from the edge of the coastal bluff decreases a development's visibility from public vantage points, thus protecting views and the scenic quality of the area as well as preventing alteration of the natural landform. Concentrating the development on the bluff top and away from the bluff edge and bluff face also reduces alteration of the natural bluff landform by avoiding grading and construction of structures on the currently highly scenic bluff where there presently is no development. For these reasons, the Commission typically imposes some type of bluff edge set back. The proposed project is inconsistent with Section 30251 of the Coastal Act and the City's LUP policy regarding coastal bluff sites as discussed below.

1. Scenic View Impacts (Stringline and Bluff Edge Setback Analysis)

Oceanward encroachment of new development can often have adverse impacts on a variety of coastal resources. For example, the oceanward encroachment of private development toward a beach can discourage public utilization of the beach adjacent to such development. The oceanward encroachment of structures can also have adverse visual impacts. In addition, the oceanward encroachment of structures can increase the hazards to which the new development will be subjected (the hazard and access issues are discussed elsewhere in these findings). Therefore, in Newport Beach the Commission has often used either 1) a string line evaluation; or 2) a minimal 25-foot bluff edge setback in areas where geologic conditions are such that the site can be presumed stable for the useful economic life of the development. If a stringline is used, two types of string lines are applied to evaluate a proposed project—a structural string line and a deck/accessory structure string line. A structural string line refers to the line drawn between the *nearest* adjacent corners of the adjacent structures on either side of the subject site. Similarly, a deck/accessory structure string line refers to the line drawn between the nearest adjacent corners of adjacent decks/accessory structures on either side of the subject site. String line setbacks and bluff edge setbacks are applied to limit new development from being built any further oceanward than existing adjacent development. If not properly regulated the continued oceanward encroachment of development can have a significant cumulative adverse impact on coastal resources.

Stringline

Applying a stringline to the proposed project is difficult due to the differing topography of the project site and adjacent residences that would be used to make this analysis. The bluff edge of the adjacent sites and area undulate widely from lot to lot, so a setback based upon stringline would not adequately protect the bluff landform. Note that Exhibits #3 & 4 of this staff report depict stringlines drawn by the applicant. These stringlines do not follow the methodology typically used by the Commission that is described above. Exhibit #5 depicts the structural and deck stringlines using the Commission's practiced methodology. If a structural stringline were to be implemented, the majority of the proposed basement level area would be seaward of the structural stringline (i.e. the enclosed living space exceeds the stringline by more than 20-feet) (Exhibit #5). Also, if a deck/accessory structure stringline were to be implemented, a portion of the development proposed in the rear yard and upon the bluff face (i.e. seaward of the bluff edge) consisting of: a new pool and spa, hardscape work would be within the stringline. However, the new steps, pathway and retaining walls on the bluff face leading to Little Corona Beach would be more than 90-feet seaward of the deck/accessory structure stringline (Exhibit #5). Thus, the proposed development exceeds even the more generous development envelope provided by use of a stringline setback. Moreover, applying the stringline would lead to the siting of development upon the bluff face where there is presently no such development. Thus, using the stringline would not adequately control the seaward encroachment of development and would result in development that is inconsistent with Section 30251 of the Coastal Act.

Bluff Edge Setback

In cases where use of a stringline to limit oceanward encroachment of development is not appropriate, the Commission will use a bluff edge setback for primary structures and accessory improvements. Such a setback is derived for site-specific conditions and is designed to assure stability of the development for its useful economic life. A minimal setback may be warranted where those slopes are stable and historic bluff retreat has been minimal. This setback is also useful to address visual impacts. In these cases in Newport Beach, the Commission typically requires that habitable structures be setback at least 25-feet from the bluff edge and hardscape features be setback at least 10-feet from the bluff edge to minimize the potential that the development will contribute to visual impacts and be subject to hazards.

The proposed project includes enclosed living space located at the bluff edge (i.e. zero foot bluff edge setback) as well as patios, pool, spa, stairways and retaining walls upon the presently undeveloped bluff face. More specifically, portions of the proposed residential structure would at minimum be located adjacent to the bluff edge (i.e. a zero foot setback) and at maximum approximately 13-feet from the bluff edge. Hardscape and appurtenant features would be located at the bluff edge as well as upon the bluff face (Exhibits #5-6). Therefore, portions of the proposed residence and hardscape and appurtenant features do not adhere to the typically required 25-foot and 10-foot bluff edge setbacks. These setbacks have previously been imposed on other development in the project vicinity (see Appendix A). Adherence to the 25-foot setback and 10-foot setback for the proposed development would be consistent with the previous actions taken in the project area.

The existing bluff face is a natural landform visible from public vantage points such as Little Corona Beach (Exhibit #3). Any alteration of this landform would affect the scenic views of the coastline when viewed from the beach. The proposed project would significantly alter the appearance of the undeveloped vegetated bluff. This new development must be appropriately sited to minimize adverse effects to existing scenic resources. Accordingly, the residential structure and major accessory improvements should be sited at least 25-feet from the bluff edge and any hardscape, stairways, retaining walls or other appurtenances should be located at least 10-feet from the bluff edge. No development should be located within 10-feet of the bluff edge or upon the bluff face, as is proposed by the applicant. Thus, the proposed development does not minimize landform alteration and visual impacts as required by Section 30251 of the Coastal Act.

2. City of Newport Beach Land Use Plan (LUP)

The City of Newport Beach recently updated their Land Use Plan (LUP). Included in this update were policies directly relating to development taking places on bluffs. One relevant policy states the following: *Require all new blufftop development located on a bluff subject to marine erosion to be sited in accordance with the predominant line of existing development in the subject area, but not less than 25 feet from the bluff edge. This requirement shall apply to the principal structure and major accessory structures such as guesthouses and pools. The setback shall be increased where necessary to ensure safety and stability of the development* [Emphasis added]. Another relevant policy states *On bluffs subject to marine erosion, require new accessory structures such as decks, patios and walkways that do not require structural foundations to be sited in accordance with the predominant line of existing development in the subject area, but not*

less than 10 feet from the bluff edge. Require accessory structures to be removed or relocated landward when threatened by erosion, instability or other hazards [emphasis added]. Portions of the proposed residential structure would at minimum be located adjacent to the bluff edge (i.e. a zero foot setback) and at maximum approximately 13-feet from the bluff edge. Hardscape and appurtenant features would be located at the bluff edge as well as upon the bluff face. Therefore, portions of the proposed residence and hardscape and appurtenant features do not adhere to the required 25-foot and 10-foot bluff edge setbacks. Thus, the proposed development is inconsistent with the recently updated LUP because the development does not adhere to the required 25-foot and 10-foot bluff edge setbacks.

3. Landform Alteration

The proposed project will consist of grading that will comprise of 7,780 cubic yards (3,890 cubic yards of cut, 270 cubic yards of fill and 3,620 cubic yards of export). The proposed grading would be accomplished in order to place the proposed structures on the bluff top and more so the bluff face. Currently, the bluff face is highly scenic and undeveloped; however, the proposed project would result in significant alteration of the bluff face. As such, new development at the subject site must be appropriately sited to minimize adverse effects to natural landforms. The proposed development does not minimize such adverse effects and is inconsistent with Section 30251 of the Coastal Act.

Conclusion

The Commission finds that the proposed project is not sited and designed to protect scenic and visual qualities of coastal areas as a resource of public importance. Denial of the proposed project would preserve existing scenic resources. The alteration of the bluff would result in an adverse visual effect when viewed from public vantage points such as Little Corona Beach. The Commission finds that the proposed project would result in the alteration of natural landforms. Consequently, the proposed project would increase adverse impacts upon visual quality in the subject area. Therefore, the Commission finds that the proposed project is inconsistent with Section 30251 of the Coastal Act and with the City's LUP policy regarding coastal bluff sites and therefore must be denied.

C. HAZARDS

Section 30253 of the Coastal Act states, in pertinent part:

New development shall:

- (1) *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (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.*

The subject site is an oceanfront lot where the toe of the bluff is periodically subject to direct wave attack. There is no wide sandy beach or intervening development between the toe of the

bluff and the ocean. Development on a bluff is inherently risky due to the potential for bluff erosion and collapse. Bluff development poses potential adverse impacts to the geologic stability of bluffs and the stability of residential structures. In general, bluff instability is caused by environmental factors and impacts caused by humans. Environmental factors include seismicity, wave attack, drying and wetting of soils, wind erosion, salt spray erosion, rodent burrowing, percolation of rain water, poorly structured bedding, and soils conducive to erosion. Factors attributed to humans that may be relevant to this site include irrigation, over-watering, building too close to the bluff edge, improper site drainage, use of impermeable surfaces that increase runoff, use of water-dependent vegetation, and breaks in water or sewage lines.

1. Site Specific Bluff Information

To address site-specific geotechnical issues with the proposed residence (the proposed pool, spa, retaining walls and steps and pathway to the beach were not reviewed by the applicant's geologist), the applicants have submitted several reports including *Preliminary Geotechnical Investigation for New Single Family Residence, 177 Shorecliff Road, Corona Del Mar California, Project No. 71486-00/Report No. 04-5376*), prepared by Geo Firm dated August 17, 2004; *Response to California Coastal Commission Notice of Incomplete Application dated January 7, 2005, 177 Shorecliff Road, Corona Del Mar California, Project No. 71486-00/Report No. 04-5499r*), *Permit Application 5-04-466*, prepared by Geo Firm dated March 14, 2005; Letter from KNA Engineering, Inc. to Brion Jeanette Architecture dated March 29, 2005; and Letter from Geo Firm to Brion Jeannette Architecture dated March 31, 2005.

The geotechnical reports analyzed the stability of the project site and made the following statements: *"In the area of the site, the lower slope is mantled with an apron of slopewash suggesting predominantly subaerial erosional process and a significant history without active erosion along the base of the slope."* Furthermore, the geotechnical reports claim: *"Deep seated failure of the slope is considered unlikely due to its 2:1 overall slope ratio, moderate height, and underlying bedrock and terrace deposits. Upper slope terrace deposits and slopewash deposits which mantel the lower bluff slope face are considered surficially unstable and may be prone to failure under conditions of saturation or seismic acceleration. Such instability will not affect the proposed development in consideration of appropriate foundation design as recommended herein."* In addition, the geologic reports state that the foundation system for the residence will likely consist of a combination of conventional footings, deepened footings and retaining walls. In addition, a caisson and lagging shoring system is proposed to support the grade change with the lot to the north. The geotechnical reports conclude that: *"The bedrock materials backing the slope are anticipated to remain grossly stable. The terrace deposits and slopewash mantling the slope face is considered surficially unstable. The foundation system along the rear of the proposed residence should be designed to isolate proposed improvements from potential surficial instability of the slope."* In response to this geotechnical finding, the applicants have proposed that the foundation system along the rear yard will consist of deepened, continuous footing (Exhibit #6). Siting the proposed development at the bluff edge and upon the bluff face necessitates this enhanced foundation system. Furthermore, the applicants have proposed a row of approximately fourteen (14) 24" diameter caissons along the western property line, separate from the residential foundation system, to protect the project site. Thus, the proposed project achieves required structural stability by relying upon these caissons.

The Commission typically requires that habitable structures be setback at least 25-feet from the bluff edge and hardscape features be setback at least 10-feet from the bluff edge to minimize the potential that the development will contribute to visual impacts. Portions of the proposed residential structure would at minimum be located adjacent to the bluff edge (i.e. a zero foot setback) and at maximum approximately 13-feet from the bluff edge. Hardscape and appurtenant features would be located at the bluff edge as well as upon the bluff face. Therefore, the proposed residence and hardscape and appurtenant features do not adhere to the typically required 25-foot and 10-foot bluff edge setbacks. Rather than placing development landward of the 25-foot setback and 10-foot setback from bluff edge, and include an adequate safety buffer to address anticipated bluff retreat over the life of the development, the proposed project includes development seaward of the 25-foot setback from bluff edge and necessitates a protective device (caissons) to adequately support and protect the structure (Exhibit #6). Over time, the caissons, particularly those located at the rear of the proposed residence and on the bluff, would affect the recession of the bluff and become exposed which would alter the natural bluff landform. New development, such as the proposed residence, should be sited and designed so that no protective device is necessary to protect the structure over its anticipated life (usually taken to be 75 years). Thus, the placement of the proposed residence and the need of a protective device for stability of the development, make the project inconsistent with Section 30253 of the Coastal Act and must be denied.

2. Coastal Hazards

To analyze the suitability of the site for the proposed development relative to potential wave hazards, Commission staff requested the preparation of a wave run-up, flooding, and erosion hazard analysis, prepared by an appropriately licensed professional (e.g. coastal engineer). The purpose of this analysis is to determine the potential for future storm damage and any possible mitigation measures, which could be incorporated into the project design. In response, the applicants have provided a report entitled *New Single Family Residence, 177 Shorecliff Road, Corona Del Mar California, Project No. 71486-00/Report No. 04-5376*, prepared by Geo Firm dated August 17, 2004, which addresses the potential of hazard from flooding and wave attack at the subject site. The study states that review of aerial photographs from October 14, 1939 and July 30, 1970 reveals that little geomorphic changes appear to have occurred. In addition, it does state the beach at the base of the slope appears wider in 1939 than it was in 1970 and attributes that to: "... late summer season sand return resulting from the tropical storm three weeks prior to the 1939 photographs and/or the early summer sand depletion common during the winter season in the July photographs." Furthermore, it states: "*The primary historic mode of erosion and retreat in the vicinity in the site is piecemeal rock toppling of the bedrock materials, as it is slowly but progressively undermined by erosion at the base of the sea cliff. However, the site is supported by a relatively gentle slope, not a seacliff, and is currently protected from westerly swells and windwaves by the adjacent promontory and rocky outcrop beach at the base. The mantle of slopewash present along the lower sea bluff is evidence that wave erosion has been absent in recent times, likely due to protection from the offshore harbor breakwater and locally by the adjacent promontory. Shoreline protection along the rear of the property is not anticipated during a 75-year life span of the development providing proper foundation as recommended herein.*"

Although the applicants' report indicates that the site is safe for development at this time, beach areas are dynamic environments, which may be subject to unforeseen changes. Such changes may affect beach processes.

Conclusion

To meet the requirements of the Coastal Act, new development must be sited and designed to: "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 [Emphasis added]." As proposed, the new development is reliant upon a protective device (caissons). Over time, the caissons would affect the recession of the bluff and become exposed, more specifically the caisson located at the rear of the proposed residence and on the bluff, which would alter the natural bluff landform. Thus, the Commission finds that the project, as currently proposed, is not consistent with the geologic hazards policy of the Coastal Act. There are alternatives to the proposed project (see Section II.E. of these findings) that would lessen or avoid the identified impacts. Denial of the proposed project would avoid impacts to landforms. New development, such as the proposed residence, should be sited and designed so that no protective device is necessary to protect the structure over its anticipated life (usually taken to be 75 years). Therefore, the Commission finds that the proposed project is inconsistent with Section 30253 of the Coastal Act and therefore must be denied.

D. PUBLIC ACCESS

Section 30240 (b) of the Coastal Act states:

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 those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The project site is a coastal bluff top lot situated on the oceanward side of Shorecliff Road, which is the first public road immediately inland of Little Corona Beach. The level beach area of this lot that is located at the base of the bluff (Little Corona Beach) is private to the mean high tide line and is designated Recreational and Environmental Open Space in the City's Land Use Plan (LUP). The part of the beach seaward of the mean high tide line, which would change depending on the tide, is public. The public accessway to Little Corona Beach nearest to the subject site is located at the east end of Ocean Boulevard, approximately one quarter mile to the northwest. Development at this site, if approved, must be sited and designed to be compatible with Section 30240 (b) of the Coastal Act. Section 30240 (b) of the Coastal Act states that development in areas adjacent to parks and recreation areas shall be sited and designed to prevent impacts that would significantly degrade those areas. It is necessary to ensure that new development be sited and designed to prevent oceanward encroachment of development that would impact public access to coastal resources. The proposed project, as submitted, would be a significant new development encroaching oceanward.

The proximity of the proposed project to Little Corona Beach, raises Coastal Act concerns, as it would be new oceanward encroaching development that could discourage use of the beach. The project could diminish the value of the beach for public use by discouraging public access to the beach through the presence of the new residence above the beach located at the zero bluff edge

setback and the pool, spa, hardscape, steps and pathway and retaining walls on the bluff face leading to Little Corona Beach. The existing beach already is relatively narrow. The proposed bluff development would be imposing structural features that could affect public use of the beach by discouraging the public from using the beach area intended for public use. This would force the public to move more oceanward and thus have an impact on public use of the beach. Thus, the proposed project could adversely impact public access to the beach.

The Commission finds that the proposed project, as currently proposed, is not sited and designed to protect public access to coastal resources. Denial of the proposed project would preserve existing public access resources. The Commission finds that the area in front of the development is a recreation area and that the proposed project would degrade that area and, by discouraging public use of the area, would be incompatible with Section 30240 (b). Therefore, the Commission finds that the proposed project is inconsistent with Section 30240 (b) of the Coastal Act and must be denied.

E. ALTERNATIVES

Due to the project's impact on coastal views and the alteration of natural landforms, possible project alternatives were requested from the applicant in order to find an approvable project that would limit impact on coastal views and alteration of natural landforms. The applicants' have stated that they have looked at other alternatives; however, the applicants feels that the current project proposal is the best and least impacting. The Commission disagrees and believes that there are other alternatives that are better (more consistent with the policies in Chapter 3 of the Coastal Act, as well as the LUP policies) and that would have less impact on coastal resources.

Denial of the proposed project will neither eliminate all economically beneficial or productive use of the applicants' property, nor unreasonably limit the owners' reasonable investment-backed expectations of the subject property. The applicants already possess a substantial residential development of significant economic value of the property. In addition, several alternatives to the proposed development exist. Among those possible alternative developments are the following (though this list is not intended to be, nor is it, comprehensive of the possible alternatives):

1. No Project

No changes to the existing site conditions would result from the "no project" alternative. As such, there would be no disturbance of the bluff face. The bluff face would remain as an undeveloped vegetated slope. The applicants would still have full use of the residence. This alternative would result in the least amount of effects to the environment and also would not have any adverse effect on the value of the property.

2. Remodeling of the Existing Home

An alternative to the proposed project would be remodeling of the existing home so that it adheres to the minimum 25-foot setback from the bluff edge for habitable structures and the minimum 10-foot from the bluff edge for hardscape appurtenant features so that the potential that the development will contribute to visual impacts and adversely impact slope stability will be minimized. This alternative would preserve the bluff face as an undeveloped vegetated slope.

3. Demolishing and Rebuilding the Existing Home

Another alternative to the proposed project would be demolishing and rebuilding the existing home, consistent with the typically imposed setbacks as described above. As such, there would be no disturbance of the bluff face and it would remain as an undeveloped vegetated slope.

F. LOCAL COASTAL PROGRAM

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program that conforms with the Chapter 3 policies of the Coastal Act.

The City of Newport Beach Land Use Plan (LUP) was certified on May 19, 1982. Since the City only has an LUP, the policies of the LUP are used only as guidance. The recently updated (October 2005) Newport Beach LUP includes the following policies that relate to development at the subject site:

Require all new blufftop development located on a bluff subject to marine erosion to be sited in accordance with the predominant line of existing development in the subject area, but not less than 25 feet from the bluff edge. This requirement shall apply to the principal structure and major accessory structures such as guesthouses and pools. The setback shall be increased where necessary to ensure safety and stability of the development.

On bluffs subject to marine erosion, require new accessory structures such as decks, patios and walkways that do not require structural foundations to be sited in accordance with the predominant line of existing development in the subject area, but not less than 10 feet from the bluff edge. Require accessory structures to be removed or relocated landward when threatened by erosion, instability or other hazards.

The construction of the proposed project is inconsistent with the policies in the City's certified LUP and as well as Chapter 3 policies of the Coastal Act discusses previously, specifically Sections 30251, 30253 and 30240 (b). Development on the coastal bluff would cause adverse impacts to the natural landform, the coastal scenic resources and public access, which is inconsistent with these Sections of the Coastal Act. Section 30251 of the Coastal Act states that permitted development should minimize landform alteration and visual impacts. Section 30253 of the Coastal Act requires that new development 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. Section 30240 (b) of the Coastal Act states that development in areas adjacent to parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas and be incompatible with their recreational use. Approval of the proposed development would prejudice the City's ability to prepare a Local Coastal Program for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act, as required by Section 30604(a), by authorizing development inconsistent with those policies. Therefore, because the project is found inconsistent with the policies in the City's certified LUP and the Chapter 3 policies of the Coastal Act, issuance of the permit would be inconsistent with Section 30604(a), and the permit must be denied.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse effect the activity may have on the environment.

As described above, the proposed project would have adverse environmental impacts. There are feasible alternatives or mitigation measures available, such as remodeling of the existing home. Therefore, the proposed project is not consistent with CEQA or the policies of the Coastal Act because there are feasible alternatives that would lessen significant adverse impacts the activity would have on the environment. Therefore, the project must be denied.

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Appendix A

A. Coastal Development Permit (CDP) Application No. 5-93-016-(Beall), 161 Shorecliff Drive (Located 4 Lots Up-Coast of Subject Site)

At the March 1983 Coastal Commission Hearing, the Commission approved CDP Application No. 5-93-016-(Beall) for landscape renovation including replacement of two stairs on the bluff top, construction of an overlook and lawn area, and renovation of an irrigation system and shrub planting located on a bluff parcel. An existing single-family residence was located on site; however, no work was proposed to the residence. The issues addressed in the Staff Report were the conformance of the proposed development with the geologic hazard, visual resources, and public access policies of the Coastal Act. Work on the bluff top was proposed and typically a minimal bluff edge setback or application of a stringline would have been applied to achieve the required setback. However, application of a stringline was not applicable due to the topography of the bluff. Therefore, a minimal 25-foot bluff edge setback was imposed instead. The Commission approved the project subject to two (2) Special Conditions. Special Condition No. 1 required revised project plans indicating that no new development would occur within 25-feet of the bluff edge. Special Condition No.2 required screening of a drainage pipe on the bluff and dissipation device at the base of the bluff. As in the case of the proposed project, the implementation of a stringline was deemed inappropriate due to the topography of the bluff. In addition, this project is similar to the proposed project in that since a stringline could not be established to achieve the required set back, a minimal 25-foot geologic setback was imposed instead.

B. Coastal Development Permit (CDP) Application No. 5-90-1069-(Real Vest), 165 Shorecliff Road (Located 3 Lots Up-Coast of Subject Site)

At the March 1991 Coastal Commission Hearing, the Commission approved CDP Application No. 5-90-1069-(Real Vest) for demolition and construction of a single-family residence located on a bluff-parcel. In addition, increasing the size of the pool house and constructing a swimming pool and spa were also proposed. The issues addressed in the Staff Report were the conformance of the proposed development with the geologic hazard, visual resources, and public access policies of the Coastal Act. Staff recognized that a true application of the structural stringline is inapplicable at the subject site due to the uneven coastline. In spite of this, rather than abandon the use of a structural stringline, the staff report proposed a "modified" structural stringline and found that the proposed location of the residence was compatible with the purpose and intent of the structural stringline. While the structural components of the project were found to be less problematic, the accessory development proposed seaward of the residence was more contentious. A setback based on a strict stringline for the accessory structures (i.e. swimming pool and decks) is impossible in this instance, as the up-coast property has no equivalent kinds of development. Therefore, a geologic setback of 25-feet was imposed for all development. The Commission approved the project subject to four (4) Special Conditions. Special Condition No. 1 required revised project plans indicating that no new development would occur oceanward of the 87-foot contour line. Special Condition No.2 required conformance with geotechnical recommendations. Special Condition No.3 required submittal of a drainage/erosion control plan. Special Condition No.4 required submittal of a landscaping plan. As in the case of the proposed project, the

implementation of a stringline is prevented due to the topography of the bluff. In addition, this project is similar to the proposed project in that since a stringline could not be established to achieve the required set back, a geotechnical setback was imposed instead.

The applicant filed a request for reconsideration of Special Condition No. 1. However, that reconsideration request was ultimately withdrawn.

C. Assignment of Permit Application No. T5-90-1069-(Real Vest), 165 Shorecliff Road (Located 3 Lots Up-Coast of Subject Site)

On July 22, 1992, the Coastal Commission approved assignment of permit from Real Vest to the Wahler Family Trust.

D. Amendment to Coastal Development Permit (CDP) Application No. 5-90-1069-A1-(The Wahler Family Trust), 165 Shorecliff Road (Located 3 Lots Up-Coast of Subject Site)

At the August 1993 Coastal Commission Hearing, the Commission approved an Amendment to CDP Application No. 5-90-1069-(The Wahler Family Trust) for construction of a sub-grade pool equipment storage room and grading located on a bluff parcel. The issues addressed in the Staff Report were the conformance of the proposed development with the geologic hazard, visual resources, and public access policies of the Coastal Act. While the proposed storage room would not encroach into the required bluff edge setback previously established in the original permit, additional development (i.e. cut and fill and a retaining wall) was proposed to take place seaward of the bluff edge. Therefore, a Special Condition was imposed, which required submission of revised project plans indicating no development will occur beyond the 87-foot contour line consistent with the bluff top setback established in CDP No. 5-90-1069. As in the case of the proposed project, adherence to a geologic setback was required.

E. Request for Reconsideration No. R5-90-1069 and Amendment to Coastal Development Permit (CDP) Application No. 5-90-1069-A2-(The Wahler Family Trust), 165 Shorecliff Road (Located 3 Lots Up-Coast of Subject Site)

On March 1993 construction began associated with CDP No. 5-90-1069. However, development took place that was not approved under this permit: 1) a guesthouse seaward of the modified structural stringline, and 2) grading, construction of a retaining wall, pool and lawn area all seaward of the 87-foot contour elevation. To resolve the issues raised by the unpermitted development and to determine the appropriate setback, a reconsideration request was scheduled for the Commission Hearing in April 1995. At that time the Commission rejected the reconsideration and instead directed staff to accept an application for an amendment.

At the August 1995 Coastal Commission Hearing, the Commission approved a 2nd Amendment to CDP Application No. 5-90-1069-(The Wahler Family Trust) for: 1) construction of a guesthouse seaward of the modified structural stringline, and 2) grading, construction of a retaining wall, pool and lawn area all seaward of the 87-foot contour elevation. The issues addressed in the Staff Report were the conformance of the proposed development with the geologic hazard, visual resources, and public access policies of the Coastal Act. Staff determined that even though construction of the

guesthouse was seaward of the structural stringline, it will not result in adverse visual impacts and is compatible with the existing surrounding development. In addition, Commission staff found that the grading, retaining wall, pool and lawn would maintain a 25-foot setback from the bluff edge; hence it would be consistent with hazard policies of the Coastal Act. The Commission approved the project subject to all previous Special Conditions and also imposed two (2) additional Special Conditions. Special Condition No. 1 modified the original Special Condition No. 1, which prohibited development seaward of the 87-foot contour. The new language stated that the guesthouse could not encroach anymore seaward than on the plans and that all development, including grading, shall be setback a minimum of 25-feet from the edge of the bluff. Special Condition No. 2 required submittal of landscaping plan indicating that only native and low water use plants will be used. As in the case of the proposed project, adherence to a geologic setback was required.

F. Coastal Development Permit (CDP) Application No. P-79-4774-(George), 169 Shorecliff Road (Located 2 lots Up-Coast of Subject Site)

At the February 1979 South Coast Regional Commission Hearing, the Commission approved CDP Application No. P-79-4774-(George) for an addition to the existing 1st floor and a new 2nd floor addition to an existing one-story single-family residence on a bluff parcel. In addition, decks and a swimming pool were proposed. The issues addressed in the Staff Report were the conformance of the proposed development with the geologic hazard and visual resource policies of the Coastal Act. The existing structure exceeded the structural and deck stringlines and allowing the proposed pool would increase this seaward intrusion. In addition, the proposed pool would be placed within 13-feet of the bluff edge. Thus, in order to achieve the required setback and to conform with Sections 30251 and 30253 of the Coastal Act, a 25-foot geologic setback from the bluff edge was implemented instead. Therefore, Commission staff recommended approval of the proposed project subject to three (3) Special Conditions. Special Condition No. 1 required revised plans indicating a) no portion of the completed residence, including decks, seaward of the existing residence and decks and b) the swimming pool and associated decking relocated to a point 25-feet landward of the 90-foot elevation line shown on the topography plan (this 25-feet shall be designated as the bluff edge setback). Special Condition No. 2 required geotechnical conformance. Special Condition No. 3 required a deed restriction that prohibited development within the 25-foot bluff edge setback. The permit was never issued. As described in the staff report, the house sits on a fairly level lot, however the rear yard slopes steeply to an abrupt 40-foot high vertical cliff. In this case, the existing structure already exceeded the stringline and the proposed pool would further exceed this stringline. Also, the differing topography of the site would make implementation of the stringline difficult. Thus, application of the stringline would not be acceptable for the site. In addition, the proposed pool would be located within 13-feet of the bluff edge. As in the case of the proposed project, the implementation of a stringline is prevented due to the topography of the bluff. In addition, this project is similar to the proposed project in that since a stringline could not be established to achieve the required set back, a minimal 25-foot geologic bluff edge setback was imposed instead.

The applicants appealed the approval and the appeal was heard at the May 1979 South Coast Regional Commission Hearing. The applicants contended that the edge of bluff was interpreted at an artificial location and that setback requirements imposed on the

project by the Commission approval were unfairly imposed. However, the Commission found No Substantial Issue.

G. Coastal Development Permit (CDP) Application No. P-80-6914-(George), 169 Shorecliff Road (Located 2 lots Up-Coast of Subject Site)

At the July 1980 South Coast Regional Commission Hearing, the Commission approved CDP Application No. P-80-6914-(George) for construction of a swimming pool and decks and additions to the 1st floor and 2nd floor of an existing two-story single-family dwelling on a bluff parcel. The issues addressed in the Staff Report were the conformance of the proposed development with the geologic hazard and visual resource policies of the Coastal Act. Staff determined that a structural stringline could not be implemented for the site since the existing structure exceeded the structural stringline. In addition, a deck stringline could not be implemented since the adjacent pool up-coast of the site was located on the far side of the parcel and would not provide a normal application of the stringline. Thus, a 25-foot geologic bluff edge setback was implemented instead. Therefore, Commission staff recommended approval of the proposed project subject to four (4) Special Conditions. Special Condition No. 1 required revised plans indicating a) no portion of the completed residence, including decks, seaward of the existing residence and decks and b) the swimming pool and associated decking relocated to appoint 25-feet landward of the 90-foot elevation line shown on the topography plan (this 25-feet shall be designated as the bluff edge setback). Special Condition No. 2 required geotechnical conformance. Special Condition No.3 required a deed restriction that prohibited development within the 25-foot bluff edge setback. Special Condition No. 4 required an irrevocable offer to dedicate and easement for public access and passive recreational use along the shoreline. The application was approved, but Special Condition No. 4 was deleted. The permit was issued on July 30, 1980. As described in the staff report, the house sits on a fairly level lot, however the rear yard slopes steeply to an abrupt 40-foot high vertical cliff. The topography of this site is different compared to the proposed project site, where the rear yard and bluff face are more of a gentle slope. As in the case of the proposed project, the implementation of a stringline is prevented due to the topography of the bluff. In addition, this project is similar to the proposed project in that since a stringline could not be established to achieve the required set back, a minimal 25-foot geologic bluff edge setback was imposed instead.

H. Coastal Development Permit (CDP) Application No. A-78-4367-(Bertea), 173 Shorecliff Road (Located Adjacent Up-Coast of Subject Site)

At the December 1978 South Coast Regional Commission Hearing, the Commission approved CDP Application No. A-78-4367-(Bertea) for construction of a swimming pool and jacuzzi on the bluff face of a bluff parcel. No Special Conditions were imposed. The permit was issued on December 21, 1978.

I. Coastal Development Permit (CDP) Application No. 5-96-234-(Bertea), 173 Shorecliff Road (Located Adjacent Up-Coast of Subject Site)

At the December 1996 Coastal Commission Hearing, the Commission approved a Waiver for CDP Application No. 5-96-234-(Bertea) for the remodel and addition to an existing single-family residence located on a bluff parcel. In addition, alterations to the existing swimming pool and spa were proposed. The additions to the residence were on the

landward side of the residence. The proposed project did not result in any further development oceanward of the existing development. Thus, seaward encroachment of new development was not an issue.

J. Administrative Permit (AP) Application No. 5-84-834-(Price), 183 Shorecliff Road (Located Adjacent Down-Coast of Subject Site)

At the January 1985 Coastal Commission Hearing, the Commission approved AP Application No. 5-84-834-(Price) for the demolition and construction of a new single-family residence located on a bluff parcel. No Special Conditions were imposed. The permit was issued on March 15, 1993.

K. Coastal Development Permit (CDP) Application No. 5-94-168-(Price), 183 Shorecliff Road (Located Adjacent Down-Coast of Subject Site)

At the December 1994 Commission Hearing, the Commission approved CDP Application No. 5-94-168-(Price) for an addition to an existing single-family residence located on a bluff parcel. The issues addressed in the Staff Report were the conformance of the proposed development with the environmentally sensitive habitat area, geologic hazard, and public access policies of the Coastal Act. The project site was bound on one side by Morning Canyon and on the other side by Little Corona Beach. Typically, the Commission establishes an appropriate setback for both canyon front and oceanfront bluff top development. A minimal bluff edge setback or application of a stringline would achieve the required setback. The addition was located on the canyonward side of the property and not on the ocean side of the property. However, application of a stringline on the canyonward side of the lot, as well as a stringline on the oceanward side of the lot, was not possible since there are no adjacent structures to use to establish the stringlines, due to the location of the lot as the last lot adjacent to the canyon before it reaches the beach. Thus, a bluff edge setback was deemed more appropriate. The setback of the proposed development was 105-feet from the centerline of the canyon, which is substantially more than the minimal 25-foot bluff edge setback that is typically required. Therefore, the proposed development was adequately setback. The Commission approved the project subject to two (2) Special Conditions. Special Condition No. 1 required conformance with geotechnical recommendations. Special Condition No.2 required future development to obtain an amendment. The permit was issued on August 31, 1995. As in the case of the proposed project, the implementation of a stringline is prevented. In addition, this project is similar to the proposed project in that since a stringline could not be established to achieve the required set back, so a minimal 25-foot setback was imposed instead. However, in the case of this project, a setback of 105-feet was proposed, which would be substantially more than the minimal 25-foot geologic setback from bluff edge.