

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4421

(619) 767-2370

RECORD PACKET COPY

**Tue 9a**

Filed: 6/24/05
49th Day: 8/12/05
180th Day: 12/21/05
Staff: LRO-SD
Staff Report: 7/21/05
Hearing Date: 8/9-12/05

STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL GOVERNMENT: City of San Diego

DECISION: Approved with Conditions

APPEAL NO.: A-6-LJS-05-062

APPLICANT: Dan & Lisa Schroeder

PROJECT DESCRIPTION: Demolition of a one-story single-family residence and construction of a 5,980 sq.ft., one-story single family residence which includes a 1,840 sq.ft. basement and two garages totaling 1,225 sq.ft. on a 19,737 sq.ft. lot.

PROJECT LOCATION: 2624 Ellentown Road, La Jolla-La Jolla Shores, San Diego, San Diego County. APN 344-041-06

APPELLANTS: Benny Chien, M.D.; John Hildebrand/Patricia Masters; Scripps Estates Association Architecture Committee

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed. Based on review of the City's file and information provided by the appellants and applicant, staff has concluded that the development, as approved by the City, is consistent with all applicable LCP provisions as it is in character with the surrounding community, will not result in any adverse impacts on public views and will not result in impacts to the sensitive resources in the adjacent coastal canyon. It is also consistent with the public access and recreational policies of the Coastal Act.

SUBSTANTIVE FILE DOCUMENTS: Appeal Forms dated 6/24/05 and 7/5/05; City of San Diego Coastal Development Permit No. 31768; Certified La Jolla Community Plan and Local Coastal Program Land Use Plan (February 2004).

I. Appellants Contend That:

Two appeals were filed. The first appellant contends that the proposed development is inconsistent with the policies of the certified LCP which pertain to (1) preservation of neighborhood and community character; (2) drainage from the project site into an adjacent coastal canyon; and (3) other procedural matters pertaining to the filing of the appeal at the local level and errors that the City made pertaining to the CC&R's at the local hearing level. A second appellant contends that the project is inconsistent with the policies of the certified LCP that pertain to restrictions on private development permitted to encroach upon biologically sensitive open areas and steep hillsides, minimization of erosion, and excessive grading and disturbance; and that the structure will exceed the height of the existing structure, which will adversely affect scenic views over private property from a public right-of-way.

II. Local Government Action. The coastal development permit was approved by the Hearing Officer on 5/25/05. The conditions of approval address, in part, the following: accessory improvements, grading, brush management, drainage, landscaping, building height and parking.

III. Appeal Procedures/Substantial Issue Analysis.

After certification of a Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Projects within cities and counties may be appealed if they are located within mapped appealable areas.

Section 30604(b)(1) of the Coastal Act states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed to a de novo hearing on the merits of the project. If the staff recommends "no substantial issue" or the Commission decides to hear arguments and

vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project. If the Commission conducts a de novo hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3. In other words, in regard to questions about the impacts of a project on public access and recreation, the Commission is required to consider not only the certified LCP, but also Chapter 3 policies when reviewing such a project on appeal.

The only persons qualified to testify before the Commission at the "substantial issue" stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. At the time of the de novo hearing, any person may testify.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs. titl. 14 section 13155(b)). In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to the Code of Civil Procedure, section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development approved by the City does not raise a substantial issue with regard to the appellants' contentions regarding coastal resources.

Staff Recommendation On Substantial Issue.

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission determine that Appeal No. A-6-LJS-05-062 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION OF NO SUBSTANTIAL ISSUE:

Staff recommends a YES vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:

The Commission finds that Appeal No. A-6-LJS-05-062 does not present a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

Findings and Declarations.

1. Project Description. Demolition of an existing one-story single family residence and construction of a 5,980 sq.ft., one-story single family residence which include a 2,915 sq. ft. main floor, an 1,840 sq.ft. basement and two garages totaling 1,225 sq.ft. on a 19,737 sq.ft. lot. The proposed residence will appear as a one-story structure from its street (east) elevation and will be approximately 10 feet above finished grade. From the rear (west) elevation, the structure will appear as a two-story structure (one story over basement level) and will be approximately 28 feet above finished grade. Accessory improvements include a raised deck and hot tub in the rear yard next to the residence and a swimming pool in the north side yard as well as landscaping and fence improvements. The project site is located on the north side of Ellentown Road (west of La Jolla Shores Drive) next to a very large open space area known as "Sumner Canyon" that slopes west, eventually reaching the Pacific Ocean. However, the subject site is in the La Jolla community of the City of San Diego between the first public road and the sea. As such,

the standard of review is the certified LCP and the public access and recreation policies of the Coastal Act.

2. Preservation of Scenic Views/Community Character. The appellants contend that the proposed development is inconsistent with the LCP policies that state: "In order to maintain and enhance the existing neighborhood character and ambiance, and to promote good design and visual harmony in the transitions between new and existing structures, preserve the following elements: 1) Bulk and scale - with regard to surrounding structures or land form conditions as views from the public right-of-way and from parks and open space." The appellants indicate that the proposed project is much more massive than other residences in the surrounding area, intrudes into the coastal canyon with a massive two-story structure that also includes excavation into the canyon and is readily visible from the open space of the University of California (UC) Natural Reserve on the opposite canyon bluff. The appellants contend that the project would create an inconsistent and detrimental impact upon the public views of the neighborhood from both the public street and the public open space areas.

In addition, the appellants further contend that the La Jolla Community Plan designates Ellentown Road as a location of scenic views over private property from a public right of way (page 46). The appellants state that the view from Ellentown Road over the proposed development includes scenic vistas of the ocean, bluff areas, hillsides and of Sumner Canyon. Also stated is the proposed development exceeds the height of the existing structure, and in so doing will block public scenic views along Ellentown Road. The appellant asserts that the LJCP further states that where new development is proposed adjacent to open space, such as Sumner Canyon, the perceived bulk and scale of the proposed structure should be reduced facing open space land. The appellants assert that from Sumner Canyon (north and west of the subject site) the proposed development would present views of extensive retaining walls, a hot tub, as well as the lower and upper levels of the main structure. The appellants assert that the bulk and scale of the proposed development would be excessive when viewed from Sumner Canyon, an area of open space in the certified LCP.

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, on a designated public view corridor (Ellentown Road), that existing/potential public views exist, and the requirement for a visual corridor is feasible and will enhance public views of the ocean and shoreline, it is subject to the above-cited LCP policies and ordinances that protect visual resources.

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)

“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, the subject site is located between the first coastal road (La Shores Drive) and the ocean. La Jolla Shores Drive is designated as a scenic roadway in the certified La Jolla Community Plan Local Coastal Program Land Use Plan. In addition, Ellentown Rd is described as a scenic overlook.

With regard to the appellants’ first contention regarding the bulk and scale of the new structure, the La Jolla Community Plan designates the property for Very Low Residential (0-5 dua) with the rear portion of the property identified as Open Space/Park. The existing and proposed development of the site with a single-family residence is consistent with the land use designation. While the new structure will be larger than the existing home to be demolished (3,122 sq.ft. with a two-car garage vs. 5,980 sq.ft.), the proposed new structure meets all the LCP required setbacks, height restrictions and does not exceed the required floor area ratio for this residential zone, all of which are used to address bulk and scale. In addition, the new home will remain a single-story structure as the existing residence to be demolished, further reducing any potential impacts with regard to bulk and scale. While the proposed home will be 5,980 sq.ft. in size, it is similar in scale and size to the surrounding residences in the neighborhood. Commission permit records reveal that other homes on the same street which are listed in the San Diego District Office’s data base as City-issued coastal development permits for appealable development include residences which are: 4,380 sq.ft., 4,754 sq.ft. and 4,682 sq.ft. in size. Even though the proposed residence is slightly bigger than those listed, it is still comparable in size and consistent with the pattern of redevelopment for the coastal area. Although the structure will have a basement level, this will mostly be below ground such that the structure appears as a one-story structure from Ellentown Road. Also included are two garages for five vehicles and decks, swimming pool and spa as well as

walls and fences. As noted by the City in its findings for approval of the coastal development permit, the adjoining lots are similarly developed.

With regard to potential impacts of the bulk and scale of the proposed residence to the open space area, although there may be foot trails in the open space area further west of the project site, it is not a highly used area nor it is regularly used to gain access to the ocean. The trails that exist in this area are nature trails and a loop trail that provide views looking west to the ocean. Any development located east of this area (i.e., the subject site and residence) would not impede those views nor would it result in a significant visual impediment to the character of the surrounding area. As such, the proposed bulk and scale of the proposed structure will not result in any visual impacts from this open space area. Again, as noted earlier, the proposed home will appear as a one-story structure from the street elevation as the other residences in the same block. Some of the newer homes in the area are larger in size, scale and design than the older, existing residences. As such, the proposed new single-family residence will be compatible with the community character of the neighborhood, even though community character, *per se*, isn't part of the LCP standard.

With regard to potential impacts to public views, the proposed development does not impact any public views to or along the ocean or other scenic coastal areas as identified in the certified La Jolla Community Plan and LCP. While the subarea maps of the certified La Jolla Community Plan do not extend as far inland as the subject site and the street itself is not included on any of the subarea maps nor mapped as being located within any of the viewsheds or vista points of the certified LCP, the street is identified in Figure 9 as a "scenic overlook" defined in the LCP as "a view over private property from a public right-of-way" (ref. Exhibit No. 6). This means that while driving on Ellentown Road, there are some views looking over (and between) private properties to the west. In the subject case, however, the existing residence (and on-site vegetation) currently block any views to the ocean as do many other single family residential developments in the area on the same street. However, there are typically views in the side yard areas of various houses looking west toward the ocean.

In addition, while the Natural Reserve and Sumner Canyon are shown on the Subarea A map of the certified Community Plan and are identified as a major viewshed, they are located much further west than the project site. As such, the proposed development will have no impact whatsoever on those public views to the ocean.

La Jolla Shores Drive is designated as a scenic roadway in the certified Community Plan. As such, panoramic views of the Pacific Ocean can be seen while driving from North Torrey Pines Road to La Jolla Shores Drive that descends in elevation down to the beach elevation and passes through the communities of La Jolla Farms, La Jolla Shores Lane (and Ellentown Road) and the Scripps Institution of Oceanography. Even though the proposed new residence will be slightly higher in height than the existing building (as viewed from Ellentown Road, the new residence will only be 8 ft. above street level), the increase in height is marginal and will not have any effects on public view blockage of the ocean as viewed from either Ellentown Road or La Jolla Shores Drive. In addition,

several homes on this street currently extend much higher than 8 ft. as viewed from Ellentown Road.

To address LCP requirements for preservation of view corridors, the City conditioned the proposed development to enhance public views to the ocean through a condition of approval (Condition #42/ref. p. 7 of 8 of Exhibit No. 7 of staff report) which required the applicant to record a deed restriction preserving a visual corridor of 6 feet along the southern property line (with the exception of the existing 40-ft. high Torrey Pine tree) and 10 feet along the northern property line (with the exception of the previously referenced 40-ft. high Torrey Pine tree), consistent with the certified LCP provisions addressing protection of public views in that it doesn't significantly obstruct any public views, per 132.0403(e). In summary, the Commission finds that the proposal is consistent with the view protection policies of the certified LCP and will not result in adverse impacts to public views to the ocean and the proposed development is compatible in size and scale with the surrounding development. Furthermore, the Commission finds that there is no substantial issue with respect to this ground on which the appeal was filed.

3. Drainage/Hydrology/Erosion/Proximity to Adjacent Natural Open Space. As noted earlier, the subject site is located on the north side of Ellentown Road next to a very large open space area known as Sumner Canyon. The appellants assert that the proposed development at the subject site does not conform to standards set forth in the La Jolla Community Plan and Local Coastal Program Land Use Plan in terms of the degree to which private development is allowed to encroach upon biologically sensitive open areas and steep hillsides, as well as requirements to minimize the potential of hillside erosion due to excessive grading and disturbance. The appellants further state that the City of San Diego's Steep Hillside Guidelines provide development regulations to limit encroachment for natural steep slopes, and to provide erosion control measures and that they do not believe that the proposed project is consistent with the Steep Hillside Guidelines. The appellants further state that proposed project grading is substantial and that a full soil/engineering analysis should have been completed.

The appellants further contend that the proposed structure will create major drainage from the large hardscape/house into a coastal canyon and endanger the stability of the slope and canyon below. The canyon below the subject site is part of the UC Reserve System per agreement with the Scripps Estates Associates.

The certified LUP contains the following policies addressing drainage:

For proposed projects and future development in the La Jolla Community Plan, adhere to the policies and recommendations developed and included in the Storm Water Standards Manual as a result of the City's watershed urban runoff management program efforts.

- To achieve project designs that minimize impact to water resources and attempt to mimic the site's natural hydrologic regime, and as required by the Storm Water

Standards Manual and, as applicable, BMPs shall be incorporated into the project design....

Site design and source control BMPs shall be included in all developments. When the combination of site design and source control BMPs are not sufficient to protect water quality, structural treatment BMPs will be implemented along with site design and source control measures. The following design principles shall be incorporated in general order of importance:

- Site and design new development on the most suitable portion of the site while ensuring protection and preservation of natural and sensitive site resources;
- Minimize impervious areas in the site's design;
- Minimize high polluting surfaces exposed to runoff using appropriate source control measures, including non-native or non-drought tolerant landscaping to minimize the need for irrigation and the use of pesticides and fertilizers;
- Minimize the amount of impervious areas directly connected to the storm drain system;
- Maintain and use natural drainage features;
- Conserve other natural areas including significant trees, native vegetation, and root structures and maximizing the preservation of natural contours; and
- Maximize infiltration and filtration of runoff by incorporating the site's landscaping and natural drainage features (if any) into the site's drainage design.

With regard to the appellants' contentions that the proposed development will impact the adjacent environmentally sensitive canyon, the proposed development will not encroach upon biologically sensitive area. Furthermore, no development is proposed on steep, natively vegetated hillsides (which are mapped in the certified LCP), consistent with the policies of the certified LCP. The proposed project will include grading consisting of 13,780 square feet of the 19,737 sq.ft. site with 200 cubic yards of fill and 1,700 cy. of cut at a depth of approximately 12.2 feet. All grading will be confined to the building footprint only on the existing flat/developed portion of the site. A biological survey was performed for the review at the City which indicated that native vegetation only occurs at the northwestern sloped portion of the site along the property boundary. The proposed grading and excavation will not result in any impacts to sensitive vegetation or steep slopes. In addition, required brush management will not result in any impacts to sensitive native vegetation. The proposed project site is not located *within*, but *adjacent to*, the

Multiple Habitat Planning Area (MHPA) of the Multiple Species Conservation Program (MSCP) Subarea Plan. Due to the proximity of the site to the MSCP area, requirements pertaining to drainage and runoff, lighting and other potential adverse impacts will be implemented. The proposed development is concentrated on the southern flat portion of the site. In addition, with incorporation of the conditions of the Environmental Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program as required by the City, the proposed development will not have an adverse affect on environmentally sensitive lands.

Furthermore, with implementation of the City's conditions which require that all new on-site drainage be collected and directed away from the adjacent coastal canyon and slopes, no impacts to the adjacent canyon or erosion of public beaches should occur. In addition, the City has conditioned the permit to prohibit the use of invasive plant species in any proposed landscaping. In conclusion, while the proposed new home is located at a site that is in proximity to a sensitive coastal canyon, no direct or indirect impacts to the adjacent habitat area or other sensitive coastal resources will result from the proposed development. Thus, the Commission finds that the proposal is consistent with the above-cited policies of the certified LCP and will not result in adverse impacts on coastal resources. Furthermore, the Commission finds that there is no substantial issue with respect to these grounds on which the appeal was filed.

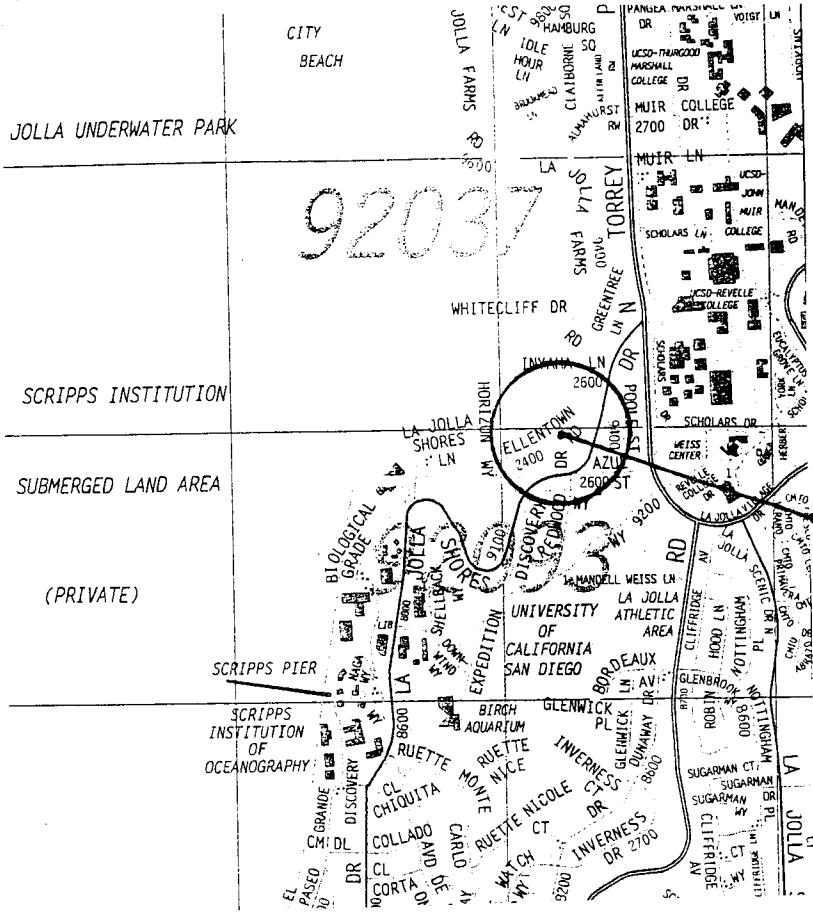
4. Procedural Matters Regarding Filing of Appeal at Local Level. The appellants also contend that the City rejected the appeals of the subject two appellants on the grounds of not submitting a \$100 filing fee but when the appeal was filed at the local level, City staff took the appeal form from the prospective appellants without mentioning the filing fee. Thus, they claim that City administration misled appellants that their appeal was adequate. As such, the decision of the Hearing Officer was upheld as no "valid appeal" was filed at the City (absence of filing fee). However, the appellants were able subsequently each to file their appeals with the Coastal Commission. As the City of San Diego charges a fee to file an appeal, the public can file an appeal directly to the Commission. In any case, if the City did not inform the appellants that their appeal was "incomplete", this is not grounds for appeal, as it does not allege that the "development does not conform to the standards set forth in the certified [LCP] or the public access policies [of the Coastal Act]" (Pub. Res. Code § 30603(b)(1)).

5. Conditions, Covenants and Conditions (CC&R's). Last, the appellants contend that the City Hearing Officer made an erroneous statement that the City would not consider violations of CC&Rs on the grounds that there was no precedent of government agency involvement in enforcing CC&Rs. The appellants provided City staff with precedent of the California Supreme Court case of *Citizens for Covenant Compliance v. Anderson*, 12 Cal 4th, 34 (1995) where the Attorney General filed as amicus curiae on behalf of the Covenant homeowner's group and supported the enforceability of CC&Rs. They contend that this case confirms that the State has played a role in preserving the importance of covenants and that the City disregarded this precedent.

The above-cited issue raised by the appellants does not have anything to do with the consistency of the proposed development to the certified LCP and therefore does not raise substantial issues of regional or statewide significance, as there are no significant coastal resources at stake. In addition, this is not a grounds for appeal.

6. Conclusion. In summary, the development as approved by the City, is consistent with all applicable LCP land use policies and provisions/development standards of the certified LCP Implementation Plan. The project, as approved by the City, is in character with the surrounding community, will not result in any adverse impacts on public views and will not result in erosion, drainage problems, or other impacts to the sensitive resources in the adjacent coastal canyon. Therefore, the Commission finds there is no substantial issue with regard to the project's consistency with the certified LCP or the Coastal Act.

7. Substantial Issue Factors. As discussed above, there is strong factual and legal support for the City's determination that the proposed development is consistent with the certified LCP. The other factors that the Commission normally considers when evaluating whether a local government's action raises a substantial issue also support a finding of no substantial issue. The proposed project is for a single-family residence and is typical in size and scale of other projects in the vicinity and is not of unusual extent or scope. In addition, the City, in its approval of the development, granted no "exceptions" or variances such that a precedent would be made regarding future interpretations of the LCP. The objections to the project suggested by the appellants do not raise any substantial issues of regional or statewide significance.



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SITE

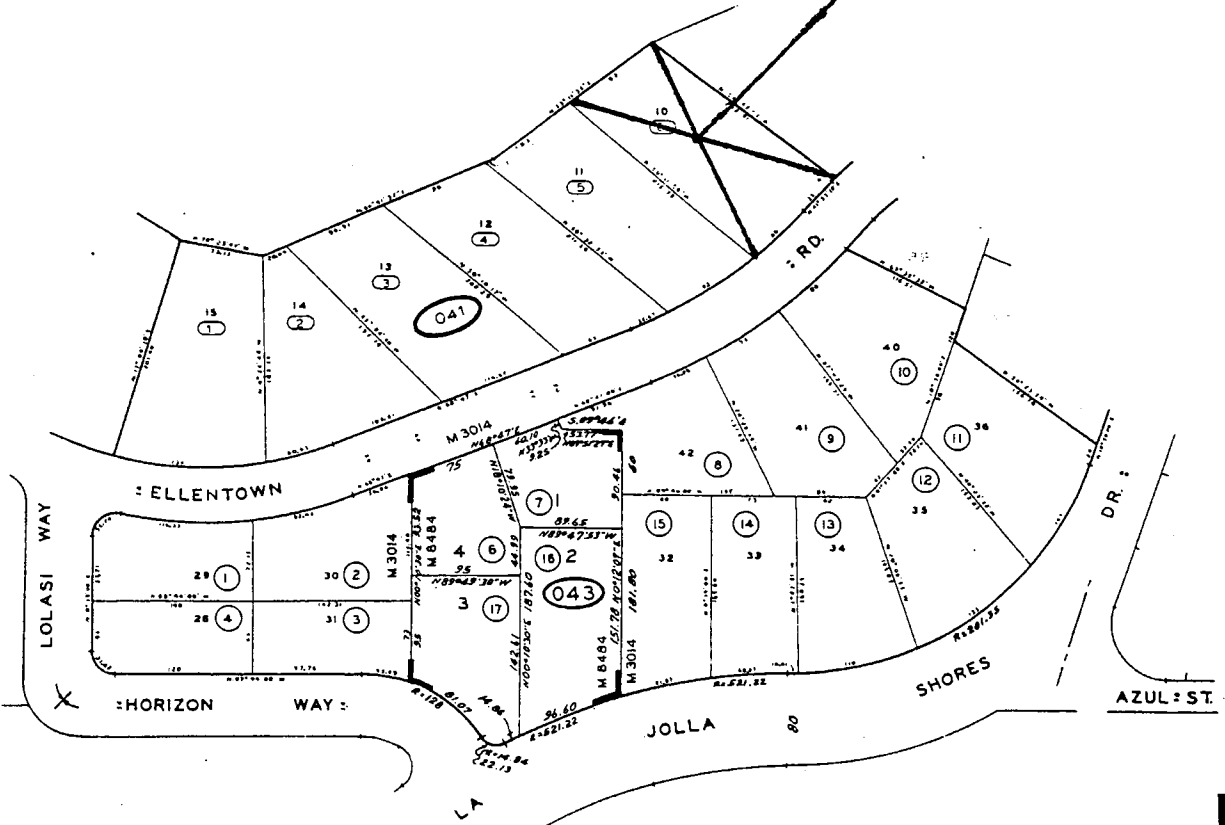
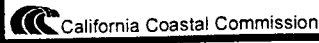
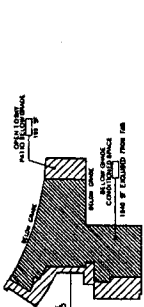


EXHIBIT NO. 1
 APPLICATION NO.
A-6-LJS-05-62
 Location Map



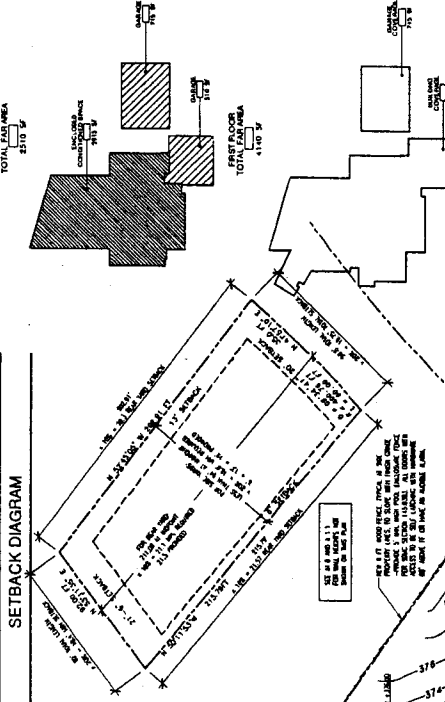
FLOOR AREA RATIO

NOTES:
 1. ALL FLOOR TO CEILING HEIGHTS LESS THAN 10'. NO PARTIAL FLOORS USED FOR F.A.R. CALCULATIONS. PER SBAC 13.0224.
 2. FIRST LEVEL EXTENDED SPACES MORE THAN 400 SQ. FEET INCLUDED IN F.A.R. CALCULATION.



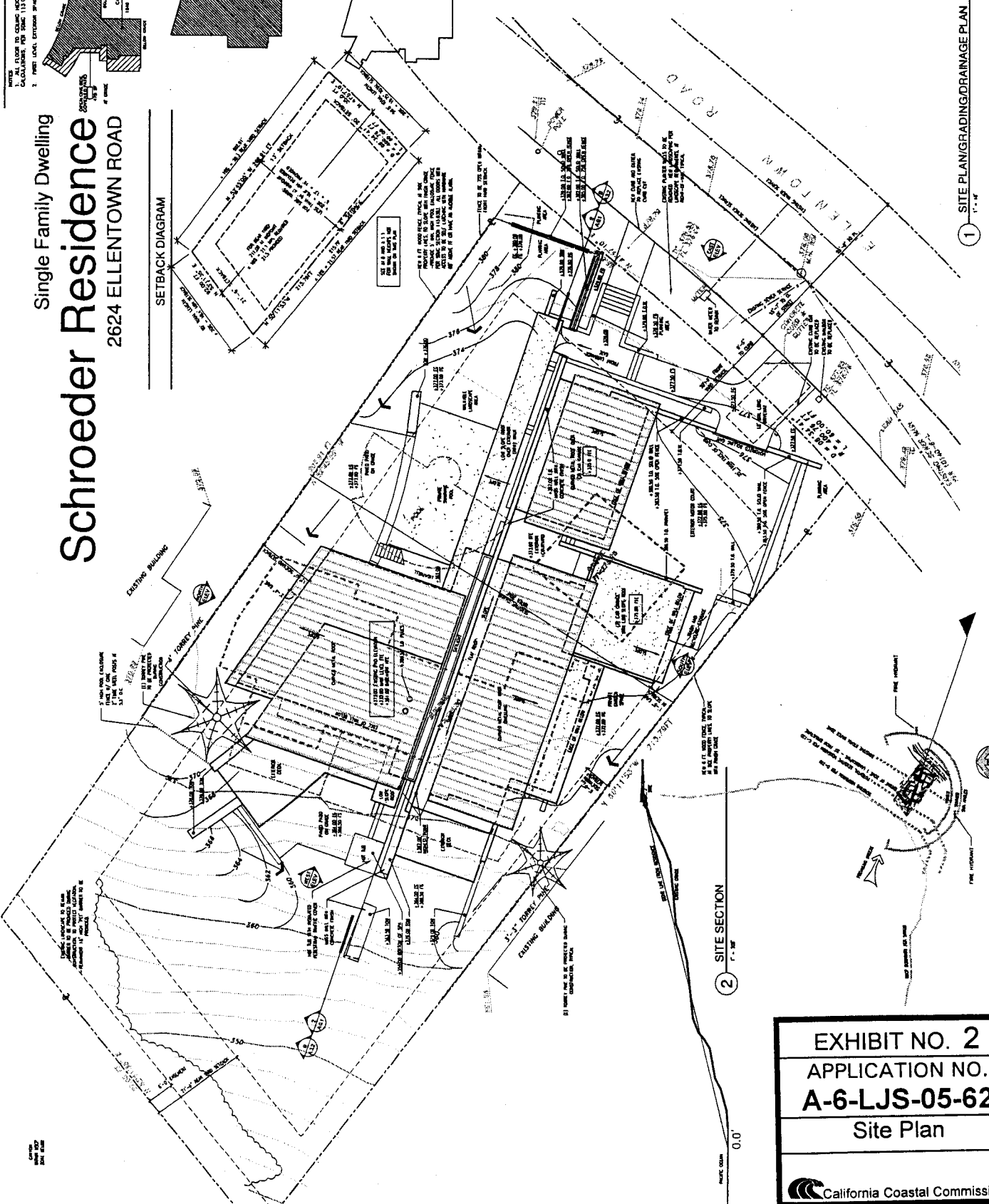
Single Family Dwelling
Schroeder Residence
 2624 ELLENTOWN ROAD

SETBACK DIAGRAM



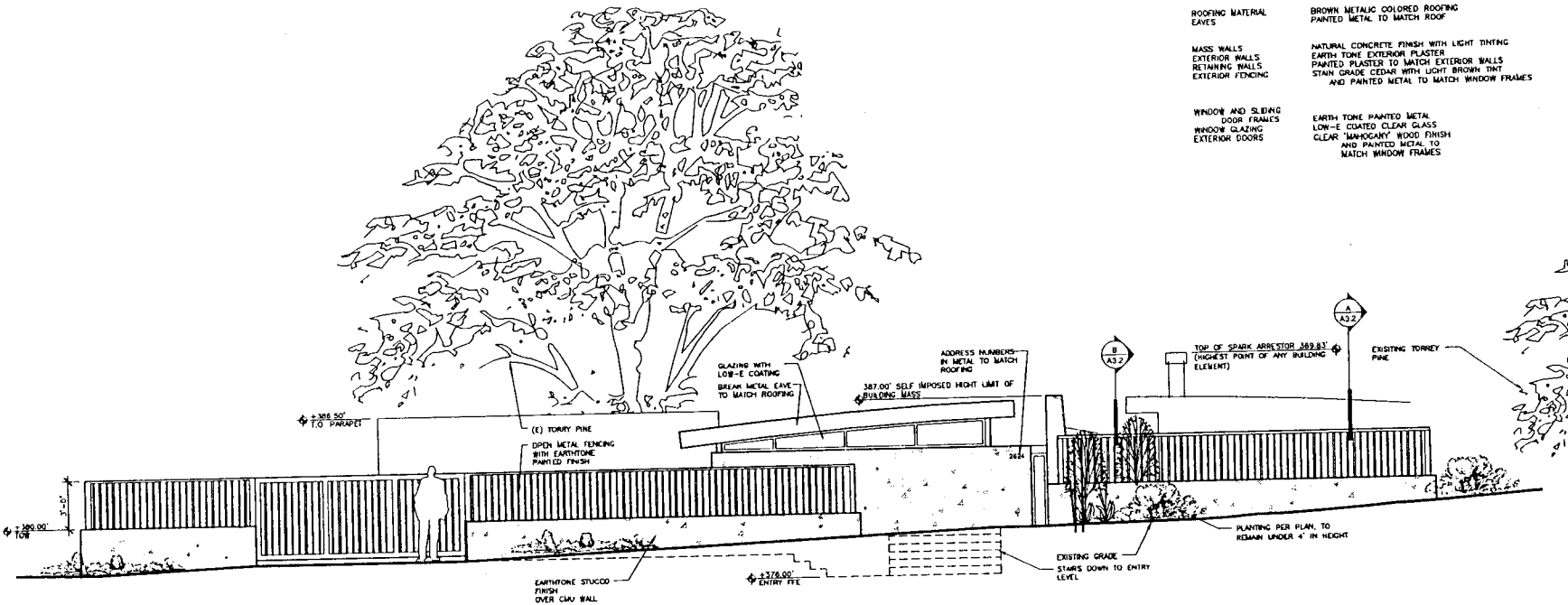
TOTAL COVERAGE
 4,315 SF

1 SITE PLAN/GRADING/DRAINAGE PLAN
 1" = 10'



2 SITE SECTION
 1" = 10'

EXHIBIT NO. 2
 APPLICATION NO.
A-6-LJS-05-62
 Site Plan




EXTERIOR FINISHES

ROOFING MATERIAL EAVES	BROWN METALIC COLORED ROOFING PAINTED METAL TO MATCH ROOF
MASS WALLS EXTERIOR WALLS RETAINING WALLS EXTERIOR FENCING	NATURAL CONCRETE FINISH WITH LIGHT TINTING EARTH TONE EXTERIOR PLASTER PAINTED PLASTER TO MATCH EXTERIOR WALLS STAIN GRADE CEDAR WITH LIGHT BROWN TINT AND PAINTED METAL TO MATCH WINDOW FRAMES
WINDOW AND SLEING DOOR FRAMES WINDOW GLAZING EXTERIOR DOORS	EARTH TONE PAINTED METAL LOW-E COATED CLEAR GLASS CLEAR "HAOGAKAY" WOOD FINISH AND PAINTED METAL TO MATCH WINDOW FRAMES

The Schroeder Residence

EAST ELEVATION
1/4" = 1'-0"


 EXHIBIT NO. 3
 APPLICATION NO.
A-6-LJS-05-62
 East Elevation

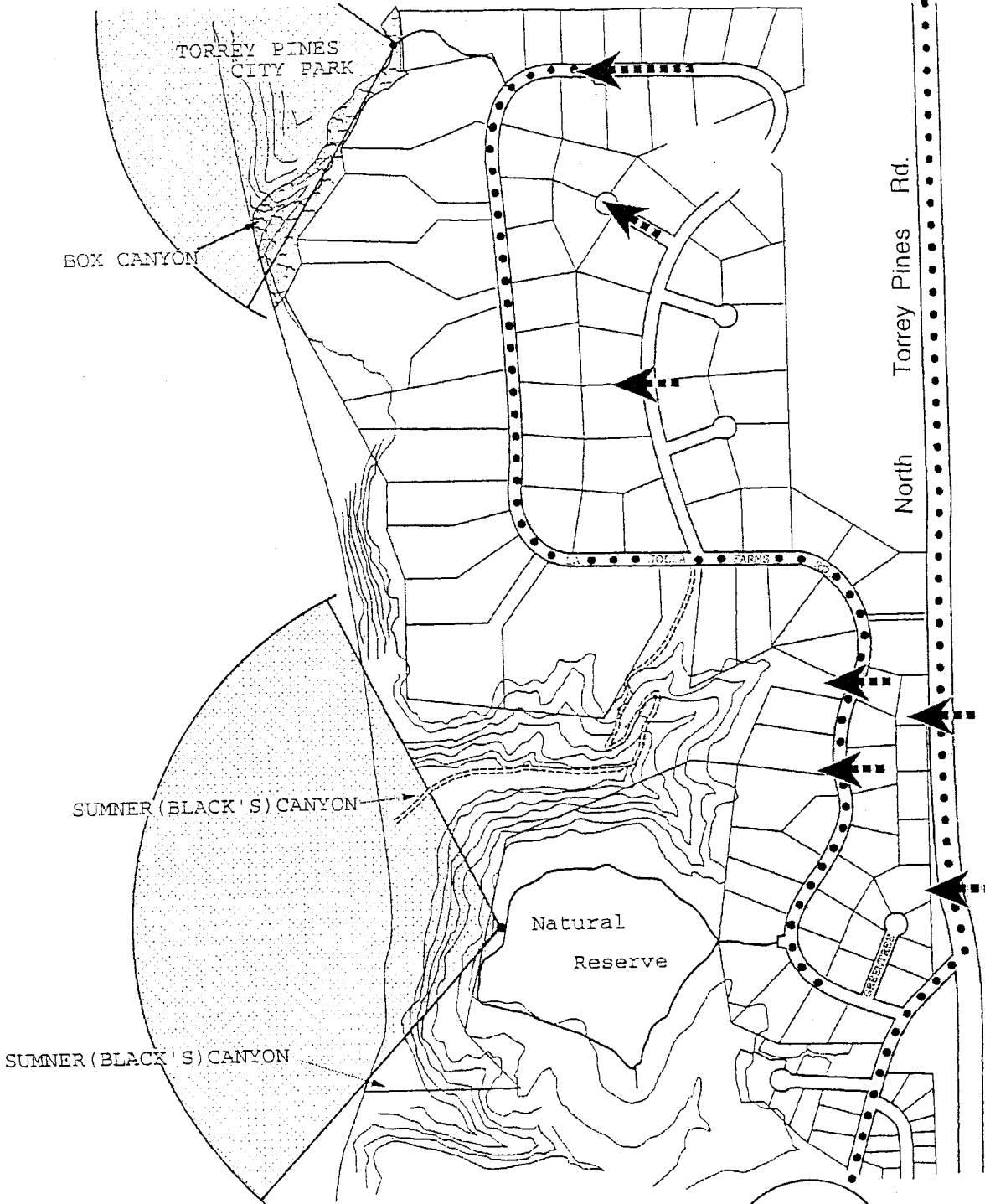
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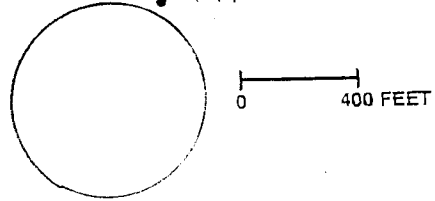


East Elevation

20 July 2005
 no scale



- NOTE: All views are to a coastal body of water
- MAJOR VIEWSHED: Unobstructed panoramic view from a public vantage point
 - ← SCENIC OVERLOOK: View over private properties from a public R.O.W.
 - SCENIC ROADWAY: Partially obstructed views over private property and down public R.O.W.s

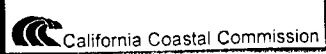


Subarea A: La Jolla Farms - Visual Access



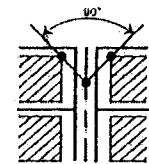
La Jolla Community Plan
City of San Diego · Planning Department

EXHIBIT NO. 5
APPLICATION NO.
A-6-LJS-05-62
Subarea A Map from certified LUP/LCP



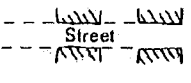
1. Torrey Pines City Park
2. La Jolla Farms Road
3. Scripps Natural Reserve
4. Bluff-top easement at La Jolla Shores Lane
- * 5. Ellentown Road
6. La Jolla Shores Drive from Torrey Pines Rd.
7. La Jolla Shores Dr.
(looking south from the vicinity of Scripps Institution of Oceanography)
8. Allen Field
9. Bordeaux Ave., western half
10. El Paseo Grande after it turns east
11. Camino del Oro after it turns east
12. Whale Watch Way
13. Cliffridge Park
14. Kellogg Park
15. Calle Frescola
16. Prestwick Drive
17. Vallecitos
18. Avenida de la Playa
19. Calle del Cielo
20. Pottery Canyon Park
21. Costabelle Drive
22. Spindrift Drive, South of the Marine Room Restaurant
23. Charlotte Park at the foot of Charlotte Street
24. Coast Blvd., Children's Pool, Shell Beach, Ellen B. Scripps Park & La Jolla Cove
25. Prospect St. and Cave Street
26. Coast Walk
27. North end of Park Row
28. View of La Jolla Shores from Torrey Pines Road
29. Pubic open space on Torrey Pines Road between St. Louis Terrace and Calle de la Plata
30. Azure Coast Drive
31. Hidden Valley Road
32. Ardath Road
33. Girard Avenue
34. Jenner Street
35. View corridor easement through 7963 Prospect Place to ocean
36. Easement across from John Coal Book Store from Prospect Street and Recreation Center
37. Hillside Drive (portions)
38. Caminito Avola/Via Avola
39. Via Siena at Hillside Drive
40. Rue Denise
41. Portions of La Jolla Scenic Drive South
42. Mt. Soledad, north of Ardath Road
43. Rue Adriane

View Cone
Defined by 90° angle radiating lines from public vantage point (the centerline of the street) to the corners of the buildable envelope as defined by the setbacks of each corner property closest to the ocean or shoreline.



note: All views are to a coastal body of water

View Corridor
Unobstructed framed view down a public right-of-way



Viewshed
Usually from high elevations looking down over large areas



Intermittent or Partial Vista

Roads from which coastal body of water can be seen

Scenic Overlook
Defined as a view over private property from a public right-of-way.

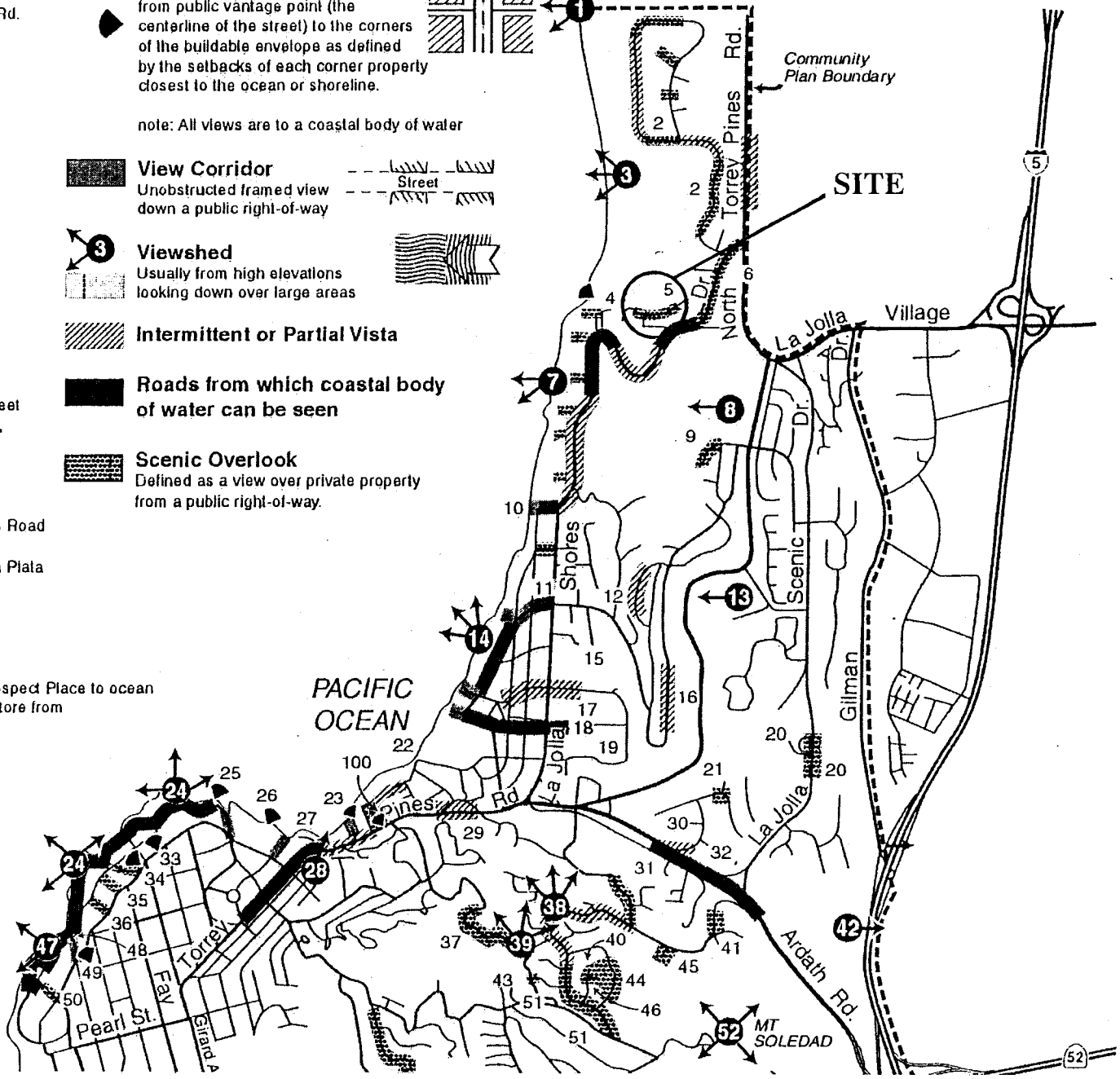


	EXHIBIT NO. 6
	APPLICATION NO. A-6-LJS-05-62
	Figure 9 from certified LUP/LCP (page 1 only)

mark
1. Park and South Coast Blvd.
for at southwest side of Scripps
from Prospect Street
Community Center Park,
eet
of Cuvier Street at Prospect
(portions)

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370
www.coastal.ca.gov

FILE COPY



COMMISSION NOTIFICATION OF APPEAL

DATE: July 6, 2005
TO: Robert Korch, Planner, MS 302
City of San Diego Development Services, City Operation Building
1222 First Avenue
San Diego, CA 92101
FROM: Laurinda Owens, Coastal Program Analyst
RE: Commission Appeal No. A-6-LJS-05-062

Please be advised that the coastal development permit decision described below has been appealed to the California Coastal Commission pursuant to Public Resources Code Sections 30603 and 30625. Therefore, the decision has been stayed pending Commission action on the appeal pursuant to Public Resources Code Section 30623.

Local Permit #: CDP #87638/Project #31768
Applicant(s): Dan & Lisa Schroeder
Description: Demolition of a one-story single family residence and construction of a 5,980 sq.ft., one-story single family residence including a 1,840 sq.ft. basement (not included in the Floor Area Ratio) and 2 garages totaling 1,225 sq.ft. on a 19,737 sq.ft. lot.
Location: 2624 Ellentown Road, La Jolla Shores, San Diego (San Diego County)
Local Decision: Approved w/ Conditions
Appellant(s): Scripps Estates Association Architecture Committee, Attn: John Hildebrand /Patricia Masters; Mr. Benny Chien
Date Appeal Filed: 6/24/2005

The Commission appeal number assigned to this appeal is A-6-LJS-05-062. The Commission hearing date has been tentatively set for August 10-12, 2005 in Costa Mesa. Within 5 working days of receipt of this Commission Notification of Appeal, copies of all relevant documents and materials used in the City of San Diego Development Services's consideration of this coastal development permit must be delivered to the San Diego Coast District office of the Coastal Commission (California Administrative Code Section 13112). Please include copies of plans, relevant photographs, staff reports and related documents, findings (if not already forwarded), all correspondence, and a list, with addresses, of all who provided verbal testimony.

A Commission staff report and notice of the hearing will be forwarded to you prior to the hearing. If you have any questions, please contact Laurinda Owens at the San Diego Coast District office.

CALIFORNIA COASTAL COMMISSION

EXHIBIT NO. 7
APPLICATION NO.
A-6-LJS-05-62
CCC Notification of
Appeal and Notice of
Final Action



THE CITY OF SAN DIEGO

RECEIVED
JUN 20 2005CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

6-LJS-05-166
COASTAL DEVELOPMENT PERMIT
NOTICE OF FINAL ACTION
JOB ORDER NO. 42-2591

DATE: June 13, 2005

The following project is located within the City of San Diego Coastal Zone. A Coastal Permit application for the project has been acted upon as follows:

PROJECT NAME - NUMBER: 31768

PROJECT DESCRIPTION: Demolition of the existing one-story, single-family residence and accessory uses and the construction of a new one-story, 5,980 square-foot residence to include a 1,840 square-foot basement (not included in Floor Area Ratio), a 2,915 square-foot main floor and two garages totaling 1,225 square-feet (five spaces where two are required, on a 19,737 square-foot, RS-1-4 zoned lot, located in the Coastal Overlay Zone (appealable area), Coastal Height Limit and Parking Impact Overlay within the boundaries of the La Jolla Community Plan.

LOCATION: 2624 Ellentown Road, La Jolla Community

APPLICANT'S NAME
Dan and Lisa Schroeder
7228 Rue Michael
La Jolla, California 92037

FINAL ACTION: APPROVED WITH CONDITIONS**ACTION BY:** Hearing Officer**ACTION DATE:** May 25, 2005**CONDITIONS OF APPROVAL:** See attached Permit.**FINDINGS:** See attached Resolution.

Appealable to the Coastal Commission pursuant to Coastal Act Section 30603. An aggrieved person may appeal this decision to the Coastal Commission only after a decision by the City

Council (or Planning Commission for Process 3 Coastal Development Permits) and within ten (10) working days following Coastal Commission receipt of this Notice, as to the date the Commission's appeal period will conclude.

Appeals must be in writing to:

California Coastal Commission
San Diego Area Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402
Phone (619) 767-2370

cc: California Coastal Commission

Robert Korch, Development Project Manager
Development Services Department
1222 First Avenue, MS 501, San Diego, CA 92101-4153
Phone: (619) 446-5229

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO

PERMIT INTAKE
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 42-2591

COASTAL DEVELOPMENT PERMIT NO. 87638
SITE DEVELOPMENT PERMIT NO. 218894
SCHROEDER RESIDENCE - PROJECT NO. 31768
HEARING OFFICER

This Coastal Development Permit No. 87638 and Site Development Permit No. 218894, is granted by the Hearing Officer of the City of San Diego to DANIEL S. AND LISA T. SCHROEDER, a Married couple, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] Section 126.0701. The 19,737 square-foot site is located at 2624 Ellentown Road in the RS-1-4 zone of the La Jolla Community Plan. The project site is legally described as Lot 10, Scripps Estates Associated Subdivision, Map No. 3014.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owners/Permittees to demolish the existing single-family residence and construct a new 5,980 square-foot residence (4,140 calculated as Floor Area Ratio) with basement and two garages and decks, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated May 25, 2005, on file in the Development Services Department.

The project or facility shall include:

- a. Demolition of an existing one-story single-family residence and accessory uses; and
- b. Construction of a new two-story, 5,980 square-foot single-family residence to include a 1,840 square-foot basement (not calculated in F.A.R.), a 2,915 square-foot main floor and two garages totaling 1,225 square-feet; and
- c. Landscaping (planting, irrigation and landscape related improvements); and
- d. Five off-street parking spaces (two required); and

- e. A swimming pool and spa, retaining walls and fencing, trash and recycling storage, 1,010 square-foot of decks and railings; and
- f. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site

ORIGINAL

improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," on file in the Development Services Department. No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

10. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action following all appeals.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program (MMRP). These MMRP conditions are incorporated into the permit by reference or authorization for the project.
12. As conditions of Coastal Development Permit No. 87638 and Site Development Permit No. 218894, the mitigation measures specified in the MMRP, and outlined in the MITIGATED NEGATIVE DECLARATION, LDR NO. 31768, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.
13. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as specified in the MITIGATED NEGATIVE DECLARATION, LDR NO. 31768, satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

ORIGINAL

Historical Resources (Archaeology)
Land Use (Multiple Species Conservation Program)

14. Prior to issuance of any construction permit, the applicant shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

BRUSH MANAGEMENT PROGRAM REQUIREMENTS:

15. The Brush Management Program shall include a minimum Zone 1 width of 25-feet and minimum Zone 2 width of 30-feet in conformance with the approved Exhibit "A," and in accordance with the Section 142.0412 of the Landscape Regulations. No habitable structures will be allowed within Brush Management Zone 1. All non-habitable structures located within Brush Management Zone 1 shall consist of non-combustible or one hour fire-rated construction.

ENGINEERING REQUIREMENTS:

16. Prior to building occupancy, the applicant shall conform to Section 62.0203 of the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

17. The drainage system proposed for this development, as shown on the approved plans, is subject to approval by the City Engineer.

18. Prior to the issuance of any building permits, the applicant shall obtain a bonded grading permit from the City Engineer for the grading proposed for this project. All grading shall conform to the requirements of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

19. Prior to the issuance of any building permits, the applicant shall assure, by permit and bond, the closure of the existing easterly driveway with restoration to full-height curb and gutter, the removal of the curb planter and landscaping from the right-of-way and the replacement of the existing westerly driveway with a 16-foot driveway, all satisfactory to the City Engineer. This work shall be shown on the grading plan and included in the grading permit.

20. Prior to the issuance of any building permits, the applicant shall obtain an Encroachment Maintenance and Removal Agreement, from the City Engineer, for a private walkway in Ellentown Road.

21. Prior to the issuance of any construction permits, the applicant shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the Municipal Code, into the construction plans or specifications.

ORIGINAL

22. Prior to the issuance of any construction permits, the applicant shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.

LANDSCAPE REQUIREMENTS:

23. In the event that the Landscape Plan and the Site Plan conflict, the Landscape Plan shall prevail for landscape purposes.

24. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City.

25. Prior to issuance of any grading permits, complete landscape construction documents, including an automatic permanent irrigation system, shall be submitted to the Development Services Department, Development and Environmental Planning Division for approval. The plans shall be in substantial conformance to Exhibit "A", on file in the office of the Development Services.

26. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A", Landscape Development Plan, on file in the Office of Development Services.

27. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.

28. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

29. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within 30 days of damage or Certificate of Occupancy.

30. The Permittee or subsequent Owner(s) shall be responsible for the installation and maintenance of all landscape improvements consistent with the Landscape Regulation and Landscape Standards. Invasive species are prohibited from being planted adjacent to any canyon, water course, wet land or native habitats within the city limits of San Diego. Invasive plants are those which rapidly self propagate by air born seeds or trailing as noted in section 1.3 of the Landscape Standards.

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PLANNING/DESIGN REQUIREMENTS:

31. No fewer than two off-street parking spaces (five are being provided) shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A," on file in the Development Services Department. Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.
32. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.
33. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.
34. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Permittee.
35. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.
36. No building additions, including patio covers, shall be permitted unless approved by the City Manager. Patio covers may be permitted only if they are consistent with the architecture of the dwelling unit.
37. The space identified on the "Exhibit A" as "Study and Office Bedroom", as well as the space identified as a bedroom and located adjacent to the laundry room shall not be converted to or used as a guest quarters or separate unit.
38. The development area will not extend beyond the limits of previously disturbed land, as identified in the geology report and slope analysis and as indicated on "Exhibit A".
39. A covenant of easement shall be executed pursuant to SDMC Section 143.0152 to preserve those areas identified on the slope analysis as containing natural steep slopes.

ORIGINAL

40. Any increase in runoff resulting from the development of the site shall be directed away from the steep hillside areas and either into an existing or newly improved public storm drain system or onto a street developed with a gutter system or public right-of-way designated to carry surface drainage run-off, as shown on "Exhibit A".

41. Per San Diego Municipal Code Section 132.0403(b)(1), the applicant shall record a deed restriction preserving a visual corridor of 6-feet along the southern property line (with the exception of the existing 40-foot high Torrey Pine) and 10-feet along the northern property line (with the exception of the existing 40-foot high Torrey Pine), running the full depth of the premises.

42. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

GEOLOGY:

43. An updated geotechnical report will be required as grading plans are developed for the project. The geotechnical consultant must review, sign and stamp the grading plans as part of the plan review and grading permit issuance process. A Final As-Built Report is required within 15 days of completion of grading operations.

44. Additional geotechnical information such as verification of as-graded or existing soil conditions needed for design of structure foundations will be subject to approval by Building Development Review prior to issuance of building permits.

INFORMATION ONLY:

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the Hearing Officer of the City of San Diego on May 25, 2005, Resolution No. HO-5016.

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ALL-PURPOSE CERTIFICATE 42-2591/31768

Coastal Development Permit No. 87638 and Site Development Permit No. 218894 Date of Approval: May 4, 2005

HEARING OFFICER RESOLUTION NO. HO-5016 COASTAL DEVELOPMENT PERMIT NO. 87638 SITE DEVELOPMENT PERMIT NO. 218894 SCHROEDER RESIDENCE - PROJECT NO. 31768

STATE OF CALIFORNIA COUNTY OF SAN DIEGO

Robert Korch, Development Project Manager

On June 13, 2005, before me, Stacie L. Maxwell, (Notary Public), personally appeared Robert Korch, Development Project Manager of the Development Services Department of the City of San Diego, personally known to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

Signature Stacie L. Maxwell



ALL-PURPOSE CERTIFICATE

OWNER(S)/PERMITTEE(S) SIGNATURE/NOTARIZATION:

THE UNDERSIGNED OWNER(S)/PERMITTEE(S), BY EXECUTION THEREOF, AGREES TO EACH AND EVERY CONDITION OF THIS PERMIT AND PROMISES TO PERFORM EACH AND EVERY OBLIGATION OF OWNER(S)/PERMITTEE(S) THEREUNDER.

Signed Daniel S. Schroeder Signed Lisa T. Schroeder Typed Name Daniel S. Schroeder Typed Name Lisa T. Schroeder

STATE OF COUNTY OF

On before me, (Name of Notary Public) personally appeared, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

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WHEREAS, DANIEL S. AND LISA T. SCHROEDER, a Married couple, Owner/Permittee, filed an application with the City of San Diego for a permit to demolish the existing single-family residence and construct a new 4,755 square-foot residence (4,140 calculated for Floor Area Ratio) with basement and two garages and decks (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit Nos. 87638 and 218894, on portions of a 19,737 square-foot site;

WHEREAS, the project site is located at 2624 Ellentown Road in the RS-1-4 zone of the La Jolla Community Plan;

WHEREAS, the project site is legally described as Lot 10, Scripps Estates Associated Subdivision, Map No. 3014; and

WHEREAS, on May 25, 2005, the Hearing Officer of the City of San Diego considered Coastal Development Permit No. 87638 and Site Development Permit No. 218894 pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Hearing Officer of the City of San Diego as follows:

That the Hearing Officer adopts the following written Findings, dated May 25, 2005.

FINDINGS:

Coastal Development Permit - Section 126.0708

- 1. The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.

The subject property is a 19,737 square-foot lot zoned RS-1-4 and located within the Coastal Overlay Zone (appealable area), Coastal Height Limit, and Parking Impact area all within the boundaries of the La Jolla Community Plan. The property is located at 2624 Ellentown Road within the La Jolla/La Jolla Shores Local Coastal Program and has open space/park lands abutting the property to the north which are within the City of San Diego Multiple Species Conservation Plan area. The site is developed with a single-family residence proposed for demolition and the construction of a new one-story residence with basement level, two garages for five vehicles and decks, swimming pool and spa as well as walls and fences. The adjoining lots are similarly developed and there is no physical access way that is existing nor legally used by the public that

ORIGINAL

the proposed development would encroach upon. There are no proposed public access ways identified in the Local Coastal Program land use plan that is affected by the development requested and the proposed development does not impact any public views to or along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.

2. The proposed coastal development will not adversely affect environmentally sensitive lands.

The public lands abutting this 19,737 square-foot site at 2624 Ellentown Road in the La Jolla Community Plan area, are designated as open space and park lands and are also within the City of San Diego Multiple Species Conservation Plan (MSCP). Requirements in the accompanying Coastal Development Permit require easements over the steep sloped portions of the site and visual corridors on both side property lines. Because the site is adjacent to the MSCP area, adjacency guidelines apply as to drainage and runoff, lighting and other adverse impacts. The development area, although broad, is concentrated on the southerly portions of the site so that, with the development complying with the approved 'Exhibit A' plans and conditions of the Environmental Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, this coastal development will not adversely affect environmentally sensitive lands.

3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

The subject property is a previously subdivided and detached single-family residence developed lot that contains 19,737 square-feet of area and is zoned RS-1-4, Coastal Overlay Zone (appealable area), Coastal Height Limit and Parking Impact area all within the boundaries of the La Jolla Community Plan. The proposed development is to demolish the existing residence and construction of a new house with accessory uses. The applicable development plans designate the area for residential use while the abutting lands to the northwest are open space/park and contain native vegetation and steep slopes with coastal canyons and bluffs overlooking the Pacific Ocean. A Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program bring impacts to Historical Resources (Archaeology), Paleontology and Land Use to levels below significant and conditions protect the City of San Diego Multiple Species Conservation Program through implementation of 'adjacency guidelines'. In addition, view corridors are preserved on both interior side yards (except for a Torrey Pines tree being maintained). This proposed coastal development is in conformity with the certified local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

The subject property is located at 2624 Ellentown Road in the RS-1-4 zone and Coastal Overlay Zone (appealable area) within the boundaries of the La Jolla Community Plan area. The site lies between the nearest public road and the sea and shoreline of the Pacific Ocean which lies to the west of the site. The adjoining properties are similarly developed with single-family detached residences and the abutting property to the northwest is designated open space/park and are public

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lands in a natural setting of slopes, coastal canyons and bluffs overlooking the ocean. There are no public access ways across this site and no public view corridors are identified. Requirements of this project permit, to demolish an existing residence and construct a new house, cover the steep hillsides on the rear of the site by easement and preserve view corridors on both side yards. The abutting property is not an active park and no access to those lands originate through this property or other privately owned residential lots within this area. The coastal development proposed is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act.

Site Development Permit - Section 126.0504

A. Findings for all Site Development Permits

5. The proposed development will not adversely affect the applicable land use plan.

The subject 19,737 square-foot, RS-1-4 zoned lot located at 2624 Ellentown Road, is regulated for development by the General Plan, La Jolla Community Plan and the La Jolla/La Jolla Shores Local Coastal Program and site specific criteria, by the Land Development Code. The La Jolla Community Plan designates the property for Very-Low Residential (0-5 du/ac) density with the rear portion of the property identified as Open Space/Park. The existing and proposed development of the site with a single-family residence is consistent with the land use designation of the La Jolla Community Plan and general Plan. Conditions in the accompanying Site Development Permit require that no development will extend beyond the limits of previously disturbed land, an easement will be executed to preserve areas of natural steep slopes, no new runoff of water can be directed to the steep hillsides and visual corridors shall be preserved along the side property lines to comply with these plans. The new house with a basement and attached garages proposed for development on this site, will not adversely affect the applicable land use plans.

6. The proposed development will not be detrimental to the public health, safety, and welfare.

A Mitigated Negative Declaration has been completed and a Mitigation Monitoring and Reporting Program required to avoid or mitigate the potentially significant environmental effects in the areas of Historical Resources (Archaeology), Paleontology and Land Use (Multiple Species Conservation Program). Additionally, the Fire Department and Geologists for the City have reviewed the development and characteristics of the site to assure that the proposed development of a new 4,140 square-foot single-family residence, following demolition of the existing residence, will comply with all known conditions of the site and regulations of the Land Development Code. Conditions in the environmental document, accompanying permit, and compliance with the approved 'Exhibit A' development plans, will assure that the development will not be detrimental to the public health, safety, and welfare.

7. The proposed development will comply with the applicable regulations of the Land Development Code.

The demolition of an existing single-family residence and construction of a new 4,755 square-foot (4,140 square-feet calculated as Floor Area Ratio), one-story over basement, single-family

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residence on a 19,737 square-foot, RS-1-4 zoned lot located within the Coastal Overlay Zone (appealable area), Coastal Height Limit and Parking Impact Overlay within the boundaries of the La Jolla Community Plan, has been determined to comply with all the regulations of the Land Development Code of the City Of San Diego. The proposed development complies with all setbacks, height limit, Floor Area Ratio and property development regulations of the RS-1-4 zone. The site contains sensitive biological resources and steep hillsides and is adjacent to Multiple Species Conservation Plan lands and required to obtain a Site Development Permit to assure compliance in determining impacts to these areas and to assure that development has no adverse impacts. Through this review and conditions within the Mitigation Monitoring and Reporting Program and accompanying permit, this proposed development will comply with the applicable regulations of the Land Development Code.

B. Supplemental Findings--Environmentally Sensitive Lands

1. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.

The 19,737 square-foot, RS-1-4 zoned site at 2624 Ellentown Road, is within the boundaries of the La Jolla Community Plan. The demolition of an existing residence and construction of a new residence is sited to be constructed over areas previously disturbed and conditions are contained within the accompanying permit, to assure that no adverse impacts will occur to biological habitat and steep slopes. Multiple Species Conservation Plan adjacency guidelines are adopted to protect those areas contained within the Multiple Habitat Planning Area. The site is currently developed with a residence and is suitable to maintained for this use and the design and siting of the proposed new residence will result in minimum disturbance to environmentally sensitive lands.

2. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

The proposed redevelopment of the Rs-1-4 zoned lot at 2624 Ellentown Road, is proposed over areas previously disturbed and in use for single-family residential use and the new development is required to be limited to these previously disturbed areas. All grading will be within these parameters and the proposed development has been reviewed by City Geologists, Fire Department staff and Environmental staff and it has been determined that the proposed development minimizes alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.

The subject site at 2624 Ellentown Road is currently developed with a single-family residence and the proposed new residence to be constructed following demolition of existing improvements, is sited and designed to prevent adverse impacts on adjacent steep slopes, biological habitat and Multiple Species Conservation Plan areas (environmentally sensitive lands). Conditions in the accompanying permit also insure that the development of the site will comply with approved 'Exhibit A' plans and protective actions for these resources.

4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.

The proposed demolition of an existing single-family residence and construction of a new residence on the 19,737 square-foot, RS-1-4 zoned site at 2624 Ellentown Road, is adjacent to a Multiple Habitat Planning Area/Multiple Species Conservation Program Subarea Plan lands and conditions of the permit for this development, limits development to previously disturbed areas, directs new drainage away from steep slopes, creates view corridors, requires an easement over steep slopes and applies MSCP Adjacency Guidelines to limit adverse impacts. The proposed development plans and conditions for implementation are consistent with the MSCP Subarea Plan.

5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

All new on-site drainage is directed to be caught and prevented from going downstream through coastal canyons and slopes so that the development of a new residence on the 19,737 square-foot site at 2624 Ellentown Road, will not contribute to the erosion of public beaches or adversely affect local shoreline sand supplies.

6. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

A Mitigated Negative Declaration has identified potential adverse impacts in the areas of Historical Resources (Archaeology), Paleontology and Land Use (Multiple Species Conservation Plan area). A Mitigation Monitoring and Reporting Program is required that reduces these impacts to a level below significance. Additionally, conditions have been included in the permit accompanying the 'Exhibit A' plan drawings to assure that any other negative impacts created by the proposed development are reasonably related to and calculated to alleviate these impacts.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Coastal Development Permit No. 87638 and Site Development Permit No. 218894 are hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit Nos. 87638 and 218894, a copy of which is attached hereto and made a part hereof.


Robert Korch
Development Project Manager
Development Services

Adopted on: May 25, 2005
Job Order No. 42-2591

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CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
VOICE (619) 767-2370 FAX (619) 767-2384



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Benny Chien, M.D., J.D.

Mailing Address: 2615 Ellentown Road

City: La Jolla

Zip Code: 92037

Phone: 858 450-9325

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of San Diego

2. Brief description of development being appealed:

Schroeder residence, Project 31768

3. Development's location (street address, assessor's parcel no., cross street, etc.):

2624 Ellentown Road, La Jolla, CA 92037

4. Description of decision being appealed (check one.):

- Approval; no special conditions
- Approval with special conditions:
- Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO:

6-LJS-05-062

DATE FILED:

6/24/05

DISTRICT:

SAN Diego

EXHIBIT NO. 8

APPLICATION NO.

A-6-LJS-05-62

Appeals

JUN 24 2005

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: May 25, 2005

7. Local government's file number (if any): 31768

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Lisa and Dan Schroeder, 7728 Rue Michael, La Jolla, CA 92037

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Benny Chien, 2615 Ellentown Road, La Jolla, CA 92037
Leonard Lieberman, 2644 Ellentown Road, La Jolla, CA 92037
Sally Ledden, 2414 Ellenton Road, La Jolla, CA 92037
Jean ZoBell, 2404 Ellentown Road, La Jolla, CA 92037

(2) Pat Masters, on behalf of Scripps Estates Associates, 2604 Ellentown Road, La Jolla, CA 92037

(3) Sally Frautschy, 702 Strand St., Santa Monica, CA 90405

(4) Pam Maher, 2405 Ellentown Road, La Jolla, CA 920037

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

1. Violates San Diego LCP policy that calls for preservation of neighborhood character, Community Character section of Residential Land Use of LCP. Section 2 is quoted:

"Community Character p. 11

a. In order to maintain and enhance the existing neighborhood character and ambiance, and to promote good design and visual harmony in the transitions between new and existing structures, preserve the following elements: 1) Bulk and scale - with regard to surrounding structures or land form conditions as viewed from the public right-of-way and from parks and open space."

The proposed project is much more massive than houses in Scripps Estates Associates, intrudes into a coastal canyon with a massive 2 story structure that excavates into the canyon and is readily visible from the open space of the UC Natural Reserve on the opposite canyon bluff. This project would create a inconsistent and detrimental impact upon the public views of the neighborhood from both the public street and the public open space.

2. Structure will create major drainage from the large hardscape/house into a coastal canyon and endanger the stability of the slope and canyon below. Canyon below is part of the UC Reserve System per agreement with Scripps Estates Associates, the owner.

3. City of San Diego rejected appeals of 2 appellants on grounds of not submitting \$100 filing fee but when appeal was filed, city staff took the form without mentioning the filing fee. City administrative misled appellants that their appeal was adequate.

4. City Hearing officer made the erroneous statement that city would not consider violations of conditions, covenants, and conditions (CC&Rs) on the grounds that there was no precedent of government agency involvement in enforcing CC&Rs. Appellants provided City staff with precedent of the California Supreme Court case of Citizens for Covenant Compliance v. Anderson, 12 Cal 4th, 34 (1995), where the Attorney General filed as amicus curiae on behalf of the Covenant homeowner's group and supported the enforceability of CC&Rs. This case confirms that the State has played a role in preserving the importance of covenants and city disregarded this precedent.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Benny Chin, M.D., J.D.
Signature of Appellant(s) or Authorized Agent

Date: 6-25-05

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____



City of San Diego
Development Services
1222 First Ave. • 3rd Floor
San Diego, CA 92101-4154
(619) 446-5210

THE CITY OF SAN DIEGO

www.sandiego.gov/development-services

Development Permit Appeal Application

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

- Process Two Decision - Appeal to Planning Commission
- Process Three Decision - Appeal to Planning Commission
- Process Three Decision - Appeal to Board of Zoning Appeals
- Appeal of a Hearing Officer Decision to revoke a permit
- Process Four Decision - Appeal to City Council

2. Appellant Name Please check one Applicant Officially recognized Planning Committee "Interested Person" (Per M.C. Sec. 113.0103)

Benny Chien and Sally Ann Frautschy (2625 Ellentown Rd)
 Address: 2615 Ellentown Rd City: La Jolla State: CA Zip Code: 92037 Telephone: 858 450-9325

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

Schroeder

4. Project Information

Permit/Approval Being Appealed & Permit/Approval No.:

31768

Date of Decision:

5-25-05

City Project Manager:

Bob Korck

Decision (describe the permit/approval decision):

approved environmental report
approved Coastal Development + site development perm

5. Reason for Appeal

- Factual Error
- Conflict with other matters
- Findings Not Supported
- New Information
- City-wide Significance (Process Four decisions only)

Description of Reasons for Appeal (Please relate your description to the allowable reasons for appeal noted above. Attach additional sheets if necessary.)

massive grading into steep slope,
 size + coverage of lot are far beyond neighborhood
 size + coverage
 major drainage problem into SFA canyon.

disregard for state agency legal position in 1995 Calif Supreme C
 Case Citizens for Covenant Compliance v. Anderson, 12 Cal 4th 32
 Hearing officer stated there was no govt-agency precedent.

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature Benny Chien Sally Ann Frautschy

Date June 5 2005

Note: Faxed appeals are not accepted.

BENNY CHIEN, M.D., J.D.
2615 Ellentown Road
La Jolla, CA 92037
(858) 450-9325
benny.chien@stanfordalumni.org

Bob Didion, Hearing Officer
Bob Korch, Development Project Manager
Planning Department
City of San Diego
202 C Street
San Diego, CA 92101
(619) 446-5229

5/20/05

RE: Schroeder residence, Project #31768

Gentlemen:

I am a property owner across the street from the proposed project, a member of Scripps Estates Associates, and Chairman of the SEA Canyon Committee. I have a number of objections to the project and request the Planning Department to decrease the magnitude of the project so as to maintain the character and nature of our neighborhood and protect Sumner Canyon located with the MSCP.

1. On a practical point, the owners have not cut back the overgrown foliage on the side of the property so as to allow me to judge the size of the proposed profile of the new construction. I have asked them to cut back the very overgrown bushes so I can make a valid determination of the profile. Therefore, I request that the city defer any decision until the property owners make visible the house profile from the nearby properties. At that point, I will be ready to give proper input onto the increased size and profile of the proposal.

2. The house and hardscape total around 4200 s.f., not counting the pool. In view of the recent very heavy rains this past winter, I have major objections to the very large rain run-off from this proposal. At 4200 s.f. x 0.1' of rain in one hour (a sample 100 year rain), the run-off would be over 400 cu. ft/hr. 400 c.f. requires a basin of 10'x10'x4'. I don't believe that there would be a pumping system that can prevent such a large run-off from draining into the SEA canyon below. Such run-off would create extensive erosion into the canyon, which has already suffered serious damage from such urban run-off. In addition, all of the house is below the street and the lower floor is 15' below the street.

A related point is that the project is so large that the only natural land that could absorb rain or hold a retaining basin is a very steep slope and is highly vulnerable to erosion.

3. The flat part of the lot is entirely covered by the 4755 s.f. construction and amounts to nearly 100% coverage of the usable lot. The size and scale of the proposal is far greater by a magnitude of nearly double than other houses in our neighborhood. I request that the house be scaled back to a size no larger than the 4000 s.f. or 45% of the area of land at the level of the existing house.

4. I also request that the project be scaled back to the height requested by the SEA Architectural Committee to make it consistent with the SEA CC&Rs. The SEA neighborhood has been a unique and very successful neighborhood because it has maintained an unique and valuable atmosphere of good taste and respect for the natural assets of our land.

In conclusion, I request that the Planning Department require the developer/owner to clear off the overgrown foliage so as to give a proper view of the proposed project, obtain a detailed and fail-safe plan for run-off control and protection of the canyon, and a modest downsizing of the project consistent with the existing neighborhood and SEA architectural rules.

Thank you. Sincerely yours,

Benny Chien 5/21/05

Benny Chien



THE CITY OF SAN DIEGO

June 16, 2005

Mr. Benny Chien
Ms. Sally Frautschy
Mr. John Hildebrand
Ms. Pat Masters
2615 Ellentown Road
La Jolla, California 92037

Dear Mr. Chien, et al:

SUBJECT: INVALID APPEAL FOR PROJECT NO. 31768

On June 9, 2005, Mr. Chien and Ms. Frautschy, submitted, via the United States Postal Service, an appeal application to the Development Services Department at 1222 First Avenue (with no particular person addressed), the decision of the Hearing Officer on May 25, 2005, approving the Schroeder Residence, Project No. 31768. The appeal application of Mr. Hildebrand and Ms. Masters was also delivered to the Development Services Department, addressed to Mr. Robert Didion, the Hearing Officer on May 25, 2005, when the Schroeder Residence was approved.

San Diego Municipal Code (SDMC) Section 112.0506 requires the "appellant" to file the appeal "application with the City Manager no later than 10 *business days* after the date of the Hearing Officer decision." A timely appeal should have been filed by 5:00 P.M. on June 9, 2005. The directions for anyone interested in appealing a decision by the Hearing Officer was expressed by Mr. Robert Didion, the Hearing Officer on May 25, 2005. Additionally, 'Appeal Procedure, Information Bulletin No. 505', outlines each step required to file an appeal with the City of San Diego. Your appeals were not submitted to the City of San Diego, Planning Department, 202 'C' Street, 5th. Floor, San Diego, California 92101 as directed, and the required \$100.00 Appeal Fee was not included. In light of these facts, the City has determined that the appeal application submitted by yourselves, was not timely filed in accordance with SDMC Section 112.0506 and Information Bulletin No. 505.

Additionally, SDMC Section 112.0202(a) states that "[a]n application may be *deemed complete* and may be processed only after the fees . . . , as shown on the schedule of fees and deposits, [have] been paid in full." Again, under the present circumstances, the required fee was not included with your application and paid. Given the absence of the payment of the fee, the appeal application cannot be deemed complete. This, therefore, constitutes two separate basis for the City's determination that the appeal is untimely.



Development Services

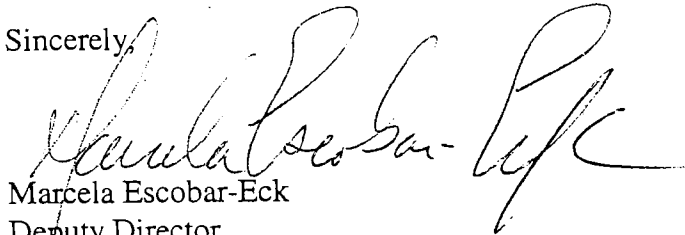
1222 First Avenue, MS 501 • San Diego, CA 92101-4155

Finally, your appeal cites deed restrictions and private views as the reason for the appeal (Appeal form Section 5, 'conflict with other matters'). The City of San Diego does not regulate CC&R's or private views. The appellant is referenced as the 'officially recognized Planning Committee', however, the Scripps Estates Associates Architectural Committee is not the recognized planning committee for the La Jolla community. The La Jolla Community Planning Association, chaired by Yvette Marcum, is the recognized planning committee.

In light of the untimely and invalid appeal, the Hearing Officer's May 25, 2005, decision is the final decision by the City and the City will not process your appeal.

If you have any questions regarding this matter, please contact Robert Korch, the Development Project Manager assigned to this project, at (619) 446-5229 (e-mail at rkorch@sandiego.gov) or feel free to call me at (619) 557-7998 (e-mail at MEscobareck@sandiego.gov).

Sincerely,



Marcela Escobar-Eck
Deputy Director
Customer Support and Information Division
Development services Department

Enclosure:

1. Copies of appeal forms received
2. Information Bulletin No. 505

cc: Linda Lugano, Planning Commission Secretary, Planning Department
File, Project No. 31768
Mr. and Mrs. Schroeder, Applicants
Mr. David Miller, City Attorney's Office

DECLARATION OF NOTIFICATION OF APPEAL

I, Benny Chien, hereby declare that on or before July 5, 2005, I delivered a copy of the Coastal Commission appeal applications of:

Benny Chien, appellant, and
Scripps Estates Associates, appellant,
Re: San Diego City Project 31768, Schroeder residence, to:

Permit applicant: 7228
Lisa and Dan Schroeder, ~~7728~~ Rue Michael, La Jolla, CA 92037

And the following Scripps Estates homeowners:
Leonard Lieberman, 2644 Ellentown Road, La Jolla, CA 92037
Sally Ledden, 2614 Ellentown Road
Jean ZoBell, 2404 Ellentown Road,
Pat Masters, 2604 Ellentown Road
Pam Maher, 2405 Ellentown Road
Sally Frautschy, 702 Strand St., Santa Monica, CA 90405

My neighbor John Hildebrand is delivering the above appeals to the City of San Diego Development Services office on this same date to complete the notification process and will provide his declaration of notification.

Benny Chien 7-5-05

Benny Chien, M.D., J.D.
2615 Ellentown Road, La Jolla, CA 92037

*B. Chien called
to get
correct address
7/5/05
appeal will be delivered
to 7228 today.*

RECEIVED

JUL 05 2005

COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
 200 OCEANGATE, 10TH FLOOR
 LONG BEACH, CA 90802-4416
 VOICE (562) 590-5071 FAX (562) 591-5084

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: John Hildebrand / Patricia Masters; Scripps Estates Assoc Architecture Committee

Mailing Address: 2621 Inyaha Ln

City: La Jolla

Zip Code: 92037

Phone: 858 534-4069

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of San Diego

2. Brief description of development being appealed:

Demolish a single family residence on a lot at 2624 Ellentown Rd, La Jolla, located within the Coastal Overlay Zone, and construct a new single family residence.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

2624 Ellentown Rd, La Jolla, City of San Diego Project No. 31768

4. Description of decision being appealed (check one.):

- Approval; no special conditions
 Approval with special conditions:
 Denial

JUL 05 2005

STATE OF CALIFORNIA
 CALIFORNIA COASTAL COMMISSION
 SAN DIEGO COAST DISTRICT

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: 6-LJS-05-062

DATE FILED: 7/5/05

DISTRICT: SAN DIEGO

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: May 25, 2005

7. Local government's file number (if any): 31768

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

John Pylar, 7228
Lisa and Dan Schroeder, 7728 Rue Michael, La Jolla, CA 92037

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Benny Chien, 2615 Ellentown Rd, La Jolla, CA 92037

(2) Salley Frautschy, 702 Strand St., Santa Monica, CA 90405

(3) Pam Maher and Dave Schubert, 2405 Ellentown Rd, La Jolla, CA 92037

(4) La Jolla Historical Society, 7846 Eads Ave, La Jolla, CA 92037

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

The City of San Diego Development Services Department has rejected our appeal of their approval for this project, based on our not paying a \$100 filing fee, although city staff did not inform us of the need for a filing fee at the time we submitted our application.


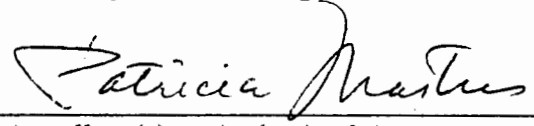
The proposed development at 2624 Ellentown Rd, La Jolla, does not conform to standards set forth in the La Jolla Community Plan (LJCP) and Local Coastal Program Land Use Plan. The proposed development site includes the rim and slope of Sumner Canyon which is an area designated as private open space in the LJCP. Sumner Canyon is an environmentally sensitive habitat area. In combination with the adjacent University of California Coastal Reserve, it is the only undeveloped coastal canyon in the La Jolla community. Sumner Canyon has a unique assemblage of coastal plants, and in the LJCP it is designated as part of the multiple habitat preservation area. The LJCP specifically states that it restricts the degree to which private development is allowed to encroach upon biologically sensitive open areas and steep hillsides, and indicates that development should minimize the potential of hillside erosion due to excessive grading and disturbance. Likewise, the City of San Diego's Steep Hillside Guidelines provide development regulations to limit encroachment for natural steep slopes, and to provide erosion control measures. The proposed project is subject to the Steep Hillside Guidelines as it includes slopes with a natural gradient of 25 percent or greater. We have carefully examined the proposed project grading plans and found them inadequate to judge the potential for destabilization of the steep slope of Sumner Canyon. We find that the substantial depth of the grading (12 feet) along the canyon slope and rim is excessive and at least requires a detailed analysis and integration with soil/engineering considerations.

The LJCP designates Ellentown Road as a location of scenic views over private property from a public right of way (LJCP: page 46). The view from Ellentown Road over the proposed development includes scenic vistas of the ocean, bluff areas, hillsides and of Sumner Canyon. The proposed development exceeds the height of the existing structure, and in so doing will block public scenic views along Ellentown Road. The LJCP further states that where new development is proposed adjacent to open space, such as Sumner Canyon, the perceived bulk and scale of the proposed structure should be reduced facing open space land. From Sumner Canyon the proposed development would present views of extensive retaining walls, a hot tub, as well as the lower and upper levels of the main structure. We find that the bulk and scale of the proposed development would be excessive when viewed from Sumner Canyon, an area of open space in the LJCP.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: July 5, 2005

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

RECEIVED

JUL 20 2005

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

LISA T. SCHROEDER
7228 RUE MICHAEL
LA JOLLA, CA 92037
858-459-6387
ltschroeder@earthlink.net

July 19, 2005

Re: Appeal of CDP and SDP issued to 2624 Ellentown Road
Post-Cert ID: 6-LJS-05-166 (Local ID: 87638; Approved w/Conditions)
Schroeder Residence

This letter is in response to the two appeals filed in the above-referenced case. My husband and I are the homeowners proposing this development. It should be noted that these appeals are improper due to a failure to exhaust administrative remedies pursuant to 14 Cal. Admin Code sections 13111 and 13573. None of the appellants filed a timely appeal to the City of San Diego. The applications were not submitted timely and properly, as well as failing to submit the required filing fee. Therefore, these appeals should not be heard on the grounds that appellants failed to exhaust their administrative remedies.

Even if the Commission determines that it has jurisdiction to hear these appeals, the issuance of the Coastal Development Permit should be affirmed. This project is to tear down an existing single-story house with a small basement and replace it with a new single story house in substantially the same location with a larger basement. Both appeals object to bulk and scale of the structure. The appellants appear to equate bulk and scale with square footage. That alone is not a test of scale. The lot is over 19,000 square feet. The proposed house is a very low-slung one-story with a basement. The street level of the proposed house is approximately 2900 square feet. There are at least seven other houses on the street, in close proximity that have much larger square feet than this. The floor area ratio on the proposed house is about half of what is allowable on this size lot. Moreover, the building pad for this house sits well below street level. At its highest point, the roofline will only rise 8 feet above the street. Several houses on the street sit on elevated lots, such that their rooflines rise at least 20 feet above street level.

Although both stories of the home will be visible from the canyon, the house follows the sloping topography of the lot. The house immediately next door has a lower level which extends further into the canyon than this one. Additionally, the proposed development sits well back from the canyon rim. Several houses sit right on the canyon edge, without much of a landscape buffer between their hardscape and the edge of the canyon. The proposed house sits at least 40 feet back from the property line at the canyon's edge.

With regard to drainage, the new development should improve drainage away from the canyon. The entire lot sits below street level and currently floods during the

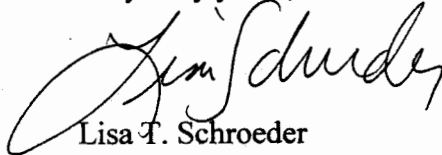
EXHIBIT NO. 9
APPLICATION NO.
A-6-LJS-05-62
Letter from Applicant

rain. The new development calls for increased drainage from what currently exists. All new development is occurring on previously disturbed land and the proposed excavation is underneath the existing structure where a small basement already exists.

The new plan was reviewed and approved by the coastal development committee of the La Jolla Community Planning Association (LJCPA) as well as the full LJCPA. The project was found to be in compliance with the La Jolla Community Plan and was recommended for approval to the City of San Diego. There is currently no public view over the top of the house from Ellentown Road. The proposed development will increase the side yard setback on the northern side. This will increase public views from the street beyond the existing house, where there currently are none.

There are extensive conditions placed on the development of this property. A Mitigated Negative Declaration was properly issued. The project should be allowed to go forward subject to those conditions.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Lisa Schroeder". The signature is written in dark ink and is positioned above the printed name.

Lisa T. Schroeder



View of 2624 Ellentown from Ellentown
Road



View of 2624 Ellentown Road. This side yard set back will be increased to 14 feet.