

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370



Wed 8c

Filed: April 24, 2006
49th Day: June 12, 2006
180th Day: October 21, 2006
Staff: Diana Lilly-SD
Staff Report: April 26, 2006
Hearing Date: May 10-12, 2006

STAFF REPORT AND RECOMMENDATION ON APPEAL
SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of Coronado

DECISION: Approval with Conditions

APPEAL NO.: A-6-COR-06-46

APPLICANT: KSL Encinitas Resort Co., LLC

PROJECT DESCRIPTION: Tentative subdivision allowing for the conversion of 11 cottages and villa hotel units currently under construction into a maximum of 37 condominium units, a maximum of 2 open space condominium units, and up to 25 non-habitable management condominium units (lobby and maintenance areas).

PROJECT LOCATION: 1500 Orange Avenue, Coronado (San Diego County) APN 537-630-32

APPELLANTS: Coastal Commissioners Patrick Kruer and Sara Wan

SUMMARY OF STAFF RECOMMENDATION:

The subject appeal is unusual as it is an appeal of the City's decision to exempt the project from coastal development permit requirements. The staff recommends that the Commission, after public hearing, determine that a substantial issue exists with respect to the grounds on which the appeal has been filed.

SUBSTANTIVE FILE DOCUMENTS: Appeal Applications by Commissioners Kruer and Wan dated 4/24/06; Coronado Resolution #8075; Certified City of Coronado Local Coastal Program (LCP).

I. Appellants Contend That: The project, as approved by the City, is inconsistent with the certified LCP with respect to coastal permitting requirements and the protection of public recreation and visitor-serving facilities. Thus, they claim that the project, as

exempted by the City, is also inconsistent with the public access and recreation provisions of the LCP, as well as with the public access policies of Chapter 3 of the Coastal Act.

II. Local Government Action: On June 21, 2005, the Coronado City Council approved a tentative subdivision (Res. #8075) for the project. The City did not issue a new coastal development permit or amendment to the existing Master Plan coastal development permit, nor did it issue a coastal development permit exemption. Commission staff became aware of the City's action in March 2006, and contacted City staff for background on the City's action. City staff have since indicated they believe the action is exempt from coastal development permit requirements in a letter dated April 6, 2006 (attached). Section 30625 of the Coastal Act allows for Commission appeals of claims of exemption.

The tentative map approval was conditioned to require that the development be consistent with the previously issued coastal development permit for the Hotel del Coronado Master Plan, and specific occupancy limits, detailed below under V. Findings and Declarations.

III. Appeal Procedures: After certification of a municipality's Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permit applications. One example is that the approval of projects within cities and counties may be appealed if the projects are located within mapped appealable areas. The grounds for such an appeal are limited to the assertion that "development does not conform to the standards set forth in the certified local coastal program or the [Coastal Act] public access policies." Cal. Pub. Res. Code § 30603(b)(1).

After the local government has taken final action on an appealable project, it must send a notice of that final action (NOFA) to the Commission. Cal. Pub. Res. Code § 30603(d); 14 C.C.R. § 13571. Upon proper receipt of a valid NOFA, the Commission establishes an appeal period, which runs for 10 working days. Cal. Pub. Res. Code § 30603(c); 14 C.C.R. § 13110 and 13111(b). If an appeal is filed during the appeal period, the Commission must "notify the local government and the applicant that the effective date of the local government action has been suspended," 14 C.C.R. § 13572, and it must set the appeal for a hearing no later than 49 days after the date on which the appeal was filed. Cal. Pub. Res. Code § 30621(a).

Section 30625(b)(2) of the Coastal Act requires the Commission to hear an appeal of the sort involved here unless the Commission determines that no substantial issue is raised by the appeal. If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly 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 the appeal is found to raise a substantial issue, the Commission will proceed to a full public hearing on the merits of the project either immediately or at a subsequent meeting. 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, Sec. 30604(c) of the Coastal Act requires that, for a permit to be granted, 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 of the Coastal Act.

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.

IV. Staff Recommendation on Substantial Issue.

The staff recommends the Commission adopt the following resolution:

1. **MOTION:** *I move that the Commission determine that Appeal No. A-6-COR-06-046 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. **A-6-COR-06-046** presents 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 policies of the Coastal Act.

V. Findings and Declarations.

1. Project Description/History. On August 27, 2002, the Coronado City Council approved issuance of an appealable coastal development permit amendment for the Hotel Del Coronado Master Plan (CP 3-02), authorizing numerous changes and upgrades to the property, including an increase of 205 guestrooms, a 19,700 sq.ft. conference center, relocation of the health spa and tennis courts, improvements to the southern and eastern facades of the main Hotel building, exterior improvements to Grande Hall, relocation of the Hotel driveway entrances, development of below-grade parking structures, landscape and walkway enhancements, an off-street bus drive and staging area off of R.H. Dana Place, and a total of 1,170 on-site parking spaces. That amended permit was not appealed by members of the Coastal Commission because the City coordinated with Commission staff to address the coastal issues raised by the City's approval of the project.

On June 21, 2005, the Coronado City Council approved a tentative subdivision (Res. #8075) allowing for the conversion of 11 of the new cottages and villa hotel units into a maximum of 37 condominium units, a maximum of 2 open space condominium units, and up to 25 non-habitable management condominium units (lobby and maintenance areas). The City did not issue a new coastal development permit or amendment to the existing Master Plan coastal development permit, nor it did issue a coastal development permit exemption. Commission staff became aware of the City's action in March 2006, and contacted City staff for background on the City's action. City staff have since indicated they believe the action is exempt from coastal development permit requirements in a letter dated April 6, 2006. Section 30625 of the Coastal Act allows for Commission appeals of claims of exemption.

The tentative map was approved with a number of special conditions and limitations on use of the condominiums. Occupancy by the same persons is limited to not more than 25 consecutive days, and unit owners are allowed to occupy a unit up to a total of 90 cumulative days per calendar year, not exceeding 25 consecutive days at any one time. Unit owners are further limited to a maximum of 25 day use within any immediately preceding 50 day time period. In other words, owners can occupy units for up to 90 days in a year, which can be used in blocks up to 25 days at a time, but not more than 25 days of any 50-day period.

In addition, all of the units are to be operated similar to a hotel with a central lobby and front desk check-in, daily linen and cleaning services. All units must be available for renting to the general public when not occupied by a unit owner. Units can only be managed and staffed through the adjoining Hotel del Coronado operations management, and the Hotel del Coronado operations management would have exclusive responsibility to manage all units.

2. Coastal Development Permit Requirements. The appellants assert that the proposed project is inconsistent with the policies of the certified LCP regarding the coastal development permit requirements.

The City's certified LCP contains the following policies regarding coastal permit requirements:

86.70.050 Activities requiring a coastal permit.

A coastal permit is required from the City for all development in areas under City coastal permit authority that are not otherwise categorically exempt.

86.70.052 Exempt categories of development.

The City, after public hearings, has identified the following categories of development as having no potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along, the coast, and has therefore exempted these development categories from City coastal permit requirements (as per CMC 86.70.040):

- A. Improvements to existing single-family dwelling buildings (in accordance with restrictions of Chapter 86.74 CMC);
- B. Improvements to existing duplexes (in accordance with the restrictions of Chapter 86.74 CMC);
- C. Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of such repair or maintenance activities; provided, however, that if the City determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall prohibit the use of such methods; and provided, that the activities abide to the restrictions of Chapters 86.72, 86.74 and 86.76 CMC;
- D. The installation, testing, and placement in service of the replacement of any necessary utility connection between an existing services facility and any development approved pursuant to this chapter (in 86.74 and 86.76 CMC);
- E. Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the coastal zone, pursuant to a permit from the United States Army Corps of Engineers;
- F. The replacement of any structure other than a public works facility, destroyed by natural disaster; provided, that such replacement structure or facility shall conform to the applicable requirements of this title, shall be for the same use as the destroyed structure or facility, shall not exceed the floor area, height, or interior cubic volume of the destroyed structure or facility by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure or facility;

- G. Demolition of any building except visitor serving commercial uses; provided, however, that if the City determines that certain extraordinary methods of demolition involve a risk of substantial adverse environmental impact, it shall prohibit use of such methods;
- H. Construction of a single-family dwelling building on a legal lot of record in conformance to all applicable requirements of this title;
- I. Construction of a duplex on a legal lot of record in conformance to all applicable requirements of this title;
- J. The removal of major vegetation on municipal property; and
- K. Activities not requiring either an initial study under CEQA, an environmental assessment under NEPA, a Planning Commission or City Council interpretation, or issuance of a special use permit or variance; and provided the activities as reviewed within the policies of the Coastal Act shall not create a potential for any adverse effect either individually or cumulatively on coastal resources and the activities conform with all provisions of the LCP land use plan.

Subdivisions are not included in the above categories of exempt development in the LCP, and, in fact, under the Coastal Act, subdivisions are not a category of development that can be exempted. Section 30610 of the Coastal Act lists the types of development which can be exempted from coastal development permit requirements, and subdivisions are not included in this list. Local governments cannot expand the list of exempted developments except through the categorical exclusion process, which the City has not undertaken. Thus, the project should have gone through the coastal development permit or permit amendment review process.

Furthermore, Section 86.70.052 (K) cited above specifically states that exempt activities must not “create a potential for any adverse effect either individually or cumulatively on coastal resources and the activities conform with all provisions of the LCP land use plan.” As discussed below, the proposed subdivision and condominium conversion of hotel units does have the potential to impact coastal resources inconsistent with the policies of the Land Use Plan (LUP).

Thus, a substantial issue exists with respect to the consistency of the proposed project with the City's certified Local Coastal Program.

3. Public Access/Visitor-serving Commercial. The appellants assert that the proposed project raises several issues with regard to consistency with the certified LCP pertaining to protection of visitor-serving facilities and public access and recreation, and consistency with the public access policies of Chapter 3 of the Coastal Act.

Coastal Act public access policies include the following:

Section 30210

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

Section 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Policies in the adopted LUP include the following:

III. ADOPTED POLICY

It is the policy of the City of Coronado to:

B. RECREATION AND VISITOR SERVING FACILITIES'

2. Maintain the quality and number of existing visitor accommodations at or above their present levels, and encourage the provision of new low-cost visitor accommodations and the expansion of existing low-cost visitor accommodations.

The subject site is zoned and designated for Hotel-Motel uses. The subject site is the only H-M zoned site located adjacent to the beach and the Hotel del Coronado is the only hotel located immediately adjacent to the beach in the City (the City does have two bayfront hotels).

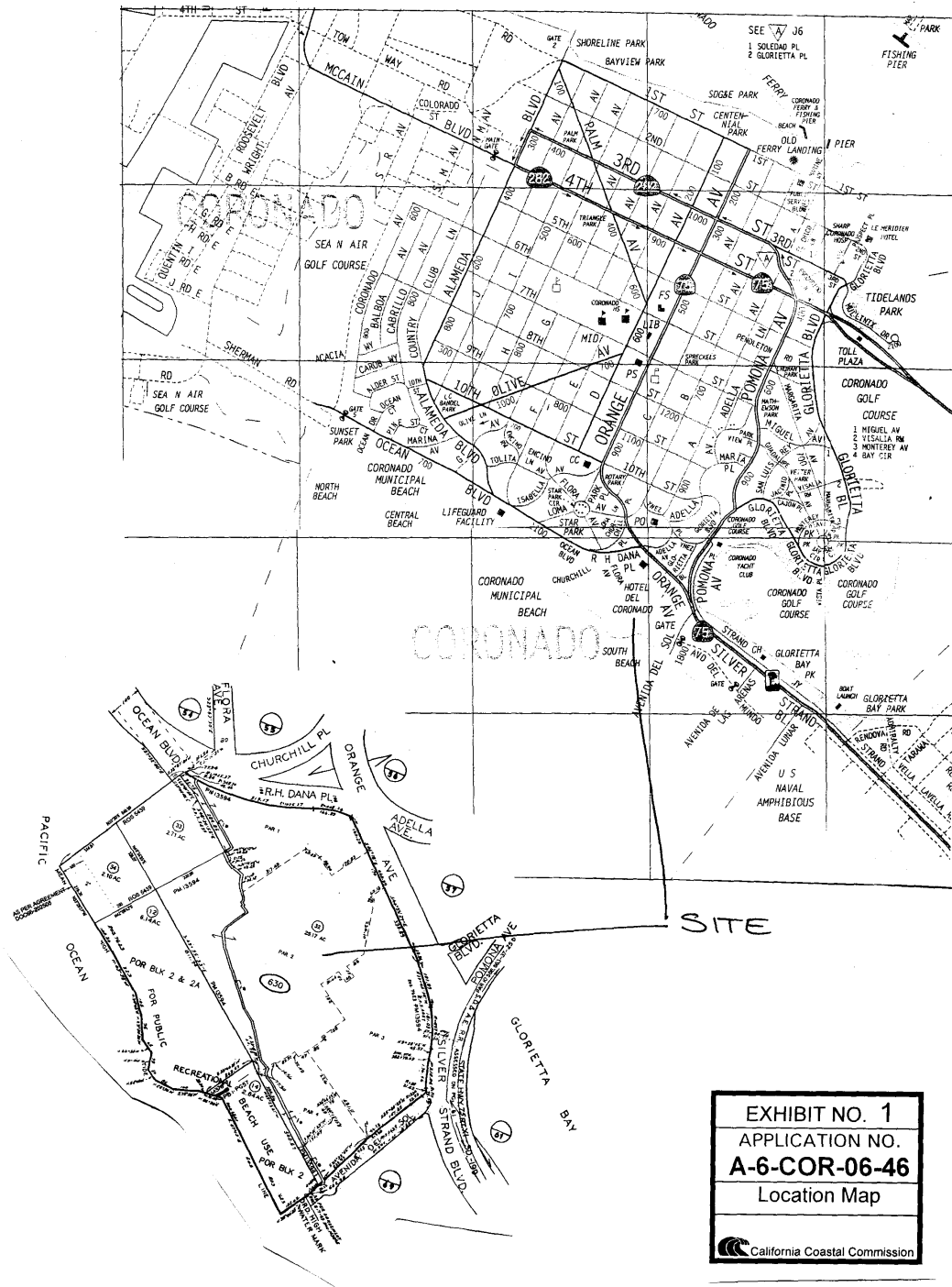
The City's LUP states that the quality and number of existing visitor accommodations be maintained and encourages the provision of new low-cost accommodations. However, the proposed change in ownership of the hotel units may result in a use on the site that functions, at least to some extent, as a residential use and thus could lessen the overall visitor-serving use of the existing hotel inconsistent with the certified LCP and the public access policies of the Coastal Act. As proposed, condominium hotel owners could use their units as vacation homes for up to 90 days per year. Thus, the units may function more as a second home, or residential use. Additionally, although each owner would be limited to no more than 25 days within any preceding 50 day time period, there remains the potential for owners to use their unit during the summer when hotel rooms for the general public are in highest demand. For instance under the applicant's suggested time use restriction, condominium owners could use their units for 25 days in June, wait 25 days and then use the units again in late July or August for an additional 25 days. Thus, up to ¼ of the hotel units could be unavailable over a 1-year time period. Due to its prime location adjacent to the beach and public amenities, it may be most appropriate to

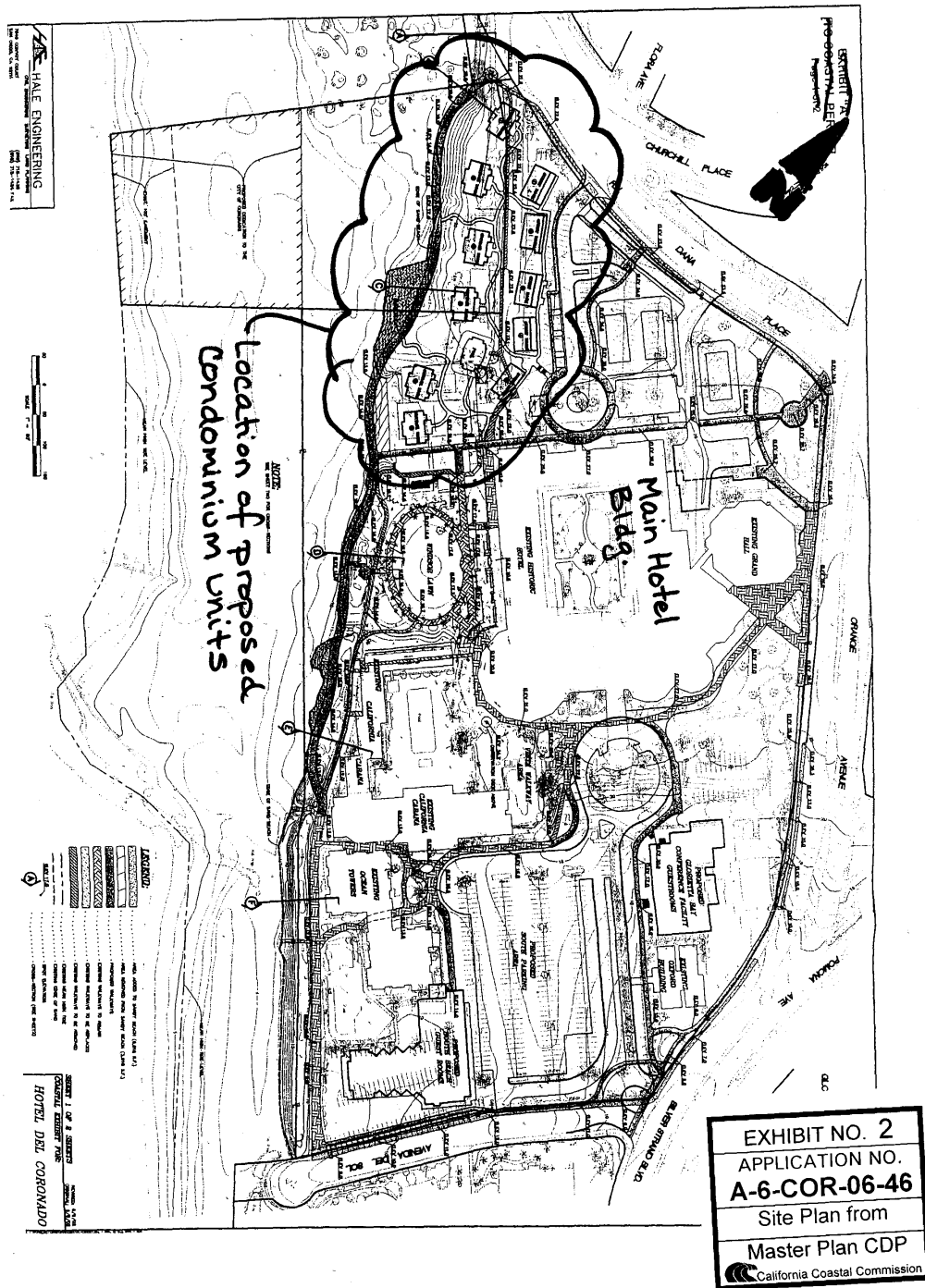
develop the subject site only with a use that truly and exclusively serves the visiting public by providing year-round overnight accommodations in all rooms.

In addition, the conversion to condominium ownership raises concerns regarding the long-term security and viability of visitor amenities on the subject site. Some of the questions raised include the means by which the units will be made available for public rental, the amount of time and time of year during which units will be available to visitors, and responsibility for on-going and long-term maintenance of the units and public areas. Further, the conversion to condominium ownership raises concerns regarding who is responsible for enforcement of the restrictions and monitoring of the hotel operation.

Although the City did review some of these issues, it was not in the context of a coastal development permit specifically addressing and mitigating impacts to coastal resources. Because the project has not been reviewed for impacts to visitor-serving accommodations, public access and recreation, the project is potentially inconsistent with the policies of the certified LCP and the Coastal Act.

In summary, the City failed to review the project for conformity with the LCP through the coastal development permit process, and has not adequately addressed the development's conformity with LCP standards regarding low-cost visitor-serving accommodations. Therefore, the Commission finds that a substantial issue exists with respect to the consistency of the local government action with the City's certified Local Coastal Program.







CITY OF CORONADO

1825 STRAND WAY
CORONADO, CA 92118

APR 14 2006
CALIFORNIA COASTAL COMMISSION
SAN DIEGO COAST DISTRICT
OFFICE OF THE CITY MANAGER
(619) 522-7335
FAX (619) 522-7846

April 6, 2006

Ms. Sherilyn Sarb, District Manager
California Coastal Commission San Diego Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421

Dear Ms Sarb:

The City of Coronado has reviewed the concerns you expressed in your letter of March 29, 2006, about Coronado's processing of the Hotel del Coronado's request for a tentative subdivision map. After careful consideration, it is our belief that the City's actions are completely within the scope of its Local Coastal Program (LCP), and that the City has complied with the Coastal Act by scrupulously enforcing the City's LCP processes and policies in regard to this matter. We believe that the process used by Coronado to review this request per its LCP, as presented below, is both logical and legally defensible.

The issue of the criteria to be used by the City for the determination of whether a proposal or activity is exempt from the Coastal Permit process is directly and definitively addressed in Municipal Code Chapter 86.70, "Coastal Permits", which is a portion of the City's Local Coastal Program's adopted Implementation Ordinances. Municipal Code Section 86.70.050 states:

"A coastal permit is required from the City for all development in areas under City coastal permit authority that are not otherwise categorically exempt."

Municipal Code Section 86.70.080, "Authority and Duties of Coastal Permit Administrator", states under Subsection "C" that the Coastal Permit Administrator for the City (the Director of Community Development) may: "Determine whether projects are categorically exempt from the City of Coronado coastal permit requirement per CMC 86.70.050 or 86.70.140." Subsection "A" further states that Coastal Permit Administrator may "(d) delegate a portion of his duties to a representative."

The first task of the Administrator or his representative is to determine whether a proposal or an activity is a "development" per Municipal Code Section 86.70.030. If the project is defined by this Section to be a "development", then the next question is whether it is both:

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- 1) In a "categorically exempt geographic area" per Municipal Code Section 86.70.060 (as depicted by the Coastal Commission supplied map), and
- 2) Does not require one of the following discretionary actions;
 - a. Planning Commission interpretation;
 - b. City Council interpretation;
 - c. Issuance of a major special use permit;
 - d. Issuance of a minor special use permit; or
 - e. Issuance of a variance to either the regulation of the amount of landscaping required, or to any standard in Municipal Code Chapters 86.58, 86.64, 86.70, 86.72, 86.74, or 86.76.

For those projects to which the above Section 86.70.060 does not apply, (e.g., areas under Coastal Commission direct jurisdiction or under Coastal Commission appeals jurisdiction, etc.), the Administrator or his representative is to determine whether Municipal Code Section 86.70.052, "Exempt Categories of Development", provides an exemption for the project. Subsections "A" through "K" of this Section provide specific exemptions that both the City and Coastal Commission have identified as "...categories of development as having no potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along, the coast..." While exemptions "A" through "J" are quite specific and limited, exemption "K" is more of a general and catch-all standard to permit the Administrator or his representative a reasonable amount of flexibility in making an exemption determination.

Subsection 86.70.052 "K" states that those activities are exempt that do not require:

1. An initial study under CEQA;
2. An environmental assessment under NEPA;
3. A Planning Commission interpretation;
4. A City Council interpretation;
5. Issuance of a special use permit; or
6. Issuance of a variance;

"And provided the activities as reviewed within the policies of the Coastal Act shall not create a potential for any adverse effect either individually or cumulatively on coastal resources and the activities conform with all provisions of the LCP land use plan."

While Municipal Code Sections 86.70.100 and 86.70.180, addressing respectively the application for and the appeal of Coastal Permits, specify Coastal Commission notification of the City's actions, no mention is made in Chapter 86.70 of the concept of a "Notice of Exemption" having to be supplied to the Coastal Commission when the City deems a request not to require a Coastal Permit or a Coastal Permit Amendment. Neither is such a requirement imposed on the City nor is criteria provided to determine when such a notice would be necessary.

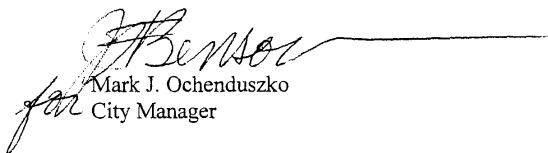
Ms. Sarb
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You have noted that Condition #18 was attached to the hotel's Coastal Permit 3-02. However, you did not note that this condition is just a restatement of Municipal Code Subsection 86.70.052 (K). As has been stated in the earlier material provide to you last week, the above review process was duly performed by City staff, who determined that the hotel's request was exempt from needing either a new Coastal Permit or a Coastal Permit Amendment, per the criteria in this Subsection (K). Moreover, your staff's interpretation of Condition #18 appears on its face to be inconsistent with the plain language of the condition. Such an interpretation would render the condition and the delegation of authority in the LCP meaningless because, in essence, the Coastal Commission would be arguing that notwithstanding its express delegation of authority to the City, the City would still have to submit its findings on whether projects are exempt from the Coastal Permit process to the Commission for review.

Further, your letter stated that the City Council's resolution (# 8075) of approval for the Hotel del Coronado's one lot tentative subdivision map does not include findings that the design and improvements of the subdivision are consistent with the previously approved Hotel del Coronado Master Plan. To the contrary, finding three of that resolution states: "That the design and improvement of the proposed subdivision, with conditions, are consistent with the Master Plan and Development Agreement approved by the City Council on June 18, 2002, and July 2, 2002, respectively..." Furthermore, the very first condition of that resolution states: "Owner shall insure that all development is consistent with and complies with all conditions of the following previously approved documents or permits, or as amended from time to time:...", with subsections "a" and "g" listing such permits respectively as: "Hotel del Coronado Master Plan dated January 2000;" and "Coastal Permit approval dated August 27, 2002 as Planning Commission Resolution no. 5-02;..."

Please be assured that the City's actions have been, and will continue to be, appropriate and in compliance with our LCP. Please contact Community Development Department Director Tony Pena at (619) 522-7330 if you have any further questions on this matter.

Sincerely,


Mark J. Ochendusko
City Manager

MJO/mlc

cc: Tony Pena, Director of Community Development

STATE OF CALIFORNIA - THE RESOURCES AGENCY

GRAY DAVIS, Governor

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Patrick Kruer
Mailing Address: 7727 Herschel Avenue
La Jolla, CA 92037

Phone Number: (858) 551-4390SECTION II. Decision Being Appealed

1. Name of local/port government: City of Coronado
2. Brief description of development being appealed: One-lot subdivision map to convert 11 existing cottages and villa hotel units into a maximum of 37 condominium units, up to 2 open space condominium units, and up to 25 non-habitable management condominium units (lobby and maintenance areas).
3. Development's location (street address, assessor's parcel no., cross street, etc.):
1500 Orange Avenue, Coronado (San Diego County) APN 537-630-32
4. Description of decision being appealed:
 - a. Approval; no special conditions: ☐
 - b. Approval with special conditions: ☐
 - c. Denial: ☐ d. No Permit Required x

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: A-6-COR-06-046DATE FILED: April 24, 2006DISTRICT: San Diego

RECEIVED

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COASTAL C
SAN DIEGO C

EXHIBIT NO. 3
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Letter from City
California Coastal Commission

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

- a. ☐ Planning Director/Zoning Administrator c. ☐ Planning Commission
- b. ☒ City Council/Board of Supervisors d. ☐ Other

Date of local government's decision: June 21, 2005Local government's file number (if any): Resolution No. 8075SECTION III. Identification of Other Interested Persons

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

Name and mailing address of permit applicant:

Bill Dodds
KSL Encinitas Resort Co., LLC
1500 Orange Avenue
Coronado, CA 92118

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.

See Attachment "B"SECTION IV. Reasons Supporting This Appeal

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, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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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.)

See Attachment A dated 4/24/06

Note: The above description 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.

SECTION V. Certification

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

Signed: 
Appellant or Agent

Date: 4/24/06

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

April 24, 2006

ATTACHMENT "A" – Hotel Del Coronado Condominium Appeal

On August 27, 2002, the Coronado City Council approved issuance of an appealable coastal development permit amendment for the Hotel Del Coronado Master Plan (CP 3-02), authorizing numerous changes and upgrades to the property, including an increase of 205 guestrooms, a 19,700 sq.ft. conference center, relocation of the health spa and tennis courts, improvements to the southern and eastern facades of the main Hotel building, exterior improvements to Grande Hall, relocation of the Hotel driveway entrances, development of below-grade parking structures, landscape and walkway enhancements, an off-street bus drive and staging area off of R.H. Dana Place, and a total of 1,170 on-site parking spaces. That amended permit was not appealed by members of the Coastal Commission because the City coordinated with Commission staff to address the coastal issues raised by the City's approval of the project.

On June 21, 2005, the Coronado City Council approved a one lot tentative subdivision (Res. #8075) allowing for the conversion of 11 of the new cottages and villa hotel units into a maximum of 37 condominium units, a maximum of 2 open space condominium units, and up to 25 non-habitable management condominium units (lobby and maintenance areas). The City did not issue a new coastal development permit or amendment to the existing Master Plan coastal development permit, nor it did issue a coastal development permit exemption. Commission staff became aware of the City's action in March 2006, and contacted City staff for background on the City's action. City staff have since indicated they believe the action is exempt from coastal development permit requirements in a letter dated April 6, 2006. Section 30625 of the Coastal Act allows for Commission appeals of claims of exemption.

The City's certified LCP contains the following policies regarding coastal permit requirements:

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A coastal permit is required from the City for all development in areas under City coastal permit authority that are not otherwise categorically exempt.

86.70.052 Exempt categories of development.

The City, after public hearings, has identified the following categories of development as having no potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along, the coast, and has therefore exempted these development categories from City coastal permit requirements (as per CMC 86.70.040):

- A. Improvements to existing single-family dwelling buildings (in accordance with restrictions of Chapter 86.74 CMC);
- B. Improvements to existing duplexes (in accordance with the restrictions of Chapter 86.74 CMC);

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- C. Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of such repair or maintenance activities; provided, however, that if the City determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall prohibit the use of such methods; and provided, that the activities abide to the restrictions of Chapters 86.72, 86.74 and 86.76 CMC;
- D. The installation, testing, and placement in service of the replacement of any necessary utility connection between an existing services facility and any development approved pursuant to this chapter (in 86.74 and 86.76 CMC);
- E. Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the coastal zone, pursuant to a permit from the United States Army Corps of Engineers;
- F. The replacement of any structure other than a public works facility, destroyed by natural disaster; provided, that such replacement structure or facility shall conform to the applicable requirements of this title, shall be for the same use as the destroyed structure or facility, shall not exceed the floor area, height, or interior cubic volume of the destroyed structure or facility by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure or facility;
- G. Demolition of any building except visitor serving commercial uses; provided, however, that if the City determines that certain extraordinary methods of demolition involve a risk of substantial adverse environmental impact, it shall prohibit use of such methods;
- H. Construction of a single-family dwelling building on a legal lot of record in conformance to all applicable requirements of this title;
- I. Construction of a duplex on a legal lot of record in conformance to all applicable requirements of this title;
- J. The removal of major vegetation on municipal property; and
- K. Activities not requiring either an initial study under CEQA, an environmental assessment under NEPA, a Planning Commission or City Council interpretation, or issuance of a special use permit or variance; and provided the activities as reviewed within the policies of the Coastal Act shall not create a potential for any adverse effect either individually or cumulatively on coastal resources and the activities conform with all provisions of the LCP land use plan.

Subdivisions are not included in the above categories of exempt development in the LCP, and, in fact, under the Coastal Act, subdivisions are not a category of development that can be exempted. Section 30610 of the Coastal Act lists the types of development which can be exempted from coastal development permit requirements, and subdivisions are not included in this list. Local governments cannot expand the list of exempted

April 24, 2006
Attachment "A" Hotel Del Coronado #A-COR-06-46
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developments except through the categorical exclusion process, which the City has not undertaken. Thus, the project requires a coastal development permit or permit amendment.

Furthermore, Section 86.70.052 (K) cited above specifically states that exempt activities must not "create a potential for any adverse effect either individually or cumulatively on coastal resources and the activities conform with all provisions of the LCP land use plan." The proposed subdivision and condominium conversion of hotel units does have the potential to impact coastal resources inconsistent with the policies of the Land Use Plan (LUP).

Policies in the adopted LUP include the following:

III. ADOPTED POLICY

It is the policy of the City of Coronado to:

B. RECREATION AND VISITOR SERVING FACILITIES'

2. Maintain the quality and number of existing visitor accommodations at or above their present levels, and encourage the provision of new low-cost visitor accommodations and the expansion of existing low-cost visitor accommodations.

The proposed change in ownership of the hotel units may result in a use on the site that functions, at least to some extent, as a residential use and thus could lessen the overall visitor-serving use of the existing hotel inconsistent with the certified LCP and the public access and recreation policies of the Coastal Act. Due to its prime location adjacent to the beach, public amenities, and accessibility, it may be most appropriate to develop the subject site only with a use that truly and exclusively serves the visiting public by providing year-round overnight accommodations in all rooms. In addition, the conversion to condominium ownership raises concerns regarding the long-term security and viability of visitor amenities on the subject site. Some of the questions raised include the means by which the units will be made available for public rental, the amount of time and time of year during which units will be available to visitors, and responsibility for on-going and long-term maintenance of the units and public areas.

Although the City did review some of these issues, it was not in the context of a coastal development permit specifically addressing and mitigating impacts to coastal resources. These questions should be addressed through the coastal development permit process. Because the project has not been reviewed for impacts to visitor-serving accommodations, public access and recreation, the project is potentially inconsistent with the policies of the certified LCP and the Coastal Act.

Attachment "B" A-6-COR-06-46
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Susan Keith
801 Tolita Avenue
Coronado, CA 92118

STATE OF CALIFORNIA - THE RESOURCES AGENCY

GRAY DAVIS, Governor

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Sara J. Wan
Mailing Address: 22350 Carbon Mesa Road
Malibu, CA 90265

Phone Number: (310) 456-6605SECTION II. Decision Being Appealed

1. Name of local/port government: City of Coronado
2. Brief description of development being appealed: One-lot subdivision map to convert 11 existing cottages and villa hotel units into a maximum of 37 condominium units, up to 2 open space condominium units, and up to 25 non-habitable management condominium units (lobby and maintenance areas).
3. Development's location (street address, assessor's parcel no., cross street, etc.):
1500 Orange Avenue, Coronado (San Diego County) APN 537-630-32
4. Description of decision being appealed:
a. Approval; no special conditions: ☐ b. Approval with special conditions: ☐
c. Denial: ☐ d. No Permit Required X

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: A-6-COR-06-046DATE FILED: April 24, 2006DISTRICT: San Diego**RECEIVED**

APR 24 2006

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
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5. Decision being appealed was made by (check one):

- a. ☐ Planning Director/Zoning Administrator c. ☐ Planning Commission
b. ☒ City Council/Board of Supervisors d. ☐ Other

Date of local government's decision: June 21, 2005

Local government's file number (if any): Resolution No. 8075

SECTION III. Identification of Other Interested Persons

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

Name and mailing address of permit applicant:

Bill Dodds
KSL Encinitas Resort Co., LLC
1500 Orange Avenue
Coronado, CA 92118

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.

See Attachment "B"

SECTION IV. Reasons Supporting This Appeal

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, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 3

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.)

SEE Attachment A dated 4/24/06

Note: The above description 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.

SECTION V. Certification

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

Signed: Sara J. Wan
Appellant or Agent

Date: 4/24/06

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

April 24, 2006

ATTACHMENT "A" – Hotel Del Coronado Condominium Appeal

On August 27, 2002, the Coronado City Council approved issuance of an appealable coastal development permit amendment for the Hotel Del Coronado Master Plan (CP 3-02), authorizing numerous changes and upgrades to the property, including an increase of 205 guestrooms, a 19,700 sq.ft. conference center, relocation of the health spa and tennis courts, improvements to the southern and eastern facades of the main Hotel building, exterior improvements to Grande Hall, relocation of the Hotel driveway entrances, development of below-grade parking structures, landscape and walkway enhancements, an off-street bus drive and staging area off of R.H. Dana Place, and a total of 1,170 on-site parking spaces. That amended permit was not appealed by members of the Coastal Commission because the City coordinated with Commission staff to address the coastal issues raised by the City's approval of the project.

On June 21, 2005, the Coronado City Council approved a one lot tentative subdivision (Res. #8075) allowing for the conversion of 11 of the new cottages and villa hotel units into a maximum of 37 condominium units, a maximum of 2 open space condominium units, and up to 25 non-habitable management condominium units (lobby and maintenance areas). The City did not issue a new coastal development permit or amendment to the existing Master Plan coastal development permit, nor it did issue a coastal development permit exemption. Commission staff became aware of the City's action in March 2006, and contacted City staff for background on the City's action. City staff have since indicated they believe the action is exempt from coastal development permit requirements in a letter dated April 6, 2006. Section 30625 of the Coastal Act allows for Commission appeals of claims of exemption.

The City's certified LCP contains the following policies regarding coastal permit requirements:

86.70.050 Activities requiring a coastal permit.

A coastal permit is required from the City for all development in areas under City coastal permit authority that are not otherwise categorically exempt.

86.70.052 Exempt categories of development.

The City, after public hearings, has identified the following categories of development as having no potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along, the coast, and has therefore exempted these development categories from City coastal permit requirements (as per CMC 86.70.040):

- A. Improvements to existing single-family dwelling buildings (in accordance with restrictions of Chapter 86.74 CMC);
 - B. Improvements to existing duplexes (in accordance with the restrictions of Chapter 86.74 CMC);
-

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C. Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of such repair or maintenance activities; provided, however, that if the City determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall prohibit the use of such methods; and provided, that the activities abide to the restrictions of Chapters 86.72, 86.74 and 86.76 CMC;

D. The installation, testing, and placement in service of the replacement of any necessary utility connection between an existing services facility and any development approved pursuant to this chapter (in 86.74 and 86.76 CMC);

E. Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the coastal zone, pursuant to a permit from the United States Army Corps of Engineers;

F. The replacement of any structure other than a public works facility, destroyed by natural disaster; provided, that such replacement structure or facility shall conform to the applicable requirements of this title, shall be for the same use as the destroyed structure or facility, shall not exceed the floor area, height, or interior cubic volume of the destroyed structure or facility by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure or facility;

G. Demolition of any building except visitor serving commercial uses; provided, however, that if the City determines that certain extraordinary methods of demolition involve a risk of substantial adverse environmental impact, it shall prohibit use of such methods;

H. Construction of a single-family dwelling building on a legal lot of record in conformance to all applicable requirements of this title;

I. Construction of a duplex on a legal lot of record in conformance to all applicable requirements of this title;

J. The removal of major vegetation on municipal property; and

K. Activities not requiring either an initial study under CEQA, an environmental assessment under NEPA, a Planning Commission or City Council interpretation, or issuance of a special use permit or variance; and provided the activities as reviewed within the policies of the Coastal Act shall not create a potential for any adverse effect either individually or cumulatively on coastal resources and the activities conform with all provisions of the LCP land use plan.

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