

To: California Coastal Commissioners
From: Dr. Tim Barnett
Subject: New Appeal #A-6-LJS-07-114

W20a

Please consider the following points as you think about the referenced Appeal

1. Aerial photos show the gunite covers fully one half of the available bluff at 5380 Calumet. This is not the 'only a small portion' phrase continually used by Mr. Peterson (attorney for Mr. Mehl) and colleagues. Check out the aerial photo in my 'Key Points' discussion.
 2. Due to coastal erosion prior to guniting, a good bit of the bluff is on said property since bluff retreated into their lot.
 3. No analysis I have seen shows the gunite at this property to be ineffective in controlling erosion. Peterson and company merely ASSERT that is the case. They have no evidence to support this claim. Indeed, the bluff there has been intact for nearly 20 years, so the gunite must be doing some good.
- In any event, sec. 143.0143 discusses application of erosion materials and associated 40' setback required in this case. There are NO qualifications that the material has to be effective. Nor is there any verbiage that says whose property the gunite is on, City or private, makes a difference. It was clearly placed to protect 5380 Calumet (and the house immediately to the north). The intent of that placement cannot be questioned.
4. If the gunite was/is not intended as a coastal protection device, then why does it extend to the bottom of the bluff?
 5. The question of sea level change currently has uncertainties. But quoting an older source of information to justify their argument is hardly convincing. The science has changed. The 2007 references in my supporting document are about the best we can do today.
 6. As I remember, and one of the Commissioners noted in their appeal, the engineering firm hired by Mehl stated that removal of the gunite would enhance bluff erosion from rain runoff down the western face of the slope. Why do they want to tear it off?
 7. The gunite has been in place since about the 1980s. A small piece has broken off at the southern end of the application. It is hardly the transient, decaying feature portrayed by Peterson, et al. The aerial photos show little if any change between the 1980s and 2006, the latest photo I could find.

In short, their arguments are simple assertions with no facts to back them up. Indeed, all of the facts show their assertions are incorrect. They ignore the law and demand

Received

DEC 05 2007

California Coastal Commission
San Diego Coast District

Letters from Apellant

considerations that violate code. I urge that 'Substantial Issue' be found and the City/State codes be upheld.

Thanks for your consideration.

Signature on File

PETERSON & PRICE
A PROFESSIONAL CORPORATION

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MARSHAL A. SCARR
MATTHEW A. PETERSON
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OF COUNSEL
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File No.
6948.001

RECEIVED
DEC 3 2007

December 3, 2007

Chairperson Patrick Kruer and Members of
The California Coastal Commission
45 Fremont St., Suite 2000
San Francisco, CA 94105-2219

Re: Wednesday, December 12, 2007 Agenda Item #20A
David and Bonnie Mehl's Home – Appeal #A-6-LJS-07-114

Dear Chairperson Kruer and Members of the California Coastal Commission:

We represent David and Bonnie Mehl with regard to the above referenced
matter.

Please accept this as our client's request that you determine that the appeals
raise no substantial issue. For the record our client concurs with your Staff's analysis
and conclusion with regard to community character, calculation of FAR, and
preservation and enhancement of public views as contained within the Staff Report on
pages 7, 8, and 9. However, our client does not agree that the existing gunite
constitutes shoreline erosion protection within the premises, which would mandate a 40
foot setback. As your Staff is aware there is only a small portion of the gunite which is

Letter from Applicant's Agent

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located within our client's property. The majority of it is located offsite to the west on the City of San Diego property and offsite on the adjacent property to the north.

The geologic reports, the coastal engineering reports, and the City of San Diego Hearing Officer determination as evidenced in the Transcript, which we provided to your Staff, all established that the gunite is not, and has not served as a coastal protection device. The projected bluff retreat and the factor of safety determinations were both analyzed with the assumption that the gunite was not in place. Further, the assertion of rising sea levels and the potential increase in shoreline erosional forces was specifically addressed by our client's Coastal Engineer. The gunite is not contributing to, or preventing coastal erosion and it is not destabilizing the bluff in any way. In fact, the gunite is in very poor condition and over time will continue (as it already has) to decompose and fall away.

The City of San Diego imposed a condition within its CDP approval which required that our client remove the gunite within our client's site if it could be determined that the removal would not be detrimental or damaging to the coastal bluff. Condition #32 reads as follows:

"The Owners/Permittees acknowledges that the existing blufftop improvements, including the gunite wall, are not permitted as part of this project. All portions of these improvements which can be removed without damage to the coastal bluff shall be removed prior to final inspection by the City. Any existing unpermitted blufftop improvements

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which cannot be removed due to the potential for bluff damage shall not be maintained and shall be allowed to deteriorate in order for the bluff area to be naturally restored over a period of time."

Our client is prepared to remove the gunite within their property if that is the desire of the Coastal Commission.

As a final note, the existing residence is nonconforming. The existing home is only 10 feet from the bluff edge, where a 25 foot setback is required. In the event that their proposed home is not authorized, the existing structure would remain and be remodeled and expanded subject to the provisions of the Certified LCP and the Municipal Code. In such a scenario, the existing nonconforming 10 foot setback would be maintained. We believe that our client's proposed home will implement many goals and objectives of the California Coastal Commission and will be far more superior to what exists in terms of maintenance and enhancement of existing views, and locating structures further away from the coastal bluff.

It should be noted that most, if not all of the other bluff front homes along Calumet are within 5-15 feet of the edge of the bluff. Our client's proposed home with a 25 foot setback will be further away from the bluff than nearly all of the other adjacent homes along Calumet.

In conclusion, we would request that you determine that there is no substantial issue raised by the appeals and allow the project to proceed consistent with the City



approved Coastal Development Permit. The gunite within the site can be removed
consistent with the City CDP Special Condition #32.

Thank you for your consideration of this request.

Sincerely,

Signature on File

Matthew A. Peterson

cc: Lee McEachern, District Regulatory Supervisor
Laurinda Owens, Coastal Planner
David and Bonnie Mehl

W20a



San Diego Chapter

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DEC 07 2007

CALIFORNIA
 COASTAL COMMISSION
 SAN DIEGO COAST DISTRICT

Hon. Patrick Kruer, Chair
 California Coastal Commission
 December 5, 2007

W20a

Dear Chairman Kruer and Commissioners:

The San Diego Sierra Club writes in strong support for the recommended finding of Substantial Issue on the Mehl project. Please consider the following reasons.

1. Forty foot setback required:

On blufftop properties which have been gunnited to curb erosion, the LDC calls for no reduction in the required 40' setback, whether the gunnite is on private property or City park land. Cf. 143.0143(f) (2):

"If a seawall (or other stabilization/erosion control measure has been installed due to excessive erosion on a premises, that premises shall not qualify for a reduction of the required 40' distance to the coastal bluff edge."

2. Questionable FAR calculation:

The project reflects an unstated City process whereby FAR can be calculated based on the original plat map for the site. Thus, on old maps such as this, the City is allowing square footage to be based on blufftop "land" area which, through erosion, no longer exists.

of these important points.

Signature on File


 Joanne H. Pearson, Coastal Committee Chair, San Diego Sierra Club

LETTER IN SUPPORT OF
 STAFF RECOMMENDATION

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CALIFORNIA COASTAL COMMISSION

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W20a

Filed: 11/2/07
49th Day: 12/21/07
180th Day: 4/30/07
Staff: Laurinda Owens-SD
Staff Report: 11/19/07
Hearing Date: 12/12-14/07

STAFF REPORT AND RECOMMENDATION ON APPEAL
SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of San Diego

DECISION: Approved with Conditions

APPEAL NO.: A-6-LJS-07-114

APPLICANT: David and Bonnie Mehl

PROJECT DESCRIPTION: Demolition of an existing one-story, single-family residence including removal of a swimming pool and construction of a two-story, 4,569 sq.ft. single-family residence with a roof deck and attached two-car garage on an 8,282 sq.ft. ocean blufftop lot.

PROJECT LOCATION: 5380 Calumet Avenue, La Jolla, San Diego, San Diego County.
APN 415-021-02

APPELLANTS: Dr. Tim Barnett; Coastal Commissioners Patrick Kruer and Sara Wan

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that substantial issue exists with respect to the grounds on which the appeal has been filed.

SUBSTANTIVE FILE DOCUMENTS: Appeal Forms; Certified La Jolla LCP Land Use Plan (2003); Certified City of San Diego LCP Implementation Plan; Geotechnical Reports by Christian Wheeler Engineering dated 11/9/05 and updated 4/21/06, 2/22/07, 4/19/07, 7/11/07, 8/21/07, and 8/28/07.

I. Appellants Contend That: The appellants contend that the development, as approved by the City, may be inconsistent with the certified LCP. Specifically, the appellants contend that the development is inconsistent with the shoreline hazard and visual

resource policies of the certified LCP. The appellants contend the City should not have allowed a reduction from the minimally required 40-ft. bluff edge setback for the proposed residence because the coastal bluff currently contains shore and bluff protection consisting of gunite on approximately one-third to one-half (in a vertical direction) of the bluff face. Pursuant to the City's certified LCP Section 143.0143(a), (f), and (g), if a seawall or other stabilization/erosion control measure is installed due to excessive erosion on a site, a reduction in the 40-foot setback for blufftop structures is not permitted. The appellants also contend that the rate of erosion estimated to occur in the next 25 years is inaccurate and underestimated and also does not take into consideration expected sea level rise and El Nino conditions. The appellants further contend that drainage on the bluff face was not considered in the factor of safety analysis for purposes of determination of an adequate setback from the bluff edge for the proposed home. Other issues raised by one of the appellants include that the proposed home will be a box-shaped residence that is out of character with the community in terms of bulk and scale, that the new home will extend into a view corridor south of the site (thus blocking ocean views) and that the F.A.R. was incorrectly calculated as it included portions of the site that have already eroded and, as such, a smaller home should have been required for the lot.

II. Local Government Action. The coastal development permit was approved by the Hearing Officer on 10/10/07. The conditions of approval address, in part, the following: parking; building height; hold harmless agreement; open fencing and landscaping permitted in the visual corridor; drainage; existing non-conforming structures located on the bluff; required coastal blufftop setback; required blufftop setback for accessory structures; outdoor lighting; and, landscaping; and requirements for removal of unpermitted improvements west of the 5 foot bluff edge setback.

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. 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, unless the time limit is waived by the applicant. Cal. Pub. Res. Code § 30621(a), 3062(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 may proceed directly to the de novo portion of the hearing on the merits of the project then, or at a later date.

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 either immediately or at a subsequent meeting. If the Commission conducts the de novo portion of the 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 portion of the hearing, any person may testify.

IV. 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-07-114 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-LJS-07-114** 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 and recreation policies of the Coastal Act.

V. Findings and Declarations.

1. **Project Description/Permit History.** Proposed is the demolition of an existing one-story single-family residence, swimming pool and other landscape features on an 8,282 sq.ft. blufftop lot. The existing residence is located approximately 10 ft. from the bluff edge at its closest point. Also proposed is the construction of a new, two-story, 4,569 sq.ft., single-family residence with an attached garage and landscape improvements. The new residence is proposed to be sited a distance of 25 ft. from the bluff edge. The 8,282 sq. ft. subject site is located on the west side of Calumet Avenue in the community of La Jolla in the City of San Diego. The residences along the seaward side of Calumet Avenue are situated on blufftop lots. Access to the shoreline in this area is gained from Linda Way, sixteen lots south of the subject site where there is an existing improved vertical public access stairway. Although there is access available at Calumet Park, just two lots north of the subject site, the unimproved trail traverses a coastal bluff and is not considered safe and as such, is not recognized as an improved public access.

The City approved the proposed development on 10/10/07. On 11/01/07, the local Commission office received the notice of final local action regarding the project. On 11/02/07, Dr. Tim Barnett filed an appeal of the project and on 11/16/07 Coastal Commissioners Patrick Kruer and Sara Wan filed an appeal of the project.

2. **Shoreline Hazards.** The appellants contend that the City's approval of the proposed new single-family residence on the subject site is inconsistent with the City's certified LCP as it pertains to geologic blufftop setbacks. Specifically, the City approved the proposed residence to be located a minimum distance of 25 ft. from the bluff edge. However, there is gunite on a portion of the bluff face of the subject site. As stated in the project geotechnical report, the gunite extends from the toe of the bluff up to the bluff edge on an approximately 20-foot high coastal bluff and covers approximately $\frac{1}{3}$ to $\frac{1}{2}$ of the bluff face. The applicant's representatives have estimated that the gunite has been in place since the 1950s or 1960s. The City, through its conditions of approval, acknowledged this gunite is a non-conforming structure on the bluff. However, the City did not require the gunite be removed because of concerns related to the adverse effects such removal would have on the stability of the coastal bluff. Condition #35 of the City's permit states that any improvements west of the 5-foot coastal bluff edge setback, including the gunite, are not permitted as part of the project.

The geotechnical report completed for the project concludes that the new development will not be affected by bluff instability, will not contribute to significant geologic instability and will not require any shoreline protection measures, throughout the anticipated 75 year economic life span of the structure. In addition, it is stated that the project complies with the “ESL Regulations and the Coastal Bluff and Beaches Guidelines” and that the residence has been designed to observe a 25-foot bluff edge setback as recommended by the geologic investigation. However, the findings of the geotechnical report also state:

The existing gunite on the face of the bluff protects the face and the upper portion of the bluff from rainfall, so that no surficial erosion is currently occurring where the gunite is present. If the gunite were to be removed, it is our opinion that erosion would again occur in those areas, and that the rate of bluff top erosion would then be as predicted in our previous reports (approximately 25 feet in 75 years.).

Pursuant to the City’s certified LCP, all proposed development on a coastal bluff must observe a minimum setback of 40 feet from the bluff edge unless a site-specific geology report is completed which makes findings that a lesser setback can be permitted (or a greater setback is necessary). Specifically, Section 143.0143 addressing Development Regulations for Sensitive Coastal Bluffs states the following:

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

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

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

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

The appellants contend the City's approval of the existing residence sited a distance of 25 feet from the bluff edge is inconsistent with the above-cited policies of the City's LDC because there is existing shoreline stabilization/erosion control protection on the subject site. As noted earlier, the gunite was placed on the bluff in the 1950s or 1960s. The appellants contend that regardless of who placed the gunite on the bluff, the concern is with regard to the intent of the guniting/shoreline stabilization. The appellants assert it was not installed for cosmetic purposes or as a preventive measure. The only reason such gunite would have been placed on the sea cliff/bluff is to halt severe erosion that had started at the northwest corner of the lot. Even though the gunite is currently only covering approximately $\frac{1}{3}$ to $\frac{1}{2}$ of the bluff face fronting the subject site, earlier photos show that about one-half of the site was gunited at one time. The bluff on the property to the north is fully gunited. The City did not address in its findings whether or not the gunite was shoreline protection. The placement of gunite on the bluff face is a significant expense and was likely prompted by some perceived problem occurring along the shoreline at that time, that could have been "excessive erosion". As noted above, the LCP provision does not require that the home be threatened, only that the protection was installed due to excessive erosion, suggesting the site may not be stable enough to support a less than 40 ft. setback. Based on the above LCP provision, it appears the proposed development is not consistent with the above cited provisions because there is gunite on the bluff face and the City permitted the proposed new home to be sited a

distance of 25 feet from the bluff edge—a distance which is closer to the bluff than allowed under the certified LCP.

On a related point, the appellants also assert that the bluff face is nearly vertical which indicates that there is an active erosion situation. Using the GEI data, Christian Wheeler Engineering (CWE) suggests an erosion rate of 0.33 foot/year. This would amount to a total erosion of about 25 feet in 75 years, *if* the erosion is constant and sea level does not change. It is stated in the report that, “it is our opinion that the actual recession rate of the top of the bluff will probably be much less”. The appellants assert that under current conditions the foot of the bluff is at about mean high water. In high tide situations the bluff experiences direct wave attack as water levels then are about 2-3 feet above the toe of the bluff. This only happens for limited periods of time. As sea level rises, however, the attack time will lengthen. More importantly, higher sea level will allow large waves to attack the bluff before they break. The appellants assert that the CWE calculation and amount of erosion to expect in the next 75 years to be at 25 feet is in error and seriously underestimated. It is also noted that in 75 years, at an erosion estimate rate of 0.33 feet/yr., the west edge of the proposed home is located coincident with the bluff top, clearly a design condition to be avoided. The appellants also contend that the CWE report was silent on expected sea level rise and El Nino conditions—information which is very useful in predicting erosion rates, etc.

The appellants further assert that at least part of the house will be built on or very near the 1.5 Factor of Safety (FOS) line. If a 25 ft. setback is allowed, even a small amount of cliff erosion will push the 1.5 FOS line eastward and within the perimeter of the proposed new building. As time progresses, more and more of the house will be located seaward of the 1.5 FOS line. In addition, the appellants also state that there is serious seepage of water out of the bluff face on the subject property and asserts that this should have been considered in determining the FOS line. Thus, it does not appear that the proposed home, with a 25 ft. setback will be safe over its estimated life such that shoreline protection is not needed, inconsistent with above cited provisions of the certified LCP.

Based on the above-cited LCP provisions, due to the presence of the gunite on the bluff face, a reduction in the required 40-foot bluff edge setback appears to be inconsistent with the requirements of the certified LCP. In addition, it is not clear if a 25 ft. blufftop setback is sufficient to assure the home is safe over its estimated life. The appeal therefore raises a substantial issue regarding the conformity of the proposed development with the setback requirements of the LCP.

3. Community Character/Calculation of F.A.R. Other issues raised by one of the appellants include that the size and bulk of the proposed structure is out of character with the surrounding homes, and will result in a box-shaped structure on the coastal bluff, which is inconsistent with the policies of the certified La Jolla LCP Land Use Plan. Furthermore, it is stated that the “box” will extend into the adjacent view corridor to the south of the subject site, which is also inconsistent with the LUP.

The following policies of the certified La Jolla LCP Land Use Plan are applicable to the proposed development and state the following:

Maintain the character of La Jolla's residential areas by ensuring that redevelopment occurs in a manner that protects natural features, preserves existing streetscape themes and allows a harmonious visual relationship to exist between the bulk and scale of new and older structures. [p. 81]

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; [p. 90]

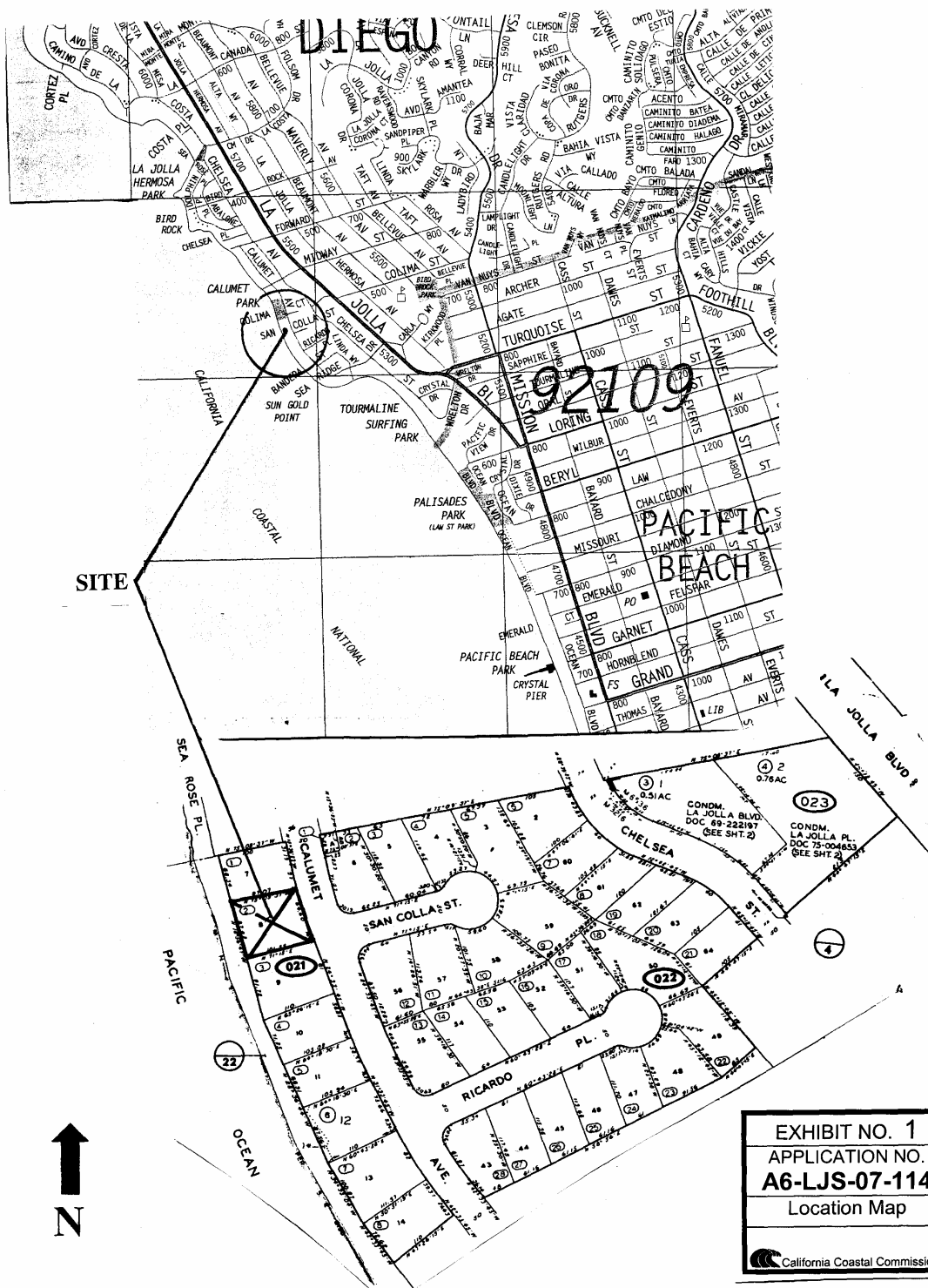
With regard to community character, there appears to be a mixture of small scale and large scale residential building types and styles within a two to three block radius of the subject site. While there are many older, one-story single-family residences in the area, there are also several lots that have been redeveloped and contain newer, two-story structures. While the newer development will result in a larger scale of development than presently exists on the site, the proposed development is nevertheless consistent with the overall character of the neighborhood and pattern of redevelopment in the area which is characteristic of many nearshore areas. Therefore, the Commission finds that the appeal does not raise a substantial issue regarding the proposed development's conformity with the community character policies of the certified LCP.

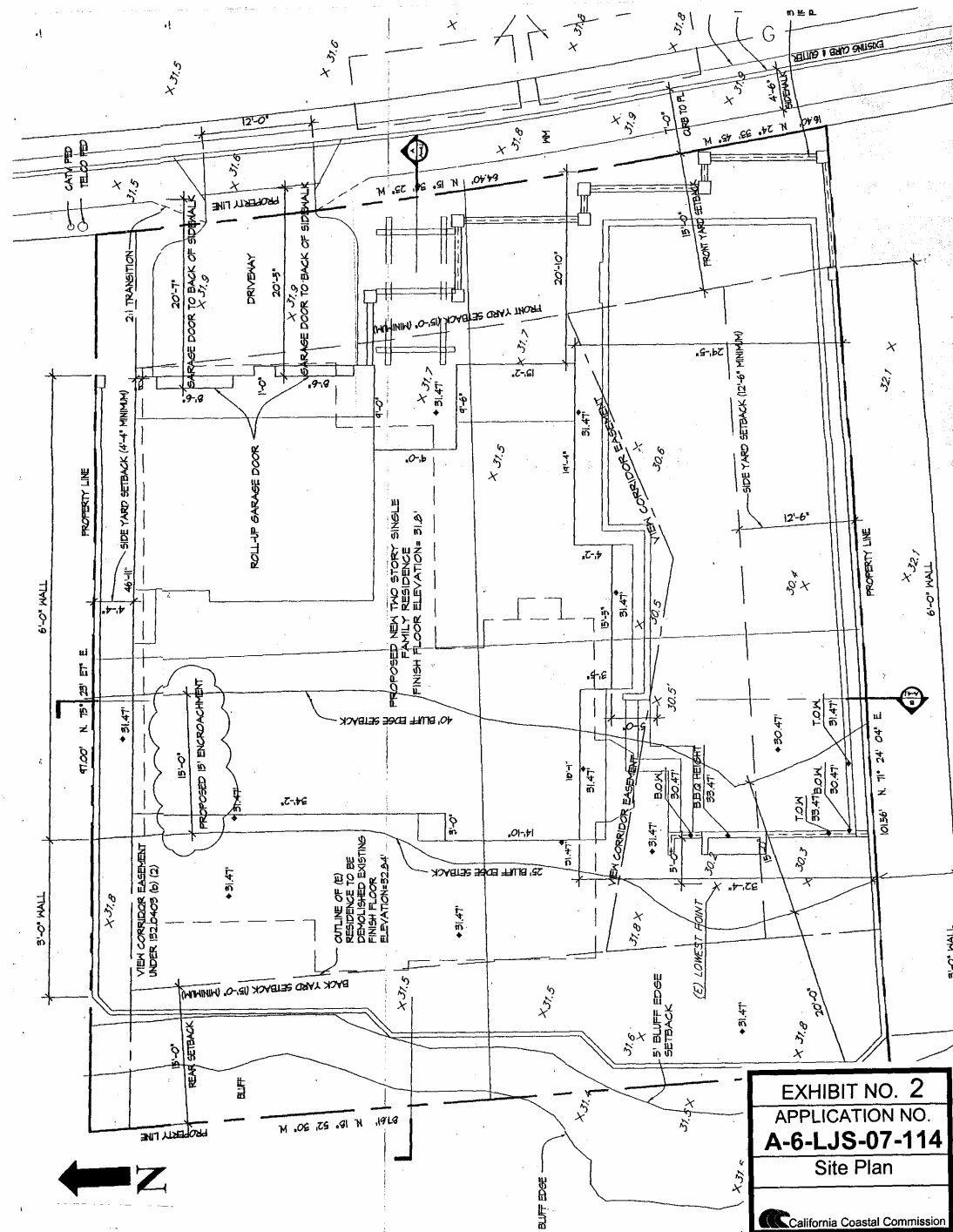
In response to the potential view blockage, San Colla, a cul-de sac on the east side of Calumet is identified as having a scenic overlook (depicted by an arrow on the LCP Land Use Plan maps) looking west across Calumet Avenue to the ocean. The subject site is just north of the arrow depicted in the LCP Land Use Plan and therefore appears to lie just outside of this scenic overlook. In any case, there is an area varying between 20-30 feet in the south side yard that is a building restricted area that was proposed as open space when the original development was constructed on the site. The applicant is proposing to maintain this easement and the City has conditioned the project such that no tall vegetation or solid fences are permitted within 12'6" of this area (the required south side yard). In addition, as a condition of the City's approval, the south side yard is required to remain open and no landscaping or solid fences exceeding three feet in height were permitted in this area. As such, no public views of the ocean will be blocked as a result of the proposed development.

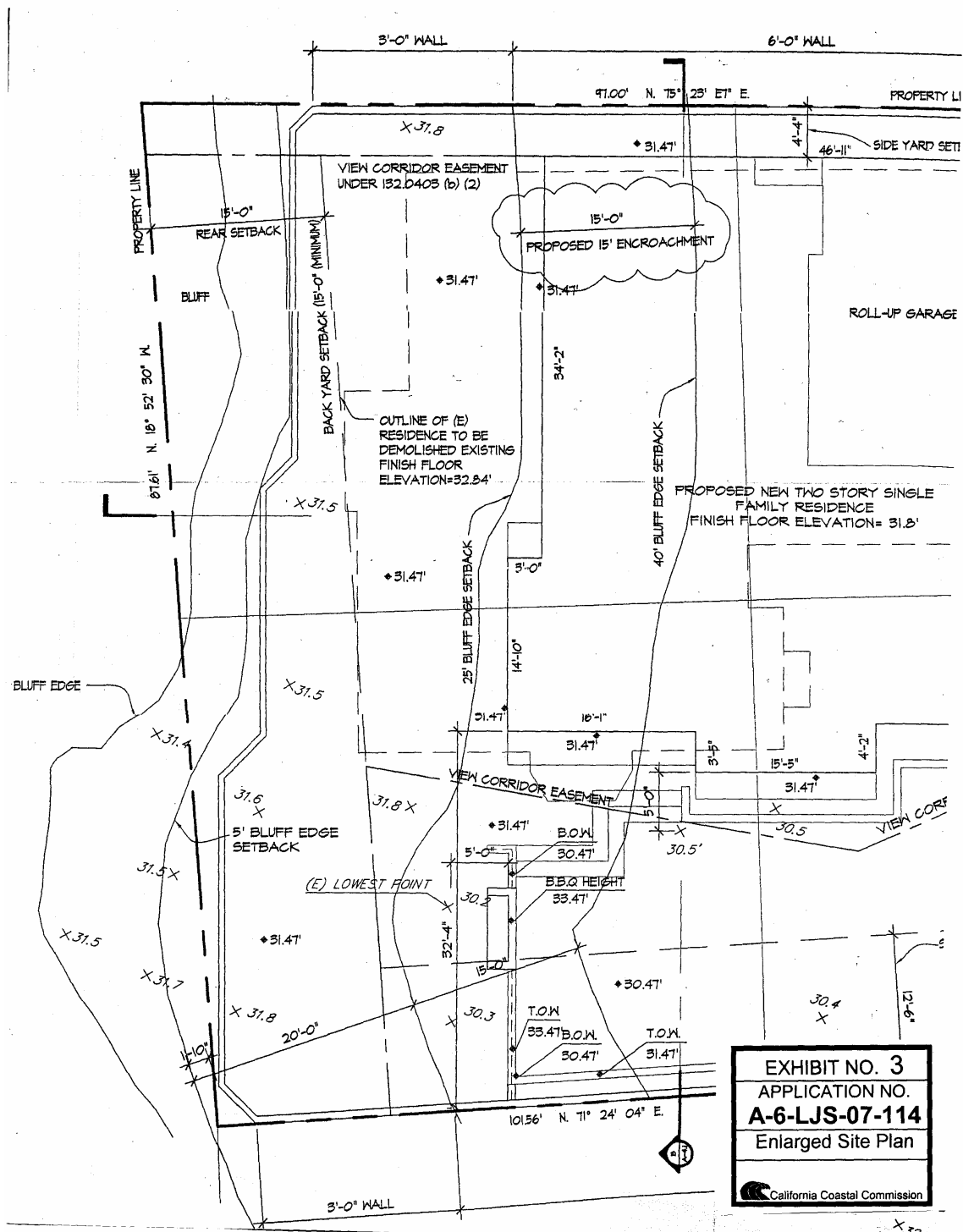
On a related point, one of the appellants asserts that because the western portion of the site has eroded, that the actual lot area is smaller than the area depicted on the plat map utilized by the City and therefore, the calculation of the floor area ratio (F.A.R.) is incorrect and a smaller sized home should have been required on the subject lot. Specifically, the high water mark has moved along with the bluff retreat from the originally planted area. The appellant asserts that roughly 1,000 sq.ft. of lot area is

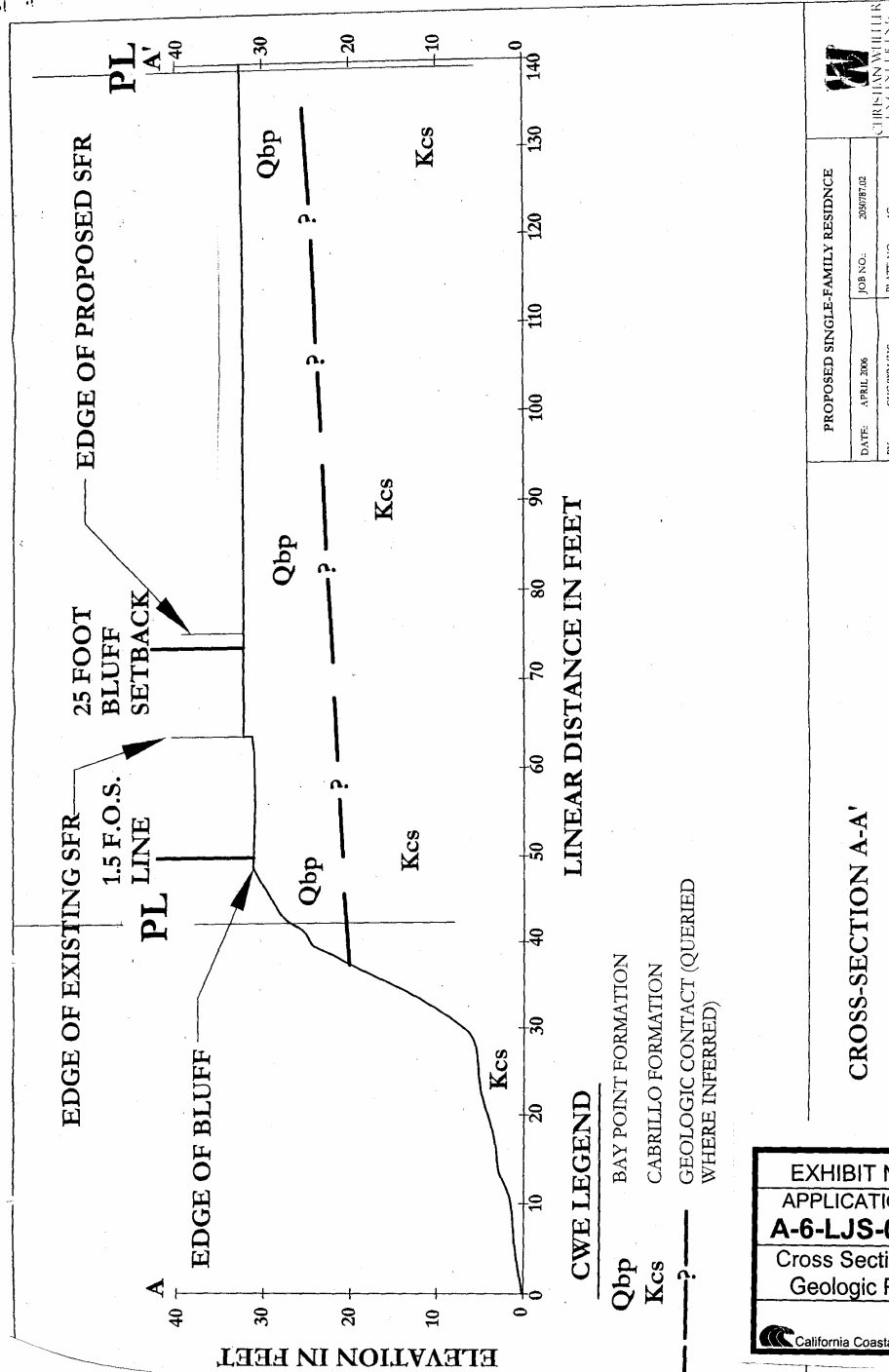
actually “thin air” due to the coastal erosion. However, this is not the case; the lot area remains the same, it is just that the western portion of the site, where the bluff has eroded back, is now a steeper slope, but still remains within the limits of the lot depicted on the plat used by the City. Thus, this concern raised by the appellant does not raise a substantial issue.

In summary, the proposed residence will be compatible in bulk and scale with the pattern of redevelopment in the area, will not result in the blockage of any public views to the ocean and is consistent with the City’s requirements for the calculation of the F.A.R. The appeal therefore does not raise a substantial issue with regard to the issues raised by the appellants concerning conformity with the community character provisions of the certified LCP.









<p>EXHIBIT NO. 4</p> <p>APPLICATION NO.</p> <p>A-6-LJS-07-114</p> <p>Cross Section from</p> <p>Geologic Report</p>
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California Coastal Commission

STATE OF CALIFORNIA — THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

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NOTIFICATION OF APPEAL PERIOD

DATE: November 2, 2007
TO: Edith Y. Gutierrez, Development Project Manager
City of San Diego Development Services, City Operation Building
1222 First Avenue
San Diego, CA 92101
FROM: Laurinda Owens, Coastal Program Analyst
RE: **Application No. 6-LJS-07-244**

Please be advised that on November 1, 2007 our office received notice of local action on the coastal development permit described below:

Local Permit #: CDP #335185

Applicant(s): David and Bonnie Mehl

Description: Demolition of an existing one-story single-family residence including removal of a swimming pool and construction of a two-story, 4,569 sq.ft. single-family residence with a roof deck and attached two-car garage on an 8,282 sq.ft. ocean blufftop lot.

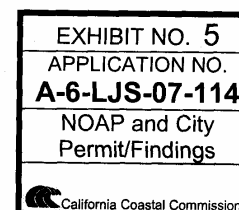
Location: 5380 Calumet Avenue, La Jolla, San Diego (San Diego County)

Unless an appeal is filed with the Coastal Commission, the action will become final at the end of the Commission appeal period. The appeal period will end at 5:00 PM on November 16, 2007.

Our office will notify you if an appeal is filed.

If you have any questions, please contact me at the address and telephone number shown above.

cc: David and Bonnie Mehl
Mark Lyon





THE CITY OF SAN DIEGO

COASTAL DEVELOPMENT PERMIT
NOTICE OF FINAL ACTION

426388

DATE: October 26, 2007

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: Mehl Residence, Project No. 101888**PROJECT DESCRIPTION:** Demolish an existing one-story residence and construct a two-story single family residence on a 8,282 square foot lot.**LOCATION:** 5380 Calumet Avenue**APPLICANT'S NAME** Mark Lyon**FINAL ACTION:** X APPROVED WITH CONDITIONS**ACTION BY:** Hearing Officer**ACTION DATE:** October 10, 2007**CONDITIONS OF APPROVAL:** See attached Permit.**FINDINGS:** See attached Resolution.X Appealable to the Coastal Commission

cc: California Coastal Commission

Edith Gutierrez, Development Project Manager
Development Services Department
1222 First Avenue, MS 501, San Diego, CA 92101-4153
Phone: (619) 446-5466

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CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

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

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 42-6388

COASTAL DEVELOPMENT PERMIT NO. 335185 AND
SITE DEVELOPMENT PERMIT NO. 456239
MEHL RESIDENCE - PTS 101888
HEARING OFFICER

This Coastal Development Permit No. 335185 and Site Development Permit No. 456239 are granted by the Hearing Officer of the City of San Diego to DAVID AND BONNIE MEHL, Owners/Permittees, pursuant to San Diego Municipal Code [SDMC] section 126.0701 and 126.0501. The 0.190 acre site is located at 5380 Calumet Avenue in the RS-1-7 Zone, the Coastal Overlay (appealable), the Sensitive Coastal Overlay, the First Public Roadway, the Coastal Height Limit Overlay, the Beach Impact Overlay, the Transit Area Overlay and the Residential Tandem Parking Overlay Zones, in the La Jolla Community Plan and Local Coastal Program Area. The project site is legally described as Lot 8, Sun Gold Point, Map No. 3216.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish an existing one-story residence and construct a two-story single family residence, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated October 10, 2007 on file in the Development Services Department.

The project shall include:

- a. Demolition of an existing one-story single family residence and removal of a swimming pool;
- b. Construction of a 4,569 square foot, two-story single family residence with a roof deck and attached two-car garage on a 8,282 square foot lot;
- c. Landscaping (planting, irrigation and landscape related improvements);
- d. Off-street parking;

- e. Accessory improvements determined by the Development Services Department 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. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in affect at the time the extension is considered by the appropriate decision maker.
2. 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, or following all appeals.
3. 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 Owner/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.
4. 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 Development Services Department.
5. This Permit is a covenant running with the subject property and shall be binding upon the Owner/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.
6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
7. Issuance of this Permit by the City of San Diego does not authorize the Owner/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.).

8. The Owners/Permittees shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

9. Construction plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. 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" conditions(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.

11. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, including, but not limited to, any to any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

ENGINEERING REQUIREMENTS:

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

13. Prior to the issuance of any construction permits, the Owners/Permittees 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.

14. Prior to the issuance of any building permits, the Owners/Permittees shall assure the closure of the existing driveway with restoration to full-height curb, gutter and sidewalk, the installation of a force main sidewalk underdrain and the installation of a 12-foot driveway, on Calumet Avenue, all satisfactory to the City Engineer.

15. Prior to foundation inspection, the Owners/Permittees shall submit a building pad certification signed by a Registered Civil Engineer or a Licensed Land Surveyor, certifying the pad elevation based on USGS datum is in accordance with the approved plans.

16. Prior to the issuance of any building permits, the Owners/Permittees shall obtain an Encroachment Maintenance and Removal Agreement, for landscaping and a force main sidewalk underdrain in Calumet Avenue, satisfactory to the City Engineer.

PLANNING/DESIGN REQUIREMENTS:

17. No fewer than two off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the Development Services Department.

18. 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 Owners/Permittees.

19. 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.

20. 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.

21. The height(s) of the buildings(s) or structures 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.

22. Prior to the issuance of building permits the Owner/Permittee shall execute and record in favor of the City a hold harmless and/or indemnification agreement for the approved development.

23. In accordance with the requirements of San Diego Municipal Code, Sections 143.0140 (a) and 143.0142 the Owners/Permittees shall execute a covenant of easement recorded against title to the affected premises and executed in favor of the City in order to preserve the Environmentally Sensitive Lands (Coastal Bluffs).

24. The covenant of easement shall contain a description of the premises affected by the permit and a description of the allowable development area, and shall preclude all areas of the site located westerly of the sensitive coastal bluff edge from development.

25. The covenant of easement shall notice all persons to the extent afforded by the recording laws of the state regarding the restrictions affecting the use of the environmentally sensitive lands covered by the permit. The covenant of easement shall ensure enforceability by the City.

26. The covenant of easement shall insure that the burdens of the covenant of easement shall be binding upon, and the benefits of the covenant shall inure to, all successors in interest to the affected premises.

27. The Owners/Permittees shall maintain the existing Deed Restriction, County Clerk Document No. 70712, recorded on June 1, 1955 which precludes any house, building or any other structure from being erected or maintained on certain portions of the southern half of the subject property as shown on the approved exhibit "A" dated October 10, 2007.

28. Prior to the issuance of building permits the Owners/Permittees shall record against the property an easement preserving a visual corridor not less than 4 feet, 4 inches in width and running the entire depth of the premises along the north side property line.

29. Open fencing and landscaping may be permitted within this visual corridor, provided such improvements do not significantly obstruct public views of the ocean. Landscape within this visual corridor shall be planted and maintained not exceed 3 feet in height in order to preserve public views.

30. No landscaping, solid fences or walls in excess of 3 feet in height shall be permitted within the southern 12 feet, 6 inches of the subject property. In addition, fences and walls heights shall not exceed the limits contained in Chapter 14, Article 2, Division 3 (fence regulations) and portions of fences and walls in excess of 3 feet in height shall be at least 75% open to light and air.

31. No development shall be permitted on the coastal bluff face.

32. At grade accessory structures and landscape features customary and incidental to residential uses shall not be closer than five feet to the coastal bluff edge, in accordance with the requirements of the Land Development Code.

33. All drainage from the improvements on the premises shall be directed away from any coastal bluff and either into an existing or 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. All drainage from unimproved areas shall be appropriately collected and discharge in order to reduce, control, or mitigate erosion of the coastal bluff.

34. A reduction from the 40 foot bluff setback to 25 has been permitted for new construction only; therefore, the owner shall waive of right to new protective devices associated with the subject property in accordance with Land Development Code, Section 143.0143(f)(1).

35. The Owners/Permittees acknowledges that the existing improvements west of the 5 foot coastal bluff edge setback, including the gunite wall, are not permitted as part of this project. All portions of these improvements which can be removed without damage to the coastal bluff shall be removed prior to final inspection by the City. Any existing unpermitted improvements west of the 5 foot coastal bluff edge setback which cannot be removed due to the potential for bluff damage shall not be maintained and shall be allowed to deteriorate in order for the bluff area to be naturally restored over a period of time.

36. It shall be the responsibility of the Owners/Permittees to properly remove and dispose of any and all debris resulting from the natural erosion of any existing improvements west of the 5 foot coastal bluff setback improvements that cannot be removed as a part of this project.

37. 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.

38. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

GEOLOGY REQUIREMENTS:

39. Additional geotechnical review will be required during the ministerial permitting process if a grading permit or building permit is requested.

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 §66020.

APPROVED by the Hearing Officer of the City of San Diego on October 10, 2007, HO-5863.

Coastal Development Permit No. 335185 and
Site Development Permit No. 456239
Date of Approval: October 10, 2007

AUTHENTICATED BY THE DEVELOPMENT SERVICES DEPARTMENT

Edith Y. Gutierrez
Development Project Manager

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1180 et seq.**

**The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.**

DAVID MEHL
Owner/Permittee

By _____
DAVID MEHL

BONNIE MEHL
Owner/Permittee

By _____
BONNIE MEHL

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1180 et seq.**

HEARING OFFICER
RESOLUTION NO. HO-5863
COASTAL DEVELOPMENT PERMIT NO. 335185 AND
SITE DEVELOPMENT PERMIT NO. 456239
MEHL RESIDENCE – PROJECT NO. 101888

WHEREAS, DAVID AND BONNIE MEHL, Owners/Permittees, filed an application with the City of San Diego for a permit to demolish an existing one-story single family residence, removal of a swimming pool and construction of a 4,569 square foot, two-story single family residence with a roof deck and attached two-car garage on a 8,282 square foot site (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit Nos. 335185 and 456239), on portions of a 0.190 acre site;

WHEREAS, the project site is located at 5380 Calumet Avenue is in the RS-1-7 Zone in the Coastal Overlay (appealable), the Sensitive Coastal Overlay, the First Public Roadway, the Coastal Height Limit Overlay, the Beach Impact Overlay, the Transit Area Overlay and the Residential Tandem Parking Overlay Zones, in the La Jolla Community Plan and Local Coastal Program Area;

WHEREAS, the project site is legally described as Lot 8, Sun Gold Point, Map 3216;

WHEREAS, on October 10, 2007, the Hearing Officer of the City of San Diego considered Coastal Development Permit No. 335185 and Site Development Permit No. 456239 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 October 10, 2007.

FINDINGS:

Coastal Development Permit - Section 126.0708

A.

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; and**

The 8,282 square foot site located at 5380 Calumet Avenue is on the west side of Calumet Avenue and east of the Pacific Ocean. The project proposes to demolish an existing, one-story single family residence and construct a 4,569 square foot, two-story single family residence on a 8,282 square foot lot. This Bird Rock neighborhood is developed in its entirety, adjacent to and across from the proposed project. The subject property is not identified in the City's adopted Local Coastal Program (LCP) Land Use Plan as a public accessway. There is no physical accessway legally used by the public on this property or any proposed public accessway as

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identified in the LCP Land Use Plan. There are two vertical public accessways down to the rocky shoreline within the immediate area. The first is located north of the site at Bird Rock Avenue. The second public accessway is south of the subject site at Linda Way. There is also a public park (overlook) about 150 feet to the north called Calumet Park. From this park there are unobstructed expansive views to, and along the shoreline.

The site is privately owned and improved with a single family residence, and therefore would not encroach upon any existing physical accessway legally utilized by the general public. The proposed development conforms to all the requirements of the San Diego Municipal Code, including the RS-1-7 Zone, Environmentally Sensitive Lands Regulations (ESL), Coastal Bluffs and Beaches Guidelines and the Coastal Overlay Zone. The La Jolla Community Plan and Local Coastal Program has identified San Colla Street, the cul-de-sac directly in front of this residence, as a Scenic Overlook where a view from right of way over a portion of private property can be seen. The residence was designed and conditioned to maintain and comply with an existing deed restriction on the south side of the property which contains language prohibiting the erection or maintenance of any structures or landscaping material exceeding 3'-0" in height within the existing deed restricted area. In addition, the project is designed and conditioned to provide a view easement the width of the north side yard and running the full depth of the premises to preserve and enhance a designated public view and all prevents the placement of landscaping, solid walls or fences in excess of 3'-0" in height within the 12'-6" of the property.

The proposed residence will not obstruct coastal or scenic views from any public vantage point. There will not be any increase in building footprint of the existing structure that would, from a public vantage point, result in the blockage of public views to and along the ocean. The proposed home would be consistent with the height of any existing structures within this particular neighborhood. It has been concluded that construction of the various improvements will not adversely obstruct public views to, or along the ocean.

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

The project proposes to demolish an existing, one-story single family residence and construct a 4,569 square foot, two-story single family residence on a 8,282 square foot lot. The project site, located within an urbanized area of La Jolla, contains ESL in the form of a sensitive coastal bluffs. Currently, the base of the bluff contains air-placed concrete (gunite). Most of the gunite is on City Property. A small portion of the gunite is located within the subject property. The specific date of construction of the gunite is not known, however, aerial photographs document the placement of the gunite between the 1960's and early 1970's which is prior to permit requirements for such devices by both the City of San Diego and the State of California. The project, as designed and conditioned will maintain all areas west for the coastal bluff edge in a building restricted easement in order to preserve the coastal bluff. As conditioned, the permit requires that all existing improvements west of the coastal bluff edge that can be removed without damage to the coastal bluff shall be removed prior to the final inspection the City. Improvements west of the 5'-0" coastal bluff edge setback that cannot be removed as a part of this project due to the potential for bluff damage shall be allowed to naturally erode and the owners must remove and must properly dispose of any and all debris resulting from the natural erosion of such improvements. No future bluff stabilization measures are allowed. In addition, the owners are required to waive all rights to new protective devices associated with the subject property.

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The entire project site is graded and padded as a result of construction of the exiting home and associated improvements on the property. Minimal grading of the site is required to implement the various improvement features proposed on subject property. No natural slopes, sensitive coastal or marine resources or other environmentally sensitive areas will be adversely affected.

The proposed home and addition to the single family residence is not located on the portion of the property containing the coastal beach or special floor hazard areas. The proposed development is located in an urbanized area of the La Jolla Community Plan. The developed site does not contain sensitive biological resources. The site is not within or adjacent to the City's Multiple Habitat Planning Area (MHPA). A Negative Declaration has been issued pursuant to the California Environmental Quality Act (CEQA).

The existing residence to be demolished is approximately 15 feet from the bluff edge and as such does not conform with the requirements of the Certified LCP, ESL Regulations and the Coastal Bluffs and Beached Guidelines. The proposed residence has been designed to observe a 25'-0" bluff edge setback, as recommended by the geologic investigation report dated October 11, 2005 and prepared by Christian Wheeler Engineering. The report concludes that the new construction will not be affected by bluff instability, will not contribute to significant geologic instability and will not require any shoreline protection measures thought the anticipated 75 year economic life span of the structure. Minimal grading is proposed for the residence, and all drainage from the site will be directed away from the coastal bluff and toward Calumet Avenue.

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; and

The project proposes to demolish an existing, one-story single family residence and construct a 4,569 square foot, two-story single family residence on a 8,282 square foot lot. The project site, located within an urbanized area of La Jolla area identified as Low Density Residential (5-9 du/acre), in the La Jolla Community Plan. The proposed residence is consistent with the land use and conforms to all the requirements of the RS-1-7 Zone, the ESL Regulations, Coastal Bluffs and Beaches Guidelines, Coastal Overlay Zone and the La Jolla Community Plan and Local Coastal Program Land Use Plan. The proposed project would adhere to community goals since it was originally designed in a manner that would not intrude into any of the physical access ways used by the public and has a harmonious visual relationship between the bulk and scale of the existing structure and the adjacent structures.

The proposed building footprint meets the required 25'-0" bluff edge setback and is otherwise virtually identical to the existing building footprint. The structure exceed the required 12'-6" southern side setback by approximately 8'-0" and meets all applicable regulations of the RS-1-7 zone, including height, floor area ratio and angled building envelope. There are multiple two-story structures in the surrounding area which are similar to or exceed the height, floor area ratio and gross floor area of the proposed residence.

The proposed project is consistent with the recommended land use, design guidelines, and development standards in effect for the subject property per the adopted La Jolla Community Plan, the ESL Ordinance, the City's Certified LCP, and the City of San Diego Progress Guide and

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General Plan, which recommends that the subject property be developed with single family residential development in accordance with the development regulations of the existing RS-1-7 zone. The proposed project will comply with all applicable provisions of the Municipal Code and Certified LCP. No deviations or variances are requested.

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 project proposes to demolish an existing, one-story single family residence and construct a 4,569 square foot, two-story single family residence on an 8,282 square foot lot. The project site is located between the First Public Roadway and the Pacific Ocean. The subject property is an interior bluff top property lot located west of San Colla Street and Calumet Avenue. Dedicated public access points to the Pacific Ocean are located north of the site via a stairway from Bird Rock and south via a pathway and stairs from Linda Way which is identified in the La Jolla Community Plan and Local Coastal Program Land Use Plan. The project site is identified as a Scenic Overlook where a view over private property from a public right of way can be seen. The proposed residence is designed and conditioned to have a deed restriction preserving a visual corridor that varies between twenty and thirty feet on the south side yard in addition to containing language prohibiting the erection and maintenance of landscape material and solid walls and fences exceeding three feet in height in the existing deed restricted area, as well as in the northern 4'-4" and southern 12'-6" of the property. In addition, the northern 4'-4" of the property will be covered by an easement to enhance and preserve a public view. Therefore, the development as proposed with the conditions of the permit will enhance and protect these identified public views. There will be no impact to public beach parking since the proposed residence will have two off-street parking space accessed from Calumet Avenue, all existing on street parking is maintained, and the existing 15'-6" non conforming curb cut is required to be reduced to 12'-0". The proposed site improvement will not encroach beyond the legal area of the subject property nor that of the adjacent residential lots. The project conforms to the public access and public recreation policies of Chapter 3 of the California Coastal Act.

Site Development Permit - Section 126.0504

A. Findings for all Site Development Permits

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

The project proposes to demolish an existing, one-story single family residence and construct a 4,569 square foot, two-story single family residence on an 8,282 square foot lot. The La Jolla Community Plan designates this lot for single family residential development. The proposed residence is consistent with the land use and conforms to all the requirements of the RS-1-7 Zone, the ESL Regulations, Coastal Bluffs and Beaches Guidelines, Coastal Overlay Zone and the La Jolla Community Plan and Local Coastal Program Land Use Plan. The proposed project would adhere to community goals since it was originally designed in a manner that would not intrude into any of the physical access ways used by the public and has a harmonious visual relationship between the bulk and scale of the existing structure and the adjacent structures.

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

The project proposes to demolish an existing, one-story single family residence and construct a 4,569 square foot, two-story single family residence on an 8,282 square foot lot. This project has been designed to comply with all of the applicable development regulations, including the ESL Regulations and the Coastal Bluffs and Beaches Guidelines, and is required to comply with the California Building Code. The project site was the subject of a geotechnical investigation which determined that this bluff top site is suitable for the proposed development and that the development will not be subject to bluff instability and will not contribute to bluff instability. The project was designed and conditioned to require all drainage to be directed toward the street and away from the coastal bluff in order to avoid contributing to erosion. This requirement will also result in the prevention of drainage into the ocean thereby contributing to enhanced water quality. The environmental review determined the proposed project would not have a significant effect on the environment or Environmentally Sensitive Lands and a Negative Declaration Project No. 101888 was prepared.

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

The project proposes to demolish an existing, one-story single family residence and construct a 4,569 square foot, two-story single family residence on an 8,282 square foot lot. This project complies with the development regulations of the RS-1-7 Zone, ESL Regulations, and the La Jolla Community Plan and Local Coastal Program Land Use Plan. The existing residence to be demolished is approximately 15 feet from the bluff edge and as such does not conform with the requirements of the Certified LCP, ESL Regulations and the Coastal Bluffs and Beaches Guidelines. The proposed residence has been designed to observe a 25'-0" bluff edge setback, as recommended by the geologic investigation report dated October 11, 2005 and prepared by Christian Wheeler Engineering.

The La Jolla Community Plan and Local Coastal Program has identified San Colla Street, the cul-de-sac directly in front of this residence, as a Scenic Overlook where a view from right of way over a portion of private property can be seen. The residence was designed and conditioned to maintain and comply with an existing deed restriction on the south side of the property which contains language prohibiting the erection or maintenance of any structures or landscaping material exceeding 3'-0" in height within the existing deed restricted area. In addition, the project is designed and conditioned to provide a view easement the width of the north side yard and running the full depth of the premises to preserve and enhance a designated public view and all prevents the placement of landscaping, solid walls or fences in excess of 3'-0" in height within the 12'-6" of the property.

The project site, located within an urbanized area of La Jolla, contains ESL in the form of a sensitive coastal bluffs. Currently, the base of the bluff contains air-placed concrete (gunite). Most of the gunite is on City Property. A small portion of the gunite is located within the subject property. The specific date of construction of the gunite is not known, however, aerial photographs document the placement of the gunite between the 1960's and early 1970's which is prior to permit requirements for such devices by both the City of San Diego and the State of

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California. The project, as designed and conditioned will maintain all areas west for the coastal bluff edge in a building restricted easement in order to preserve the coastal bluff. As conditioned, the permit requires that all existing improvements west of the coastal bluff edge that can be removed without damage to the coastal bluff shall be removed prior to the final inspection the City. Improvements west of the 5'-0" coastal bluff edge setback that cannot be removed as a part of this project due to the potential for bluff damage shall be allowed to naturally erode and the owners must remove and must properly dispense of any and all debris resulting from the natural erosion of such improvements. The project was designed and conditioned to require all drainage to be directed toward the street and away from the coastal bluff in order to avoid contributing to erosion. This requirement will also result in the prevention of drainage into the ocean there way contributing to enhanced water quality.

No future bluff stabilization measures are allowed. The owners are required to waive all rights to new protective devices associated with the subject property.

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 project proposes to demolish an existing, one-story single family residence and construct a 4,569 square foot, two-story single family residence on an 8,282 square foot lot. The project site is located between the First Public Roadway and the Pacific Ocean. The project site, located within an urbanized area of La Jolla, contains ESL in the form of a sensitive coastal bluffs. Currently, the base of the bluff contains air-placed concrete (gunite). Most of the gunite is on City Property. A small portion of the gunite is located within the subject property. The specific date of construction of the gunite is not known, however, aerial photographs document the placement of the gunite between the 1960's and early 1970's which is prior to permit requirements for such devices by both the City of San Diego and the State of California. The project, as designed and conditioned will maintain all areas west for the coastal bluff edge in a building restricted easement in order to preserve the coastal bluff. As conditioned, the permit requires that all existing improvements west of the coastal bluff edge that can be removed without damage to the coastal bluff shall be removed prior to the final inspection the City. Improvements west of the 5'-0" coastal bluff edge setback that cannot be removed as a part of this project due to the potential for bluff damage shall be allowed to naturally erode and the owners must remove and must properly dispense of any and all debris resulting from the natural erosion of such improvements. The project was designed and conditioned to require all drainage to be directed toward the street and away from the coastal bluff in order to avoid contributing to erosion. This requirement will also result in the prevention of drainage into the ocean there way contributing to enhanced water quality.

The existing residence is approximately 15 feet from the bluff edge setback. The proposed residence has been designed to observe a 25'-0" bluff edge setback, as recommended by the geologic investigation report, based on the conclusion that the new construction will not be affected by bluff instability for at least 75 years, taken to be the life of the residence. Further, minimal grading is proposed for the residence. The project as designed and conditioned will ensure the sensitive coastal bluff will not be adversely impacted by the demolition of the existing residence nor the proposed development.

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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 project proposes to demolish an existing, one-story single family residence and construct a 4,569 square foot, two-story single family residence on an 8,282 square foot lot. The site is located on a relatively flat building pad with a steep bluff on the western part of the property that leads to the beach below. The site is located partially in Geologic Hazard Category 53 (level or sloping terrain with unfavorable geologic structure, low to moderate risk) and partially in Geologic Hazard Category 47 (coastal bluffs, generally stable with favorable geologic structure with minor or no erosion) according to the City of San Diego Seismic.

The proposed residence has been designed to observe a 25'-0" bluff edge setback, as recommended by the geologic investigation report dated October 11, 2005 and prepared by Christian Wheeler Engineering. The report concludes that the new construction will not be affected by bluff instability, will not contribute to significant geologic instability and will not require any shoreline protection measures thought the anticipated 75 year economic life span of the structure. Minimal grading is proposed for the residence, and all drainage from the site will be directed away from the coastal bluff and toward Calumet Avenue, preventing adverse impact on the erosion of the coastal bluff.

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

The project proposes to demolish an existing, one-story single family residence and construct a 4,569 square foot, two-story single family residence on an 8,282 square foot lot. The project site is located between the First Public Roadway and the Pacific Ocean and contains ESL in the form of sensitive coastal bluffs.

The project, as designed and conditioned will maintain all areas west for the coastal bluff edge in a building restricted easement in order to preserve the coastal bluff. As conditioned, the permit requires that all existing improvements west of the coastal bluff edge that can be removed without damage to the coastal bluff shall be removed prior to the final inspection the City. Improvements west of the 5'-0" coastal bluff edge setback that cannot be removed as a part of this project due to the potential for bluff damage shall be allowed to naturally erode and the owners must remove and must properly dispense of any and all debris resulting from the natural erosion of such improvements. No future bluff stabilization measures are allowed. In addition, the owners are required to waive all rights to new protective devices associated with the subject property.

Minimal grading is proposed for the residence, and all drainage from the site will be directed away from the coastal bluff and toward Calumet Avenue, preventing adverse impact on the erosion of the coastal bluff.

The proposed residence has been designed to observe a 25'-0" bluff edge setback, as recommended by the geologic investigation report dated October 11, 2005 and prepared by Christian Wheeler Engineering. Therefore, the proposed project is designed to protect and preserve ESL and is consistent with the ESL regulations and the Coastal Beaches and Bluffs Guidelines.

COPY

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

The project proposes to demolish an existing, one-story single family residence and construct a 4,569 square foot, two-story single family residence on an 8,282 square foot lot. The proposed residence is not located within or adjacent to the City's Multiple Species Conservation Program (MSCP) area and therefore, not subject to those regulations. The environmental review determined the proposed project would not have a significant effect on the environment or ESL and a Negative Declaration Project No. 101888 was prepared.

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

The project proposes to demolish an existing, one-story single family residence and construct a 4,569 square foot, two-story single family residence on an 8,282 square foot lot. The project site is approximately 30 feet above the beach below. The proposed development was designed and conditioned to include drainage control measures to direct drainage to the public street to ensure that the proposed structure would not contribute to the erosion of coastal bluffs or public beaches and will not adversely impact local shoreline sand supply.

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.

The project proposes to demolish an existing, one-story single family residence and construct a 4,569 square foot, two-story single family residence on an 8,282 square foot lot. This property is located at the top of a sensitive coastal bluff facing the Pacific Ocean. This project has been designed and conditioned to meet all ESL regulations and the Coastal Bluffs and Beaches Guidelines. A Negative Declaration has been prepared which determined that the proposed project will not have a significant effect on the environment and no mitigation measures are required or necessary.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Coastal Development Permit No. 335185 and Site Development Permit No. 456239 are hereby GRANTED by the Hearing Officer to the referenced Owners/Permittees, in the form, exhibits, terms and conditions as set forth in Permit No.'s 335185 and 456239, a copy of which is attached hereto and made a part hereof.

Edith Y. Gutierrez
Development Project Manager
Development Services

Adopted on: October 10, 2007

Job Order No. 42-6388

COPY

cc: Legislative Recorder

COPY

STATE OF CALIFORNIA -- THE RESOURCES AGENCY

CALIFORNIA COASTAL COMMISSION

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

ARNOLD SCHWARZENEGGER, Governor



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

NOV 2 2007

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

SECTION I. Appellant

Name, mailing address and telephone number of appellant:

TIM BARNETT
333 SAN COLLA
LA JOLLA, CA 92037 (619) 488-5524
Zip Area Code Phone No.
406 961 4646

SECTION II. Decision Being Appealed

1. Name of local/port government: CITY of SAN Diego
2. Brief description of development being appealed: new house construction @ 5380 CALMET AVE, LT
Destruction of existing Mfg.
3. Development's location (street address, assessor's parcel no., cross street, etc.): 5380 CALMET AVE LA JOLLA
Bluff lot at foot of SAN COLLA ST.
4. Description of decision being appealed:
 - a. Approval; no special conditions: X
 - b. Approval with special conditions: X
 - c. 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: A-6-LJS-07-114DATE FILED: 11-2-07

DISTRICT: _____

EXHIBIT NO. 6
APPLICATION NO.
A-6-LJS-07-114
Appeal Forms
California Coastal Commission

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

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

a. ☒ Planning Director/Zoning Administratorc. ☐ Planning Commissionb. ☐ City Council/Board of Supervisorsd. ☐ Other _____6. Date of local government's decision: October August 20077. Local government's file number (if any): project 101888SECTION 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:

D. Mehl
3527 E. Sunrise Dr., Suite 219
Tucson, AZ 85718

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) Jae Mc Elroy, El Paso(2) M. Willis, 315 San Colita St, LS(3) T. Teske, 318 San Colita St, LS(4) Jeanne PearsonSECTION 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.)

The 25' setback in the presence of erosion
control on said property violates CA, land use guidelines
and will lead to property destruction well before 75 yrs.
Due to accelerating west erosion & ground water erosion,
- See attached 1pg summary
- see attached multi discussion of setback issues,
erosion & other factor pertinent to this appeal
- The 25' setback violates CCC guidelines for new bluff
construction

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 knowledge.

Signed 
 Appellant or Agent

Date 6/28/2007

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

Signed _____
 Appellant

Date _____

0016F

Attached please find my concerns on the 5380 Calumet development in La Jolla on the environmentally sensitive coastal bluff zone... The comments also address the failure of the developers' engineering firm (CWE) to respond to major project deficiencies.

A major problem is the granting of a 25' bluff setback instead of the normal 40' setback. The attached shows granting the exception (25') will likely violate the Coastal Act, be in serious non conformity with land use guidelines, ignore CCC guidelines and lead to a structure lifetime of well less than the required 75 years. In addition to these problems, is the serious environmental issue attending demolition of the existing structure located only a few feet from the current bluff edge as well as major excavation within the sensitive bluff zone. There is also a very substantial legal issue on the estimation of the FAR. This latter item may be an issue for the City Attorney's Office, for its implications goes far beyond this project. However, it is an issue that allows jamming huge structures on to ever decreasing lots along the entire coast and so, at least indirectly, it does affect the CCC.

Against, all of the above the City has only the engineering report of CWE to justify the setback exception. But in a letter dated 21 August, 2006 CWE state they 'do not practice coastal engineering'. How can the City then trust their analyses on a coastal engineering project? Further, the analysis they did do has produced results that appear counter intuitive and highly questionable.

In short, the City has no legitimate basis for approving the requested setback exception, or for allowing the applicant to bend/break common rules/guidelines for coastal development on this property. **The project described under 101888 is not supported by the evidence and land use rules and must be denied.**

Thanks for your consideration. Tim Barnett

TAB
6/24/07

Laurinda Owens

From: Lee McEachern
Sent: Wednesday, November 14, 2007 1:19 PM
To: Laurinda Owens
Subject: FW: 5380 calumet appeal

Importance: High



Barnett Letter
05.16.07.doc (8...

Laurinda – FYI. Lee

-----Original Message-----

From: Tim Barnett [mailto:tbarnett-ul@ucsd.edu]
Sent: Wednesday, November 14, 2007 1:16 PM
To: Lee McEachern
Cc: sjpearson@sbcglobal.net; tbarnett-ul@ucsd.edu
Subject: 5380 calumet appeal
Importance: High

hi Lee...after the City approved plans for the above new residence, I filed an appeal with the CCC noting a number of code violations associated with the project. I included, with the appeal, supporting documents that made the case that both the City and developer were trying to neglect existing code requirements and guidelines of both City and State. Some of the material went back to 2006. Other is more recent. I am also enclosing one more communique from the project architect, as it pertains to the neglect of the unity of use provision in determining the FAR, and shows the erroneous manner in which he proposed to proceed. I don't believe you have this in the file.

please let me know if i can be of further help.

best regards, tim barnett



ARCHITECT MARK D. LYON INC.
410 BIRD ROCK AVE. LA JOLLA
CA 92037 (858) 459-1171

5/16/07

Dear Mr. Barnett,

I would like to respond to your email to Ms. Gutierrez dated May 15th, 2007.

It is important that you understand that the bluff edge and the property line/ property boundaries are not related when calculating the lot size and allowable F.A.R. The property which Mr. and Mrs. Mehl, own is defined by their title (legal description) which defines the lot boundaries. The Property boundaries and the "lot lines" remain constant. The condition of the bluff and its erosion rate over time does not change or otherwise modify the lot size and/or allowable F.A.R. The City DSD staff can confirm this for you.

If you were to understand this concept, then you would also understand that the majority of the Gunnite is on City property, and the property to the north, which is not owned by Mr. and Mrs. Mehl. Mr. and Mrs. Mehl cannot control improvement on adjacent property. In this case, the City owns most of the bluff face where the Gunnite is located. Again, the property boundaries remain constant and are defined by ownership rights as set forth in the Legal descriptions.

The setbacks, which you refer to, are bluff edge setbacks and control the proximity of development to that bluff edge. This issue, is part of the Municipal Code. The geologic setbacks are different than the Bluff edge setbacks and are determined by analyzing bluff stability, geologic formations, and projected bluff erosion rates. You will note that CWES report demonstrates that the geology on this property is stable and that the projected erosion rates justify the Muni Code required 25 foot bluff edge setback.

CWE is probably the premier Geologist in San Diego, dealing with Bluff development and assessment of potential impacts to geologic and coastal bluff resources. I have been using them as my Geologic consultant for almost 20 years. Your comments about "reality" and "fantasyland" are inappropriate and insulting. I would suggest that if you want to render meaningful opinions regarding the above referenced matters, a licensed Geotechnical consultant or a certified Coastal Engineer can help you better understand these issues.

I am available if you would like to talk to me or CWE or meet so we can explain these issues. My phone number is (858) 459-1171.

Mark D. Lyon, A.I.A.
Principal Architect

HEARING UPDATE 10/10/2007

OCT 2007

Hi Lee,

The hearing went as expected with the approval to move forward with the Mehl project at 5380 Calumet (City code 101888). Items of interest:

1. The emplaced gunite was said to be old and ineffective. Since it was of no use in protecting the bluff, it was deemed not worthy of further consideration and adherence to Municipal Code 143.0143 went out the window. They tried but failed (I think) to make a case that the gunite was on City property. The fact that 8-10 feet of the lot has eroded since it was platted and that the gunite was on the current bluff, which had eroded into the property, seemed to do the trick there. They also argued that gunite was not really a shore protection device (in spite of what code said).
2. They asked if I had a civil engineer degree to help them evaluate what I said about the erosion of the coastal bluff, e.g. the proposed house would vanish into the ocean well before the mandated 75 year life time, if it were placed 25 feet from the bluff. The fact that I did not have such a degree hurt my argument. They basically ignored the subject after that.
3. They (the City people) seemed much more concerned that the developers had signed all sorts of release papers relieving the City of responsibility if the bluff was damaged, his house fell off the cliff and the fact that he would not ask for permission to armor the bluff in the future.
4. See appended notes on the excavation they want to do. It is massive and not described in any of the City documents. I copy the two main conclusions here.
As it stands now, the CITY has authorized the large scale excavation of thousand of yards of soil from a sensitive bluff front lot without any plan and/or City supervision.
As it stands now, the City has authorized a Site Development Permit without any plan as to how they will handle removal of an existing dwelling and associated foundations that sits only 8-10 feet from the edge of environmentally sensitive coastal bluff.
5. I was stunned at the way the City staff went about their business. They were completely discriminatory in favor of the developer. No point I raised had any merit, in their view. Very unprofessional. They clearly do not work for or care about the people of San Diego; I wonder if I charged my salary to a builder paid impound account, would I feel the same way?

PLEASE GO AHEAD AND SUBMIT MY APPEAL TO THE COASTAL COMMISSION AS SOON AS IS LEGALLY POSSIBLE. It was verified in public hearing that any further appeals on my part will require payment of fees.

Signed

A handwritten signature in black ink, appearing to be 'T. Barnett'.

Dr. Tim Barnett
333 San Colla St
La Jolla, CA 92037

Ps. Enclosed with this note is material you may or may not have. Excuse any duplication

TO: Edith Gutierrez, City Dev Dept
FROM: Dr. T. Barnett
SUBJ: Response to Christian Wheeler Eng comments on Barnett 8/1/2006 memo
Re- 5380 Calumet development

9 June, 2007

In a memo dated 21 August, 2006, transmitted to me 2 May, 2007, the Christian Wheeler Engineering (CWE) company attempted to refute points of objection I raised to development at 5380 Calumet St, La Jolla. Their comments are largely without merit, flat wrong and/or misleading, as I will show below.

In short, the proposed project violates conditions and safeguards to the sensitive coastal bluff areas of Sun Gold Point, awarding an unjustified setback on the subject property. The proposed setback violates the setback guides of the California Coastal Commission. City approval of this project, in the face of its many flaws and breaches of law/guidelines seems indefensible to me and could embarrass/leave liable the City.

Prior to getting into details it should be noted that in the above referenced CWE letter they state (pg 4) *"It should be noted that Christian Wheeler Engineering does not practice coast engineering and that we rely on the opinions of other consultants."* This makes one wonder what they are doing advising anyone on construction at 5380 Calumet which is located on the edge of a coastal bluff in an environmentally sensitive area. I will send you my vita in another mail, but for now it suffices to say I am an internationally recognized scientist with specialties including sea level change, ENSO, climate change and ocean wave dynamics. I am author of over 200 peer reviewed articles on the above subjects, elected Fellow of two different scientific societies and have received the Sverdrup Gold medal award.

Lot Size/building size error (points 1 and 2)

CWE cites no reference to support their contentions in response to Points 1 and 2. They simply make assertions which are subject to interpretation. It apparently has been the custom in San Diego to take the original lot size, before erosion, as the standard for estimating the FAR. However, the matter is apparently not codified. The City code (Chap 11, article 3, div 1) defines FAR" as the numerical value obtained by dividing the gross floor area of all buildings on the 'premises' by the total area of the 'premises' on which the buildings are located". The code says" 'Premises' means an area of land with its structures that, because of its unity of use, is regarded as the lowest conveyable unit".

'Premises' is vague and definitely does not say 'use the entire lot as originally platted'. Indeed, the 'unity of use' phrase seems to rule out using the original parcel size in this case because nearly 1000 sq ft (my rough estimate) of the lot is thin air due to coastal erosion. This section of the 'phantom land' obviously does not allow unity of use with the remainder of the parcel.

As the bluff eroded into the originally platted area, the HW mark moved with it. Thus, the land that eroded may now be at or below HW and so its ownership has reverted to the State. Thus, the proposed project cannot claim it in their estimate of the FAR. The owner does not own that phantom land, the State does...or may. A good survey of the Bluff and lands immediately above and below it is needed. Was that done for this project?

Development Div needs to get a legal opinion on these issues, perhaps from the City Attorney's Office. I content the proper definition of FAR would not include the phantom land and the FAR values estimated by their project are incorrect.

Community Standards (point 3)

The size and bulk of the proposed structure is out of character with the surrounding homes, something the La Jolla Community Plan wants to avoid... the proposed house is essentially a 30 foot high 'box'. There has been no rebuttal on this point by the project architect as promised by CWE in their response of 21 August, 2006.

Bluff set back (point 4)

The impact of the demolition debris as they call it, no matter how it got there is an effective wave dampening system. This fact is in contradiction to the CWE assertion to the contrary. Waves passing over the debris will have their orbital motions disrupted, dissipating wave energy to turbulence before they hit the cliffs. The fact that it was not placed under permit, even if such permits were available in the later 1940s/early 1950s, is immaterial to the impact it has on the cliff structure. The permitting issue used here, and below, is a red herring.

CWE assert that the gunite was placed on the bluffs which belong to the City. Opinions from City employees and legal experts, dispute this claim. In fact, since the bluff now sits well inside the property line of the parcel of land, many argue the bluff belongs to and is the responsibility of the current land owner. Again, whether the guniting was permitted or not is immaterial to the fact that it is an erosion control device as explicitly described in the Land Development Code. Their claims that the guniting was done and City property and not relevant to the subject property is incorrect.

In any event, what matters here is that the **intent** of the guniting/shore protection was to protect the subject lot from erosion. Why else would anyone apply an expensive procedure to the cliff area? They would not do it to be trendy and/or as an insurance policy. It clearly was done after severe erosion had started at the NW corner of the lot. That may be why they only gunited half of their cliff. Note aerial photos show fully one half of the bluff faced was gunited at one time; this is not the 'very minor portion' discussed in CWE. If it were placed as an 'insurance policy' against erosion they would have treated the entire cliff.

The application of an erosion control to the bluff, apparently owned by the proposer, requires a setback of 40' no matter who placed the erosion control device. There are no exceptions stated to this rule in the above referenced section of code. Ignorance of this rule is no excuse, especially since the current owner is a developer himself. Further, the prior owners' actions indicate a clear problem, so the intent of that action is obvious.

Erosion Rate (5)

The face of the bluff cliffs at the site is very nearly vertical, indicating an active erosion situation. There is also a wave undercut section of bluff, which WCE assert does not exist. I have pictures of it and would advise they have a walk on the beach to verify this themselves. By the way, they need to take account of the undercut in their estimates of bluff edge location, a fact they do not mention. Their estimate of bluff edge position near the southern edge of the lot is most likely incorrect, unless they have done this.

Using GEI data, WCE suggest an erosion rate of 0.33 foot/yr. This apparently comes from averaging the retreat rates quoted on pages 3 and 4 of their 21 August letter. This gives a total erosion of about 25 feet in 75 years, IF the erosion is constant and sea level does not change. They say "it is our opinion that the actual recession rate of the top of the bluff will probably be much less". But as noted earlier, they acknowledge not practicing coast engineering, so what weight can we attach to their assertion?

In fact, the issue of bluff erosion rate is complex, not constant in time and a strong function of sea level change. Under current conditions the foot of the bluff is at about mean high water. In high tide situations the bluff experiences direct wave attack, as water levels then are 2-3 feet above the bluff base. This only happens for limited periods of time. As sea level rises (see below) the attack time will lengthen. More importantly, higher sea level will allow large waves to attack the bluff before or as they break. One can use a mathematical model for the rate of erosion (US Army Corps of Engineers, 'Encinitas and... Feasibility Study, Appendix D, Jan 2003; Marine Board, 1987) and gravity wave dynamics to roughly estimate these impacts. The increase in erosion rate of 200-260% can be expected with a sea level rise of 2-4 feet over the next 75 years (see below) and there is no change in wave climate. The home and property under discussion would, under these conditions, be long gone before 75 years, if not protected.

The erosion rate associated with this section of cliff, indeed, the entire coastal region, will accelerate due to a variety of reason discussed below. This fact makes the CWE calculation that the amount of erosion to expect in the next 75 years is about 25 feet clearly in error and seriously underestimated. Note that by year 75, even if we used their estimate of 0.33 feet/yr, the west edge of the proposed home is located coincident with the bluff top, clearly a design condition to be avoided.

In summary, the current and expected erosion rates on the subject property do not justify the 25 setback requested of the City. Indeed, the CWE analysis itself shows the 25' setback to be unacceptable.

Sea Level and el Nino (point 6)

CWE discussion in these areas was either naive (sea level) or hopelessly confused and irrelevant (ENSO). It provides no useful information, but then they are not coastal engineers. Dr. Seymour's quotes, taken not from him but apparently from some report he wrote, have nothing to do with the problem/project at hand. The 4 inch rise noted over the last 50 years, has little to do with sea level changes we can expect in the future.

As noted above, sea level is rising. The rate of increase is accelerating and will continue to do so, as the great ice sheets on Greenland (especially) and Antarctica continue to accelerate their melting rates (due to anthropogenic climate change). These are observed facts, not conjectures. No good mathematical models of ice sheet break up currently exist and that is why the IPCC left that factor out of their projected sea level

increases over the next 75-100 years. But the melting of those ice sheets will dominate thermal expansion of the ocean and melting of land bound glaciers in the sea level budget. Recent work (Rahmstorf, Science, vol 19, Jan 2007) has found a good empirical way to predict future sea level based on the close relation between temperature and sea level. His estimates suggest a rise of between 1.3-3.7 feet in the next 75 years; the large uncertainty coming from the assumption on the amount of additional CO2 Man will put in the atmosphere over the next 75 years.

Sea level at the bluff at Calumet will also have increases associated with ENSO (1 foot), storm surges (1-2 feet) and everyday radiation stress related wave setup over the reef in front of the property(perhaps 1 foot). Under the right conditions, these total perhaps 3-4 feet of sea level rise, *in addition to that associated with anthropogenic sea level rise*. The coastal erosion under these episodic conditions will be huge 'events', far larger than discussed above. While we cannot predict the exact time these events will occur, we can say with near 100% certainty that they will occur within the life time of the proposed structure.

ENSO events will contribute to sea level rise as noted above. The quotes CWE lifted from Seymour's report discuss el Niño prediction. They are incorrect, but have nothing to do with the problem at hand. In fact, during large el Ninos, sea level along the coast are about a foot above normal and stay that way for some months; a fact documented at west coast tide gages (the highest sea levels ever measured at La Jolla 7.71 and 7.81 MLLW occurred in 1983 during a large ENSO event. During warm events, the storm track shifts further south so we see also larger waves at the coast. These, in association with increased sea level, raise havoc with the coastal bluffs (and beaches).

In the future, climate models suggest there will be little change in the nature of ENSO events. So we can expect the type of numbers given above to maintain. The climate models also suggest the frequency of ENSO will stay about the same.

Along related lines, as the oceans warm we can expect tropical depressions and hurricanes to penetrate further northward than they do today. At this time we cannot reliably address this issue, but one direct hit on San Diego would result in huge rain/wave driven damage to the bluffs (and a lot of other things also).

FOS (point 7)

I will leave this to a further, independent engineering analysis, but will point out there is an overhang in sections of the cliff, which CWE deny exist. Their stability model does not operate correctly under those circumstances, a point they ignore.

There is a serious seepage of water out of the bluff face of the subject property. CWE ignore this factor. In response to a City reviewer, CWE say that adding in the impact of water flow between the two sediment layers they modeled had little impact on the results. What was the numerical change in position of the 1.5 FOS line? It is this 'erosion from within' that is an important part of the bluff erosion problem, yet largely ignored here.

I seriously question how the FOS line can be closest to the bluff in just the area the bluff has shown maximum erosion (NW corner). It is also interesting that the FOS line in this region just happens to coincide with the 25 foot setback line the developer is requesting. An explanation of this fortuitous event would be helpful.

Set back considerations (new issue)

An issue not addressed by either CWE or me in earlier documentation is summarized here since it is pertinent to many issues raised above. This material was transmitted to E. Gutierrez on 6/10/2007.

New evidence seems to invalidate the request for 'variance' in setback for this property (5380 Calumet). You will remember that the requested exception is to allow a 25' bluff setback instead of the standard 40'. *Previously, I offered still unrefuted reasons why the 25' exception should not be allowed.* Now a new issue has cropped up that adds weight to NOT allowing the 25' setback.

The staff geologist for the California Coastal Commission (CCC) has offered guide lines for determining setbacks for new development in the coast bluff regions (M. Johnsson, Proc., California and the World Ocean, '02. in press, Establishing ...Coastal Bluffs'). Since the current residence is proposed to be removed, whatever replaces it will be defined as 'new' and subject to the guideline laid down by the CCC.

The engineering firm (CWE) working for the owner of above property states the erosion will cause a bluff retreat of 25' over 75 years. I showed (above) that this estimate is low, but let's use it here for sake of argument. The same firm shows that after taking slope stability into account, the 1.5 FOS contour just happens to follow the 25' setback line requested for this property over the northern section of the property.

Now the CCC guidelines for determining the allowable setback indicate the total allowable setback should be the SUM of these two numbers....stability setback and erosion setback... or 50' (see Johnsson, in press, Figure 6). Allowing the 25' setback, therefore violates the CCC guidelines for new construction within the sensitive coastal bluff area and, therefore, section 30253 of the Coast Act. Specifically, the above additive approach to setback estimation is "the current analytical analysis process carried out by the Coast Commission staff in evaluating proposals for new development on the California coast, and in recommending action upon those proposals to the Commission"(Johnsson, 2003, Memo to Commissioners and Interested parties).

The above makes lots of sense. As now planned, at least part of the house will be built on or very near the 1.5 FOS line, i.e. 25' from the existing bluff. If a 25' setback is allowed, as now suggested, even a small amount of cliff erosion will push the 1.5 FOS line eastward and within the perimeter of the proposed new building. As time progresses, more and more of the house will be located in the danger zone seaward of the 1.5 FOS line (which will not be static but move eastward as the bluff erodes). That constitutes a hazard to not only the bluff, but also the house and its inhabitants.

It may be that the City currently has its own guidelines for determining bluff setbacks, justified in this case solely by CWE analysis. However, it is my understanding that CCC regulations on coastal bluff issues have priority over those of the City. So why make a decision now (25' setback) that is in conflict with guidelines established by a higher authority and subject overturned on appeal later?

Based on the above consideration alone, the 25' setback cannot be justified and so should not be granted. Note the analysis and erosion/FOS numbers come from the proposer's own hired team. The other reasons for not allowing the 25' setback, that I have submitted to you earlier (and above), only strengthen this argument.

Please ask the Staff geologist to reconsider geological approvals in view of the CCC guidelines. If the City still insists on granting the 25' setback than I would like to have the reasons for that decision made a part of the public record and a copy of said argument sent to me.

SUMMARY

In summary, consideration of erosion rates and erosion protection activity at the 5380 location do not justify the granting of a 25 foot setback to the proposed project. Erosion rates estimates, even the constant ones, do not support a 75 year life time for the proposed structure. The application of serious erosion controls to the subject property limit, by code, demands a setback to 40 feet. Finally, the method of estimating setbacks for new structure, promulgated by the CCC is at serious odds with the granting of a 25' setback. Ignoring all of these factors would seem to put the City in violation of the Coastal Act and subject them to needless litigation by private individuals and/or the City Attorney's Office.

Source = Titus
EPA

RECEIVED

Sea Level Rise: Overview of Causes and Effects
OCT 11 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Table 1-1. Worldwide Sea Level Rise Scenarios, 1980-2100
(in cm and ft above 1980 levels)

Scenario	2000	2025	2050	2075	2100
Conservative	4.8 (0.16)	13.0 (0.43)	23.8 (0.78)	38.0 (1.2)	56.2 (1.8)
Mid-range	8.8 (0.29)	26.2 (0.86)	52.3 (1.7)	91.2 (3.0)	144.4 (4.7)
Low					
Mid-range	13.2 (0.43)	39.3 (1.3)	78.6 (2.6)	136.8 (4.5)	216.6 (7.1)
High					
High	17.1 (0.56)	54.9 (1.8)	116.7 (3.8)	212.7 (7.0)	345.0 (11.3)

Table 1-2. Sea Level Rise Scenarios for Charleston, 1980-2075
(in cm, with ft in parentheses)

Scenario ^a	1980	Year 2025	2075
Baseline	0	11.2 (0.4)	23.8 (0.8)
Low	0	28.2 (0.9)	87.6 (2.9)
Medium	0	46 (1.5)	159.2 (5.2)
High	0	63.8 (2.1)	231.6 (7.6)

Source: Global sea level rise scenarios are from Chapter 3, modified to reflect local conditions based on the historical trend for Charleston. (S. D. Hicks et al., 1983, *Sea Level Variations for the United States, 1855-1980*, technical report, Rockville, Md., NOAA, Tides and Water Levels Branch)

^aBaseline scenarios for each year reflect present trends. Other scenarios reflect accelerated sea level rises at various rates.

Table 1-3. Sea Level Rise Scenarios for Galveston, 1980-2075
(in cm, with ft in parentheses)

Scenario	1980	Year 2025	2075
Baseline	0	13.7 (0.45)	30.0 (0.98)
Low	0	30.7 (1.0)	92.4 (3.0)
Medium	0	48.4 (1.6)	164.5 (5.4)
High	0	66.2 (2.2)	236.9 (7.8)

Source: See Chapter 5.

13-12
V-3-1
V-3-82
10-1-6

Edith Gutierrez, Project Manager
Development Services Department
City of San Diego
1222 First Ave
MS501
San Diego, CA 92101-4155

OCT 2006

1 August, 2006

SUBJECT: Comments on Application for Coastal Development Permit and Site
Development Permit No. 101888, Mehl Residence, 5380 Calumet

Dear Ms. Gutierrez,

I live at 333 San Colla St and have full view of said property and am a climate scientist at the Scripps Institution of Oceanography. My wife and I enjoy the ocean view provided by the dedicated view corridor on above noted property. We are writing to object to the proposed development and to list errors, facts and City code that preclude the proposed development. This information has been presented to you in two parts. The first part was sent to you earlier and is copied below (POINTS 1-3), while the additional information is presented in POINTS 4-7. Please note that a physical measurement has been added to POINT 1 to show the lot size is incorrect.

I have taken the liberty of copying a few folks in Planning, etc. I would appreciate if you could distribute this material to other potential reviewers including Pat Thomas. Thanks.

POINT 1 Lot size error

The size of the lot was apparently computed from the original plat map developed in the 1950s. Since that time, the cliff at the property's western edge has undergone erosion so that the area of the lot is no longer what it once was. In fact, actual measurements along the northern property line show it to be approximately 10 feet shorter than on the original plat map. Visual inspection shows the interior of said property has suffered even more bluff retreat. So the square footage (8282) given in the City's revised Notice of 6/2/2006 is incorrect. The property will have to be re surveyed to determine its actual size.

POINT 2 Building area size error

The proposed development is to occupy 55% of the lot. However, the size of the proposed house (4637 sq ft) is based on using the entire lot size (which is incorrect, see above). This calculation also includes the area occupied by the view corridor on the lot. This seems clearly against any reasonable interpretation of the rules and the reason for the view corridor in the first place. The size of the house should be based on the actual area of the lot LESS the area of the view corridor.

POINT 3 Failure to meet community standards

The plans I saw will generate, quite literally, a 30 foot high, box house on said property. This is so out of keeping with the sense of the community plan and state of the environs; one wonders what the developer had in mind. Figure 1 shows the view to

subject property from my house as it is now and with a simulated 30 foot high building as proposed. The inappropriateness of the proposal is obvious. Further, the plans show the 'box' extending into the view corridor, which is not legal. At the same time, while I did not scale it, the proposed 'box' appears to come closer to the bluff edge than 25 feet near its northern boundary. The northwest corner of the current structure is only 6-8 feet from the bluff edge now (see below)

POINT 4 Bluff set back

The copy of the plans requested only a 25 foot set back from the bluff edge. Under city code this cannot be permitted and a full 40 ft setback must be enforced for the following reasons. According to the San Diego Municipal Code, Land Development Code, Coastal Bluffs and Beaches Guidelines, Section II, Item C, 143.0143(f), item 2, italicized note..."If a seawall (or other stabilization control feature) has been installed due to excessive erosion on the premises, that premises shall NOT (my capitalization) qualify for a reduction of the required 40 foot distance from the coastal bluff edge".

Two such erosion control features attend said property. Large slabs of concrete have been placed at the base of the bluff around the entire Sungold Point development (Fig 2). They constitute a rip-rap sea wall barrier to halt wave erosion and likely came from the concrete gun bunkers that occupied the area during WWII. A second erosion control, seen in the attached aerials (Figs 3 and 4), *shows that about one half of the bluff face of said property, as well as the bluff face below the house to the north, has been covered with air-place concrete(gunited). This is defined in Section 143.0143(g) as an erosion control measure.*

Given that the property is attended by two (2) different erosion control measures, the request for the 25 foot setback cannot, by City code, be permitted. This makes building on the property, at the scale proposed, impossible.

The possibility of a 25 foot set back also seems at odds with the City's designation of the bluff in the area as 'unstable'...see the typical sign in Fig 1. How can building anywhere near the bluff edge be permitted if the cliffs are unstable....according to the City?

POINT 5 Erosion Rate

Scientific studies have shown that coastal cliffs in San Diego County composed of the soil types on said property are eroding at a rate of 10-40 cm/yr (Benumof and Griggs, 1999, Shore and Beach, vol 67(4)). Even if we use the lower number, that means a recession of the bluff crest of 7.5m over the 75 years of the project. That is not quite 24 feet. The house and bluff on which it sits would fail before that. The plans called for a setback of only 25 feet. Since it does not appear the City can grant this minimum setback in the first place, the point may be moot; but maybe not.

By the way, ground water seepage is a culprit in this erosion. The residences east of said property all have lawns, the watering of which will provide a continual source of ground water. Fig 5 shows two cliff failures likely due to this mechanism at a location 2 houses north of said property. Fig 4 shows that, two houses south of said property, the cliff erosion control has failed. Two years after that photo was taken the gunite shield is almost completely gone. Figure 6, taken from the house just north of the subject property, shows several large pieces of gunite associated with failure of erosion control

on the bluff of the subject property. Note these failures have happened after the aerial photo taken in 2002 (Fig 3). This is an active erosion bluff.

The erosion is coming from two sources. The first is wave action against the bluff. Figure 7, taken from the beach below the subject property, shows the undercutting of the bluff by wave action. This will increase dramatically in the years ahead (see Point 6 below). Figure 8 shows water seeping out of the bluff at the subject property. The photo shows what is happening at the southern edge of the gunited erosion control on the subject property. This is happening all along the cliff in this region. The combination of waves and ground water guarantee continual erosion in the Sungold point area.

POINT 6 Climate variations: Sea Level and el Nino

Section 143.0143(f) requires the geology report for the project to contain statements regarding impacts of sea level rise and el Nino on the bluff. These are two of my specialties at Scripps so I comment on them here. The version of the geology report I saw did not address these issues.

At high tide, the waves now attack directly the base of the bluff (in spite of the rip-rap shore protection noted above) and act to erode it. During a strong el Nino, sea level is documented to rise about one foot along the US West coast. This allows the waves to attack an even larger part of the bluff face. This is compounded since el Ninos are often attended by increased storm activity and larger waves in the San Diego region. The el Ninos often also usually carry with them much heavier than normal rainfall (ground water source for cliff erosion). In fact, Benumof and Griggs (1999) note "...as much as 4-6m of coastal cliff retreat occurred at numerous San Diego County locations during the (el Nino) winters of 1982-83 and 1997-98."

Over the last 100 years sea level has risen between 12-25 cm globally. The physical reasons for this rise are partially known. Two key factors are the thermal expansion of the water column due to observed ocean warming and the runoff into the ocean of melt water from land locked glaciers and ice sheets. This rate of sea level rise is increasing as the planet warms from Greenhouse gases. New, major contributors to this rise will be the great polar ice sheets, e.g. Greenland is now losing about 50 cubic miles of water/yr; ten years ago it was not melting. Antarctica is losing 30 cubic miles of water/yr. This is just the start, as their melt rates seem to be accelerating.

Combining all sources(warming+ice melt) suggests a highly conservative 42-65 cm (1.3-2.2 feet) rise in sea level over the next 75 years (ref. IPCC, 2001), the life time of the property. It is my expert opinion that these estimates are low for reasons that can be explained offline. Add the foot of sea level rise associated with periodic el Ninos and we are 2.3- 3.2 feet above current sea level during el Nino events. One can expect the cliff....all the beach bluff cliffs....to experience rapid and heavy erosion in the coming decades. Building on said property to within 25 feet of the bluff makes no sense.

POINT 7 Factor of Safety (FOS) Calculations: Are they correct?

A licensed professional geotechnical firm provided estimates of FOS for this project. Looking over their work, being a scientist myself and speaking with knowledgeable experts in the field has led me to several questions about their work. These questions need to be addressed in the geology report. The questions follow:

1) The computer code they used, GSTABL7, version 2 by Gary Gregory, is, according to its originator, not appropriate for this problem. That code is designed for estimating stability of soil slopes. This property and the bluff are largely sandstone and stone cobbles in a clay-like matrix. The failure modes of the bluff are toppling and/or falls type as seen in the left corner of Fig 5. This is consistent with a rock slope, as is the vertical face of the cliff. Soil slopes do not allow a vertical face such as seen in Figure 7, at least not for very long. Why was a soils model used in what appears to be an inappropriate rock/cobble environment? Would not a better model for this situation have been a rock slope stability model or other alternative?

2) In the geological study of the property, the firm appears to have used a 2 on 1 slope for their calculations. This needs to be checked in the report to which I have only had brief access. The property is flat from street to bluff and then quickly goes to vertical/under cut cliff (Figures 6-9). So there is little or no place on the property where the slope is 2 on 1, if that was the number they used. Use of that number may provide a desired FOS answer for their customer but that answer is almost certainly wrong if they used that number. What slope angle(s) did they use in their calculations? Did the slopes they input represent the near vertical face of the bluff? Do the slopes they assume look anything like those at the actual property?

3) Perhaps most importantly, the slope stability code the firm used cannot, according to its author and the mathematics given in the geology report, handle an undercut slope such as attends the subject property. The code will blow up and/or the FOS estimate goes negative! How did the firm handle the under cut slope issue? How could the slope stability code they used have provided reliable FOS numbers under vertical/under cut slope conditions; conditions its author says the code can not handle?

So the geological report, while perhaps useful for other reasons, may not be reliable.....depending on answers to the above.....when it comes to estimating FOS for this project. This is a decision for the City's civil engineers and geologists.

I hope the above facts and City Code requirements will be enough for the City to reject this project. Please let me know if you have further questions.

On behalf of my wife and I and our neighbors,


Dr. Tim Barnett

Temporary address 1312 Willow Creek Rd., Corvallis, MT. 59828
406-9614646

Attached: 9 Figures

cc. S. Osborn, P. Merten, L. Shearer-Nguyen, E. Lower, S. Griffin

Figure 1 Simulation of 30
foot 'box' vs. current
neighborhood character



Figure 2 Rip-rap concrete sea barrier along the cliffs at Sungold Point. This photo looking straight down and a little south from the house just north of subject property



Figure 3 Erosion control (gunited cliff face) at
subject property (the one w/ pool)

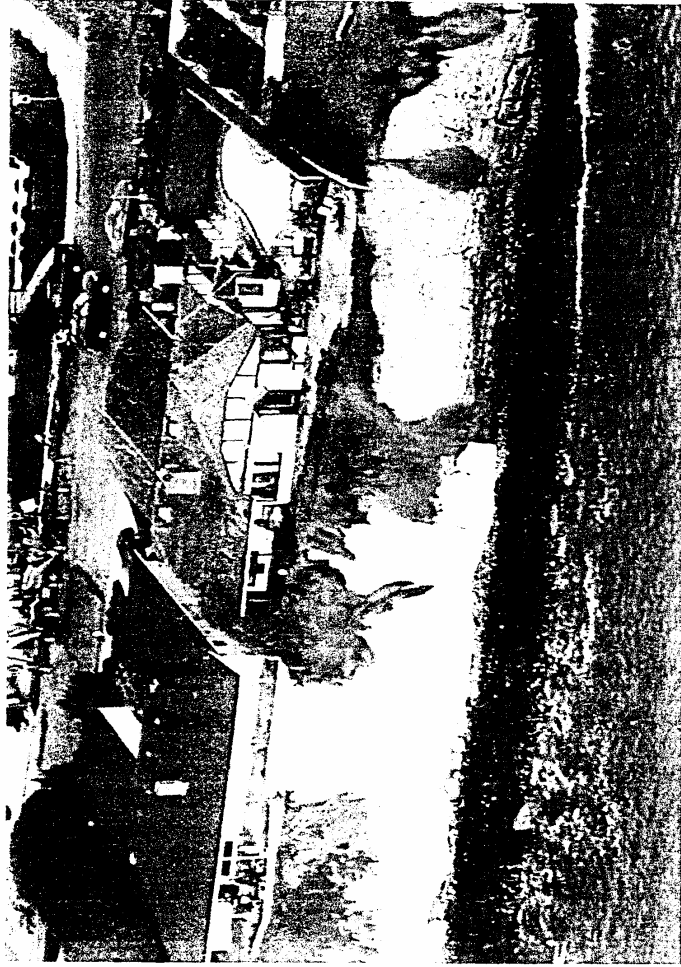


Figure 4 Erosion control of subject property (w/ pool). Note the failure of the erosion control on the house second to the south from subject property (red arrow)



Figure 5 Cliff failure at house second to the north. The two scalloped areas red arrows) indicate the recent erosion and fact the failure mode is vertical, i.e. characteristic of rock cliffs

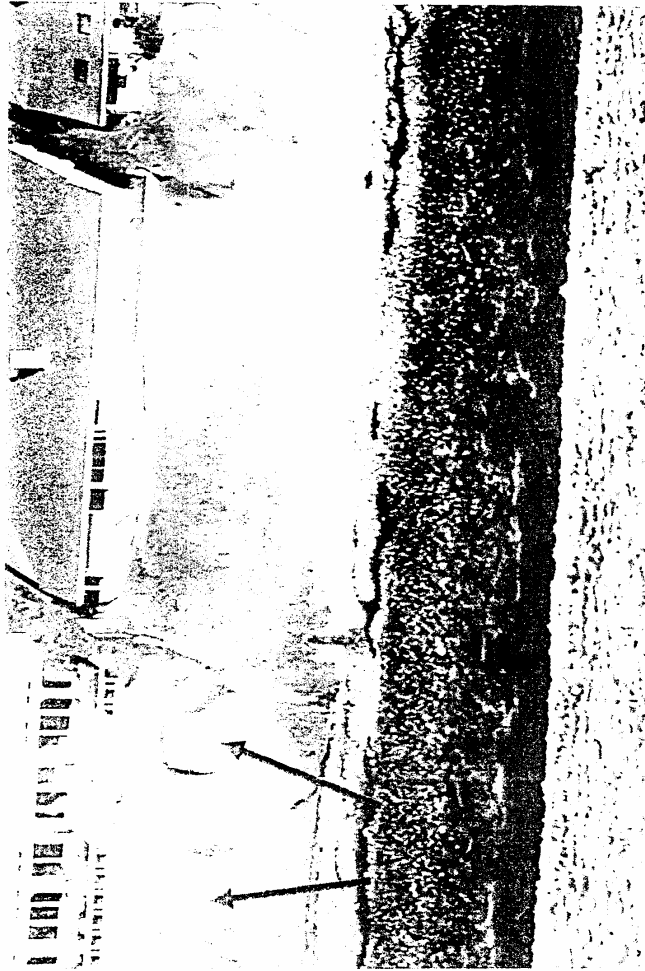


Figure 6 Several large slabs of gunite from erosion control at subject property. This failure occurred after the 2002 aerial photo (Fig 3).



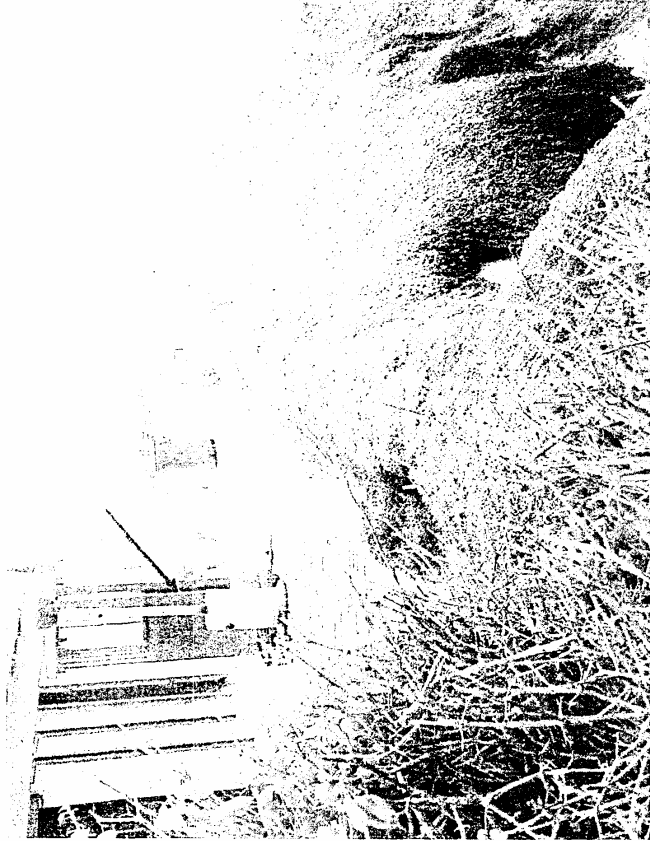
Figure 7 Under cut cliff below subject property. Note moss (yellowish color) associated with water seepage from cliff



Figure 8 Seepage (below red line) and fractured rock at
southern edge of gunitite erosion control at subject
residence



Figure 9 Bluff edge at subject residence. Notice vertical character of the cliff. The northern corner of subject house is just out of sight, but only about 6-8 feet from bluff top (note space heater for scale). Taken from house just to north.



RECEIVED
JUN 18 2007

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Emailed summary and project critique sent 6/11/2007 to Edith Gonzales

Hi Edith....Attached please find my responses (and more) to the critique of my 1 August, 2006 letter re-5380 Calumet development by CWE. I only received the critique in early May, hence the delay in responding.

A major problem is the granting of a 25' bluff setback instead of the normal 40' setback. The attached shows granting the exception (25') will likely violate the Coastal Act, be in serious non conformity with land use guidelines, ignore CCC guidelines and lead to a structure lifetime of well less than the required 75 years. The comments of CWE re-my objections either are incorrect, misleading or irrelevant to the project. In addition to these problems, is the serious environmental issue attending demolition of the existing structure. There is also a very substantial legal issue on the estimation of the FAR. You may wish to contact the City Attorney's Office to get clarification of this latter item for its implications go far beyond this project.

Against, all of the above the City has only the engineering report of CWE to justify the setback exception. But in a letter dated 21 August, 2006 CWE state they 'do not practice coastal engineering'. How can the City then trust their analyses on a coastal engineering project? Further, the analysis they did do has produced results that appear counter intuitive and highly questionable.

In short, the City has no legitimate basis for approving the requested setback exception, or for allowing the applicant to bend/break common rules/guidelines for coastal development on this property. **The project described under 101888 is not supported by the evidence and land use rules and must be denied.**

The piece of land under consideration is really very special. I hope the developer can come back with a new plan that follows established policy, avoids the numerous problems addressed in the attachment and create a residence that is as attractive as the land it sits on.

Thanks for your consideration. Tim Barnett

Attached...CWE re-re-but

Ps. Pls copy me on any responses to this mail and attached materials

RECEIVED
JUN 18 2007CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

TO: Edith Gutierrez, City Dev Dept
FROM: Dr. T. Barnett
SUBJ: Response to Christian Wheeler Eng comments on Barnett 8/1/2006 memo
Re: 5380 Calumet development

9 June, 2007

In a memo dated 21 August, 2006, transmitted to me 2 May, 2007, the Christian Wheeler Engineering (CWE) company attempted to refute points of objection I raised to development at 5380 Calumet St, La Jolla. Their comments are largely without merit, flat wrong and/or misleading, as I will show below.

In short, the proposed project violates conditions and safeguards to the sensitive coastal bluff areas of Sun Gold Point, awarding an unjustified setback on the subject property. The proposed setback violates the setback guides of the California Coastal Commission. City approval of this project, in the face of its many flaws and breaches of law/guidelines seems indefensible to me and could embarrass/leave liable the City.

Prior to getting into details it should be noted that in the above referenced CWE letter they state (pg 4) *"It should be noted that Christian Wheeler Engineering does not practice coast engineering and that we rely on the opinions of other consultants."* This makes one wonder what they are doing advising anyone on construction at 5380 Calumet which is located on the edge of a coastal bluff in an environmentally sensitive area. I will send you my vita in another mail, but for now it suffices to say I am an internationally recognized scientist with specialties including sea level change, ENSO, climate change and ocean wave dynamics. I am author of over 200 peer reviewed articles on the above subjects, elected Fellow of two different scientific societies and have received the Sverdrup Gold medal award.

Lot Size/building size error (points 1 and 2)

CWE cites no reference to support their contentions in response to Points 1 and 2. They simply make assertions which are subject to interpretation. It apparently has been the custom in San Diego to take the original lot size, before erosion, as the standard for estimating the FAR. However, the matter is apparently not codified. The City code (Chap 11, article 3, div 1) defines FAR" as the numerical value obtained by dividing the gross floor area of all buildings on the 'premises' by the total area of the 'premises' on which the buildings are located". The code says "Premises' means an area of land with its structures that, because of its unity of use, is regarded as the lowest conveyable unit".

'Premises' is vague and definitely does not say 'use the entire lot as originally platted'. Indeed, the 'unity of use' phrase seems to rule out using the original parcel size in this case because nearly 1000 sq ft (my rough estimate) of the lot is thin air due to coastal erosion. This section of the 'phantom land' obviously does not allow unity of use with the remainder of the parcel.

As the bluff eroded into the originally platted area, the HW mark moved with it. Thus, the land that eroded may now be at or below HW and so its ownership has reverted to the State. Thus, the proposed project cannot claim it in their estimate of the FAR. The owner does not own that phantom land, the State does...or may. A good survey of the Bluff and lands immediately above and below it is needed. Was that done for this project?

Development Div needs to get a legal opinion on these issues, perhaps from the City Attorney's Office. I content the proper definition of FAR would not include the phantom land and the FAR values estimated by their project are incorrect.

Community Standards (point 3)

The size and bulk of the proposed structure is out of character with the surrounding homes, something the La Jolla Community Plan wants to avoid... the proposed house is essentially a 30 foot high 'box'. There has been no rebuttal on this point by the project architect as promised by CWE in their response of 21 August, 2006.

Bluff set back (point 4)

The impact of the demolition debris as they call it, no matter how it got there is an effective wave dampening system. This fact is in contradiction to the CWE assertion to the contrary. Waves passing over the debris will have their orbital motions disrupted, dissipating wave energy to turbulence before they hit the cliffs. The fact that it was not placed under permit, even if such permits were available in the later 1940s/early 1950s, is immaterial to the impact it has on the cliff structure. The permitting issue used here, and below, is a red herring.

CWE assert that the gunite was placed on the bluffs which belong to the City. Opinions from City employees and legal experts, dispute this claim. In fact, since the bluff now sits well inside the property line of the parcel of land, many argue the bluff belongs to and is the responsibility of the current land owner. Again, whether the guniting was permitted or not is immaterial to the fact that it is an erosion control device as explicitly described in the Land Development Code. Their claims that the guniting was done and City property and not relevant to the subject property is incorrect.

In any event, what matters here is that the **intent** of the guniting/shore protection was to protect the subject lot from erosion. Why else would anyone apply an expensive procedure to the cliff area? They would not do it to be trendy and/or as an insurance policy. It clearly was done after severe erosion had started at the NW corner of the lot. That may be why they only gunited half of their cliff. Note aerial photos show fully one half of the bluff faced was gunited at one time; this is not the 'very minor portion' discussed in CWE. If it were placed as an 'insurance policy' against erosion they would have treated the entire cliff.

The application of an erosion control to the bluff, apparently owned by the proposer, requires a setback of 40' no matter who placed the erosion control device. There are no exceptions stated to this rule in the above referenced section of code. Ignorance of this rule is no excuse, especially since the current owner is a developer himself. Further, the prior owners' actions indicate a clear problem, so the intent of that action is obvious.

Erosion Rate (5)

The face of the bluff cliffs at the site is very nearly vertical, indicating an active erosion situation. There is also a wave undercut section of bluff, which WCE assert does not exist. I have pictures of it and would advise they have a walk on the beach to verify this themselves. By the way, they need to take account of the undercut in their estimates of bluff edge location, a fact they do not mention. Their estimate of bluff edge position near the southern edge of the lot is most likely incorrect, unless they have done this.

Using GEI data, WCE suggest an erosion rate of 0.33 foot/yr. This apparently comes from averaging the retreat rates quoted on pages 3 and 4 of their 21 August letter. This gives a total erosion of about 25 feet in 75 years, IF the erosion is constant and sea level does not change. They say "it is our opinion that the actual recession rate of the top of the bluff will probably be much less". But as noted earlier, they acknowledge not practicing coast engineering, so what weight can we attach to their assertion?

In fact, the issue of bluff erosion rate is complex, not constant in time and a strong function of sea level change. Under current conditions the foot of the bluff is at about mean high water. In high tide situations the bluff experiences direct wave attack, as water levels then are 2-3 feet above the bluff base. This only happens for limited periods of time. As sea level rises (see below) the attack time will lengthen. More importantly, higher sea level will allow large waves to attack the bluff before or as they break. One can use a mathematical model for the rate of erosion (US Army Corps of Engineers, 'Encinitas and...Feasibility Study, Appendix D, Jan 2003; Marine Board, 1987) and gravity wave dynamics to roughly estimate these impacts. The increase in erosion rate of 200-260% can be expected with a sea level rise of 2-4 feet over the next 75 years (see below) and there is no change in wave climate. The home and property under discussion would, under these conditions, be long gone before 75 years, if not protected.

The erosion rate associated with this section of cliff, indeed, the entire coastal region, will accelerate due to a variety of reason discussed below. This fact makes the CWE calculation that the amount of erosion to expect in the next 75 years is about 25 feet clearly in error and seriously underestimated. Note that by year 75, even if we used their estimate of 0.33 feet/yr, the west edge of the proposed home is located coincident with the bluff top, clearly a design condition to be avoided.

In summary, the current and expected erosion rates on the subject property do not justify the 25 setback requested of the City. Indeed, the CWE analysis itself shows the 25' setback to be unacceptable.

Sea Level and el Nino (point 6)

CWE discussion in these areas was either naive (sea level) or hopelessly confused and irrelevant (ENSO). It provides no useful information, but then they are not coastal engineers. Dr. Seymour's quotes, taken not from him but apparently from some report he wrote, have nothing to do with the problem/project at hand. The 4 inch rise noted over the last 50 years, has little to do with sea level changes we can expect in the future.

As noted above, sea level is rising. The rate of increase is accelerating and will continue to do so, as the great ice sheets on Greenland (especially) and Antarctica continue to accelerate their melting rates (due to anthropogenic climate change). These are observed facts, not conjectures. No good mathematical models of ice sheet break up currently exist and that is why the IPCC left that factor out of their projected sea level

increases over the next 75-100 years. But the melting of those ice sheets will dominate thermal expansion of the ocean and melting of land bound glaciers in the sea level budget. Recent work (Rahmstorf, Science, vol 19, Jan 2007) has found a good empirical way to predict future sea level based on the close relation between temperature and sea level. His estimates suggest a rise of between 1.3-3.7 feet in the next 75 years; the large uncertainty coming from the assumption on the amount of additional CO2 Man will put in the atmosphere over the next 75 years.

Sea level at the bluff at Calumet will also have increases associated with ENSO (1 foot), storm surges (1-2 feet) and everyday radiation stress related wave setup over the reef in front of the property (perhaps 1 foot). Under the right conditions, these total perhaps 3-4 feet of sea level rise, *in addition to that associated with anthropogenic sea level rise*. The coastal erosion under these episodic conditions will be huge 'events', far larger than discussed above. While we cannot predict the exact time these events will occur, we can say with near 100% certainty that they will occur within the life time of the proposed structure.

ENSO events will contribute to sea level rise as noted above. The quotes CWE lifted from Seymour's report discuss el Niño prediction. They are incorrect, but have nothing to do with the problem at hand. In fact, during large el Ninos, sea level along the coast are about a foot above normal and stay that way for some months; a fact documented at west coast tide gages (the highest sea levels ever measured at La Jolla 7.71 and 7.81 MLLW occurred in 1983 during a large ENSO event. During warm events, the storm track shifts further south so we see also larger waves at the coast. These, in association with increased sea level, raise havoc with the coastal bluffs (and beaches).

In the future, climate models suggest there will be little change in the nature of ENSO events. So we can expect the type of numbers given above to maintain. The climate models also suggest the frequency of ENSO will stay about the same.

Along related lines, as the oceans warm we can expect tropical depressions and hurricanes to penetrate further northward than they do today. At this time we cannot reliably address this issue, but one direct hit on San Diego would result in huge rain/wave driven damage to the bluffs (and a lot of other things also).

FOS (point 7)

I will leave this to a further, independent engineering analysis, but will point out there is an overhang in sections of the cliff, which CWE deny exist. Their stability model does not operate correctly under those circumstances, a point they ignore.

There is a serious seepage of water out of the bluff face of the subject property. CWE ignore this factor. In response to a City reviewer, CWE say that adding in the impact of water flow between the two sediment layers they modeled had little impact on the results. What was the numerical change in position of the 1.5 FOS line? It is this 'erosion from within' that is an important part of the bluff erosion problem, yet largely ignored here.

I seriously question how the FOS line can be closest to the bluff in just the area the bluff has shown maximum erosion (NW corner). It is also interesting that the FOS line in this region just happens to coincide with the 25 foot setback line the developer is requesting. An explanation of this fortuitous event would be helpful.

Set back considerations (new issue)

An issue not addressed by either CWE or me in earlier documentation is summarized here since it is pertinent to many issues raised above. This material was transmitted to E. Gutierrez on 6/10/2007.

New evidence seems to invalidate the request for 'variance' in setback for this property (5380 Calumet). You will remember that the requested exception is to allow a 25' bluff setback instead of the standard 40'. *Previously, I offered still unrefuted reasons why the 25' exception should not be allowed.* Now a new issue has cropped up that adds weight to NOT allowing the 25' setback.

The staff geologist for the California Coastal Commission (CCC) has offered guide lines for determining setbacks for new development in the coast bluff regions (M. Johnsson, Proc., California and the World Ocean, '02. in press, Establishing ...Coastal Bluffs'). Since the current residence is proposed to be removed, whatever replaces it will be defined as 'new' and subject to the guideline laid down by the CCC.

The engineering firm (CWE) working for the owner of above property states the erosion will cause a bluff retreat of 25' over 75 years. I showed (above) that this estimate is low, but let's use it here for sake of argument. The same firm shows that after taking slope stability into account, the 1.5 FOS contour just happens to follow the 25' setback line requested for this property over the northern section of the property.

Now the CCC guidelines for determining the allowable setback indicate the total allowable setback should be the SUM of these two numbers....stability setback and erosion setback... or 50' (see Johnsson, in press, Figure 6). Allowing the 25' setback, therefore violates the CCC guidelines for new construction within the sensitive coastal bluff area and, therefore, section 30253 of the Coast Act. Specifically, the above additive approach to setback estimation is "the current analytical analysis process carried out by the Coast Commission staff in evaluating proposals for new development on the California coast, and in recommending action upon those proposals to the Commission"(Johnsson, 2003, Memo to Commissioners and Interested parties).

The above makes lots of sense. As now planned, at least part of the house will be built on or very near the 1.5 FOS line, i.e. 25' from the existing bluff. If a 25' setback is allowed, as now suggested, even a small amount of cliff erosion will push the 1.5 FOS line eastward and within the perimeter of the proposed new building. As time progresses, more and more of the house will be located in the danger zone seaward of the 1.5 FOS line (which will not be static but move eastward as the bluff erodes). That constitutes a hazard to not only the bluff, but also the house and its inhabitants.

It may be that the City currently has its own guidelines for determining bluff setbacks, justified in this case solely by CWE analysis. However, it is my understanding that CCC regulations on coastal bluff issues have priority over those of the City. So why make a decision now (25' setback) that is in conflict with guidelines established by a higher authority and subject overturned on appeal later?

Based on the above consideration alone, the 25' setback cannot be justified and so should not be granted. Note the analysis and erosion/FOS numbers come from the proposer's own hired team. The other reasons for not allowing the 25' setback, that I have submitted to you earlier (and above), only strengthen this argument.

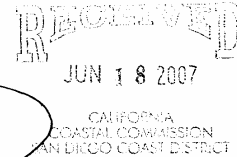
Please ask the Staff geologist to reconsider geological approvals in view of the CCC guidelines. If the City still insists on granting the 25' setback than I would like to have the reasons for that decision made a part of the public record and a copy of said argument sent to me.

SUMMARY

In summary, consideration of erosion rates and erosion protection activity at the 5380 location do not justify the granting of a 25 foot setback to the proposed project. Erosion rates estimates, even the constant ones, do not support a 75 year life time for the proposed structure. The application of serious erosion controls to the subject property limit, by code, demands a setback to 40 feet. Finally, the method of estimating setbacks for new structure, promulgated by the CCC is at serious odds with the granting of a 25' setback. Ignoring all of these factors would seem to put the City in violation of the Coastal Act and subject them to needless litigation by private individuals and/or the City Attorney's Office.

Lee - comments on 5380 Calumet

Edith Gutierrez, Project Manager
Development Services Department
City of San Diego
1222 First Ave
MS501
San Diego, CA 92101-4155



1 August, 2006

SUBJECT: Comments on Application for Coastal Development Permit and Site
Development Permit No. 101888, Mehl Residence, 5380 Calumet

Dear Ms. Gutierrez,

I live at 333 San Colla St and have full view of said property and am a climate scientist at the Scripps Institution of Oceanography. My wife and I enjoy the ocean view provided by the dedicated view corridor on above noted property. We are writing to object to the proposed development and to list errors, facts and City code that preclude the proposed development. This information has been presented to you in two parts. The first part was sent to you earlier and is copied below (POINTS 1-3), while the additional information is presented in POINTS 4-7. Please note that a physical measurement has been added to POINT 1 to show the lot size is incorrect.

I have taken the liberty of copying a few folks in Planning, etc. I would appreciate if you could distribute this material to other potential reviewers including Pat Thomas. Thanks.

POINT 1 Lot size error

The size of the lot was apparently computed from the original plat map developed in the 1950s. Since that time, the cliff at the property's western edge has undergone erosion so that the area of the lot is no longer what it once was. In fact, actual measurements along the northern property line show it to be approximately 10 feet shorter than on the original plat map. Visual inspection shows the interior of said property has suffered even more bluff retreat. So the square footage (8282) given in the City's revised Notice of 6/2/2006 is incorrect. The property will have to be re surveyed to determine its actual size.

POINT 2 Building area size error

The proposed development is to occupy 55% of the lot. However, the size of the proposed house (4637 sq ft) is based on using the entire lot size (which is incorrect, see above). This calculation also includes the area occupied by the view corridor on the lot. This seems clearly against any reasonable interpretation of the rules and the reason for the view corridor in the first place. The size of the house should be based on the actual area of the lot LESS the area of the view corridor.

POINT 3 Failure to meet community standards

The plans I saw will generate, quite literally, a 30 foot high, box house on said property. This is so out of keeping with the sense of the community plan and state of the environs; one wonders what the developer had in mind. Figure 1 shows the view to

subject property from my house as it is now and with a simulated 30 foot high building as proposed. The inappropriateness of the proposal is obvious. Further, the plans show the 'box' extending into the view corridor, which is not legal. At the same time, while I did not scale it, the proposed 'box' appears to come closer to the bluff edge than 25 feet near its northern boundary. The northwest corner of the current structure is only 6-8 feet from the bluff edge now (see below)

POINT 4 Bluff set back

The copy of the plans requested only a 25 foot set back from the bluff edge. Under city code this cannot be permitted and a full 40 ft setback must be enforced for the following reasons. According to the San Diego Municipal Code, Land Development Code, Coastal Bluffs and Beaches Guidelines, Section II, Item C, 143.0143(f), item 2, italicized note... "If a seawall (or other stabilization control feature) has been installed due to excessive erosion on the premises, that premises shall NOT (my capitalization) qualify for a reduction of the required 40 foot distance from the coastal bluff edge".

Two such erosion control features attend said property. Large slabs of concrete have been placed at the base of the bluff around the entire Sungold Point development (Fig 2). They constitute a rip-rap sea wall barrier to halt wave erosion and likely came from the concrete gun bunkers that occupied the area during WWII. A second erosion control, seen in the attached aerials (Figs 3 and 4), *shows that about one half of the bluff face of said property, as well as the bluff face below the house to the north, has been covered with air-place concrete(gunited). This is defined in Section 143.0143(g) as an erosion control measure.*

Given that the property is attended by two (2) different erosion control measures, the request for the 25 foot setback cannot, by City code, be permitted. This makes building on the property, at the scale proposed, impossible.

The possibility of a 25 foot set back also seems at odds with the City's designation of the bluff in the area as 'unstable'...see the typical sign in Fig 1. How can building anywhere near the bluff edge be permitted if the cliffs are unstable....according to the City?

POINT 5 Erosion Rate

Scientific studies have shown that coastal cliffs in San Diego County composed of the soil types on said property are eroding at a rate of 10-40 cm/yr (Benumof and Griggs, 1999, Shore and Beach, vol 67(4)). Even if we use the lower number, that means a recession of the bluff crest of 7.5m over the 75 years of the project. That is not quite 24 feet. The house and bluff on which it sits would fail before that. The plans called for a setback of only 25 feet. Since it does not appear the City can grant this minimum setback in the first place, the point may be moot; but maybe not.

By the way, ground water seepage is a culprit in this erosion. The residences east of said property all have lawns, the watering of which will provide a continual source of ground water. Fig 5 shows two cliff failures likely due to this mechanism at a location 2 houses north of said property. Fig 4 shows that, two houses south of said property, the cliff erosion control has failed. Two years after that photo was taken the gunite shield is almost completely gone. Figure 6, taken from the house just north of the subject property, shows several large pieces of gunite associated with failure of erosion control

on the bluff of the subject property. Note these failures have happened after the aerial photo taken in 2002 (Fig 3). This is an active erosion bluff.

The erosion is coming from two sources. The first is wave action against the bluff. Figure 7, taken from the beach below the subject property, shows the undercutting of the bluff by wave action. This will increase dramatically in the years ahead (see Point 6 below). Figure 8 shows water seeping out of the bluff at the subject property. The photo shows what is happening at the southern edge of the gunited erosion control on the subject property. This is happening all along the cliff in this region. The combination of waves and ground water guarantee continual erosion in the Sungold point area.

POINT 6 Climate variations: Sea Level and el Nino

Section 143.0143(f) requires the geology report for the project to contain statements regarding impacts of sea level rise and el Nino on the bluff. These are two of my specialties at Scripps so I comment on them here. The version of the geology report I saw did not address these issues.

At high tide, the waves now attack directly the base of the bluff (in spite of the rip-rap shore protection noted above) and act to erode it. During a strong el Nino, sea level is documented to rise about one foot along the US West coast. This allows the waves to attack an even larger part of the bluff face. This is compounded since el Ninos are often attended by increased storm activity and larger waves in the San Diego region. The el Ninos often also usually carry with them much heavier than normal rainfall (ground water source for cliff erosion). In fact, Benumof and Griggs (1999) note "...as much as 4-6m of coastal cliff retreat occurred at numerous San Diego County locations during the (el Nino) winters of 1982-83 and 1997-98."

Over the last 100 years sea level has risen between 12-25 cm globally. The physical reasons for this rise are partially known. Two key factors are the thermal expansion of the water column due to observed ocean warming and the runoff into the ocean of melt water from land locked glaciers and ice sheets. This rate of sea level rise is increasing as the planet warms from Greenhouse gases. New, major contributors to this rise will be the great polar ice sheets, e.g. Greenland is now losing about 50 cubic miles of water/yr; ten years ago it was not melting. Antarctica is losing 30 cubic miles of water/yr. This is just the start, as their melt rates seem to be accelerating.

Combining all sources(warming+ice melt) suggests a highly conservative 42-65 cm (1.3-2.2 feet) rise in sea level over the next 75 years (ref. IPCC, 2001), the life time of the property. It is my expert opinion that these estimates are low for reasons that can be explained offline. Add the foot of sea level rise associated with periodic el Ninos and we are 2.3- 3.2 feet above current sea level during el Nino events. One can expect the cliff....all the beach bluff cliffs....to experience rapid and heavy erosion in the coming decades. Building on said property to within 25 feet of the bluff makes no sense.

POINT 7 Factor of Safety (FOS) Calculations: Are they correct?

A licensed professional geotechnical firm provided estimates of FOS for this project. Looking over their work, being a scientist myself and speaking with knowledgeable experts in the field has led me to several questions about their work. These questions need to be addressed in the geology report. The questions follow:

1) The computer code they used, GSTABL7, version 2 by Gary Gregory, is, according to its originator, not appropriate for this problem. That code is designed for estimating stability of soil slopes. This property and the bluff are largely sandstone and stone cobbles in a clay-like matrix. The failure modes of the bluff are toppling and/or falls type as seen in the left corner of Fig 5. This is consistent with a rock slope, as is the vertical face of the cliff. Soil slopes do not allow a vertical face such as seen in Figure 7, at least not for very long. Why was a soils model used in what appears to be an inappropriate rock/cobble environment? Would not a better model for this situation have been a rock slope stability model or other alternative?

2) In the geological study of the property, the firm appears to have used a 2 on 1 slope for their calculations. This needs to be checked in the report to which I have only had brief access. The property is flat from street to bluff and then quickly goes to vertical/under cut cliff (Figures 6-9). So there is little or no place on the property where the slope is 2 on 1, if that was the number they used. Use of that number may provide a desired FOS answer for their customer but that answer is almost certainly wrong if they used that number. What slope angle(s) did they use in their calculations? Did the slopes they input represent the near vertical face of the bluff? Do the slopes they assume look anything like those at the actual property?

3) Perhaps most importantly, the slope stability code the firm used cannot, according to its author and the mathematics given in the geology report, handle an undercut slope such as attends the subject property. The code will blow up and/or the FOS estimate goes negative! How did the firm handle the under cut slope issue? How could the slope stability code they used have provided reliable FOS numbers under vertical/under cut slope conditions; conditions its author says the code can not handle?

So the geological report, while perhaps useful for other reasons, may not be reliable.....depending on answers to the above.....when it comes to estimating FOS for this project. This is a decision for the City's civil engineers and geologists.

I hope the above facts and City Code requirements will be enough for the City to reject this project. Please let me know if you have further questions.

On behalf of my wife and I and our neighbors,



Dr. Tim Barnett

Temporary address 1312 Willow Creek Rd., Corvallis, MT. 59828
406-9614646

Attached: 9 Figures

cc. S. Osborn, P. Merten, L. Shearer-Nguyen, E. Lower, S. Griffin

Figure 1 Simulation of 30
foot 'box' vs. current
neighborhood character



Figure 2 Rip-rap concrete sea barrier along the cliffs at Sungold Point. This photo looking straight down and a little south from the house just north of subject property



Figure 3 Erosion control (gunited cliff face) at
subject property (the one w/ pool)

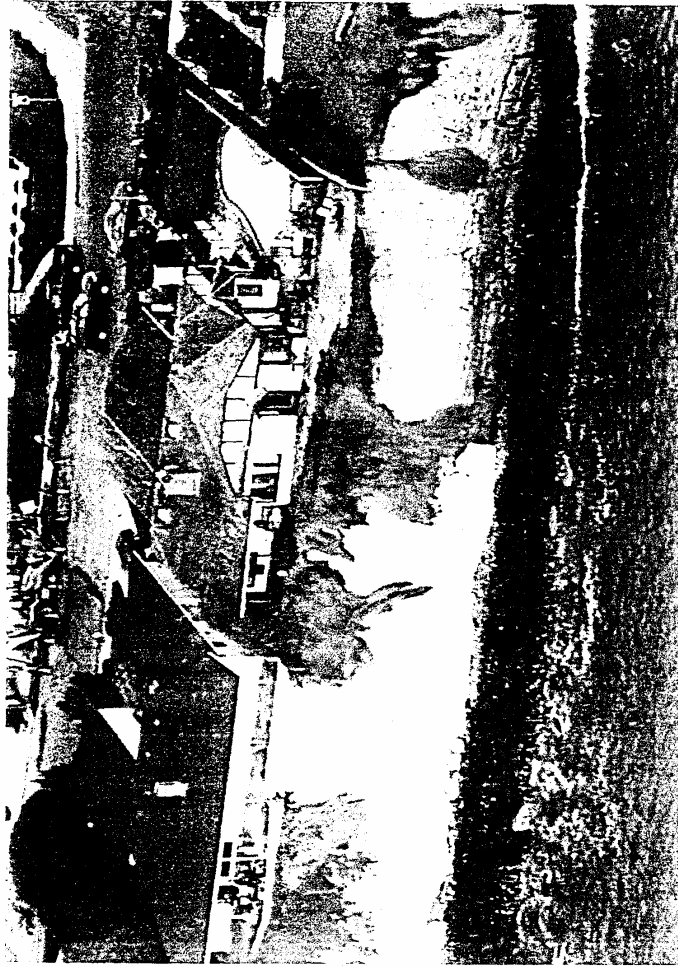


Figure 4 Erosion control of subject property (w/ pool). Note the failure of the erosion control on the house second to the south from subject property (red arrow)

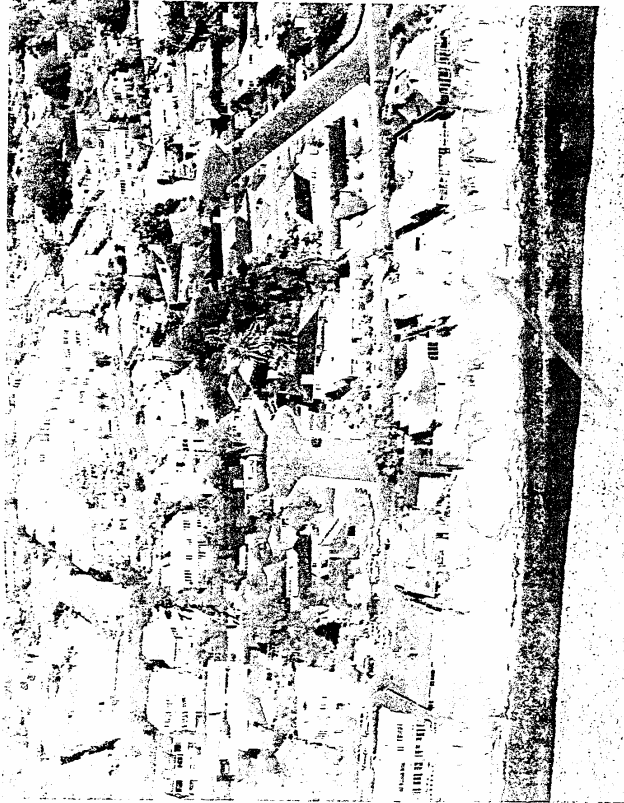


Figure 5 Cliff failure at house second to the north. The two scalloped areas red arrows) indicate the recent erosion and fact the failure mode is vertical, i.e. characteristic of rock cliffs

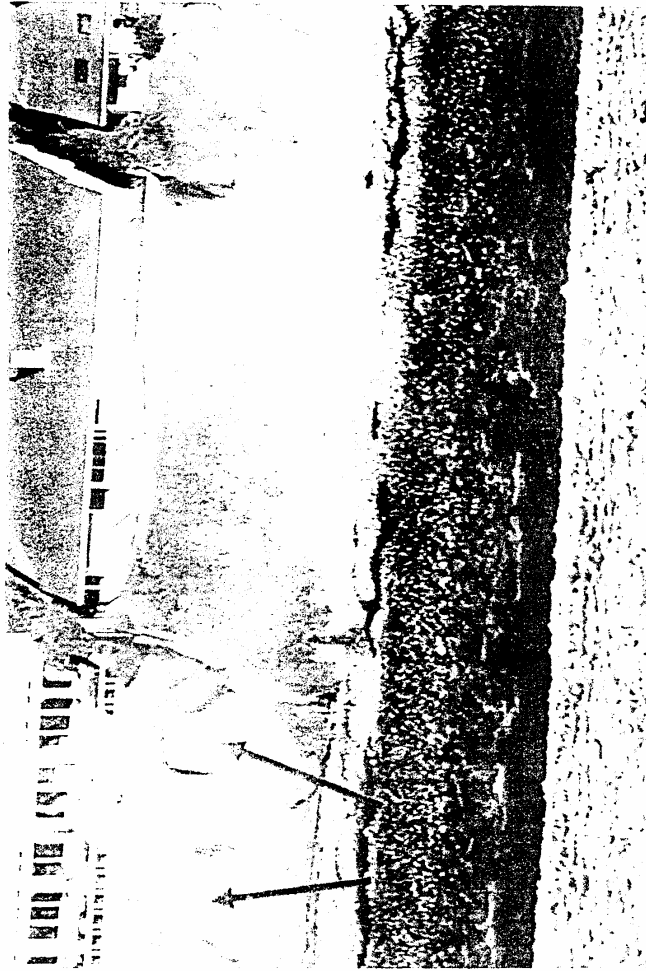


Figure 6 Several large slabs of gunite from erosion control at subject property. This failure occurred after the 2002 aerial photo (Fig 3).



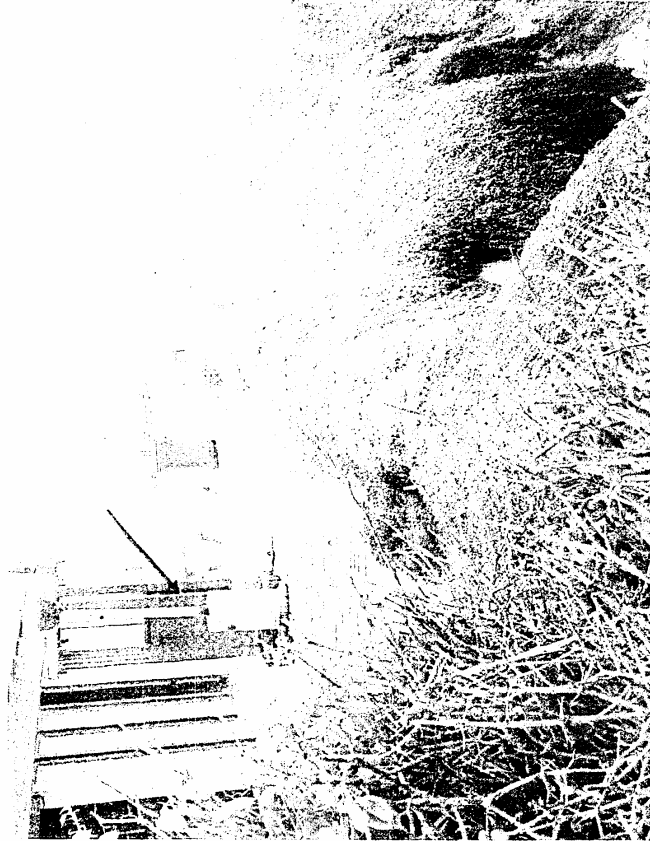
Figure 7 Under cut cliff below subject property. Note moss (yellowish color) associated with water seepage from cliff



Figure 8 Seepage (below red line) and fractured rock at
southern edge of gunitite erosion control at subject
residence



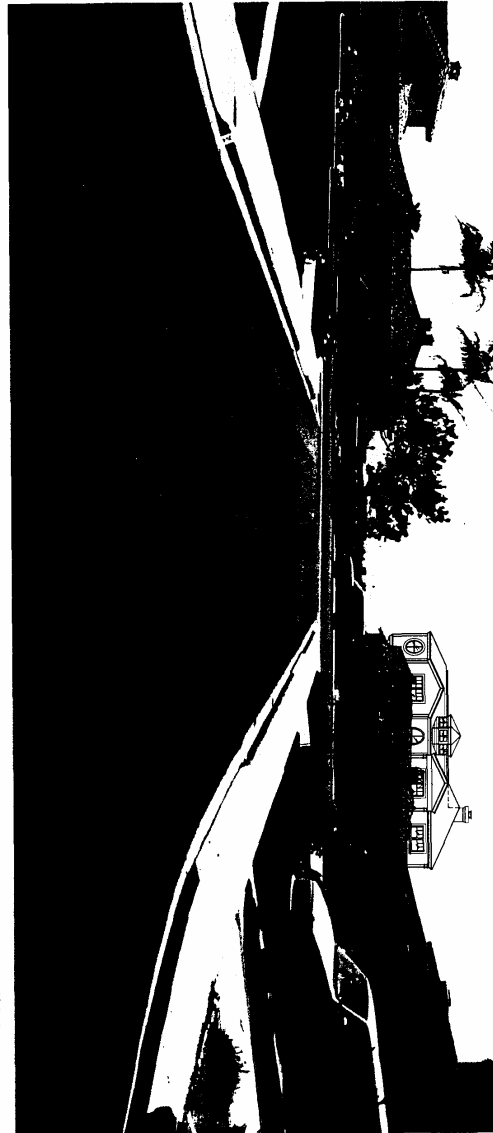
Figure 9 Bluff edge at subject residence. Notice vertical character of the cliff. The northern corner of subject house is just out of sight, but only about 6-8 feet from bluff top (note space heater for scale). Taken from house just to north.





All data, information and calculations are based on the best available information. The Engineer is not responsible for the accuracy of the information provided by others. The Engineer is not responsible for the accuracy of the information provided by others. The Engineer is not responsible for the accuracy of the information provided by others.

A9 GRANITE LITE ON TOP	PREPARED BY ARCHITECT	CHECKED BY ARCHITECT	DESIGNED BY ARCHITECT	DRAWN BY ARCHITECT	DATE 07/11/14	SCALE AS SHOWN	SHEET NO. A9
	MEHL RESIDENCE 5300 CALUMET AVENUE LA JOLLA, CA 92037						
		ARCHITECT MARK D. LYON, INC. 410 BIRD ROCK AVE., LA JOLLA, CA 92037 (619) 459-1171					



CENTER OF CULDESAC LOOKING WEST ALONG SAN COLLA STREET

(NO SCALE)

PREPARED BY:
Name: Andrew Davis, D. Edgar
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Company: Edgar Research
Title: President

08/25/06
08/25/06
COASTAL SHEET PAPER CO.
09/24
HCL/JOH
SHAW-WALKER
09/25/06
09/25/06
PHOTO OVERLAY
A10.1

**MEHL
RESIDENCE**
5300 CALUMET AVENUE
LA JOLLA, CA 92037



ARCHITECT MARK D. LYON, INC.
410 BIRD ROCK AVE., LA JOLLA, CA 92037 (858) 489-1171



Laurinda, Deb and Sherilyn

6/11/07

I enclose an environmental objection to the 5380 Calumet project. Giving this to you as you may want to weigh in. I believe the matter is time critical with deadline for comments either today or tomorrow. Given your busy schedules I am copying all three of you in hopes one has time (and inclination) to comment to the City on such short notice.

Item 1. of the attached is so critical you may have already picked it up and acted. If so 'thanks' and disregard this note.

Regards, Tim Barnett, 333 San Colla St., La Jolla (8)4888584

TB

RECEIVED
JUN 11 2007
California Coastal Commission
San Diego Coast District

Objection to and Possible Environmental Impacts at 5380 Calumet (prj. 101888)
Emailed to Edith Gutierrez 6/8/2007

Tim Barnett (858-4888584) 6/7/2007

I would like to bring several issues to light that seem to me must be settled/answered prior to final decision on development at above subject project. In short, I am raising *environmental objections to said project*.

1. You indicated to me Wednesday that the City apparently required no demolition plan for removal of the existing house and foundations from the subject property. *Yet the existing house and foundation, which are to be removed, come within only few feet of the coastal bluff edge.....they are in the sensitive coastal bluff zone* (see Figure 9 of my 1 August memo to you on problems with this property).

It seems highly likely that removal of the existing house and foundations could cause collapse or damage of the coast bluff. This possibility and other implications are apparently NOT discussed in the materials related to the project, at least that have been made available to me. I read the engineer's report (WCE) last summer and do not remember any mention and/or analysis to this issue.

In short, the City is allowing unrestricted, undefined land modification of the coastal bluff system with absolutely no oversight, no control and no guarantee the proposed house/foundation removal will not harm the coastal bluff. I do not understand how the project can go ahead with this level of potential problem.

2. The grading plan you showed me indicates dirt removal of 81.7 yds and no subsequent import to make up for this loss. The City cycle report indicates no supervision of the excavation is necessary. The grading plan gave no indication, I could find, as to where the excavation would occur, nor how deep it might go. There was no indication that the excavation would be safely away from the coastal bluff, that the excavation would not imperil property to the north or that the excavation would not harm the coastal bluff. Since the NW corner of the property is where the most erosion has occurred, the neighbors ought to have a legitimate concern over what might happen to their property with unsupervised heavy equipment digging so near their property line.

In short, we have a case where excavation with heavy equipment will make major deletions to the soils in an environmentally sensitive area. This is to be done without plan and without City supervision. It seems to me the project cannot proceed with this degree of uncertainty and potential for destruction of environmentally sensitive coast bluffs.

The engineering report I saw in July, 2006 indicated that the removed soils should be replaced with 'good' fill and then compacted. They indicated they would not endorse project development if this was not done. The plan I saw last Wednesday made no mention of putting fill back onto the property. Maybe it was omitted by accident?

The above represent environmentally sensitive issues and potential problems that, in my view, need to be addressed before further City approvals can be granted.

Mr. Mike Aguirre, City Attorney
 City Attorney's Office
 1200 3rd Ave Suite 1620
 San Diego, CA

6/30/2007

Dear Mr. Aguirre,

I am writing directly to you because you seem willing to listen to the 'little guy' and also push to make San Diego Government 'follow the rules'. I believe the City's Development Services Department (DSD) has been making a chronic error that has led to placement of illegal structures along the coastal bluff regions. They are about to do it again. The matter needs the attention of your Office to see if my surmise is correct or not.

Summary

Overly large coastal bluff front homes are routinely being permitted by DSD based on 'phantom' FAR calculations. This seems a violation of City code (see below). The problem comes when the coastal bluff lot areas used in the FAR calculations, permitted by DSD, are those from the original plat maps. Unfortunately, coastal erosion over the years has reduced the size of those original parcels. Using the original size of the lot allows FAR values with little relation to reality. A case in point right now under DSD consideration has to do with proposed construction at 5380 Calumet, La Jolla (project 101888, the Mehl residence).

The Code violation

It apparently has been the custom in San Diego to take the original lot size, before erosion, as the standard for estimating the FAR. However, this approach is apparently not codified; seemingly in violation of City code when the original size of the lot has been reduced by erosion. The City code (Chap 11, article 3, div 1) defines "FAR" as the numerical value obtained by dividing the gross floor area of all buildings on the 'premises' by the total area of the 'premises' on which the buildings are located". The code says "Premises" means an area of land with its structures that, because of its unity of use, is regarded as the lowest conveyable unit" (see attached sections of City code).

'Premises' is vague and definitely does not say 'use the entire lot as originally platted' as the DSD now permits. Indeed, the 'unity of use' phrase seems to rule out using the original parcel size (about 8000 ft sq) in the specific case noted above because nearly 1000 sq ft (my rough estimate) of the lot no longer exists due to coastal erosion, it is thin air. This section of the 'phantom land' obviously does not allow 'unity of use' with the remainder of the parcel.

Given the above definitions from the City code, I argue that the basis of the FAR calculation ought to be the approximately 7000 ft sq parcel that remains a contiguous unit.

I would appreciate your official opinion on this matter, as I am sure would DSD.

Another issue that may be related is as follows. As the bluff eroded into the originally platted area, the HW mark moved with it. Thus, the land that eroded may now

*Twice -
 This makes it possible
 to place very large houses
 on relative small pieces of
 ocean front land. This
 shows why they should not
 be doing this.*

*This issue
 reaches way
 beyond the
 current case.*

TMB

be at or below HW and so its ownership, I am told, has reverted to the State. If this is true, the proposed project again cannot claim it in their estimate of the FAR. The owner does not own that phantom land; the State does...or may. A good survey of the Bluff and lands immediately above and below it is needed.

I have asked the Development Services Department to get a legal opinion on these issues from your Office. I contend the proper definition of FAR would not include the phantom land and the values used to estimate the FAR in the above noted project are incorrect. I felt it appropriate to also forward this request directly to your office.

Thank you in advance for your consideration and opinion on this matter. It seems to have slipped under the radar for too many years.

Sincerely Yours,

Dr. Tim Barnett
333 San Colla St
La Jolla, CA 92037

PS. Due to travel it is easiest to reach me via email: tbarnett-ul@ucsd.edu
Cc S.J. Pearson, Sierra Club (by email)
Edith Gutierrez, DSD (by email)

Overburden means soil, rock, or other materials that lie above a natural mineral deposit or in between mineral deposits, before or after their removal by *surface mining* operations.

[Editors Note: This definition only applies outside of the Coastal Overlay Zone.]

Owner, record (See *record owner*)

Parcel map means a map as defined by the *Subdivision Map Act*, Section 66426, usually used to subdivide a property into four *lots* or less.

Parking, shared (See *shared parking*)

Parking space, off-street (See *off-street parking space*)

Parking structure, underground (See *underground parking structure*)

Parkway means the area within the *public right-of-way* between the curb of a *street* and the *public right-of-way* line.

Penthouse means a *structure* for enclosing mechanical equipment or stairs that is located on the roof of a multi-story building and set back from the vertical projections of the exterior building walls.

Permit holder means an *applicant* who has been granted a permit, or the *applicant's* successor, or the person using the property that is subject to the permit.

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

Previously conforming means the circumstance where a use, *structure*, or *premises* complied with all applicable state and local laws when it was first built or came into existence, but because of a subsequent change in zone or development regulations, is not in conformance with the current zone or all development regulations applicable to that zone.

Previously conforming density means the circumstance where a residential *development* is currently an allowed use in the zone and was constructed with a lawful number of units, but due to a change in the zone or zoning regulations, now has a greater number of units than is allowed in the zone.

Prezoning ordinance means an ordinance adopted by the City Council that delineates the zoning of territory not yet incorporated into the City.

Primary use means the allowed use on a *premises* that occupies a majority of the area of the *premises*.

Flood proofing means any combination of structural and nonstructural additions, changes, or adjustments to *structures* that reduce or eliminate the damage to a *premises* and its contents that would otherwise result from a *flood*.

Floodplain, (See *Special Flood Hazard Area*)

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the *base flood* without cumulatively increasing the water surface elevation more than one foot. *Floodway* also means the area within a *Special Flood Hazard Area*, as shown on the *Flood Insurance Rate Maps*.

Floor means a horizontal, continuous, supporting, or nonsupporting surface of a *structure*.

Floor Area Ratio (FAR) means the numerical value obtained by dividing the *gross floor area* of all buildings on a *premises* by the total area of the *premises* on which the buildings are located.

Freeway means a limited-access roadway as provided by the California Streets and Highways Code.

Geotechnical report means a preliminary report that states existing soil conditions and provides recommendations for the proposed construction operations. For purposes of the Land Development Code, the term *geotechnical report* includes soils reports, geological reconnaissance, geotechnical investigations, and seismic studies.

Grade means the elevation of the surface of the ground.

See appended
update.

Objection to and Possible Environmental Impacts at 5380 Calumet (prj. 101888)

Tim Barnett (858-4888584) 6/7/2007

I would like to bring several issues to light that seem to me must be settled/answered prior to final decision on development at above subject project. In short, I am raising *environmental objections to said project*.

1. You indicated to me Wednesday that the City apparently required no demolition plan for removal of the existing house and foundations from the subject property. *Yet the existing house and foundation, which are to be removed, come within only few feet of the coastal bluff edge.....they are in the sensitive coastal bluff zone (see Figure 9 of my 1 August memo to you on problems with this property).*

It seems highly likely that removal of the existing house and foundations could cause collapse or damage of the coast bluff. This possibility and other implications are apparently NOT discussed in the materials related to the project, at least that have been made available to me. I read the engineer's report (WCE) last summer and do not remember any mention and/or analysis to this issue.

In short, the City is allowing unrestricted, undefined land modification of the coastal bluff system with absolutely no oversight, no control and no guarantee the proposed house/foundation removal will not harm the coastal bluff. I do not understand how the project can go ahead with this level of potential problem.

2. The grading plan you showed me indicates dirt removal of 81.7 yds and no subsequent import to make up for this loss. The City cycle report indicates no supervision of the excavation is necessary. The grading plan gave no indication, I could find, as to where the excavation would occur, nor how deep it might go. There was no indication that the excavation would be safely away from the coastal bluff, that the excavation would not imperil property to the north or that the excavation would not harm the coastal bluff. Since the NW corner of the property is where the most erosion has occurred, the neighbors ought to have a legitimate concern over what might happen to their property with unsupervised heavy equipment digging so near their property line.

In short, we have a case where excavation with heavy equipment will make major deletions to the soils in an environmentally sensitive area. This is to be done without plan and without City supervision. It seems to me the project cannot proceed with this degree of uncertainty and potential for destruction of environmentally sensitive coast bluffs.

The engineering report I saw in July, 2006 indicated that the removed soils should be replaced with 'good' fill and then compacted. They indicated they would not endorse project development if this was not done. The plan I saw last Wednesday made no mention of putting fill back onto the property. Maybe it was omitted by accident?

The above represent environmentally sensitive issue and potential problems that, in my view, need to be addressed before further City approvals can be granted.

From: "Bryan Huey" <BHuey@carollo.com>
Subject: Re: 5380 Calumet Permit]
Date: Sat, September 29, 2007 4:03 pm
To: tbarnett-ul@ucsd.edu
Cc: jbrewer@kempsmith.com

The report first mentions the pool in a meaningful way on page 12 under site preparation prior to construction. The report describes unsuitable soils 2-6 below grade, possibly thicker in localized areas. Unsuitable soils should be removed 5 feet outside the settling area supporting the house, or up to the property line.

Then with regards to the pool and depth....

Before backfilling the pool, the gunite pool bowl must be demolished and removed. The bottom of the excavation should be approved by our project geologist, engineer, or technician supervisor.

This is the only really meaningful discussion of the pool, other than to describe the existing lot (ie there is currently a pool there...) The very simple not to scale drawing provided with it shows the excavation to be a little deeper than 6 feet... maybe 8-10 feet. I doubt this simple drawing can be scaled in any meaningful way.

Let me know if this is what you need or if I need to dig a little deeper (pardon the pun).

Bryan

Bryan Huey, PE
Carollo Engineers
3033 North 44th Street #101
Phoenix, AZ, 85018

Ph: 602-263-9500
Fax: 602-265-1422

From: tbarnett-ul@ucsd.edu

bryan....may i ask you to do one small favor. in the engineering report you have....i seem to remember that in the first part of the report CWE said that all the bad soil had to be removed and new put in and compacted.
the swimming pool had to be removed. i seem to remember that the amount of soil removed could go 2-4(or 5) feet? this is really critical info if you can find it. as i remember you do not need any figs/pics to get this info.....it was pretty much up front of the report. if you find this info it, by itself, kill the project. Pls have a look and let me know what you find.

i'm planning on being at the mtg on the 10th. tks, tim

ADD ON INFO based on 10/10/07 hearing

Regarding demolition permit and coastal excavation....

Demolition permits for existing house just 10 feet from bluff..... City "says a demolition plan is not required as part of a discretionary permit application. A plan permit will be required as part of the ministerial application prior to issuance of building permits. At that time they will review the plan. Building inspectors will follow the progress of the demolition. IF THERE ARE CHANGES TO THE BLUFF, INCLUDING BLUFF EDGE, THE COASTAL DEVELOPMENT AND SITE DEVELOPMENT PERMITS WOULD BE REQUIRED TO BE AMENDED". Does this mean they get to change the rules after they screw up the bluff?

As it stands now, the City has authorized a Site Development Permit without any plan as to how they will handle removal of an existing dwelling and associated foundations that sits only 8-10 feet from the edge of environmentally sensitive coastal bluff.

Large scale excavation....The engineering study on the project calls for excavation over the building footprint (about 2000 sq feet) to depths of 2-6 feet and maybe more. We are talking several THOUSAND yds of dirt to be removed and replaced with better fill. The engineering firm states they will not back the project if this large excavation is not carried out.

But the excavation plan in the City's possession calls for removal of only 81.7 yds, which (they say) does not require an excavation plan nor does it require any oversight by the CITY. What happened, the engineer explained, is that the 81.7 yds is the net difference between what they take out and what they put back in.

As it stands now, the CITY has authorized the large scale excavation of thousand of yards of soil from a sensitive bluff front lot without any plan and/or City supervision.

Setback issue email 6/8/07

Hi Edith....in doing some new reading I find new evidence that seems to Invalidate the request for 'variance' in setback for this property (5380 Calumet). You will remember that the requested exception is to allow a 25' setback instead of the standard 40'. Previously, I offered still unrefuted reasons why the 25' exception should not be allowed. Now a new issue has cropped up that adds weight to NOT allowing the 25' setback.

The staff geologist for the California Coastal Commission(CCC) has offered guide lines for determining setbacks for new development in the coast bluff regions(M. Johnsson, Proc., California and the World Ocean, '02. in press, Establishing ...Coastal Bluffs'). Since the current residence is proposed to be removed, whatever replaces it will be defined as 'new' and subject to the guideline laid down by the CCC.

The engineering firm (CWE) working for the owner of above property states the erosion will cause a bluff retreat of 25' over 75 years. I will show in another mail that this estimate is low, but let's use it here for sake of argument. The same firm shows that after taking slope stability into account, the 1.5 FOS contours just happens to follow the 25' setback line requested for this property over the northern section of the property.

Now the CCC guidelines for determining the allowable setback indicate the total allowable setback should be the SUM of these two numbers....stability setback and erosion setback... or 50' (see Johnsson, in press, Figure 6). Allowing the 25' setback therefore violates the CCC guidelines for new construction within the sensitive coastal bluff area and, therefore, section 30253 of the Coast Act. Specifically, the above additive approach to setback estimation is "the current analytical analysis process carried out by the Coast Commission staff in evaluating proposals for new development on the California coast, and in recommending action upon those proposals to the Commission"(Johnsson, 2003, Memo to Commissioners and Interested parties).

The above makes lots of sense. As now planned, at least part of the house will be built on or very near the 1.5 FOS line, i.e. 25' from the existing bluff. If a 25' setback is allowed, as now suggested, even a small amount of cliff erosion will push the 1.5 FOS line eastward and within the perimeter of the proposed new building. As time progresses, more and more of the house will be located in the danger zone seaward of the 1.5 FOS line (which will not be static but move eastward as the bluff erodes). That constitutes a hazard to not only the bluff, but also the house and its inhabitants.

It may be that the City currently has its own guidelines for determining bluff setbacks, justified in this case solely by CWE analysis. However, it is my understanding that CCC regulations on coastal bluff issues have priority over those of the City. So why make a decision now (25' setback) that is in conflict with guidelines established by a higher authority and when it will be overturned on appeal later?

Based on the above consideration alone, the 25' setback can not be justified and so should not be granted. Note the analysis and erosion/FOS numbers come from the proposer's own hired team. The other reasons for not allowing the 25' setback that I have submitted to you earlier only strengthen this argument. Please ask the Staff geologist to reconsider geological approvals in view of the CCC guidelines. If the City still insists on granting the 25' setback than I would like to have the reasons for that decision made a part of the public record and a copy of said argument sent to me and above addressees.

As always, thanks for your help and consideration. best regards, Tim

STATE OF CALIFORNIA -- THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, 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.

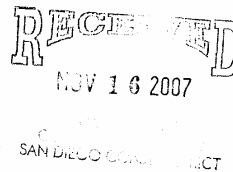
SECTION I. Appellant(s)

Name: Commissioner Patrick Kruer
Mailing Address: The Monarch Group
7727 Herschel Avenue
La Jolla, Ca 92037
Phone Number: 858 551 4390

SECTION II. Decision Being Appealed

1. Name of local/port government: City of San Diego
2. Brief description of development being appealed: Demolition of an existing one-story single-family residence including the removal of a swimming pool and construction of a two-story, 4,569 sq. ft. single-family residence with a roof deck and attached two-car garage on an 8,282 sq. ft. ocean blufftop lot.
3. Development's location (street address, assessor's parcel no., cross street, etc.):
5380 Calumet Avenue, La Jolla, San Diego, San Diego Co. APN 415-021-02
4. Description of decision being appealed:
 - a. Approval; no special conditions: ☐
 - b. Approval with special conditions: ☒
 - c. 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: A-6-LJS-07-114DATE FILED: 11/16/07DISTRICT: San Diego

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 2

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 Hearing Officer

Date of local government's decision: 10/10/07

Local government's file number (if any): CDP No. 335185/SDP No. 456239

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:

David and Bonnie Mehl
3527 E. Sunrise Drive, Suite 215
Tucson, AZ 85718

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.

Tim Barnett
333 San Colla
La Jolla, CA 92037

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 11/16/07

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SECTION V. Certification

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

Signed: 
Appellant or Agent

Date: 11/16/07

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

Signed: _____

Date: _____

Attachment "A"

11/16/07

The proposal involves the demolition of an existing single-family residence and construction of a new, 4,569 sq.ft., two-story single family residence with roof deck and attached two-car garage located on a 8,282 sq.ft. ocean blufftop at 5380 Calumet Avenue in La Jolla. The existing home to be removed is located approximately 15 feet from the edge of the coastal bluff at its closest point and the new home will be sited 25 from the bluff edge. A portion of the face of the coastal bluff currently contains gunite (i.e., air-placed concrete).

The City's certified LCP requires that development be set back a minimum of 40 ft. from any coastal bluff edge. Specifically, Section II(C) of the certified Coastal Bluffs and Beaches Guidelines states, in part:

Development proposed on a sensitive coastal bluff, including primary and accessory structures, and grading, shall be located at least 40 feet landward from the coastal bluff edge, except as follows:

1. A distance of more than 40 feet from the bluff edge may be required based on current geologic conditions.
2. Development may be located less than 40 feet but not less than 25 feet from the coastal bluff edge if there is evidence in a geology report that the site is stable enough to support the development at the proposed distance and if the development will neither be subject to nor contribute to significant geological instability or require a shoreline or bluff erosion control device...[Note: If a seawall (or other stabilization/erosion control measure) has been installed due to excessive erosion on a premises, that premises shall not qualify for reduction of the required 40-foot distance to the coastal bluff edge. Since the instability of the coastal bluff necessitated the installation of the seawall, the coastal bluff would not be considered stable enough to support development within the 40-foot bluff edge setback.] [emphasis added]

Furthermore, Section II.D. also states the following:

Erosion control measures include, but are not limited to, retaining walls, air placed concrete, and other structures, devices or methods appropriate for controlling or minimizing erosion of the sensitive coastal bluff.... [emphasis added]

The geotechnical reports for the project conclude that the new development will not be affected by bluff instability, will not contribute to significant geologic instability and will not require any shoreline protection measures, throughout the anticipated 75 year economic life span of the structure. In addition, it is stated that the project complies with the "ESL Regulations and the Coastal Bluffs and Beaches Guidelines" and that the

residence has been designed to observe a 25' bluff edge setback as recommended by the geologic investigation. However, the findings of the geotechnical report also states:

The existing gunite on the face of the bluff protects the face and the upper portion of the bluff from rainfall, so that no surficial erosion is currently occurring where the gunite is present. If the gunite were to be removed, it is our opinion that erosion would again occur in those areas, and that the rate of bluff top erosion would then be as predicted in our previous reports (approximately 25 feet in 75 years.).

In approving the project, the City's findings acknowledged that the gunite was installed sometime in the 1950's or 1960's but the City does not address whether or not the gunite is considered to be a shoreline or bluff protective structure and why the reduced setback from the bluff edge was granted even though such a structure exists on the bluff face. The findings of the geotechnical investigation which state that the site may erode 25 feet in 75 years without the gunite lends reason to the fact that the gunite is a shoreline altering device. As such, a 40 ft. setback from the bluff edge should have been required.

In addition, based on geology reports, the bluff is predicted to erode at a rate of 0.33 feet per year which could result in approximately 25 feet of bluff recession in 75 years. The proposed residence is proposed to be sited a distance of 25 ft. from the bluff edge; therefore, this would result in the home being threatened.

Based on the above-cited certified guidelines, because shoreline protective devices have previously been installed to protect the existing home (and are still providing protection to the existing home), a reduction in the required 40-foot bluff edge setback is not permitted. As the subject proposal is to construct a new home up to 25 ft. from the bluff edge, the proposed development appears to be inconsistent with the provisions of the certified LCP.

STATE OF CALIFORNIA -- THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
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APPEAL FROM COASTAL PERMIT
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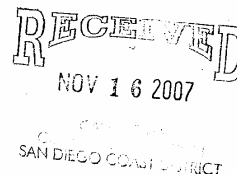
SECTION I. Appellant(s)

Name: Commissioner Sara Wan
Mailing Address: 45 Fremont Street
Suite 2000
San Francisco, CA 94105
Phone Number: 415 904-5200

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 2

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