

**CALIFORNIA COASTAL COMMISSION**

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Staff: M. Jespersen —SF  
Staff Report: August 23, 2007  
Hearing Date: September 6, 2007  
Commission Action:

## **APPEAL STAFF REPORT SUBSTANTIAL ISSUE DETERMINATION**

**APPEAL NO.:** A-2-PAC-07-022

**APPLICANT:** Pacific Beach, LLC

**LOCAL GOVERNMENT:** City of Pacifica

**LOCAL DECISION:** Approval with Conditions

**PROJECT LOCATION:** 1567 Beach Boulevard, Pacifica, CA

**PROJECT DESCRIPTION:** Construction of a nine unit three-story condominium building with 10,575 square-foot subterranean parking garage

**APPELLANTS:** Nancy Merchant, Patrick Rentsch, and Roberta Schuler

**STAFF  
RECOMMENDATION:** **Substantial Issue Exists**

**SUBSTANTIVE FILE  
DOCUMENTS:**

1. City of Pacifica certified Local Coastal Program
2. Initial Study/Mitigated Negative Declaration prepared for the Construction of Nine (9) Condominium Residential Units 1567 Beach Blvd (APN 016-011-019) Pacifica, CA (August, 2006)
3. CDP 2-01-026, City of Pacifica Repairs to Beach Blvd Seawall

## **EXECUTIVE SUMMARY**

The City of Pacifica approved with conditions a nine (9) unit, three-story condominium building with 10,575 square-foot subterranean garage at 1567 Beach Boulevard (Blvd). The project also includes flood protection improvements to protect the building and subterranean garage from waves that can overtop the Beach Blvd seawall and threaten the approved development on the inland side of the street. The flood protection improvements involve raising approximately 40 linear feet of Beach Blvd approximately two (2) feet near the northwest corner of the subject property line to the garage entrance and construction of a retaining wall on the seaward side of the street to support the proposed elevated road and driveway.

Three appellants filed timely appeals for the project and contend that the approved development is inconsistent with the City of Pacifica's (City) certified Local Coastal Program (LCP) policies on hazards, shoreline protection, scenic and visual qualities, and public access. One appellant also contends that the approved development does not meet the LCP policy on protecting low and moderate income housing. Another appellant contends that the approved project is inconsistent with the LCP because the applicant has not provided the proper proof of title for the approved development.

Commission staff recommends that the appeal raises significant questions regarding whether the development approved by the City is consistent with the hazard and shoreline protection policies of the City's certified LCP. In particular, it appears from evidence in the local record that: (1) the approved project would be constructed in a high hazard area but that adequate mitigations have not been presented to protect life and property as required by LCP 26(a); (2) the structural integrity of the surrounding area and more specifically, the Beach Blvd seawall, has not been adequately addressed to assure the project will not require significant re-armoring throughout the life of the project as required by LCP 26(b) and Section 9-4.4406 of the Implementation Plan; and (3) flood protection improvements to raise Beach Blvd and construct a retaining wall would in effect act as a seawall or shoreline protective device to protect the new development from flooding, which is inconsistent with LCP Policy 16 prohibiting such a structure unless required to protect existing development.

The approved project relies on the presence of the existing Beach Blvd seawall to protect it from flooding and coastal erosion; consequently, the long-term structural integrity of this project is tied to the ongoing repair and maintenance of the Beach Blvd seawall; however, the local record indicates that the seawall may not be structurally sound for the life of the approved project. This is also evidenced by previous and current coastal development permit applications by the City to repair the Beach Blvd seawall. The City also does not address the adequacy of the Beach Blvd seawall to protect the approved project in its findings. Given the uncertainty regarding the seawall, it is reasonable to assume that the approved project may engender the need for additional shoreline protection through the design life of the project because it is unclear whether the existing sea wall: (1) is strong enough to protect the size and design of the approved project; or (2) would necessitate modifications to the existing seawall that go beyond normal maintenance and repair. The local record does not contain adequate information to make such a determination.

The approval of the proposed project also sets a precedent for elevating Beach Blvd as mitigation to prevent flooding of new infill projects along Beach Blvd. It is possible that over time, as redevelopment continues along this section of coast, more projects will rely on elevating Beach Blvd to mitigate flood risk to new development. The cumulative impact of an elevated road and associated retaining walls could stress the existing the Beach Blvd seawall and revetment enough to cause the structure to fail, but no analysis of this potential impact has been provided.

Therefore, staff recommends that the Commission find that the project, as approved by the City, raises a substantial issue of conformity with the certified LCP.

**The motion to adopt the staff recommendation of Substantial Issue is found on page 2.**

### **STAFF NOTES**

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. Since the staff is recommending substantial issue, unless there is a motion from the Commission to find no substantial issue, the substantial issue question will be considered moot, and the Commission will open and continue the hearing on the de novo portion of the appeal hearing on the merits of the project, to be held in the future.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three 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. The only persons qualified to testify before the Commission on the substantial issue question are the applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing.

## **1.0 STAFF RECOMMENDATION**

Pursuant to Section 30603(b) of the Coastal Act and as discussed in the findings below, the staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeals have been filed. The proper motion is:

### **MOTION**

*I move that the Commission determine that Appeal No. A-2-PAC-07-022 raises NO substantial issue as to conformity with the certified Local Coastal Program with respect to the grounds on which an appeal has been filed pursuant to Section 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-2-PAC-07-022 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.

## **2.0 PROJECT BACKGROUND**

### **2.1 Local Government Action**

In October 2003, the applicant submitted a proposal for a fourteen unit (14) condominium building with three stories of living space and a subterranean parking garage to accommodate 50 parking spaces and storage. Upon initial review, the City determined that the original 14 unit proposal did not comply with the City's General Plan and Local Coastal Program; the applicant then resubmitted plans for a nine (9) unit complex on November 24, 2003. On July 18, 2005, the City's Planning Commission held a study session to allow for public participation in the review of the proposed 9-unit condominium project.

On October 16, 2006, the City of Pacifica Planning Commission voted to adopt the Mitigated Negative Declaration (MND) for this project and conditionally approved the coastal development permit to construct a three-story residential condominium development consisting of 10,575 square feet of subterranean garage area and nine residential units (Exhibit 4). The approved project includes construction of two retaining walls along the west and east side of a 20-foot wide driveway off Beach Blvd into the garage. The approved project also includes increasing the elevation of the existing seawall located on the ocean side of Beach Blvd directly in front of the site from 23.7 feet to 27 feet above sea level in order to protect the proposed below-grade garage from wave overtopping. The Planning Commission also approved a Site Development Permit, Use Permit, and Tentative (Condominium) Subdivision Map Permit at this hearing. The staff report for the October 16 hearing states that an encroachment permit would also be required to allow for proposed landscaping to the north of the site on the Bella Vista Avenue right-of-way.

A local appeal was filed and brought before the City Council on January 22, 2007. At this hearing, the City Council voted to continue this item and requested that the City's geotechnical consultant develop a scope of work for peer review of the flood protection improvements along Beach Blvd to ensure the improvements were designed so as not to result in significant adverse impacts. In addition, the Council requested that the applicant address a boundary dispute that was raised by a neighbor along the northern portion of the site.

The City Council held another public hearing on this project on April 23, 2007. The Council considered revised plans submitted by the applicant that eliminated the proposed elevation

increase of the existing seawall located directly in front of the site. In lieu of increasing the elevation of the seawall, the applicant proposed raising Beach Blvd approximately two (2) feet bringing the section of Beach Blvd fronting the property to a height of 27 +/- Mean Sea Level (MSL). The applicant also proposed to build a two-foot high retaining wall along the raised portion of Beach Blvd from the proposed fire turn around to the garage entrance. Both the elevated Beach Blvd and retaining wall would serve as flood protection improvements. The City Council was divided over the issue of requiring a full Environmental Impact Report (EIR) for the project with the revised flood protection improvements and continued this item to the next City Council meeting.

On May 14, 2007, the City Council considered and approved with conditions the coastal development permit (CDP) for this project as submitted on April 23, 2007.

## **2.2 Filing of Appeal**

The Commission received the Notice of Final Action for the City's action on the CDP application for the approved development on May 23, 2007 (Exhibit 4). In accordance with the Commission's regulations, the 10-working-day appeal period ran from May 24 through June 7, 2007 (14 CCR Section 13110). On June 6 and 7, 2007, within 10 working days of receipt by the Commission of the Notice of Final Local Action, Nancy Merchant, Patrick Rentsch, and Roberta Schuler appealed the City's action on the locally approved CDP to the Commission (Exhibits 5 - 7).

In accordance with Section 13112 of Title 14 of the California Code of Regulations, on June 7, 2007, staff requested all relevant documents and materials regarding the subject approval from the City to enable staff to analyze the appeal and prepare a recommendation as to whether a substantial issue exists. The regulations provide that a local government has five working days from receipt of such a request from the Commission to provide the relevant documents and materials. The Commission received the local government file on June 13, 2007, within five working days.

## **2.3 Appeal Process**

After certification of LCP, the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603).

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including approval of developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff, or those located in a sensitive coastal resource area. Developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments that constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county.

The proposed development is appealable to the California Coastal Commission because it is located between the sea and the first public road paralleling the sea.

## **2.4 49-day Waiver**

Pursuant to Section 30621 of the Coastal Act, an appeal hearing must be set within 49 days from the date an appeal of a locally issued coastal development permit is filed. The appeals on the above-described decision were filed on June 6 and June 7, 2007 and the 49<sup>th</sup> day fell on July 25, 2007. On June 15, 2007, the applicant provided a signed waiver of the 49-day requirement with the stipulation that the Commission review this item during their September meeting.

## **3.0 FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

### **3.1 Project Location and Description**

The approved development is a three-story building consisting of approximately 10,575 square feet of subterranean garage area and nine (9) condominium residential units totaling approximately 18,678 square feet. Each condominium would contain three bedrooms with 2 -1/2 baths with living areas ranging from 2,011 to 2,079 square feet. There will be 4,211 square feet of common and private open space. The subterranean garage would provide twenty-one (21) parking spaces, two for each unit and three guest spaces, with an additional storage area for each unit. Access to the parking area would be provided by a 20-foot driveway that would be elevated above from Beach Blvd approximately two feet and enter the garage at the north end of the property. Space for a fire truck turn around would also be provided as required by the Fire Department, a portion of which would be located within the front property boundary of the site.

The property is a 0.421 acre-lot located at the north end of Beach Blvd on the inland side, in the West Sharp Park neighborhood (Exhibit 1). The site fronts the Pacific Ocean and the Beach Blvd seawall. In order to provide necessary protection from waves that overtop the Beach Blvd seawall, the project includes flood protection improvements that involve elevating Beach Blvd approximately two feet near the northwestern corner of the site bringing Beach Blvd to a height of 27 +/- MSL at its highest point, and building a retaining wall to accommodate the northern portion of the elevated road. The retaining wall would be built as a separate structure from the existing seawall, starting 15 feet northwest of the end of Beach Blvd, and have a maximum height of two and a half feet (Exhibit 3). A trench drain would be installed at the garage entrance to prevent water from entering the garage. The drain would have the capacity to move a volume of water equal to the volume of the garage in two hours and would use an 18-inch diameter pipe to discharge water through an existing, nearby storm drain discharge headwall at the beach.

An encroachment permit of 7.8 feet was granted by the City as part of the project's initial approval for landscaping and to build a portion of the driveway turnaround and retaining wall along Bella Vista Avenue, a 25 foot-wide former paper street; however, the City later determined that Bella Vista Avenue was not a public right-of-way and that the additional 7.8 of feet needed

for the driveway and retaining wall was already owned by the applicant. As a condition of approval for this project, the City would require a 12 inch access easement to maintain a storm drain pipe and outlet that runs beneath Bella Vista Ave and ends just north of the site at the end of the Beach Blvd seawall.

The site's zoning designation is R-3 (Multi-Family Residential/Coastal Zone Combing District), which allows multi-family residential buildings. Existing development in the area consists of: single family residential structures to the north; four-plex, single-family, duplex, and triplex residential structures to the south; and a three-story apartment complex to the east.

The site is relatively flat and partially covered with ice plant, small shrubs and non-heritage trees. The vacant site was originally developed with a two-story single family residence and two-car detached garage. The residence was demolished over two years ago, although the detached garage still remains (Exhibit 2). This site originally consisted of seven lots that were merged into one 17,962 square foot lot in 1985 under the City's Merger Ordinance.

The City approved the project with 45 conditions. Condition 16 requires compliance with all of the Mitigation Measures, and implementation of the Mitigation, Monitoring, and Reporting Program, adopted as part of the MND. These measures include design criteria to address seismic and marine/storm hazards and structural stability.

Condition 18 requires that the applicant minimize increased storm water runoff through the use of on-site detention facilities to the maximum extent feasible as determined by the Planning Director and City Engineer; and Condition 40 requires the applicant to install a grease interceptor at the proposed drainage inlet.

Condition 41 requires that the design of all site improvements including any roadways, driveways and retaining walls, shall be submitted to the City for approval and peer review. The peer review shall insure that the improvements: (1) will not cause any erosion, (2) will not result in flooding of any properties, (3) will not adversely surcharge, overstress or reduce the effectiveness or integrity of the existing sea wall, and (4) will not divert any additional water to neighboring properties.

Other conditions of project approval include requirements to: (1) install a stainless steel railing to match the existing railing on the seawall along the proposed elevated road as deemed necessary by the Director of Public Works or City Engineer; (2) conform with the San Mateo Countywide Storm Water Pollution Prevention Program and use Best Management Practices (although not specifically defined in the conditions) during all phases of construction; (3) prepare a detailed building exterior lighting plan and install a streetlight that is compatible with the surrounding neighborhood without spill over onto the adjacent properties; and (4) include an outdoor space on the north and eastern portions of the property for children of the complex to play that is designed to avoid any significant environmental impacts.

### **3.2 Appellants Contentions**

The Commission received three valid appeals on this project from Nancy Merchant, Roberta Schuler, and Patrick Rentsch. The three appellants participated in the local

review of this project by providing written correspondence and oral testimony at public hearings, thus demonstrating their standing as aggrieved persons according to Coastal Act Section 30801. The project was appealed at the local level by Patrick Rentsch. All three appellants contend that the approved development is inconsistent with LCP policies regarding construction altering shoreline protection, hazards, shoreline protection and scenic and visual qualities. Appellant Merchant also contends that the approved development is inconsistent with LCP policies on public access, land use, and affordable housing. Appellant Schuler also contends that she owns a portion of the approved development site and that because the applicant cannot therefore provide proper ownership documentation, the approved project is inconsistent with the certified LCP. The appellants' contentions are discussed in more detail below.

#### 1. Hazards and Shoreline Protection

Appellant Merchant contends that the design of the flood protection measures, consisting of raising Beach Blvd along the northwest corner of the site and building a retaining wall to accommodate the northern portion of the elevated road, are shoreline protections that intend to protect only the new development; as a result, the project is inconsistent with LCP Policy 16 of the City's certified LCP that only permits shoreline protections that alter natural processes when they are required to serve coastal dependent uses or to protect existing structures. Ms Merchant also argues that the flood protection measures and/or mitigations may cause impacts of their own to the seawall, adjacent properties, and the environment, thereby violating LCP Policy 26 which requires new development to: (a) minimize risks to life and property in areas of high geologic, flood and fire hazard; and (b) assure stability and structural integrity of the surrounding site so as not to engender the need for protective devices that alter natural landforms along bluffs and cliffs. Appellant Merchant states that based on her personal experience of living adjacent to the subject site, the applicant has underestimated both the frequency of waves overtopping Beach Blvd Seawall and the risk to pedestrians on foot along Beach Blvd due to water and debris from wave overtopping. In her appeal, the appellant states that the City routinely closes the northern portion of Beach Blvd during wave overtopping and points out that while the amount of water that enters the proposed subterranean garage may or may not be significant, pedestrians, especially children, may easily be knocked down by debris filled water. Ms Merchant also states that the wave overtopping caused wave-borne rubble to be strewn across the street and resulted in the destruction of a large section of the stainless steel fence from the wave energy.

Appellant Merchant also argues that the project is inconsistent with certain sections of the Implementation Plan (IP) portion or Zoning Code of the city's certified LCP. First, the appellant argues that the site, and in particular, the northernmost portion of the driveway, would eventually require further armoring for the safety of its structure because of the wave environment and expected sea level rise from global warming. The need for future armoring would render the project inconsistent with Section 9-4.4406 of the City's Zoning Code which prohibits new development that would eventually require seawalls for the safety of the structure. Second, the appellant points out the vulnerability of Beach Blvd seawall as evidenced by several large voids that opened up behind the wall last winter and the fact that the seawall requires \$500,000 to \$1 million worth of maintenance work every 5 to 10 years. Ms Merchant goes on to state that the approved raised



driveway would deflect some water energy that would attack the top and back side of the seawall, causing or accelerating additional damage.

Appellant Merchants raises concerns about the approved driveway having little to no setback from the seawall at the northwest corner of the site plan and that this location is vulnerable because where the sewer crosses the proposed driveway, the cover becomes as shallow as 1 foot as shown on the Site Plan (Exhibit 3). Consequently, the utilities underneath Beach Blvd are a public safety concern that could be damaged by the force of waves hitting the revetment.

Appellant Merchant argues that the site was zoned as high-density, multi-family in the 1950s, long before the existing seawall was built and before substantial coastside land was lost due to accelerated bluff recession in the 1970s and 1980s. The appellant asserts that a smaller project with a greater ocean-side set back could be developed for an economically viable use.

Appellant Merchant contends that damage to the seawall or adjacent properties may occur during excavation for the below-grade garage in light of the fact that the perimeter walls of the garage would be coincident with some site property lines. This may cause the surrounding compacted sand to shatter or creates more voids for water to invade the Beach Blvd seawall.

Appellant Merchant contends that the applicant's geotechnical consultants do not provide adequate data to support their opinions for conditions at the project site. As evidence of this fact, Ms. Merchant cites the City's Zoning Code Section 9-4.4406(c)(3) which requires shoreline protection to be designed and sited to reflect various environmental factors including the estimated frequency of wave overtopping as well as alternative methods of shoreline protection, including the no project alternative. Appellant Merchant states that the City's records document that the frequency of which Beach Blvd is closed due to safety concerns from wave overtopping is high and that the MND completed for the project relies on erroneous information regarding the presence of concrete traffic barriers placed along the top of the seawall to act as flood shields. According to the appellant these barriers were removed sometime between 2002 and 2004 and the fact that they are no longer present questions the credibility of the conclusions made in the MND.

Appellant Rentsch also contends that the approved project is inconsistent with LCP Policy 26 because it: (1) exposes pedestrians and vehicles to maximum risk due to wave overtopping and placement of the driveway on the edge of a seawall; (2) does not have an adequate setback from the seawall; (3) does not assure stability in that the north portion of the driveway is supported only by a rock revetment; and (4) requires raising street and construction of a retaining wall on bluff top as protection against wave overtopping. In his appeal, Mr. Rentsch states that the location of the driveway maximizes risk to life and property because it will be built past the northern property boundary above the headwall for the storm drain outlet located below. Mr. Rentsch contends that the driveway will have no structural support because it relies on a rock revetment that is subject to extreme wave forces in an area that has collapsed before in wave run up and high surf events. Mr. Rentsch also includes in his appeal photo documentation of wave overtopping which he contends occurs many times each year and is more severe than reported (Exhibit 16).

Mr. Rentsch bases his contention that the approved development does not have an adequate setback from the seawall on the fact that the approved building and subterranean garage require raising of the street and construction of a retaining wall on the bluff to protect against wave overtopping, as well as modifications of the headwall and drainage systems. The appellant contends that this represents a new shoreline protection system, and that the City has not evaluated the effect of the raised street and retaining wall on adjacent properties or the seawall itself. Mr. Rentsch goes on to state that the amount of water collected during storms and wave run up may easily cause flooding if simply diverted to the south and that new drainage may cause structure or stability problems with the seawall or its foundations. Mr. Rentsch asserts that feasible alternatives exist that do not: (1) put the building and garage in an area of high hazard, (2) alter the existing seawall, (3) involve new protective devices that alter the visual character of the coastline, or (4) eliminate equipment access. Mr. Rentsch states that CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigations available and that any approved development should be far enough from the coastline so as not to require significant modifications to the coastline or expose residents to danger.

Appellant Schuler also cites LCP Policies 16 and 26 as the basis for the approved project's inconsistency with the LCP. Ms Schuler lives on the property immediately north of the subject site on Shoreview Avenue. Ms Schuler's property is not protected from coastal erosion by the Beach Blvd seawall; however, Ms Schuler does have a separate quarry stone revetment to protect her property. Ms Schuler states in her appeal that the applicant intends to remove a significant portion of her seawall in order to build the driveway and additional retaining wall to prevent wave overtopping for the project.

With respect to LCP Policy 26, Ms Schuler states that it is her personal experience and witness that the location of the approved development is highly susceptible to erosion. Ms Schuler describes the property as having a gradual, yet distinct downward (seaward slope) and cites recent breaches along Beach Blvd seawall as evidence of the faster erosion. The appellant contends that excavating just feet from the ocean for the purpose of building a garage for underground parking poses substantial risks on every level for the surrounding homes, existing sewer lines, storm drain, and an already undermined Beach Blvd and its seawall.

Ms. Schuler states in her appeal that the approved garage entry via an elevated Beach Blvd will adversely affect all the homes on Shoreview Avenue because unlike the approved development, there is no street between her home and the ocean. The shoreline protection fronting her property and others on Shoreview Avenue are maintained and funded by the property owners themselves, where the seawall protecting homes on Beach Blvd is maintained by the City. The appellant contends that extending and raising Beach Blvd is in essence an extension of Shoreview's seawall that runs in unity with the Beach Blvd seawall.

## 2. Housing

Appellant Merchant asserts that the project is not consistent with LCP Policy 5 regarding protecting, encouraging, where feasible providing lower cost visitor and recreational facilities and housing opportunities for persons of low to moderate income. Ms Merchant

cites the MND as stating that the project would add to the medium-priced housing stock, with the cost of the residential units ranging from \$750,000 to \$850,000. Ms Merchant contends, however, that based on current average prices per square foot for the City of Pacifica, these units would actually sell for \$1,103,929 to \$1,245,439. Ms Merchant provides data on median household incomes from the Housing and Urban Development Department and from the Association of Bay Area Governments to show that reported median household income figures are not within an income range that could afford a home ranging from \$750,000 to \$850,000.

Ms Merchant also points out that the project is inconsistent with the LCP because even though the MND states that the 9-unit development is too small to make provisions for affordable feasible, the City of Pacifica recently adopted an Inclusionary Zoning Ordinance whereby any development with eight or more units would be required to provide at least 15 percent of the units for below market rate occupancy.

### 3. Land Use/Public Access

Appellant Merchant raises concerns regarding the approved development's compliance with public access. Ms Merchant includes the following brief history of the approved project as relevant to understanding the issues of compliance with the public access element:

- The original proposal was apparently to build 14 units (per zoning calculation, the maximum allowable for the lot size is 8.6)
- Then 9 units were proposed with the garage entrance facing the west
- At the time of the MND (8/09/06), the proposal was for 9 units with the garage entrance facing the north
- Encroachment permits were being asked for to allow landscaping on the "City right-of-way located along the north side of the subject site" (page 3 of the MND)
- Project was approved by the Planning Commission (10/16/06)
- Project was appealed by Patrick Rentsch (10/24/06)
- Staff report for 1/22/07 City Council hearing mentioned, for the first time, that a boundary conflict existed with the City of Pacifica for the location of the driveway
- Staff report does not mention that the development would result in the destruction and taking of the north neighbor's landscaping, which was properly permitted by both the City of Pacifica and Coastal Commission
- The City of Pacifica states in their 5/14/07 Staff Report that "City records do not show Bella Vista as a City right-of-way," yet there is no record in the San Mateo County Surveyor's office of an abandonment, vacation or a quit claim deed
- Applicant did not have legal title to the disputed land at any time during the process
- The project was approved by the City Council on 5/14/07

Ms Merchant contends that the narrative section of the City's certified LCP (page C-34 and C-35) indicates that along the north property boundary of the approved project, the area was to be protected from future development unless it provided beach access. Ms Merchant elaborates on this point by citing language from the LCP as follows:

*“For public safety and to protect the existing bluff area from use which would further aggravate erosion by disturbing bluff vegetation habitat...it is proposed to keep the beach access easement in this area unimproved until its use will have no negative effect on existing development. Since developed public beach accesses are provided +/- 2300 feet to the north at Milagra Creek and +/- 1,000 feet to the south at Beach Boulevard and Santa Maria, the public will not be denied access to the beach. A protective open space zone should be applied to this area, should existing residential uses no longer be present, in order that the remaining land will be protected from future development. This protective zoning would allow development to the beach of a public access on the City’s easement, or elsewhere, if geotechnical studies indicate that it is feasible and safe to do so. Future use should also re-establish coastal views from Shoreview, the adjacent public street.” (C-34, C-35)*

The appellant goes on to cite a section of the City’s Demonstration Plan for Sharp Park (1984) that states that most of the land in this area is in private ownership, although off of Shoreview the City owns a 15 foot easement that is a potential access to the City-owned beach adjacent to the subdivision.

Ms Merchant also cites page C-106 from the City’s LCP as relevant to allowable land uses for the Sharp Park neighborhood:

*“Of particular concern is the area adjacent to the sandy beaches. The conclusions aimed at protecting the existing scale and open appearance and character of Pacifica’s coastline are:*

*Small, older homes shall be preserved and replacement should be at compatible densities and scale.”*

The appellant contends that the approved “replacement” development would occupy a much greater footprint than the pre-existing single family home, even without encroachment into the easement for the driveway. Views from Shoreview Avenue would be eliminated rather than re-established and the approved project would eliminate the possibility of using the easement for future public access, as is the intent of LCP and Coastal Act Sections 30221 and 30210.

Appellant Merchant contends that the approved building is out of scale with the adjacent buildings and would completely dwarf the adjacent ocean front buildings as illustrated in the Proposed West Elevation of the applicant’s site plan included in Ms. Merchant’s appeal. The appellant recognizes that a large 3-story apartment building exists to the east of the subject site on Paloma Avenue but contends that this is not a beach front property and because of its distance from the ocean does not interfere with views of the ocean or shoreline.

Ms. Merchant asserts that additional consideration needs to be given to access to the beach because the north end of Beach Blvd is the only location north of the pier where access is feasible for the City’s Public Works Department to conduct its periodic maintenance of the existing seawall and revetments. Ms Merchant states that the site plans indicate that the approved driveway would occupy a portion of the space currently

used by the City for access to repair the seawall and temporarily store the necessary equipment. Ms Merchant believes that the use of this space by potential future homeowners of the approved development and the City's continued use of a portion of the area for maintenance of equipment will lead to conflicts and safety issues. Ms Merchant also contends that there may be a legality issue with respect to the approved project occupying land that is not legally owned by the applicant at the time of the project's approval.

Appellant Merchant states that a project need not be the maximum size allowable and feasible in order to be considered economically viable. She asserts that the LCP stipulates that there should either be replacement at compatible densities and scale or no development at all.

To conclude on land use and public access issues, Ms Merchant cites LCP Policy 25 and Coastal Act Section 30252 regarding the location and amount of new development to maintain and enhance public access to the coast and provide adequate parking facilities. Ms Merchant contends that parking for coastal access in this area is also a concern and that despite the fact that the approved project does conform to the current zoning for off-street parking, no new street parking would be provided leading to increased demand for parking on nearby streets such as Paloma Avenue for residents and guests. Ms Merchant claims that the project will create additional parking demand on Paloma Avenue, which has a serious deficit caused by older parking requirements, evidenced by the 71-unit apartment building located at the intersection of Paloma and Palmetto Avenues that only provides 78 parking spaces. Finally, Ms Merchant states that no street parking for coastal access is available along Beach Boulevard north of the Pacifica Municipal Pier, and no other streets serve the subject site.

#### 4. Scenic and Visual Qualities

All three appellants contend that the approved project is inconsistent with LCP Policy 24 that requires the scenic and visual qualities of coastal areas to be protected and permitted development to be sited and designed to: (1) protect views to and along the ocean, (2) minimize alteration of natural land forms, (3) be visually compatible with character of the surrounding areas, and (4) where feasible, restore and enhance visual quality in visually degraded areas.

Appellant Merchant contends that the approved project would rob visitors of the scenic view to the east of the site and the existing open space character of this section of coast. Ms Merchant asserts that the north to south pedestrian bicycle pathway along Beach Blvd is a segment of the California Coastal Trail and that current efforts are underway to improve public access along Esplanade Avenue to the north of the subject property and Mori Point to the south of the property. Further, the appellant asserts that the corner of Beach Blvd opposite the project site is a treasured spot for pedestrians because of its relative seclusion and minimal vehicular access, as well as spectacular views of the ocean to the north, west, and south, and gently rolling hills to the east.

Appellant Rentsch contends that the project is inconsistent with LCP Policy 24 because: (1) the approved project does not protect views to and along the ocean and will block sunlight from reaching the Shoreview subdivision, immediately north of the subject site;

and (2) the approved project is not visually compatible with the character of the surrounding buildings because it is far more massive and projects to the west beyond the plane of the adjacent building.

Appellant Schuler contends that the approved development is too large and out of character with the surrounding homes because it will block views from every side of the development. Ms Schuler asserts that because the property is located at the very end of Beach Blvd, it will detract from the vistas and views that are shared by both visitors and dwellers, and that this is an area where dozens of people stop daily to enjoy the beautiful views. The appellant contends that replacing the serene area with a garage entry housing 20 cars would detract from their use and enjoyment and pose a safety risk via high rate of traffic where there once was none. The appellant also contends that the noise, traffic and car headlights will shine directly into her and other homes on Shoreview Avenue, detracting from their privacy.

#### 5. Land Ownership Dispute

Ms Schuler contends that the applicant failed to show proof of title for the property on which the approved project is located. Ms. Schuler submits that at the January 22, 2007 City Council hearing on this project, the City Counsel stated: “Prior to the approval of the Subdivision Improvement Agreement, or if no Subdivision Improvement Agreement is required, prior to final map, the applicant shall submit documentary proof of title for any property on which the project is located, subject to review by City Attorney and the City Engineer. Ms Schuler further submits that because the area included in the 7.8 foot encroachment is land for which the appellant herself has a recorded title, the applicant did not demonstrate ownership of the property on which the approved development would occur. Ms Schuler cites Section 10-1.102 of the City’s Municipal Code, Chapter 1 on Subdivisions as evidence that the proposed project is inconsistent with the certified LCP:

#### *Section 10-1.102 Purpose*

*It is the purpose of this chapter to regulate and control the division of land within the City and to supplement the provisions of the Subdivision Map Act concerning the design, improvement, and survey data of subdivisions, the form and content of all required maps provided, and the procedure to be followed in securing the official approval of the City Engineer, Department of Community Development and Services, Planning Commission, and Council regarding the maps. To accomplish this purpose, the regulations set forth in this chapter are determined to be necessary for the preservation of the public health, safety, and general welfare; to promote orderly growth and development and to promote open space, conservation, protection, and the proper use of land; and to ensure provision for adequate traffic circulation, utilities, and other services in the City.*

Ms Schuler states in her appeal that a review of the applicant’s plans reveals intent to encroach and “take” without benefit of proof Title, Surveyor Map, or Plot Plan, a significant portion of her property to which she holds the Recorded Title including two easements. Ms. Schuler states that she has provided the City Counsel, City Attorney, and Planning Department with recorded documents along with additional separate agreements made between the City and the prior owner of her property at 244 Shoreview Avenue in 1998 and 1999. Ms. Schuler also contends that since she has lived at her property since

1999, she believes she has ownership of all the property up to the lot line of parcel 14 (the applicant's property), including the 7.8 foot strip of an unclaimed paper street known as Bella Vista through adverse possession.

### **3.3 Substantial Issue Analysis**

Section 30603(b) (1) of the Coastal Act states:

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

Public Resources Code Section 30625(b) states that the Commission shall hear an appeal unless it determines:

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

The term substantial issue is not defined in the Coastal Act. The Commission's regulations simply indicate that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs., tit. 14, section 13115(b).) In previous decisions on appeals, the Commission has been guided by the following factors:

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

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

#### **3.3.1 Appellant's Contentions Include Valid Grounds for Appeal**

Most of the contentions raised by the three appellants present potentially valid grounds for appeal in that they allege the approved development's inconsistency with the policies

of the certified LCP and the public access policies of the Coastal Act. These contentions allege that the approval of the project by the City raises significant issues related to LCP provisions regarding hazards, shoreline protection, housing, visual and scenic qualities, and public access. In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the appeal raises a substantial issue with regard to the approved project's conformance with the City of Pacifica's certified LCP policies on hazards and provisions regarding shoreline protection.

### **3.3.2 Allegations Raising Substantial Issue**

#### **a. Hazards and Shoreline Protection**

Applicable LCP Policies:

***LCP Policy 16 states*** (in relevant part):

*Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.*

***LCP Policy 26 states:***

*New development shall:*

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

*(b) Assure stability and structural integrity and neither create nor contribute significantly to erosion, geologic instability, or the destruction of the site or surrounding area in any way that would require the construction of a protective devices that would substantially alter natural landforms along bluffs and cliffs.*  
[Emphasis added]

Applicable Implementation Plan (IP)/Zoning Code Policies:

***Section 9-4.4406 Shoreline Protection*** (in relevant part)

*(c) Development Standards. The following standards shall apply to all new development along the shoreline and coastal bluffs.*

*(1) Alteration of the shoreline, including diking, dredging , filling and placement or erection of a shoreline protection device, shall not be permitted unless the device has been designed to eliminate or mitigate adverse impacts on local shoreline sand supply and it is necessary to protect existing development or to serve coast-dependent uses or public beaches in danger from erosion or*



*unless, without such measure, the property at issue will be rendered undevelopable for any economically viable use;*

- (2) *Consistent with the City's Seismic Safety and Safety Element, new development which requires seawalls as a mitigation measure or projects which would eventually require seawalls for the safety of the structures shall be prohibited, unless without such seawall the property will be rendered undevelopable for any economically viable use; [Emphasis added]*

## Discussion

### i. Risk to Life and Property

LCP Policy 26 (a) requires that “new development minimize risks to life and property in areas of high geologic, flood and fire hazard.” Appellants contend that the approved development would expose pedestrians, future residents, and property to flood hazards without adequately minimizing the risk to life and property in areas of high geologic, flood or fire hazard as required by LCP Policy 26(a).

The Mitigated Negative Declaration (MND) for the approved development states that the project involves construction of housing within the 100-year flood zone without construction of levees or dams. The MND also states that the site is adjacent to areas of 100-year coastal flood. This means that the site is within an area of high flood hazard; immediately seaward of the site is an area known as a velocity flood zone. Velocity flood zones, also known as V-zones or coastal high hazard areas, have been identified by FEMA as areas where wave action and/or high velocity water can cause structural damage in the 100-year flood, which is a flood with a one-percent chance of occurring or being exceeded in a given year and where it is possible that the area could be inundated by fast moving water.<sup>1</sup> In short, the approved project is located in a high hazard area that could be exposed to damage from severe storm events and tsunamis. However, as discussed below, it is unclear whether the conditions of approval for the project adequately address the risks to life and property that could result from flooding or wave overtopping.

The Coastal Hazard Study (Exhibit 8) completed by Skelly Engineering in 2004 for this project determined that waves overtopped the existing Beach Blvd seawall and revetment system fronting the approved project site at elevations of approximately 23 MSL and that wave driven water over the seawall was observed to be approximately one to two feet high. Skelly also stated in this report that the overtopping occurs on average a few times per year. As a result, the originally proposed project design included raising the seawall to a height of 25 MSL as a way to mitigate the risks of flooding posed by the project's location. This element of the project was subsequently abandoned and replaced with the raising of the road fronting the property (Beach Blvd) and building a 2.25 foot high retaining wall to hold the associated fill required to raise the road. Even with these flood mitigations, a March 2, 2007 letter from Skelly to the City (Exhibit 13) acknowledges that the proposed project, namely the subterranean garage, would be subject to short term flooding due to wave overtopping. Additional mitigations, such as the trench drain

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<sup>1</sup> Quigley, Wendy, “The Art and Science of Identifying Flood Zones,” 2002. <http://www.mass.gov/czm/coastlines/2002/pdf/c26.pdf>

installed at the garage entrance and blocking the entrance with sand bags when storm conditions are anticipated are suggested by Skelly so that overtopping waters will not significantly impact the approved development. Although it does not appear in the conditions of approval, correspondence from the City's geotechnical consultants, Cotton, Shires and Associates (CSA) to the City also suggests that flooding of the garage is anticipated because CSA expects that all condominium owners and buyers will be informed that flooding of the garage and storage level may occur several times a year.

The applicant's coastal engineer, David Skelly, concludes in his tsunami evaluation for this project that because the approved development is built according to Uniform Building Codes, is above 25 feet above sea level, and is protected by a quarry stone revetment, "it is reasonably safe from tsunami hazards." Conversely, the Commission's Senior Coastal Engineer determined that the approved development would be located within an area of high flood risk and potential inundation from an extreme tsunami event. Recent FEMA flood inundation mapping for the area along Beach Blvd in Exhibit 9 shows that even with the presence of the Beach Blvd seawall, the subject site is within the 100-year flood zone (Zone A), meaning that the property could experience one to three feet of inundation from storm run-up at least once within the next 30 years. The City's tsunami inundation mapping (Exhibit 10) shows that this location can also be subject to inundation from an extreme tsunami event.

In addition, it appears from photos submitted by the appellants that wave overtopping has the potential to put lives and property at risk (Exhibit 17). While the conditions of the approved development such as raising Beach Blvd and constructing of a trench drain at the garage entrance, attempt to minimize the risk of flooding the garage, conditions are not provided to protect vehicular and pedestrian access to and from the property during periods when wave overtopping may be significant. Photos submitted by the appellants show that wave overtopping has the potential to create hazardous conditions because of the amount of water and the potential for the wave energy to move debris across the revetment onto the street. More specifically, appellants describe conditions in which wave overtopping was strong enough to damage an existing steel handrail that was designed to protect pedestrians walking along the seaward side of Beach Blvd. The photos and descriptions of the appellant's personal experience with wave overtopping conditions reveal that overtopping may in fact pose as risk to people and property. As a result, it is not clear whether the approved project minimizes risk to life and property in areas of high flood hazard as required by LCP Policy 26 (a).

There is also a discrepancy in the record regarding the frequency and severity of current wave overtopping. The 2004 Coastal Hazard Study states that wave overtopping along Beach Blvd occurs on average, a few times per year; this is substantiated in Skelly reports regarding the condition of Beach Blvd (2002) that also describe waves as "high energy" and overtopping as "excessive and significant" to justify additional repairs to the seawall. However, in the local record for this project, final project letters between Skelly and the applicant describe the frequency and severity of wave overtopping as a "rare" event having minimal effect on the seawall itself or the road (Exhibit 13). Given this discrepancy, the Commission cannot conclude that the approved project adequately minimizes risks it may pose to life and property as required by LCP 26(a).

ii. Stability and Structural Integrity of the Surrounding Area

The appellants raise concerns regarding the approved project's consistency with the LCP Policy 26(b) requirement to assure structural integrity of the surrounding area. The appellants raise concerns about the potential impacts of the approved development on the surrounding buildings, existing public services infrastructure (i.e. storm drain line), and the Beach Blvd seawall during excavation for construction of the below grade garage.

Regarding whether excavation for the subterranean garage would cause damage to adjacent properties, the applicant's geotechnical analysis and City's peer review conclusions indicate that by adhering to construction condition 16 during excavation, the proposed project would not adversely impact the structural integrity of the surrounding area, buildings or public services infrastructure. Condition 16 requires that applicant comply with all Mitigation Measures that are part of the MND including the provision that excavation within ten feet of an existing building be appropriately sloped and that underpinning piers should extend at least two feet below the garage depth and by at least two feet square. The Commission's Staff Geologist has reviewed the geotechnical issues and concurs with this conclusion. Therefore, no substantial issue is raised by this contention.

iii. Approved Development May Engender the Need for Significant Re-armoring of an Existing Seawall

As stated above, appellants raise concerns about the potential impacts of the approved development on the Beach Blvd seawall and contend that approved project would eventually necessitate significant re-armoring based on factors such as wave conditions, expected sea level rise, vulnerability of the existing seawall, and the fact that the City based its conclusions regarding hazards on inadequate data. Given these factors, the appellants argue that the approved project is inconsistent with LCP Policy 26 and Section 9-4.4406 of the certified LCP.

The local record includes many reports and a significant amount of correspondence between the applicant's coastal engineer, the City, and the City's third party geotechnical peer review consultants to address these issues. This information essentially asserts that any potential impacts to the surrounding properties, public service infrastructure, or the adjacent seawall have been adequately addressed and mitigated through conditions of approval.

For example, in his March 2, 2007 letter (Exhibit 13) to the City regarding the coastal hazards at the subject project, the applicant's coastal engineer David Skelly states: "The proposed development will not reflect waves so as to adversely effect the area and will neither create nor contribute to erosion, geologic instability, or destruction of the site or adjacent area...and it is very unlikely that any additional shore protection will be needed to protect the site in the next 75 years." In a subsequent letter to the City dated March 22, 2007 (Exhibit 13), Skelly more specifically addresses questions regarding the potential impacts of raising Beach Blvd, including changes in wave reflection, wave energy, the potential for the raised portion of the road to "surcharge" the existing seawall, and the potential flooding of the garage. Skelly concludes: (1) the new wave reflection resulting from the raised road will not impact the seawall, (2) that a small surcharge will result from raising the road but that it can be easily mitigated by design, and

(3) flooding of the garage is sufficiently mitigated by the location of the garage entrance on the north side of the property, and the fact that water will have to travel uphill to reach the garage. In addition there is a trench drain at the garage entrance to intercept the water before reaching the garage. Skelly also states in his analysis that since the garage is not a habitable space, according to FEMA, it can be allowed to temporarily flood.

Notwithstanding the conclusions of the applicant's engineer, the legal and factual information in the record is not adequate to conclude that the existing Beach Blvd seawall will be sufficient to protect the approved development for the life of the structure which is assumed to be 100 years<sup>2</sup> or that raising Beach Blvd will not adversely impact the existing seawall. Furthermore, the conditions of approval do not ensure that the raising of Beach Blvd or the associated retaining wall will not have an adverse impact on the existing seawall.

First, the appellants claim that the approved project will likely require a seawall for the safety of the structures because of the vulnerable state of the Beach Blvd seawall and the inadequacy of data the City used to base its conclusions regarding hazards, such as underestimating the frequency and wave energy of wave overtopping. The engineering analysis completed by Skelly Engineering in the record acknowledges that Reinforced Earthen (RE) wall portion of the Beach Blvd seawall and revetment is in a degraded condition by stating that the interior galvanized steel dowels holding the concrete panels together are corroding. In addition, in a 2002 report completed by David Skelly, for the City's CDP application (2-01-026) for maintenance and repair of the Beach Blvd seawall, Skelly states that problems arising from the initial design and settlement of rock of the Beach Blvd seawall have resulted in "failures in sections of the RE wall and revetment" and "sectional collapses of the RE wall." Skelly goes on to state that the failure of the RE wall is a result of wave driven water passing through and over the revetment and reaching the soil behind the wall that then became saturated and lost its strength. Finally, in a separate report evaluating the existing seawall fronting the subject property completed by URS Corporation for the approved project, URS documents numerous deficiencies with the existing seawall, which include distress in multiple locations evidenced by cracked wall panels, heavily rusted vertical steel dowels that pin the panels, exposed filter fabric, and potential corrosion of galvanized metal strips within the concrete wall (Exhibit 11). The report concludes that the approved project will not adversely impact the seawall, however, URS recommends that the City inspect the wall to determine the extent of structural repairs that may be required, if any, and that the City inspect the wall at least every two years or after major storms to monitor panel damage.

Indeed, the existing Beach Blvd seawall has a history of ongoing need for maintenance repair since it was constructed in the mid 1980s. Most recently, in 2002, the Commission approved permit 2-01-026 to repair the seawall by adding larger rock to the revetment system that fronts the RE wall. The City currently has an unfiled CDP application to add even larger rock to the revetment and repair several voids or holes in the RE wall, two of which were repaired under emergency permits in February 2007.

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<sup>2</sup> The City of Pacifica's certified LCP defines the design life as "the time space during which the designer expects the development to safely exist, generally 100 years." (C-16) The Commission interprets this definition to mean that the LCP requires that new development must be safe for a period of at least 100 years.

Second, the Commission's Senior Coastal Engineer made the following determinations based on her review of the coastal and geotechnical analysis of record for this project that indicates that all concerns regarding the impact of the raised road on the seawall have not been adequately addressed:

1. Beach Blvd is overtopped by wave uprush and wave spray so that there can be several inches of water on Beach Blvd that result from wave overtopping. The elevation of the road and associated retaining wall could add to the interference with the wave shoreline interactions already caused by the revetment in this location. This fact is acknowledged but not adequately addressed in the record.
2. The elevated road will change the volume and velocity of the flows that are conveyed to the storm drain system. While the decrease in volume would be beneficial, the increase in velocity would not be beneficial. Neither factor was discussed in the analysis of the road elevation portion of the project.
3. In the past few years, the City of Pacifica has had two separate coastal development permit applications before the Commission to do repairs to the existing Beach Boulevard revetment and the most recent permit indicate that additional work will still be needed. This work by the City indicates that the existing revetment, in its current configuration and with its permitted footprint, may not be able to protect the elevation of Beach Boulevard for the expected life of the project. This is especially of concern given that there will not be revetment rock fronting the elevated portion of Beach Blvd as there is for the rest of the existing Beach Blvd revetment and given that any future rise in sea level is likely to exacerbate current erosion and inundation conditions throughout this region.

The status of the existing Beach Blvd and its long term structural integrity support the appellant's contention that the project is inconsistent with LCP Policy 26(b) and Section 9-4.4406 of the City's Zoning Code (IP) because the approved project could eventually require significant re-armoring should portions of Beach Blvd fail in the future. LCP Policy 26(b) states that new development shall "assure structural integrity and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs." Section 9-4.4406 states that "new development which requires seawalls as a mitigation measure or projects which would eventually require seawalls for the safety of the structures shall be prohibited, unless without such seawall the property will be rendered undevelopable for any economically viable use."

Evidence in the record suggests that more than typical repair and maintenance of the Beach Blvd seawall will be needed to adequately protect the structure. This is apparent in the fact that the first coastal hazard assessment performed by Skelly (Exhibit 8) determined that a seawall of 25 feet MSL was required to protect the structure; the existing Beach Blvd seawall is at a height of 23 MSL. Further analysis of the status of Beach Blvd by Skelly and URS Corp reveal significant deficiencies in the current RE wall such as cracked panels, sectional collapses, and corrosion of steel dowels that hold the RE wall panels together. Finally, Skelly acknowledges

that: “it is very unlikely that any additional shore protection will be needed to protect the site in the next 75 years,” even though the certified LCP requires that new development be safe for a design life that is generally assumed to be 100 years.

Significant re-armoring or improvements to the Beach Blvd seawall that go beyond the realm of repair and maintenance are tantamount to a new seawall. Based on discussion of the status of the existing seawall, it is reasonable to assume that such improvements might include extending or raising the height of RE wall so as to provide protection from high waves or reconstruction of the RE wall to replace failed sections or sectional collapses. Although it is not clear from the record the magnitude of improvements required to assure long-term structural integrity of the seawall to provide adequate protection for the approved development, the Commission's regulations require that replacement of 50 percent or more of a seawall, revetment of bluff retaining wall cannot be considered repair and maintenance but instead constitutes a replacement structure that requires a CDP (CCR Title 14 § 13252(b)). Moreover, by definition, Section 30610(d) of the Coastal Act confines repair and maintenance to activities that do not enlarge or expand the object of the repair. Consequently, the approved project creates uncertainty about the whether the new development would engender the need for such significant re-armoring of the existing seawall that it would constitute “construction of protective devices that would substantially alter natural landforms along bluffs” or would “eventually require additional shoreline protection” above and beyond what the existing seawall can provide. New development that would eventually require construction of shoreline protective devices is prohibited by LCP Policy 26(b) and Section 9-4.4406.

Third, the City's approval of the approved project does not acknowledge the deficiencies in the Beach Blvd seawall or the fact that its failure could compromise the safety of the approved project. Condition 41 of the City's approval requires the design of all site improvements including roadways and retaining walls to be peer reviewed and approved by the City such that these improvements will not adversely surcharge, overstress, or reduce the effectiveness or integrity of the existing seawall. However, as stated above, the Commission's Coastal Engineer believes that possible interference of wave shoreline interactions with the existing wall and elevated section of road have not been adequately analyzed or addressed. It is not clear from the City's analysis that site improvements can, in fact, be designed such that the improvements will not adversely affect the integrity of the existing seawall. Furthermore, neither the staff report nor the final conditions of approval include a discussion of how the life of the existing seawall compares to the design life expectation of the approved structure or what repairs would be required to ensure the long-term integrity of the Beach Blvd seawall throughout the life of the approved project.

Finally, appellants also raise concerns regarding the whether the existing seawall can adequately protect the approved project in light of global warming. Although Skelly's Coastal Hazard Study recognizes that there may be between eight to twelve inches of sea level rise within the next 50 to 100 years due to global warming, his analysis does not address whether the resulting magnitude and frequency of wave overtopping will require improvements to the Beach Blvd seawall that go beyond what the Commission would include in maintenance or repair. Moreover, both the FEMA flooding and the tsunami run-up mapping identify areas that would be subject to inundation based on current sea level conditions. These mapping efforts do not

attempt to project future hazards that could result from any rise in sea level above current water level conditions. This provides further evidence that the existing seawall may not be adequate to protect the approved project in the future and subsequently, the approved project would eventually require additional shoreline protection.

Therefore, based on evidence in the record regarding the status of the existing Beach Blvd seawall and uncertainty regarding the impact of raising Beach Blvd on the existing seawall, the Commission finds that the approved project may engender the need for future shoreline protection inconsistent with LCP Policy 26(b) and Section 9-4.4406 of the City's certified LCP.

iv. Approved Development Includes Shoreline Device to Protect New Rather than Existing Development

LCP Policy 16 permits shoreline protective devices, such as revetments, breakwaters, cliff retaining walls or other construction that alters natural shoreline processes, when required to serve coastal-dependent uses or to protect existing development or public beaches. In this case, the approved project requires raising the road (Beach Blvd) fronting the property approximately two feet and construction of a retaining wall along the northern edge of the property line and driveway to minimize risks of flooding to the property. The appellants argue that these improvements are in essence shoreline protection devices required to protect new rather than existing development because they are required as mitigations to prevent the subterranean garage from flooding.

It appears from the description of the approved project that the approved flood improvements to raise Beach Blvd and construct a retaining wall may in fact function as shoreline protective devices required to protect the new development inconsistent with LCP policies on shoreline protection. Based on the Site Plans (Exhibit 3), it appears that raising Beach Blvd and the associated retaining wall would act as protection from wave run up and overtopping that currently occurs along this section of the coast, typical of other shoreline protective devices. In addition, in a letter to City Planner Lee Diaz dated February 13, 2007 from CSA, regarding the raising of Beach Blvd and retaining wall as flood mitigations for the proposed project, CSA states: "With respect to the proposed separate *seawall* intended to provide wave protection up to an elevation of 27 MSL, we understand that this concept is combined with the intent of raising the elevation of the northern most portion of Beach Blvd." (Exhibit 12) CSA goes on in this letter to state: "This concept [raising Beach Blvd] is constrained by the apparent need to avoid adding new loads that could adversely surcharge the existing seawall. Any new concrete pavement, supplemental fill placement, or wall construction close to the existing seawall could result in surcharging loading and overstressing."

In addition, the site plans for the approved project indicate that construction of the approved driveway and retaining wall will require removal of several boulders that currently exist along northern property line of the subject site above the storm drain outlet. While it does not appear that these boulders are part of the Shoreview revetment, as claimed by Appellant Schuler, it appears as though the construction of the retaining wall would in effect replace the shoreline protection provided by the existing boulders.

LCP Policy 16 states “revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Based on the description above, it appears that the approved flood improvements to raise Beach Blvd and construct a retaining wall at the northwestern edge of the property may act as shoreline protection to either block waves that can overtop the seawall or protect the property from waves where the existing Beach Blvd seawall ends. Thus, the purpose of these improvements is to protect the new development from wave overtopping. As asserted by the appellants, shoreline protection is only permitted by LCP Policy 16 when required to serve coastal dependent uses or protect existing structures or public beaches. The approved residential development is not coastal-dependent, which is defined as “development or use which requires a site on, or an adjacent to the sea to be able to function at all.” (Coastal Act § 30101) The raising of Beach Blvd and construction of the retaining wall are also not required to protect a public beach in danger of erosion. Finally, there is no development currently on site, and as such, the approved improvements would not protect existing development. Therefore, to the extent the proposed new development may include a shoreline protective device, the Commission finds that the approved project raises a substantial issue of conformity with LCP Policy 16 of the certified LCP.

v. Conclusions Regarding Shoreline Protection and Hazards

The Commission thereby finds that this project raises significant questions regarding the approved project’s consistency with LCP Policies 16, 26 and Section 9-4.4406 of the IP/Zoning Code because:

- The approved project exposes people and property to a high flood risk in extreme storm events or a tsunami.
- The approved project relies on the presence of the Beach Blvd seawall to protect it from flooding and coastal erosion; consequently, the structural integrity of this project is tied to the ability of the Beach Blvd seawall to function.
- The approved project may engender the need for significant re-armoring of an existing seawall during the design life of the project because it is unclear whether the existing sea wall: (1) is strong enough to protect the size and design of the proposed project; or (2) would require modifications that go beyond normal maintenance and repair. The local record does not adequate information to make such a determination.
- The approved project includes shoreline protection in the form of a raised road and associated retaining wall that may serve to protect new rather than existing development.
- Given factors such as the uncertainty regarding sea level rise due to global warming and the frequency of current seasonal wave overtopping during storm events, it is possible that current seawall would not provide adequate shoreline protection during the design life of the approved development.
- The approval of the proposed project also sets a precedent for elevating Beach Blvd as mitigation to prevent flooding of new infill projects along Beach Blvd. It is possible that over time, as redevelopment continues along this section of coast, that more projects will rely on elevating Beach Blvd to mitigate flood risk to new development. The



cumulative impact of an elevated road and associated retaining walls could stress the existing the Beach Blvd seawall and revetment enough to cause the structure to fail.

Based on the factors outlined above, the Commission also finds that degree of legal and factual information in the record is not adequate to ascertain the project's consistency with the certified LCP and that approval of the proposed project sets a precedential value of the local government's decision for future interpretation of its LCP. Therefore, the Commission finds that the appeal raises a substantial issue with respect to the conformity of the approved project with the certified LCP policies hazards and the LCP provisions shoreline protection.

### **3.3.3 Allegations Raising No Substantial Issue**

#### **a. Housing**

LCP Policy 5 states:

*Lower cost visitor and recreational facilities and housing opportunities for persons of low and moderate income shall be protected, encouraged, and where feasible provided. Developments providing public recreational opportunities are preferred.*

In addition, the West Sharp Park neighborhood policy in the Land Use element of the certified LCP states future plans for this neighborhood should:

*“Protect and continue the low and moderate income housing which provides the unique character and social mix of the neighborhood.” (C-33)*

The Land Use element for the specific area of the West Sharp Park neighborhood that includes the subject property (Sharp Park School – Ocean Park Manor Subdivision South to the North Side of Montecito) states:

*“To protect the appearance and continued availability of the existing low and moderate income residential uses, the few vacant lots fronting on the east side of Beach Blvd, and in the area east to Palmetto, should in-fill with residential uses similar to existing adjacent uses.” (C-35); and*

*“Criteria for in-fill development within existing residential areas should include:*

- 1. Design and scale compatible with surrounding development.*
- 2. **Protection of the economic mix of housing opportunities.[emphasis added]***
- 3. Assurance of geologic stability.*
- 4. Minimal tree removal and replacement plantings as needed.” (C-37)*

### **Discussion**

Appellant Merchant contends that the approved project is not consistent with LCP Policy 5 or the land use discussion of the relevant portion of the neighborhood discussion regarding low and moderate income housing. As stated above, the certified LCP describes the entire West Sharp Neighborhood as an area that includes low to moderate income but does not specifically identify

low or moderate housing income units by parcel or property. It is also not apparent in the LCP that the single-family home that existed prior to the proposed project was considered to be low to moderate income housing. As such, in this case, the approved development does not include removal of low to moderate income housing that should be protected or replaced at this site in order to be found consistent with LCP Policy 5.

The Commission has typically considered multi-unit residential buildings as providing a more affordable housing opportunity than a single-family home, all things being equal. It would appear then, that the approved project may encourage more affordable housing than what previously existed. And, while the appellant raises a valid point that residential units in the proposed project may be sold at a higher price than what would be considered affordable for a moderate or median income household, it is likely that one of the proposed units would sell for less than a single family home. In addition, the properties surrounding the subject site are also multi-family residential units, including a four-plex, duplex, and triplex residential structures to the south; and a three-story apartment complex to the east. As such, the proposed project is consistent with neighborhood policy to in-fill vacant lots fronting the east side of Beach Blvd with “residential units similar to existing adjacent uses.”

The appellant also argues that because the approved project contains nine units, it should be required to provide 15 percent of the units for below market rate occupancy as is required by the Inclusionary Ordinance recently passed by the City Council in April. The Inclusionary Ordinance is not currently considered part of the City’s certified LCP; therefore, the Inclusionary Ordinance cannot be considered an applicable policy of the certified LCP on which to find a substantial issue of conformity. The Commission thereby finds that the appeal raises no substantial issue with respect to the conformity of the approved project with the certified LCP Policy 5 or the land use portion of the LCP on protecting low to moderate income housing.

b. Scenic and Visual Qualities

LCP Policy 24 states:

*The scenic and visual qualities of the coastal areas shall be considered and protected as resources of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alternation of natural landforms, to be visually compatible with the character of the surrounding area, and where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government, shall be subordinate to the character of its setting.*

Discussion

All three appellants contend the approved project is inconsistent with LCP Policy 24. The appellants argue that the approved project would eliminate views to and along the ocean, views along to the east of the subject site and views from Shoreview Avenue. Specifically, Appellant Merchant argues that the approved project will block spectacular views of the ocean to the north, west, and south, as well as easterly views of rolling hills from the northern most corner of Beach

Blvd. The approved project would be built on the eastside of Beach Blvd. In this location, the approved project would not block existing views to the ocean from the seaward or westside of Beach Blvd that the appellants describe as a “serene” or “treasured” spot. The approved project would not impact the visual or physical access to the shore along the seaward side Beach Blvd, nor would it impact views from the existing pedestrian-bike pathway. There are no views to the ocean to the east of the subject site. Views to the east are already blocked by existing development in adjacent lots behind the approved project; as such, the subject is not likely to significantly impact views to the rolling hills identified by Ms Merchant.

All three appellants also contend that the approved project is also visually incompatible with the surrounding area and out of character or out of scale with the surrounding homes because it is too large and projects beyond the plane of the adjacent buildings. The approved project, however, is designed within the City’s IP/Zoning Code standards of height and General Plan requirements for density and size based on the lot. The proposed building is 34 feet, ten inches tall, which is within the height limitation of 35 feet (Zoning Code Section 9-4.402(j)). The General Plan provides that the 18,062 square foot lot would allow up to nine units, with a minimum lot area of 2,075 square feet per dwelling unit. The approved building will provide nine units with each unit ranging in size between 2,011 to 2,079 square feet. Visual simulations provided in the record (Exhibit 18) show that the approved building is also stepped back from the front property line to blend in with the existing buildings and features such as steeped pitched roofs with dormers, slate tile roofing, stucco siding to be visually compatible with other buildings in the area. The approved project is surrounded by existing multi-story, multi-family residential units: a two-story apartment complex is located adjacent to the proposed project, a large three-story apartment complex is located to the east, and a four-plex, single-family, duplex, and triplex residential structures are located to the south. As such, the approved project is not out of character, incompatible, or too large for the area based on scale of the surrounding homes. The approved project also does not appear to project beyond existing buildings.

Ms Merchant also contends that because the approved project is a much greater footprint than the pre-existing single family home, the approved project is not consistent with the certified LCP Plan Conclusion Community Design section which states that in order to protect the existing scale, open appearance and character of the Pacifica coastline, “smaller, older homes shall be preserved and [replaced] at compatible densities and scale.”(C-106) The purpose of the Plan Conclusion section of the LCP is to “outline for the future, the major planning themes or principals which underlie the specific recommendations of the Land Use Plan.” As such, the appellant’s contention that the approved project is inconsistent with the LCP cannot be based entirely on general statements provided in the Plan Conclusion but also must rely on the specificity as provided in the IP portion of the LCP. As stated above, the approved project is consistent with the R-3 Zoning and standards for height, size and density. The approved project is also compatible with densities and scale of existing buildings in the area.

Ms Schuler contends that the noise, traffic, and car headlights from the approved project will detract from her privacy. However, local correspondence between the applicant and the appellant indicate that the applicant has attempted to mitigate these impacts by including light guards to protect the houses to the north from potential glare. Personal privacy is also not a coastal resource protected by the LCP.

Therefore, the Commission finds that the appeal raises no substantial issue with respect to conformity of the approved project with the certified LCP policies on scenic and visual qualities.

c. Public Access

Coastal Act Policies

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act states:

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

Section 30212 (in relevant part) of the Coastal Act states:

*(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) It is consistent with the public safety, military security needs, or the protection of fragile resources, (2) Adequate access exists nearby, or (3) Agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

*(b) For purposes of this section, "new development" does not include:*

*(1) Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610.*

*(2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.*

*(3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10*

*percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.*

*(4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not a seaward of the location of the former structure.*

*(5) Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the commission determines that the activity will have an adverse impact on lateral public access along the beach.*

*As used in this subdivision "bulk" means total interior cubic volume as measured from the exterior surface of the structure.*

*(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by [Sections 66478.1 to 66478.14](#), inclusive, of the Government Code and by [Section 4 of Article X of the California Constitution](#).*

Section 30221 of the Coastal Act states:

*Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area..*

LCP Policy 25 states:

*The location and amount of new development should maintain and enhance access to the coast by:*

- a) Facilitating the provision or extension of transit service;*
- b) Providing commercial facilities within or adjoining residential development, or in other areas that will minimize the use of coastal access roads;*
- c) Providing non-automobile circulation within the development;*
- d) **Providing adequate parking facilities or providing substitute means of serving the development with public transportation;***
- e) Assuring the potential for public transit for high intensity uses such as high-rise office buildings; and*
- f) Assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of on-site recreational facilities to serve the new development.*

Regarding public access, the Land Use element for the specific area of the West Sharp Park neighborhood that includes the subject property (Sharp Park School – Ocean Park Manor Subdivision South to the North Side of Montecito) states in relevant part:

*“To provide needed public access down the steep bluffs and reduce erosion by controlling access, a developed beach access is proposed opposite Paloma on Beach Boulevard...The need for public beach parking at the north end of Beach Boulevard is recognized. This parking need should be considered along with future development in close proximity to the north end of Beach Boulevard.” (C-35)*

### Discussion

Appellant Merchant contends that the approved project does not adequately address parking needs in this area and that increased parking demands resulting from the project will limit parking for the public to access the beach, thus rendering the approved project inconsistent with LCP Policy 25(d). However, as designed, the approved project, including the subterranean garage, provides two parking spaces for each residential unit and three guest parking spaces. The City’s Zoning Code Section 9-4.2818 specifies that new multi-family residential developments, including condominiums, shall provide two (2) spaces for each unit of 2 or more bedrooms. In addition one space to accommodate guest parking shall be provided for each four (4) units and at least one of the required off-street parking spaces per unit shall be in a garage or carport.

The approved 9-unit building would therefore require 18 off-street parking spaces, of which 9 spaces must be provided in a garage or carport, plus 2 guest spaces.<sup>3</sup> Since the approved project includes 21 parking spaces, one more than is required by the Zoning Code, it meets the City’s certified parking requirements. Although a lack of adequate parking spaces for surrounding residential units as raised by the appellant may contribute to parking conflicts in the area, evidence in the local record does not support the contention that this approved project would further exacerbate this conflict nor does it appear that this project would limit parking in the area for beach access. The City recognized the need for public parking at the north end of Beach Blvd when the LCP was certified in 1980. However, as discussed further below, public access to the beach from Beach Blvd currently exists at the corner of San Jose Avenue and Beach Blvd and public parking for this beach access is provided just south of this location where Beach Blvd intersects Monticeto Avenue.

Appellant Merchant also contends that the approved project would exclude the possibility of using a City easement for future public access as is stated on pages C-34 and C-35 of the certified LCP, and she cites portions of the certified LCP to substantiate her contention on this point. The appellant’s contentions however, are misplaced and her conclusions are based on a section within the West Sharp Park neighborhood of the Sharp Park School and Ocean Park Subdivision just north of the subject site. This specific access point from Shoreview Avenue is described in detail in the Access Component of the certified LCP as Component Number 6 Shoreview on page C-73. The Access Component of the LCP identifies and discusses 21 east-

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<sup>3</sup> Section 9-4.2818(a)(2) of the Pacifica Zoning Code specifies that when the determination of the number of guest parking spaces results in the requirement of a fractional space, the fraction shall be disregarded.

west access points from the nearest public roadway and the beach. The Access Component also includes provisions for future public access that are relevant to the subject site under Component Number 7 Santa Maria-Beach Boulevard. This Component includes three potential access points to the beach from Beach Blvd. Since certification of the LCP, the City has built a public access stairway along Beach Blvd at the intersection with San Jose Avenue to provide vertical access down to the beach from Beach Blvd in this location. As a result, the proposed development does not interfere with any existing public access points identified in the certified LCP.

The appellant also raises concerns that the approved project will limit City access to the beach for the repair and maintenance of the Beach Blvd sea wall and that the approved project could create a conflict between residents and the City's needs to access the beach at this location and unsafe conditions. However, the local record indicates that the Public Works Department would still be able to use this area as they do now to access the seawall for repair and maintenance purposes. In the minutes from the April 23, 2007 City Council hearing, Councilmember Lancelle stated that she was concerned about whether the fire turnaround at the northwestern corner of the property would block maintenance equipment from accessing the beach to repair the revetment. The City Planner responded that the City Engineer had concluded that the flood protection improvements and fire turnaround would not prevent any equipment from accessing the seawall to do future repairs.

Finally, regarding the approved project's impact on new or existing access, there are no existing trails to the shoreline from the property. The approved development would not interfere with any historic public use of the property, and there are no indications of the existence of prescriptive rights or existing public access easements on the parcel. The approved project will increase the density of development from the pre-existing single-family residence, thereby increasing the number of residents utilizing nearby coastal recreation areas; however, adequate public access is provided in a nearby location just south of the project site at the corner of San Jose Avenue and Beach Blvd and at the south end of Beach Blvd where it intersects Montecito Avenue. Residents wishing to recreate along the beach will find safe vertical access at the stairway located at the corner of San Jose Avenue and Beach Boulevard as there is no safe access to the beach directly in front or to the north of the site due to existing armoring. In addition, the subterranean garage provided by the approved project would address any parking related needs of residents wishing to access the beach in this area. Consequently, existing public access facilities and parking facilities are adequate to address recreational needs resulting from the increased density of the approved project.

For the reasons stated above, the Commission finds that the appeal raises no substantial issue with regards to conformance of the approved development with the Coastal Act and certified LCP policies on public access.

### **3.3.4 Allegations Not Grounds for Appeal**

#### **a. Land Ownership Dispute**

Section 30603 (b) stipulates that the grounds for appeal are limited to an allegation that the development does not conform to the standards set forth in the certified LCP or the public access

policies set forth in Chapter 3 of the Coastal Act. Appellant Schuler contends that the approved development is inconsistent with the City's certified LCP because the applicant has not demonstrated ownership of a portion of the Bella Vista Avenue, a paper street located immediately north of the subject property between the homes on Shoreview Avenue. Appellant Merchant also states in her appeal that the applicant did not have legal title to the disputed land at any time during the process of City review.

### Discussion

Appellant Roberta Schuler cites Section 10-1.102 as a relevant policy to support her contention that the applicant failed to show proof of title for the entire property where the proposed project is located. However, Section 10-1.102 is part of the City's Municipal Code and is not certified in the City's LCP.

Moreover, the staff reports for the City council hearings on this project dated April 23, 2007 and May 14, 2007 clarify that the applicant relocated the proposed driveway and landscaping such that no portion of the approved project would occur on Ms Schuler's alleged property. A survey of the property contained in the record confirms that the project will be constructed on property owned by the applicant. Therefore, the contention that the applicant lacks valid proof of title for the any portion of the proposed project is therefore not a valid grounds for local appeal because it does not allege an inconsistency of the approved development with the certified policies of the LCP or the public access policies of the Coastal Act.

### **3.3 Conclusion—Substantial Issue**

Applying the factors listed in section 3.2 above further clarifies that the appeal raises substantial issue with respect to the conformity of the approved development with the policies of the Pacifica LCP.

Regarding the degree of factual and legal support for the local government's decision, the City's findings for approval of the local coastal development permit state that the approved project conforms to the policies of the certified LCP. As discussed above, however, there are discrepancies in the local record regarding wave overtopping as well as conflicting assessments of the approved project's impact on the Beach Blvd seawall between the applicant's coastal engineer and the Commission staff coastal engineer. In addition, there is insufficient evidence to assure that the approved project would not require significant re-armoring inconsistent with the shoreline protection policies of the certified LCP- IP. The local record failed to adequately address the long-term integrity of the existing Beach Blvd seawall with respect to its current state of disrepair and its ability to protect the approved development for the life of the project. Therefore, the degree of factual and legal information is not adequate to support the local government's decision that the development is consistent with the certified LCP.

Regarding the precedential value of the local government's decision for future interpretations of its LCP, the City's decision involved a finding that the elevation of Beach Blvd and its associated retaining wall would provide adequate flood protection for the approved project without adverse impact to the existing shoreline protection provided by Beach Blvd seawall.



This finding and decision could lead the City to interpret the LCP similarly when other development proposals along Beach Blvd are under the City's review. As such, the City's action on the approved development has precedential value for the City's future interpretation and implementation of its LCP.

Therefore, in conclusion, the Commission finds that the appeal does raise a substantial issue concerning the consistency of the approved development with the policies of the City of Pacifica LCP regarding the shoreline protection and hazards.

### **3.4 Information Needed for *De Novo* Review of Application**

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which an appeal has been filed. Section 30621 of the Coastal Act instructs the Commission to provide for a *de novo* hearing on all appeals where it has determined that a substantial issue exists with respect to the grounds on which an appeal has been filed. If the Commission finds substantial issue as recommended above, staff also recommends that the Commission continue the *de novo* portion of the appeal hearing to a subsequent date. The *de novo* portion of the appeal hearing must be continued because the Commission does not have sufficient information to determine how development can be approved consistent with the certified LCP.

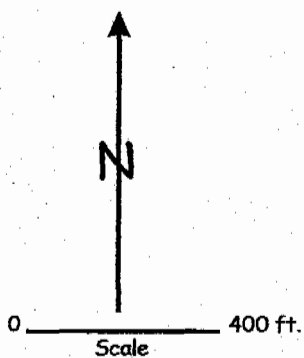
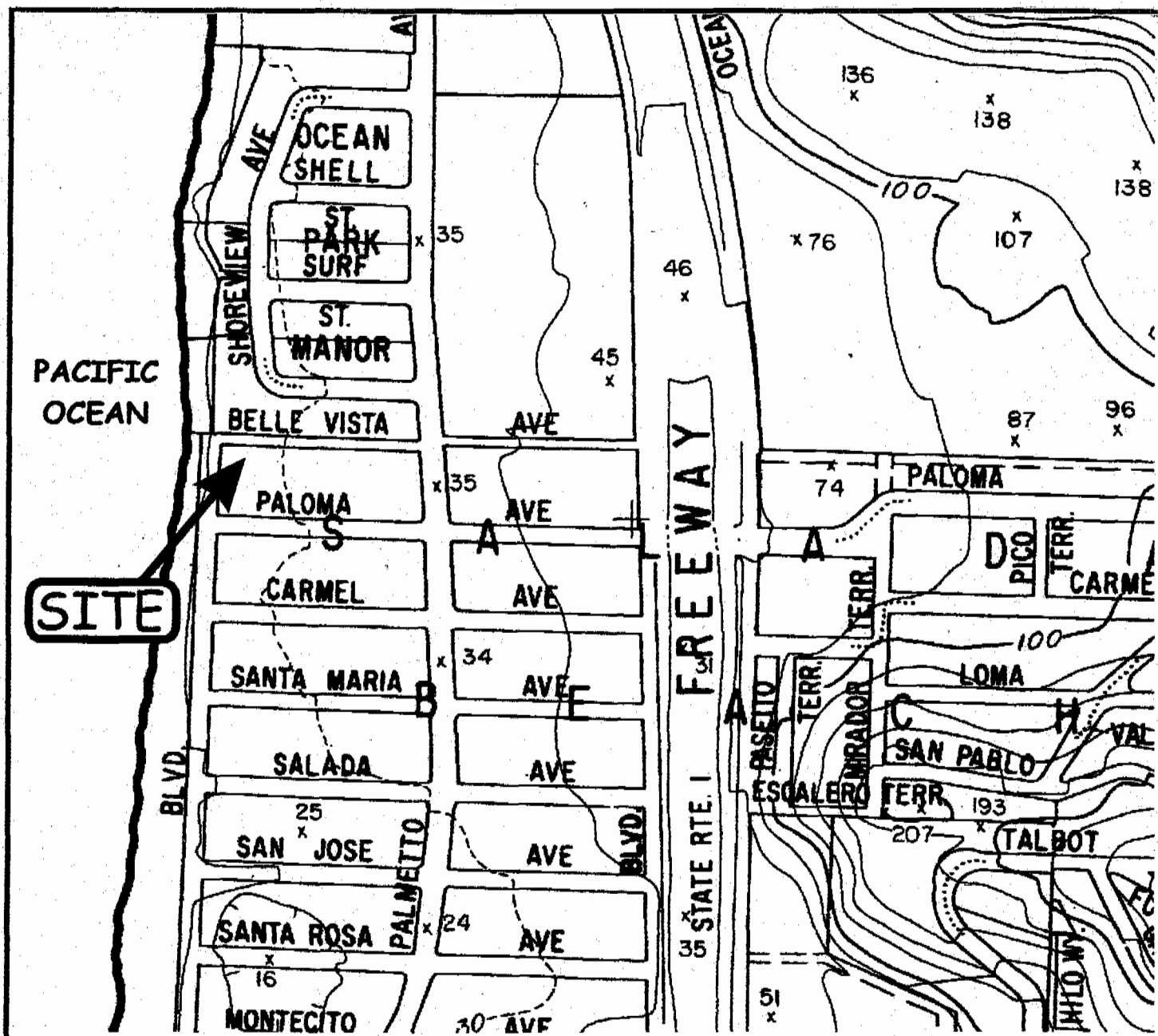
Given that the project the Commission will be considering *de novo* has come to the Commission after an appeal of a local government action, the Commission has not previously been in the position to request information from the applicant needed to determine if the project can be found to be consistent with the certified LCP. As a result, the following information is needed to further evaluate the development:

1. An assessment completed by a certified engineer that evaluates: (a) the viability of the proposed flood improvements over the life of the proposed structure, assumed to be 100 years; (b) data and design details to support the conclusion that the raising of Beach Blvd and associated retaining wall would have no impact on the integrity of the Beach Blvd seawall (i.e. that the surcharge of the raised road can be eliminated); and (c) changes in water conveyance (i.e. velocity) to the storm drain system resulting from the higher road.
2. Current status of the City's efforts with respect to repair of the Beach Blvd seawall and assessment of how these repairs would extend the life of the Beach Blvd seawall and revetment completed by the City Department of Public Works.
3. The above assessments should also address the impact of projected sea level rise over the next 100 years on the frequency and severity of the wave overtopping and the ability of Beach Blvd seawall to protect existing structures.

Without the above information, the Commission cannot reach a final determination concerning the project's consistency with the hazard and shoreline protection policies of the LCP. Therefore, before the Commission can act on the proposed project *de novo*, the applicant must submit all of the above-identified information.

**EXHIBITS:**

1. Regional Location/Vicinity Map
2. Aerial Photo of Project Site
3. Site Plan
4. Notice of Final Local Action, including May 14, 2007 City Council Resolution and Agenda Summary Report and October 16, 2006 Planning Commission Staff Report
5. Appeal, filed by Nancy Merchant
6. Appeal, filed by Patrick Rentsch
7. Appeal, filed by Robert Schuler
8. Coastal Hazards Study, Skelly Engineering (May 2004)
9. FEMA Flood Inundation Map
10. City of Pacifica Tsunami Inundation Mapping
11. URS Corporation letter to Property Owner, June 24, 2005
12. Cotton, Shires & Associates, Peer Review Geotechnical Report, February 13, 2007
13. GeoSoils letters to the City of Pacifica, March 2, 2007 and March 22, 2007.
14. Letter from Applicant's Representative, Nadia Holober, dated July 11, 2007
15. Additional Correspondence from Nancy Merchant, Appellant, dated July 1, 2007
16. Additional Correspondence from Patrick Rentsch, Appellant, dated August 6, 2007
17. Photos of waves overtopping onto Beach Blvd
18. Visual Simulations provided by BEST Design & Construction Company



San Mateo County Topographic Map 4B (1/1/96)

<b>Earth Investigations Consultants</b>	<b>Job No.</b> 1564.05.00  <b>Date</b> 6/1/04	<b>VICINITY MAP</b>  1567 Beach Boulevard Pacifica, California	<b>Plate</b>  1
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Exhibit No. 1  
 Application No. A-2-PAC-07-022  
 Pacific Beach LLC  
 Regional Location/Vicinity Map

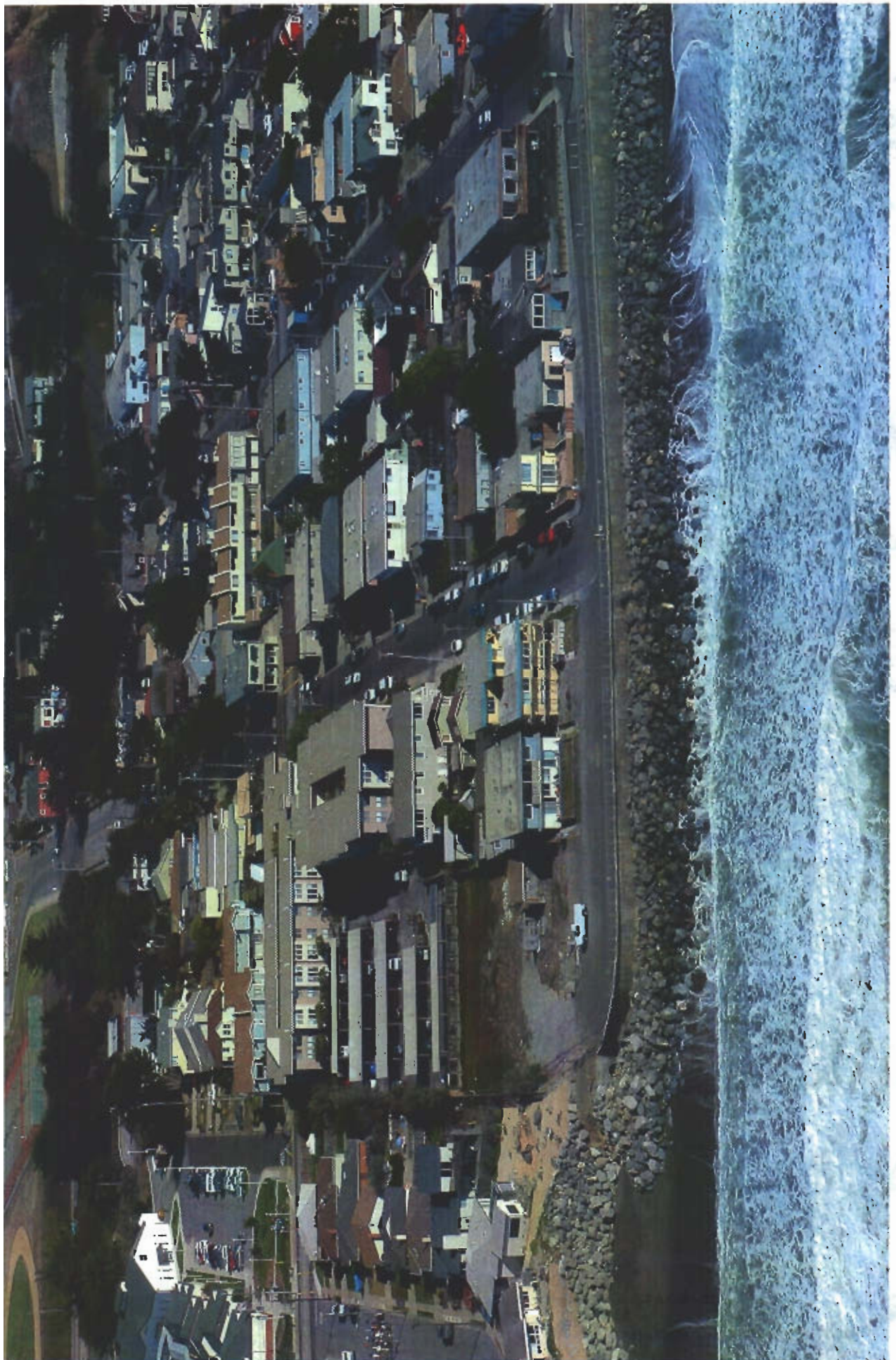
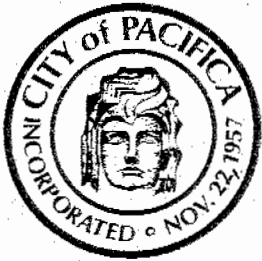


Exhibit No. 2  
Application No. A-2-PAC-07-022  
Pacific Beach LLC  
Aerial Photo of Project Site







## PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

CITY HALL • 170 Santa Maria Avenue • Pacifica, CA 94044 • (650) 738-7341 • Fax (650) 359-5807

**RECEIVED**

*Scenic Pacifica*

### NOTICE OF FINAL LOCAL ACTION

MAY 23 2007

May 22, 2007

CALIFORNIA  
COASTAL COMMISSION

Attn: Coastal Planner  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

**VIA CERTIFIED MAIL**

RE: **COASTAL DEVELOPMENT PERMIT # (CDP-275-06)**  
**Construction of nine (9) condominium residential units at 1567 Beach Boulevard, Pacifica (APN: 016-011-190)**

Pursuant to Coastal Act Section 30603(d), Coastal Commission Regulations Section 13571, and Pacifica Zoning Code Section 9-4.4304(n), this notice will serve to confirm that the City of Pacifica approved the above-referenced Coastal Development Permit, and to furnish the following additional information:

APPLICANT NAME/ADDRESS: Pacifica Beach LLC, 428 Broadway, Millbrae, CA 94030

**PROJECT DESCRIPTION:** The applicant proposes to develop the subject property with nine (9) condominium residential units with associated flood control improvements. The condominium residential units would contain three levels of living area totaling approximately 18,768 square feet. Each condominium would contain 3 bedrooms with 2-1/2 baths. Building height would be approximately 34 feet 10 inches. The total living area of the residential units would range between 2,010.8 to 2,268.56 square feet. The subterranean garage would provide twenty-one (21) garage parking spaces; two for each unit and three guest spaces. Access to parking area would be provided via a 20-foot wide driveway off Beach Boulevard. The entrance to the garage would be located on the north side of the building.

**DECISION:** The subject permit was approved by the City of Pacifica City Council on May 14, 2007, based on the attached required findings contained and adopted in the October 16, 2006 Planning Commission staff report and based on the January 22, 2007 and May 14, 2007 City Council Agenda Summary Reports.

**APPEAL PROCEDURES:** The appeals process may involve the following:

- LOCAL** ☐ The local appeal period ended on \_\_\_\_ 2007, and no appeal was filed; or,
- ☒ The permit was appealed to and decided by the City Council, exhausting the local appeals process.
- STATE** ☒ The project IS within the Appeals Zone and the permit IS appealable to the State of California Coastal Commission if the appeal is made in writing to the Coastal Commission within 10 working days from the next business day following the date of receipt of this notice by the Executive Director of the Commission. For additional information, contact the California Coastal Commission @ 45 Fremont, Suite 2000, San Francisco, CA 94105-2219 (415) 904-5260; or,
- ☐ The project is NOT in the Appeals Zone and the permit is NOT appealable to the Coastal Commission.

Additional information may be obtained by contacting the Pacifica Planning Department at 1800 Francisco Boulevard, Pacifica, (650) 738-7341.

  
Michael Crabtree  
Planning Director

Attachments: ☐ Letter of Approval with conditions ☒ Staff Report(s)

Exhibit No. 4 (Page 1 of 36)  
Application No. A-2-PAC-07-022  
Pacifica Beach LLC  
Notice of Final Local Action, including 5/14/07 City  
Council Resolution, Agenda Summary Rpt. And  
10/16/06 Ping. Comm. Staff Rpt.



**Conditions added by the City Council at their May 14, 2007 meeting for the Proposed 9 Condominium Residential units at 1567 Beach Boulevard**

44. A streetlight that is compatible with the surrounding neighborhood shall be installed in front of the project site, subject to approval of the Planning Director and City Engineer. The streetlight shall not cause spillover onto adjacent properties.
45. The development shall include outdoor space on the north and eastern portions of the property for the children of the development to play. The outdoor space shall not be for the use of pets and shall be designed to avoid any significant environmental impacts.

**RESOLUTION NO. 19-2007****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA  
ADOPTING THE MITIGATED NEGATIVE DECLARATION AND ADOPTING  
THE MITIGATION MONITORING AND REPORTING PROGRAM FOR A  
NINE (9) UNIT CONDOMINIUM DEVELOPMENT AT 1567 BEACH  
BOULEVARD (APN 016-011-190)**

---

Initiated: Bill Riddle of Best Design and Construction, on behalf of Pacifica Beach LLC

**WHEREAS**, an application has been submitted to develop a 17,962 square foot vacant parcel with a nine (9) unit condominium project on property classified R-3/CZ, Multiple-Family Residential within the Coastal Zone Combining District; and

**WHEREAS**, an appeal was filed on October 24, 2006 of the October 16, 2006 Planning Commission decision to approve the Coastal Development Permit, Site Development Permit, Use Permit, and Tentative (condominium) Subdivision Map; and

**WHEREAS**, said application includes a Coastal Development Permit, Site Development Permit, Use Permit, and Tentative (Condominium) Subdivision Map, for the construction of a nine (9) unit condominium project on the subject site; and

**WHEREAS**, the Mitigated Negative Declaration for the subject project consists of the Initial Study dated August 9, 2006, and the Mitigation Monitoring and Reporting Program attached as Exhibit "A", and the Planning Commission staff report and minutes of October 16, 2006; and

**WHEREAS**, a Mitigated Negative Declaration has been prepared, publicized, and reviewed in accordance with applicable law and, together with the City Council Agenda Summary Report of January 22, 2007, including Findings and Conditions of Approval contained within the Planning Commission staff report of October 16, 2006, constitutes an adequate, accurate, objective, and complete Mitigated Negative Declaration in accordance with the requirements of the California Environmental Quality Act (CEQA) and the State CEQA guidelines;

**WHEREAS**, the City Council held duly noticed public hearings on January 22, 2007, April 23, 2007 and May 14, 2007 to consider the Mitigated Negative Declaration, Coastal Development Permit, Site Development Permit, Use Permit, and Tentative (Condominium) Subdivision Map prior to taking action on the proposed project; and

**WHEREAS**, detailed plans, the Mitigated Negative Declaration, additional information and record of the proceedings regarding action on the subject project are available for public review in the Planning and Economic Development Department, 1800 Francisco Boulevard, Pacifica; and



**WHEREAS**, the City Council has independently reviewed and analyzed the Mitigated Negative Declaration and considered the information contained therein prior to adopting the Mitigated Negative Declaration; and

**WHEREAS**, the information and analysis contained in the Mitigated Negative Declaration reflect the City's independent judgment as to the environmental consequences of the proposed project; and

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Pacifica finds that on the basis of the whole record before it there is no substantial evidence that the proposed project, as conditioned, will have a significant effect on the environment and that the Mitigated Negative Declaration reflects the City Council's independent judgment and analysis.

**BE IT FURTHER RESOLVED**, that the City Council of the City of Pacifica finds that the changes made to the flood protection improvements and to the drainage system for the garage will more effectively reduce potential significant impacts identified in the Mitigated Negative Declaration and will not themselves result in any significant environmental impacts.

**BE IT FURTHER RESOLVED**, that the City Council of the City of Pacifica does hereby adopt the Mitigated Negative Declaration for the nine (9) unit condominium project located at 1567 Beach Boulevard.

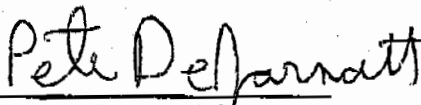
**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Pacifica, California, held on May 14, 2007 by the following vote of the members thereof:

**AYES**, Councilmembers: Lancelle, Hinton, Vreeland & DeJarnatt

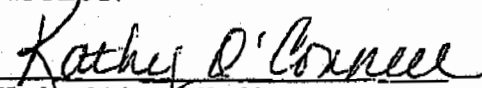
**NOES**, Councilmembers: None

**ABSENT**, Councilmembers: None

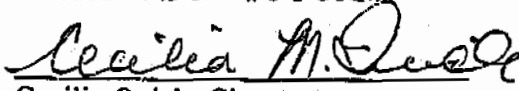
**ABSTAIN**, Councilmembers: Digre

  
Pete DeJarnatt, Mayor

**ATTEST:**

  
Kathy O'Connell, City Clerk

**APPROVED AS TO FORM:**

  
Cecilia Quick, City Attorney

CITY OF PACIFICA  
COUNCIL AGENDA SUMMARY REPORT  
MAY 14, 2007

Agenda Item No.

**SUBJECT:**

Appeal of Planning Commission Approval of Coastal Development Permit, CDP-275-06, Site Development Permit, PSD-757-06, Use Permit, UP-965-06, and Tentative (Condominium) Subdivision Map, SUB-211-06, to develop property located at 1567 Beach Boulevard (APN 016-011-190) with nine (9) condominium units.

**ORIGINATED BY:**

Planning and Economic Development Department

**DISCUSSION:**

On January 22, 2007, the City Council conducted a public hearing to consider an appeal of planning permits and certification of a Mitigated Negative Declaration for the construction of a three story residential condominium development consisting of approximately 10,575 square feet of subterranean garage area and nine (9) residential units with three levels of living area totaling approximately 18,768 square feet at 1567 Beach Boulevard in the West Sharp Park neighborhood. The Council had requested that the City's geotechnical consultant develop a scope of work for a peer review of the flood protection improvements along Beach Boulevard to ensure the improvements are designed so that they do not result in any significant impacts. In addition, the Council requested that the applicant address the boundary dispute along the northern portion of the subject property known as Bella Vista. On April 23, 2007, the Council held a public meeting to consider the requested information addressing the proposed flood protection improvements and boundary dispute. All but one council member was present at this meeting. The Council was divided (2-2) over requiring an Environmental Impact Report (EIR) for this project. After considering extensive testimony presented at the public hearing, the Council voted (4-0) to continue the item to the May 14, 2007 Council meeting to allow the Council Member that was absent from the Council meeting an opportunity to vote on the appeal of the planning permits and certification of the Mitigated Negative Declaration for this project. The City Council Agenda Summary Report and minutes of the April 23, 2007 meeting are also attached. The conceptual plans have already been submitted to the Council at their last meeting.

For the convenience of the Council, the information requested that addresses both the proposed flood protection improvements and boundary dispute is repeated and discussed below:

### **Flood Protection Improvements:**

To provide full protection for the proposed below-grade garage from wave overtopping the original plans called for an increase of the local seawall directly in front of the subject site from 23.7 feet to 27 feet. The proposed improvements were peer reviewed by the City's geotechnical consultant, Cotton, Shires and Associates. Due to the controversy of raising the seawall, the applicant decided to eliminate the plan to raise the seawall.

The revised plans submitted by the applicant clarify that the Project will not alter the seawall directly in front of the subject site or change the existing shore protection. In order to provide the necessary protection from the waves, the flood protection improvements involve raising Beach Boulevard about two (2') feet near the northwest corner of the subject site bringing Beach Boulevard to a height of 27+/- feet MSL (Mean Sea Level) at its highest point to protect the proposed garage from flooding and building a retaining wall to accommodate the northern portion of the proposed elevated road. The retaining wall which is part of the elevation of Beach Boulevard will be built as a separate structure *from the existing seawall* starting approximately 15 feet northwest of the proposed fire turnaround and will have a maximum height of 2 feet.

On March 22, 2007 Skelly Engineering, an experienced coastal engineer, provided additional discussion of the proposed project and flood protection improvements, wave run-up reflection and garage flooding for the proposed project. Mr. Skelly concluded that the project and proposed flood protection improvements can be designed so that they will not adversely affect the neighborhood properties or revetment, Beach Boulevard, Beach Boulevard seawall, or the hydrological and geological conditions of the area.

According to Skelly Engineering, the proposed flood control improvements would effectively protect the project from flooding. Beach Boulevard would ascend northward from the subject property line to the crown in the driveway area. The driveway would be crowned so that wave overtopping has to run uphill from any point of the seawall. Waves that overtop the seawall on the southern portion of the site would need to ascend the driveway and then make the turn to descend into the garage. The proposed sidewalk and curb along Beach Boulevard fronting the proposed building would route the water downhill and into the City's storm drain system. In addition, the garage entrance would be located within the area where Beach Boulevard is proposed to be raised to its highest elevation. Finally, a trench drain is proposed at the entrance of the garage to intercept water before it enters the garage. The drain would have the capacity to move a volume of water equal to the volume of the garage in two hours. One of the mitigation measures that was recommended by the applicant's coastal engineer to collect water from the garage during wave run up activity was to install a sump pump. According to the City's public works director, the proposed gravity drain at the entrance of the parking garage would more effectively drain water that entered the garage. The drain would use an 18-inch diameter pipe to discharge water through an existing, nearby storm drain discharge headwall at the beach. As a condition of approval staff will also require that the applicant install a grease interceptor at the proposed drainage inlet.

As requested by Council, the scope of work for peer review of the flood protection improvements will ensure the improvements are designed so that they do not result in any significant impacts shall be as follows:

"The design of all site improvements including any roadways, driveways and retaining walls, shall be submitted to the City for approval and peer review. The peer review shall insure that the improvements (1) will not cause any erosion, (2) will not result in flooding of any properties, (3) will not adversely surcharge, overstress or reduce the effectiveness or integrity of the existing sea wall, and (4) will not divert any additional water to neighboring properties."

**Northern Property Boundary:**

The applicant has relocated the proposed driveway including the proposed landscaping entirely on his property so that no part of it is on land shown on the 1953 subdivision map submitted by the neighbor immediately to the north. The 1953 map shows that all but 7.8 feet of the 25-foot Bella Vista dedication declined by the County on the applicant's 1906/07 subdivision maps was assumed by the Shoreview subdivision to the north of the subject property. A survey of the property has confirmed that the Project will be constructed on property owned by the applicant.

However, the neighbor to the north still contends that the project is still on disputed property. She claims that the City deeded her home's former owner property at the northern end of Beach Boulevard. Specifically, she believes that when the prior owner of her property entered with the City into a "Temporary License, Release and Agreement Regarding Emergency Repairs" in 1998, the City deeded property of the project site to her. The purpose of this agreement was to allow the City access to her property and other owner's property on Shoreview Avenue to repair the revetment that had failed in the winter rains of 1997 and 1998. The City did not transfer any interest in this property to this property owner or any prior property owners. The City Attorney sent a letter to this property owner on March 12, 2007 clarifying the City's role in the ownership of the disputed property (see attached). It should be noted that the agenda summary report of January 22, 2007 incorrectly identified Bella Vista as a public right-of-way. City records do not show Bella Vista as a City right-of-way.

Other modifications made to address concerns raised by the public include moving the garage/recycling area from the northwest part of the garage to the mid section of the building facing south with exterior access. The applicant discussed the relocation of the garage/recycling area with Coastside Scavengers and the immediate neighbor who found it acceptable. Planters have also been added on the west side of Beach Boulevard per the appellant's request to further prevent parking near the seawall. The planters will be maintained by the applicant.

**Conditions of Approval:**

Staff is recommending additional conditions of approval, modifications to conditions of approval and a deletion of a condition of approval as listed below.

40. The applicant shall install and maintain in functioning condition a grease interceptor at the proposed drainage inlet.
41. The design of all site improvements including any roadways, driveways and retaining walls, shall be submitted to the City for approval and peer review. The peer review shall insure that the improvements (1) will not cause any erosion, (2) will not result in flooding of any properties, (3) will not adversely surcharge, overstress or reduce the

effectiveness or integrity of the existing sea wall, and (4) will not divert any additional water to neighboring properties.

42. The applicant shall install and maintain a 6-Inch Sanitary Sewer Lateral and a 6-Inch Sanitary Sewer Cleanout that will be located within the site's northern property line.
43. The applicant shall install concrete pavement for the proposed road along the property frontage.

Modify the following Condition of Approval:

1. Development shall be substantially in accord with the Plans titled "NEW CONSTRUCTION OF 9 UNIT CONDOMINIUM BUILDING, 1567 BEACH BLVD., PACIFICA, CA," consisting of fifteen (15) sheets received April 11, 2007.
20. Applicant shall install stainless steel railing to match the existing railing on the seawall along the proposed elevated road as deemed necessary by the Director of Public Works or the City Engineer.
27. Applicant shall dedicate a Public Utility Easement for all existing utilities, including sanitary sewer and storm drain. This easement shall be a minimum 15 ft wide when feasible as determined by the City Engineer.
18. Increased storm water runoff shall be minimized by the applicant through the use of on-site detention facilities to the maximum extent feasible as determined by the Planning Director and City Engineer.

Delete the following Condition of Approval:

4. ~~The final design of the seawall shall be reviewed by and subject to the approval of the Planning Director and Public Works Director.~~

**FISCAL IMPACT:**

None

**ATTACHMENTS:**

- a. January 22, 2007 Council Agenda Summary Report (with October 16, 2006 Planning Commission Staff Report only)
- b. City Council Minutes, January 22, 2007
- c. April 23, 2007 Council Agenda Summary Report (Letter from City Attorney, dated March 12, 2007 only attachment)
- d. City Council Minutes, April 23, 2007
- e. Mitigated Negative Declaration
- f. Resolution (Adoption of Mitigated Negative Declaration) and Mitigation, Monitoring and Reporting Plan

**COUNCIL ACTION REQUESTED:**

**Motion to Adopt Resolution Adopting Mitigated Negative Declaration**

1. **Move** that the City Council **ADOPT** the attached resolution next in order entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA ADOPTING THE MITIGATED NEGATIVE DECLARATION AND ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM FOR A NINE (9) UNIT CONDOMINIUM DEVELOPMENT AT 1567 BEACH BOULEVARD (APN 016-011-190)."

**Motion to Deny Appeal**

2. **Move** that the City Council **DENY** the October 24, 2006 appeal by Patrick Rentsch, and approve the Coastal Development Permit, CDP-275-06, Site Development Permit, PSD-757-06, Use Permit, UP-965-06, and Tentative (Condominium) Subdivision Map, SUB-211-06, to construct a three-story building consisting of nine (9) condominium units at 1567 Beach Boulevard, subject to conditions one (1) through thirty-nine (39) and additional conditions of approval and modification and deletion of conditions of approval and based upon findings contained in the October 16, 2006 Planning Commission staff report and based on the January 22, 2007 and May 14, 2007 City Council Agenda Summary Reports, and incorporate all maps and testimony into the record by reference.

**CITY OF PACIFICA  
CITY COUNCIL  
AGENDA SUMMARY REPORT  
January 22, 2007**

Agenda Item No.12

**SUBJECT:**

Appeal of Planning Commission Approval of Coastal Development Permit, CDP-275-06, Site Development Permit, PSD-757-06, Use Permit, UP-965-06, and Tentative (Condominium) Subdivision Map, SUB-211-06, to develop property located at 1567 Beach Boulevard (APN 016-011-190) with nine (9) condominium units.

**PROPOSED ACTION:**

(1) Adopt the Mitigated Negative Declaration for the project; and (2) Deny the Appeal and Approve the Planning Permits for the project.

**ORIGINATED BY:**

Planning and Economic Development Department

**BACKGROUND:**

On October 16, 2006 the Planning Commission voted (6-1) to adopt a Mitigated Negative Declaration and to conditionally approve a Coastal Development Permit, Site Development Permit, Use Permit, and Tentative (Condominium) Subdivision Map, for the construction of a three story residential condominium development consisting of approximately 10,575 square feet of subterranean garage area and nine (9) residential units with three levels of living area totaling approximately 18,768 square feet at 1567 Beach Boulevard in the West Sharp Park neighborhood ("the Project"). Details of the Project and the Planning Commission's approval are contained in the attached documents.

It should also be noted that there is a boundary dispute between the City and the Project Owner concerning the location of the public right-of-way (Bella Vista) area located directly north of the Project. A portion of the Project's driveway is proposed to be built on this disputed area. As a condition of approval, staff is recommending that the

applicant submit documentary proof of title for the entire parcel prior to final map approval.

### **DISCUSSION:**

On October 24, 2006, Patrick Rentsch ("Appellant") submitted an appeal of the October 16, 2006 Planning Commission decision to conditionally approve the Project. ( See Attachment c).

Below are the Appellant's four grounds for appeal of the Planning Commission's conditional approval of the Project, and City staff responses:

1. **"Proposed below grade parking – Building a parking area that will flood several times per year (this is the developers estimate) is a stunningly bad idea. I'm surprised they considered it, let alone approved it. It is inconsistent with Municipal Code 9-4.4406 (c) (2), which states that projects that require seawalls for mitigation are prohibited."**

The Appellant states that the Project would flood several times per year and is a "bad idea." The Appellant's statements are contradicted by facts in the record. As explained below, the Project as approved is not expected to flood several times per year. Any small amount of water that enters the Project's garage would be removed by a pump system. The City's consultant peer-reviewed the flood control plans and determined that the proposed modifications to the Project are sufficient to protect the Project from flooding.

As described in the Staff Report, a coastal hazard study for the subject site was performed by the Project Owner's consultant, Skelly Engineering, in May 2004, and peer reviewed by the City's Consultant, Cotton, Shires and Associates, in April 2006, in order to analyze and mitigate any potential for flooding of the Project.

The existing revetment/seawall system on the west side of Beach Boulevard directly across from the Project is +23.7 feet Mean Sea Level (MSL). The coastal hazard study indicated that the revetment/seawall system needs to be at least to +25 feet MSL in height to provide full protection to the Project's below-grade garage and the remainder of the Project site. As conditionally-approved by the Planning Commission, the Project will increase the existing revetment/seawall system from +23.7 MSL to +27 MSL.

The Project's additional flood prevention features and measures incorporated into the Project and approved by the Commission include: (1) the entrance to the garage was



shifted from Beach Boulevard to the north side of the building; (2) the portion of Beach Boulevard fronting the Project will be raised and aligned with the proposed seawall height extension; and (3) a pump in the garage will evacuate any water that enters the garage. In addition, as designed, the Project meets the current standards for coastal engineering and the current standards and guidelines for mitigation of coastal hazards. The Project also conforms to FEMA standards and guidelines for coastal development. The Project Owner's consultant, the City's consultant, City staff, and the Planning Commission were satisfied that these measures incorporated into the Project approval would adequately reduce any potential flood hazard. In addition, the California Coastal Commission staff stated that they have little concern over the revetment/seawall system increase.

The Appellant also states that the project is inconsistent with Municipal Code 9-4.4406 (c) (2). The proposed extension of the height of the *existing* seawall is not inconsistent with the intent of this provision of the City Code to prevent erosion and destabilization of the shoreline.

Municipal Code Section 9-4406(c)(2) states: "Consistent with the City's Seismic Safety and Safety Element, new development which requires seawalls as a mitigation measure or project which would eventually require seawalls for the safety of the structures shall be prohibited, unless without such seawall the property will be rendered undevelopable for any economically viable use."

The intent of this provision is not to prohibit new residential development, however, but, rather, to prohibit construction of new sea walls. Thus, Section 9-4406(a) explains that the intent of the provision that Appellant cites is "*to minimize erosion and to stabilize the shoreline* in areas along the coastal bluff where ocean wave and tidal action create potentially hazardous or damaging conditions." The Project will not require construction of a new seawall which could cause increased erosion and destabilization of the shoreline. The Project will merely add a 3.3-foot extension to the existing seawall. Thus, the Project will not contribute to erosion or destabilization of the shoreline and the Project is not inconsistent with the intent of Municipal Code Section 9-4406(c)(2).

2. **"Construction is too close to the street – The building proposed will be built less than 5 feet from the sidewalk, and will have staircases running directly to the sidewalk. No other new construction, to my knowledge, is allowed this little setback. In fact, at the Study Session, all the commissioners, Commissioner Ranken in particular, seemed to agree that the building should not exceed the plane of the existing, adjacent buildings on Beach Blvd. At the**

**last Planning meeting, the Commissioners wanted to meet this goal. However, the architect stated this would require a complete redesign, which I doubt. The discussion then bogged down considering a variance, and the idea was simply dropped. That any construction should conform to the plane of existing buildings is consistent with Pacificas LCP, Coastal Act Policy 24, which states in part: 'Permitted Development shall be sited and designed to protect view to and along the ocean and scenic coastal areas.'"**

The Appellant states that the Project would have a 5-foot set back. Appellant does not specify which setback he is challenging, but staff presumes it is the front (west) setback. Regardless, Appellant is incorrect as a factual matter.

Municipal Code section 9-4.254 explains that the front lot line in the case of an interior lot (as opposed to a corner lot) is the line separating the lot from the street. For this Project, the front lot line is the west lot line which fronts Beach Boulevard. In an R-3 Zoning District where the Project is located, Municipal Code sections 9-4.602(d) and 9-4.402(d) require a minimum 15-foot front setback. As stated in the Staff Report, the Project is observing a 20-foot front (west) setback, a 20-foot garage setback, a 5-foot side (north) setback, a 5-foot side (south) setback, and a 20-foot rear (east) setback. Thus, the Project is consistent with the minimum front setback requirement and, in fact, exceeds the minimum requirement by 5 feet.

Municipal Code section 9-4.269 explains that a front setback shall mean a clear distance from the front lot line within which, with certain limited exceptions, no building or structures may be built. The cul-de-sac at the end of Beach Boulevard is not 66-feet in diameter. Thus, as a condition of approval for safety purposes, the Fire Department required the Project to include a portion of a fire truck turnaround on the west side of the Project.

Appellant suggests that the Project should not exceed the visual plane of existing, neighbouring buildings. Immediately adjacent to the south of the Project is a two-story apartment complex. One- and two-story single-family residences are to north. A large three-story 71-unit apartment building is to the east of the Project. As noted in the staff report and the Mitigated Negative Declaration (MND) for the Project, the project may impair or eliminate private coastal views from nearby existing residential structures.

As described in the Staff Report and MND, private views are not protected by any City ordinances or other laws, and obstruction of private views is not a significant aesthetic impact. The MND concludes that the Project will result in a less than significant

aesthetic impact because the general public view is not appreciably affected by the Project, and the project is consistent in scale compared to surrounding uses. The alteration of private views is consistent with the effect of development in urban Pacifica. Thus, there is no requirement that the Project avoid the visual plane of any existing structures, or otherwise mitigate any impacts to private views. The Project does not violate any law or regulation relating to such private views.

Appellant claims that the Planning Commissioners at the Study Session seemed to agree that the Project should not exceed the visual plane of existing buildings. As stated in the Staff Report, on July 18, 2005 the Planning Commission held a Study Session to review and earlier version of the Project. The Commission did not take any formal action on the Project, or reach any formal agreement as to any particular design or other elements of the Project. Thus, Appellant's claim that the Planning Commission seemed to agree that the Project should not exceed the visual plane of surrounding buildings is not supported by any formal action of the Commission. With respect to any comments made at the Study Session by individual Commissioners, it should be noted that the purpose of a study session is to offer an opportunity for informal discussion with the Planning Commission. Any statements made by a Commissioner or staff member at a study session are informal only and are not to be considered commitments or guarantees of any kind.

Appellant notes that the Commissioners discussed a variance for the Project. As noted in the Planning Commission meeting minutes, the Commissioners discussed the feasibility of the Project observing the visual plane of the existing buildings, and discussed a potential setback variance. After some discussion, the Commission approved the Project without a variance. Municipal Code section 9-4.3401 explains that a variance is appropriate when "practical difficulties, unnecessary hardship, or results inconsistent with the general purpose of [the Planning and Zoning chapter of the Code] may result from the strict application" of the Code. Thus, it is intended to provide relief to project developers from strict application of the Code. For the reasons described in this report, the Planning Commission determined that the Project did not require a variance because it complied with the requirements of the Code. In particular, there is no City requirement that the Project avoid the neighbor's visual plane; thus, there is no requirement from which the Project needed relief.

Moreover, Appellant's concern about the visual impact of the Project would not be remedied if the Planning Commission had required a variance; a variance would not preserve any private views.

Appellant suggests that the Project would not conform to the Local Coastal Plan, Coastal Act Policy 24. Appellant is incorrect. Policy 24 states:

the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to, and along, the ocean and scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas, and where feasible, to restore and enhance visual quality of visually degraded areas.

This policy does not state that new construction should conform to the plane of existing buildings. As described above, the project may impair or eliminate private coastal views from nearby existing residential structures, but such private views are not protected by this Policy or any other law or regulation. As the MND determined, the Project will not result in a significant aesthetic impact and is consistent with applicable policies in the Local Coastal Plan.

3. **“Insufficient parking – There is no street frontage for visitor parking; except for 2 visitor spots, all will overflow onto Paloma Ave. This area is already stressed.”**

Appellant states that the Project would provide two visitor parking spaces and that such parking is inadequate. Appellant is incorrect as a factual matter, and his claim is not supported by the evidence.

As described in the Staff Report and MND, the Project includes a twenty-one car garage. The garage will accommodate two parking spaces for each of the nine units, and *three* visitor parking spaces. Municipal Code section 9-4.2818 requires two parking spaces for each two-bedroom condominium unit, and one guest parking space for every 4 units in a development. Thus, the Project meets the City’s off-street parking standards. Moreover, as described in the traffic section of the MND, the Project will not result in any significant traffic impacts relating to parking.

4. **“Drainage problems – It’s not clear to me that they have properly considered drainage. Apparently the design calls for an elevated driveway, which will then spill south and west. I already have a problem with sand buildup and water retention during storms; this would only exacerbate the problem. I would like to see detailed plans of the driveway and street construction.”**

Appellant claims that the Project would drain to the south and west. Appellant is incorrect as a factual matter. As staff determined, the Project's elevated driveway would drain to the west. There would be no impact to the south.

The Project has not yet advanced to the building permit stage. It is the City's practice, however, to carefully review a project's detailed drainage plans during the building permit stage to ensure that drainage does not impact adjacent properties. In addition, the Planning Commission adopted a mitigation measure as part of its adoption of the Project MND which requires the Project Owner's geotechnical consultant to "inspect, test (as needed), and approve all geotechnical aspects of the project construction." Such review includes, but is not limited to, site preparation and grading and site surface and subsurface drainage improvements. The Project Owner's consultant also must submit the results of its inspections to the City Building Official for peer review prior to final project approval.

Appellant requested the opportunity to review driveway and street construction plans. As noted above, such plans are not yet available. Appellant may review the drainage plans for the driveway and street construction, however, during the building permit review process.

### **CONCLUSION:**

For the reasons described above, Staff believes that there is no merit to any of Appellant's factual or legal claims. Moreover, staff believes that the proposal preserves and enhances the mix of uses in the area, and provides additional housing opportunities in the area. The proposal will not disturb the existing neighborhood character. The subject property is surrounded by existing single family residential structures to the north, four-plex, single-family, duplex, and triplex residential structures to the south, and a large three-story apartment complex containing 71 units directed to the rear of the property. The proposal does not appear to be out of character with the existing mix of land uses. A multi-residential development appears to be consistent with the types of future uses anticipated in the area and with the residential nature of the neighborhood.

### **RECOMMENDATION:**

Staff recommends that the City Council: (1) adopt the Mitigated Negative Declaration for the Project; and (2) deny the October 24, 2006 appeal by Patrick Rentsch, and approve the Coastal Development Permit, Site Development Permit, Use Permit, and Tentative (Condominium) Subdivision Map for the Project., subject to the original conditions #1

through #39 adopted by the Planning Commission, and with the addition of new condition #40 prior to the approval of the Subdivision Improvement Agreement, or, if no Subdivision Improvement Agreement is required, prior to final map, the applicant shall submit documentary proof of title for any property on which the project is located, subject to review by the City Attorney and the City Engineer.

**FISCAL IMPACTS:**

None

**DOCUMENTS ATTACHED:** (City Council Only)

- a. Planning Commission staff report, October 16, 2006
- b. Planning Commission minutes, October 16, 2006
- c. Planning Commission Appeal, October 24, 2006
- d. Mitigated Negative Declaration
- e. Resolution (Adoption of Mitigated Negative Declaration) and Mitigation, Monitoring and Reporting Plan
- f. Conceptual Plans

**COUNCIL ACTION REQUESTED:**

**Motion to Adopt Resolution Adopting Mitigated Negative Declaration**

1. **Move** that the City Council **ADOPT** the attached resolution next in order entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA ADOPTING THE MITIGATED NEGATIVE DECLARATION AND ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM FOR A NINE (9) UNIT CONDOMINIUM DEVELOPMENT AT 1567 BEACH BOULEVARD (APN 016-011-190)."

**Motion to Deny Appeal**

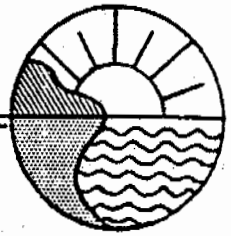
2. **Move** that the City Council **DENY** the October 24, 2006 appeal by Patrick Rentsch, and approve the Coastal Development Permit, CDP-275-06, Site Development Permit, PSD-757-06, Use Permit, UP-965-06, and Tentative (Condominium) Subdivision Map, SUB-211-06, to construct a three-story building consisting of nine (9) condominium units at 1567 Beach Boulevard, subject to conditions one (1) through thirty-nineteen (39) and based upon findings contained in the October 16, 2006 Planning

Commission staff report and based on the January 22, 2007 City Council Agenda Summary Report, and incorporate all maps and testimony into the record by reference, and subject to the following additional condition of approval:

40. Prior to the approval of the Subdivision Improvement Agreement, or, if no Subdivision Improvement Agreement is required, prior to final map, the applicant shall submit documentary proof of title for any property on which the project is located, subject to review by City Attorney and the City Engineer.

# STAFF REPORT

PLANNING COMMISSION - CITY OF PACIFICA



**DATE:** October 16, 2006

**ITEM:** 2

## PROJECT SUMMARY/RECOMMENDATION AND FINDINGS

Notice of public hearing was published in the Pacifica Tribune on October 4, 2006 and 46 surrounding property owners and 54 residents were notified by mail.

**FILE:** CDP-275-06  
PSD-757-06  
UP-965-06  
SUB-211-06

**APPLICANT:** William L. Riddle  
Best Design & Construction  
100 Old County Road, Ste 100 C  
Brisbane, CA 94005

**OWNER:** Pacifica Beach LLC  
428 Broadway  
Millbrae, CA 94030

**LOCATION:** 1567 Beach Boulevard (APN: 016-011-190)

**PROJECT DESCRIPTION:** Construction of 9 Condominium Residential Units.

General plan: High Density Residential  
Zoning: R-3/CZ, Multi-Family Residential/Coastal Zone

**CEQA STATUS:** Negative Declaration prepared and recommended for adoption.

**ADDITIONAL REQUIRED APPROVALS:** None

**RECOMMENDED ACTION:** Approval, as conditioned

Exhibit No. 4  
Application No. A-2-PAC-07-022  
Pacifica Beach LLC  
Notice of Final Local Action, including 5/14/07 City  
Council Resolution, Agenda Summary Rpt. And  
10/16/06 Ping. Comm. Staff Rpt.

(Page 19 of 36)

ATTACHMENT a



# **R-3 STANDARDS CONFORMANCE AND ARTICLE 24 CLUSTER HOME REQUIREMENTS:**

<b>Standards</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Lot Area	5,000 s.f.	17,962 s.f.	No Change
Lot Width	50'	102.5'	No Change
Bldg. Height	35' (max.)	N/A	34'-10"
Lot Coverage	60%	N/A	58.9%
Landscaping	20%	N/A	22%
Useable Open Space:			
-single family	450 s.f. per unit	N/A	467 s.f. per unit
Private Open Space	150 s.f. per unit	N/A	150 s.f. – 1,735 s.f.
Bldg. Setbacks:			
-Front (west):	15'	N/A	20'
-garage	20'	N/A	20'
-side (north)	5'	N/A	5'
-Side (south)	5'	N/A	5'
-rear (east)	20'	N/A	20'
Parking:			
-multi-family	18	N/A	18
-guest Parking	2	N/A	3

## **PROJECT SUMMARY**

### **DISCUSSION**

**1. Project Description/Background:** The applicant proposes to develop the subject property with a three-story building consisting of approximately 10,575 square feet of subterranean garage area and nine (9) condominium residential units with three levels of living area totaling approximately 18,768 square feet. Each condominium would contain 3 bedrooms with 2-1/2 baths. Building height would be approximately 34 feet 10 inches. The total living area of the residential units would range between 2,011 to 2,269 square feet. There will be 4,211 square feet of common and private open space. The subterranean garage would provide twenty-one (21) garage parking spaces; two for each unit and three guest spaces. Storage area for each residential unit will also be provided within the garage area. Access to parking area would be provided via a 20-foot wide driveway off Beach Boulevard. The entrance to the garage would be located on the north side of the building. Retaining walls are also being proposed along the west and east sides of the driveway. The retaining wall west of the driveway would be 0.5 to 1.2 feet high above grade. The plans also show the height of the retaining wall east of the driveway to be 3.8 to 6.5 feet in height. They would all comply with the City's height regulations pertaining to retaining walls. The proposal also includes 3,915 square feet of on-site landscaping which meets the minimum requirement of the Zoning Ordinance. The applicant is also proposing to landscape 603 square feet of public right-of-way located along the north side of the subject site.

An encroachment permit would be required to allow landscaping on City right-of-way. Space for a fire truck turnaround would also be provided as required by the Fire Department in the front area of the proposed building. A portion of the turnaround would be located within the front property boundaries of the subject site. No on-street parking would be allowed within the turnaround area. Currently, there is no existing on-street parking within this area. Therefore, no on-street parking would be affected by the turnaround. In addition, the Fire Department will not allow vehicles to pick up and drop off passengers within the turnaround area.

The proposed plans call for an increase of the local seawall directly in front of the subject site from 23.7 feet to 27 feet to protect Beach Boulevard and the proposed below-grade garage from wave overtopping. The road (Beach Boulevard) in front of the proposed development is required to be improved to accommodate the fire turn around and access to the garage. This portion of the road would be elevated and aligned with the seawall improvements. Thus, there would be virtually no visible changes to the existing seawall due to the road alignment.

Each unit would be owned separately, with maintenance of the building and common areas regulated by a property homeowners association.

The site originally consisted of seven lots. The lots were merged into one 17,962 square foot lot in 1985 under the City's Merger Ordinance. The subject property is relatively flat and is located on the north end of Beach Boulevard in the West Sharp Park neighborhood. The site directly fronts the Pacific Ocean and is partially covered with ice plant, small shrubs and non-heritage trees. The vacant site was originally developed with a two-story single family residence, and a two-car detached garage. The residence was demolished approximately two years ago. The detached garage remains on the site.

On July 18, 2005, the Planning Commission held a study session and reviewed an earlier version of the currently proposed 9 unit condominium residential project.

**2. Zoning, General Plan, Local Coastal Land Use Plan, and Surrounding Land Uses:** The property is zoned R-3, Multi-Family Residential and is located within the Coastal Zone Combining District. The General Plan and Local Coastal Land Use Plan designation for the subject property is High Density Residential. The General Plan and Local Coastal Land Use Plan establish a maximum density of 16 to 21 dwelling units per acre. The size of the lot is 17,962 square feet which would permit a total of 8.6 dwelling units. The R-3 zoning also requires a minimum lot area of 2,075 square feet per unit. Section 9-4.2312 of the Municipal Code allows rounding when calculating density. Therefore, a total of 9 units would be permitted.

The subject property fronts the Pacific Ocean on the west side. Other surrounding uses include single-family residences to the north, four-plex, single-family, duplex, and triplex residential structures to the south, and a large 3-story 71 unit apartment complex to the east. Further west is the City's Wastewater Treatment Plant, which is the subject of an ongoing reuse study. The construction of nine (9) condominium residential units would be consistent with the General

Plan, Local Coastal Land Use Plan, zoning designation, Design Guidelines, and surrounding land use.

**3. Design Guidelines:** Based on the existing plans, the project is consistent with the applicable provisions of the City's Design Guidelines regarding infill development. Current compliance with the Design Guidelines includes sufficient architectural detail for cohesiveness, visual relief and variety. The three-story building would incorporate variety in the type of materials and rooflines while maintaining a cohesive style that would be compatible with the existing mixed development in the West Sharp Park neighborhood. In addition, every residential unit will have private courtyards and/or balconies and sufficient common and private open space. Proposed exterior features include steeped pitch roofs with dormers, slate tile roofing, stucco exterior walls and river stone facing on the first level. The front area also seems to employ some interesting architectural elements that give it visual interest. The project will be sufficiently landscaped along Beach Boulevard and north of the proposed building, meeting City standards and adding interest to the streetscape.

**4. Municipal Code and Regulatory Standards:** The nine (9) condominium residential unit development meets the applicable zoning ordinance regulations for multi-family residential and clustered development including minimum lot area per dwelling unit, site coverage, front setbacks, sideyard setbacks, rear setbacks, parking, landscaping, open space, private open space, storage space, and structure height.

In terms of parking, a total of 20 parking spaces would be required by the Zoning Code for the proposed residential use and a total of 21 parking spaces would be provided. Multi-family residential projects with two or more bedrooms require two parking spaces. Nine of these parking spaces must be in a garage or carport. In addition, one space to accommodate guest parking must be provided for every four (4) units.

As shown on the site plan, the applicant is proposing a total of 16 full size parking spaces including a handicapped space and 5 compact spaces (18 residential spaces and, 3 guest parking spaces). Therefore, the project complies with the required on-site parking requirements. Further, the City's Design Guidelines state that "the visual impact of parking areas should be minimized when appropriate to the site by locating parking areas to the rear or side of the property, rather than along the frontages." The proposed off-street parking would all be located inside a garage and would have minimal visual impacts. In addition, the garage entrance will be located on the north side of the building further enhancing the front area.

**5. Use Permit:** Pursuant to the provisions of the Zoning Code, the Commission may grant a Use Permit only upon making all of the following findings:

1. That the establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety and welfare of the persons residing or working in the neighborhood or to the

general welfare of the City.

2. That the use or building applied for is consistent with the applicable provisions of the General Plan and other applicable laws of the City and, where applicable, the Local Coastal Plan.
3. Where applicable, that the use or building applied for is consistent with the City's adopted Design Guidelines.

Staff believes that the proposed building containing a total of nine (9) condominium residential units will not, under the circumstances of the particular case, be detrimental to the health, safety and welfare of the persons residing or working in the neighborhood or to the general welfare of the City; and that the use is consistent with the City's adopted Design Guidelines, applicable provisions of the General Plan, Local Coastal Use Plan, and other applicable laws of the City. Staff also believes that the project, as conditioned, will be compatible with the character of the surrounding land use, and will not affect traffic circulation in the area or obstruct light normally enjoyed by the adjacent properties.

6. **Site Development Permit:** Pursuant to Section 9-4.3204 of the Zoning Code, a Site Development Permit shall not be issued if the Commission makes any of the findings regarding potential traffic hazards, parking accessibility problems, insufficiently landscaped areas, the restriction of light and air on the property or other properties in the area, the creation of a substantial detriment to an adjacent residential district, damage to the natural environment, and insufficient site and structural design variety. In addition, the proposed development must be consistent with the City's Design Guidelines, General Plan, Zoning Code and other applicable laws of the City. Staff believes that the design is consistent with the character of the surrounding mixed neighborhood; that it will not create inconvenient traffic patterns, and the proposal will not restrict light or air to surrounding buildings or discourage additional development in the area. Additionally, the proposal would enhance the design variety of the area and will not affect the surrounding natural environment.

7. **Coastal Development Permit:** Section 9-4304 (k), of the Municipal Code allows the Planning Commission to issue a Coastal Development Permit based on the findings specified below:

1. The proposed development is in conformity with the City's certified Local Coastal Program; and
2. Where the Coastal Development Permit is issued for a development between the nearest public road and the shoreline, the development is in conformity with the public recreation policies of Chapter 3 of the California Coastal Act.

Staff believes that the proposed building containing nine (9) condominium residential units is in conformity with the City's Local Coastal Program, and public recreation policies of Chapter 3 of the California Coastal Act. The project is located on an infill site, surrounded predominately by residential development. The project is consistent in scale compared to surrounding areas and will have limited, if any, visual consequences. Additionally, staff believes that the project will not negatively impact any access to existing coastal recreation facilities, nor will it increase the demand for additional facilities or negatively affect any existing oceanfront land or other coastal area suitable for recreational use.

**8. Environmental Review (CEQA):** A Mitigated Draft Negative Declaration has been prepared and circulated. The Draft Mitigated Negative Declaration was available for public review and comment for 30 days, beginning August 9, 2006, and ending September 8, 2006. No comments were received. Based on the findings of the Initial Study including the attached mitigation monitoring program, as prepared for the project, it has been determined that the project could have a significant impact upon the environment regarding Geology and Soils, Hydrology and Water Quality, and Aesthetics (visual), but with implementation of the proposed and agreed-upon mitigation measures the potential impacts will be avoided or reduced to insignificant levels. It has also been determined that the project will not have a significant adverse affect upon wildlife resources or the habitat upon which wildlife depends, either individually or cumulatively. Therefore, a Mitigated Negative Declaration has been prepared and attached for adoption (see attachment b & c). Below is a discussion of the three major issues addressed in the Negative Declaration: geology and soils, hydrology and water quality, and aesthetics.

**Geology and Soils** - The applicant submitted a supplemental geotechnical report and coastal hazard studies for the project site. The supplemental geotechnical report augments a previous geotechnical investigation prepared for the subject site. These reports were also peer reviewed by the City's geotechnical consultant. According to the supplemental geotechnical report, there have been no reported occurrences of permanent ground deformation in the site area during major, historic earthquakes. Based on the studies performed for the site, it was determined that liquefaction at the site to be low. Given a low liquefaction potential, the supplemental geotechnical report concludes that the risk is also low for lateral spreading or earthquake-induced landsliding of the bluff affecting the site.

Moreover, all proposed development on the site would be constructed according to Uniform Building Code requirements and based upon the observed geologic conditions of the site. The project is an infill site, surrounded by existing roads and other development.

As such, the Project is feasible from a geotechnical standpoint. Any significant impact to Geology and Soils would be reduced below the level of significance with implementation of the recommended mitigation measures listed in the Mitigation Monitoring Program:

**Hydrology and Water Quality** - The project involves construction of housing within the 100-year flood zone. The site is also adjacent to areas of 100-year coastal flood with velocity (wave

action); base flood elevations and flood hazard areas. A Tsunami hazard evaluation was performed by Skelly Engineering for the subject site on October 31, 2005. According to the plans, the site is fronted by a quarry stone revetment and is about 30 feet above Mean Sea Level. In light of recent events, Skelly Engineering examined tsunami damage in southern Thailand. Areas behind even low height seawalls experienced far less damage than unprotected areas. Structures built to a reasonable building code (UBC) did not experience damage as significant as poorly constructed structures. Skelly Engineering concluded that since the proposed development is designed to code (UBC), is protected by a quarry stone revetment, and is over 25 feet above sea level it is reasonably safe from tsunami hazards. A peer review of the Skelly Engineering Tsunami hazard evaluation was performed by the City's Geotechnical consultant, Cotton Shires and Associates on November 18, 2005. Cotton, Shires and Associates were satisfied with the tsunami analysis performed by Skelly Engineering.

### Seawall

A coastal hazard study for the subject site was also performed by Skelly Engineering in May 2004. According to Skelly Engineering, the Beach Boulevard revetment and wall system is severely overtopped at elevations of about +23 feet MSL. The overtopping occurs on average a few times per year. The wave driven water coming over the top of the wall is observed to be between 1 to +2 feet in height. This would dictate that the revetment/seawall system needs to be at least to +25 feet MSL in height to provide full protection to below-grade garage and the site.

As a result, the applicant modified the proposed plans to increase the existing seawall directly in front of the subject site from 23.7 feet to 27 feet such that the proposed below-grade garage will be more protected from wave overtopping. The entrance to the garage was also shifted from Beach Boulevard to the north side of the building. As mentioned earlier, the road (Beach Boulevard) in front of the proposed development is required to be improved to accommodate the fire turn around and access to the garage. This portion of the road will be raised and aligned with the proposed seawall height extension. Both the road and seawall would be at the same elevation. As a result, the modified seawall would look visually the same as the existing seawall. As such, no aesthetic impacts would result by raising the existing seawall. However, staff is recommending a condition of approval that the final design of the seawall be reviewed and approved by the Planning Director and Public Works Director.

On April 13, 2006, the City's geotechnical consultant reviewed the revised plans. They were still concerned that although the potential for overtopping of the seawall will be reduced, the potential for temporary flooding of the garage remains as indicated on the project plans. Additional discussion of potential for flooding at the subject site was provided by the applicant's engineer. As currently designed, the proposed project meets the current standards for coastal engineering and the current standards and guidelines for mitigation of coastal hazards. The project also conforms to FEMA standards and guidelines for coastal development. Under rare (extreme design) conditions the garage area of the proposed development may be subject to some flooding. However, due to the elevation of the shore protection fronting the site, the setback of

the development from the shoreline, the orientation of the garage entrance, the drainage within the garage, and the flood management plan, the likelihood that water will enter the garage is relatively small. Any water that does enter the garage will be evacuated by a pumping system. This analysis from Skelly Engineering was reviewed by the City's geotechnical consultant, Cotton, Shires and Associates and the City's Engineering Division of Public Works. All parties accepted the discussion from Skelly Engineering regarding flooding hazards.

The proposed project is located well above the beach level. The finished floor of the garage is at elevation +21.5 MSL. In addition, the wave runup will have to travel over the top of the new shore protection at elevation +27 feet MSL. With respect to drainage of the proposed garage, the proposed sump pump would remove standing water and drain it to the City sanitary sewer. The garage floor would be sloped toward the center to help confine standing water in that area. If the sum pump is unable to keep up with the water for any period, the sloped garage floor would help lift the parked automobiles out of any temporary standing water. Additionally, the concrete of the garage floor is proposed to have a textured no-slip finish to avoid slip and fall hazards from standing water. The CC&R's will also require that all other storage be off the ground.

Additionally, Coastal Act Policy 26 (a) states that new development shall minimize risks to life and property in areas of high geologic, flood and fire hazard. In this case, the proposed seawall height extension would minimize risks to life and property that is located in a flood zone by protecting the existing road (Beach Boulevard) and the proposed below-grade garage from wave overtopping.

Further, Coastal Act Policy 26 (b) states that new development shall assure stability and structural integrity and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The project involves an increase in height to an existing seawall by 3.3 feet. No natural landforms would be altered along the bluff area. The increase in height of the seawall is necessary to protect the road (Beach Boulevard) and the new structure from wave action.

California Coastal Commission staff was contacted on August 1, 2006 regarding the proposed increase in height of the seawall. Staff stated that they have little concern over the proposed height extension of an existing seawall, especially because the subject property opposite the seawall is an infill site.

Once the final design for the project has been determined, Cotton, Shires and Associates recommends that the design be reviewed by Skelly Engineering for compliance with their May 2004 report and for suggestion of possible design features to minimize or eliminate adverse impact due to waver overtopping. As a mitigation measure, the applicant would be required to submit final plans to Skelly Engineering for review to the satisfaction of the City Engineer and will also be required to be peer reviewed by the City's geotechnical consultant.



**Aesthetics** - There are specific scenic vistas designated in the Pacifica General Plan along Highway 1, but none are located within the project site. The project is not located near a designated state scenic highway nor is it visible from Highway 1.

Additionally, Coastal Act Policy No. 24 requires that "the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to, and along, the ocean and scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas, and where feasible, to restore and enhance visual quality of visually degraded areas." The project may impair or eliminate private coastal views from nearby existing residential structures, in much the same way that the view of others further inland is altered by the presence of those homes. The project aesthetic impacts are considered less than significant because the general public view is not appreciably affected and because the alteration of private views is consistent with the effect of development in urban Pacifica.

Immediately adjacent is a two-story apartment complex south of the site and two and one story single-family residential structures north of the site. A large three story 71 unit apartment building exists to the rear (east) of the subject site. While the City's Design Guidelines encourage avoidance of negative impacts to such views, private views are not protected by any City ordinances.

The future construction of nine (9) residential units would include indoor lighting, and outdoor lighting for safety purposes, that would be visible from a distance. As a mitigation measure, outdoor lighting would need to be designed to minimize glare and spillover to surrounding properties. Regarding daytime glare, the future construction of nine (9) condominium units will be required to use non-mirrored glass to minimize daytime glare as a mitigation measure.

**5. Staff Analysis:** Based upon the above discussion, staff believes the findings necessary to grant the Coastal Development Permit, Site Development Permit, Use Permit, and Tentative (Condominium) Subdivision Map for the proposed project can be made, and has determined that the proposal is consistent with the General Plan, Local Coastal Plan and other applicable policy documents. For example, the goals of the Housing Element of the General Plan state in part:

- Strive to provide a decent home and satisfying environment for each resident; and,
- Protect the social mix, variety, and fundamental character of each neighborhood by providing for the safety and welfare of all residents equally.

Staff believes that the proposal preserves and enhances the mix of uses in the area, and provides additional housing opportunities in the area. The proposal will not disturb the existing neighborhood character. The subject property is surrounded by existing single family residential structures to the north, four-plex, single-family, duplex, and triplex residential structures to the south, and a large three-story apartment complex containing 71 units directed to the rear of the



property. The proposal does not appear to be out of character with the existing mix of land uses. A multi-residential development appears to be consistent with the types of future uses anticipated in the area and with the residential nature of the neighborhood.

Additionally, the West Sharp Park district policy in the Land Use Element further states that the City should "protect and continue the low and moderate income housing which provides the unique character and social mix of the neighborhood."

The project contains nine (9) condominium residential units that are designed in an attached configuration that is considered to be more affordable than single-family homes on single-family lots. The proposed 9 units would be developed at a high density, which is higher than the low-density developments throughout West Sharp Park. These higher density homes would add to the median priced housing stock of the city in conformance with this Coastal Act Policy and would not threaten the low and moderate income housing which provides the unique character and social mix of the neighborhood.

## RECOMMENDATIONS AND FINDINGS

### **B. Recommendation:**

Staff recommends that the Planning Commission APPROVE Coastal Development Permit (CDP-275-06), Site Development Permit (PSD-757-06), Use Permit, (UP-965-06) and Tentative (Condominium) Map (SUB-211-06), to allow the construction of nine (9) condominium residential units at 1567 Beach Boulevard (APN 016-011-190), subject to the following conditions:

#### Planning Department:

1. Development shall be substantially in accord with the Plans titled "NEW CONSTRUCTION OF 9 UNIT CONDOMINIUM BUILDING, 1567 BEACH BLVD., PACIFICA, CA," consisting of fifteen (15) sheets revised on 01/2006.
2. As a condition of the Tentative (Condominium) Map, the subdivider shall defend, indemnify, and hold harmless the City of Pacifica and its agents, officers, and employees from any claim, action, or proceeding against the City of Pacifica and its agents, officers, or employees to attack, set aside, void, or annul approval of subdivision, SUB-211-06. Pursuant to this condition, the City of Pacifica shall promptly notify the subdivider of any claim, action, or proceeding regarding the subdivision, and the City of Pacifica shall cooperate fully in the defense of such claim, action, or proceeding.
3. As a condition of the Coastal Development Permit, Site Development Permit and Use Permit, the applicant shall hereby agree to indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter "City") from

any claim, action or proceeding (hereinafter "Proceeding") brought against the City to attack, set aside, void or annul the City's actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to the California Environmental Quality Act, and /or any mitigation monitoring program, or brought against the City due to actions or omissions in any way connected to the applicant's project. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorneys fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, City, and /or parties initiating or bringing such Proceeding. If the applicant is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City.

4. The final design of the seawall shall be reviewed by and subject to the approval of the Planning Director and Public Works Director.
5. Prior to the issuance of a building permit, the applicant shall submit information on exterior finishing, including colors and materials, subject to approval by the Planning Director.
6. All project-related easements shall be to the satisfaction of the City Engineer, Planning Director and City Attorney, and shall be recorded prior to or concurrent with the Final Map.
7. Trash enclosures and dumpster areas must be covered and protected from roof and surface drainage. If water cannot be diverted from the areas, self-contained drainage systems that drain to sand filters shall be installed. The property owner/homeowner's association shall inspect and clean the filters as need.
8. The applicant shall submit a final landscape plan for approval by the City Planner prior to the issuance of a building permit. All landscaping shall be maintained and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers, herbicides and pesticides. The landscape plan shall show each type, size and location of plant materials. The landscaping shall be installed prior to occupancy. Landscaping materials included on the plan shall be appropriate to site specific characteristics such as soil type, topography, climate, amount of timing of sunlight, prevailing winds, rainfall, air movement, patterns of land use, ecological consistency and plant interactions to ensure successful establishment. All landscaping on the site shall be adequately maintained and replaced when necessary as determined by the Planning Director.
9. All transformers, HVAC units, and backflow preventors and other ground-mounted utility equipment shall be shown on the landscape and irrigation plans and shall be located out of public view and/or adequately screened through the use or combination of concrete or masonry walls, berming, painting and landscaping, to the satisfaction of the Planning Director.
10. Wastewater from vehicle and equipment washing operations shall not be discharged to the

storm drain system.

11. Roof drains shall discharge and drain way from the building foundation to an unpaved area wherever practicable.
12. Declaration of Covenants, Conditions & Restrictions (CC&Rs). Prior to issuance of a building permit, the developer/owner shall prepare and record with the San Mateo County Recorder's Office a Declaration of Covenants, Conditions & Restrictions and Equitable Servitude's which shall run with the land and be binding on all future owners and occupants of each of the residential units within the subject property and their successors, heirs and assigns, and shall be approved as to form and content by the City Attorney and Planning Director, which accomplishes the following:
  - a) The Declaration shall be binding upon each of the owners of each of the residential units on the subject property and their heirs, successors and assigns.
  - b) There shall be a Homeowners Association to manage the project. The Declaration shall specify that the Homeowners Association shall be responsible for the repair, maintenance and replacement of the building exteriors, exterior lighting, common areas, utility areas within common areas, parking, landscaping and building signage, sanitary sewer, and private storm drain, and other features. Maintenance of the private storm drain shall be the responsibility of the applicant and property owners.
  - c) The Declaration shall establish standards and guidelines for the maintenance, repair and replacement, where applicable, of all building exteriors, exterior lighting, parking, landscaping, signage, sanitary sewer, private storm drain and other features and utility facilities within common areas, to the satisfaction of the City of Pacifica. Maintenance of the private storm drain shall be the responsibility of the applicant and property owners.
  - d) The Declaration shall establish a mechanism for placing assessments against the owners of all residential units within the subject property for the purpose of financing the maintenance, repair and replacement of the building exteriors, common areas, parking, landscaping and building signage. The assessments shall be apportioned in an equitable manner.
  - e) The assessments shall be made, work shall be contracted for, and funds shall be disbursed by such person ("Agent") as may be delegated from time to time, by the Homeowners Association. The project owner shall act as the Agent as long as the project owner owns at least two of the units on the subject property.
  - f) Any assessment not paid when due shall become a lien against the unit of the nonpaying owner, which lien may be foreclosed by the Agent.
  - g) Communications. Each owner is responsible for, and shall agree to, furnish to each new tenant a copy of the CC&Rs prior to execution of a lease or purchase agreement for each unit.
  - h) The Declaration shall establish procedures for designating a project "Manager," if different than the "Agent," who shall at all times be responsible for security and/or

maintenance of the overall project. At all times the Manager shall provide his/her name and current phone number to the Planning Director, including any changes thereto.

- i) The Declaration shall include a provision that the provisions relating to this condition 11 shall not be amended without prior approval in writing from the City of Pacifica.
- j) The Declaration shall specify that the owners of each of the residential units on the subject property shall comply with all other applicable conditions of approval for the project.
- k) The Declaration shall name the City of Pacifica as a third party beneficiary with the right (but not the obligation) to enforce the provisions required to be included in the CC&Rs.

13. The property owner(s) shall keep the property in a clean and sanitary condition at all times.

14. All outstanding and applicable fees associated with the processing of this project shall be paid prior to the issuance of a building permit.

15. A detailed on-site exterior lighting plan shall be submitted for review and approval by the Planning Director prior to issuance of building permits. Said plan shall indicate fixture design, illumination (photometric plan), location, height, and method of shielding. Lighting shall be directed away from adjacent properties to avoid adverse affects thereto. Building lighting shall be architecturally integrated with the building style, materials and colors and shall be designed to minimize glare. Fixture locations, where applicable, shall be shown on all building elevations.

16. The applicant shall comply with all Mitigation Measures and implement the Mitigation, Monitoring and Reporting Program adopted as part of the Mitigated Negative Declaration (MDR) and attached to the Resolution Certifying the MDR. Prior to the Final Map approval, the project must demonstrate compliance with all mitigation measures or provide evidence ensuring that any future requirements of the mitigation measures will be met in accordance with the Mitigation, Monitoring and Reporting Program.

17. No building permit shall be issued until a Growth Management Ordinance allocation for each of the new residential units has been granted.

18. Increase storm water runoff shall minimize through the use of on-site detention facilities to the maximum extent feasible as determined by the Planning Director and City Engineer.

Public Works Department/Engineering Division:

19. All recorded survey points, monuments, railroad spikes, pins, cross cuts on top of sidewalks and tags on top of culvert headwalls or end walls whether within private property or public right-of-way shall be protected and preserved. If survey point/s are altered, removed or

destroyed, the applicant shall be responsible for obtaining the services of a licensed surveyor or qualified Civil Engineer to restore or replace the survey points and record the required map prior to completion of the building permit.

20. Applicant shall install stainless steel railing to match existing along the proposed wall addition to the existing seawall.
21. Applicant must submit a revised Tentative Map that has the signature and stamp of a qualified licensed surveyor or engineer.
22. Applicant shall submit a final map for the proposed condominium residential project. All required monumentation shall be shown on the map and set prior to recordation of the map.
23. Applicant shall enter into a Subdivision Improvement Agreement with the City of Pacifica to construct all on-site and off-site improvements, as depicted on the approved Tentative (Condominium) Map and any conditions imposed on this project, prior to approval of the final map.
24. Applicant shall submit design plans and necessary reports and engineering calculations for the construction of all on-site and off-site improvements, and they must be approved by the Director of Public Works or the City Engineer prior to the execution of the Subdivision Improvement Agreement. All plans, reports and calculations shall be signed and stamped by a qualified professional. The improvement plans shall include a topographic survey performed by a licensed surveyor. Construction of these improvements shall be to the satisfaction of the Director of Public Works or the City Engineer.
25. Should the applicant desire to record the final map prior to completion and acceptance of improvements, a bond in an amount determined by the Director of Public Works or the City Engineer shall be provided. The bond maybe in the form of cash, instrument of credit or surety bond.
26. Applicant shall maintain all on-site and off-site improvements constructed and modified for this project and shall enter into a Maintenance Agreement with the City prior to Final Map approval.
27. Applicant shall dedicate a Public Utility Easement for all utilities, including sanitary sewer, that lie outside the public right-of-way.
28. Applicant shall dedicate a Private Storm Drainage Easement for the proposed storm drain system. This system shall be privately maintained and must be designed for a 100-year storm and to the satisfaction of the Director of Public Works or the City Engineer.

29. Applicant shall dedicate a Public Access Easement and Emergency Vehicle Access Easement for the sidewalk and cul-de-sac that lie outside the public right-of-way.
30. Existing curb, sidewalk or street adjacent to property frontage that is damaged or displaced shall be repaired or replaced even if damage or displacement occurred prior to any work performed for this project.
31. Applicant shall grind a minimum of 2 inches of the existing Asphalt Concrete along Beach Blvd from Paloma Avenue to Bella Vista and replace in kind.
32. Applicant shall construct a standard curb ramp at each corner of Paloma Avenue and Beach Boulevard.
33. An Encroachment Permit shall be obtained for all work within City right-of-way. All proposed improvements within City right-of-way shall be constructed per City Standards.

#### Fire Department

34. The City's geotechnical consultant must evaluate design plans for the road leading into the building to ensure cliff side stability..
35. Since the cul-de-sac is not a full 66' in diameter, the entire cul-de-sac shall be red curbed and signs shall be installed stating "No Parking or Stopping – Fire Lane," to the satisfaction of the Fire Department.
36. A fire hydrant is shown on the south side of the building, half way into the building. This fire hydrant shall be relocated to the corner of Beach Boulevard and Paloma Avenue. The fire hydrant at the north side of the building shall remain as proposed.

#### Building Department

37. Construction shall be in conformance with the San Mateo Countywide Storm Water Pollution Prevention Program. The applicant shall implement Best Management Practices during all phases of construction for the project.

#### Wastewater Division of Public Works

38. The applicant shall provide a video of the sewer lateral line. Depending upon the condition of the existing sewer line, if there are any visible signs of leakage, the applicant shall replace parts or the whole sewer to current specifications and codes to satisfaction of the City Engineer.

39. No wastewater (including equipment cleaning wash water, vehicle wash water, cooling water, air conditioner condensate, and floor cleaning wash water) shall be discharged into the storm drain system.

**C. FINDINGS:**

**1. Adoption of Mitigated Negative Declaration:** The Planning Commission finds that on the basis of the Mitigated Negative Declaration and the whole record before it, that there is no substantial evidence that the proposed project, as conditioned, will have any significant adverse impacts on the environment. The Commission also finds that the Mitigated Negative Declaration reflects the Commission's independent judgment and analysis.

**2. Findings for Tentative (Condominium) Map:** The Planning Commission finds that the proposed Tentative (Condominium) Map and design and improvements of the proposed condominium subdivision, as conditioned, are consistent with the applicable portions of the General Plan, Local Coastal Program Land Use Plan, and Zoning Ordinance. In addition, the Commission finds that the site is physically suitable for the type and density of development, no substantial environmental damage will be caused by the project, and no public health problems will result from development of the subject parcel. The property is an infill site surrounded by existing residential development.

**3. Findings of Approval for Site Development Permit:** The Planning Commission determines that the proposed nine (9) unit condominium residential development, as conditioned, is consistent with the General Plan, Local Coastal Program Land Use Plan, Zoning Ordinance and applicable City laws. Specifically, the location, size and intensity of the proposed condominium project, including design, is consistent with the character of the surrounding neighborhood; and the proposal will not restrict light or air to surrounding buildings or discourage additional residential development in the area. Adequate landscaping would be provided on the site. The proposal enhances the design variety of the area and would not impact traffic patterns in the vicinity. The Commission also finds that, as conditioned, the proposal is consistent with the applicable provisions of the City's Design Guidelines.

**4. Findings for Approval of a Use Permit:** The Planning Commission finds that the proposed nine (9) unit condominium development will not, under the circumstances of the particular case, be detrimental to the health, safety and welfare of the persons residing or working in the neighborhood or to the general welfare of the City; and that the use is consistent with the City's adopted Design Guidelines, applicable provisions of the General Plan, Design Guidelines, and other applicable laws of the City. In particular, the Commission finds that the project, as conditioned, will be compatible with the character of the surrounding land use, and will not affect traffic circulation in the area. The Commission further finds that the proposal will not obstruct light normally enjoyed by the adjacent properties, and the quality of building design and materials is equal to or greater than that of the surrounding development.

**5. Findings for Approval of Coastal Development Permit:** The Planning Commission finds that the proposed nine (9) unit condominium residential development is, as conditioned, in conformity with the City's Local Coastal Program, and Public recreation policies of Chapter 3 of the California Coastal Act. In particular, the proposal is located on an infill site, surrounded predominately by residential development. The project is consistent in scale compared to surrounding areas and will have limited, if any, visual consequences. The project will not negatively impact any access to existing coastal recreation facilities, nor will it increase the demand for additional facilities or negatively affect any existing oceanfront land or other coastal area suitable for recreational use. The proposal will not have significant adverse effects, either individually or cumulative, on coastal resources. Additionally, the proposed condominium development would provide necessary housing opportunities in the area.

#### COMMISSION ACTION

#### **D. MOTION FOR APPROVAL:**

Move that the Planning Commission **ADOPT** the attached resolutions next in order entitled, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PACIFICA ADOPTING THE MITIGATED NEGATIVE DECLARATION FOR A NINE (9) UNIT CONDOMINIUM DEVELOPMENT AT 1567 BEACH BOULEVARD (APN 016-011-190)," and **APPROVE**, CDP-275-06, PSD-757-06, UP-965-06, and SUB-211-06, subject to conditions one (1) through thirty-nine (39), and adopt the findings contained in the October 16, 2006 staff report and incorporate all maps and testimony into the record by reference.

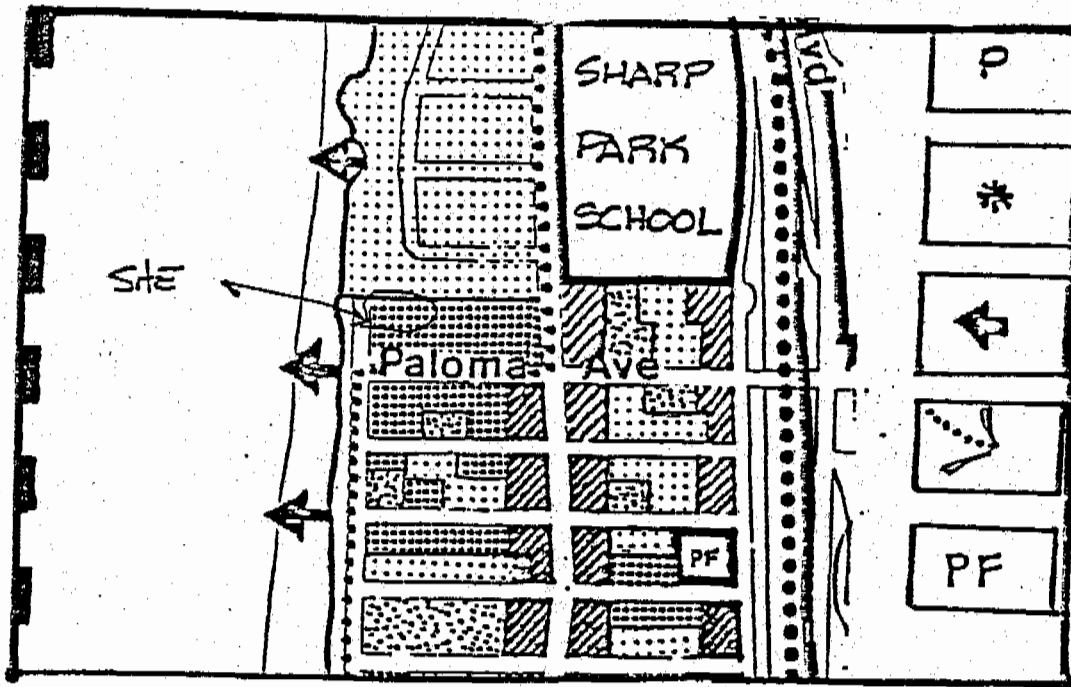
#### Attachments:

- a. Land Use and Zoning Exhibit
- b. Mitigated Negative Declaration
- c. Resolution (Adoption of Mitigated Negative Declaration) and Mitigation, Monitoring and Reporting Plan
- d. Conceptual Plans (Planning Commission only)



# General Plan Diagram

Existing Designation: High Density Residential



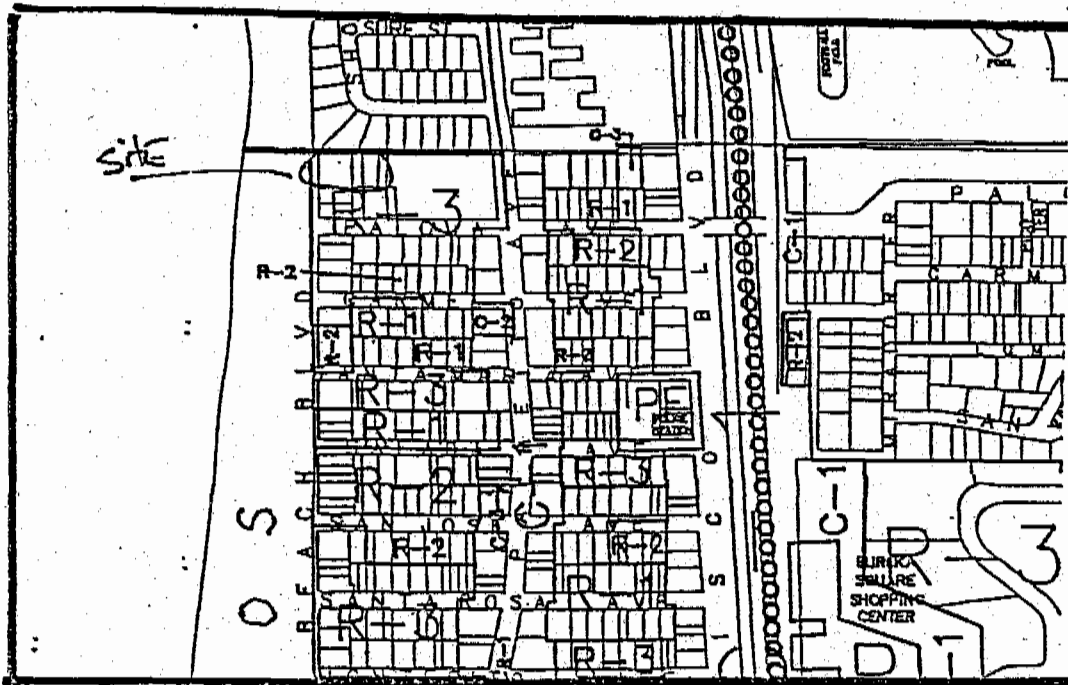
## Legend

- VERY LOW DENSITY RESIDENTIAL
- LOW DENSITY RESIDENTIAL
- MEDIUM DENSITY RESIDENTIAL
- HIGH DENSITY RESIDENTIAL
- MIXED USE/ HIGH DENSITY/ COMM.
- COMMERCIAL
- GENERAL COMMERCIAL
- OPEN SPACE RESIDENTIAL
- GREENBELT
- PROMINENT ROSE LINE
- SPECIAL AREA
- MARSH
- OPEN SPACE/ PUBLIC FACILITY
- P PROPOSED PARKING
- \* NEIGHBORHOOD PARK
- + DEVELOPED / PROPOSED BEACH ACCESS
- NORTH-SOUTH CITY TRAIL
- PF PUBLIC FACILITY
- U UNLABLED
- Ag AGRICULTURE
- + CHURCH
- FINE SECTION

Neighborhood: WEST SHARP PARK

# Zoning Map Diagram

Existing Classification: R-3, Multiple-Family Residential



## Legend

### ZONING DISTRICTS

- R-1 Single-Family Residential
- R-2 Two-Family Residential
- R-3 Multiple-Family Residential
- R-3.1 Multiple-Family Residential
- R-3-G Multiple-Family Residential Garden
- R-5 High Rise Apartment
- C-1 Neighborhood Commercial
- C-1-A Commercial Apartment
- C-2 Community Commercial
- C-3 Service Commercial
- PO Professional Office
- C-R Commercial Recreation
- M-1 Controlled Manufacturing
- M-2 Industrial
- P Parking
- A Agricultural
- B Lot Size Overlay
- F Public Facilities
- R-D Planned Development
- R-M Resource Management
- O-S Open Space
- R-3/LD Multiple-Family/Low Density Residential
- R-1-H Single-Family Residential Hillside
- CZ Coastal Zone Combining District
- SA Special Area Combining District
- HPD Hillside Preservation District

- + Requires Vote to Rezone
- X Vote Required for Residential Develop

ATTACHMENT a



## LAND USE & ZONING EXHIBIT

City of Pacifica

Planning & Economic Development Department

Exhibit No. 4 (Page 36 of 36)  
 Application No. A-2-PAC-07-022  
 Pacific Beach LLC  
 Notice of Final Local Action, including 5/14/07 City Council Resolution, Agenda Summary Rpt. And 10/16/06 Plng. Comm. Staff Rpt.

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT OFFICE  
45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
(415) 904-5260 FAX (415) 904-5400  
[www.coastal.ca.gov](http://www.coastal.ca.gov)

**COMMISSION NOTIFICATION OF APPEAL**

DATE: June 7, 2007

TO: Michael Crabtree, Planning Director  
City of Pacifica, City Hall  
170 Santa Maria  
Pacifica, CA 94044-2506

FROM: Michelle Jespersen, Coastal Program Analyst

RE: **Commission Appeal No. A-2-PAC-07-022**

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

Local Permit #: **CDP-275-06**  
Applicant(s): **Pacifica Beach LLC; Pacifica Beach &/Or Legacyquest LLC**  
Description: **Construction of nine (9) 3-story condominiums with underground parking garage.**  
Location: **1567 Beach Boulevard, Pacifica (San Mateo County) (APN(s) 016-011-190)**  
Local Decision: **Approved w/ Conditions**  
Appellant(s): **Nancy Merchant**  
Date Appeal Filed: **6/6/2007**

The Commission appeal number assigned to this appeal is A-2-PAC-07-022. The Commission hearing date has not yet been established for this appeal. Within 5 working days of receipt of this Commission Notification of Appeal, copies of all relevant documents and materials used in the City of Pacifica's consideration of this coastal development permit must be delivered to the North Central Coast District office of the Coastal Commission (California Administrative Code Section 13112). Please include copies of plans, relevant photographs, staff reports and related documents, findings (if not already forwarded), all correspondence, and a list, with addresses, of all who provided verbal testimony.

A Commission staff report and notice of the hearing will be forwarded to you prior to the hearing. If you have any questions, please contact Michelle Jespersen at the North Central Coast District office.

cc: Pacifica Beach LLC; Pacifica Beach &/Or Legacyquest LLC

Exhibit No. 5  
Application No. A-2-PAC-07-022  
Pacifica Beach LLC  
Appeal, filed by Nancy Merchant

(Page 1 of 17)

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT OFFICE  
45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5260 FAX (415) 904-5400

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

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

**SECTION I Appellant(s)****RECEIVED**

Name: Nancy Merchant

JUN 06 2007

Mailing Address: 77 Paloma Avenue, #201

City: Pacifica

Zip Code: 94044

Phone: 650-359-1599

CALIFORNIA  
COASTAL COMMISSION**SECTION II Decision Being Appealed**

1. Name of local/port government:

City of Pacifica

2. Brief description of development being appealed:

Construction of nine 3-story condominiums with underground parking garage at 1567 Beach Blvd.

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

1567 Beach Blvd.  
Pacifica, CA 94044  
APN 016-011-190

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

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

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

**TO BE COMPLETED BY COMMISSION:**

APPEAL NO:

A-2-PAC-07-022

DATE FILED:

June 6, 2007

DISTRICT:

North Central Coast District

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

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

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

6. Date of local government's decision: 05/14/07

7. Local government's file number (if any): CDP-275-06

**SECTION III. Identification of Other Interested Persons**

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

a. Name and mailing address of permit applicant:

Pacific Beach LLC  
and/or LegacyQuest LLC  
423 Broadway  
The UPS Store, Box #622  
Millbrae, CA 94030

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) Donna Rogers  
77 Paloma Avenue, #312  
Pacifica, CA 94044

(5) Mike Bell  
Pacifica Businesses for Responsible Growth  
1 Carmel Avenue  
Pacifica, CA 94044

(2) Patrick Rentsch  
1581 Beach Blvd.  
Pacifica, CA 94044

(6) Karen Rosenstein  
200 Troglia Terrace  
Pacifica, CA 94044

(3) Steve Raby  
252 Shoreview Avenue  
Pacifica, CA 94044

(4) Roberta Schuler  
244 Shoreview Avenue  
Pacifica, CA 94044

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

### **SECTION IV. Reasons Supporting This Appeal**

#### **PLEASE NOTE:**

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

SEE ATTACHMENT 1

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

**SECTION V. Certification**

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

Nancy Merchant  
Signature of Appellant(s) or Authorized Agent

Date 06/05/07  
:

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

**Section VI. Agent Authorization**

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

\_\_\_\_\_  
Signature of Appellant(s)

Date  
:

**ATTACHMENT 1**  
**REASONS SUPPORTING APPEAL OF 1567 BEACH BLVD., PACIFICA**  
(Sheet 1 of 12)

**GEOTECHNICAL AND SHORELINE PROTECTION**

Pacifica LUP Policy 16 / Section 30235 of the Coastal Act state in relevant part:

*"Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses **or to protect existing structures** or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply." [emphasis added]*

The site is located at the northern end of the Beach Boulevard Seawall (as it is commonly known). The proposed project driveway would extend beyond the north property line, over the top of the storm outfall, along the adjacent Shoreview revetment. According to the Mitigated Negative Declaration (MND), the proposed plans called for mitigation measures of an "increase of the local seawall directly in front of the subject site from 23.7 feet to 27 feet to protect Beach Boulevard and the proposed below-grade garage from wave overtopping."

At some point subsequent to approval by the Planning Commission and during the local appeal process, Applicant changed the design to "clarify that the Project will not alter the seawall directly in front of the subject site or change the existing shore protection."<sup>1</sup> The new design for flood protection includes raising Beach Boulevard about two feet near the northwest corner of the site and building a retaining wall to accommodate the northern portion of the proposed elevated road.

In either case, the shoreline protections proposed for this project are unmistakably intended to protect only the new development, and therefore are not in compliance with the local LCP or Section 30235 of the Coastal Act. In fact, even though the entire block to the north of Paloma Avenue was – through an error admitted by the Director of Public Works – graded lower than the rest of Beach Boulevard, the shoreline protections will begin only in front of the new development. Furthermore, the mitigation measures may cause impacts of their own to the seawall, adjacent properties, and the environment.

Pacifica LUP Policy 26 / Section 30253 of the Coastal Act state in relevant part:

*"New development shall:*

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

*(b) **Assure stability and structural integrity** and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural, landforms along bluffs and cliffs."* [emphasis added]

June 5, 2007

The proposed mitigation measures will not sufficiently protect either the property or pedestrians from the severe overtopping that occurs each year. Based on the personal experiences of those of us who live along and near the seawall, the conclusions of the Applicant's engineers are incorrect. Damaging overtopping exceeds +27 MSL for hours at a time, several days in a row, several times each and every year.

An important safety point that seems to have been overlooked by the Applicant and their engineers is that the only access to the proposed building is along Beach Boulevard, and there will be times during severe overtopping when the residents will be on foot. In fact, Project Note 6.D. on the Site Plan specifically states "The top of the entry drive will be blocked with sandbags at a time of significant wave up." The City routinely closes the northern portion of Beach Boulevard during overtopping for safety reasons. While the amount of water that enters the garage may or may not be as minimal as the engineers believe, the force behind the overtopping waves is significant. Pedestrians, especially children, may easily be knocked down by the debris-filled water. The adjacent buildings have a driveway and garage along the back of their property. The proposed project would depend entirely on the exposed entry along Beach Boulevard.

Exhibit A is a copy of page 2 of GeoSoils Inc.'s March 22, 2007, letter to the City of Pacifica.<sup>2</sup> While noting that the remaining water is only a few inches deep, their report fails to comment on the wave-borne rubble strewn across the street, nor on the fact that a large section of the stainless steel fence was destroyed by wave energy.

**City of Pacifica Municipal Zoning Code Ordinance 9-4.4406 (Shoreline Protection)** states in relevant part:

*(c) Development standards. The following standards shall apply to all new development along the shoreline and on coastal bluffs.*

...

*(2) Consistent with the City's Seismic Safety and Safety Element, new development which requires sea-walls as a mitigation measure or **projects which would eventually require seawalls for the safety of the structures shall be prohibited, unless without such seawall the property will be rendered undevelopable for any economically viable use;** [emphasis added]*

It is almost certain that the subject site, in particular the northernmost portion of the driveway, would eventually require further armoring for the safety of the structures. A document prepared by the Coastal Commission in 2003 states, "Moreover, with global warming and sea level rise, increased wave heights and wave energy are likewise expected. ... a small rise in sea level can expose previously protected back shore development to both inundation and wave attack, and those areas that are already exposed to wave attack will be exposed to more frequent wave attack with higher wave forces. Structures that are adequate for current storm conditions may not provide as much protection in the future."<sup>3</sup>

Emergency repair work to the Beach Boulevard Seawall is currently pending Coastal Commission permitting. According to the Public Works Department, the City invests



June 5, 2007

approximately \$500,000 to \$1 million about every 5 to 10 years to maintain the seawall. Several large voids opened up behind the seawall this past winter (one exceeded 200 cubic yards).<sup>4</sup> It seems that the proposed raised driveway would deflect some water energy to attack the top and back side of the seawall, causing or accelerating additional damage.

The proposed driveway appears to have little to no setback from the seawall at the northwest corner as shown on the Site Plan. It is in this vulnerable location that the Site Plan also states "where the sewer crosses the property driveway, the cover becomes as shallow as 1 foot." The utilities underneath Beach Boulevard are a public safety concern. The force of the waves hitting the revetment face is apparent from the damage sustained by the seawall and the fact that, according to the Public Works Department, rock below 10-ton is too small to be stable in this ocean environment.

The site was zoned as high-density multi-family some time in the 1950s, long before the seawall was built and before substantial coastside land was lost due to the accelerated bluff recession in the 1970s and 1980s.<sup>5</sup> A smaller project with a greater oceanside setback could certainly be developable for an economically viable use.

Additionally, damage to the seawall or adjacent properties may occur during excavation for the below-grade garage. The City's geotechnical consultant, Cotton, Shires & Associates, states in their 05/24/06 report (peer review letter) that "perimeter walls for the garage would be coincident with some site property lines."<sup>6</sup> The surrounding compacted sand may shatter, creating more voids for water to invade.

**Zoning Code Ordinance 9-4.4406 (c)(3)** goes on to say:

*Required shoreline protection devices shall be designed and sited to consider and reflect:*

- (i) maximum expected wave height;*
- (ii) estimated frequency of overtopping;*
- (iii) normal and maximum tidal ranges;*
- (iv) projected erosion rates with and without a shoreline protection device;*
- (v) impact on adjoining properties;*
- (vi) design life of the device;*
- (vii) maintenance provisions, including methods and materials; and*
- (viii) alternative methods of shoreline protection, including "no project". [emphasis added]*

The City's geotechnical consultant also states in the same peer review letter that "We have not evaluated a specific design for increasing the height of the local seawall as part of our geotechnical peer review."

The documents provided by Applicant's consultants do not provide adequate data to support their opinions for conditions at this project site. For example, if the City of Pacifica keeps

June 5, 2007

records of how often Beach Boulevard is closed for safety concerns during overtopping, the number will undoubtedly exceed the average person's definition of "rare."

Page 11 of the MND states, "In an effort to reduce the amount of wave overtopping and resulting flooding of Beach Boulevard, the City of Pacifica has placed concrete traffic barriers (K-rails) along the top of the RE wall to act as flood shields. These shields are only partially effective and wave run up water can still reach the site."

The K-rails were **removed** sometime between 2002 and 2004 (closer to 2002), as is clearly shown by the California Coastal Records Project ([www.californiacoastline.org](http://www.californiacoastline.org)), and would have been evident during a site visit. This obvious error sheds doubt on the credibility of the findings contained in the MND.

## HOUSING ELEMENT

Pacifica LUP Policy 5 states in relevant part:

*"Lower cost visitor and recreational facilities and **housing opportunities for persons of low and moderate income shall be protected, encouraged, and, where feasible, provided.** Developments providing public recreational opportunities are preferred."* [emphasis added]

According to the MND, this project would add to the medium-priced housing stock. Applicant has estimated the cost of each unit to range from \$750,000 to \$850,000. At the current average price per square foot of \$549, as reported by DataQuick Information Systems for Pacifica, these units would sell for \$1,103,929 (2,010.8 sq. ft.) to \$1,245,439 (2,268.56 sq. ft.). The Non-Profit Housing Association of Northern California states that a "moderate income" is from 80% to 120% of the area's median income. The median household income in 2005 (the most recent date for which statistics were available from the Association of Bay Area Governments) was \$66,657. However, even assuming a higher median family income of \$95,500 for a 4-person household as reported in 2004 by HUD, the maximum income to be considered as "moderate" would be approximately \$114,600. Yet the California Association of Realtors reports that in order to afford a median-priced, \$713,700 home, the average person would have to earn about \$144,000 a year.<sup>7</sup>

The MND states that "the proposed 9 unit development is too small to make provision of affordable housing feasible." The City of Pacifica adopted an Inclusionary Zoning Ordinance in January 2007 whereby any development with 8 or more units would be required to provide at least 15% of the units for below market rate occupancy.

## LAND USE / PUBLIC ACCESS

A brief history of the proposed project is relevant to discuss issues of compliance with public access:

- The original proposal was apparently to build 14 units (per zoning calculations, the maximum allowable for the lot size is 8.6)

June 5, 2007

- Then 9 units were proposed with the garage entrance facing to the west
- At the time of the MND (08/09/06), the proposal was for 9 units with the garage entrance facing to the north
- Encroachment permits were being asked for to allow landscaping on the "City right-of-way located along the north side of the subject site" (p. 3 of the MND)
- Project was approved by the Planning Commission (10/16/06)
- Project was appealed by Patrick Rentsch (10/24/06)
- Staff report for 01/22/07 City Council Hearing mentioned, **for the first time**, that a boundary conflict existed with the City of Pacifica for the location of the driveway
- Staff report does not mention that the development would result in the destruction and taking of the north neighbor's landscaping, which was properly permitted by both the City of Pacifica and the Coastal Commission
- The City of Pacifica states in their 05/14/07 Staff Report that "City records do not show Bella Vista as a City right-of-way," yet there is no record in the San Mateo County Surveyor's office of an abandonment, vacation or a quit claim deed
- Applicant did not have legal title to the disputed land at any time during the process
- The project was approved by the City Council on 05/14/07.

Pages C-34 and C-35 of Pacifica's LCP (Sharp Park School and Ocean Park Subdivision) show clear intent to protect **this exact location** from future development unless it is to provide beach access. Although Bella Vista is not mentioned by name, its identity is clear from the text. [The same text, with minor differences shown in red below, is also repeated on page 24 of the City of Pacifica's Demonstration Plan: Sharp Park, Sept. 1978.]

*"For public safety and to protect the existing bluff area from use which would further aggravate erosion by disturbing bluff vegetative habitat ..., it is proposed to keep the beach access easement in this area unimproved until its use will have no negative effect on existing development. Since developed public beach accesses are provided +/- 2,300 feet to the north at Milagra Creek and +/- 1,000 feet to the south at Beach Boulevard and Santa Maria, the public will not be denied access to the beach. A protective open space zone should be applied to this area, should existing residential uses no longer be present, in order that the remaining land will be protected from future development. This protective zoning would allow development to the beach of a public access on the City's easement, or elsewhere, if geotechnical studies indicate that it is feasible and safe to do so. Future use should also re-establish coastal views from Shoreview, the adjacent public street. [emphasis added]*

Page 4 of the Demonstration Plan states further,

*"Most of the land is in private ownership, although off Shoreview the City owns a 15 foot easement that is a potential access to the City-owned beach adjacent to that subdivision."*

The LCP incorrectly lists Paloma, but the Demonstration Plan has the correct street name, Santa Maria.

Pacifica's LCP states (page C-106):

*"Of particular concern is the area adjacent to the sandy beaches. The conclusions aimed at protecting the existing scale and open appearance and character of Pacifica's coastline are:*

***Small, older homes shall be preserved and replacement should be at compatible densities and scale.*** [emphasis added]

The former residence on the site has been mostly demolished. This replacement development would occupy a much greater footprint, even without encroachment into the easement for the driveway. Views from Shoreview would be eliminated rather than re-established. Additionally, the proposed project would exclude the possibility of using the easement for future public access, as is the intent of the LCP and Sections 30221 (Oceanfront land; protection for recreational use and development) and 30210 (Access; recreational opportunities; posting) of the Coastal Act.

Even though the site is zoned (with seriously out of date zoning guidelines) high-density, multi-family residential, the proposed building is out of scale with adjacent buildings. The large, 3-story apartment building to the east (77 Paloma Avenue) is not a beachfront property, and due to its distance from the ocean does not interfere with views from the ocean or shoreline. The proposed project would completely dwarf the adjacent oceanfront buildings, as illustrated by the Proposed West Elevation from the Applicant's Site Plans (Exhibit B<sup>8</sup>), even allowing for a slight reduction to the massing due to the stepped-back design.

Additional consideration needs to be given to the periodic maintenance necessary to protect the existing seawall and revetments. The Public Works Department anticipates maintenance to be necessary every five to ten years, whereby heavy equipment will require access to the beach. The north end of Beach Boulevard is the only location north of the pier where access is feasible, and the neighbor to the north has provided a platform behind a safety fence for the heavy equipment to sit on when not in use. The Site Plans indicate that the proposed driveway would occupy a portion of that space, eliminating the capability of temporary equipment storage. Exhibit C<sup>9</sup> shows the access trail for the equipment (Photo C-1) and also illustrates the precarious location of the proposed driveway (Photo C-2) and the conflicts and safety ramifications that will occur by sharing the driveway between homeowners and maintenance equipment.

There is also a questionable legality about approving a project which would occupy land not legally owned by Applicant at the time of approval.

There is no requirement that a project be the maximum size allowable and feasible in order for it to be economically viable. In fact, in this case, the LCP stipulates that there should either be replacement at compatible densities and scale, or no development at all.

June 5, 2007

**Pacifica LUP Policy 25 / Section 30252 of the Coastal Act** state in relevant part:

*"The location and amount of new development should **maintain and enhance public access** to the coast by:*

...  
*(d) **Providing adequate parking facilities or providing substitute means of serving the development with public transportation**" [emphasis added]*

In addition to losing the potential for future beach access as mentioned above, parking for coastal access is also a concern. Although the project would conform to current zoning guidelines for on-site parking, no new street parking would be provided by the proposed development for new residents and guests. Instead additional demand would be created for existing parking on the nearest street, Paloma Avenue, which has a serious deficit caused by older parking requirements. For example, the apartment building at the intersection of Paloma and Palmetto Avenues contains 71 units and only 78 parking spaces. No street parking for coastal access is available along Beach Boulevard north of the pier, and no other streets serve the subject site.

## **VISUAL QUALITY**

**Pacifica LUP Policy 24 / Section 30251 of the Coastal Act** state in relevant part:

*"The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to **protect views to and along the ocean and scenic coastal areas**, to minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas." [emphasis added]*

The north to south pedestrian/bicycle pathway along Beach Boulevard is a segment of the California Coastal Trail. Efforts are currently underway to build or improve public access along Esplanade to the north and Mori Point to the south. The corner opposite the project site is a treasured spot for pedestrians because of its relative seclusion and minimal vehicular access, as well as the spectacular views of the ocean to the north, west and south, and the gently rolling hills to the east. This development would rob visitors of the scenic view to the east and the existing open space character.

<sup>1</sup> City of Pacifica Council Agenda Summary Report, April 23, 2007, Agenda Item No. 8.

<sup>2</sup> Additional Discussion of Raising Beach Boulevard, Wave Runup Reflection, and Garage Flooding, Pacific Beach Condominiums, 1567 Beach Boulevard, Pacifica, California (letter) by David W. Skelly, MS, GeoSoils, Inc., March 22, 2007.

<sup>3</sup> Permit Application 3-03-049, City of Carmel-by-the-Sea Scenic Road Armoring Repairs, Staff Report, September 2003.

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<sup>4</sup> City of Pacifica Council Agenda Summary Report, April 9, 2007, Agenda Item No. 14.

<sup>5</sup> Soils Report: Engineering Geologic Evaluation, Bluff Erosion/Protection, 220 Shoreview Drive, Pacifica, CA; Joel E. Baldwin, II, David W. Buckley, Earth Investigations Consultants; May 14, 2002.

<sup>6</sup> Supplemental Geotechnical Peer Review, (letter), prepared for the City of Pacifica by Cotton, Shires & Associates, Inc., signed by Ted Sayre & David T. Schrier, Associate Geotechnical Engineers, 05/24/06, containing a review of nine documents.

<sup>7</sup> DataQuick Information Systems ([www.dqnews.com](http://www.dqnews.com)); Non-Profit Housing Association of Northern California ([www.nonprofithousing.org](http://www.nonprofithousing.org)); Association of Bay Area Governments ([www.abag.ca.gov](http://www.abag.ca.gov)); San Mateo County Housing Indicators, as of December 31, 2004 ([www.hud.gov](http://www.hud.gov)); Real Estate section of the San Francisco *Chronicle*, 05/20/07.

<sup>8</sup> Proposed Elevations, Sheet No. A-7, New Construction of 9 Unit Condo, Revision 10/2005, prepared by Best Design & Construction Company.

<sup>9</sup> "Supplemental Technical Investigation for 1567 Beach Blvd., prepared for LegacyQuest LLC by Joel Baldwin of Earth Investigations Consultants (EIC), 06/07/04 and containing a report prepared by GeoSoils Inc. (Skelly Engineering), David Skelly, 05/05/04.



EXHIBIT B<sup>8</sup> - Proposed Elevations

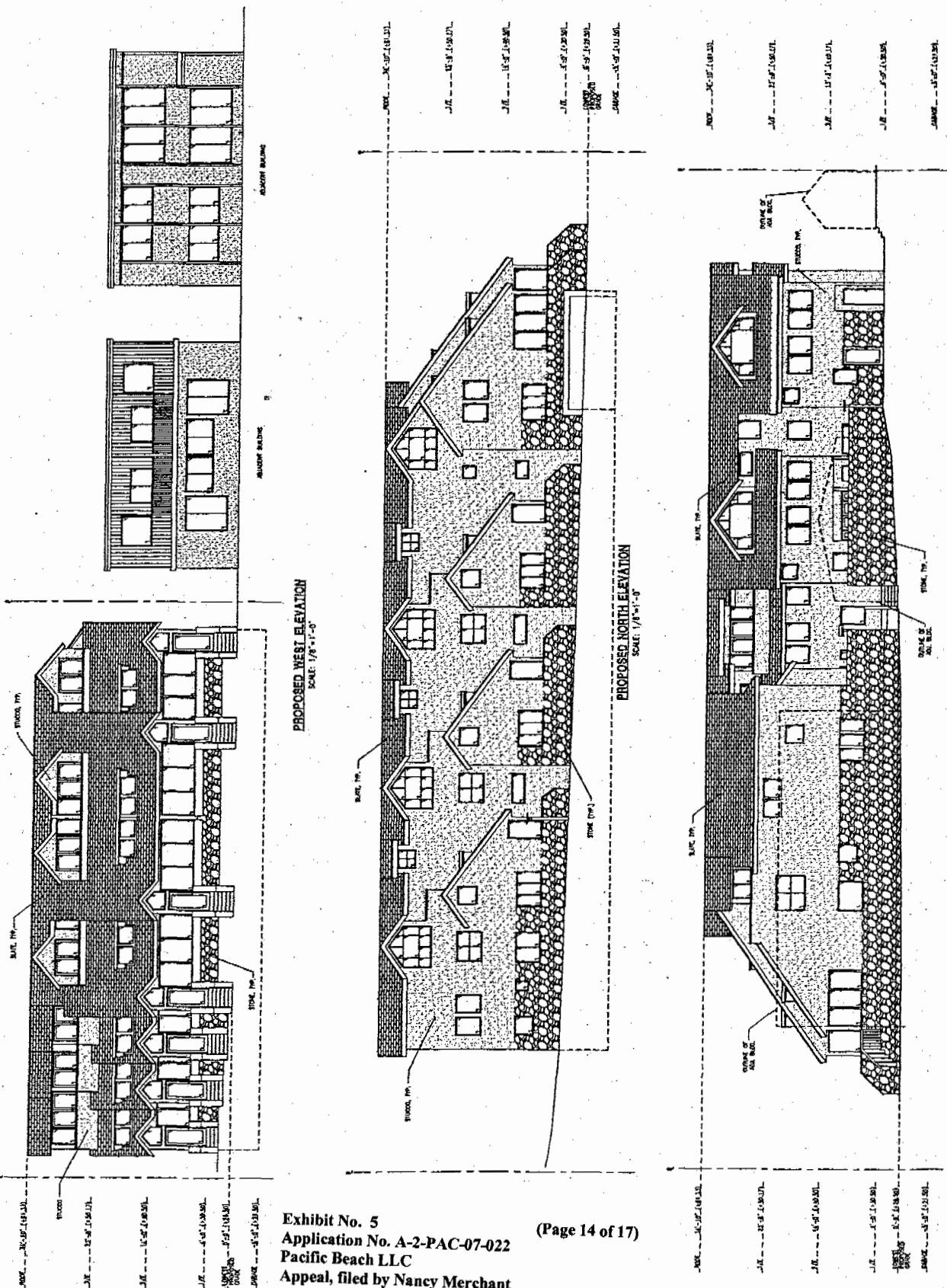
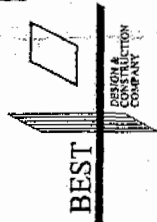


Exhibit No. 5  
Application No. A-2-PAC-07-022  
Pacific Beach LLC  
Appeal, filed by Nancy Merchant



BEST  
CONSTRUCTION COMPANY  
1567 BEACH BLVD., SUITE 100  
PACIFICA, CA 94043  
TEL: (415) 375-1111  
FAX: (415) 375-1112

FOR SITE PERMIT  
APPLICATION

NEW CONSTRUCTION  
OF 9 UNIT CONDO

1567 BEACH BLVD.,  
PACIFICA, CA

DATE	REVISION
10/2004	SUBMIT FOR SITE
01/2005	REVISION
05/2005	REVISION
10/2005	REVISION

DATE: 01/2004  
SCALE: AS NOTED  
DRAWN BY: JCL  
PROJECT NO.: 2041788

SHOWING FILE  
PROPOSED ELEVATIONS

SHEET NO. A-7  
7 OF 8 SHEETS

**EXHIBIT A<sup>2</sup>** – Note the wave-borne rubble and damage to fence from wave energy.

2

**GeoSoils Inc.**



Figure 1. Overtopping of the Pacifica shore protection during an El Nino winter. Note the very dramatic splash. However, the water flowing on Beach Boulevard is only a few inches deep.



Figure 2. Wave overtopping traveling across Beach Boulevard. Note the water is only a few inches deep and flows down slope along the street drainage path.

**5741 Palmer Way, Suite D, Carlsbad, CA 92008 w.o. s4327 760-438-3155**



**EXHIBIT C<sup>9</sup>** - Photo C-1: Access trail for maintenance equipment.



Photo B6 - Southerly view of temporary access trail to beach for maintenance of quarry stone revetment fronting Shoreview Drive and north end of Beach Boulevard. Note absence of beach fronting site. Excavator sits atop storm drain outfall at end of RE wall.

**EXHIBIT C<sup>9</sup>** – Photo C-2: Project driveway would go beyond fence to the north (where the excavator is sitting) and would be in conflict with maintenance equipment.



**Photo B7** – Northeastly view of storm drain outfall. Alignment of 60-inch diameter reinforced concrete pipe (RCP) extends along site's north property line.

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT OFFICE  
45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
(415) 904-5260 FAX (415) 904-5400  
[www.coastal.ca.gov](http://www.coastal.ca.gov)

**COMMISSION NOTIFICATION OF APPEAL**

DATE: June 7, 2007  
TO: Michael Crabtree, Planning Director  
City of Pacifica, City Hall  
170 Santa Maria  
Pacifica, CA 94044-2506  
FROM: Michelle Jespersen, Coastal Program Analyst  
RE: **Commission Appeal No. A-2-PAC-07-022**

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

Local Permit #: **CDP-275-06**  
Applicant(s): **Pacifica Beach LLC; Pacifica Beach &/Or Legacyquest LLC**  
Description: **Construction of nine (9) 3-story condominiums with underground parking garage.**  
Location: **1567 Beach Boulevard, Pacifica (San Mateo County) (APN(s) 016-011-190)**  
Local Decision: **Approved w/ Conditions**  
Appellant(s): **Patrick Rentsch**  
Date Appeal Filed: **6/7/2007**

The Commission appeal number assigned to this appeal is A-2-PAC-07-022. The Commission hearing date has not yet been established for this appeal. Within 5 working days of receipt of this Commission Notification of Appeal, copies of all relevant documents and materials used in the City of Pacifica's consideration of this coastal development permit must be delivered to the North Central Coast District office of the Coastal Commission (California Administrative Code Section 13112). Please include copies of plans, relevant photographs, staff reports and related documents, findings (if not already forwarded), all correspondence, and a list, with addresses, of all who provided verbal testimony.

A Commission staff report and notice of the hearing will be forwarded to you prior to the hearing. If you have any questions, please contact Michelle Jespersen at the North Central Coast District office.

cc: Pacifica Beach LLC; Pacifica Beach &/Or Legacyquest LLC

Exhibit No. 6  
Application No. A-2-PAC-07-022  
Pacifica Beach LLC  
Appeal, filed by Patrick Rentsch

(Page 1 of 5)

## CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE

45 FREMONT STREET, SUITE 2000

SAN FRANCISCO, CA 94105-2219

VOICE (415) 904-5260 FAX (415) 904-5400

JUN 07 2007

CALIFORNIA  
COASTAL COMMISSION

## APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Patrick Rentsch

Mailing Address: 1581 Beach Blvd.

City: Pacifica

Zip Code: 94044

Phone: 650-738-0876

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Pacifica

2. Brief description of development being appealed:

9 Condominiums at 1567 Beach Boulevard

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

1567 Beach Blvd.

Pacifica, CA 90444

APN: 016-11-190

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

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

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

**TO BE COMPLETED BY COMMISSION:**

APPEAL NO:

A-2-PAC-07-022

DATE FILED:

6/7/2007

DISTRICT:

North Central Coast District

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

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

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

6. Date of local government's decision: 5/23/2007

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

**SECTION III. Identification of Other Interested Persons**

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

a. Name and mailing address of permit applicant:

Legacy Quest  
423 Broadway  
Millbrae, CA 94030

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) Roberta Schuler  
244 Shoreview Dr.  
Pacifica, CA 94044

(2) Steve Raby  
252 Shoreview Dr  
Pacifica, CA 94044

(3) Nancy Merchant  
77 Paloma Ave., #201  
Pacifica, CA 94044

(4)

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

### **SECTION IV. Reasons Supporting This Appeal**

#### **PLEASE NOTE:**

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

The proposed project should be denied for the following reasons:

It is inconsistent with Section 30253 of the Coastal Act and Pacifica LCP Policy 26, in that:

- (a) Placement of a driveway on the edge of a seawall exposes pedestrians and vehicles to maximum risk.
- (b) Proposed development does not have adequate setback from seawall.
- (c) Proposal does not assure stability; North portion of driveway supported only by rock revetment.
- (d) Requires raising street and construction of retaining wall on bluff top as protection against wave overtopping.

It is inconsistent with Section 30251 of the Coastal Act and Pacifica LCP Policy 24, in that:

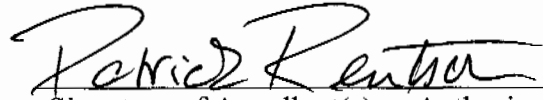
- (a) Proposal does not protect views to and along the ocean. It will block not only views, but sunlight from the Shoreview subdivision.
- (b) Proposed project is not visually compatible with the character of surrounding buildings. It is far more massive, and actually projects to the west beyond the plane of adjacent buildings.



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

**SECTION V. Certification**

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



\_\_\_\_\_  
Signature of Appellant(s) or Authorized Agent

Date: June 4, 2007

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

**Section VI. Agent Authorization**

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

\_\_\_\_\_  
Signature of Appellant(s)

Date: \_\_\_\_\_

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT OFFICE  
45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
(415) 904-5260 FAX (415) 904-5400  
[www.coastal.ca.gov](http://www.coastal.ca.gov)

**COMMISSION NOTIFICATION OF APPEAL**

DATE: June 8, 2007

TO: Michael Crabtree, Planning Director  
City of Pacifica, City Hall  
170 Santa Maria  
Pacifica, CA 94044-2506

FROM: Michelle Jespersen, Coastal Program Analyst

RE: **Commission Appeal No. A-2-PAC-07-022**

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

Local Permit #: **CDP-275-06**  
Applicant(s): **Pacifica Beach LLC; Pacifica Beach &/Or Legacyquest LLC**  
Description: **Construction of nine (9) 3-story condominiums with underground parking garage.**  
Location: **1567 Beach Boulevard, Pacifica (San Mateo County) (APN(s) 016-011-190)**  
Local Decision: **Approved w/ Conditions**  
Appellant(s): **Roberta Schuler**  
Date Appeal Filed: **6/7/2007**

The Commission appeal number assigned to this appeal is A-2-PAC-07-022. The Commission hearing date has not yet been established for this appeal. Within 5 working days of receipt of this Commission Notification of Appeal, copies of all relevant documents and materials used in the City of Pacifica's consideration of this coastal development permit must be delivered to the North Central Coast District office of the Coastal Commission (California Administrative Code Section 13112). Please include copies of plans, relevant photographs, staff reports and related documents, findings (if not already forwarded), all correspondence, and a list, with addresses, of all who provided verbal testimony.

A Commission staff report and notice of the hearing will be forwarded to you prior to the hearing. If you have any questions, please contact Michelle Jespersen at the North Central Coast District office.

cc: Pacifica Beach LLC; Pacifica Beach &/Or Legacyquest LLC

Exhibit No. 7  
Application No. A-2-PAC-07-022  
Pacifica Beach LLC  
Appeal, filed by Robert Schuler

(Page 1 of 10)



## CALIFORNIA COASTAL COMMISSION

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45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5260 FAX (415) 904-5400

**RECEIVED**

JUN 07 2007

CALIFORNIA  
COASTAL COMMISSION

ARNOLD SCHWARZENEGGER, GOVERNOR

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT****Please Review Attached Appeal Information Sheet Prior To Completing This Form.****SECTION I. Appellant(s)**

Na Roberta Schuler  
Mai 244 Shoreview avenue  
Pacifica

94044	650-359-4292		

**SECTION II. Decision Being Appealed**

1. Name of local/port government:

City of Pacifica, CA

2. Brief description of development being appealed:

Coastal/Redevelopment permit, CDP-275-06, Site Development permit PSD-757-06, Use Permit UP-965-06,  
Tentative condominium Subdivision Map SUB-211-06 ... location: 1567 Beach Boulevard, Pacifica, CA

APN - 016-011-190

SUB-211-06.. 9 condominium units



**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT OFFICE  
45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5260 FAX (415) 904-5400

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

1567 Beach Boulevard,  
APN 016-011-190  
Cross street Paloma Avenue  
Last parcel North of Pacifica Pier

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

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

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

**TO BE COMPLETED BY COMMISSION:**

APPEAL NO:

DATE FILED:

DISTRICT:

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

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

Exhibit No. 7  
Application No. A-2-PAC-07-022  
Pacific Beach LLC  
Appeal, filed by Robert Schuler

(Page 3 of 10)



**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT OFFICE  
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SAN FRANCISCO, CA 94105-2219  
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- x Planning Director/Zoning Administrator
- x City Council/Board of Supervisors
- x Planning Commission
- Other

- |    |  |                |
|----|--|----------------|
| 6. | Date of local government's decision:     | March 14, 2007 |
| 7. | Local government's file number (if any): | CDP-275-06.    |

**SECTION III. Identification of Other Interested Persons**

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

- a. Name and mailing address of permit applicant:

Christopher Cook  
423 Brpadwau 622  
Milbrae, CA

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) Nancy Merchant  
77 Paloma Ave
- (2) Steve Raby,  
252 Shoreview Avenue

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT OFFICE  
45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5280 FAX (415) 904-5400



(3) Karen Rosenstein  
200 Trogia

(4) Patrick Rentsch  
Beach Boulevard

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT OFFICE  
45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
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**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)****SECTION IV. Reasons Supporting This Appeal****PLEASE NOTE:**

- 1 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.
- 2 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.)
- 3 This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

**I would like to go on Formal Record that I support and am in full agreement with the other appellants concerns (specifically Nancy Merchant and Patrick Rentsch) as it relates to the plethora of environmental and erosion issues concerning this project that fall under the LCP.**

**In addition to the issues raised in their appeals, I offer the following information regarding coastal land ownership. The following information is of crucial importance as it pertains to laws under the California Coastal Commission and subject to the LCP:**

*Sec. 10-1.102. Purpose.*

*It is the purpose of this chapter to regulate and control the division of land within the City and to supplement the provisions of the Subdivision Map Act concerning the design, improvement, and survey data of subdivisions, the form and content of all required maps provided, and the procedure to be followed in securing the official approval of the City Engineer, Department of Community Development and Services, Planning Commission, and Council regarding the maps. To accomplish this purpose, the regulations set forth in this chapter are determined to be necessary for the preservation of the public health, safety, and general welfare; to promote orderly growth and development and to promote open space, conservation, protection, and the proper use of land; and to ensure provision for adequate traffic circulation, utilities, and other services in the City.*

*(§ 7, Ord. 456-85, eff. December 25, 1985)*

**January 22, 2007 City Council Meeting: Counsel states “Prior to the approval of the Subdivision Improvement Agreement, or if no Subdivision Improvement Agreement is required, prior to final map, the applicant shall submit documentary proof of Title for any property on which the project is located, subject to review by City Attorney and the city Engineer.”**

**The applicant has failed to show documentary proof of Title for the property on which the project is**

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT OFFICE  
45 FREMONT STREET, SUITE 2000  
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located. A review of the Applicant's plans revealed intent to encroach and "take" without benefit of proof of Title, Surveyor Map, or Plot Plan a significant portion of my property to which I hold the Recorded Title with two easements contained within. I provided the City Counsel, City Attorney, and Planning Department my Recorded documents along with additional separate Agreements made between the City and the prior owner of my property at 244 Shoreview Avenue in 1998 and 1999. I have lived here since 1999. I believe to have ownership of all property up to the lot line of parcel 14 (applicant's property) including the 7.8 ft. strip of an unclaimed, paper street known as Bella Vista through adverse Possession.

*Coastal Act Policy 16 – Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible. (SS, OF, LU) [OF doesn't appear in legend; CF or OS?]*

In addition, the applicant purposely neglected to inform me of his Intent to overtake and excavate a major portion of my property located on coastal bluff.

In unlawful taking of property, the applicant intends to remove a significant portion of my seawall to be replaced with a paved driveway extending not only well into my property but beyond the legal setback with the inclusion of an additional retaining wall to prevent wave overtopping exclusive to his project.

At the request of a neighbor, my property, specifically the abovementioned portion) came under review during a major redeveloping landscape project performed in 2005. The landscaping redevelopment was necessary as my property was used on several occasions by the City (duration lasting month(s) at a time) as the heavy equipment holding receptacle as well as the formation of a dirt ramp to access Beach Boulevard for both seawall repair (emergency and maintenance) as well as public access. The constant trek and retreat of the excavator literally destroyed the lower half of my property (twice).

I incurred the costly redevelopments as the location was on my property as listed easements on my Recorded Title as well as an unclaimed "paper street" - namely Bella Vista. While I never requested reimbursement from the city, I did request that a permanent access way be established for both seawall repair and public use to avoid repeated costly repairs to my property. I designed, dedicated, and paid for the extensive work with the agreement to own and maintain the improvements. The project was verbally agreed upon and approved by the City, as well as my neighbor (236 Shoreview who also dedicated portion of property) and myself.



## CALIFORNIA COASTAL COMMISSION

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*Sec. 9-4.202.1. Access.*

*"Access" shall mean an opening in a fence, wall or structure or a walkway or driveway permitting pedestrian or vehicular approach to, or within, any structure or use.*

*(§ I (B), Ord. 491-C.S., eff. October 28, 1987)*

On May 28, 2005 I met with Jo Ginsberg, Coastal Commission Enforcement Analyst, Jason Lo, City of Pacifica Code Enforcement, and Ray Donguines, City Engineer to discuss the ongoing repair of my property. The meeting was held on-site at my residence (244 Shoreview). With my Plot Plan, Survey, and City Agreements in hand, we walked the entire property, including the cove located behind my seawall, the newly created excavator staging area, and the dirt ramp to be used as a permanent access area. The work was praised and approved with the condition that the area was never to be paved. With the submittal of additional City information and a copy of my survey, the project was approved by both the City and the Coastal Commission and my property was then placed on the City Coastal Permit. I believe that the small triangular portion of lot 14 that is located in this area falls under Prescriptive Easement ownership.

*Coastal Act Policy 26 – New development shall:*

- (a) Minimize risks to life and property in areas of high geologic, flood and fire hazard.*
- (b) Assure stability and structural integrity and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. (C, SS, CN, CD, LU)*

I have owned and maintained my property since 1999. It is my conclusion from first hand witness and experience over the years that the location of this proposed development is highly susceptible to a faster rate of erosion. The property has a gradual, yet distinct, downward (seaward) slope. With the recent breaches along the Beach Boulevard seawall, one can only guess what lies beneath (or there lack of). Excavating just feet from the ocean for the exclusive purpose of a garage to facilitate underground parking poses substantial risks on every level for the surrounding homes, established sewer lines, storm drain (which the applicant intends to tap into to avert wave overtopping) and an already undermined Beach Boulevard and its seawall.

The proposed garage entry via Beach Boulevard raise ment will adversely affect all homes on Shoreview Avenue. The homes along Shoreview differ from those along Beach Boulevard in that there is no street between the homes and the ocean. The seawalls are maintained and funded by the owners, unlike those residing along Beach Boulevard. Extending and raising Beach Boulevard will become in essence an extension of Shoreview; who's seawalls run in unity.

*Coastal Act Policy 24 – The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan, prepared by the Department of Parks and Recreation and by local government, shall be subordinate to the character of its setting. (CN, OS, CD, LU)*



**CALIFORNIA COASTAL COMMISSION**

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**The proposed development is too large and out of character with the surrounding homes. It will block views from every side of the development. Since it is located at the very end of Beach Boulevard, it will detract from the vistas and views that are shared by both visitors and dwellers. The project is located at the end of Beach Boulevard (not a cul-de-sac); an area where dozens of people stop daily to reflect, and enjoy the beautiful views. To replace this serene area with a garage entry housing approximately 20 cars would not only detract from their use and enjoyment, but in addition, poses a safety risk via a high rate of traffic where there once was none.**

**In addition, the noise, traffic and especially the car headlights that will shine directly into my as well as almost all Shoreview homeowners is more than a nuisance, it detracts from our privacy as well as everything we sought and derived when we purchased our homes.**



**CALIFORNIA COASTAL COMMISSION**

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**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)****SECTION V. Certification**

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

Signature of Appellant(s) or Authorized Agent	
Date:	<i>Robert Schuler June 6, 2007</i>

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

**Section VI. Agent Authorization**

I/We hereby  
authorize

\_\_\_\_\_

to act as my/our representative and to bind me/us in all matters concerning this appeal.

--	--



## COASTAL HAZARD STUDY

Legacy Quest Condominiums  
1567 BEACH BOULEVARD  
PACIFICA, CA

MAY 2004

Prepared For  
*Earth Investigation Consultants*

Exhibit No. 8 (Page 1 of 11)  
Application No. A-2-PAC-07-022  
Pacific Beach LLC  
Coastal Hazards Study, Skelly Engineering 5/04

5741 Palmer Way, Suite D, Carlsbad CA 92008 Phone 760-438-3155 Fax 760-931-0915



**SE SKELLY ENGINEERING**  
GeoSoils Inc.

May 5, 2004

Mr. Joel Baldwin  
Earth Investigation Consultants  
P.O. Box 795  
Pacifica, CA 94044

SUBJECT: Coastal Hazard Study Proposed Legacy Quest Condominiums, 1567 Beach Boulevard, Pacifica.

Reference: "Geotechnical Review Legacy Quest Condominiums, 1567 Beach Boulevard," dated December 3, 2003, by Cotton Shires & Associates, Inc.

Dear Mr. Baldwin:

At your request we are pleased to provide the following letter report discussing coastal hazards for the proposed Legacy Quest Condominium project. In particular, this letter will respond to Item 2 and Item 3, of the above referenced geotechnical review. For ease of review the item number and subject will be provided in bold lettering followed by the response.

**2. Seawall Evaluation**

The proposed development is located along the shoreline of Pacifica. The site is fronted by Beach Boulevard, a reinforced earth (RE) wall, and a quarry stone revetment. In addition to the revetment and RE wall, the City of Pacifica has placed traffic barriers on top of the RE wall to act as flood shields during times when waves overtop the RE wall. Figure 1, downloaded from the California Coastal Records Project web site (<http://www.californiacoastline.org/>), shows the site, the adjacent shoreline and shore protection structures. The quarry stone revetment was subject to major maintenance and reconstruction in the Fall of 2002. The maintenance was performed under the supervision of this office. The slope of the face of the revetment is about 2:1 (horizontal:vertical). The top of the revetment is at about +15 feet MSL. The top of the RE wall is about +24 feet MSL. The proposed development is a two-story condominium building over a subgrade parking garage. Plans for the proposed development were not available at the time of this letter report. However, the approximate elevation of the finished garage floor will be about +21 feet MSL with the finished first floor at about +31 feet MSL. In order to evaluate the existing shore protection a discussion of the local coastal processes and the

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oceanographic design conditions is necessary. This information is then used in the wave runup and overtopping analysis, which is the basis for a discussion of the impact of waves on the proposed condominium development.



Figure 1. Subject site and adjacent shoreline in Fall 2002.

### COASTAL PROCESSES

The City of Pacifica is in the northern part of San Mateo County about 4 miles south of San Francisco. The city lies within what the US Army Corps of Engineers (1972) has termed the San Francisco littoral cell. A littoral cell is a coastal compartment that contains a complete cycle of littoral sedimentation including sources, transport pathways and sediment sinks. This overall cell extends from San Francisco Bay to Point San Pedro just south of Pacifica a total distance of about 16 miles. The San Andreas Fault essentially bisects this littoral cell at the area known as Mussel Rock. There is some indication from analysis of beach sand mineralogy that there is little transport of sand from the northern half of the cell, Ocean Beach, to the southern half of the cell, Pacifica.

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The source of for the littoral cell includes sands transported south from the San Francisco tidal bar and Ocean Beach, sediments delivered by the local streams (San Pedro Creek, alluvium from Laguna Salada, Big Inch Creek, Milagra Creek, and others), and erosion of the bluffs. The shoreline from Mussel Rock to Mori Point is characterized by bluffs that range in height from 40 to 150 feet. The beaches are characteristically narrow along this section of shoreline. Beach Blvd is located along this stretch of coastline. The actual quantities of sand, that are derived from each source, have not been determined, and the contribution of each source will vary with rainfall and wave activity.

The energy that moves the beach sands on and offshore, and along the shore is derived from waves. Waves reach the Pacifica shoreline from the southwest through the northwest deepwater wave directions. The US Army Corps of Engineers produced a draft report in 1972 that used wave refraction diagrams to determine the predominate direction of littoral transport. The final report and data are not available from the Corps' San Francisco District Office. However, the report concluded that "sand transport in both directions between Mussel Rock and Mori Point is known to occur, depending upon the time of year and direction of wave attack, the net longshore movement is negligible." Using Battalio (1996) one can assume that annual longshore sediment transport rates are on the order of 100,000 cubic yards. A wave measurement array was located at Montara just to the south of Pacifica and review of the data from January to December 1988 shows a peak wave of 5.7 meters in height and 15 second period. This could be used as an offshore design wave height. It is important to point out that the Corps report was produced in 1972 prior to the El Niño winters of the last two decades. In addition, the waves of interest are not the deepwater waves but rather the nearshore waves at the subject site. These wave conditions can be determined from refraction-diffraction wave models, but the deepwater wave information for the area is incomplete.

The sinks for sediment in the Pacifica area have not been clearly identified. Most likely some beach sediment is transported north past Mussel Rock, and some sediment is lost offshore trying to move south around San Pedro Point. There is also some potential loss of beach sands offshore along the entire cell. However, the US Army Corps of Engineers (1972) determined that "beach profiles show that during winter months sand is removed from the beach and during summer months is returned with very little net loss." The report does not quantify this net loss other than to say it is very little or in others words not significant. The Corps report gives an estimated average annual erosion rate of about 2 feet along this area. Again, it is important to point out that the Corps study does not include the last few decades of El Niño storms.

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### OCEANOGRAPHIC DESIGN CONDITIONS

The design criteria for a coastal structure is based upon several oceanographic and geologic site conditions. These include nearshore bathymetry, water level, wave height, maximum scour depth, beach slope, and bed rock soil properties. The design methods for this analysis are taken directly from Chapter 7 of the U.S. Army Corps of Engineers Shore Protection Manual. Design criteria for a shoreline structure is usually developed for a set of recurrence interval oceanographic conditions. For the purpose of this analysis 50-year and 100-year recurrence interval oceanographic conditions are used. The offshore bathymetry is characterized by ridges and valleys aligned perpendicular to the shoreline. For the purpose of this analysis an approximate nearshore slope of 0.002 will be used. The beach slope varies across the proposed revetment site from as steep 0.3 to less than 0.18.

The design water level is the maximum possible still water elevation. During storm conditions the sea surface rises along the shoreline (super-elevation) and allows waves to break just before or at the structure. Super-elevation of the sea surface can be accounted for by: wave set-up (1 to 2.5 feet), wind set-up and inverse barometer (0.5 to 1.5 feet), wave group effects (1 to 2.5 feet) and El Niño effects (0.5 to 1.0 feet). The 50 years recurrence interval maximum tide elevation is +5.1 feet MSL (Mean Sea Level) which, when combined with the effects of super-elevation, yields a 50 year recurrence interval water level of +7.0 feet MSL. This still water elevation uses EPA (Titus & Narayanan 1995) estimates of 8 inches of sea level rise in the next 50 years. The 100 year recurrence interval maximum tide elevation is +5.3 feet MSL which will result in a maximum water level of +7.5 feet MSL. This still water elevation uses EPA (Titus & Narayanan 1995) estimates of 12 inches of sea level rise in the next 100 years. The maximum scour depth is often determined by the presence of bedrock. In this case the depth to bedrock is uncertain so the scour depths will be determined by observation and experience. The design elevation of the toe of the lowest segment of the revetment is at about -3.0 feet MSL. This would account for a maximum scour depth as low as -2.0 feet MSL. Using the maximum still water levels, the design water depth at the toe of the structure for the 50-year recurrence interval conditions is about 10 feet and the design water depth for the 100-year recurrence interval is about 12 feet.

This section of coastline is subject to seasonal high waves. High waves in combination with high water levels result in erosion of the beach and wave attack on the RE wall and Beach Boulevard. Offshore wave heights of 20 feet and greater are common during winter storms. However, the design wave conditions for a shoreline structure are quite often not the largest waves in the nearshore area. The largest waves break offshore, in water depths approximately equal to the wave height, and by the time it reaches the

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shoreline much of its energy is gone. The largest wave force (design wave force) will occur when a wave is breaking directly on the shoreline structure. The largest wave that can break on the structure is determined by the depth of water at the toe of the structure. Using the maximum design water depths determined in the previous paragraph the resulting design wave heights are about 9.0 feet for the 50-year recurrence and about 10.0 feet for the 100-year recurrence interval. The incoming wave periods vary from 9 to 20 seconds. A design wave period of 18 seconds was chosen in that this period wave would produce the highest runup.

## WAVE RUNUP AND OVERTOPPING

As waves encounter the quarry stone revetment in front of the RE wall they break and water rushes up the face of the revetment, and up and over the RE wall onto Beach Blvd and to the site. Often, wave runup and overtopping strongly influence the design, cost, and maintenance costs of coastal projects. Wave runup is defined as the vertical height above the still water level to which a wave will rise on a structure of infinite height. Overtopping is the flow rate of water over the top of a finite height structure (the top of the RE wall) as a result of wave runup. The wave runup analysis for a combination revetment and seawall is very complex. The USACOE Shore Protection manual does not contain any methods for the analysis. Because the RE wall only sees the wave runup above +15 feet MSL it is reasonable to model this combination shore protection system as a single revetment.

Wave runup and overtopping for the revetment is calculated using the US Army Corps of Engineers Automated Coastal Engineering System, ACES. ACES is an interactive computer based design and analysis system in the field of coastal engineering. The methods to calculate runup and overtopping implemented within this ACES application are discussed in detail in Chapter 7 of the Shore Protection Manual (1984). The runup estimates calculated herein are corrected for the effect of onshore winds.

The empirical expression for the monochromatic-wave overtopping rate is:

$$Q = C_w \sqrt{g Q_0^* H_0^3} \left( \frac{R+F}{R-F} \right)^{\frac{-0.1085}{a}}$$

where

Q = overtopping rate/unit length of structure  
 C<sub>w</sub> = wind correction factor

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$g$  = gravitational acceleration

$Q_0^*, \alpha$  = empirical coefficients (see SPM Figure\* = 7-27)

$H_0$  = unrefracted deepwater wave height

$R$  = runup

$F = h_s - d_s$  = freeboard

$h_s$  = height of structure

$d_s$  = water depth at structure

The correction for offshore winds is:

$$C_w = 1 + W_f \left( \frac{F}{R} + 0.1 \right) \sin \theta$$

where

$$W_f = \frac{U^2}{1800}$$

$U$  = onshore wind speed (mph)

The wave, wind, water level and coastal processes data used as input to the ACES runup and overtopping application is discussed in the previous section. The shoreline along this section of the California coast has experienced many storms over the years. These events have impacted coastal property and beaches depending upon the severity of the storm, the direction of wave approach and the local shoreline orientation. The ACES analysis was performed on two sets of oceanographic conditions that represent typical 50, and 100 year storm events. The onshore wind speed was chosen to be 40 knots for each case. The oceanographic conditions are as follows:

1. Nearshore slope 1/500.
2. Revetment slope 1/2.
3. Maximum scour depth -2.0 feet MSL (50-year), -3.0 feet MSL (100-year).
4. Wave period 18 seconds.
5. Wave heights 9.0 feet (50-year), 10.0 feet (100-year).
6. Still water elevation +7 feet MSL (50-year), +7.5 feet MSL (100-year).
7. Maximum water depth at structure 11.0 feet (50-year), 13.0 feet (100-year).

Table I below is the output from the ACES analysis. The maximum wave runup for the 50 year recurrence interval oceanographic conditions is about +23.0 feet MSL and for

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7

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the 100 year recurrence conditions it is about +24.5 feet MSL. Based upon our experience and direct observation the Beach Blvd revetment and wall system is severely overtopped at elevations of about +23 feet MSL. The overtopping occurs on average a few times per year. The wave driven water coming over the top of the wall is observed to be between 1 to +2 feet in height. This would dictate that the revetment/seawall system needs to be at least to +25 feet MSL in height to provide full protection to Beach Boulevard and the site.

**TABLE I**

AUTOMATED COASTAL ENGINEERING SYSTEM ... Version 1.02      5/ 4/2004      12:25  
Project:      PACIFICA LEGACY QUEST CONDO WAVE HAZARD ANALYSIS

WAVE RUNUP AND OVERTOPPING ON IMPERMEABLE STRUCTURES				
Item		Unit	Value	
Wave Height at Toe	Hi:	ft	9.000	Rough Slope
Wave Period	T:	sec	18.000	Runup and
COTAN of Nearshore Slope			500.000	Overtopping
Water Depth at Toe	ds:	ft	11.500	
COTAN of Structure Slope			2.000	
Structure Height Above Toe	hs:	ft	20.000	
Rough Slope Coefficient	a:		0.956	
Rough Slope Coefficient	b:		0.398	
Deepwater Wave Height	H0:	ft	5.752	
Relative Height	(ds/H0):		1.999	
Wave Steepness	(H0/gT <sup>2</sup> ):		0.552E-03	
Wave Runup	R:	ft	15.778	
Onshore Wind Velocity	U:	ft/sec	67.512	
Overtopping Coefficient	Alpha:		0.500E-01	
Overtopping Coefficient	Qstar0:		0.150	
Overtopping Rate	Q:	ft <sup>3</sup> /s-ft	2.965	

WAVE RUNUP AND OVERTOPPING ON IMPERMEABLE STRUCTURES				
Item		Unit	Value	
Wave Height at Toe	Hi:	ft	10.000	Rough Slope
Wave Period	T:	sec	18.000	Runup and
COTAN of Nearshore Slope			500.000	Overtopping
Water Depth at Toe	ds:	ft	13.000	
COTAN of Structure Slope			2.000	
Structure Height Above Toe	hs:	ft	20.000	
Rough Slope Coefficient	a:		0.956	
Rough Slope Coefficient	b:		0.398	
Deepwater Wave Height	H0:	ft	6.580	
Relative Height	(ds/H0):		1.976	
Wave Steepness	(H0/gT <sup>2</sup> ):		0.631E-03	
Wave Runup	R:	ft	17.279	
Onshore Wind Velocity	U:	ft/sec	67.512	
Overtopping Coefficient	Alpha:		0.500E-01	
Overtopping Coefficient	Qstar0:		0.150	
Overtopping Rate	Q:	ft <sup>3</sup> /s-ft	7.269	

In an effort to reduce the amount of wave overtopping and resulting flooding of Beach Boulevard, the City of Pacifica has placed concrete traffic barriers (K-rails) along the

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top of the RE wall to act as flood shields. These shields are only partially effective and wave runup waters can still reach the site. Increasing the height of the seawall is not an option for the developer because the wall and revetment is on public property and belongs to the City of Pacifica and the State of California. However, wave overtopping can be managed on site after it crosses Beach Boulevard. In order to reduce or eliminate the adverse impacts of wave runup and flooding at the site we offer the following suggestions;

- No habitable finished floor should be below elevation +27 feet MSL.
- The placement of a minimum 30-inch high block wall (or equivalent) along Beach Boulevard fronting the development will provide significant protection from wave runup.
- The entrance to the proposed below grade parking should be designed to eliminate or significantly reduce wave runup from flooding the parking area. This can be accomplished by; 1) not siting the parking entrance on Beach Boulevard, 2) berming the entrance, 3) flood shields (sand bags, plywood, etc.), 4) area drains at the driveway entrance, or 5) sump for water collection in the parking garage. It may well be that a combination of these and other methods may be the best management strategy for wave overtopping and flooding.

### **3. Tsunami Risk Evaluation**

Tsunami are waves generated by submarine earthquakes, landslides, or volcanic action. Lander et. al. 1993 discusses the frequency and magnitude of recorded or observed tsunami in the Pacifica area. In 1960 a 1.6 meter high tsunami was recorded in Santa Cruz with 1.0 meter high tsunami in Stinson Beach. In 1964 a 1.4 meter tsunami was recorded in Pacifica. A tsunami in the Pacifica area can reasonably be expected to be 2 or more meters in height. Any wave including tsunami that approaches the Beach Boulevard seawall will be depth limited, that is to say it will break in water depth that is about 1.3 times the wave height. The wave runup and overtopping analysis herein considers the maximum possible unbroken wave at the toe of the revetment. This wave is about 3 meters high. The runup and overtopping analysis can also serve to estimate the amount of wave overtopping as a result of a tsunami occurring at the peak high tide. A 3-meter tsunami, during a very high tide, will impact the site much like the 100-year recurrence interval wave height overtopping. The tsunami, much like the design extreme wave, will break on or before the revetment and RE wall, losing much of its energy. Due to the presence of the shore protection fronting Beach Boulevard, the site is reasonably safe from tsunami hazards.

## CONCLUSIONS AND RECOMMENDATIONS

- The site will be subject to wave runup and flooding, possibly several times in a given year. However, the site is substantially protected from direct wave attack by the quarry stone revetment, the RE wall, and Beach Boulevard.
- The adverse consequences of wave runup reaching the site can be mitigated by a management plan that includes elevating improvements, shielding improvements, and site drainage.
- A tsunami with a height on the order of 2 meters arriving in the Pacifica area is a very infrequent event (over 100 year recurrence interval). If a large tsunami were to occur during the life of the proposed development the level of risk to the site can be consider very low due to the site's elevation and its location behind the shore protection and Beach Boulevard.
- Once the final design for the project has been determined, it is strongly recommended that the design be reviewed by this office for compliance with this report and for suggestion of possible additional design features to minimize or eliminate adverse impacts due to wave overtopping.

## **LIMITATIONS**

Coastal engineering is characterized by uncertainty. Professional judgements presented herein are based partly on our evaluation of the technical information gathered, partly on our understanding of the proposed construction, and partly on our general experience. Our engineering work and judgements have been prepared in accordance with current accepted standards of engineering practice; we do not guarantee the performance of the project in any respect. This warranty is in lieu of all other warranties expressed or implied.

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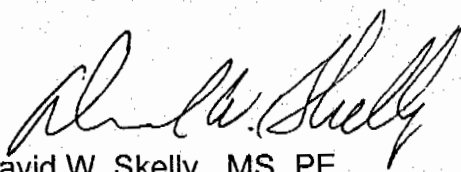
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If you have any questions please contact us at the number below.

Sincerely,



David W. Skelly MS, PE  
 RCE# 47857

12/31/05

#### **ADDITIONAL REFERENCES**

Battalio, R.T. and Dilip Trivedi, 1996, "Sediment Transport Processes at Ocean Beach, San Francisco," California, ASCE Coastal Engineering Proceedings Vol 3 Chapter 208.

Lander, James F., P. Lockridge, and M. Kozuch, 1993, "Tsunamis Affecting the West Coast of the US, 1806-1992." NOAA National Geophysical Data Center publication.

Shore Protection Manual, 1984, 4th ed. 2 Vols, US Army Engineer Waterways Experiment Station, Coastal Engineering Research Center, US Government Printing Office, Washington, DC.

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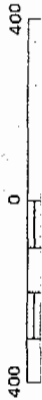
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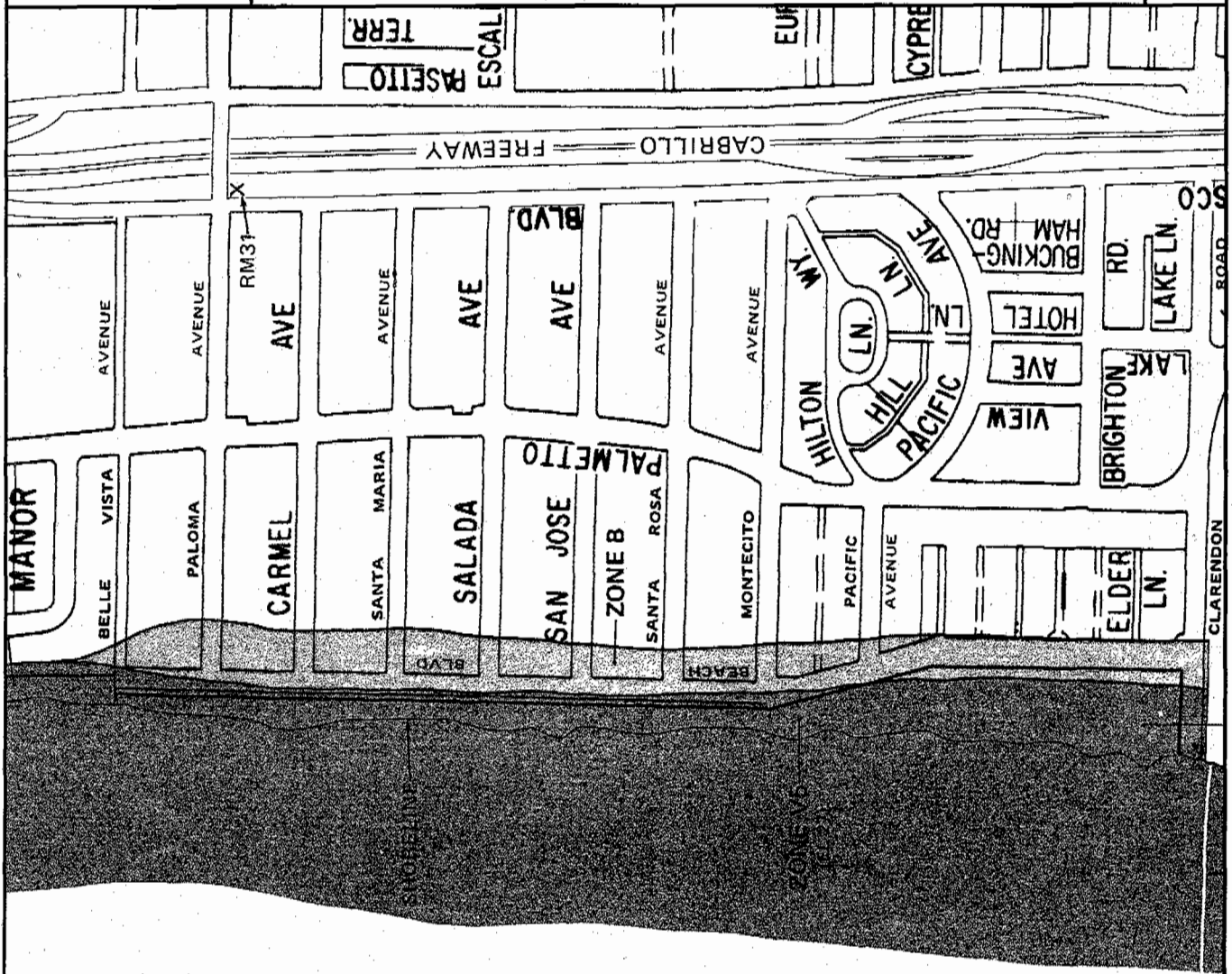
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APPROXIMATE SCALE IN FEET



ELEVATIONS  
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NATIONAL FLOOD INSURANCE PROGRAM

**FIRM**  
FLOOD INSURANCE RATE MAP

CITY OF  
PACIFICA, CALIFORNIA  
SAN MATEO COUNTY

PANEL 2 OF 7  
(SEE MAP INDEX FOR PANELS NOT PRINTED)

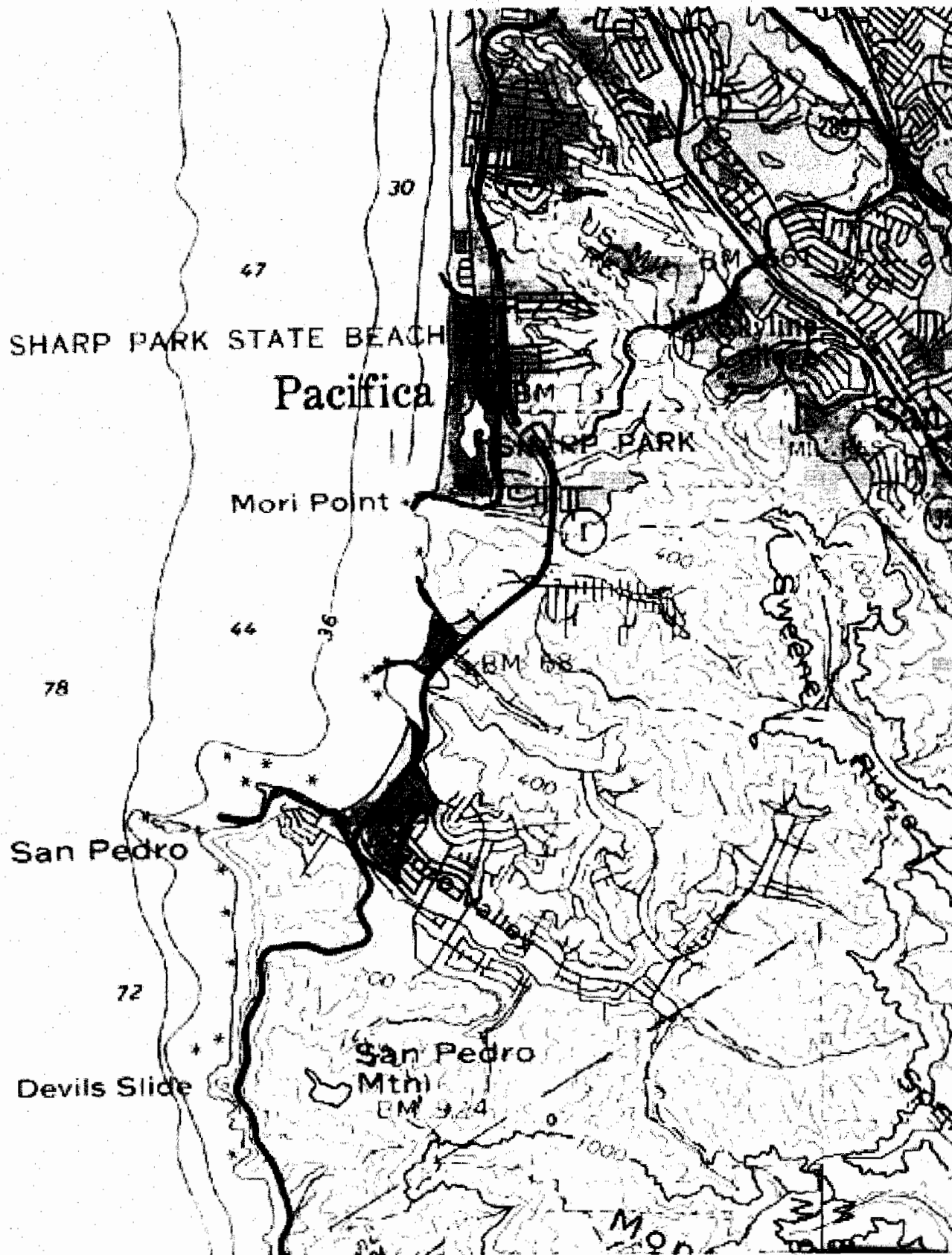
COMMUNITY-PANEL NUMBER  
060323 0002 D

MAP REVISED:  
FEBRUARY 19, 1987



Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at [www.fema.gov](http://www.fema.gov)



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JUL - 7 2005

OFFICE

June 24, 2005  
Job No. 28066894

Pacific Beach, LLC  
423 Broadway #622  
Millbrae, CA 94030

Attention: Mr. Chris Cook

Dear Mr. Cook:

**Civil Engineering Services**  
**Beach Boulevard Sea Wall – Pacifica**

**INTRODUCTION**

URS is pleased to present this letter documenting the results of our evaluation of the existing seawall adjacent to your property at 1567 Beach Boulevard in Pacifica, California. Our work was conducted in general accordance with our proposal to you dated May 10, 2005. As indicated in the proposal our services were related to (1) an evaluation of existing conditions with respect to the seawall and adjacent area and (2) a review of the proposed improvements (condominiums and associated utilities) relative to potential impacts to the seawall.

Our scope of work included:

- Review of available relevant documents, reports, and maps (provided in the list of references); and
- A site reconnaissance performed on June 7, 2005 by a structural engineer and an engineering geologist.

The results of our evaluation can be summarized as follows.

**EXISTING CONDITIONS**

Our evaluation of the seawall, requested by the City of Pacifica, is based on a site visit by David Harder (structural engineer) and Ray Rice (engineering geologist) and review of Sheets 6, 7, 8

URS Corporation  
221 Main Street, Suite 600  
San Francisco, CA 94105-1917  
Tel: 415.896.5858  
Fax: 415.882.9261

Exhibit No. 11  
Application No. A-2-PAC-07-022  
Pacific Beach LLC  
URS Corp. letter to Property Owner, 6/24/05

(Page 1 of 5)



Pacific Beach, LLC

June 24, 2005

Page 2

and 21 from Project number DBW 84-42-12 dated August 31, 1984 with revisions through 2-22-85, as well as a copy of a Field Trip Guidebook (AEG, 1986) where attendees reviewed this section of wall.

The seawall details were prepared by the Reinforced Earth Company as shown on Sheet 21. The precast concrete wall panels are about 5 feet by 5 feet square and 7 inches thick. As shown on the referenced details, the panels are restrained by 12-foot-long galvanized steel strips set into compacted backfill. The backfill strips are bolted to bent strips of the same material cast into the facing panels, however the number and spacing of the strips is not shown on the drawings. The wall is capped with a cast in place concrete wave deflector that ranges in height from about 4 feet at the north (project) end of the wall, stepping down to about 18 inches high near the slope break at Carmel Avenue. The drawings show the wall height is about 9 feet from the north end to Paloma Avenue, increasing to about 15 feet at Carmel Avenue and remaining that height to the south end stairs. The drawings also show that the stone revetment extends about 2 feet above the top of the wall footing.

A handwritten note on the air photo strip map (Sheet 6 of Beach Boulevard Seawall Drawing) indicates that over the interval between Station 34+78 to Station 36+06 (the northern end of the wall adjacent to the 1567 Beach Boulevard property), the "wall footing in old fill area, see repair sketch, Sheet 8." The detail included on Sheet 8 entitled "Sta. 34+78 - 36+06 Repairs to RE Wall Footing Area" shows a modification to the normal wall footing construction that apparently was used over that wall interval during the initial construction period. The AEG, 1986 reference (p. 17) states that the Beach Boulevard seawall sustained major panel displacement during the winter of 1986, over a distance of about 80 feet, due to erosion of the supporting sediments by piping. This prompted a pressure grouting remedial program behind the full length of the wall.

We interpret these corrective actions to have brought the seawall back into conformance with its original design intent functionality and expected useful life.

The attached photographs were taken at two locations. The first sheet was taken at and near the 72-inch-diameter storm drain that forms the north end of the wall. Note that waves appear to have driven smaller stones and timber into the drain line. The second sheet was taken at and near the foot of Paloma Avenue. Both locations show distress as described below.



Pacific Beach, LLC  
June 24, 2005  
Page 3

The drawings show each top panel has three reinforcing bar dowels to engage the cast in place cap. From our visual inspection, it appears that somewhat less than half of these dowels have rusted, staining the wall face and causing local concrete spalls. This condition was observed throughout the wall from the north to south end, and indicates the possibility that the dowels were cast with insufficient cover as they are protruding out of the concrete panels.

Several of the wall panels have cracked through as shown in the photographs and there are local areas where the corners have also cracked through. This damage was probably caused by wave-driven small rocks impacting the rather thin wall. Some joints have been damaged sufficiently that the filter fabric backing can be seen behind the concrete panels. Vertical steel dowels that pin the panels together are heavily rusted where visible. The condition of the galvanized metal strips is unknown, but galvanized material is corroded much more easily by sea water than fresh water.

Recent repairs include extensive rock slope strengthening along the entire wall in 2002. The two pages of photographs coincide with locations where the walls have been repaired by placing concrete into and over the stone revetment.

The exposed height of RE panels above the stone revetment and below the cast in place wave deflector is about 6 feet from Paloma Avenue north as shown on the attached photographs. The observed cracks plus damaged joints and partly exposed filter fabric suggests the wall has been weakened since construction. Concrete repairs suggest the seawall has already experienced local damage caused by high waves in past storms. Common sense suggests this type of damage will occur in future storms and the extent of damage will also increase as the wall continues to deteriorate over time.

Rock slope maintenance and local concrete placements similar to recent work will be required at increasing frequency in the future as panel damage accumulates. Replacement or strengthening of selected panels and joints may also be required.

We recommend the City contact Reinforced Earth and have them inspect the wall to determine what type of structural repairs, if any, are required. The City should also inspect the wall this

Pacific Beach, LLC

June 24, 2005

Page 4

year to establish a baseline condition. The wall should be re-inspected at least every two years or after major storms to monitor panel damage.

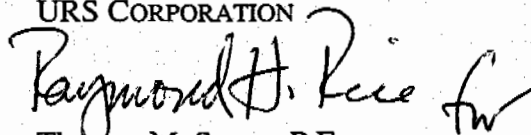
## PROPOSED CONDITIONS

It is our opinion that the proposed project will not adversely impact the seawall. We have reviewed the site permit application drawings prepared by Best Design & Construction Company dated May 2005 to evaluate whether the construction of the project could have adverse impacts on the seawall. The Plot Plan, on Sheet A-1, indicates that the connection of the new sanitary sewer to the existing sanitary sewer manhole to the northwest of the new building may encounter a portion of the 12-foot-long galvanized strips supporting the reinforced earth seawall. A similar length has apparently already been impacted by the presence of the existing sanitary sewer immediately south of the manhole. This observation, coupled with the likelihood that corrosion of the galvanized strips probably has already occurred (discussed above) suggests that the new construction will not compromise the existing seawall further than what may already have occurred. An evaluation of the condition of the galvanized steel strips, or other parts of the RE seawall would require invasive testing, which is beyond the scope of this evaluation.

We trust that this provides you with the information you need at this time. If you have any questions please contact us at (415) 896-5858.

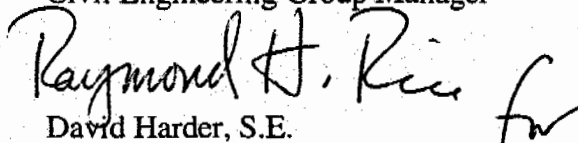
Very truly yours,

URS CORPORATION



Thomas M. Sweet, P.E.

Civil Engineering Group Manager



David Harder, S.E.

Structural Engineer

Attachments: List of References  
Site Photographs

Pacific Beach, LLC  
June 24, 2005  
Page 5

### **LIST OF REFERENCES**

Association of Engineering Geologists, 1986, Field Trip Guidebook – Landslides and Coastal Processes, San Francisco Peninsula, Stop 2, Coastal Erosion, Sharp Park District of Pacifica, pp. 11-17, Oct. 5-10.

Best Design & Construction Company, 2005, New Construction of 9-Unit Condominium Building, 1567 Beach Blvd., Pacifica, CA, 8 sheets, May.

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Earth Investigations Consultants, 2004, Supplemental Technical Investigation, Proposed Legacy Quest Condominiums, 1567 Beach Boulevard, Pacifica, California, Job 1564.05.00, June 7.

Woodward-Clyde Consultants, 1984, Design Memorandum, Beach Boulevard Seawall, prepared for City of Pacifica, Job No. 16299A, 27 July.

Woodward-Clyde Consultants, 1984, Contract Documents for Beach Boulevard Seawall, City of Pacifica, State of California, Department of Boating and Waterways, Project No. DBW 84-42-12, September 5.



**COTTON, SHIRES & ASSOCIATES, INC.**  
CONSULTING ENGINEERS AND GEOLOGISTS

**RECEIVED**

**FEB 13 2007**

~~February 9, 2007~~  
U00731

**TO:** Lee Diaz  
Planner  
CITY OF PACIFICA  
170 Santa Maria Avenue  
Pacifica, California 94044-2506

**SUBJECT:** Supplemental Geotechnical Peer Review  
**RE:** Legacy Quest Condominiums  
1567 Beach Boulevard

We have completed a supplemental geotechnical peer review of the feasibility of proposed site construction using:

- Review Draft Tentative (9-Unit Condominium) Subdivision Map, Sections, Grading and Drainage, and Utility Plans (4 sheets), preparer not indicated, revised February 6, 2007;
- Architectural Plans – 9 Unit Condominium Building (8 sheets), preparer not indicated, latest listed revision January 2006;
- Additional Discussion of Potential for Wave Flooding (letter) prepared by Skelly Engineering, dated April 25, 2005(6);
- Plan Review for Conformance with Coastal Hazard Study (letter), prepared by Skelly Engineering, dated March 12, 2006;
- Geotechnical Plan Review Letter prepared by Earth Investigations Consultants, dated November 11, 2005; and
- Coastal Hazard Study-Legacy Quest Condominiums (report) prepared by Skelly Engineering GeoSoils Inc., dated May 5, 2004.

In addition, we have reviewed pertinent technical maps from our office files.

### DISCUSSION

We understand that the applicant is seeking geotechnical approval of a site development plan for the subject parcel that includes construction of 9 condominium units. In our previous review report (dated May 24, 2006), we summarized the project design findings of the Project Coastal Engineer (Skelly Engineering), which indicated that the project design with proposed new shore protection to an elevation of +27 feet MSL is consistent with FEMA standards and guidelines for coastal development. The consultant also indicated that any water that enters the garage will be evacuated by the proposed pumping (sump) system. We also noted that the Project Geotechnical Consultant (EIC) should evaluate shoring plans prior to issuance of permits for project construction.

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We understand that a modified design approach is currently being advanced by the project applicant that will increase the effective wave protection from 23.7 feet MSL (current) to 27.0 feet MSL, with a new separate retaining wall located immediately east and adjacent to the existing seawall. In addition, an extension and improvement to Beach Boulevard with concrete pavement is to be constructed with a final surface elevation between 25.0 to 27.0 feet MSL. Other recent modifications to the design include providing gravity drainage for the parking garage area with in 18-inch diameter pipe discharging through an existing, nearby storm drain discharge headwall at the beach. The western terminus of the 18-inch pipe would be equipped with a flap valve to prevent/reduce backflow.

### CONCLUSIONS AND RECOMMENDED ACTION

We do not have geotechnical objections to the proposed gravity drainage from the parking garage area. We recommend that this proposed design change and possible elimination of the previously recommended sump pump system be evaluated by the Project Coastal Engineer prior to construction permit approval. We understand that the proposed gravity drainage does have adequate fall and capacity from a civil engineering perspective.

With respect to the proposed separate seawall intended to provide wave protection up to an elevation of 27 feet MSL, we understand that this concept is combined with the intent of raising the elevation of the northernmost portion of Beach Boulevard. This concept is constrained by the apparent need to avoid adding new loads that could adversely surcharge the existing seawall. Any new concrete pavement, supplemental fill placement, or wall construction close to the existing seawall could result in surcharge loading and overstressing. We suggest consideration of steeping the second wall back to the east a sufficient distance to avoid a surcharge condition. A lateral separation distance approximating the height of the existing seawall may be appropriate. The area situated between the two walls could be protected with concrete surfacing and possibly be utilized like a sidewalk. Like other portions of Beach Boulevard, pedestrian use should be controlled during adverse wave conditions. If the two wave protection structures are stepped and separated, this may reduce reflective wave energy and consequently reduce the potential for any adverse impacts to adjacent property or improvements. However, the potential for reflective wave energy impacts should be addressed by the Project Coastal Engineer. If the above noted wall separation can be achieved, then we would not have geotechnical objections to the design concept.

In summary, to verify that final proposed changes to garage drainage are properly detailed and acceptable, we recommend that the Project Coastal Engineer evaluate and confirm the adequacy of indicated design changes or supply appropriate supplemental recommendations. To achieve wave protection to elevation 27 feet MSL, we recommend that a second wall be considered that is laterally separated from the existing wall so as to avoid surcharge loading to the existing sea wall. Based on preliminary discussions with City staff, we understand that achieving necessary wall separation appears to be viable. Final proposed new wall configurations should be evaluated and accepted both by the Project Geotechnical Consultant and Coastal Engineer prior to final wall design and issuance of building permits. The Project Geotechnical Consultant should carefully consider the potential for overstressing of the existing seawall, and consult with the Project Structural Engineer to ensure that there is

sufficient wall separation. The potential for any significant offsite impacts (related to new coastal protective structures/two separated walls) should also be evaluated by the Project Coastal Engineer. The Project Civil Engineer should design all aspects of the storm drain system, including garage drainage to confirm adequate fall and capacity.

### LIMITATIONS

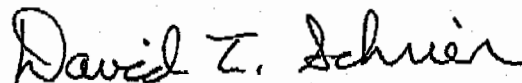
This peer review has been performed to provide technical advice to assist the City with discretionary permit decisions. Our services have been limited to review of the documents previously identified, and a visual review of the property. Our opinions and conclusions are made in accordance with generally accepted principles and practices of the geotechnical profession. This warranty is in lieu of all other warranties, either expressed or implied.

Respectfully submitted,

COTTON, SHIRES AND ASSOCIATES, INC.  
CITY GEOTECHNICAL CONSULTANT



Ted Sayre  
Associate Engineering Geologist  
CEG 1795



David T. Schrier  
Associate Geotechnical Engineer  
GE 2334

TS:DTS:kd

Cc: Scott Holmes

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GeoSoils Inc.

MAR 07 2007

March 2, 2007

CITY OF PACIFICA

Lee Diaz, Assistant Planner  
City of Pacifica  
170 Santa Maria Avenue  
Pacifica, CA 94044

SUBJECT: Additional Discussion of Coastal Hazards and Potential Impacts,  
Pacific Beach Condominiums, 1567 Beach Boulevard, Pacifica,  
California

REFERENCE: Griggs G., Patsch, K., Savoy, L. 2005, Living with the Changing  
California Coast.

Dear Mr. Diaz:

We are pleased to provide this additional discussion regarding the coastal hazards and potential impacts of the proposed development at the subject site. During the course of public input on the project concerns have been raised with regards to wave reflection, flooding of the site from wave overtopping, subsurface geotechnical conditions, coastal erosion in Pacifica area, and the effect of the development on the neighboring properties, the seawall and Beach Blvd. In order to address these concerns herein a brief history of the site and adjacent properties will be provided first, followed by a point by point discussion of the concerns raised. We conclude that the project and the driveway can be designed and constructed so as not to adversely affect the neighboring properties or revetment, Beach Boulevard or the Beach Boulevard seawall, or the hydrological and geological conditions of the area.

#### BRIEF SITE HISTORY

The referenced book by Griggs et. al. provides a condensed history of the Pacifica shoreline. Another source of information regarding shoreline change in Pacifica is from the California Coastal Records Project web site (<http://www.californiacoastline.org/>). Oblique aerial photographs of the shoreline from 1972 to 2005 provide snapshots of the changes along this section of shoreline. The El Nino of 1983 was a pivotal event in Pacifica and resulted in armoring much of the shoreline. Figure 1 shows the project site, labeled C, and the two properties to the north, labeled A and B in 1972 prior to the El Nino of 1983. The picture shows a relatively straight shoreline with a small amount of rock or concrete debris fronting the north end of Beach Blvd and the west end of Belle Vista (declined paper street). There does not appear to be a drain pipe at the end of Belle Vista. It is also interesting to note the fence lines of the properties at that time. Figure 2 shows

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## GeoSoils Inc.

the site and adjacent labeled properties in 1987 a few years after the devastating El Nino of 1983. The photograph shows that the shoreline has been armored except in front of the two properties to the north of the development site. For some reason the property owners at that time did not participate in the armoring effort. You can clearly see the end of the outfall and the combination revetment seawall at the end of Beach Blvd. The patio of property A can be seen hanging over the beach. These properties were armored in the next few years but it is clear the reason that the small cove formed was that the previous property owners allowed the erosion to occur and did not participate in the armoring after the El Nino of 1983. It is also interesting to note the fence line on property B, several feet to the north of where the City eventually installed a drainage pipe and constructed a safety fence



Figure 1. Subject section of shoreline in 1972.

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Figure 2. Subject section of shoreline in 1987.

Figure 3 shows the section of shoreline in 2005. The labeled properties are essentially as they are at this date. The fence line has been continued by a black line which terminates to the north of the storm drain. The armoring at the proposed project site, labeled C, has remained essentially the same since 1987. The City of Pacifica did rehabilitate the Beach Blvd revetment in 2003 and the Shoreview homeowners also did some maintenance of their revetment within the last few years. What is very clear in the 2005 photograph is that properties labeled A and B had armored their bluff with quarry stone and concrete since 1987.

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Figure 3. Subject section of shoreline in 2005.

### WAVE REFLECTION

Concerns have been raised with regards to wave reflection off of the proposed development. The proposed project will not change how wave reflection occurs within the small cove. The cove was created because the owners of the properties in the mid 1980's did not participate in the shore protection effort. The top of the shore protection on properties A and B is about elevation +30 feet MSL. The top of the proposed road improvement at site C is + 27 feet MSL. As waves runup the shore protection along the shoreline the energy becomes less and less with elevation. By the time the wave reaches elevation +25 MSL it has lost 90% of it energy. The water motion is primarily up and down and not lateral. In addition, because properties A and B are higher than site C any lateral movement of water will likely be directed from A and B towards C. It is important to point out that the type of event that can lead to wave runup to elevation +27 MSL is relatively rare (approximately once per year) and will only occur over a short period of time (approximately over an hour). The proposed project will not change how wave runup

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interacts with the Beach Blvd shore protection or Shoreview revetment primarily because there is no proposed change to the shore protection at site C.

### **WAVE OVERTOPPING**

Waves have in the past and will in the future overtop the Beach Blvd shore protection. Our previous investigation determined that on the order of 1 foot of water can come over the top of the wall and travel towards the site. This is not a continuous flow of water like a river but rather a pulse of water that arrives in 15 to 30 second intervals. It will also only occur for about one hour during the highest tide. It will not occur all day long. These short duration pulses of water will be managed at the site in several ways. The only portion of the proposed development that may be impacted is the garage. A garage is not habitable and under FEMA can be allowed to be temporarily flooded. There are many garage structures on the open California coast, at elevations considerably lower than the proposed garage elevation, that manage this type of short term flooding. We have provided examples of this type of development in our previous correspondence. Flooding in this case is about one foot of water coming on to the site. The impact of this pulse of water is mitigated in several ways. The first way is the orientation of the garage entrance. The garage entrance is not directly open to the dominant direction of wave runup. The wave overtopping water needs to make a turn to even approach the garage. The driveway is crowned so that wave overtopping wave has to run up hill. Finally, there is a trench drain at the entrance of the garage that is sized to intercept this water before it gets into the garage. This drain has the capacity to move a volume of water equal to the volume of the garage in two hours. High waves and high tides are easily predicated and usually there is a few days notice of an extreme event. With this kind of notice, the garage entrance can be blocked by sand bags for the 1 or 2 hour window to eliminate any water even reaching the trench drain. For these reasons wave overtopping waters will not significantly impact the proposed development.

### **GEOTECHNICAL CONCERNS**

While outside our scope of work we would like to offer the following comments concerning geotechnical issues. In the past, prior to armoring, the shoreline experienced erosion at a high rate. Since the armoring of the shoreline, the erosion has been essentially stopped. The proposed project at site C is unlike properties A and B in that there is a public street between the site and the shore protection. The actual proposed condo building is further from the shoreline than properties A and B. There was also concern about "subterranean caving" on Shoreview Avenue properties. Site specific geotechnical information for the project site has been provided and this information has been reviewed by the City's third party peer reviewers to their satisfaction.

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### IMPACT ON BEACH BOULEVARD AND SEAWALL

Concerns have been expressed with regards to the impact on the seawall of raising Beach Blvd about 2.25 feet. This increase in height would add a relatively small surcharge to the seawall. This type of condition is similar to the higher portion of Beach Blvd at the foot of Carmel Street where the seawall is already surcharged. If this small surcharge is of concern the impact of raising the road can be mitigated through design. The raised portion of the road could be founded on a deepened footing or even on piers, so as to not surcharge the seawall at all.

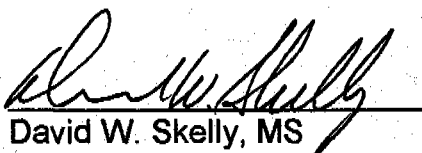
### SUMMARY

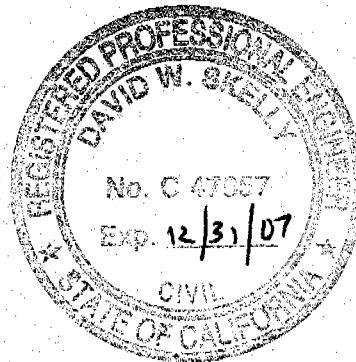
Based upon the design of the project and its location relative to other nearby properties both in distance and elevation, the proposed project will not have any impacts on the neighboring properties. Wave runup and overtopping will not adversely impact this project over the life of the proposed improvement. The proposed development will not reflect waves so as to adversely effect the area, and will neither create nor contribute to erosion, geologic instability, or destruction of the site or adjacent area. There are no additional recommendations necessary for wave overtopping protection and it is very unlikely that any additional of shore protection will be needed to protect the site in the next 75 years.

### LIMITATIONS

Coastal engineering is characterized by uncertainty. Professional judgments presented herein are based partly on our evaluation of the technical information gathered, partly on our understanding of the proposed construction, and partly on our general experience. Our engineering work and judgments have been prepared in accordance with current accepted standards of engineering practice.

Respectfully Submitted,

  
David W. Skelly, MS  
RCE #47857



**5741 Palmer Way, Suite D, Carlsbad, CA 92008 W.O. S4327 760-438-3155**

## **GeoSoils Inc.**

March 22, 2007

Mr. Lee Diaz, Assistant Planner  
City of Pacifica  
170 Santa Maria Avenue  
Pacifica, CA 94044

**SUBJECT:** Additional Discussion of Raising Beach Boulevard, Wave Runup Reflection, and Garage Flooding, Pacific Beach Condominiums, 1567 Beach Boulevard, Pacifica, California

Dear Mr. Diaz:

We are pleased to provide this additional discussion regarding the potential impacts of the raising Beach Boulevard for the subject site development. To facilitate safe access and egress into the proposed garage Beach Boulevard needs to be raised about 2 feet near the northwest corner of the development site. The project design under consideration calls for the raising of Beach Boulevard to a height of 27+/- feet MSL at its highest point in front of the project site, with no addition to the seawall itself. The following is our analysis regardless of whether the raised Beach Boulevard is designed to include a retaining wall. It is our understanding that there are three issues with this aspect of the development for which the City of Pacifica requests additional clarification. The first issue is whether or not raising of the street will change how wave energy reflects off the existing shore protection. The second issue is will the raising of the street require a retaining wall and will it surcharge the existing vertical reinforced earth (RE) wall fronting the street. The third issue is the potential for flooding of the garage. For the reasons discussed below, we conclude that wave reflection will not be impacted by the raising of Beach Boulevard.

1. There has been much discussion of "waves" impacting the development. In reality it is wave runup, water moving in a bore after the wave breaks, that can travel up and over the shore protection. It is important to point out that this rare event extreme wave runup may look dramatic when it hits the seawall but in reality it is less than a foot of water actually flowing on the street. This is a very infrequent event. This is shown in Figures 1 and 2. Wave runup motion especially at this elevation is primarily up and down as it hits the structure. The crest elevation (highest) of the raised street is about +27 feet MSL. This is at the very upper limit of wave runup. The wave has lost almost all of its energy at this elevation. Any water that hits the raised portion of the road will either fall back into the ocean, straight down, or overtop the road as it has in the past. Once the water travels across the road, it loses energy and will flow to the south along the street drainage path, where Beach Boulevard is lower.

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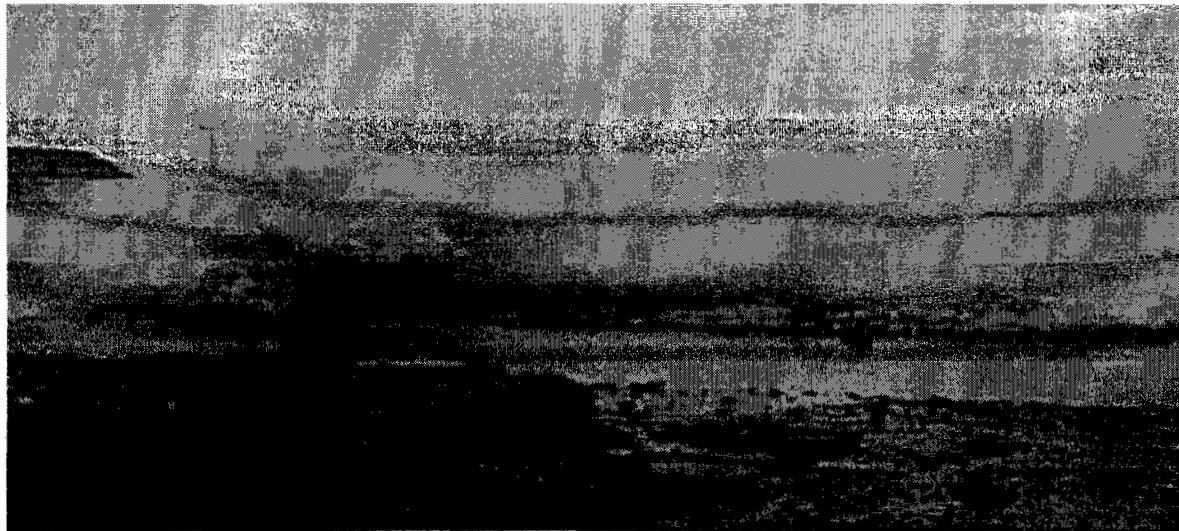
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Figure 1. Overtopping of the Pacifica shore protection during an El Nino winter. Note the very dramatic splash. However, the water flowing on Beach Boulevard is only a few inches deep.



Figure 2. Wave overtopping traveling across Beach Boulevard. Note the water is only a few inches deep and flows down slope along the street drainage path.

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2. The properties to the north of the proposed raised street end are at a higher elevation, approximately +30 feet. Once water comes over the top of the shore protection it flows downslope. The raised street at its crest is at elevation +27. Overtopping water will not flow 3 feet up-hill or laterally uphill to the properties to the north. If wave reflection were an issue it would be wave reflection from these northern properties to the subject site.

3. The shore protection that currently fronts the site is the rocks and the RE wall. There are no proposed changes to this shore protection. Because there is no change proposed to the existing seawall, there would be no change in the wave runup motion, and existing patterns of coastal erosion, and the effectiveness of the existing seawall and revetment protecting the Shoreview Avenue homes will not be impacted by the Project.

Concerns have been expressed with regards to the impact on the seawall of raising Beach Blvd about 2.25 feet. This increase in height would add a relatively small and inconsequential surcharge to the seawall, which can be mitigated through engineering design. This type of condition is similar to the higher portion of Beach Blvd at the foot of Carmel Street where the seawall is already surcharged. Any small surcharge can be mitigated through design such as the raised portion of the road could be founded on a deepened footing or even on piers, so as to not surcharge the seawall at all.

The third and last issue is with regards to the vulnerability of the garage to flooding. As the City knows the location and orientation of the garage entrance has been modified during the course of planning in order to reduce the potential for wave runup to reach the garage. The actual entrance to the garage is the highest point of Beach Boulevard fronting the site. Waves have in the past and will in the future overtop the Beach Blvd shore protection. This is not a continuous flow of water like a river but rather a pulse of water that arrives in 15 to 30 second intervals. It will also only occur for about one hour during the highest tide. It will not occur all day long. These short duration pulses of water will be managed at the site in several ways. The water will primarily flow down the street drainage path. As a result of reviewer comments the garage opening is not directly open to the overtopping water but rather perpendicular to the ocean. The garage entrance is not directly open to the dominant direction of wave runup. These overtopping waters will have to travel up slope to get into the garage. As explained in the first part of this letter water does not travel uphill easily. Water wants to flow downhill.

The only portion of the proposed development that may be impacted by a small amount of water is the garage. This will occur very infrequently. A garage is not habitable and under FEMA can be allowed to be temporarily flooded. There are many garage structures on the open California coast, at elevations considerably lower than the proposed garage elevation, that manage this type of short term flooding. We have provided examples of this type of development in our previous correspondence. Flooding in this case is less than

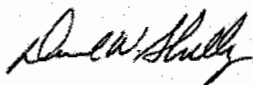
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## GeoSoils Inc.

one foot in height of water coming on to the site. With the current design pursuant to which Beach Boulevard ascends northward from the subject property line to the crown in the driveway area, the impact of this pulse of water is mitigated in several ways. The impact of this pulse of water is mitigated in several ways. The first way is the orientation of the garage entrance. The wave overtopping water needs to make a turn to even approach the garage. The driveway is crowned so that wave overtopping wave has to run up hill from any point of the seawall. Waves that overtop the seawall on the southern portion of site would need to ascend the driveway and then make the turn to descend into the garage. The project design calls for sidewalk and curb along Beach Boulevard fronting the building, which would route the water downhill and into the City's storm drain system. The garage entrance is located at the area behind which Beach Boulevard will be raised at its highest elevation. Finally, there is a trench drain at the entrance of the garage that is sized to intercept this water before it gets into the garage. This drain has the capacity to move a volume of water equal to the volume of the garage in two hours. High waves and high tides are easily predicated and usually there is a few days notice of an extreme event. With this kind of notice, the garage entrance can be blocked by sand bags for the 1 or 2 hour window to eliminate any water even reaching the trench drain. For these reasons wave overtopping waters will not significantly impact the proposed development as currently designed and mitigated by the raising of Beach Boulevard, without addition to the existing seawall.

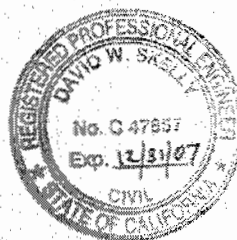
To summarize, based upon the design of the project and its location relative to other nearby properties both in distance and elevation, the proposed project will not have any impacts on the neighboring properties. Wave runup and overtopping will not adversely impact this project over the life of the proposed improvement. The proposed development will not reflect waves so as to adversely affect the area, and will neither create nor contribute to erosion, geologic instability, or destruction of the site or adjacent area. There are no additional recommendations necessary for wave overtopping protection.

Respectfully Submitted,



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David W. Skelly, MS  
RCE #47857



**5741 Palmer Way, Suite D, Carlsbad, CA 92008 W.O. S4327 760-438-3155**



# Nadia V. Holober

Attorney at Law

Ten Almaden Boulevard • Suite 1460 • San Jose, California 95113-2233  
Telephone: (408) 293-3911 • Fax: (408) 293-1999 • email: nvh@nadiaholober.com

**RECEIVED**

JUL 13 2007

CALIFORNIA  
COASTAL COMMISSION

July 11, 2007

Via Facsimile and U.S. Mail

Michelle Jespersen  
Coastal Planner, North Central Coast District  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105

Re: Nine-Unit In-fill Condominium Project at 1567 Beach Boulevard, Pacifica  
California Coastal Commission Appeal No. A-2-PAC-07-022

Dear Ms. Jespersen:

We have reviewed the appeals filed by three of the neighbors in the above-referenced in-fill condominium project ("Project") and respectfully submit this letter on behalf of the Applicant/Appellee in an effort to assist in timely addressing the matters raised by Appellant neighbors. Our response will be confined to the contentions raised by the three Appellant neighbors, as no Coastal Commissioner nor environmental group nor community group has appealed the decision of the Pacifica City Council on a vote of 4-0-0, and the decision of the Planning Commission on a 6-1 vote, to approve the Project. These approvals follow some four (4) years of analysis by City of Pacifica ("City") staff, the Project engineer who holds a Ph.D. in Hydraulics, the Geotechnical consultant, the Coastal engineer, the City's engineers, and the City's peer review engineers, and at least four (4) public hearings. At none of these public hearing were any of the Appellants or anyone else inclined or able to bring forth *any* expert opinion that this redevelopment in-fill Project, located on a previously developed site behind a seawall and a public street from the coast, would have *any* adverse effect on ocean processes, the seawall, the revetment fronting the neighboring subdivision, the public road Beach Boulevard or access therefrom to or along the ocean, wave run-up or action, or the hydrology or geology of the site or surrounding properties. The administrative record evidences strong legal and factual support for the City's conclusion that the Project is consistent with the LCP and we respectfully submit that Appellants have not raised a substantial issue of inconsistency either with the LCP or the California Coastal Act.

As stated in the Commission's standard appeal form and in Cal. Pub. Resources Code ("Code") sec. 30603(b), grounds for appeal of a decision of a local agency that has a certified local coastal plan "shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public

access policies set forth in [the California Coastal Act].” Therefore, this letter will not address Appellant Roberta Schuler’s contention that she somehow has acquired ownership of a portion of the Applicant’s property, which contention is without any documentary support and has been rejected by recorded survey and the City Attorney and City, or her citations to section 10-1.102 (found in the City’s Subdivision Code) and section 9-4.202.1 (found in the definitions section of the City’s Planning and Zoning Code). Nor will this letter address Appellant Nancy Merchant’s rejected contention that a portion of the Applicant’s property that was offered, but rejected in writing, as a dedication for a half-road in 1907 somehow belongs to someone other than the Applicant.

1. Background

The Project is a principally permitted use on a lot on which a large residential structure, now demolished except for the free-standing garage, had stood for decades and decades. The proposed driveway is in the location where the driveway has always been, and the Project site is on the east side of Beach Boulevard which is, and shall remain, a public roadway open to traffic and pedestrians. The City in its certified Local Coast Plan, General Plan and zoning ordinances has determined that this site is appropriate for multi-family residential use at a density of sixteen (16) to twenty-one (21) units per acre. The Project with nine (9) residential units is within that density, and also meets all height, setback, floor area ratio and parking requirements imposed by the Pacifica Municipal Code equally on all development in the Project area, and complies with the City’s current design guidelines. It is a stepped-back three-story multi-family residential in-fill project in an area predominated by two- and three-story multi-family residential buildings, and is setback from Beach Boulevard several feet further than was the prior structure and than is required by the applicable zoning ordinance. Across Beach Boulevard from the Project site is the Beach Boulevard seawall, which will remain as it appears today, and the ocean below.

The Project site is shown on Attachment A hereto, a photo taken in 2005 and printed from [www.californiacoastline.org](http://www.californiacoastline.org). The Project site is located adjacent to the white truck shown on Beach Boulevard in the foreground. Note that the Project site is completely surrounded by developed property and that it is bordered by two- and three-story multi-family residences and garages on the east and south. (For additional visual of existing street and driveway, the prior use of Project site and the existing Beach Boulevard seawall, see the Fall 2002 photograph of site, taken from [www.californiacoastline.org](http://www.californiacoastline.org) and provided with the City’s administrative record.)

2. Appeal by Nancy Merchant

A. Argument Based upon Local Coastal Land Use Plan Policy 16 and Code Sec. 30235

As Appellant Merchant correctly states “the Project will not alter the seawall directly in front of the subject site or change the existing shore protection.” (Merchant Appeal at Attachment 1, Sheet 1.) See also the letter opinion by Coastal Engineer David W. Skelly, MS, PE, GeoSoils Inc., entitled Additional Discussion of Raising Beach Boulevard, Wave Runup Reflection, and Garage Flooding, Pacific Beach Condominiums, 1567 Beach Boulevard, Pacifica, California at 3 (March 22, 2007) (“Because there is no

change proposed to the existing seawall, there would be no change in wave runup motion, and existing patterns of coastal erosion, and the effectiveness of the existing seawall and revetment protecting the Shoreview Avenue homes will not be impacted by the Project.”) Yet Appellant Merchant contends that the Project somehow violates Code sec. 30235 and Local Coastal Land Use Plan (LCP) Policy 16, which permit seawall and other construction “that alters natural shoreline processes” under various circumstances:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fishkills should be phased out or upgraded where feasible.

|| There is no evidence on the record that the raising the driveway some two feet or any other part of the Project will in any way affect shoreline processes or the environment. The driveway is proposed to be raised to prevent water from entering the garage. There is no shoreline protection required to protect the proposed structure and none is proposed. The City reviewed the expert opinion of Coastal engineer David W. Skelly, who, after thorough analysis, concluded that no shoreline protection beyond which exists today will be required for the life of the Project:

To summarize, based upon the design of the project and its location relative to other nearby properties both in distance and elevation, the proposed project will not have any impacts on the neighboring properties. Wave runup and overtopping will not adversely impact this project over the life of the proposed improvement. The proposed development will not reflect waves so as to adversely affect the area, and will neither create nor contribute to erosion, geologic instability, or destruction of the site or adjacent area. There are no additional recommendations necessary for wave overtopping protection and it is very unlikely that any additional of shore protection will be needed to protect the site in the next 75 years.

(David W. Skelly, GeoSoils Inc., Additional Discussion of Raising Beach Boulevard, Wave Runup Reflection, and Garage Flooding, Pacific Beach Condominiums, 1567 Beach Boulevard, Pacifica, California at 4 (March 22, 2007); see also David W. Skelly, GeoSoils Inc., Additional Discussion of Raising Beach Boulevard, Wave Runup Reflection, and Garage Flooding, Pacific Beach Condominiums, 1567 Beach Boulevard, Pacifica, California at 5 (March 2, 2007) (same).)

#### B. Argument Based upon LCP Policy 26 and Code Sec. 30253

In the preparation of the Initial Study and Mitigated Negative Declaration for the Project, the City examined eight (8) environmental impact analyses prepared by engineering consultants and the City’s peer review engineering consultants. Those

analyses included two (2) technical investigations, three (3) geotechnical peer reviews, and two (2) coastal hazard studies. (Initial Study and Mitigated Negative Declaration at 25.) Mitigation measures were adopted to mitigate project impacts as they were identified. During the course of the City's public hearings, two (2) more coastal hazard studies were prepared. City decision-makers also heard the testimony of Project engineer Bahram Mozayeny, Ph.D., Hydraulics, geotechnical engineer Joel Baldwin of Earth Investigations Consultants, coastal engineer David W. Skelly, architect Bill Riddle and the City engineers, which testimony is memorialized in the minutes of the City Council meetings of January 22, April 23 and May 14, 2007. All expert testimony, investigations, reviews and studies concluded that the Project will not pose a risk to life or property and that the Project is of high stability and structural integrity and will neither create nor contribute to erosion, geologic instability, or destruction of the site, the seawall or the surrounding area.

Appellant Merchant asserts, however, that she believes that the Project is inconsistent with LCP Policy 26 and Code Sec. 30253(1)&(2), which state that new development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

With regard to subsection (1), we note that residents reside all along Beach Boulevard and nothing in the record supports a conclusion that the Project is located in an area of high geologic, flood, or fire hazard. Furthermore, the administrative record is replete with facts of measures taken to protect life and property, such as the Project's raising of the first floor above a partially underground garage, sidewalk construction, side garage entrance and raised driveway, and protective windows. Conversely, neither the Appellant nor anyone else has proffered any evidence of dangerous debris or other conditions at the Project site, and they have proffered no evidence that any alleged condition would be exacerbated by the Project.

With regard to subsection (2), we cite again the myriad of tests performed by experts at the Project site, including the geotechnical engineer's performance to professional industry standards of onsite borings in excess of 50 feet to ensure geologic stability. The geotechnical consultant, Earth Investigations Consultants, concluded based on its testing that the "proposed building plan is feasible from a geotechnical standpoint," and the City's peer review expert agreed. (Earth Investigations Consultants, Supplemental Technical Investigation at 8, 1567 Beach Boulevard, Pacifica, California (June 7, 2004).) It also concluded based on those test borings and other tests performed in the area that "the risk of liquefaction at the site is low," and therefore "the risk is also low for lateral spreading or earthquake-induced landsliding of the bluff affecting the

site.” (*Id.* at 7 and 8.) The Project does not touch and cannot “alter natural landforms along bluffs and cliffs.” Finally, as discussed in Part 1A, above, all evidence on the record indicates that no shoreline protection beyond which exists today will be required for the life of the Project.

C. Argument Based upon Pacifica Municipal Code sec. 9-4.4406

As discussed above, Code sec. 30603(b) limits the grounds for appeal to the Coastal Commission of a decision of a local agency that has a certified local coastal plan “to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in [the California Coastal Act].” The Legislature could have allowed appeal based upon local ordinances or sewer services, but did not. Therefore, Appellant may not appeal based on local ordinance or sewer line design. This being so, we note that Appellant’s assertion is refuted by the Minutes of the City Council meeting of April 23, 2007, at which City Public Works Director Scott Holmes testified that sewer line maintenance will not be affected by the Project. Further, we incorporate by reference the discussion in Part 2A above regarding that all expert testimony and opinion on the records states that no seawall is proposed for this Project and that no seawall protection will be needed for the life of the new condominium structure, and the discussion in Part 2B with regard to the geological testing and stability of the Project site. Any work cited by Appellant that the City is performing to any seawall is not near the Project site and not within the scope of, and not affected by, this coastal development application. Finally, to the extent that the Appellant suggests that coastal hazard analysis failed to consider sea level rise, she is mistaken. (See, David W. Skelly, GeoSoils Inc., Coastal Hazard Study, 1567 Beach Boulevard, Pacifica, California (May 5, 2004).)

D. Argument Based upon LCP Policy 5

Appellant Merchant asserts that the Project is inconsistent with LCP Policy 5, which encourages affordable housing and lower cost visitor and recreational facilities. This Project has been in the approval process for over four years. The City determined that the construction of affordable housing as part of this Project was infeasible. Appellant Merchant correctly states that the City has adopted an affordable housing ordinance, and the ordinance applies prospectively to project applications deemed complete after the ordinance’s May 9, 2007 effective date. Although no one is asserting that the ordinance applies to this Project, we note that in developing the ordinance, the City adopted alternatives for projects, such as this one, on which the City has determined that construction of below market housing is infeasible because of the parcel’s small size or other factors. The ordinance provides for exemptions, waivers, adjustments, reductions and such other alternatives as off-site construction, fee payment, dedication or a combination of alternatives. (Pacifica Municipal Code sec. 9-4.4702(c), 9-4.4706, 9-4.4710.) It also mandates that a project that provides affordable housing “automatically qualify[ies]” for a density bonus beyond the density allowed by the general plan and zoning ordinance, a guarantee that was adopted long after the infeasibility determination was made and would have resulted in a project of more than the current nine (9) units. (Pacifica Municipal Code sec. 9-9.4707.)

E. Argument Entitled "Land Use/Public Access"

As discussed above, Cal. Pub. Resources Code sec. 30603(b) limits the grounds for appeal to the Coastal Commission of a decision of a local agency that has a certified local coastal plan "to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in [the California Coastal Act]." Therefore, we will not address Appellant Merchant's "brief history," except to say that the City correctly pointed out that there is no City right-of-way on the Project site, and that there is no record of "abandonment, vacation or quit claim deed" because the City never had anything to abandon, vacate or quit claim.

E1. Sub-argument based upon LCP pages C-34 and C-35 pertaining to the Sharp Park School and Ocean Park Subdivision

Appellant Merchant cites LCP pages C-34 and C-35, pertaining to the Sharp Park School and Ocean Park Subdivision, for the proposition that these pages of the LCP:

show clear intent to protect **this exact location** from future development unless it is to provide beach access. Although Bella Vista is not mentioned by name, its identity is clear from the text.

(Merchant Appeal at Attachment 1, Sheet 5 (emphasis is Appellant's).) Her appeal proceeds to quote a section referencing "bluff vegetative habitat," a "protective open space zone," "development to the beach of a public access," and "Shoreview [Avenue], the adjacent public street." Appellant Merchant's argument is misplaced because the Project site *is not even in the Sharp Park School and Ocean Park Subdivision* to which pages C-34 and C-35 applies. Pages C-34 and C-35 and the access areas discussed therein apply to the area located to the west of "Shoreview [Avenue], the adjacent public street," as the text quoted by Appellant Merchant states. The Shoreview Avenue public access area discussed in the section quoted by Appellant is clearly shown and analyzed further at page C-73 of the LCP. (See also, City's approved "Coastal Plan Beach Access" immediately following page C-63 of the LCP.) }

None of the Appellants raise any argument that the Project somehow is inconsistent with LCP pages C-35 through C-37, which specifically references Beach Boulevard and coastal access from Paloma Avenue and which governs the area just to the south of pages C-34 and C-35. The Project is located in the area covered by LCP pages C-35 (middle of page) through C-37 and not in the area to the north covered by LCP pages C-34 and C-35 (beginning of page). For convenience, we have attached the LCP land use plan for the Sharp Park area and have attached it hereto as Attachment B, and indicated on the first page of Attachment the respective locations of the Shoreview Avenue and Paloma Avenue public accesses, and the Project site.

E2. Sub-argument based upon LCP page C-106 pertaining to community design

The LCP's conclusions regarding community design, beginning at page C-105, recognize that development is to be at differing scales in Pacifica's various neighborhoods. The community design conclusions state, in the part cited by Appellant Merchant:

The scale problems of each of these neighborhoods varies, depending on its existing use, its condition and future proposals. In addition, since highly visible portions of Pacifica's coastline are now undeveloped and other areas may be re-used in the future, the impact of this future development on the open appearance and character of Pacifica's coastline could be substantial. Of particular concern is the area adjacent to the sandy beaches. The conclusions aimed at protecting the existing scale and open appearance and character of Pacifica's coastline are: [nine bullet points follow].

(LCP at pages 105-106, Merchant Appeal at Attachment 1, Sheet 6.) Initially, we note that the Project site is not along undeveloped coastline and is not "adjacent to the sandy beaches," but to a public street across from a seawall and 20+ foot drop to the ocean. (See Attachment A hereto.) Further, as explained in Part 1, above, the City in its certified Local Coast Plan, General Plan and zoning ordinances has determined the community design for the Project site area to be multi-family residential use at a density of sixteen (16) to twenty-one (21) units per acre, and the Project with nine (9) residential units is within that density and also is compliant with all standards set for the area.

In this section, Appellant Merchant also states that "[v]iews from Shoreview [Avenue] would be eliminated rather than re-established," referring back to LCP pages C-34 and C-35, pertaining to the Sharp Park School and Ocean Park Subdivision to the north and discussed in Part 2E1, above. To the extent that Appellant is suggesting that the Project would block coastal views from Shoreview Avenue, it should be noted that Shoreview Avenue is developed with residential uses on both sides of the street and the coast and the Project site therefore are not visible from Shoreview Avenue. (See Attachment A hereto.) The LCP language regarding re-establishment of views from Shoreview Avenue apparently contemplates the removal of the homes on the west side of Shoreview Avenue.

Also in this section, Appellant Merchant also states that "[a]dditional consideration needs to be given to the periodic maintenance necessary to protect the seawall and revetments," and asserts that the "north end of Beach Boulevard is the only location north of the pier where access is feasible." Regardless of whether these statements are accurate, we note again that Beach Boulevard will remain a public street and nothing in the record evidences that the Project will affect access to, across and from Beach Boulevard to the ocean, or the Beach Boulevard seawall or the Shoreview Avenue revetment.

F. Argument Based upon Local Coastal Land Use Plan Policy 25 and Code Sec. 30252

Appellant Merchant concedes that "the project would conform to current zoning guidelines for on-site parking," but argues that the Project does not comply with Local



Coastal Land Use Plan Policy 25 and Code Sec. 30252, which requires new development to "provid[e] adequate parking facilities." (Merchant Appeal at Attachment 1, Sheet 7.) In fact, the Project provides two parking spaces for each residential unit and three guest parking spaces, which is more guest parking spaces than prescribed by ordinance for nine-unit condominium development. (See e.g., Planning Commission Staff Report (9 Condominiums) dated October 16, 2006, pages 2, 4.) Appellant Merchant states that at the apartment building at 77 Paloma Avenue where she resides, only 78 parking spaces are provided for 71 units. Although the Applicant sympathizes with the Appellant regarding the lack of parking at her apartment building, nothing in the LCP or Code states that new development needs to provide parking opportunities for other developments.

G. Argument Based upon Local Coastal Land Use Plan Policy 24 and Code Sec. 30251

Finally, Appellant Merchant argues that the Project does not comply with Local Coastal Land Use Plan Policy 24 and Code Sec. 30251, which state that "development shall be sited and designed to protect views to and along the ocean and scenic coastal areas." (Merchant Appeal at Attachment 1, Sheet 7.) As discussed above, the Project is on the east side of Beach Boulevard, which is a public street that will remain public for ocean and scenic area viewing. Visual and physical access to the shore will remain as it historically has been and as it is today. There are no public views "to and along the ocean and scenic coastal areas" that will be impacted by the Project because there no public area to the south, east or north of the Project site. All of these areas are in private ownership and are developed with one-, two- and three-story structures. The Project will not affect any plans for trails or bicycle paths on Beach Boulevard. The "treasured spot" opposite the Project site cited by Appellant Merchant will be unaffected, and pedestrian access will be enhanced by the construction of a sidewalk. There is no beach or walkable area to the west of the seawall, only ocean, and thus no public views are affected from the oceanside of the seawall. (See *Schneider v. California Coastal Commission*, 140 Cal.App.4th 1339, 1343 (2006) (Coastal Commission improperly considered Project's aesthetic impacts from offshore).) This Project is consistent with the language of Local Coastal Land Use Plan Policy 24 and Code Sec. 30251 that specifies that "development shall be sited and designed to protect views to and along the ocean and scenic coastal areas."

3. Appeal by Patrick Rentsch

A. Argument Based upon LCP Policy 26 and Code Sec. 30253

We incorporate by this reference our response stated in Part 2B, above. With regard to Appellant Rentsch's specific allegations, we respectfully respond that:

- (a) The driveway is not at the edge of the seawall. The seawall will be bordered by Beach Boulevard, which is and will continue to be a public road.
- (b) All expert testimony and analysis on the record supports the City's conclusion that the Project's setback from the seawall is sufficient.



(c) All expert testimony and analysis on the record supports the City's conclusion that the Project can be built without affecting the Shoreview revetment. (See e.g., David W. Skelly, MS, PE, GeoSoils Inc., Additional Discussion of Coastal Hazards and Potential Impacts, Pacific Beach Condominiums, 1567 Beach Boulevard, Pacifica, California at 1 (March 2, 2007) ("the project and the driveway can be designed and constructed so as not to adversely affect the neighboring properties or revetment, Beach Boulevard or the Beach Boulevard seawall, or the hydrological and geological conditions of the area."))

(d) As discussed above, the raising is proposed to prevent water from entering the garage.

B. Argument Based upon LCP Policy 24 and Code Sec. 30251

We incorporate by this reference our response stated in Part 2G, above. With regard to Appellant Rentsch's specific allegations, we respectfully respond that:

(a) The Project side is bordered on the west side by Beach Boulevard, which is a public street that will remain public for ocean and scenic area viewing, and there are no public views "to and along the ocean and scenic coastal areas" that will be impacted by the Project because there no public area to the south, east or north of the Project site. There are no public views from Shoreview Avenue because the street is developed on both sides, including the coastal side, by private residences. Alleged sunlight diminution to private property is outside the scope of LCP Policy 24 and Code Sec. 30251.

(b) As explained in Part 1, above, the Project is compatible with the City's design standards for this area of two- and three-story multi-family structures. The City's conclusion that the Project is visually compatible with the area is supported by the administrative record.

4. Appeal by Roberta Schuler

A. Argument Based upon LCP Policy 16

We incorporate by this reference our response stated in Part 2A, above. With regard to Appellant Schuler's specific allegations, we respectfully respond that the Applicant does not intend "to overtake and excavate" any portion of Ms. Schuler's property and that access from Beach Boulevard to the Shoreview Avenue revetment will not be changed by the Project.

B. Argument Based upon LCP Policy 26

We incorporate by this reference our response stated in Parts 2B and 3A, above. With regard to Appellant Schuler's specific allegations, we respectfully respond that all expert testimony and analysis on the record supports the City's conclusion that the Project can be built without affecting the neighboring Shoreview Avenue property. (See e.g., David W. Skelly, MS, PE, GeoSoils Inc., Additional Discussion of Coastal Hazards and Potential Impacts, Pacific Beach Condominiums, 1567 Beach Boulevard, Pacifica, California at 1 (March 2, 2007) ("the project and the driveway can be designed and

constructed so as not to adversely affect the neighboring properties or revetment, Beach Boulevard or the Beach Boulevard seawall, or the hydrological and geological conditions of the area.”)

B. Argument Based upon LCP Policy 24

We incorporate by this reference our response stated in Parts 2G and 3B, above. With regard to Appellant Schuler’s specific allegations, we respectfully respond that the LCP and City’s General Plan and zoning contemplate a residential use at the Project site just as is proposed here and that a highlights guard is identified on the plans for the Project.

For all of the reasons above, we respectfully ask that the California Coastal Commission find that none of the three appeals filed raise any substantial issue warranting further Commission action. We are happy to provide any further information that might be of assistance to the California Coastal Commission in its consideration of the appeals of the Project.

Thank you for this opportunity to respond to the allegation of the appeals. We sincerely believe that this Project will add to the visual quality of the area, and look forward to answering any questions Coastal Commission staff may have regarding the Project or this letter.

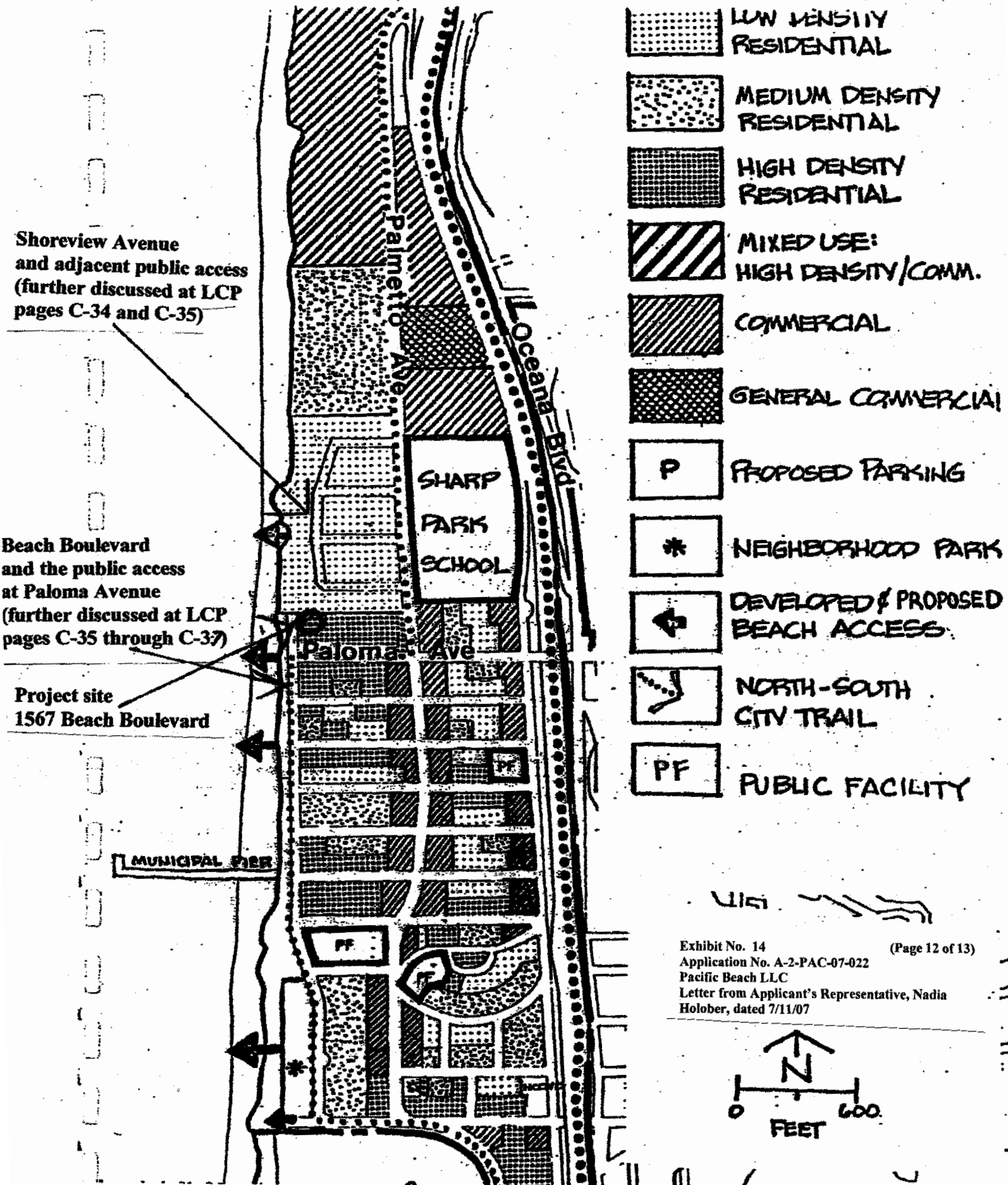
Respectfully Submitted,

  
Nadia V. Holober

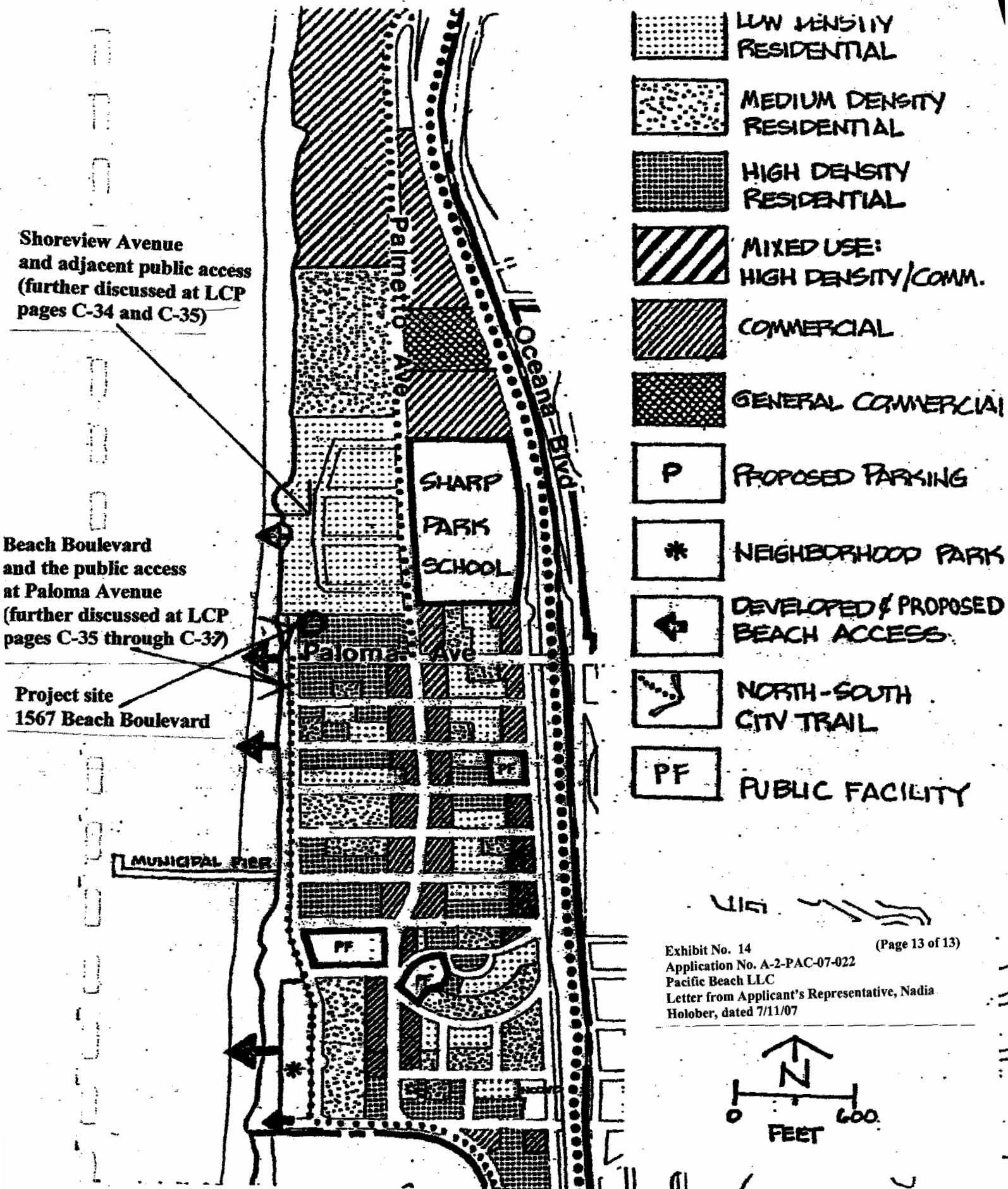


Exhibit No. 14 (Page 11 of 13)  
Application No. A-2-PAC-07-022  
Pacific Beach LLC  
Letter from Applicant's Representative, Nadia  
Holober, dated 7/11/07

Land Use Map  
(Found Immediately Following Page C-31 of the LCP)



Land Use Map  
(Found Immediately Following Page C-31 of the LCP)



**RECEIVED**

JUL 03 2007

CALIFORNIA  
COASTAL COMMISSION

Nancy L. Merchant  
77 Paloma Avenue #201  
Pacifica, CA 94044-2249  
(650) 359-1599  
nmerch24@aol.com

July 1, 2007

Ms. Michelle Jesperson  
California Coastal Commission  
Northern Central Coast District Office  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

**Re: 1567 Beach Blvd., Pacifica  
A-2-PAC-07-022**

Dear Michelle,

Because this project has morphed from the plans that were in existence at the time it was approved by the Planning Commission and that were evaluated for the Mitigated Negative Declaration (MND), I am concerned that the area north of the fence may not have been considered as part of the project for geotechnical reports and conclusions reached by the various consultants. Yet that location is precisely where the Applicant wishes to put the driveway and also to raise it as a shoreline protection mitigation (also different from that proposed in the MND).

I hope that you will be able to make a site visit; and I would like very much to be included so that I may point out some of my concerns. In case that does not happen, I am enclosing a document with several relevant pictures.

Thank you for your continued consideration of this sensitive project.

Sincerely,

*Nancy L. Merchant*

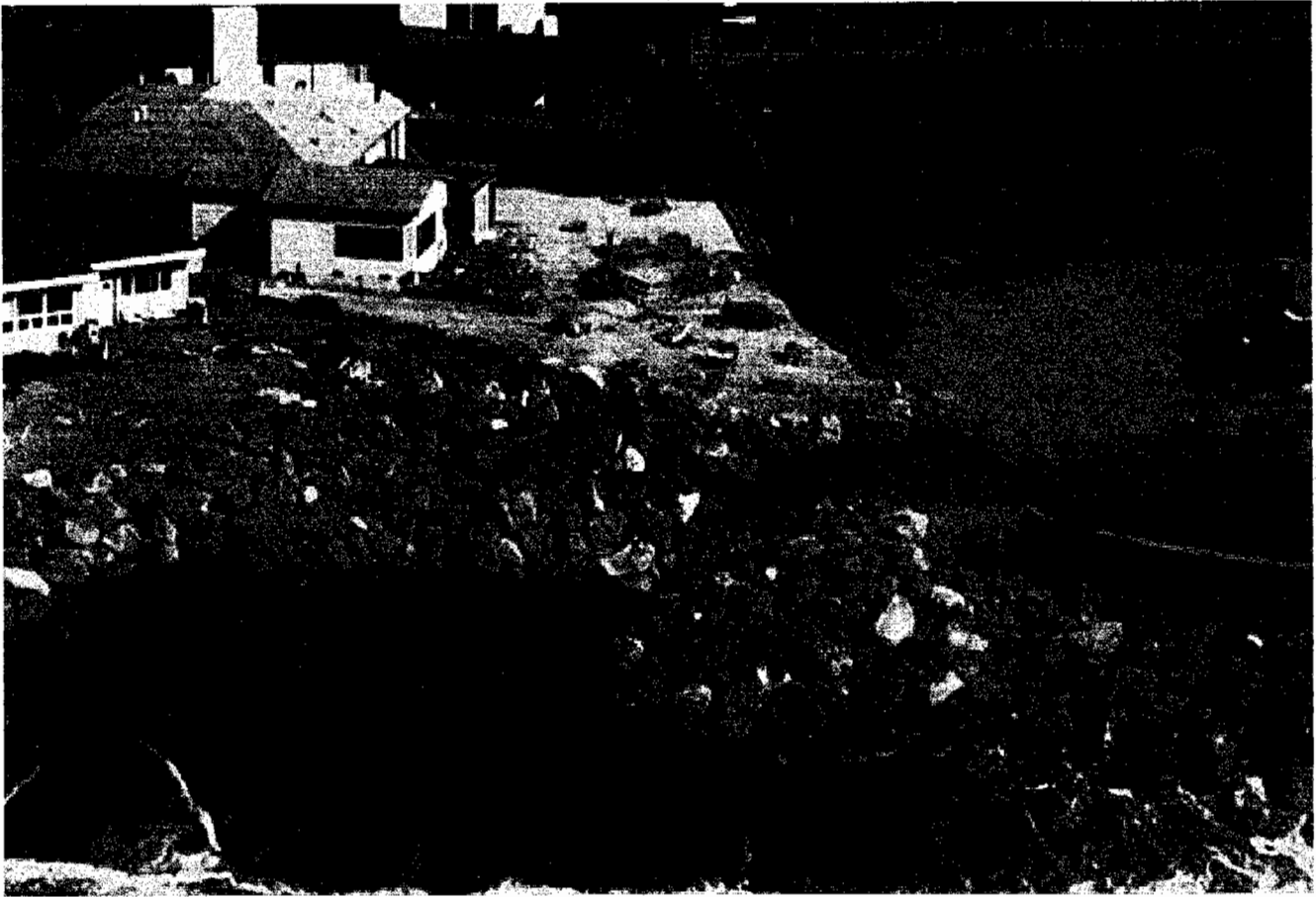
Nancy L. Merchant

Encl.

cc: Jo Ginsberg, Enforcement Analyst, California Coastal Commission  
Mark Massara, Director, Sierra Club Coastal Programs (via email)



Picture 1 – North End of Project Site, October 2005

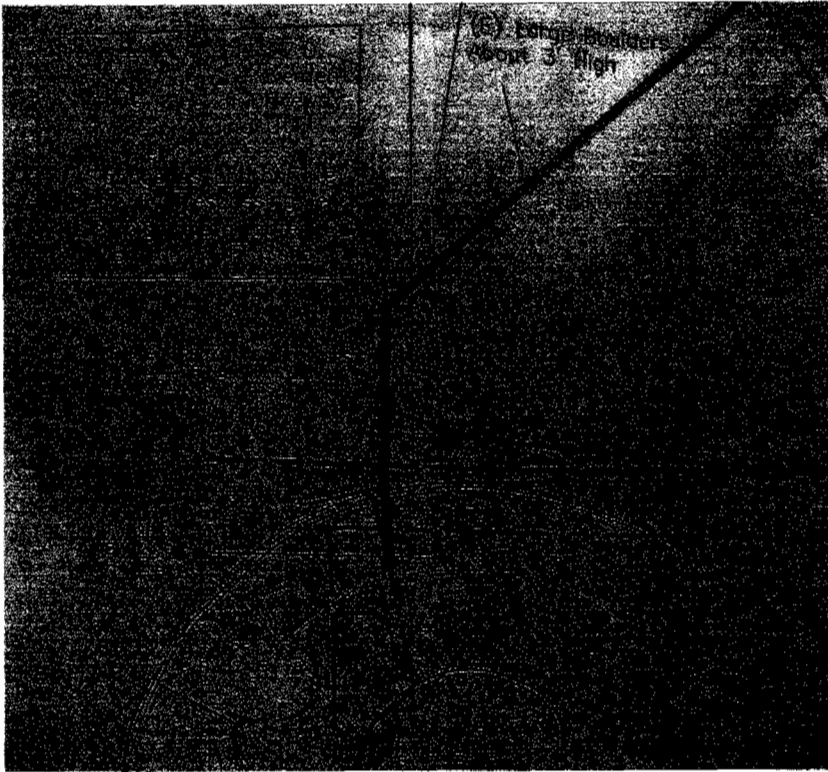


[www.californiacoastline.org](http://www.californiacoastline.org) 200505990

- Note the untenable location north of the fence where Applicant proposes to build and raise the driveway.
- The patch of dirt over the storm drain headwall is the platform dedicated for use by the seawall/revetment maintenance equipment. The proposed driveway would occupy most of this platform, eliminating the capability of storing the equipment between work shifts, and creating a potentially dangerous conflict between equipment and residents during maintenance work.
- It is my understanding that in May 2004 Jo Ginsberg of the Coastal Commission as well as representatives from the City of Pacifica approved and permitted the landscaping at 244 Shoreview, owned by Ms. Schuler, including the platform designated for maintenance equipment. Further, it is my understanding that there was a proviso that the platform must remain unpaved. Project Note #2 of Applicant's Plans (Review Draft 02/08/07, page 2 of 6) states, "It has been assumed that 1/2 of Belle Vista along the north side of the site will be available for landscaping and usable open space *as long as the right-of-way remains unpaved*, but this has not been included in any area calculations." [emphasis added] This is in direct contradiction to what Applicant is actually proposing to do.
- A portion of Ms. Schuler's landscaping would be permanently taken from her and demolished, including some of her shoreline protection. It is my belief that the project would negatively impact the Shoreview revetment *owned and maintained* by Ms. Schuler and her neighbor at 236 Shoreview.



**Picture 2 – Applicant's Site Plan**



**Picture 3 – Surveyor's Monument**



- The Plan shows the proposed driveway going beyond the chain link fence, and beyond the lot legally owned by the developer. The red dot at the intersection of the dashed perpendicular black lines is the location of the surveyor's monument (shown in Picture 3).
- The monument marks the north-west boundary of developer's 17,962 square-foot lot.
- The Plans do not show the cove created by extensive erosion. Rather, the Plans give the appearance that solid, flat land continues to the north of the headwall when, in fact, it does not. The driveway would be on the edge of the revetment.
- If I am interpreting the Plan correctly, there is no setback between the edge of the driveway and the seawall as the driveway nears the headwall. The proposed retaining wall would be 2 feet high at this location, which could expose the seawall to damaging wave reflection from the retaining wall.
- The notation on the Plan to "remove approx. 11 ft. boulders" is presumably referring to the removal of a portion of Ms. Schuler's landscaping and shore-line protection.
- As I state in my Appeal, it is almost certain that this proposed project would sooner or later require further armoring for the safety of the structures.

August 6, 2007

Michelle Jespersen  
California Coastal Commission  
Northern Central Coast District  
45 Fremont St., Suite 2000  
San Francisco, CA 94105-5260

**RECEIVED**

AUG 06 2007

CALIFORNIA  
COASTAL COMMISSION

Dear Ms. Jespersen,

Following our conversation, I'm writing to provide further documentation to support my appeal of CDP-275-06, Construction of 9 Condominiums at 1567 Beach Blvd, APN 016-11-190.

The project site is located at the north end of Beach Blvd., directly on the Pacifica shoreline. This area is subject to inundation and extreme wave overtopping, as well as shoreline retreat and erosion. It is one of the most exposed and vulnerable parts of the California coastline.

There was significant loss of land in 1972 (see Photo 1). Further erosion occurred during the 1981 and 1982 storms, leaving a larger cove area to the north in 1987 (see Photo 2). The cove continued to retreat, leading to emergency repairs of the rock revetment in 2002; note how much more of the cove has been lost (see Photo 3). The area was re-constructed, with a dedicated staging area for future equipment access for maintenance (see Photo 4). This particular area of the coast will continue to need work; more will be performed this summer. The proposed development would eliminate access for maintenance or construction equipment.

Section 30253 of the Coastal Act states:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding areas or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs or cliffs.

The proposed development is inconsistent with this section in several ways.

**Location of driveway maximizes risk to life and property, and minimizes stability.**

Consider the general view of the northwest corner of the proposed development (see Photo 5), and the close up view (see Photo 6). I have highlighted, in red, the monument placed by the surveyor. This marks the northwest property boundary of the parcel. You can see that the monument is even with the northernmost portion of the headwall.

The monument highlighted in red in Photo 6 is exactly that same place highlighted in red on the project plans, on the corner of the parcel (see Photo 7). In those plans, the headwall is portrayed incorrectly – it does not extend north of the property boundary. However, the proposed driveway does extend north of the parcel boundary, and north of the headwall as well. The driveway will

have no structural support – it relies entirely on a rock revetment that is subject to extreme wave forces. This area has collapsed before; it is very vulnerable to damage from wave run up and high surf events. It does not insure stability or structural integrity, exactly the opposite.

Any pedestrian or vehicle using this driveway will be at severe risk. This part of the coastline is subject to wave overtopping many times each year; and is more severe than reported. In verbal presentations, the Applicants engineers suggested that wave overtopping was limited to 1 or 2 feet. The evidence does not substantiate this (see Photo 8).

Wave overtopping cannot be anticipated. Directly in front of this property, a casual stroll on the beach (see Photo 9) can easily take people by surprise (see Photo 10). Vehicles using the driveway will not be able to gauge wave action, and may easily be overcome by wave action, propelling the vehicle into the curved wall of the driveway.

**Proposed development does not have adequate setback from seawall.**

The proposed building, as well as the garage, is located so close to the ocean as to require raising the street and constructing a retaining wall on the bluff top as protection against wave overtopping. In addition, the subterranean garage requires modification of the existing head wall and drainage systems.

This represents a new shoreline protection system, and the Commission should review it as such.

No one has evaluated the effect of the raised street and retaining wall on adjacent properties, or of the seawall itself. There is a great deal of water collected during storms and wave up, and it may easily cause flooding if simply diverted to the south. Having it all drain at the end of the retaining wall may cause structure or stability problems with the seawall or its foundations.

The building will also be subject to damage from water born debris. Existing buildings already suffer from this problem, and the proposed development exceeds the plane of adjacent buildings. This will also block views to and along the coast.

**Feasible alternatives exist.**

There is no need to place the buildings and garage in areas of high hazard. There is no need alter the existing seawall and place new protective devices, which would alter the visual character of the coastline. There is no need to eliminate equipment access.

Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available. It's clear that feasible alternatives do exist; any proposed development should be far enough from the coastline so as not to require these significant modifications to the coastline, nor expose the residents to danger.

Respectfully submitted,

Patrick Rentsch  
1581 Beach Blvd.  
Pacifica, CA 94044

cc: Jo Ginsberg

Photo 1 – Shoreline collapse (1972)



Photo 2 – Cove expansion (1987)



Photo 3 – Emergency repair (2002)



Photo 4 – Staging area (2005)



Photo 5 – General Area



Photo 6 – Monument view







Photo 9 – A casual stroll on the beach



Photo 10 – Overtopping





Photo 1 – Waves Overtopping Beach Blvd at the corner of Beach Blvd and Paloma Ave, November 1998. Source: Nancy Merchant



Photo 2 – Waves Overtopping Beach Blvd at the corner of Beach Blvd and Paloma Ave, November 1998. Source: Nancy Merchant



Photo 3 – Waves Overtopping Beach Blvd at the corner of Beach Blvd and Paloma Ave, November 1998. Source: Nancy Merchant



Photo 4 – Waves Overtopping Beach Blvd at the corner of Beach Blvd and Paloma Ave, November 1998. Source: Nancy Merchant





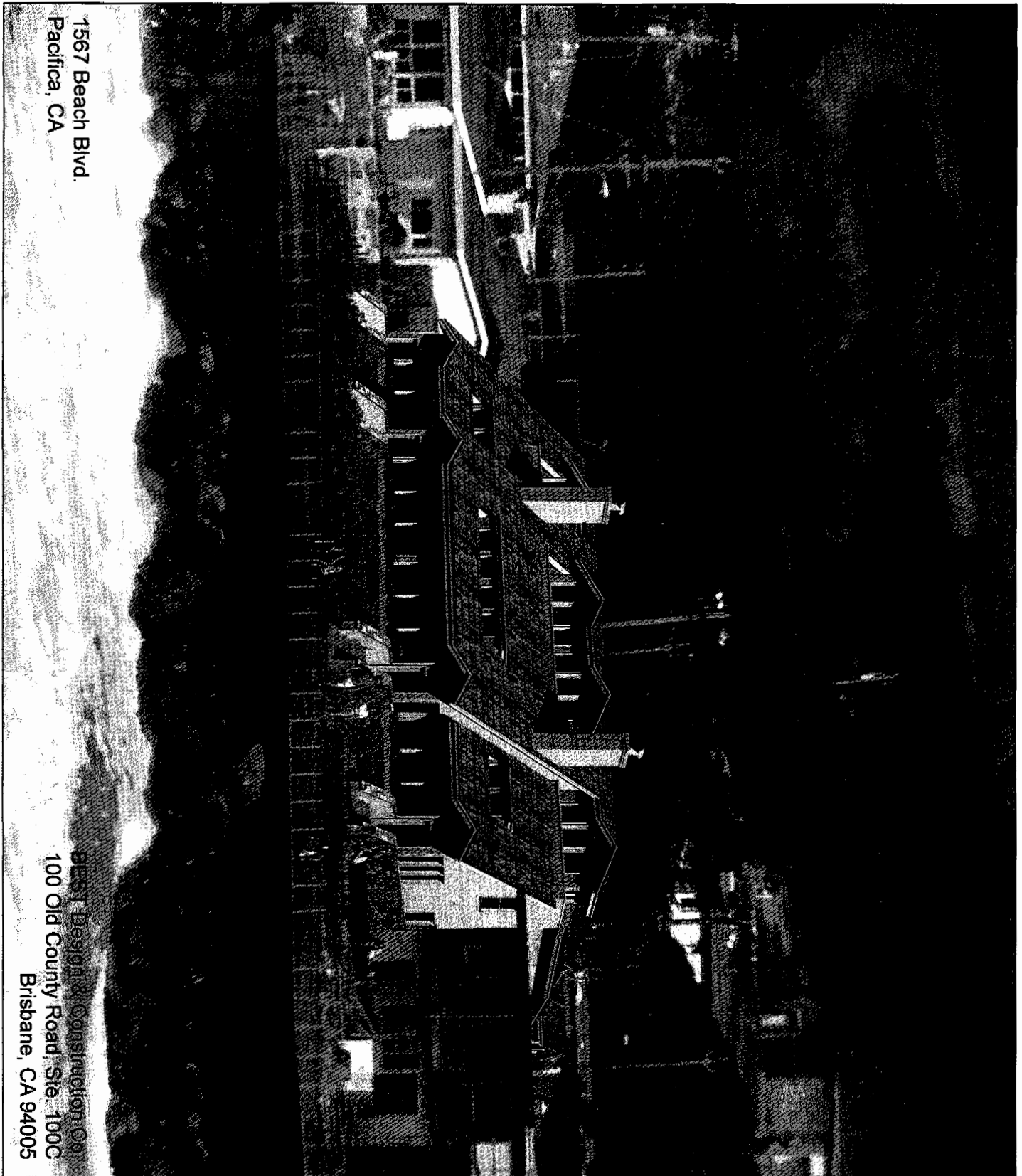
Photo 5 – Waves overtopping Beach Blvd seawall onto sidewalk at 1581 Beach Blvd #1, the property next door to the subject site, 1567 Beach Blvd, October 2006. Source: Gary Virginia



Photo 6 – Wave run-up onto sidewalk and walkway at 1581 Beach Blvd #1, October 2006. Source: G. Virginia



Photo 7 – Waves overtopping Beach Blvd seawall in front of 1567 Beach Blvd, October 2006.  
Source: Gary Virginia



1567 Beach Blvd.  
Pacific, CA

BEST Design & Construction Co.  
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