

CALIFORNIA COASTAL COMMISSION

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



W 16a

Addendum

December 2, 2011

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **W 16a**, Coastal Commission Permit Application
#6-08-100-A1 (1984 Abbott LLC.), for the Commission Meeting of
December 7, 2011.

Staff recommends the following changes be made to the above-referenced staff report:

1. On Page 6 of the staff report, Special Condition #4 (revising Special Condition #3 of the original permit), shall be revised as follows:

4. The following shall replace, in its entirety, Special Condition #3 of the original permit:

3. Revised Final Plans. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit for review and written approval of the Executive Director final plans for the proposed condominium development that have been approved by the City of San Diego. Said plans shall be in substantial conformance with the plans submitted with this application by Marengo Morton Architects received 11/08/2011, but shall be revised as follows:

- a. No encroachments (balconies, facades, etc.) are permitted on the second floor at any height within the identified view corridors on the northern, southern or western sides of the property.
- b. All fencing, gates, or patio railings in the identified view corridors within the south, west or north side yard setback areas shall permit public views and have at least 75 percent of its surface area open to light.

The permittee shall undertake the development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No change to the plans shall occur without a Commission-

approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

2. On page 15 of the Staff Report, the last paragraph on the page and continuing onto Page 16 shall be revised as follows:

In order to ensure that the existing and proposed view corridors are protected, special conditions are recommended with this amendment to require view corridors on the northern, southern, and western side yards of the property and that any fencing shall be 75 percent open to light. The requirement that 75 percent of any fencing be open to light is included in the City's certified Land Development Code (LDC) and has been used by the Commission in areas in which the LDC is used as guidance. The applicant proposes to install a wall with a solid base for the lower two feet and transparent glass for the upper two feet. This wall will provide a buffer between the residences and the public areas and will provide flood protection during heavy rain events. However, the wall as proposed is only 50 percent open to light and is therefore not consistent with the requirements of the original permit, the recommended replacement for special condition #23 or with the LDC. The applicant has stated that a solid base is necessary in order to prevent flooding of the property, but Commission staff believes that the applicant must address the flood hazards while still complying with visual concerns. For example, an alternative option that would prevent flooding and would be consistent with the underlying special condition would be to install a 2 ft. high solid planter box, in place of the wall, with plants that reach a maximum height of 1 ft. at maturity, and to eliminate the glass element of the wall. In any case, the applicant's proposal for 2 ft. solid and 2 ft. glass fence is not consistent with the above cited provisions or past Commission precedent. Therefore, Special Condition #344 requires that the final ~~landscape~~ plans be revised such that any proposed fencing in the view corridors is at least 75% open. An additional concern with a glass wall in this location is the potential for graffiti and vandalism, which would adversely impact public views towards the coast by decreasing the transparency if not promptly addressed. In the past, the Commission has found that fencing in the view corridors should be 75% open in order to maximize views to the coast and prevent a 'solid wall' of development that can adversely impact coastal views.

3. On page 16 of the Staff Report, the last paragraph on the page and continuing onto Page 17 shall be revised as follows:

A final visual concern raised by the proposed amendment is the encroachment of five proposed balconies into the required view corridors. The applicant currently proposes to extend 3 balconies on the second floor of the western side of the building and 2 balconies on the third floor of the northern side of the building into the required view corridors. In this case, the 2 balconies proposed on the third floor of the north side of the building are approximately 17 ft. above grade and will only encroach approximately 1 to 2 ft. into the view corridor, and thus will not directly block public views. However, the 3 second floor balconies on the west side extend approximately 2 to 5 ft. into the required view corridor and are only approximately 8.5 ft. above grade. The hatched lines on Exhibit #4 show the areas in which the applicant

contends public ocean views exist looking through the subject property; the 3 dark rectangles represent the portions of the proposed second floor balconies that will protrude into the 15 ft. view corridor. The public parking lot directly to the south is at a slightly higher elevation than the subject site. Although it will be possible to observe the ocean view below the balconies, they will represent an encroachment into the view corridor that is directly adjacent to a public park, resulting in not only an increase in the bulk of the building but also pushes the private development closer to the public park increasing the perception of privatization. Therefore, when looking north from the parking lot the second floor balconies will adversely impact the public view. As such, special condition #4a requires that the plans be revised to eliminate encroachment of the balconies on the second floor into the required view corridor. In summary, the proposed development, as conditioned, will not result in any public view blockage and will be visually compatible with the character of the surrounding neighborhood, consistent with Section 30251 of the Coastal Act and the certified LCP

4. Add the attached Exhibit Nos. 4 and 5 to the staff report.

Balconies in Western View Corridor

SARATOGA AVENUE

PORTIONS OF 2ND
FLOOR
BALCONIES
WITHIN VIEW
CORRIDOR

**OCEAN
&
PARK**

**Abbott
Street**

**HATCHED
LINES SHOW
OCEAN VIEWS




PUBLIC PARKING LOT

EXHIBIT NO. 4

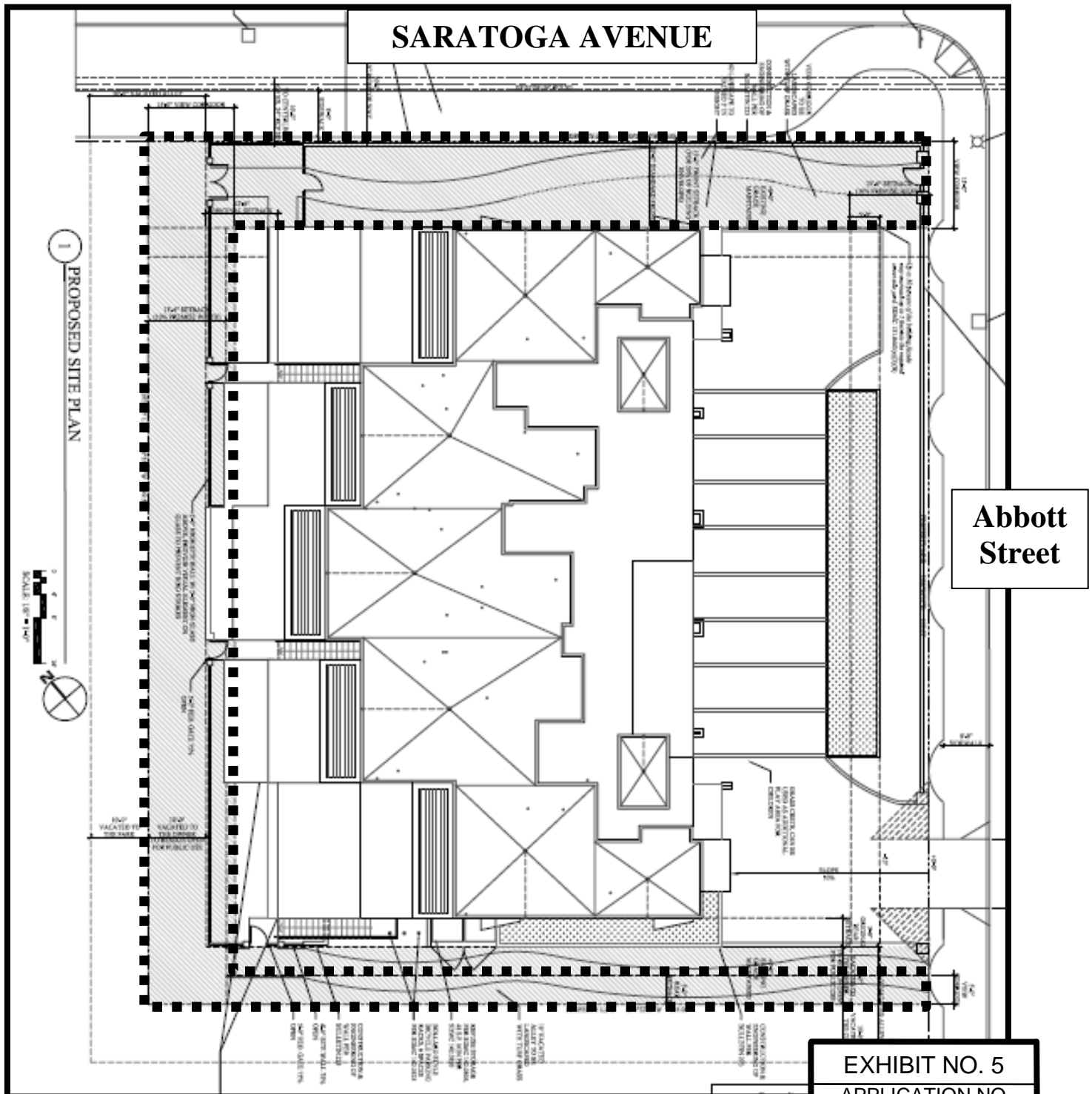
APPLICATION NO.

6-08-100-A1

Western Balconies

 California Coastal Commission

View Corridors




****DOTTED LINES SHOW
REQUIRED VIEW CORRIDORS**

EXHIBIT NO. 5

APPLICATION NO.

6-08-100-A1

View Corridors

 California Coastal Commission

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
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W16a

Filed: 6/27/2011
49th Day: 8/15/2011
180th Day: 12/24/2011
Staff: E. Stevens-SD
Staff Report: 11/14/2011
Hearing Date: 12/7-9/2011

AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-08-100-A1

Applicant: 1984 Abbott LLC.

Agent: Marengo Morton Architects, Inc., Attn: Claude Anthony Marengo

Original

Description: Demolition of 15 residential apartment units in four detached structures and construction of a two-story, 30 ft. high, 14,157 sq. ft., 12-unit condominium building (over 27-space subterranean parking garage) including installation of new sidewalk along Saratoga Avenue, vacation of portions of two adjacent alleys and re-landscaping with turf for public use, on 20,154 sq. ft. beachfront site.

Proposed

Amendment: Reduce the number of condominium units from 12 to 10 and replace underground parking with partially below-grade parking and a carport.

Site: 5113 Saratoga Avenue & 1984 Abbott Avenue, Ocean Beach, San Diego
(San Diego County)

STAFF NOTES:

This proposed CDP amendment was previously brought before the Commission on October 6, 2011 at which time the project was postponed in order to allow time for the Ocean Beach Planning Board (OBPB) to review the project.

The following is the review process that this amended project and the underlying project have gone through thus far. The underlying project (CDP #6-08-100) first went to the OBPB for review of the tentative map/alley vacation; the OBPB did not review the design of the previously proposed condominium building. The project then went to the City of San Diego Planning Commission for review of the tentative map/alley vacation and to make a recommendation to the City Council. The right-of-way vacation was then

approved by the City Council. Both the City of San Diego Planning Commission and the City Council reviewed a concept of the building design for the underlying project for reference only, but it was not part of either decision as the building itself did not require any discretionary permits. The City of San Diego Development Services Department then completed the Appendix B review to verify that the proposed project complied with all building and land development codes, at which time the project went to the Coastal Commission. The Coastal Commission approved CDP 6-08-100 in January 2009.

The property was subsequently sold, and the new owner submitted CDP 6-08-100-A1 to the Coastal Commission for approval of a redesigned project. The proposed CDP amendment (6-08-100-A1) is not required to go before the City of San Diego Planning Commission, because the City can find that a reduction in units is in substantial conformance with the previously approved tentative map. The City completed the Appendix B review to verify that the proposed project amendment complied with all building and land development codes and the project was brought before the Coastal Commission in October 2011, where the Coastal Commission postponed a final decision on the amendment. Subsequently, the OBPB reviewed the proposed revised project on November 2nd, 2011 and voted 10-2 in support of the project with modifications. The modifications included the addition of a carport in the front yard in order to visually screen the view of parked cars from the public sidewalks and a reduction in the proposed height of the perimeter fence from six feet tall to four feet tall. The City of San Diego also required a change in the proposed parking such that all of the parking spots would be located partially below grade. The applicant has included these changes in the amendment application.

Due in part to the changes required by the OBPB, there are several differences between this staff recommendation and the recommendation presented to the Commission in October 2011. First, the reduction in the proposal for the height of the perimeter fence makes the proposed fence inconsistent with Special Condition 2d, which requires, consistent with the City's LDC, that at least 75% of the surface area of a fence be open to light. The new proposal would result in only 50% of the fence being open to light. Thus, in order to comply with special condition 2d, the applicant will need to modify its fence to ensure that at least three feet of the proposed four foot fence will be open to light, or it will need to change its proposed fence to some other structure, such as a solid planter box. In addition, staff is no longer recommending the use of stickers to prevent bird strike hazards associated with a glass fence, as staff has become aware that such stickers can peel off or be removed by homeowners, resulting in the same bird strike hazard that the stickers were designed to avoid. Instead, special condition 2d requires the use of a reflective coating or some other treatment to the glass that is designed to reduce bird-strikes by reducing the reflectivity and transparency of the glass.

Finally, in reviewing the proposed project plans for this hearing, staff noted that there are five proposed balconies on the second and third floors that will encroach into designated view corridors. Two balconies on the northern side of the third floor and 3 on the western side of the second floor of the building extend into the required view corridors. Staff is therefore recommending in Special Condition #4a that the balconies on the

second floor be removed from the final plans submitted for Executive Director review and approval.

The City of San Diego Development Services Department has confirmed that the amended project as proposed is consistent with FAR standards and provides adequate parking based on city regulations. Additionally, the applicant's coastal engineer and the Commission engineer have confirmed that the partially below-grade parking as proposed will adequately minimize risks to life and property from wave run-up.

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed amendment with conditions. The modified condominium plan is consistent with all of the special conditions of the underlying coastal development permit and the primary coastal issues involved with the proposal are the same as with the previously approved project for this site. A primary issue raised by the proposed amendment relates to assuring that the proposed condominium development on a beachfront lot (proposed to be constructed without a seawall) will be safe from wave run up and flooding and that public views and public access are protected. Based on information provided in the applicant's updated wave run-up report, the Commission's coastal engineer has determined that the proposed project will adequately minimize risks to life and property from flooding and tsunami concerns. The proposed amendment, as conditioned, is consistent with all applicable Coastal Act policies.

Standard of Review: Chapter 3 policies of the Coastal Act

Substantive File Documents: CDP #6-08-100; Project Plans by Marengo Morton Architects received 11/08/2011, Project Plans by Steven Lombardi Architect dated 6/12/09; Tsunami Inundation Map for Emergency Planning La Jolla Quadrangle dated 6/1/2009; Coastal Hazard & Wave Runup Study by GeoSoils, Inc. dated 11/2008; Coastal Hazard & Wave Runup Study Update and Tsunami Discussion by GeoSoils, Inc. dated 8/19/2011; Email from David Skelly dated 9/13/2011, Email from Claude Anthony Marengo dated 9/12/2011; View analysis from Marengo Morton Architects, Inc. received 11/08/2011

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 6-08-100 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE A PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment on the grounds that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. Special Conditions.

The permit is subject to the following conditions:

1. Prior Conditions of Approval. All terms and conditions of the original approval of Coastal Development Permit 6-08-100 shall remain in full force and effect, except those that are explicitly replaced or modified in this amendment.

2. The following shall replace, in its entirety, Special Condition #1 of the original permit:

1. No Future Bluff or Shoreline Protective Device

A(1) By acceptance of this Permit, the applicant agrees, on behalf of itself and all successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. **6-08-100-A1** including, but not limited to, the residence, foundation, decks, and the driveway in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, or other natural hazards in the future. By acceptance of this Permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

A(2) By acceptance of this Permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this Permit, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before

they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

3. The following shall replace, in its entirety, Special Condition #2 of the original permit:

2. Landscape/Yard Area Fence Plans. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit to the Executive Director for review and written approval, final landscaping and fence plans approved by the City of San Diego. The plans shall be in substantial conformance with the landscape plans as submitted by Marengo Morton Architects, dated 11/08/2011 and shall include the following:

- a. A view corridor a minimum of 5 ft. wide shall be preserved in the south yard area adjacent to an unnamed alley; a 15 ft. wide view corridor in the west yard area adjacent to an un-named alley, and a 15 ft. wide view corridor in the north yard area adjacent to Saratoga Avenue. All proposed landscaping (including raised planters) and hardscaping (patios and decks) in the south, west and north yard areas shall be maintained at a height of three feet or lower to preserve views from the street toward the ocean. A maximum of four (4) tall trees with thin trunks are permitted, provided they are located close to the building and are not located in the view corridor where they would block views toward the ocean.
- b. The vacated alleys shall be landscaped with natural turf/grass for public use.
- c. All landscaping shall be drought-tolerant and native or non-invasive plant species. All landscape materials within the identified view corridors shall be species with a growth potential not expected to exceed three feet at maturity. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.
- d. Any fencing, gates, or patio railings in the south, west or north side yard setback area shall permit public views and have at least 75 percent of its surface area open to light. Glass fences and gates subject to this permit shall use materials designed to minimize bird-strikes with the fence or gate. Such materials may consist, all or in part, of wood; metal; frosted or partially-frosted glass, Plexiglas or other visually permeable barriers that are designed to prevent creation of a bird strike hazard. Clear glass or Plexiglas shall not be installed unless a permanent ultraviolet-light reflective coating specially designed to reduce birds-strikes by reducing reflectivity and transparency is also used. Use of opaque or partially opaque materials is preferred to clear glass or Plexiglas. All materials

and coatings shall be maintained throughout the life of the development to ensure continued effectiveness at addressing bird strikes and shall be maintained at a minimum in accordance with manufacturer specifications and as recommended by the Executive Director.

- e. A written commitment by the applicant that five years from the date of the issuance of the coastal development permit for the residential structure, the applicant will submit for the review and written approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies whether the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition and that all fences, gates, and railings are 75% open. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and written approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

The permittee shall undertake the development in accordance with the approved landscape plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

4. The following shall replace, in its entirety, Special Condition #3 of the original permit:

3. Revised Final Plans. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit for review and written approval of the Executive Director final plans for the proposed condominium development that have been approved by the City of San Diego. Said plans shall be in substantial conformance with the plans submitted with this application by Marengo Morton Architects received 11/08/2011, but shall be revised as follows:

- a. No encroachments (balconies, facades, etc.) are permitted on the second floor at any height within the identified view corridors on the northern, southern or western sides of the property.

The permittee shall undertake the development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No change to the plans shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

5. The following shall replace, in its entirety, Special Condition #6 of the original permit:

6. PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT (6-08-100-A1), the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit amendment a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, as amended, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit, as amended, as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit amendment. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit, as amended, shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property. ***This deed restriction shall supersede and replace the deed restriction recorded pursuant to Special Condition #6 of Coastal Development Permit #6-08-100, approved on January 8, 2009, which deed restriction is recorded as Instrument No. 2009-0420989 in the official records of San Diego County.***

6. The following shall be added as Special Condition #9:

9. Liability for Costs and Attorneys Fees. The Permittee shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees -- including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay -- that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the applicant against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

III. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History/Amendment Description. The subject development involves the demolition of 15 one-bedroom apartment units housed in two, one-story buildings and two, two-story buildings on a 21,154 sq. ft. beachfront property consisting of one square block bounded by Abbott Street to the east, Saratoga Avenue to the north and two contiguous un-named alleys (resembling an “L” shape) to the west and south. The westernmost structure, which contains three units, used to contain a restaurant at the far south portion of the structure. That portion of the building has been vacant for several years now.

The project approved under CDP #6-08-100 consisted of a two-story, 30 ft. high, 14,157 sq. ft., 12-unit condominium building. The 12 unit condominium design consisted of 12, two bedroom units, with an average of 1,180 sq. ft. of livable area per unit. The 12 units required 27 parking spaces which were provided in a basement parking garage. The approved basement level was to be 16,220 sq. ft. in size and would have also include an area to accommodate six bicycles and one motorcycle, storage units for each unit and five recreational (game) rooms ranging in size from 510 sq. ft. to 683 sq. ft. Access to the parking garage would have been received from Saratoga Avenue at the northwest corner of the property. No site walls were proposed or approved around the perimeter of the property.

The proposed amendment involves a revision to reduce the number of residential condominium units from 12 to 10. The revised development will be a 14,099 sq. ft., 30 ft. high, three-story, 10 residential unit condominium structure on the 20,154 sq. ft. oceanfront lot. The 10 unit condominium building consists of eight, three bedroom units and two, two bedroom units, with an average of 1,410 sq. ft. of livable area per unit. The amendment also proposes to eliminate the basement parking garage and instead provide below-grade parking. The 10 units require 25 parking spaces, of which 22 of the spaces are provided partially below-grade (underneath the second floor of the building) on the east side and the remaining three spaces are provided partially below-grade near the entrance to the parking area beneath an approximately four foot tall structure which is connected through a trellis to the primary structure on the site. The building will be sited farther to the west than the project originally approved in CDP #6-08-100. Adequate bicycle and motorcycle parking will also be provided on-site. Access to the parking will be provided off of Abbott Street on the southeast side of the property. A four foot tall site wall, which is proposed to surround the majority of the property, will have a solid two ft. base and transparent glass on the upper two feet. The applicant also proposes to install a new sidewalk along Saratoga Avenue to the north of the subject property where presently none exists.

Two adjacent 20-foot wide un-named alleys border the project site. In the original approval of CDP #6-08-100, one half of each of these alleys was permitted to be vacated with the remaining other half to remain in City ownership. After vacation, these former

alleys (including the portion to be vacated to Abbott & Saratoga, LLC) would be re-landscaped to create a turf area that will function as public park area. These vacations will not change with the proposed amendment, nor will the requirement that these areas be available to the public for use as a park.

The subject site is located at the southwest corner of Saratoga Avenue and Abbott Street in the community of Ocean Beach in the City of San Diego (See Exhibit #1). Ocean Beach Park, a large grassy park with picnic tables and fire rings, exists immediately west of the project site, with a public beach parking lot located immediately to the south. To the west of this area is a large sandy beach.

Although the City of San Diego has a certified LCP for the Ocean Beach community, the subject site is located in an area where the Commission retains permit jurisdiction. Therefore, Chapter 3 of the Coastal Act is the standard of review, with the City's LCP used as guidance.

2. Geologic Hazards/Shoreline Protective Devices. Section 30235 of the Coastal Act states, in 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.

In addition, Section 30253 states, in part:

New development shall do all of the following:

(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. [...]

To find a proposed beachfront residential development consistent with Section 30253, the Commission must find that the development will not be subject to threat throughout its useful life such that it requires a seawall or other shoreline protective device to protect it. The Commission has traditionally been concerned with the siting of new development directly along the shoreline in terms of both its encroachment onto public sandy beach as well as visual impacts. The Coastal Act Section 30235 acknowledges that seawalls, revetments, cliff retaining walls, groins and other such structural or "hard" solutions alter natural shoreline processes. Thus, such devices are required to be approved only when

necessary to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local sand supply.

In the case of the proposed revised development, the applicant is requesting to demolish 15 apartment units and now construct a 10-unit condominium development (where 12 units were previously permitted) on a beachfront site. Presently, there is no shoreline protection on the subject site and the applicant is not proposing any in connection with the new development. Immediately west of the site is a grassy park and picnic area. Beyond this area to the west, is a large and expansive sandy beach and the ocean.

The proposed condominium building will be constructed at-grade (+11.31 ft. MSL), while the previously approved design was proposed on a 2 ½ ft. high raised podium on all elevations. The previous design incorporated the raised podium in order to excavate less deeply for the underground parking and basement, not for protection against wave run up. Because the project site is adjacent to a beach, it must be assured that the revised project will be safe from wave run up and other coastal hazards. As such, the applicant has submitted a wave run up analysis which discusses the potential threats to the proposed condominium development from erosion, wave inundation and tsunamis. The report also included an analysis of a range of sea level rise up to 4.5 feet over the next 75 to 100 years. The findings of that study evaluated the potential threat to the site from waves, flooding, shoreline erosion hazards, and tsunamis over the next 75 years, including estimating the potential frequency of occurrence. The report concludes that while there may be a rise in sea level over the next 75 years, this would not result in an increase in erosion or a threat to the proposed development because the shoreline in this area is stabilized by a rocky headland to the south of the pier, the groin separating north and south Ocean Beach, the flood control jetty and the southern Mission Bay jetty on the north end of Ocean Beach and because the site is located over 300 feet from the shoreline. The report concludes that there is no significant potential erosion hazard at the site over the next 75 to 100 years.

With regard to potential flooding hazard, according to the applicant's report, the highest observed water elevation in this location was on 11/13/97 at +4.92 MSL. If a sea level rise of 4.5 feet is added to this elevation, it is about +9.4 MSL. For the proposed amendment, the lowest proposed habitable finished floor is at elevation +11.31 ft. MSL. This is above any potential ocean flood elevation and almost two feet higher than the highest water added to 4.5 ft. of sea level rise. According to the coastal hazard study, the site should be safe from flooding over the next 75-100 years.

With regard to wave runup, the report concludes that the site is sufficiently setback from the shoreline to be safe from breaking waves. The potential for wave runup to the site is very small due to the wide beach and grass fronting the site. While large "design waves" can runup and overtop the beach berm, the height of the overtopping wave bore will likely be about 2 feet. The US Army Corp of Engineers Coastal Engineering Manual (2004) states that for every 25 feet a bore travels across a flat beach, the bore height is reduced by about 1 foot. According to the report, the site is about 300 feet inland from the shoreline and likely beyond the reach of wave overtopping bores. Although

floodwaters from wave runup have reached Abbott Street and Saratoga Avenue in the past, even if they were to reach the site again, they would have little, if any velocity or force and would likely be less than one foot in elevation. It is also noted that the City of San Diego constructs a sand berm seaward of the subject site along the public beach every winter to further reduce the potential for flooding of adjacent streets. There is no significant flooding hazard from surface gravity waves to the proposed development.

The report further concludes that over the last several decades there has been no shoreline retreat in front of the site; it has not been subject to significant flooding, erosion damage or wave runup attack in the past, including the 1982-83 El Nino winter; and the proposed habitable improvements are above any potential coastal hazard. In addition, the report states that flooding, erosion and wave runup will not significantly impact the proposed development over its estimated lifetime (75 years) and that it is unlikely that a seawall will be necessary in the future to protect the proposed development.

In 2009, tsunami inundation planning maps were released for coastal areas in San Diego County. These maps are intended solely for tsunami evacuation planning and not for regulatory purposes. However, the maps do show that the subject site is within the 'Tsunami Inundation Zone.' The applicant's coastal engineer has provided an analysis that asserts that in the instance of a tsunami, the bore of water will be less than one foot in height when it reaches the shoreline and may never reach the subject site or only be inches in height if it does reach the subject site. Thus, the tsunami bore will be lower than the lowest finished floor height of the structure. Also, the bore will be moving at slow speed and will not be powerful enough to damage the condominium building. Additionally, tsunami bores are not a continuous elevation of water and thus would not cause sustained flooding of the project site. Finally, the applicant's coastal engineer states that a tsunami event will likely not occur over the life of the development.

With the revised project, the applicant is proposing to construct a four foot high site wall around the property. This wall will not function as a seawall and will primary act as a privacy wall and to prevent flooding from an inadequate drainage system in this part of Ocean Beach (during heavy rain events, the western end of Saratoga Avenue has a tendency to flood due to inadequate storm drains). The proposed wall will have only a 12 in. footing depth, while a wall intended to stop wave uprush would need to be more deeply embedded to withstand scour effects and wave forces.

The Commission's staff coastal engineer has reviewed the submitted updated technical documents and concurs that the site has a low risk for flooding or coastal inundating, and although these risks could rise with an increase in sea level, the elevation of the first floor at +11.31 ft. MSL and the setback from the ocean should minimize risks to life and property. The Commission's staff coastal engineer therefore concurs that the proposed development can be constructed without the need for a seawall and that the project minimizes risks from geologic and flooding hazards. However, there is a risk that the anticipated future changes to storm waves, erosion and sea level could be larger than what has been anticipated when siting and designing the proposed condominium development. The proposed development is located in a hazardous environment, and

therefore, Special Condition #2 requires that the applicant waive any rights to construct shoreline protective devices in the future and that the proposed development be removed if it cannot be occupied due to coastal hazards. Therefore, as conditioned, since the proposed development is expected to be structurally stable over its estimated lifetime and not require shoreline protection, the proposed development is consistent with Sections 30253 and 30235 of the Coastal Act.

Coastal Act section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications. *See also* 14 C.C.R. § 13055(e). Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application. Therefore, consistent with Section 30620(c), the Commission imposes Special Condition #6, requiring reimbursement of any costs and attorneys fees the Commission incurs “in connection with the defense of any action brought by a party other than the Applicant/Permittee ... challenging the approval or issuance of this permit.”

3. Public Access. Coastal Act sections 30210, 30211 and 30212(a) are applicable to the project and state the following:

Section 30210

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

Section 30212(a)

(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 inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
- (2) adequate access exists nearby, or, [...]

Section 30211

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

In addition, Section 142.0560(a)(1) of the certified Land Development Code states the following:

(a) General Regulations for Parking Areas

- (1) In computing the required number of *off-street parking spaces* and bicycle spaces, a remaining fraction of one-half or more parking space is deemed a whole parking space; a remaining fraction of less than one-half is disregarded.

Section 30604(c) of the Act requires that specific access findings be made for any project located between the first public roadway and the sea. The project site is located between the ocean and the first public roadway (Abbott Street). The project site is located immediately adjacent to Ocean Beach Park and the public beach. The beach is a popular area, consisting of a wide sandy beach used by residents and beach-goers alike for many recreational activities. Immediately west of the site is a large grassy picnic area with picnic tables.

The Ocean Beach Pier is located southwest of the site and a groin exists almost directly west of the project site. Access to the beach can be gained nearest the project site at the street end of Saratoga Avenue immediately adjacent to the north of the subject site and at the unnamed alley to the south. The certified Ocean Beach Precise Plan recommends protecting public access to the beach.

The subject site is located within the City's Beach Impact Area which generally includes that area within 3-4 blocks of the beach or bay, as these are the areas that are most impacted by parking for both beach visitors and surrounding residents. The City's zoning ordinance (Land Development Code) for the parking beach impact area specifically requires 2.25 spaces for each two-bedroom unit and 2.5 spaces for units containing three to four bedrooms. As such, the required parking for the proposed amended project, which consists of eight three-bedroom condominium units and two two-bedroom condominium units, is 24.5 parking spaces ($8 \times 2.5 + (2 \times 2.25) = 24.5$ spaces). The City of San Diego Land Development Code requires that if the required number of parking spaces is one-half or greater, then it should be rounded up. Thus, 25 parking spaces are proposed by the applicant.

The proposed amendment will not result in any adverse impacts to public access, and in fact, will enhance public access by providing adequate parking on-site, thus eliminating the current conditions where residents usurp parking from beach users in this nearshore area. Thus, adequate on-site parking will be provided with 25 parking spaces, consistent with Section 30252 of the Act. The proposed amendment will enhance public parking by decreasing the curb cut for the entrance to the development. The underlying CDP for this property approved a 26 ft. curb cut off of Saratoga Avenue for parking entry, while the curb cut for the proposed amendment is only 18 ft., netting a gain of 8 ft. of curb area for public on-street parking. Even though the site is next to a public beach parking lot, during the summer months, parking is in high demand and competitively sought by beach users, residents and patrons of local businesses in this community. The project's

proposed provision of adequate parking on-site is therefore particularly important, and ensures that the project will not adversely affect public access. The proposed development does not interfere with public access opportunities and can be found consistent with the public access and recreation policies of the Coastal Act.

4. Public Views/Community Character. Section 30251 of the Coastal Act is applicable to the subject project and states, in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas,...

The certified Ocean Beach Precise Plan, which the Commission uses for guidance, also states:

- That views available from elevated areas and those adjacent to the beaches and ocean be preserved and enhanced wherever possible. [p.85]
- That public access to beaches and the shoreline be protected, first by clearly establishing public access and use rights, and second by requiring new developments to provide visual and physical access. [p. 42]

Section 132.0403 (c) and (e) of the certified Land Development Code states the following:

(c) If there is an existing or potential public view between the ocean and the first public roadway, but the site is not designated in a *land use plan* as a view to be protected, it is intended that views to the ocean shall be preserved, enhanced or restored by deed restricting required side *yard setback* areas to cumulatively form functional view corridors and preventing a walled effect from authorized development.

(e) Open fencing and landscaping may be permitted within the view corridors and visual accessways, provided such improvements do not significantly obstruct public views of the ocean. Landscaping shall be planted and maintained to preserve public views.

In addition, Section 142.0310(c)(2)(c) of the certified Land Development Code states:

An open fence shall have at least 35 percent of the vertical surface area of each 6-foot section open to light except within the Coastal Overlay Zone, where an open fence shall have at least 75 percent of its vertical surface area open to light.

The project site is located in Ocean Beach near Ocean Beach Park and the public beach. Immediately west of the site is a large grassy beach park. Beyond this area to the west are a wide sandy beach and the ocean. The Certified Ocean Beach Precise Plan recommends protecting public views to the ocean. In the Ocean Beach community, public views to the ocean exist along the east-west running streets in the community. In this particular case, public views to the ocean exist along Saratoga Avenue north of the subject site as well as along the unnamed alley to the south. Thus, it is important to assure that new development not interfere with public views from these public vantage points, by among other things, assuring adequate building setbacks.

The approved 12-unit condominium has setbacks of 15 ft., 13.5 ft., 15 ft., and 45 ft. from the northern, eastern, southern, and western property lines, respectively. The proposed amendment would result in setbacks of 15 ft., 13.5 ft. 5 ft., and 13.5 ft. from the northern, eastern, southern, and western property lines, respectively.

SETBACKS

Setback	Existing Structures	Approved Project	Proposed Amendment
North	10 ft.	15 ft.	15 ft.
East	0 ft.	13.5 ft.	13.5 ft.
South	5 ft.	15 ft.	5 ft.
West	0 ft.	45 ft.	13.5 ft.

The primary difference in building setback between the proposed amendment and the underlying approved project is that the western setback has been decreased and the eastern setback of the primary structure is greater (when including the proposed carport, the eastern setback does not change). The applicant has submitted a view analysis comparing the view corridors of the approved project and the proposed amendment (See Exhibit #2), which shows that with a few exceptions, discussed below, no significant public coastal view corridor is lost due to shifting the building westward on the property. The proposed building design steps back away from the western property line at the north and south edges of the property to increase coastal views. Moreover, the prior project was approved with a rear staircase on the western side of the property that partially blocked north-south views. Views towards the ocean from Abbott Street are, for the most part, comparable with the proposed amendment and the approved project.

In order to ensure that the existing and proposed view corridors are protected, special conditions are recommended with this amendment to require view corridors on the northern, southern, and western side yards of the property and that any fencing shall be 75 percent open to light. The requirement that 75 percent of any fencing be open to light is included in the City's certified Land Development Code (LDC) and has been used by the Commission in areas in which the LDC is used as guidance. The applicant proposes to install a wall with a solid base for the lower two feet and transparent glass for the upper two feet. This wall will provide a buffer between the residences and the public areas and will provide flood protection. However, the wall as proposed is only 50 percent open to light and is therefore not consistent with the requirements of the original

permit, the recommended replacement for special condition #2 or with the LDC. The applicant has stated that a solid base is necessary in order to prevent flooding of the property, but Commission staff believes that the applicant must address the flood hazards while still complying with visual concerns. For example, an alternative option that would prevent flooding and would be consistent with the underlying special condition would be to install a 2 ft. high solid planter box, in place of the wall, with plants that reach a maximum height of 1 ft. at maturity, and to eliminate the glass element of the wall. In any case, the applicant's proposal for 2 ft. solid and 2 ft. glass fence is not consistent with the above cited provisions or past Commission precedent. Therefore, Special Condition #3d requires that the final landscape plans be revised such that any proposed fencing in the view corridors is at least 75% open. An additional concern with a glass wall in this location is the potential for graffiti and vandalism, which would adversely impact public views towards the coast by decreasing the transparency if not promptly addressed. In the past, the Commission has found that fencing in the view corridors should be 75% open in order to maximize views to the coast and prevent a 'solid wall' of development that can adversely impact coastal views.

A proposed glass wall at this oceanfront location also raises concerns related to the risk of bird strikes to the wall and gates. Glass walls are known to have adverse impacts upon a variety of bird species. Birds can strike glass walls causing their death or stunning them, which exposes them to predation. Some authors report that such bird strikes cause between 100 million to 1 billion bird deaths per year in North America alone. Birds strike the glass because they either do not see the glass, or there is some type of reflection in the glass which attracts them (such as the reflection of bushes or trees that the bird might use for habitat). Some type of treatment that reduces the potential for bird strikes is typically required when glass walls are allowed in oceanfront locations. To provide protection for coastal avian species, Special Condition #3 requires the applicant submit final revised plans showing a treatment to the proposed wall and gates to address bird strike issues, necessary to protect against significant destruction of habitat values. In the past, bird strike prevention stickers have been permitted for use on transparent walls. However, it has come to the Commission's attention that the stickers have a tendency to come off and that it is difficult to enforce their use if removed by homeowners. For this project, the applicant states that the glass material proposed for the perimeter wall is a 'triple laminate glass that has a patterned UV reflective coating visible to birds while virtually transparent to humans.' This type of glass material would address the concerns related to bird strikes and would be consistent with special condition #2d.

A final visual concern raised by the proposed amendment is the encroachment of five proposed balconies into the required view corridors. The applicant currently proposes to extend 3 balconies on the western side of the building and 2 balconies on the northern side of the building into the required view corridors. In this case, the 2 balconies proposed on the north side of the building are approximately 17 ft. above grade and will only encroach approximately 1 to 2 ft. into the view corridor, and thus will not directly block public views. However, the 3 second floor balconies on the west side extend approximately 2 to 5 ft. into the required view corridor and are only approximately 8.5 ft. above grade. The public parking lot directly to the south is at a slightly higher elevation

than the subject site. Therefore, when looking north from the parking lot the second floor balconies will adversely impact the public view. As such, special condition #4a requires that the plans be revised to eliminate encroachment of the balconies on the second floor into the required view corridor. In summary, the proposed development, as conditioned, will not result in any public view blockage and will be visually compatible with the character of the surrounding neighborhood, consistent with Section 30251 of the Coastal Act and the certified LCP

5. Local Coastal Planning. While the City of San Diego has a certified LCP that governs the Ocean Beach community, the subject site is in an area of original jurisdiction, where the Commission retains permanent permit authority. As detailed above, the revised project, as conditioned, is consistent with the certified Ocean Beach Precise Plan and all applicable Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed amendment, as conditioned, will not prejudice the ability of the City of San Diego to continue to implement its certified LCP for the Ocean Beach community.

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

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing hazards and protection of public views to the ocean and public access will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed amended project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

Site Location

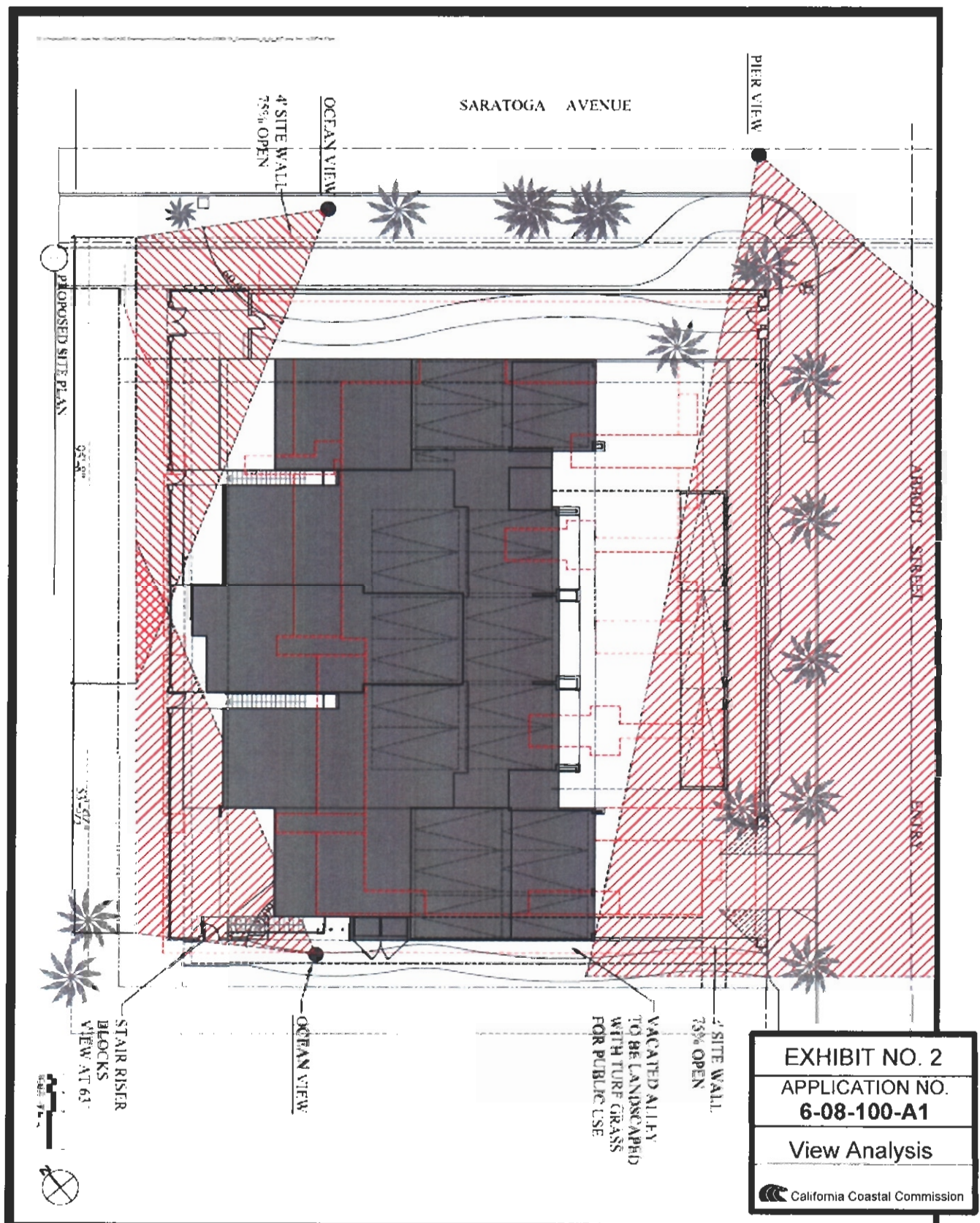


EXHIBIT NO. 1
APPLICATION NO.
6-08-100-A1

Site Location

California Coastal Commission

View Analysis



Special Condition of CDP #6-08-100

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STANDARD CONDITIONS:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

The permit is subject to the following conditions:

1. No Future Bluff or Shoreline Protective Device

- A(1) By acceptance of this Permit, the applicant agrees, on behalf of itself and all successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 6-08-100 including, but not limited to, the residence, foundation, decks, driveway and basement parking garage in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, or other natural hazards in the future. By acceptance of this Permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- A(2) By acceptance of this Permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this Permit, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fail to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

EXHIBIT NO. 3

APPLICATION NO.

6-08-100-A1

6-08-100 Conditions



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2. Landscape/Yard Area Fence Plans. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, final landscaping and fence plans approved by the City of San Diego. The plans shall be in substantial conformance with the landscape plans as submitted by Steven Lombardi, dated 10/24/08 and shall include the following:

- a. A view corridor a minimum of 5 ft. wide shall be preserved in the south yard area adjacent to an unnamed alley; a 15 ft. wide view corridor in the west yard area adjacent to an unnamed alley, and a 15 ft. wide view corridor in the north yard area adjacent to Saratoga Avenue. All proposed landscaping (including raised planters) and hardscaping (patios and decks) in the south, west and north yard areas shall be maintained at a height of three feet or lower to preserve views from the street toward the ocean. A maximum of four (4) tall trees with thin trunks are permitted, provided they are located close to the building and are not located in the view corridor where they would block views toward the ocean.
- b. The vacated alleys shall be landscaped with turf/grass for public use; and shall first be reviewed and approved by the City of San Diego/Fire Department.
- c. All landscaping shall be drought-tolerant and native or non-invasive plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.
- d. Any fencing in the south, west or north side yard setback area shall permit public views and 75 percent of its surface area shall be open or transparent.
- e. A written commitment by the applicant that five years from the date of the issuance of the coastal development permit for the residential structure, the applicant will submit for the review and written approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies whether the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and written approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

The permittee shall undertake the development in accordance with the approved landscape plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

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3. **Final Plans.** **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit for review and written approval of the Executive Director final plans for the proposed condominium development that have been approved by the City of San Diego. Said plans shall be in substantial conformance with the plans submitted with this application by Steven Lombardi dated 10/24/08 as well as with the recommendations contained in the report by Geosols, Inc. dated 11/16/08. Specifically, said plans shall include the following:

- a. The proposed sub-grade garage shall be water-proof and designed with a de-watering system;
- b. Any flood waters pumped out of the garage shall be disposed of or discharged in a non-erosive manner;
- c. Best Management Practices shall be incorporated to keep flood waters clean

The permittee shall undertake of the development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No change to the plans shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

4. **Timing of Construction.** No construction shall take place for the project between Memorial Day weekend and Labor Day of any year. Access corridors and staging areas shall be located in a manner that has the least impact on public access via the maintenance of existing public parking areas and traffic flow on coastal access routes (No street closures or use of public parking as staging areas).

5. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from erosion and wave uprush; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards

6. **Deed Restriction.** **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property, and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

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7. Drainage Plan. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, a drainage and runoff control plan documenting that the runoff from the roof and all impervious surfaces will be collected and directed into pervious areas on the site (landscaped areas) for infiltration and/or percolation prior to being conveyed off-site in a non erosive manner.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

8. Public Use of Vacated Alleys. The 10 ft. wide portion of the two alleys proposed to be vacated to the property owner shall remain available for public use.