

**CALIFORNIA COASTAL COMMISSION**

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



Go to original staff report.

# W18a

**Addendum**

May 6, 2013

To: Commissioners and Interested Persons

From: California Coastal Commission  
San Diego Staff

Subject: Addendum to **Item W18a**, Coastal Commission Permit Application  
**#6-12-002 (Crystal Pier)**, for the Commission Meeting of May 8, 2013

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

1. Please add the attached letter from the City of San Diego Fire-Rescue, Lifeguard Division addressing emergency vehicle access adjacent to Crystal Pier as Exhibit #11

(G:\San Diego\Reports\2012\6-12-002\_Crystal Pier Addendum.docx)



THE CITY OF SAN DIEGO

TR  
April 11, 2013

Ms. Sherilyn Sarb, Deputy Director  
Coastal Commission  
7575 Metropolitan Drive Ste 103  
San Diego, CA 92108-4402

RE: Crystal Pier Motel construction

Ms. Sarb:

San Diego Fire-Rescue, Lifeguard Division has reviewed the plans for the pier extension by the Crystal Pier Motel. The Lifeguard Division does not anticipate any impact on lifeguard operations. Each day, lifeguard use orange cones to establish emergency vehicle accesses on both the north and south sides of the pier. These accesses extend approximately 25 feet from the pier. This area is kept clear of beach patrons in order to provide a safe emergency vehicle operations area. Should you have any further questions or concerns, please contact Sgt. Bill Bender at (619) 980-4537.

Sincerely,

*Signature on File*

Rick Wurts  
Lifeguard Chief

RW:wb

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APR 19 2013

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

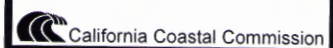
EXHIBIT NO. 11  
APPLICATION NO.  
**6-12-002**

Letter from City of  
San Diego Lifeguard  
Division

San Diego Fire-Rescue Department • Lifeguard Services Division

2581 Quivira Court • San Diego, CA 92109-8398

Tel (619) 221-8899 Fax (619) 221-8858 World Wide Web: <http://www.sandiego.gov/lifeguards>





W18a

Friday, May 3, 2013

Mr. Lee Mceahern  
California Coastal Commission  
San Diego Section

Dear Lee:

As per our meeting today with staff we offer the following into the record as to issues that we will be addressing with the Commission. Some have been listed with you and others will be detailed to Commission at the hearing next week.

First, the issue regarding Staff Report Condition # 1. Additional factual material will be presented to the Commission

Second, the Signage issue must be taken before our Insurance carrier, Agent, and the City of San Diego's Risk Management Department via Lane McKenzie.

Third, if City rescinds City's Acceptance of the Easement, the language required in the Staff Report is not acceptable to the applicant and will have to be modified

in order to meet the legal protections necessary to conduct our current hotel business. The modification must include the removal of " Passive Recreation " from the property.

As stated at our meeting, the passive recreation statement is a key issue, wherein the right of the public to pass and re-pass quietly is not an issue. The issue lies within the ability of the public to hang out and cause trouble and not behave in a respectful manner. WE must have some authority and ability to stop or better, prevent issues before they happen.

We believe that the initial intent was to agree to the pass and re-pass but not the passive recreation. WE have submitted the life guard letter and we will have a letter or email from Brian Ahern, Capt of SDPD Northern addressing the policing issue from their perspective.

Special Condition 3 needs more time and resolve before compliance can be accommodated. The signage issue must be resolved agreeably as there are legal consequences that wording may depend upon. As stated above, we need to be sure that we are protected legally from liability and to know if City is willing to continue the acceptance or not.

Again, Special Condition 8 depends upon City, legal and Insurance carrier to comply. We cannot just accept a blanket liability without risk management. This is especially true when Coastal and Staff

have no liability at all. WE must have accountability.

Lastly, we will be arguing the point of the Coastal Easement language which Staff indicated that they must support because it was agreed to in years past. Our belief is that modification should be allowable due to the actual experience gained by use over the years since the easement was enacted.

Again, thank you and the other staff members for meeting with us today. I think we have a better understanding of your positions and the reasoning behind them.

**Applicant's Response to  
Staff Recommendation**

4500 OCEAN BOULEVARD • SAN DIEGO CALIFORNIA 92109  
858-483-6983 • FAX 858-483-6811 • 800-748-5894 RESERVATIONS ONLY

7



Sincerely

Willis Allen  
Chairman  
Crystal Pier Hotel and Cottages, Inc.

PS. Meggan will be presenting and she may have more information and issues that she will send directly, such as the lower roof lines of the new cottages that affect shading of the Beach below.

[allenairwy@aol.com](mailto:allenairwy@aol.com)





Agenda # 18 A  
Application No. 6-12-002  
Crystal Pier Hotel  
Meggan Buscho

Appeal to Special Condition #1

Refer to Exhibit No. 10

Reference: Cottages located closest North Bluff side of Pier

Crystal Pier request Coastal commission consider the following on deck extension. The extension in no way prohibits recreational use nor does it add additional shade then what the prior buildings offered on beach below. Original buildings were positioned directly on the edge of decking and also built at a height which was greater then those on the proposed new units #20 & #22. Although the building as it stands today makes the extension appear to add additional shade it will actually be exactly what was once there.

You will notice that the Pier structure connected to what once was #22 did in fact have a patio the extended to almost what the intended new extension is proposed to have.

Also to clear the confusion on coned off area in which San Diego Lifeguards place along beach and pier structure:

San Diego Lifeguards have submitted a letter to explain just that. The coned area is non usable beach for the public and asked to remain clear for safety lanes for vehicle access lanes.

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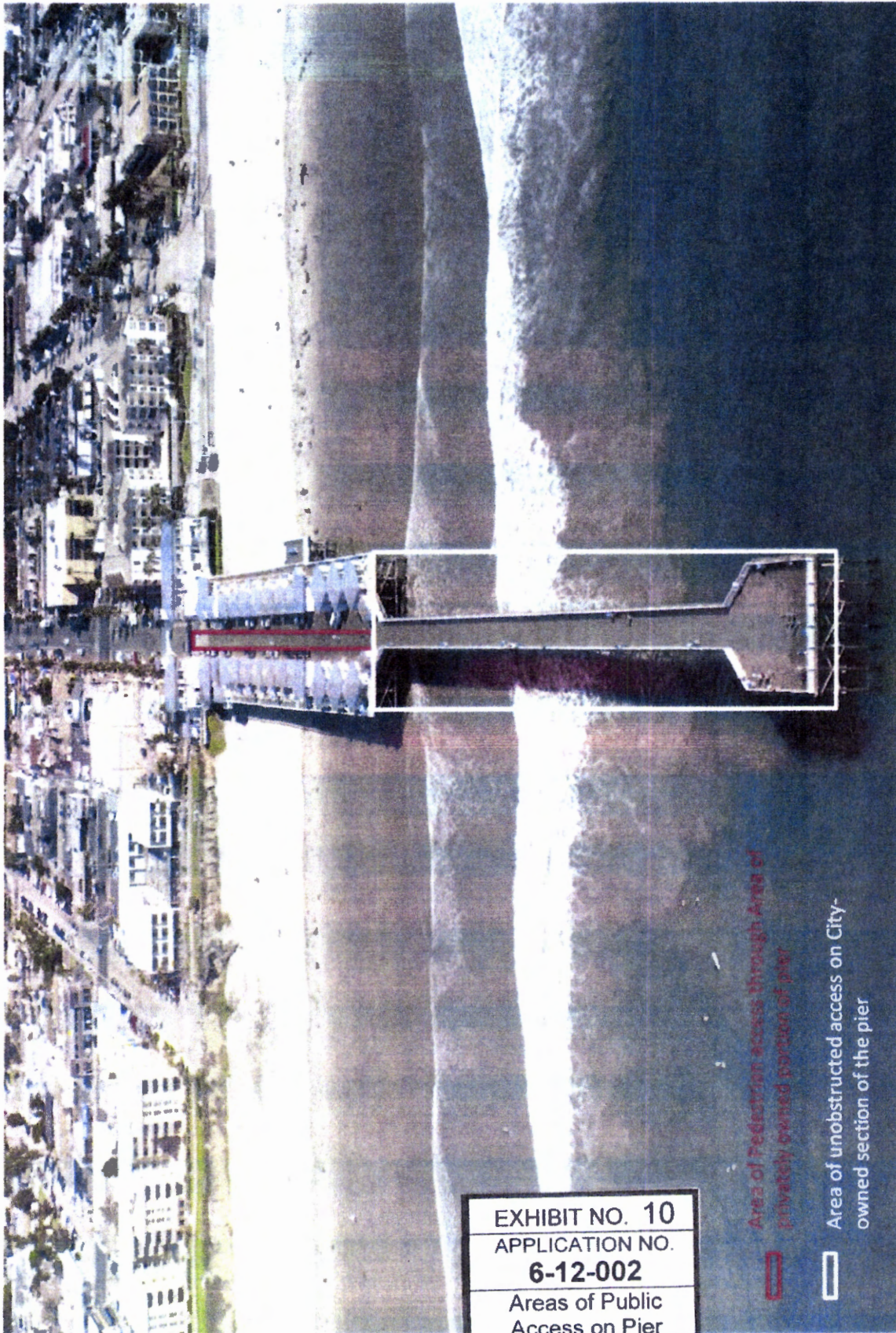





EXHIBIT NO. 10  
APPLICATION NO.  
**6-12-002**  
Areas of Public  
Access on Pier

 Area of Pedestrian access through Area of  
privately owned portion of pier

 Area of unobstructed access on City-  
owned section of the pier

 California Coastal Commission





To see all the details that are visible on the screen, use the "Print" link next to the map.



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**CALIFORNIA COASTAL COMMISSION**

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



# W18a

Filed:	8/29/12
180 <sup>th</sup> Day:	2/25/13
270 <sup>th</sup> Day:	5/25/13
Staff:	T. Ross - SD
Staff Report:	4/18/13
Hearing Date:	5/8-9/13

## STAFF REPORT: REGULAR CALENDAR

<b>Application No.:</b>	<b>6-12-002</b>
<b>Applicant:</b>	<b>Crystal Pier Hotel &amp; Cottages, Inc.</b>
<b>Agent:</b>	Jim Bostian & Megan Busch
<b>Location:</b>	4500 Ocean Boulevard, Pacific Beach, San Diego County
<b>Project Description:</b>	Demolition of two single-story hotel/vacation rental cottages (Units 20 & 22) totaling 1,832 sq. ft. on Crystal Pier (already completed without a coastal development permit), reconstruction of two new single-story hotel/vacation rental cottages totaling 1,752 sq. ft., expansion of width of existing pier by six feet northward for a 74 foot section of the north side of the pier to accommodate new decking for the reconstructed units, modify the public access hours on the pier from the existing 7 am to sunset to 8 a.m. to sunset, and modify the signage below the pier to include the language identifying the sandy beach below the pier as “private property”.
<b>Staff Recommendation:</b>	Approval with conditions.

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## SUMMARY OF STAFF RECOMMENDATION

Staff is recommending the Commission approve the proposed project with several special conditions. The proposal includes after-the-fact approval of demolition of two existing, pre-coastal buildings comprised of one vacation rental cottage and various storage and maintenance facilities and the subsequent reconstruction of two new vacation rental cottages of similar combined size, located on Crystal Pier in Pacific Beach. These hotel/vacation rental units would be available for use by the public as overnight accommodations identical to the other 24 cottages located on Crystal Pier and the 6 units located inland of the pier. The proposal also includes the northward addition of approximately 6 feet of pier planking for a distance of approximately 74 feet along the northern edge of the pier, in order to provide private decks for the newly constructed units. The proposal raises a number of Coastal Act issues pertaining to public access, hazards and water quality.

Since the time the project applicant was originally submitted, it was determined that the existing signage located at the entrance of the pier, as well as below the pier had been modified without benefit of a coastal development permit. Current signage includes a sign at the entrance of the pier indicating that the public is welcome on the pier between the hours of 8 a.m. and sunset. Additional signage is located along the bottom of the pier and states:

*“Private Property, Crystal Pier Hotel Inc., includes sandy beach 75 feet (south/north) of pier. Public may pass through quietly, no loitering, no alcohol, no smoking, no disturbances. Property under surveillance. SDMC 56.54.”*

The Commission previously approved different signage associated with a previous coastal development permit (ref. CDP 6-86-725). As previously approved, the signage at the entrance of the pier included the hours open to the public to be from **7 a.m.** to sunset. In addition, while the previous permit did identify specific language for the signage below the pier, the permit prohibited the use of “private property, no trespassing, etc.” on any signage. To address the changes to the signage, the applicant has since modified the project proposal to include retaining the signage as it currently exists.

The proposed project has been conditioned to address Coastal Act issues related to adverse impacts to public access and recreation, structural stability and hazards, as well as potential adverse impacts to marine resources, and water quality. Specific concerns raised include the shading of the beach below the proposed pier extension which results in adverse public access and recreational impacts associated with expansion of the private section of the pier above both a lateral access dedication and a highly utilized sandy beach. Another primary concern is the proposal for modified signage. Currently, pursuant to a previous coastal development permit issued by the Commission, the pier is open from 7:00 a.m. to sunset daily. However, the signage proposed by the applicant at the entrance of the pier decreases the hours the pier is available to the public, and therefore decreases the existing access along the pier. In addition, the proposed language for the sign below the pier restricts access through language identifying it as private property. While the applicant may own this section of the beach in fee title, a lateral public access easement has been recorded for the same section of beach. This lateral access easement

identifies both pedestrian lateral access as well as passive recreational use along the shoreline as the purpose of the access easement and thus the proposed signage would discourage public access in an area identified specifically for both public lateral access and passive recreation. Additional concerns include the current structural stability of the pier as well as future hazard concerns associated with sea level raise and increased storm action. Finally, concerns are raised regarding the potential for adverse impacts to water quality associated with construction activities, and potential adverse impacts to marine resources associated with any new outdoor lighting.

To address these adverse impacts, Commission staff is recommending 13 special conditions. To address adverse impacts pertaining to public access and recreation, staff is recommending the incorporation of **Special Condition #1**, which requires the removal of any proposal for pier expansion, thereby eliminating the encroachment of the pier above a lateral access easement and a highly-used sandy beach. **Special Condition #2** requires the applicant to submit an updated signage program that includes the removal of the existing signage and replacement of the signage with language consistent to what was required associated with CDP #6-86-725. Because the existing signage is not permitted and is currently discouraging public access within a public access easement, **Special Condition #3** requires the applicant to comply with the modified signage program within 60 days of issuance of the coastal development permit.

**Special Condition #5** prohibits the use of public beach, pier, or public parking areas for storage, staging or employee parking during construction, and limits construction in general to outside the “peak” summer months between Memorial and Labor days. To address adverse impacts associated with pier stability and hazards, staff is recommending the incorporation of **Special Condition Nos. 4 & 8**. **Special Condition #4** requires the applicant to complete all the maintenance and repair activities recommended by the structural engineering report completed by Curry Price & Court Engineers and dated September 28<sup>th</sup>, 2010 for the area proposed for development, prior to the construction of the new rental units. **Special Condition #8** requires the applicant to assume all liability for any adverse impacts to property or persons associated with the hazards identified for this site. To address adverse impacts relating to water quality and marine resources, Commission staff is recommending the incorporation of **Special Condition Nos. 1.c & 6**. **Special Condition # 1.c** limits outdoor lighting to the minimum necessary for safety. **Special Condition #6** requires the applicant include a number of BMPs into construction activities to ensure that no unforeseen impacts to water quality occur through construction activities, staging areas, or accidental spillage of hazardous chemicals.

With the incorporation of the above described special conditions the proposal can be found consistent with all applicable Coastal Act policies, and; therefore, Commission staff recommends **approval** of coastal development permit application 6-12-002, as conditioned.

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## APPENDICES

Appendix A – Substantive File Documents

## EXHIBITS

Exhibit 1 – Project Location  
Exhibit 2 – Project Site  
Exhibit 3 – Site Plans  
Exhibit 4 – Pier Ownership  
Exhibit 5 – Recommended Structural Repairs  
Exhibit 6 – Existing Lateral Access Easement Area  
Exhibit 7 – Historic Pier Signage  
Exhibit 8 – Proposed pier Signage  
Exhibit 9 – Letters received from Applicant  
Exhibit 10- Area of Public Access on Pier



## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 6-12-002 subject to the conditions set forth in the staff recommendation.*

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

### Resolution:

*The Commission hereby approves coastal development permit 6-12-002 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit 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 development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

## II. STANDARD CONDITIONS

This permit is granted subject to the following 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 of 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.

### III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Revised Final Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT** the applicant shall submit final revised plans that are in substantial conformance to the plans submitted by JAG Architecture dated September 28, 2012. Said plans shall first be approved by the City of San Diego, and shall include the following revisions:

- a. The proposed approximate 74 foot long and 6 foot wide expansion to the north side of the existing pier immediately adjacent to the proposed reconstructed rental units intended to accommodate private decking for proposed units 20 and 22 shall be deleted.

If private decks for proposed units are still desired within the limits of the existing pier, the permittee shall submit a revised site plan reducing the size of the rental units in order to accommodate private decking within the existing building envelope. No intrusions outside the existing building footprint are permitted; specifically no encroachment to the south and within the existing public accessway will be approved.

- b. Proposed outdoor lighting shall be the minimum necessary for public safety and shall be designed in a manner that directs light away from the beach and ocean. If any new exterior lighting is proposed beyond the minimum necessary for public safety, a lighting plan shall be submitted that includes lighting that's designed and located so that only the intended area is illuminated and offsite glare is prevented.

The applicant 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 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. **Revised Signage at Entrance and Below Pier. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a revised signage plan that includes the removal the existing signage including the sign at the entrance of the pier indicating the public is welcome from 8 a.m. to sunset as well as all signage below the pier indicating the beach below the pier and 75 feet north and south of the pier as private property. The plan shall propose replacement signage that shall include the following:

- a. Signage at the entrance of the pier indicating the pier to be open to the public from no later than 7 a.m. to sunset.

- b. Signage at the bottom of the pier shall not include private property, nor shall any comparable signage be approved. Signage shall clearly indicate that public pedestrian lateral access and passive recreational use exists along the shoreline, consistent with the previously recorded later access easement No. 1991-0068045 recorded in the San Diego County Recorder's Office on February 13, 1991.

The applicant 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 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.

- 3. **Structural Repairs Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a structural repairs plan prepared by a licensed engineer that incorporates all the repairs recommended in the structural report written by Curry Price Court engineers dated September 28, 2010 for the portion of the pier proposed for development. Said plans shall first be approved by the City of San Diego and shall include:
  - a. The repair and maintenance work identified by Exhibit #5 for the area included in the proposed building envelope for Units 20 & 22 (Pier bents 1-6, grids a-f).

No construction activities may commence until the permittee has submitted for review and approval by the Executive Director, an updated structural report, completed by a licensed engineer indicating that all work recommended by the 2010 report by Curry Court and Price has been completed for the section of the pier proposed for development (ref. Ex. #5)

The applicant 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 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. **Staging, Storage and Public Access Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT applicant shall submit to the Executive Director for review and approval a final staging and storage plan that shall not result in impacts to public access and shall include the following:
  - a. No construction work shall occur on the beach or pier between Memorial Day weekend and Labor Day of any year.
  - b. No public parking spaces (on or off-street) shall be used for the staging of equipment, machinery and employee parking.
  - c. Staging areas shall not be permitted on public beaches, within public beach parking lots, within the section of the pier available for public access, or in any other location that would otherwise restrict public access to the beach at any time.

- d. Immediately upon completion of construction and/or when the staging site is no longer needed, the site shall be returned to its preconstruction state.
- e. The applicant shall submit evidence that the approved staging and storage plans/notes have been incorporated into construction bid documents.

The applicant 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 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. **BMPs/Water Quality Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director a Construction Best Management Practices Plan for the project site, prepared by a licensed professional, and shall incorporate Best Management Practices (BMPs) designed to eliminate the potential for adverse impacts to coastal waters associated with construction. The BMPs shall be maintained throughout the development process. Said Plan shall include, at a minimum, the following:

- a. During the construction stages of the project, the permittee shall not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion.
- b. Hazardous Material Storage. Store petroleum products and other hazardous material a distance of at least 65 feet from the shoreline. The fueling of all vehicles and construction equipment shall occur off site.
- c. Spill Response. BMP Plan shall be submitted for review and approval by the Executive Director and shall include a spill response plan or evidence that the permittee has contracted with a qualified local spill containment/cleanup contractor capable of responding to accidental releases of petroleum or other hazardous materials.
- d. Material Containment. Measures shall be implemented to prevent foreign materials (e.g. construction scraps, paints, solvents, etc.) from entering the sea.
- e. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- f. Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
- g. Adequate disposal facilities for waste materials produced during construction shall be provided;



- h. All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible;

The applicant 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 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.

6. **Incorporation of Conditions from Other Permits.** All conditions previously placed on the property by the Commission through issuance of Coastal Development Permits 6-86-725, 6-88-064, 6-94-142, 6-95-061 and all associated amendments to these permits shall remain in full force and effect unless specifically modified herein.
7. **Assumption of Risk, Waiver of Liability and Indemnity Agreement.** By acceptance of this permit, the permittee acknowledges and agrees (i) that the site may be subject to hazards from wave action; (ii) to assume the risks to the permittee 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.
8. **Condition Compliance.** WITHIN 90 DAYS OF COMMISSION ACTION ON THIS COASTAL DEVELOPMENT PERMIT, or within such additional time as the Executive Director may grant for good cause, the permittee shall satisfy all requirements specified in the conditions of the subject permit that the permittee is required to satisfy prior to issuance of this permit including but not limited to the removal of the unpermitted signage at the entrance and below the pier.
9. **Signage Condition Compliance.** WITHIN 60 DAYS OF ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit evidence that all unpermitted existing signage has been removed including the sign at the entrance of the pier indicating the public is welcome from 8 a.m. to sunset as well as all signage below the pier indicating the area beach below and 75 north and south of the pier as private property has been removed. The applicant shall also submit evidence that appropriate replacement signage consistent with Special Condition #2 above has been replaced at the entrance and below the pier. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.
10. **Full Payment of Permit Fees.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit full payment to the Commission for all applicable permit processing fees for the proposed development.

11. **Future Development.** This permit is only for the development described in Coastal Development Permit No. 6-12-002. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to the development governed by Coastal Development Permit No. 6-12-002. Accordingly, any future development proposals to the pier, existing rental units, or accessory structures shall require an amendment to Permit No. 6-12-002 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
12. **As Built Plans.** Within 60 days of completion of the project, the applicant shall submit as-built plans for the approved cottages and pier repairs verifying the pier structure has been constructed in conformance with the approved plans for the project pursuant to Special Condition #1 of this permit.
13. **Deed Restriction.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written 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 the 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 or with respect to the subject property.

## **IV. FINDINGS AND DECLARATIONS**

### **A. PROJECT DESCRIPTION/PERMIT HISTORY**

The proposed project includes a request for demolition of two structures (Units 20 & 22) which were used as one vacation rental cottage and maintenance and storage space totaling 1,832 sq. ft. which have already been demolished without the benefit of a coastal development permit. The project also includes the reconstruction of two new vacation rental cottages totaling 1,752 sq. ft. with a maximum height of 11 feet on top of Crystal Pier (ref. Exhibit #3).

The subject Crystal Pier Hotel is comprised of 30 hotel/vacation rental cottages located at Crystal Pier. Crystal Pier is currently developed with a main hotel structure including the Crystal Pier offices and 6 hotel units at the inland end of the pier. As you move west, the pier is developed with 24 blue and white Cape Cod style cottages all of which are available for rent by the public. Of the 24 units, 18 are pre-coastal and 6 of the units were approved by Commission-issued

Coastal Development Permit (CDP) #6-86-725. West of the rental units the pier is developed with a bait shop. The westernmost portion of the pier is undeveloped and is used by the public regularly (ref. Exhibit #2). As currently constructed, there are cottages along the north and south side edge of the pier, and each cottage is served by parking spaces in front of the cottages and private patio area in the back of the cottages. No development is located in the central section of the pier. The central section of the pier is where the pedestrian access is located (ref. Exhibit #10).

The pier is 872 feet long and located at the end of Garnet Avenue in Pacific Beach community of the City of San Diego. Crystal Pier is a highly visited and utilized pier, and is not only utilized by overnight guests, but also by tourist and locals alike for walking and fishing, and provides expansive views along the coast. The pier is bounded by highly utilized sand beach areas. There is also a boardwalk constructed inland and east of the pier that connects the subject beach community with its neighbors, Mission Beach and South Mission Beach. There are many shops and restaurants located in the downtown district along Mission Blvd and Garnet Street, as well as along the boardwalk.

While the pier has changed ownership a number of times since it was first constructed, the pier has maintained the current owner(s) since 1961. The applicant owns the easternmost 156 linear ft. of Crystal Pier in fee title; including the hotel and offices structure fronting Ocean Boulevard and approximately the first ten cottages (ref. Exhibit #4). The applicant also owns the section of dry sand located below the pier and 50 feet to the north and south of the pier structure, from the bluff edge to the Mean High Tide Line (MHTL). The applicant leases approximately 240 linear ft. west of the section owned by the applicant from the City and is developed with 14 rental units, the bait shop and a storage unit. The westernmost portion of the pier is owned, operated, and maintained by the City of San Diego as a public fishing and observation pier. This public section of the pier is accessed through the portions of the pier owned and leased by the applicant (ref. Exhibit #4). This lease between the City and the applicant includes a provision for a pedestrian easement along the center of the pier to provide access to the public along its entire length.

In order to facilitate public access but maintain privacy and safety for cottage unit guests, the pier is also developed with a security gate on the east side of the pier, adjacent to the hotel and office structures. This gate limits access by the public and includes signage indicating that the public is welcome to access the pier between the hours of 8 a.m. to sunset. The gate was originally constructed prior to the Coastal Act, but a replacement gate was permitted by the Commission in 1996 (ref CPD 6-96-142) and the permitted hours for public use are 7 a.m. to sunset. The apparent violation is addressed through special conditions and subsequent findings.

There is an extensive permit history for Crystal Pier. In 1986, the City submitted a request for the reconstruction of the City's portion of the pier (Ref. CDP #6-86-266) which was destroyed by winter storms in 1983. Also in 1986, the applicant submitted a request (Ref. CDP #6-86-725) for reconstruction and expansion of the middle (leased) section of the pier to match the width of the eastern (private) section, and construction of six new rental units in the expanded section of the pier. This request also included the relocation of the existing Bait & Tackle and Shell Shop (souvenir shop). The Commission found that the widening of the pier would result in impacts to public access/recreational opportunities and; therefore, required a lateral access easement for the

sandy beach area located below the privately owned section of the pier. The approved CDP also required the applicant to include signage at the eastern entrance of the pier indicating that the public are welcome along the pier between 7 a.m. and sunset as well as the removal of signage located below the pier that included the language “private property”. CDP 6-88-064 was administratively approved and authorized the relocation of the an existing souvenir shop from the western section of the pier to the existing hotel and office structure located in the eastern section of the pier through a 300 sq. ft. addition. CDP #6-94-142 authorized the demolition and reconstruction/expansion of two structures comprising the southern section of the hotel and office building. CDP #6-95-061 authorized a 288 sq. ft. addition to units 1 & 2 to increase these units from one bedroom/one bath to two bedrooms/two bath. There have also been two amendments approved by the Commission; one (6-86-725-A1), to construct a new sewer lift station and associated plumbing and the other (6-86-142-A1), to construct an additional private accessway to one of the second floor units located within the main hotel and office structure.

Sometime between 2008 and the present, Units 20 & 22 were demolished without Coastal Commission authorization. The applicant has indicated that the units were in a state of disrepair, thus making the demolition of the units necessary. The applicant now seeks to rebuild the demolished units. Therefore, the subject CDP application includes after-the-fact authorization for demolition of the rental units as well as reconstruction of new rental units. As proposed, the two (2) single-story 1,832 sq. ft. (combined) units will be replaced with two new single-story cottages totaling 1,752 sq. ft. The applicant is also proposing to expand the northern side of the pier by 6 feet for a distance of 74 feet. The expanded section of the pier would be used to provide private decking for the newly constructed units. The cost of renting the units is proposed to increase from \$250/day to \$385/day. The justification for the increase in cost is because the units will increase from one to two bedrooms, thereby increasing the capacity of the rental units from a maximum of four people to a maximum of six people. The rate of \$385/day is similar to the rates charged for the other two bedroom rental units (Units 1 & 2).

Since the time the project applicant was originally submitted, it was determined that the existing signage located at the entrance of the pier, as well as, below the pier had been modified without benefit of a coastal development permit. Current signage includes a sign at the entrance of the pier indicating that the public is welcome on the pier between the hours of 8 a.m. and sunset. Additional signage is located along the bottom of the pier and states:

*“Private Property, Crystal Pier Hotel Inc., includes sandy beach 75 feet (south/north) of pier. Public may pass through quietly, no loitering, no alcohol, no smoking, no disturbances. Property under surveillance. SDMC 56.54.”*

As discussed above, the Commission previously approved different signage associated with a previous coastal development permit (ref. CDP 6-86-725). As previously approved, the signage at the entrance of the pier indicated that the hours the pier is open to the public were from **7 a.m.** to sunset. In addition, while the previous permit did not identify specific language for the signage below the pier, the permit did prohibit the use of “private property, no trespassing, etc.” on any signage. To address the alternate signage, the applicant has modified the project proposal to include the retention of the signage at the entrance and below the pier as it currently exists.



While the City has a certified LCP for the Pacific Beach community, the subject site is located in an area of Coastal Commissions original jurisdiction, and as such, the standard of review for the proposed development is Chapter 3 of the Coastal Act, with the City's LCP used as guidance.

## **B. PUBLIC ACCESS**

The following Coastal Act policies are most pertinent to this issue, and state in part:

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 of the Coastal Act states, in part:

- (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, (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.*

[...]

- (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 30213 of the Coastal Act states, in part:

*Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*

[...]

Section 30604 of the Coastal Act states, in part:

[...]

- (c) *Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).*

The proposed development includes 1) after-the-fact approval of demolition and subsequent reconstruction of two existing cottages rented as visitor accommodations on Crystal Pier; 2) the expansion of the existing pier by a length of approximately 74 feet by a width of approximately 6 feet to facilitate private decking for the reconstructed cottages; 3) the retention of signage different from what was previously approved by the Commission at the entrance and below the existing pier. The primary public access concerns raised regarding the proposed development are: 1) impacts associated with the potential for decreased affordability of the new units; 2) direct impacts and future precedential impacts on the sandy beach below the pier as a result of expansion of the pier for private use; 3) impacts associated with the retention of the existing signage. Additional concerns include temporary impacts to public access associated with construction activities and the provision for adequate parking for the rental units. All concerns are discussed in greater detail below.

It is important to include here that the proposed development will also improve public access/recreational opportunities. Specifically, the project will increase the number of cottages available to the public. Previously, the two units were being used mostly as storage and only provided a single one bedroom rental unit. As proposed, the reconstructed units will remove the storage use, and will accommodate two (2) two-bedroom units. Because the storage component to the existing structures will be removed, the proposed rental units can and are proposed to maintain the existing envelope but will add two additional rental units, thereby improving public access and recreational opportunities.

However, the proposed development also includes the widening of the pier by approximately six feet for a lineal distance of approximately 74 feet (ref. Exhibit #6). The extension has been proposed to facilitate private decking for the new rental units. The applicant has indicated that private decks previously existed for both of these structures that have since been removed. However, staff has reviewed the entire permit history for the subject site, and the Commission has never reviewed or approved any expansion of the decking at this location. In addition, staff also reviewed historical aerial photos for the subject site and have concluded that the decking extensions at this section of the pier were not constructed prior to the Coastal Act. Therefore, any expanded decking that previously existed was not authorized and the proposed expansion of the pier will be considered new development.

As previously stated the primary concerns associated with the proposed deck expansion are the direct and precedential impacts to public access below and adjacent to the pier.

As previously discussed, this section of the pier and the sandy beach below the pier is owned by the applicant. However, in 1986, associated with CDP #6-86-725 an offer to dedicate (OTD) a lateral accessway (ref. OTD #1991-0068045) was recorded by the applicant from just west of the first pier pilings to the MHTL (the OTD has since been accepted by the City of San Diego). This OTD was required by the Commission as mitigation for impacts to public access and recreation caused by the expansion of the pier from 40 feet wide to approximately 100 feet wide for the section of the pier leased by the applicant. The easement included both public pedestrian lateral access as well as passive recreational use as the purpose of the lateral access easement. The Commission made the following findings associated with the development proposal:

*A City ordinance prevents swimming, surfing or boating within 75 feet of the pier; by extending the pier an additional thirty-plus feet on both to the north and south, the 75-foot barrier likewise is extended an additional thirty-plus feet in either direction eliminating those portions of the water from public use. This direct impact on public recreational use of state tidelands requires mitigation, which is being sought in the form of lateral access...*

As such, the proposed expansion of the pier will be directly over an area dedicated to the public. While the expansion will not directly block public access, the expanded pier will add to the general private feel and scale of a privately used section of the pier. The expansion will also further shade the sandy beach below and north of the existing pier, reducing the recreational appeal of that area for beachgoers, thereby adversely impacting public recreational resources. Again, shading will not necessarily physically prevent public access and recreational opportunities; it does, nonetheless, significantly impact those areas because most of the general public going to the beach prefer sunny sections of sand for general beach-going activities.

In response to this concern, the applicant indicated during a site visit with Commission staff, that the area below the pier where the deck expansion is proposed is not available for public use anyway. Specifically, it was indicated by both the applicant and a representative from the lifeguard staff that currently lifeguards “cone off” from public use this section of the beach in order to provide quick emergency access to the lifeguards and their vehicles to the water under and adjacent to the pier. The lifeguard representative indicated that the pier structure itself changes the movement of the ocean, and often creates small riptides. The City’s Municipal code prohibits swimming, surfing etc., below the pier. Nevertheless, the lifeguards indicated that swimmers, surfers, etc., often require rescuing within the area of the pier. The applicant then stated that because the lifeguards already restrict access to this section of the beach, the above discussed impacts are not applicable in this case. However, even if the current beach is restricted by lifeguards currently, it is unclear at this time if this is coned off 24 hours a day all year long or is even an allowable restriction under the terms of the lateral access and passive recreation easement granted to the City. In addition, it is unclear at this time if this section of the beach will always be coned off from the public. It seems likely that at some point, the lifeguards may choose to locate emergency access on the south of the pier instead of the north, or somewhere else entirely. As such, the current use by the

lifeguards does not preclude the impacts to public access discussed above, rather the impacts from the extension of the pier over public beach area is independent of and additional to any other interference with public access.

In addition, while the Coastal Act identifies visitor serving facilities (such as overnight accommodation) in the coastal zone as a high priority use, in this case, the proposed overnight accommodations can be provided without expansion of the pier. The proposed expansion would solely provide additional and private decking for the renters. This expansion of private decking over public access areas is not only inconsistent with the public access and recreational policies of the Coastal Act, but is also unnecessary, as there is plenty of pier decking that can be utilized by anyone who is staying in the rental cottages. Furthermore, the approval of the expansion of the pier may set an adverse precedent. Currently, the majority of rental units are one bedroom and include private decking (ref. Exhibit #2). Should the applicant desire to expand those rental units from one bedroom to two, it stands to reason that the expansion would be accommodated within the existing private decking areas and then expansion of the pier may be proposed in order to recapture the lost private decking. It is important that a precedent is set that clearly indicates expansion of the pier (even in small incremental sections) does have impacts to public access and recreational opportunities and cannot be supported to provide private decking. Finally, the Commission generally does not support the construction of private development (including piers, decking, docks) over land or water currently use by the public. This could, therefore, result in an additional and undesirable precedent.

As such, **Special Condition #1** requires the applicant to submit revised final plans that do not include any expansion of the existing pier. However, should the applicant desire to have some private decking for the proposed structures, **Special Condition #1** further allows final plans that include reduction in the size of the units in order to provide some private decking within the existing limits of the pier. **Special Condition #1** further requires that if the new units add the decking, they must still maintain the existing building footprint. This is necessary because if the applicant proposed to expand the building envelope to the south, this would either eliminate parking for the units, or would encroach into the area that provides vertical access to the public section of the pier.

In addition, because there have been numerous CDPs and CDP amendments previously issued by the Commission, some of which include conditions that still serve to protect public access and recreational opportunities on site (such as the public access signage and the lateral access easement), **Special Condition #7** has been included to clarify that, unless expressly modified herein, all previous conditions of approval for all CDP and CDP amendments approved by the Commission will remain in full force and effect.

The second major concern raised is regarding the applicants request to retain the existing signage located at the entrance and below the pier. In 1987 the Commission required two different types of signage for Crystal Pier (ref. CDP #6-86-725). The first signage was to be located at the entrance of the pier and was to clearly state that the public is welcome

along the pier between the hours of 7 a.m. to sunset. The findings in this staff report included:

*...the private development on the surface of the pier represents a visual and psychological barrier to public access on the pier itself. The western portion of the pier belongs exclusively to the City of San Diego, and is maintained as a public fishing and observation pier. The City lease with the private property owner contains a provision for a pedestrian easement along the center of the pier to access the public portion at the western end. That easement guarantees that the pier is open to the public between 7:00 a.m. and sunset, daily. However, there are no signs advising the general public that such access exists, and many beach visitors, as well as area residents, are not aware of the access easement. Therefore, Special Condition #3 requires posting of such a sign...*

The applicant installed the appropriate signage and the permit was issued. However, since that time the signage has been modified to allow the public to enter the pier between the hours of 8 a.m. to sunset. As previously discussed, the applicant owns the eastern section of the pier, and through a lease agreement with the City permits pedestrian access from the eastern (private) to the western (public) section of the pier. Thus, by permitting the proposed signage, the public access availability to the western and City-owned portion of the pier will be reduced by one hour daily. As previously noted, the pier is highly utilized by locals and tourists alike for sightseeing, walking, fishing, taking photos, etc. The applicant has indicated that the pier is not highly utilized between the hours of 7 a.m. and 8 a.m. In addition, the applicant has indicated that by limiting the access to 8 a.m. it allows the cottage/hotel guests to sleep in later and generally limits the public intrusion, noise, etc. in the early morning. The Commission does not agree that the public would not use the pier between the hours of 7 and 8 a.m. Generally speaking, people who walk daily often do so before work and/or early in the morning. In addition, you generally see fisherman out much earlier than even 7 a.m. so it seems unlikely that the fishermen would not utilize access to the pier between 7 a.m. and 8 a.m. Again, the Commission previously approved access on the pier between the hours of 7 a.m. and sunset and given the potential public access impacts by limiting access to 8 a.m., the proposed signage cannot be found consistent with the public access policies of the Coastal Act.

The proposed development also includes the retention of multiple signs affixed to the bottom portion of the pier, in attempt to address access by the public on the sandy beach below and adjacent to the pier. The signage is used to generally inform the public of private property ownership and states that the sandy beach below and 75 feet north and south of the property is private property; however, this is not an accurate representation of the private ownership interest under the pier. Private property signage was located below the pier during the Commission's review of coastal development permit (ref. CDP #6-86-725). The staff report stated:

*Although the area beneath the pier has been posted as private property for many years, the public has continually used the beach for passive recreations purposes, including walking, jogging, and sunbathing...*

*A second condition also requires the removal of the “private property/no trespassing” signs currently posted along both sides of Crystal Pier. Imposition of this condition will only validate the access that the public has historically used since the very beginning of the Pacific Beach community.*

In 1991 it was verified by staff that the private property signage had been removed (ref. Exhibit #7). However, since that time the applicant has put up two different signs at various points on the bottom of the pier that include the following (also ref. Exhibit #8):

*“Private Property, Crystal Pier Hotel Inc., includes sandy beach 75 feet (south/north) of pier. Public may pass through quietly, no loitering, no alcohol, no smoking, no disturbances. Property under surveillance. SDMC 56.54.”*

*No climbing, No Jumping, No Loitering, Property Under Surveillance*

The Commission was made aware of this new and unpermitted signage during review of the subject coastal development permit. Commission staff made the applicant aware that the existing signage was unpermitted. In response, the applicant has included retention of the above signage as part of this proposal.

Again, while the sandy area may be held by the applicant in fee title, there is a lateral access easement placed on this property. While the above signage would imply that the applicant owns the land both 75’ to the north and south of the pier, the applicant actually owns only the sandy beach area 50 feet north and south of the pier. As such, the public easement extends for 50 feet to the north and 50 feet to the south of the pier, as well as below the pier, with the exception of one small section on the eastern portion of the beach adjacent to the bluff edge. This section is fenced off and is developed with mechanical equipment. The easement language includes that the purpose of the easement is to provide “public pedestrian access and passive recreational use along the shoreline.” Thus, access as well as passive recreational use is to be provided consistent with the recorded easement.

As proposed the signage would include such terms as “private property” and “no loitering.” Both of these discourage public access. The term “private property” is often interpreted by the public to mean what a traditional “Private Property” indication would; that access is not permitted. And while the proposed signage does include a language that the public may pass through quietly, the “private property” language is located above and much larger than the section permitting the public to pass. Thus, the public may see the “private property” section, read no further, and infer that access is not permitted. This goes against the intent of the Commission previous special condition, as well as the intent of the public access easement language.

In addition, the language stating “no loitering” on both of the proposed signage will further deter the public. Assuming that some of the public does read the entire sign and thus is aware that passage is permitted, the public then believes that loitering is expressly not allowed. Again, the access easement language includes passive recreational use. While the term passive recreational use is subjective, the Commission interprets this to include things that could also be considered loitering. Thus, the proposed signage would discourage public access and is in direct conflict with the Coastal Act, the previous coastal development permit requirements, as well as the language recorded associated with the existing lateral access easement.

Because none of the signage proposed by the applicant can be found consistent with the Coastal Act, **Special Condition #2** requires the applicant to submit a modified sign program. **Special Condition #2** requires the program include the removal of the unpermitted signage and the proposal of new signage. Specifically, the new signage must include at the pier entrance that the public can access the pier between 7 a.m. and sunset. The signage below the pier must also remove the “private property” language and can only include language that is consistent with the intent of the public access easement and thus allows access as well as passive recreational uses below and adjacent to the pier. It is only through this condition that the project can be found consistent with the Coastal Act.

The applicant has indicated that some kind of signage is necessary to prevent illicit and unsafe activities that often occur during night hours (ref. Exhibit #9). The applicant as indicated that some members of the public use the area below the pier to drink alcohol after the adjacent bars close, are often noisy, may participate in other illicit behaviors, and disrupt the hotel guests. The applicant has further indicated that on a number of occasions people have swung or hung from the water and sewer lines located below and attached to the pier. This has resulted in broken water and sewer lines, which are costly, are potentially harmful to coastal waters, and generally detract from the intended experience for hotel guests. While the Coastal Act does protect public access, the Commission understands the issues balancing safety and access. As such, **Special Condition #2** does not prohibit signage deterring the public from illicit or unsafe activities, and will allow the applicant to develop signage that is both consistent with the Coastal Act, and prevents the concerns raised by the applicant.

In addition, the signage that is on the pier currently has been found to deter public access. As such, **Special Condition #9** requires to applicant to comply with the modified signage program within 60 days of permit issuance. Thus, it can be assured that the impacts to public access that result from the existing signage will be removed in a timely manner. In addition, the modified signage will increase public access both on and below the pier. Therefore, it is only through the inclusion of these special conditions that the proposed signage can be approved.

To reiterate, the proposed development includes the demolition and reconstruction of two cottage/hotel rental units. Thus, there is concern that newer hotel rooms will result in the loss of affordable overnight accommodations. As proposed, the cost of renting the newly constructed units will increase from \$250/day to \$385/day. The applicant has indicated the justification for the increase in cost is because the units will increase from one to two bedrooms, thereby increasing the capacity of the rental units. In addition, the rate of \$385/day is similar to the rates charged for the other two bedroom rental units (Units 1 & 2). In addition, the existing overnight

accommodations are not lower or moderate-cost accommodations and the proposed development will result in a net increase in the number of units available for public use. Although the proposed addition of one unit could provide the opportunity to require a lower-cost overnight component or a fee in-lieu of providing such affordability in this hotel development, given only one unit is involved, the Commission is not requiring such mitigation. Given the above factors, the project, as proposed, does not raise significant concerns regarding the need to protect lower cost accommodations.

An additional concern regarding the proposed development is potential impacts to public access associated with the construction activities themselves. As proposed, the applicant is proposing the demolition (after-the-fact) and reconstruction of two rental units located on Crystal Pier, and while this section of the pier proposed for development is owned by the applicant, this portion of the pier provides the necessary vertical access for the public to gain access from Ocean Boulevard to the public section of Crystal Pier. Thus, any blocking of this vertical accessway, even if temporary, would result in impacts to public access and recreational opportunities, inconsistent with the Coastal Act. In addition, public beach areas may be used for staging or storing building material, and public parking spaces may be used by construction workers resulting in further impacts to public access and recreation. The applicant has indicated that all staging and parking will be accommodated at an offsite lot owned by the applicants. **Special Condition #4**, however, has been included and specifies that: 1) No work shall occur on the beach or pier between Memorial Day weekend and Labor Day of any year; 2) No public parking spaces shall be used for the staging of equipment, machinery and employee parking; 3) No overnight storage of equipment or materials shall occur on sandy beach or public parking spaces; and, 4) Immediately upon completion of construction and/or when the staging site is no longer needed, the site shall be returned to its preconstruction state.

The final concern regarding public access relates specifically to the provision of adequate parking for the newly constructed units. Specifically, the proposed development will increase the number of rental units. As previously discussed, Unit 20 was used for storage and Unit 22 included a maintenance shop and a one bedroom rental unit. As proposed, the reconstructed units will provide a total of 4 bedrooms (3 more than previous units). The City of San Diego requires that one parking space be provided per bedroom. As such, if the existing parking is not sufficient to absorb the additional parking needs there may be an impact to public access resulting from hotel visitors usurping the surrounding public parking opportunities. The applicant has provided a parking study that indicates that the existing parking is sufficient to provide the increased parking space requirement. This study was conducted after the demolition of Units 20 & 22 and therefore does not include the unit #22 one-bedroom unit. The report identified that, currently, there is a surplus of 9 spaces. The reconstructed units will require a total of 4 parking spaces. Therefore, there will remain a parking surplus of 5 parking spaces after the reconstruction of Units 20 & 22 and will not result in impacts to public parking.

In conclusion, the development proposal, as proposed, will result in significant impacts to public access and recreation associated with both the expansion of the pier, retention of signage deterring public access as well as general construction activities. As required by **Special Condition Nos. 1, 2, 4, 6, and 9** these impacts will be reduced or eliminated from



the proposed development. Therefore, as conditioned the proposed project can be found consistent with all applicable Coastal Act policies and shall be approved.

### C. HAZARDS

Section 30253 of the Coastal Act states, in part, 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.*

Crystal pier is a wooden pier originally constructed in 1927. The pier extends almost 900 feet long and is constructed on 370 pier pilings. The eastern 1/3 of the pier is located over sandy beach, and the western 2/3 is located over ocean waters. The proposed development includes two rental units on the eastern section of the pier that may be at present, or in the future, subject to wave, storm, and/or flooding hazards.

Section 30253 of the Coastal Act mandates that new development provide for geologic stability and integrity and minimize risks to life and property. Crystal Pier, like all wood piers along the California coast, is subject to a variety of hazardous conditions, including high waves and periodic fires. In addition, sea level changes associated with global warming have become one of the forefront concerns for all coastal communities; and, structures located adjacent to or within the current MHTL, such as piers, are of particular concern. The applicant has submitted two reports addressing these concerns.

The first report titled “Report of Visual Investigation of Structural Elements Crystal Pier” by Curry Price Court, dated September 28, 2010, was updated in a letter dated February 20, 2012. The report concluded that the pier is in serviceable condition and the follow-up letter (dated 2/2012) further concluded that there are no significant impacts to pier stability associated with the proposed development. That being said, the original report does recommend a number of repairs to the pier. In total, the report found that 17 of the 370 existing pier pilings are either missing or significantly damaged. The report also indicated that there were also two deteriorated pier caps and a few broken deck joists. The Commission’s engineer has reviewed the report and has recommended that all of the repairs identified by the report located within the area of the proposed development be remedied associated with the proposed development. Therefore, **Special Condition #3** requires the applicant to submit a structural repairs plan that incorporates all the recommended repair and maintenance activities identified in the Curry Price Court report for the location of proposed development. **Special Condition #3** also prohibits construction of the rental units until after all identified maintenance work has been completed. In addition, and to assure the repair work is completed as approved, **Special Condition #12** requires the applicant, within 60 days of completion of the project, submit as-built plans for the approved cottages and pier repairs verifying the pier structure has been constructed in conformance with the approved plans for the project pursuant to Special Condition #1 of this permit. It is only with

the inclusion of this special condition that the project can be found structurally sound, consistent with Section 30253 of the Coastal Act.

The second concern identified associated with the proposed development in concerns for safety including future increase in sea level. To address this concern, Curry Price and Court also included findings in the letter dated February 20, 2012. In the letter, the consultant found that given the location of the proposed structures (22.5 feet above the mean lower low water (MLLW) and considering a reasonably anticipated sea level rise, the structures, while perhaps subject to some wave splash overtime in connection with extreme storm events, will be safe throughout their expected lifetime.

While the project, as conditioned above, can be found safe from an engineering standpoint and adequately addresses concerns pertaining to future rises in sea level, the project site is still located in an area which is periodically subject to waves, storm surge, and flooding, which has the potential to cause damage to structures or injury to those frequenting the area. Therefore, it is necessary for the applicant to waive any claim of liability against the Commission for damage to life or property that may occur as a result of the permitted development. The applicant's assumption of risk will demonstrate that the applicant is aware of and appreciates the nature of the hazards which exist on the site and which may adversely affect the stability or safety of the proposed development. Finally the applicant must indemnify the Commission or any of its agents or representatives against any claims of liability arising from the permitted development. As such, **Special Condition #7** requires the applicant to acknowledge, assume, and indemnify the Commission from such risks. It is also important that any future property owner be aware of said hazards, and; therefore, **Special Condition #13** has been included and requires the applicant to record a deed restriction that memorializes the conditions of this permit and assures that any future property owner will be aware that such liability claims have been waived.

In conclusion, the proposed development is located adjacent to the ocean and on top of an existing wooden pile pier. As such, concerns are raised regarding the new developments safety from current structural stability, as well as geologic, wave, and storm events, and future impacts associated with sea level rise. Only as conditioned, through **Special Condition #'s 3, 7, 12 and 13**, can the existing pier be found to provide adequate safety from these hazards both in its current state and throughout its expected life. As such, only as conditioned, can the project be found consistent with 30253 of the Coastal Act and can be approved.

#### **D. WATER QUALITY/MARINE RESOURCES**

Section 30230 of the Coastal Act states:

*Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial recreational, scientific, and educational purposes.*

Section 30231 of the Coastal Act states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30232 of the Coastal Act states:

*Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and clean up facilities and procedures shall be provided for accidental spills that do occur.*

Section 30230 requires that uses of the marine environment be carried out in a manner that will sustain the biological productivity of coastal waters for long-term commercial, recreational, scientific, and educational purposes. In addition, Section 30231 requires that the biological productivity and quality of coastal waters be maintained. Section 30232 requires protection of coastal waters from spillage of various hazardous substances, such as petroleum. The proposed project includes construction on an existing pier, which while specifically located over sandy beach, is located directly adjacent to open coastal waters. Proposed construction equipment includes pick-up trucks, hand power tools, scaffolding and human labor. In addition, if additional lighting is installed associated with the rental units, ambient lighting will be increased and may lead to impacts to marine resources.

Because of the proposed project is relatively small in scale, the project has been designed to minimize adverse effects to the coastal and marine resources on and adjacent to the subject site. However, the proposed project may result in potential adverse effects to surrounding habitat due to unintentional disturbance from construction equipment, materials, and/or debris. Construction activities associated with the proposed project could result in the generation of debris and/or presence of equipment, materials and hazardous substances that could be subject to run-off and wind dispersion into the marine environment. The presence of construction equipment, building materials, and debris on the subject site could pose hazards to sensitive marine organisms if construction site materials were discharged into the marine environment or left inappropriately on the project site. In addition, such potential discharges and disturbances to the marine environment could result in adverse effects to offshore habitat from increased turbidity and pollutants of coastal waters.

To protect marine resources and coastal water quality and to ensure that construction related adverse effects to the marine environment are minimized, **Special Condition #5** of the subject permit requires the applicant to: 1) not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion; 2) that petroleum products and other hazardous material be stored a distance of at least 65 feet from the shoreline and fueling of all vehicles and construction equipment shall occur off site; 3) that a BMP Plan be submitted that includes a spill response plan or evidence that the permittee has contracted with a qualified local

spill containment/cleanup contractor capable of responding to accidental releases of petroleum of other hazardous materials: and, 4) that measures shall be implemented to prevent foreign materials (e.g. construction scraps, paints, solvents, etc.) from entering the sea. It is only with the inclusion of **Special Condition #6** that any impacts to water quality will be prevented consistent with Sections 30231 and 30232 of the Coastal Act.

In addition, while not specifically proposed, it is unclear if any new outdoor lighting will be added to the pier associated with the newly constructed rental units. It has been documented on numerous occasions that artificial lighting in the natural marine environment modifies foraging, mating and general behaviors in shore birds, fish and invertebrates. Specific examples include mating behaviors in grunion, diurnal migration in plankton, and uncharacteristic nighttime foraging in shorebirds. To prevent any such impacts, **Special Condition #1 (subsection “c”)** restricts any proposed outdoor lighting to the minimum necessary to ensure safety. **Special Condition #1.c.** further requires that if any new exterior lighting is proposed, a lighting plan shall be submitted that includes lighting that’s designed and located so that only the intended area is illuminated and offsite glare is prevented consistent with 30230.

In conclusion, the proposed development raises concerns regarding water quality impacts associated with construction activities, as well as impacts to marine resources associated with installation of new outdoor lighting. As conditioned through **Special Condition Nos. 1 & 5**, potential impacts have been either eliminated or minimized and addressed. Therefore, only as conditioned can the project be found consistent with Sections 30230, 30231, and 30232, and can be approved.

## E. VISUAL RESOURCES

Section 30251 of the Act addresses visual resources, 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, and, where feasible, to restore and enhance visual quality in visually degraded areas.*

[...]

The proposed development is located on Crystal Pier, in a highly scenic area that is often frequented by the public. As such, any proposed development will have the potential to impacts existing views of the coast and ocean. As proposed, the project includes demolition of two existing single-story structures, with the subsequent reconstruction of two single-story rental units of similar height and combined square footage. As proposed, the units will also maintain the existing building envelope. Because the proposed structures will be of similar size and height, and will maintain the existing building envelop, there will be no impacts to coastal views (ref. Exhibit #3). **Special Condition #1** requires the final plans to be substantially in conformance to the proposed plans and prohibits development beyond the existing building footprint. As such, public views will be maintained and protected and can therefore be found consistent with the applicable visual resource protection policies of the Coastal Act, as proposed.

## F. UNPERMITTED DEVELOPMENT

Development has occurred on the subject site without the required coastal development permit. Specifically, the rental units proposed for reconstruction were demolished sometime between 2008 and the present without benefit of a coastal development permit. In addition, the signage located at the entrance and below that pier has been replaced with signage that includes language different to what was approved associated with a previous coastal development permit issued by the Coastal Commission (ref. CDP #6-86-725). To assure that the unpermitted development issue is resolved in a timely manner; **Special Condition #8** has been attached to require the applicant to comply with all “prior-to-issuance” Special Conditions of approval within 90 days of Commission action or within such additional time granted by the Executive Director for good cause. **Special Condition #9** further requires the applicant to remove the existing signage and replace it with signage that has language consistent with what was previously permitted by the Commission within 60 days of issuance of the subject coastal development permit. In addition, because the subject CDP application includes a request for after-the-fact approval of development that has already occurred, permit fees were increased consistent with §13055 of the California Coastal Commission Regulations. The applicant has yet to submit the additional permit fees associated with the after-the-fact component of the CDP application. As such, **Special Condition #10** requires the applicant to submit the remainder of the permit fees, in full, prior to issuance of the coastal development permit.

Although development occurred prior to the submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on these permit applications does not constitute a waiver of any legal action with regard to the alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject sites without a coastal permit.

## G. DEED RESTRICTION

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes one additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, only as conditioned by **Special Condition #13**, can it be ensured that any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development and the special conditions imposed to mitigation of adverse impacts to coastal resources.

## H. LOCAL COASTAL PLANNING.

The City of San Diego has a certified Local Coastal Program (LCP) for the Pacific Beach community. However, the subject site is located in an area of original jurisdiction where the Commission retains permanent permit authority and Chapter 3 of the Coastal Act remains the

legal standard of review, with the LCP used as guidance. As conditioned, the proposed development is consistent with certified LCP and all applicable Chapter 3 policies of the Coastal Act. Therefore, approval of the project, as conditioned, will not prejudice the ability of the City of San Diego to continue to implement its certified LCP for the Pacific Beach community.

## **I. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).**

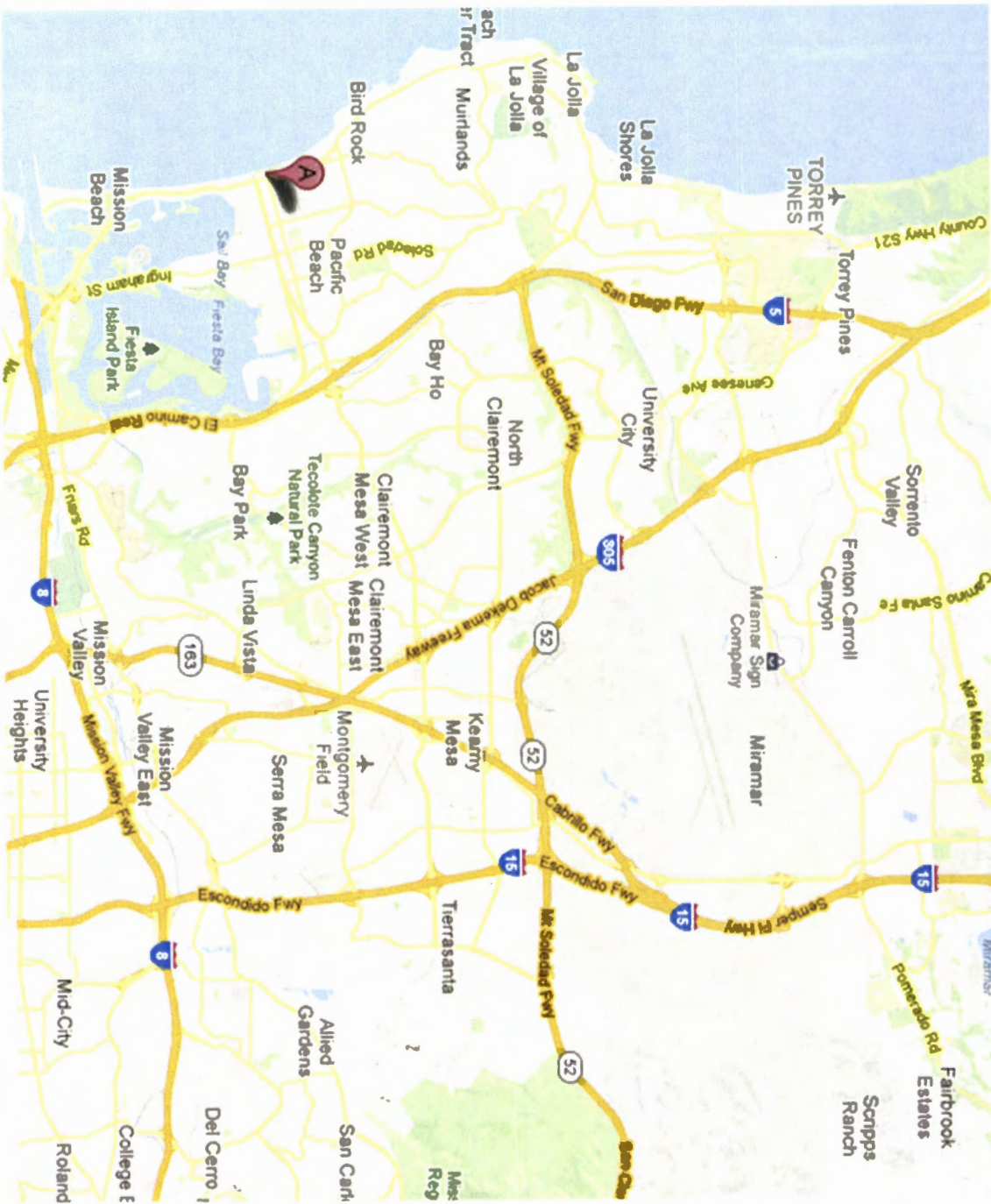
Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) 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.

As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. As conditioned, the project will enhance public recreational opportunities by replacing rental units, and will not impact public access, as it will be constructed within the area of the pier restricted as private property. The project will further enhance public access as conditioned, through the removal of the existing signage which limits hours of public access on the pier and discourages public access underneath the pier. In addition, special conditions including revised final plans and final structural plans will ensure that the development does not result in potential hazards to the public, and does not encroach into existing public beach area and protects the marine resources in and water quality of coastal waters. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

**Appendix A**  
**Substantive File Documents**

1. City of San Diego Local Coastal Program
2. Coastal Development Permit Nos. 6-86-725, 6-88-064, 6-94-142, 6-95-061 and Amendment Nos. 6-86-A2, 6-94-142-A1, and 6-95-061-A1.
3. Curry Price and Court Report titled "Report Visual Investigation of Structural Elements Crystal Pier San Diego, CA," dated September 28, 2010
4. Curry Court Price letter Dated February 20, 2012

# Project Location



Courtesy <https://maps.google.com/maps?hl=en&tab=w>

EXHIBIT NO. 1
APPLICATION NO.
<b>6-12-002</b>
Project Location

 California Coastal Commission



## Project Site

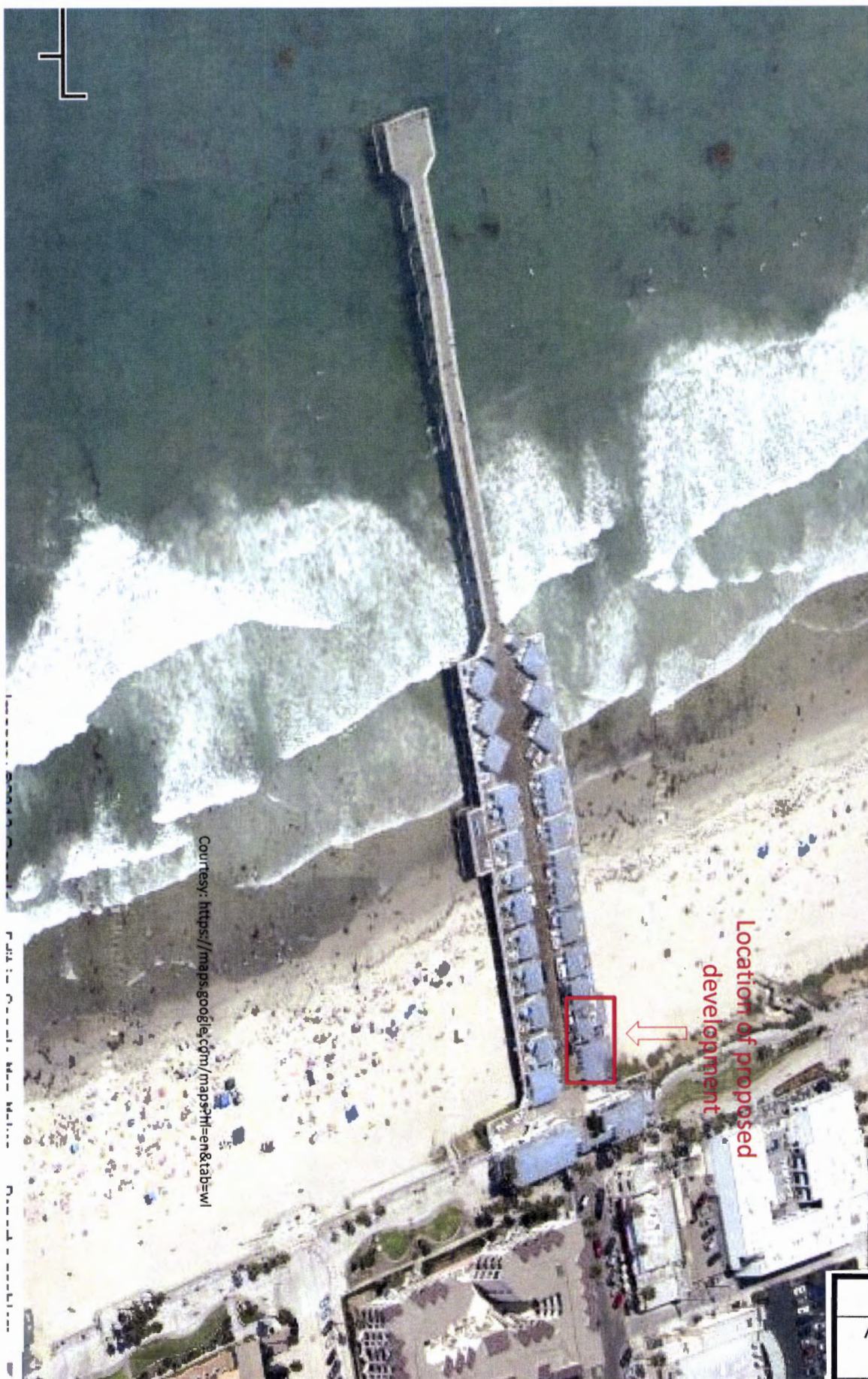
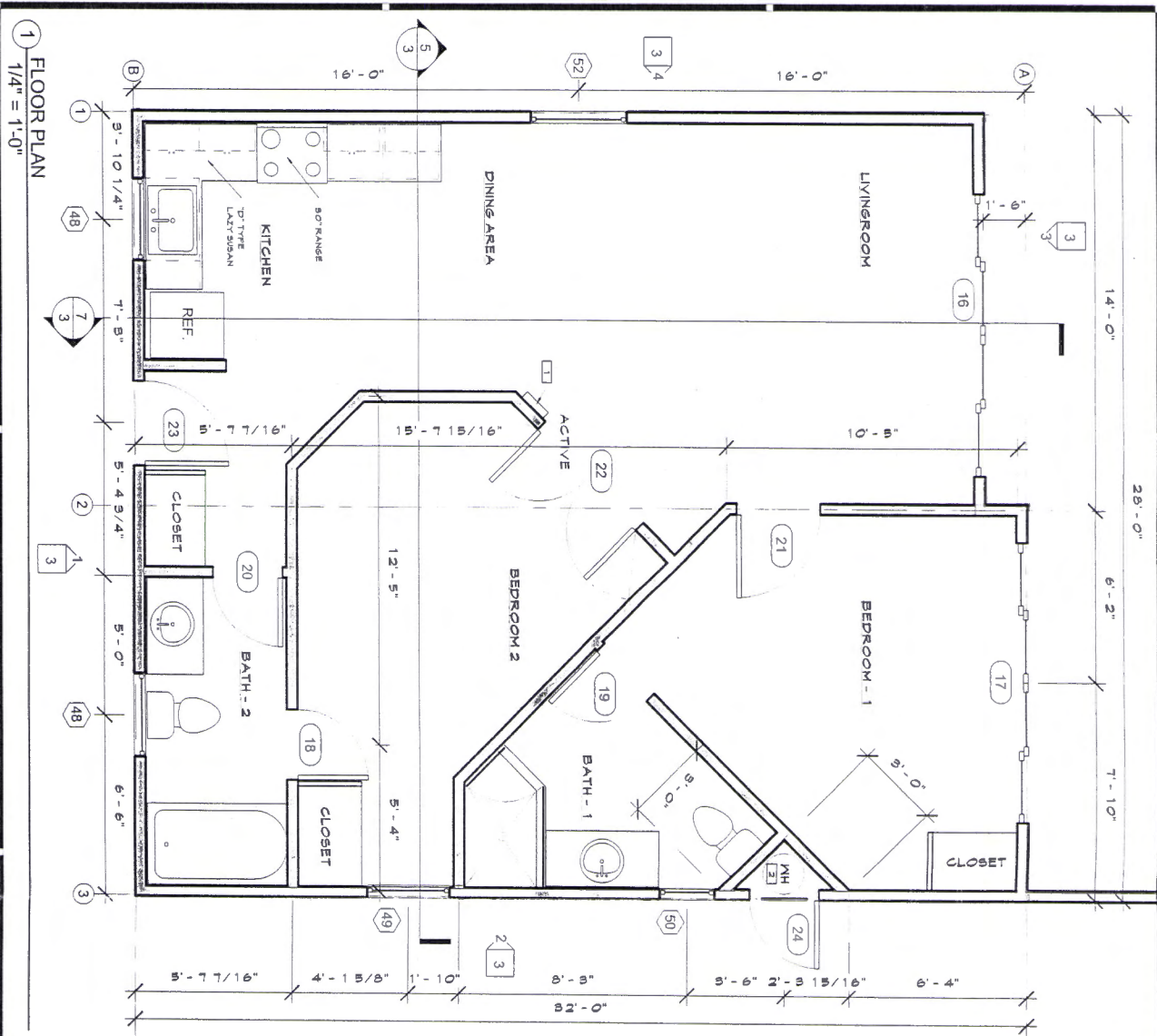


EXHIBIT NO. 2  
APPLICATION NO.  
**6-12-002**  
Project Site





**Window Schedule**

Type	Mark	Width	Height	Manufacturer	Glazing	U-Factor	SHGC	VLT	Cx
48	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
49	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
50	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
51	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
52	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
53	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
54	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
55	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
56	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
57	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
58	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
59	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
60	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
61	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
62	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
63	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
64	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
65	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
66	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
67	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
68	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
69	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
70	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
71	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
72	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
73	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
74	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
75	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
76	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
77	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
78	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
79	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
80	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
81	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
82	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
83	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
84	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
85	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
86	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
87	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
88	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
89	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
90	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
91	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
92	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
93	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
94	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
95	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
96	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
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98	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
99	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
100	3'-0"	3'-0"	3'-0"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER

**Door Schedule**

Mark	Width	Height	Manufacturer	Glazing	U-Factor	SHGC	VLT	Comments
16	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
17	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
18	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
19	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
20	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
21	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
22	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
23	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
24	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
25	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
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33	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
34	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
35	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
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47	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
48	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
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69	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
70	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
71	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
72	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
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74	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
75	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
76	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
77	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
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84	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
85	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
86	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
87	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
88	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
89	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
90	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
91	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
92	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
93	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
94	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
95	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
96	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
97	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
98	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
99	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER
100	10'-0"	6'-8"	6-PANEL HC	3D LOW-E	33	22	50	4-PANEL SLIDER

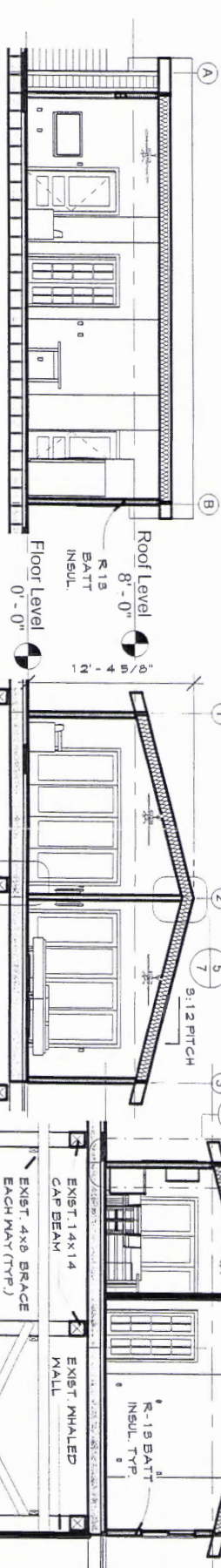
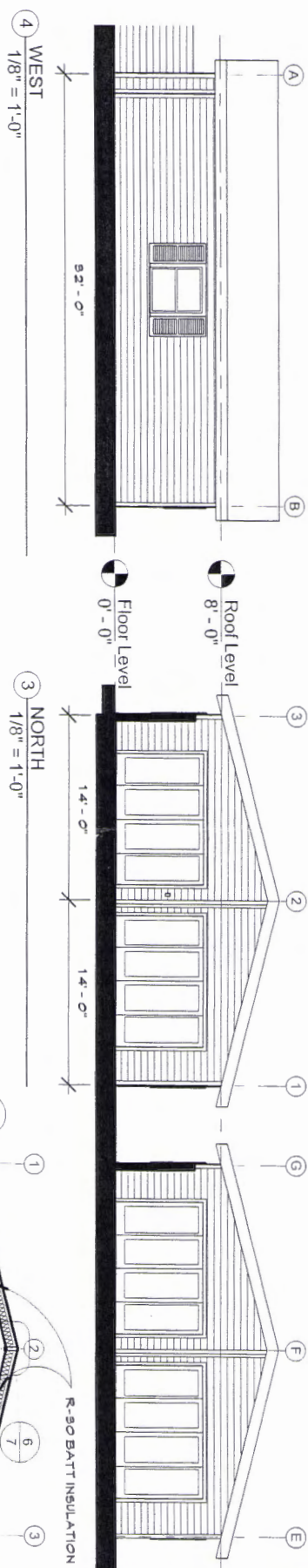
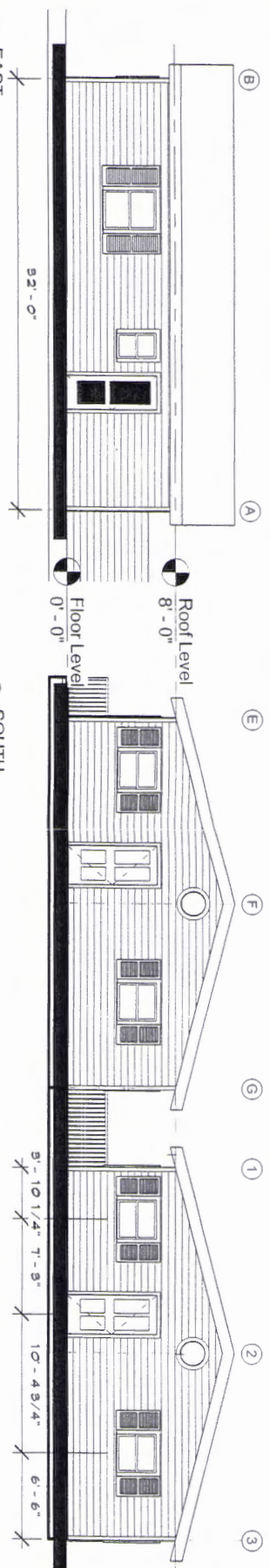
**GENERAL NOTES:**

- Each showerhead shall not exceed a water flow of 2.5 GPM.
- Each Tub and tub-shower combinations shall be provided with mixing valves per Section 420 CPC.
- Toilets shall be ultra low flush type (1.6 g.p.t. max).
- Each faucet shall not exceed a water flow of 2.2 GPM.

**EQUIPMENT SCHEDULE**

- WALL HEATER**  
Williams Furnace Co. - Model # 3509622 35,000 BTU Input rating  
25,930 BTU Output rating  
69.0 AFUE
- WATER HEATER**  
Rheem Co. - Model # GG4076TA - 40 gallon = .59 Energy Factor
- BATH EXHAUST FANS**  
NuTone - Model 744SFLNT Humidity Sensing Fan/Fluorescent Light
- RANGE HOOD**  
NuTone - Model NS6500 Vented
- NO COOLING PROVIDED**

**EXHIBIT NO. 3**  
**APPLICATION NO.**  
**6-12-002**





ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 06-13-2013 BY 60322  
JAG ARCHITECTURE  
4500 OCEAN BLVD.  
SAN DIEGO, CA 92104

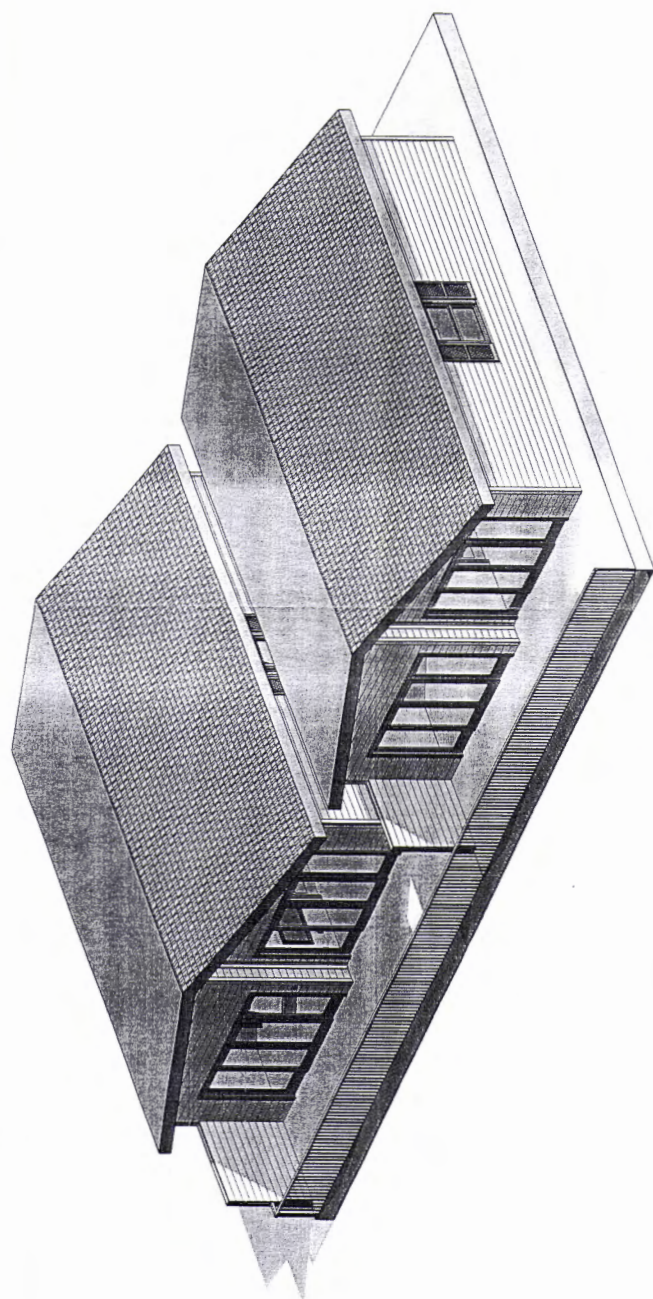


ISOMETRIC VIEW

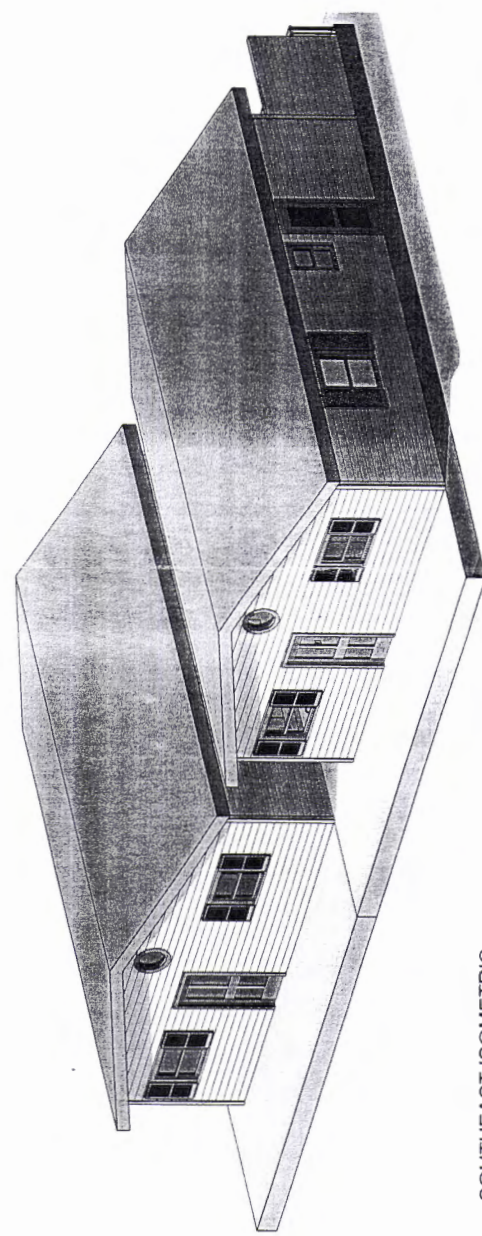
UNIT #20-22 REMODEL  
4500 OCEAN BLVD.  
SAN DIEGO, CA 92104

JAG  
ARCHITECTURE  
JOHN B. ADAMS, ARCHITECT  
51941  
LA MESA, CALIF. 91941  
PHONE 619 497-9940  
FAX 619 497-9941  
E-MAIL jagarchitects.net

9 OF 9  
DATE 14 NOV 2011  
FILE 20-22



1 NORTHWEST BIRDS EYE VIEW



2 SOUTHEAST ISOMETRIC

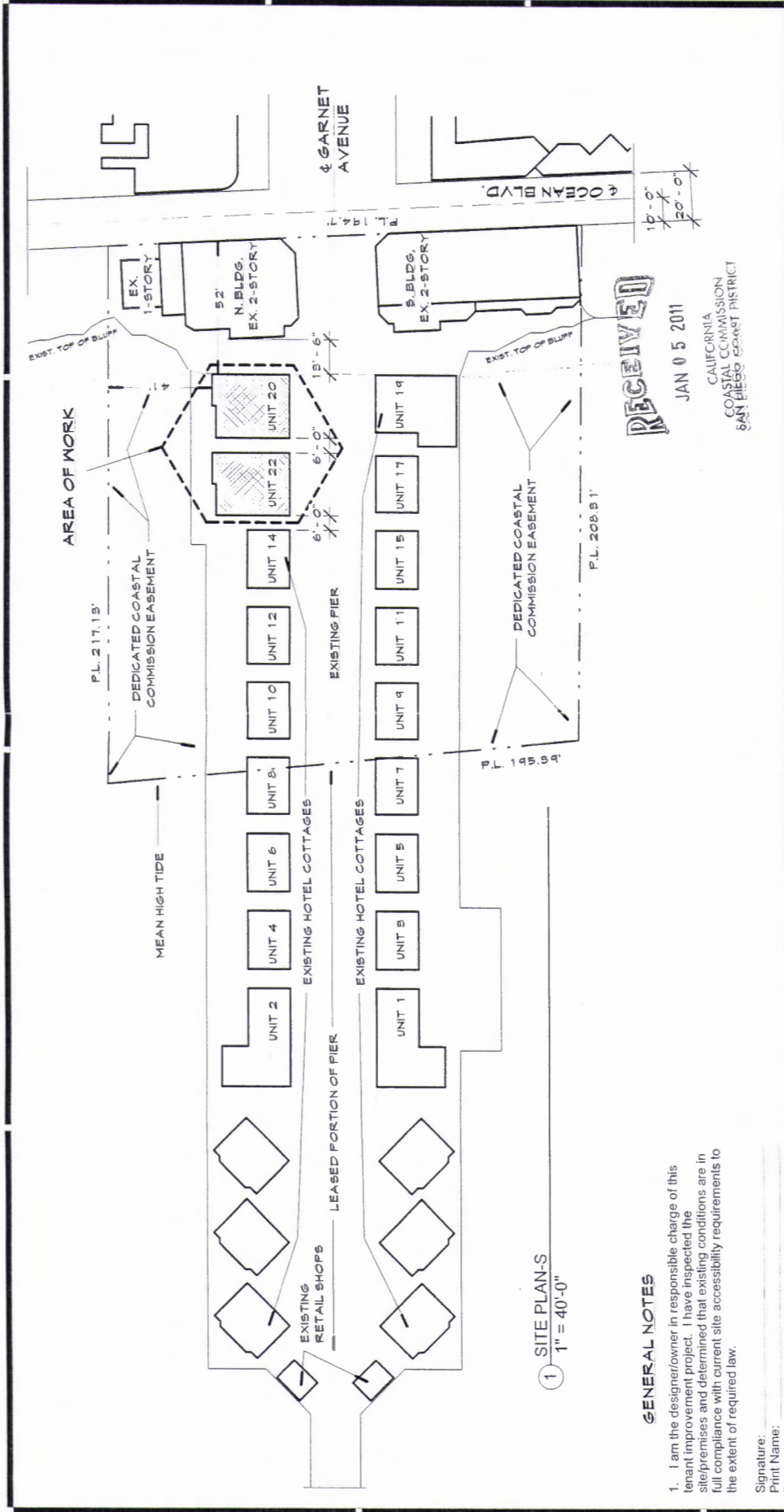
ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE. DATE 06/13/2013 BY 3046

UNIT #20-22 REMODEL  
4500 OCEAN BLVD.  
SAN DIEGO, CA 92109

SITE PLAN

JAG ARCHITECTURE  
5555 STARLIGHT LANE  
SAN DIEGO, CA 92121  
PHONE (619) 697-9940  
FAX (619) 697-9940  
WWW.JAGARCHITECTURE.COM

1 of 9  
JAN 05 2011  
UNIT 20-22



- 1 - SITE PLAN  
2 - FLOOR PLANS - WINDOW & DOOR SCHEDULES  
3 - ELEVATIONS & SECTIONS  
4 - PIER FRAMING DETAILS  
5 - SHEAR PLAN & ROOF FRAMING  
6 - ELECTRICAL PLAN & ROOF PLAN  
7 - STRUCTURAL DETAILS  
8 - FURNITURE PLAN  
9 - ISOMETRIC VIEWS  
T1-5 - ENERGY FORMS

CRYSTAL PIER HOTEL, INCORPORATED  
4500 OCEAN BOULEVARD  
SAN DIEGO, CALIFORNIA 92109

CONTACT: JIM BOSTIAN  
Phone: 858 483-6989  
Fax: 858 483-6811

APN: 428-021-10-00

RECONSTRUCT UNITS 20, 22 - CRYSTAL PIER HOTEL  
TOTAL AREA OF OLD UNITS - 1892 S.F.  
TOTAL RECONSTRUCTED AREA - 1782 S.F.  
CONSTRUCTION TO MATCH EXISTING UNITS.

PROJECT SCOPE

OWNER

SHEET INDEX

# GENERAL NOTES

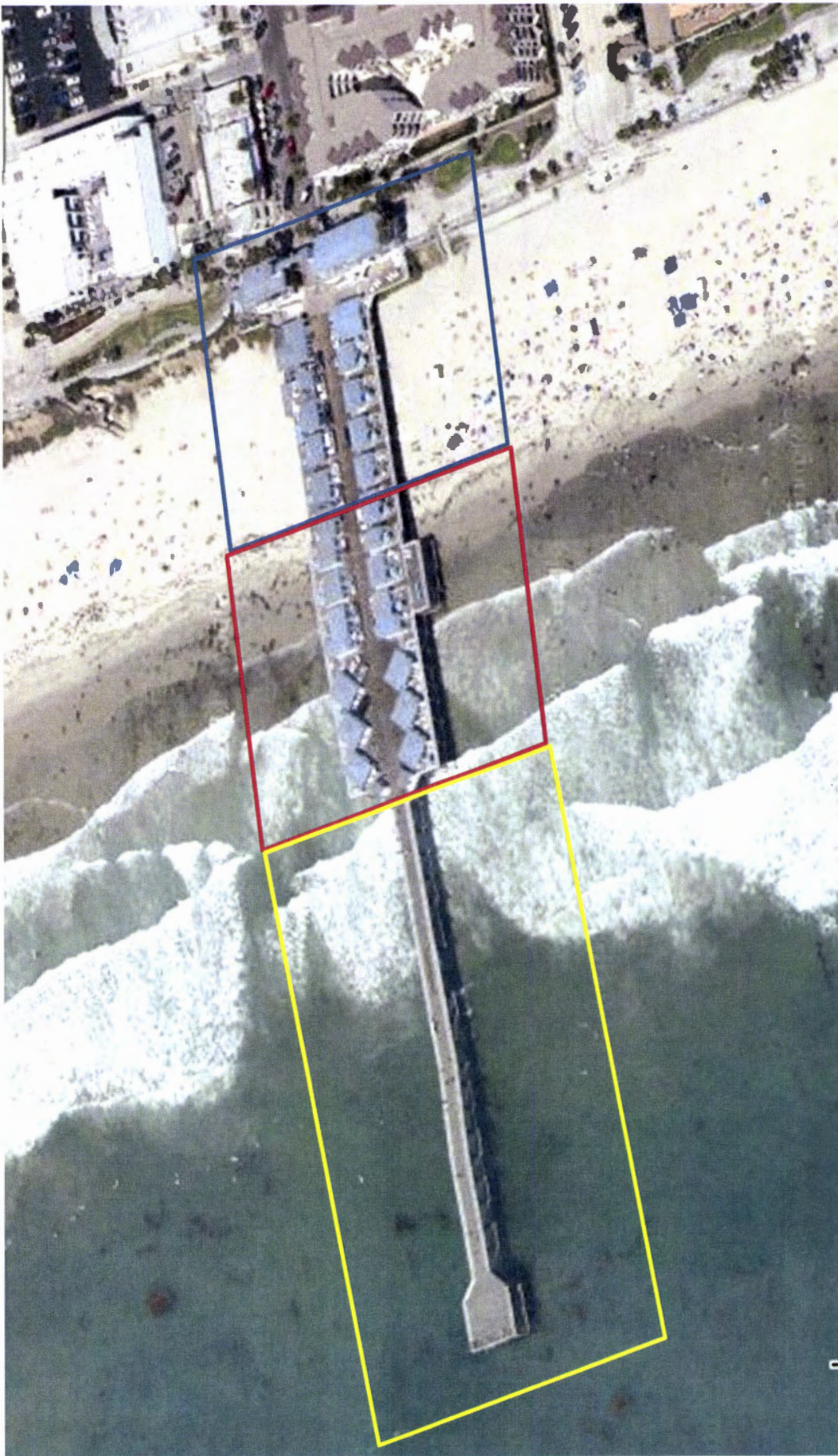
1. I am the designer/owner in responsible charge of this tenant improvement project. I have inspected the site/premises and determined that existing conditions are in full compliance with current site accessibility requirements to the extent of required law.


Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Date: \_\_\_\_\_

2. If the Building Inspector determines noncompliance with any accessibility provisions, he/she shall require complete, detailed plans clearly showing all existing non-complying conditions and the proposed modifications to meet current accessibility provisions affected by the remodel (including site plan, floor plans, details, etc.) The plans must be stamped by the field inspector and resubmitted to the Building Development Review Division.

3. Existing construction Type V-N -non-sprinkled.






 Portion of pier owned by applicant

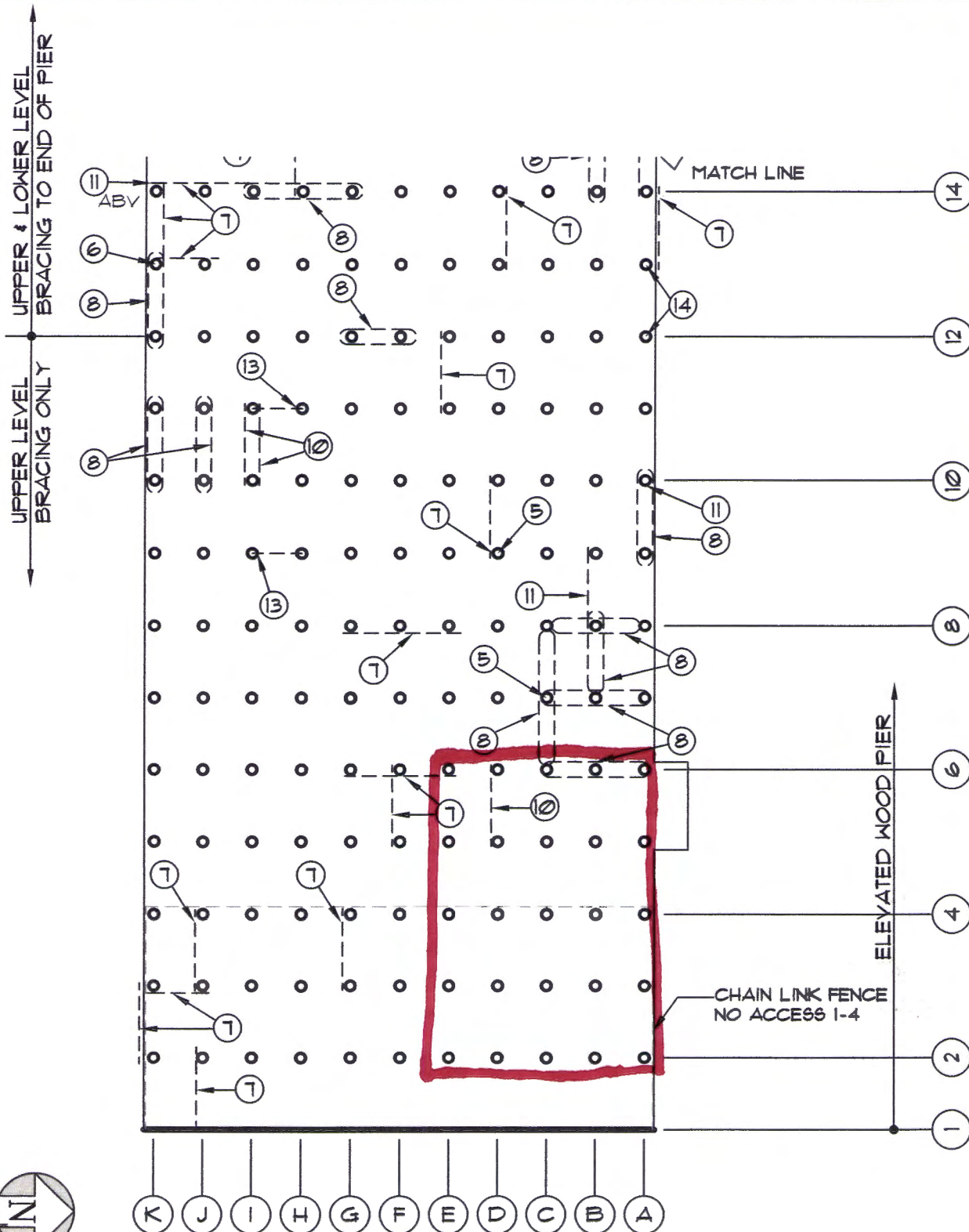
 Portion of Pier owned by the City and leased to the applicant

 Portion of the pier owned and operated by the City

\* All boundaries are approximate

EXHIBIT NO. 4
APPLICATION NO.
<b>6-12-002</b>
Pier Ownership
 California Coastal Commission





FOR KEYNOTES SEE SHEET 5

**CURRY PRICE COURT**  
Structural & Civil Engineers

444 Camino del Rio South • Suite 201 • San Diego, CA 92108  
(619) 291-2800 tel • (619) 291-0613 fax CPC # 095002XA

 Approximate Area of  
Proposed Development

**CRYSTAL PIER**  
**KEY PLAN**  
STRUCTURAL EVALUATIONS

EXHIBIT NO. 5  
APPLICATION NO.  
**6-12-002**

Structural Repairs  
Recommended

 California Coastal Commission

### KEY NOTES

1. PILE BORER DAMAGE LESS THAN 50%
2. PILE BORER DAMAGE GREATER THAN 50%
3. MISSING PILE
4. HANGING ABANDONED PILE
5. SPLIT PILE
6. SPLIT PILE CAP
7. SPLIT/DAMAGED/LOOSE HORIZONTAL BRACE.  
ROT/CORROSION AT BRACE CONNECTION
8. MISSING HORIZONTAL BRACE
9. SPLIT/DAMAGED/LOOSE DIAGONAL BRACE
10. SPLIT/DAMAGED JOIST
11. UNANCHORED/ABANDONED MEMBERS
12. POTENTIAL BORER DAMAGED PILE  
(FURTHER INVESTIGATION RECOMMENDED)
13. ROT/DETERIORATION AT PILE CAP
14. STUB END OF PILE CAP APPEARS INADEQUATELY  
ATTACHED (VERIFY)
15. PILE BENT, FRACTURED AT BRACE CONNECTION



**CURRY PRICE COURT**

Structural & Civil Engineers

444 Camino del Rio South • Suite 201 • San Diego, CA 92108  
(619) 291-2800 tel • (619) 291-0613 fax CPC # 095002XA

CRYSTAL PIER  
KEY PLAN  
STRUCTURAL EVALUATIONS

SHEET NO.

5

OF 5



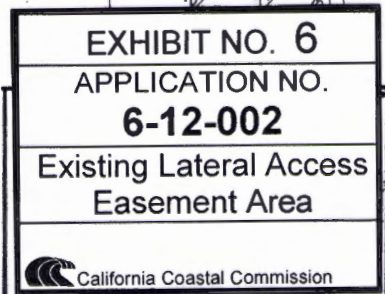




EXHIBIT NO. 7

APPLICATION NO.

**6-12-002**

Historic Pier Signage





PUBLIC  
WELCOME  
8AM – SUNSET  
*Please RESPECT THE*  
PRIVACY OF OUR GUEST

EXHIBIT NO. 8

APPLICATION NO.

**6-12-002**

Proposed Pier Signage



California Coastal Commission

**NO CLIMBING**

**NO JUMPING**

**NO LOITERING**

---

**PROPERTY UNDER  
SURVEILLANCE**

**PRIVATE PROPERTY**

**CRYSTAL PIER HOTEL, INC.**

**INCLUDES SANDY BEACH 75 FEET (SOUTH) OF PIER**

**PUBLIC MAY PASS THUR QUIETLY, NO LOITERING,**

**NO ALCOHOL, NO SMOKING, NO DISTURBANCES.**

**PROPERTY UNDER SURVEILLANCE**

**SDMC 56.54**



**PRIVATE PROPERTY**

**CRYSTAL PIER HOTEL, INC.**

**INCLUDES SANDY BEACH 75 FEET (NORTH) OF PIER**

**PUBLIC MAY PASS THUR QUIETLY, NO LOITERING,**

**NO ALCOHOL, NO SMOKING, NO DISTURBANCES.**

**PROPERTY UNDER SURVEILLANCE**

**SDMC 56.54**

April 11, 2013

Ms. Toni Ross, Project Manager  
California Coastal Commission, San Diego Area  
575 Metropolitan Drive, Suite 103  
San Diego, CA 92108-4421

Re: Crystal Pier Hotel and Cottages, Inc.  
Application No: 6/12/002

Dear Toni:

Here is the long awaited response to the Staff Report filed by your office on 8/29/12, and extended by Willis M Allen, Jr, Chairman, prior to the hearing date of 2/6-8/13. The responses herein are in concert with the meeting on site by staff. It is our desire to have you correct and change the Staff Report to reflect discussions and demonstrations obtained by staff when we met at Crystal Pier.

#### I. Special Conditions

Private decking: since it is now apparent that the deck extension will not affect the beach below for sun bathers. Lifeguards have demonstrated that, due to public safety and emergency vehicles, the area directly under the proposed deck extension is restricted by cones and the public is not allowed in that area. In addition, the area is located on the North side of the pier which is the natural shady side. The sandy beach below appears to not have any visible environmental growth since it is clearly a continuation of normal sandy beach.

Staff requested a letter from City Lifeguard. This letter will be forwarded next week to you. We have been working on getting this letter for two months and finally the boss has agreed to sign it next week. We cannot control this, same as we cannot control the City Real Estate Asset Dept. They follow their own drummers and seem to have little regard of deadlines.

The rest of section I is not a problem

#### Structural Repair Plan:

Please be advised that the Crystal Pier Hotel and the City are working together on a repair plan that goes beyond the normal maintenance and repairs allowed to be performed by us and or City Engineers, as agreed to by City Historic Review. The major repair and replacement plans will be submitted by "City" to Coastal Commission for separate permit.

The structural repairs will be certified by Curry Price Court for this area and documentation of this will be submitted prior to commencement of any construction. Be advised that based upon your visit and personal inspection of the area under the proposed two new cottages and deck, the area is structurally sound and has appropriate reinforcement of structure.

#### Staging, Storage and Public Access Plan:

Hotel has access to staging and storage space on a separate parcel across the street from the hotel. In addition, there is space on the pier for staging of materials for the construction of the cottages without serious interference to Public Access.

EXHIBIT NO. 9

APPLICATION NO.

**6-12-002**

Letters received from  
Applicant



Toni Ross, Project Manager  
California Coastal Commission, San Diego Area  
Crystal Pier 6/12/002  
April 11, 2013

Page 2

#### CEMPs/Water Quality Plans:

The materials will be stored on the adjacent lot or on the pier deck above the waves so as to minimize any materials making contact with the beach or ocean water below.

Incorporation of Conditions from Other Permits: Wherein some of the previous conditions from other permits might be repeated, we request that these be omitted so as to only appear on the title once. In addition and most importantly, it is imperative that the Conditions from past permits, current permits, and future permits, are not so restrictive that they prohibit or restrict the Fee ownership or the City from future expansion, within reason.

#### Special note:

The importance of this is to insure the ability of the Ownership and City to generate future income to offset the ongoing costs of maintenance, repairs, and replacements to the Pier structure. The intent is to be able to preserve this historic structure for future generations.

Crystal Pier Hotel and Cottages, Inc. and Crystal Pier Hotel are in agreement and available to consult with or work with Staff on this section and others where conflict may arise. Lane McKenzie of Real Estate Assets is the City Contact.

#### Assumption of Risk, Waiver of Liability and indemnity Agreement.

Again, this section may be repeated and we request that it only appear once on title to property. We advised that Crystal Pier Hotel and Cottages, Inc., was never notified of the Acceptance by City of San Diego of the easement for the public to pass and re-pass under and across the fee property, therefore, City assumes all liability for this area and for maintenance of the easement area. Crystal Pier Hotel assumes no liability for this area or for the public using this area.

Within reason, and subject to Coastal Commission drafting mutually satisfactory documents related to the permit.

Fees: Crystal Pier Hotel requests a reduction in the permit fees pertaining to the demolition of the dilapidated structures that were a hazard to the public and for which we have submitted for an "after the fact demolition permit." Because the structures were literally falling apart and the fact that the cost of removal consisted of \$ 1500 dump fees along with normal maintenance staff hours, the \$ 15,000 plus "penalty/ fine" imposed by Coastal Commission is seen as excessive and beyond the maximum of 5 times the cost of demolition.

Prior to the incorporation of the demolition to the application, you stated that it would be better to include it and re-submit so as to avoid the maximum penalty, we did this, at your suggestion and did not, as you stated we would, receive any expected consideration?

Future Development. Again, Owners and City do not want to be restricted unreasonably and limited in the ability to generate additional income to support repairs, maintenance and replacement of Historic Pier structure.

As Built Plans. The plans that are submitted are the same plans that have been in the City Building Department for approval and permit issuance. At the completion of construction we will submit a copy of the signed off plans as stamped and signed off by the Building Inspector, along with a copy of the certificate of Occupancy.



1.; Deed Restriction: As per our request, and as per mutual agreement with Owners, Coastal Staff, and City.

Responses to concerns and comments in the Staff Report dialog:

Lateral Easement - City Accepted, no notification by City or Coastal Commission to Crystal Pier. This caused the Pier operation to continue to maintain the easement area and pay for the cost of liability insurance for the last 13 years for naut.

The Private property no trespassing signs have remained due to the above fact and should remain in some form to allow for security enforcement. As stated at the site visit meeting, the Hotel Security Guard and Staff have saved SDPD many hours by self enforcement of the area. Our ability to point to the "Private Property" signs usually stops the crime. Without the signs or signs of significance the property cannot be properly protected and Visitors on the pier cannot have some assurance of being able to enjoy a nights sleep that they expect when they pay for their accommodations.

#### ATTACHED IS WHAT WE HAVE AS OUR REQUEST FOR SIGNS

We have met with Lane McKenzie of City Real Estate Assets regarding the Easement Acceptance by City, and to attempt to generate a plan of action as to who is responsible for what and who pays for what and to settle the claim at the Pier is owned for doing City's job. To date we have not heard back from Mr. McKenzie.

#### Public Access:

As a note, the Pier staff nor anyone associated with the Hotel operation has ever restricted a responsible public person persons from Passing and Re-passing under the pier and or across the fee property. The Hotel operation allows the Lifeguards, Police, and Park and Recreations beach cleanup crews, by permission, to pass and re-pass under the pier and over the fee property as a public service. The signs we have posted state clearly that the public may pass quietly under the pier.

Parking: we have clearly demonstrated that the proposed project has adequate parking remaining on the site.

#### Hours of Operation and sign location:

The hours of operation noted in our lease with City indicate 8 am until Sunset. This is consistent with City Parks that have gates, such as Pottery Canyon Nature Park in La Jolla. The Coastal Commission document states that the pier hours are to be from 7 am until sunset. As explained at the staff meeting on site, the demand for public access prior to 8 am is minimal. 8 am allows for our visitor serving public to have reasonably expected undisturbed rest. We believe that 7 am is too early, risks disturbances, and causes the hotel to have to staff another person at a cost of 5 days times the employee rate.

As explained at the time of our meeting, the sign that provides the public with information was placed inside the gate due to the fact that three previous signs have been stolen by the public.

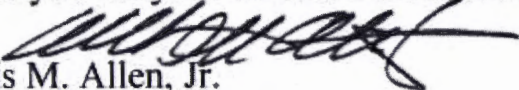
With respect to the Occupancy, your report states that the occupancy of the proposed cottages will increase from 4 to 6. This is not correct, our two bedroom two bath units sleep a maximum of 6. The one bedroom units sleep a maximum of 4.

Crystal Pier 6/12/002

April 11, 2013

Please, if you have any questions or concerns, contact either Meggan or myself so that Staff and Crystal Pier can be on the same page. I believe that we are, and I believe that we can work together with you and with City to a satisfactory conclusion. As stated before, communication will place us in a working relationship rather than a battle. We will be straight with you and we expect the same treatment in return. The Crystal Pier is the most unique property in the State of California due to the private ownership of the beach under the pier. In addition, working with the City of San Diego as well since they have no easement to get to their portion of the pier accept via the lease with the Fee ownership.

Thank you for your time and consideration.

  
Willis M. Allen, Jr.

Chairman

Crystal Pier Hotel and Cottages, Inc

4500 Ocean Blvd

San Diego, CA 92020

619-985-8888 cell direct

Documents attached:

Letter from our Insurance Broker concerning Private Property Signs

Letter from San Diego Lifeguard - pending and expected to be forwarded next week

SDPD latest crime statistics for the area of Pacific Beach, previously submitted

Copy of recorded documents on title as of 1/27/13

Attachment of signs



04-10-2013

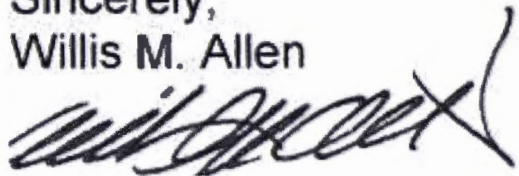
California Coastal Commission,

San Diego Lifeguards have stated they would be submitting a letter but will unfortunately be getting it to us after the deadline Toni Ross has set of 04-11-2013. Please be advised we will forward on SD Lifeguards letter upon receiving it.

The letter will be regarding the placement of cones along the north and south side of the pier. San Diego Lifeguards have reviewed the plans for the Pier Extension and have found no impingement upon lifeguard operations or upon beach patrons. Each day, Lifeguard Services use orange cones to establish emergency vehicle access on both North & South sides of pier. These accesses extend approximately twenty-five feet from the pier to keep the area clear from beach patrons. It is our understanding that the Coastal Commission was concerned that with the proposed extension of the deck, this would mean the Lifeguards would then need to push the cones out further. In speaking with the Lifeguards the cone placement is based on twenty-five feet from pilings, which will be no different with the extension, nor will the shade created by the new extension be extended past the cone placement.

We hope this letter helps in your application to the California Coastal Commission and to the staff with whom we met on site.

Sincerely,  
Willis M. Allen

A handwritten signature in black ink, appearing to read 'Willis M. Allen', written over the printed name.



JAN 09, 2001 9:29 AM

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

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

OFFICIAL RECORDS  
SAN DIEGO COUNTY RECORDER'S OFFICE  
GREGORY J. SMITH, COUNTY RECORDER  
FEES: 0.00

STATE OF CALIFORNIA  
OFFICIAL BUSINESS: Document  
Entitled to free recordation pursuant  
To Government Code section 6103



2001-0012758

CERTIFICATE OF ACCEPTANCE

This is to certify that the City of San Diego, a political subdivision of the State of California, hereby accepts any and all right, title and interest in the real property conveyed in the Offers to Dedicate Public Access Easements by the Grantors listed on Exhibit A attached hereto and incorporated herein by reference.

This Acceptance and consent to recording of the Acceptance is executed by and on behalf of the State of California by the City of San Diego, acting pursuant to law as approved and authorized by its Resolution No. 294-099 of its public meeting on NOV 14, 2000 by its duly authorized officer.

CITY OF SAN DIEGO

Date: 11-30-2000

By:

Its:

Real Estate Assets Department

ACKNOWLEDGMENT BY CALIFORNIA COASTAL COMMISSION

This is to certify that the City of San Diego is a public agency acceptable to the Executive Director of the California Coastal Commission to be Grantee under the Offers to Dedicate referenced above.

Date: DECEMBER 13, 2000

CALIFORNIA COASTAL COMMISSION

By:

John Bowers, Staff Counsel

STATE OF CALIFORNIA  
COUNTY OF San Diego

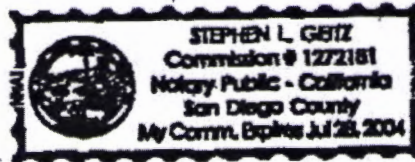
On November 30, 2000, before me, STEPHEN L. GEITZ, a

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

WITNESS my hand and official seal.

Signature

Stephen L. Geitz



STATE OF CALIFORNIA  
COUNTY OF San Francisco

On 12/13/00, before me, Deborah L. Bove, a

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

WITNESS my hand and official seal.

Signature

Deborah L. Bove

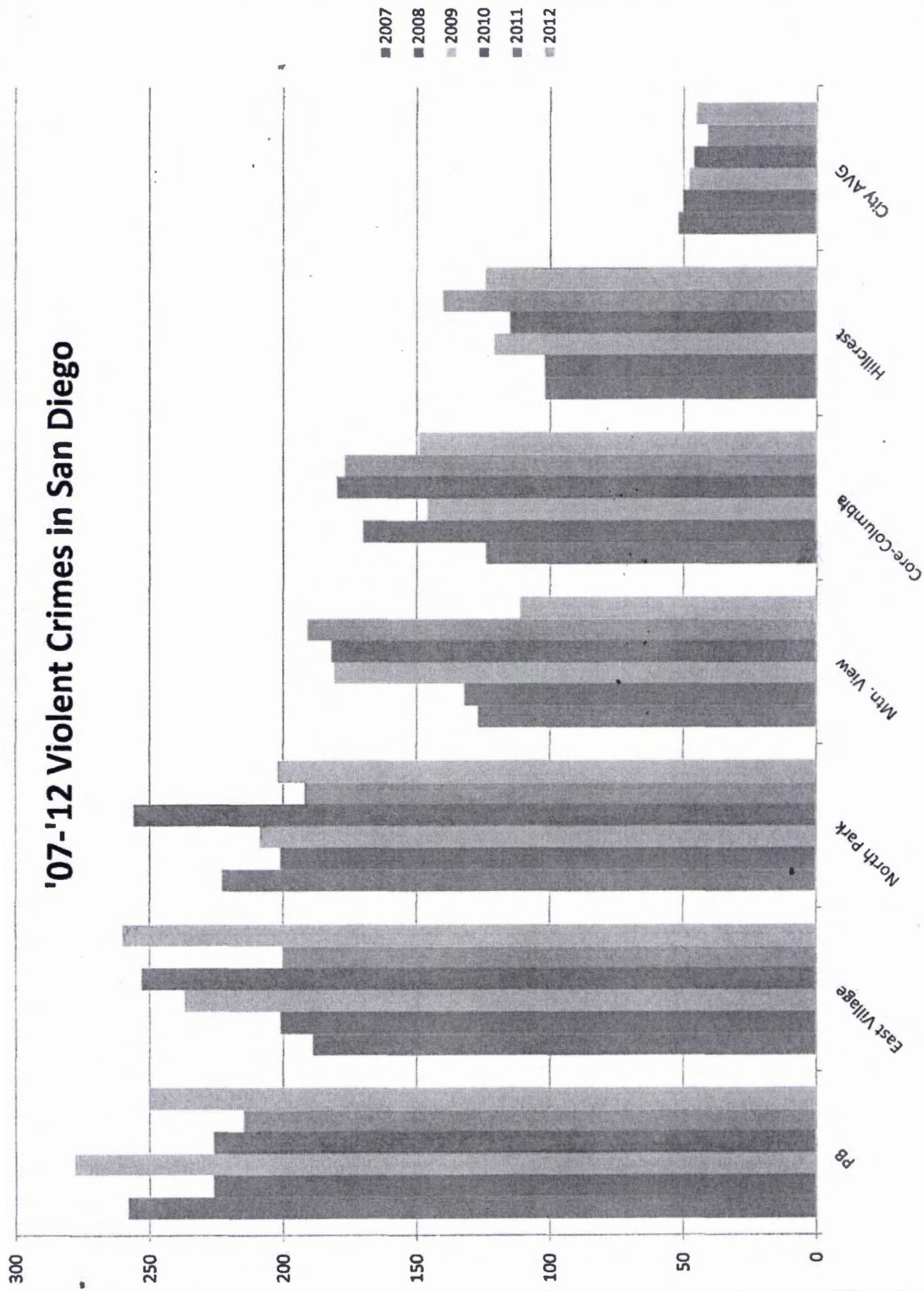




## EXHIBIT A

GRANTOR	PERMIT NO.	RECORDING DATE	INSTRUMENT NO.	APN
Youngson Company	6-84-080	June 12, 1984	84-219856	346-050-05
James L. McMillan & Hollis L. McMillan, Co-Trustees of James L. McMillan & Hollis L. McMillan Trust dated July 21, 1981	6-85-360	March 21, 1986	86-109974	351-090-30
Security Title Insurance Co., Trustee of Its Trust No. P.T. 1702	6-87-255	September 25, 1987	87-544510	351-090-33
Michael D. Dingman	6-84-001	June 5, 1984	84-209996	351-571-06
Loris M. DiGrazia & David N. Hill, Acting Successor Trustee of the Vietor Family Revocable Trust dated May 19, 1981 and Forrest N. Shumway	6-84-108	June 11, 1984	84-218245	357-011-03
S.I.I. Corporation	6-85-75	November 4, 1985	85-414137	357-011-05
Crystal Pier Hotel	6-86-725 6-86-725-A	February 13, 1991 & as amended December 15, 1995	1991-0068045 1995-0572358	423-021-10

# '07-'12 Violent Crimes in San Diego





C. RELATED COUNCIL ACTIONS. By the granting of this lease, the City Council of the City of San Diego is not obligating itself with regard to any other discretionary action relating to development or operation of said premises. Such discretionary action includes, but is not limited to, rezonings, variances, environmental clearances or any other governmental agency approvals which are required.

D. PUBLIC ACCESS. During the term of this lease, LESSEE shall provide pedestrian public access acceptable to the City Manager to and from the leased premises across LESSEE'S adjacent fee-owned lands. Said access shall be open a minimum each day from 8 a.m. until sunset. Such access shall be subject to such regulations as may be agreed to in writing by LESSEE and CITY'S City Manager ("City Manager").

TERM OF AGREEMENT.

A. COMMENCEMENT AND TERMINATION. The term of this lease shall be thirty-five (35) years commencing on the first day of the calendar month following execution by the City Manager.

CONSIDERATION.

**RECORDED DOCUMENTS as of 1/27/13**

1. City Council Resolution #15937

4/11/63 - City Council Resolution setting aside and designating portions of Pueblo Lots 1793 and 1803 for a public park

Appears to establish a public park west from approximately the intersection of Emerald Street and Ocean Boulevard to the intersection of Ocean Boulevard and Grand Avenue, excepting the portion of Pueblo Lot 1793 that constitutes APN-021-10, the subject property.

2. Encroachment Removal Agreement #10485

11/18/83 – Landscaping

Along western side of Ocean Blvd the length of the subject property

3. Administrative Permit – Coastal Commission - Permit 6-85-634

1/14/86 Permit to demolish accessory additions on three buildings and realign 17 of 18 motel cottages; will increase on-site parking from 26 to 38 spaces.

*Bait  
Boat  
Shack*

4. Deed Restriction – Coastal Commission – Permit 6-85-634

*slp* 4/10/86 – Assumption of Risk for extraordinary hazard from waves during storms and erosion, applicant assumes liability from such hazards and holds the CCC harmless from damages caused by such hazards – Deed Restriction as a Condition of Permit 6-85-634

5. Quitclaim Deed – Crystal Pier Motel to Crystal Pier Motel, Inc. a CA corporation, 3/86

6. Deed Restriction – Coastal Commission – Document 1991-0068044

February 1991 - Assumption of Risk again

7. Revised Conditions and Findings for Application No. 6-86-725

May 1987 Permit for reconstruction/remodel of cottages, additional and additional 8,510 sf of new pier, construction of 6 new cottages on expanded pier and relocation of bait shop and shell shack to the western end of leased portion.



8. Irrevocable Offer to Dedicate Public Lateral Access Easement

2008

February 1990

Description: to extend along the entire width of the property from the mean high tide line to the toe of the existing bluff/sea wall, except underneath the pier itself, where access shall be located seaward of the first row of pilings west of the bluff

Purpose: for the purpose of allowing public pedestrian lateral access and passive recreational use along the shoreline.

Restrictions: Grantor retains all normal rights and incidents of ownership of the underlying fee; Grantor not bound to supervise or maintain; additional terms may be agreed to, and "Any public agency or private association accepting this offer shall agree to accept responsibility for maintenance and liability of the accessway."

9. Revised Conditions and Findings for Application No. 6-86-725

1990-9/

Attached as Exhibit B to 1990 Easement

Lateral Public Access – for public safety reasons, the area between the bluff and the first row of pilings shall be fenced off

Removal of existing signage concurrent with recording of Easement

Signage at entrance to Pier – open from 7:00 am to sunset

6-86-725

- FEB 1990

10. Amendment Request Staff Report and Preliminary Recommendation

July 1991 hearing for Installation of sewage lift station on a concrete pad, beneath the pier between the bluff edge and the first row of pilings – the modification of the lateral access easement area to begin at the second row of pilings rather than the first. Installation has already occurred in apparent violation of the Coastal Act.

11. Deed Restriction recorded as Document 1995-0572356

December 1995 – with a notation that this Deed Restriction supersedes 1991 Deed Restriction and with a copy of the May 1987 Revised Conditions and Findings for Application No. 6-86-725 attached as Exhibit B

12. Deed Restriction recorded as Document 1995-0572357

December 1995 - with Amendment Request Staff Report and Preliminary Recommendation attached as Exhibit A.

13. Deed Restriction recorded as Document 1995-0572359 with Staff Report and Preliminary Recommendation attached as Exhibit A.

14. Staff Report and Preliminary Recommendation for November 1994 hearing

Demolition of two retail structures and construction of improvements to the south building resulting in an overall increase of 1410 sf for hotel use and 210 sf for retail use.

Good discussion of bluff top conditions and compliance with Coastal Act. No reference to Easement or pedestrian access.

15. Deed Restriction recorded as Document 1995-0572360 with April 1995 Administrative Permit as Exhibit B

16. Administrative Permit issued April 14, 1995 allowing construction of 288 sf addition to each of two cottages

17. Amendment to Deed Restriction recorded as Document 0038266 and amending item 13 above.

January 1996 - Assumption of Risk, Commission held harmless

18. Amendment to Deed Restriction recorded as Document 0038266 and amending item 15 above.

January 1996 - Assumption of Risk, Commission held harmless, applying to leased portion of the Pier only

19. Amendment to Administrative Permit

20. Certificate of Acceptance of Public Access Easements by the City of San Diego

November 2000 – City accepts all right, title and interest in the real property conveyed in Offers to Dedicate Public Access Easements by the Grantors listed on Exhibit A attached hereto.

Crystal Pier Hotel, Permit No. 6-86-725, February 13, 1991, 1991-0068045 and Permit No. 6-86-725-A and as amended December 15, 1995, 1995-0572358





January 25, 2013

Mr. Willis M. Allen Jr.  
President  
Crystal Pier Hotel and Cottages, Inc.  
4500 Ocean Boulevard  
San Diego, CA 92109

Re: Private Property and No Trespassing Signage  
Crystal Pier Hotel and Cottages

Dear Mr. Allen:

In response to your inquiry, removing the Private Property and No Trespassing Signs that you maintain on your property could have a significant impact on your General Liability Insurance. Insurance carriers will determine their rates assuming that they are providing coverage to a privately owned property. The rates take into consideration the potential liability exposure for customers and other individuals who are authorized to be on your property.

Public properties have a greater inherent liability exposure as there is less control on whom and how many people have access to the property. Both of these create the potential for more liability claims and thus, the insurance carriers charge significantly higher, if not excessive, rates to offset this increased exposure. Public entities know this all too well as many are self-insured due to the cost and limited availability for liability insurance protection.

In your particular situation, taking down the Private Property and No Trespassing Signs could allow the public to have full access to your property. The insurance carrier will consider this an increase in risk and at the very least, you will see a drastic increase in premium. That is if the current carrier will continue to provide the coverage. Based on preliminary inquiries, it is anticipated that the current carrier will non-renew your coverage, forcing us to look elsewhere for your coverage. You would need to be prepared for a substantial increase in cost.

If you should have any questions, please do not hesitate to give me a call.

Sincerely,

Ronald W. Wilson  
President

RWW:dt:-

Insurance Services, LLC



04-10-2013

California Coastal Commission,

San Diego Lifeguards have stated they would be submitting a letter but will unfortunately be getting it to us after the deadline Toni Ross has set of 04-11-2013. Please be advised we will forward on SD Lifeguards letter upon receiving it.

The letter will be regarding the placement of cones along the north and south side of the pier. San Diego Lifeguards have reviewed the plans for the Pier Extension and have found no impingement upon lifeguard operations or upon beach patrons. Each day, Lifeguard Service uses orange cones to establish emergency vehicle access on both North & South sides of pier. These accesses extend approximately twenty-five feet from the pier to keep the area clear from beach patrons. It is our understanding that the Coastal Commission was concerned that with the proposed extension of the deck, this would mean the Lifeguards would then need to push the cones out further. In speaking with the Lifeguards the cone placement is based on twenty-five feet from pilings, which will be no different with the extension, nor will the shade created by the new extension be extended past the cone placement.

We hope this letter helps in your application to the California Coastal Commission and to the staff with whom we met on site.

Sincerely,  
Willis M. Allen





## Explanation of Crystal Pier Signage

### PUBLIC WELCOME SIGN:

1. Placement:

Sign has been moved to behind the front entrance gate due to the following reason. Vandalism – People using it to help in their climbing attempts to get over the fence after open hours – being stolen (which has happened several times).

2. Hours:

Original lease stated hours being 8am to Sunset. Amendment with Coastal Commission states 7am, we believe this was an oversight when being signed off on. We would like to amend this back to 8am to Sunset due to the following reasons. On occasion public walking the pier will peer through windows on cottages, try to open doors to see interiors, want to speak with guests regarding rates, and of course more traffic means more noise. Not only do we think 8am is early enough to let the public being to paruse but allows our guest to whom are paying a nightly fee a little time to rise in the early hours of morning with out being disturbed. We would also like to note that our staff arrives for work just before 8am which would cause scheduling issues.

### NO CLIMBING:

1. We place these signs all throughout the under part of the pier. This has helped us in the efforts of keeping the general public from climbing, loitering and damaging utilities under the pier and maintaining its purpose as a thoroughway.

### PRIVATE PROPERTY:

1. We ask that this sign remains as is due to the follow reason.

- The sign has been a huge factor in peacefully moving people from unlawful activities underneath. Many become very confrontational when asked to continue on and once we point out the sign they usually leave without question. We would like to point out that this sign clearly states the public is allowed to pass thur. By no means have the Crystal Pier ever restricted the public. We ask that should the wording Private Property need to be changed that Coastal Commission work with Crystal Pier on wordage that would be viewed more appropriate and still enable our staff in the effort of moving anyone from gathering for lengthy periods and/or engaging in unlawful activities underneath. We know that from time to time it is necessary to call San Diego Police to help in situations but would hate to have to call them for every situation because signage was not present to deter these activities.



PUBLIC

WELCOME

8AM – SUNSET

*Please* RESPECT THE  
PRIVACY OF OUR GUEST

**NO CLIMBING**

**NO JUMPING**

**NO LOITTERING**

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**PROPERTY UNDER  
SURVEILLANCE**

**PRIVATE PROPERTY**

**CRYSTAL PIER HOTEL, INC.**

**INCLUDES SANDY BEACH 75 FEET (SOUTH) OF PIER**

**PUBLIC MAY PASS THUR QUIETLY, NO LOITERING,**

**NO ALCOHOL, NO SMOKING, NO DISTURBANCES.**

**PROPERTY UNDER SURVEILLANCE**

**SDMC 56.54**



**PRIVATE PROPERTY**

**CRYSTAL PIER HOTEL, INC.**

**INCLUDES SANDY BEACH 75 FEET (NORTH) OF PIER**

**PUBLIC MAY PASS THUR QUIETLY, NO LOITERING,**

**NO ALCOHOL, NO SMOKING, NO DISTURBANCES.**

**PROPERTY UNDER SURVEILLANCE**

**SDMC 56.54**





Area of Pedestrian access through Area of  
privately owned portion of pier



Area of unobstructed access on City-  
owned section of the pier



EXHIBIT NO. 10

APPLICATION NO.

6-12-002

Areas of Public  
Access on Pier