

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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(619) 767-2370



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original staff report

Th13b

Addendum

June 9, 2014

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item Th13b**, Coastal Commission Permit Application
No. A-6-LJS-13-0256 (Henely Trust), for the Commission Meeting of
Thursday, June 12, 2014

Staff recommends the following changes be made to the above-referenced staff report. Deletions shall be marked by a ~~strike through~~ and additions shall be underlined.

1. All references to the new “thirty foot tall” residence shall be corrected to “27’ 6” tall.”
2. All references to the two existing “king palms” shall be corrected to “palm trees.”
3. On Page 16 of the staff report, after the second full paragraph, the following paragraph shall be added:

The unpermitted retaining walls at the rear of the subject property have been present for approximately fourteen years prior to the appellants’ filing this appeal. Historic aerial photographs of the subject property dating back to 1972 show that the rear of the subject property has long been disturbed, with development including a swimming pool, landscaping, and what appears to be a smaller 3-foot high retaining wall. When the applicant applied for the subject local permit, the City’s Code Enforcement section became involved to address the unpermitted retaining walls. Preliminary investigation and site visits by City staff indicated that it is highly likely that the existing retaining walls will have to be removed and rebuilt with proper footings and tiebacks in order to meet current building standards. Because the applicant was simultaneously applying to demolish the existing single family residence, Code Enforcement determined that rather than process two separate applications, the remediation of the unpermitted retaining walls and their reconstruction up to code could be processed simultaneously with the permit to build the new single family residence.

In response, the appellants cite Section 121.0312(b) of the Land Development Code, which addresses restoration and mitigation as a remedy and which states that:

(b) The City Manager shall order the restoration of grading undertaken without a permit, unless technically infeasible. The restoration shall be conducted in accordance with Section 142.0150. No further permits for the premises shall be processed until the restoration has been completed and specified performance criteria have been met as required by the City.

However, it should be noted that the preceding section of the Land Development Code, Section 121.0311, which addresses remedies of violations of the Land Development Code, states, in relevant part:

...The City Manager or designated Code Enforcement Official may also seek criminal or civil injunctive relief and civil penalties in the Superior Court pursuant to Municipal Code Section 12.0202 or pursue any administrative remedy provided in Municipal Code Chapter 1, including administrative abatement, revocation of permits, recordation of notice of violation, and withholding of issuance of City permits.

Thus, the Land Development Code gives local officials various options in pursuing the rectification of known violations of the Land Development Code. In this case, the City reviewed the existing unpermitted retaining walls and determined that no substantial remediation was needed beyond bringing the retaining walls structurally up to compliance with applicable codes, most likely by replacing the existing walls with new walls in the same location, but with additional support such as stronger footings. The approved permit requires that before any building permit for the proposed home is issued, the applicant must obtain a grading permit for remediating the walls, which shall include the submittal of a Geotechnical Investigation Report to be reviewed and approved by Code Enforcement, in addition to all other engineering review required by City regulations. Thus, before any work can be commenced on the proposed single family residence, the applicant and the City will have first studied and compiled the proper plans and success criteria to remediate the retaining walls.

In addition, because the rear of the subject property has long been disturbed and the existing and proposed development would not encroach into any view corridors or environmentally sensitive lands, the replacement of the existing retaining walls with new retaining walls in the same location would not be inconsistent with the environmentally sensitive lands regulations of the Land Development Code. Thus, the City included the likely rebuilding of the retaining walls as a part of this permit and approved it so long as the required geotechnical reports indicated the site could continue to support the walls and that they were built in substantially the same size and scale as to what is already present. To ensure that any and all work is done in conformance with the certified code and that the final form of the retaining walls are in compliance, the Code Enforcement section will be involved in any and all site inspections and plan reviews for the work done to bring the walls up to code. Should any work beyond replacement of the existing walls in the same location be required, a new permit or permit amendment would be required. Thus, the existing retaining walls and their remediation are being sufficiently addressed by the City.

4. On Page 22 of the staff report, the following Special Condition shall be added:

6. **Rear-yard Retaining Walls.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and written approval of the Executive Director, a plan for the renovation or re-construction of the existing rear-yard retaining walls. The plan shall be prepared by a licensed geotechnical engineer and shall demonstrate:

- a. Any new or renovated retaining walls are built to applicable code and provide, at a minimum, at least a factor of safety of 1.5 for static loads and 1.1 for pseudo-static/dynamic loads.
- b. Stability shall be achieved through the use of tie-backs, deepened foundations, or cantilever support, and utilize, to the extent practicable, the same footprint and having the same height, profile, and exterior as the existing retaining walls.
- c. No new retaining walls shall be more than 10% greater than the existing retaining walls in above-ground height, length, or thickness.
- d. Construction plans shall be prepared that show the sequence of wall removal, replacement, or renovation, and include calculations of interim factors of safety of at least 1.2 for static conditions and greater than 1.0 for dynamic conditions.
- e. Construction plans shall provide for BMPs for site maintenance and to minimize runoff, loose soils, and debris.

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

5. On Page 32 of the staff report, after the first paragraph, the following paragraph shall be added:

The unpermitted retaining walls at the rear of the subject property have been present for approximately fourteen years prior to the appellants' filing this appeal. Historic aerial photographs of the subject property dating back to 1972 show that the rear of the subject property has long been disturbed, with development including a swimming pool, landscaping, and what appears to be a smaller 3-foot high retaining wall. When the applicant applied for the subject local permit, the City's Code Enforcement section became involved to address the unpermitted retaining walls. Preliminary investigation and site visits by City staff indicated that it is highly likely that the existing retaining walls will have to be removed and rebuilt with proper footings and tiebacks in order to meet current building standards. Because the applicant was simultaneously applying to

demolish the existing single family residence, Code Enforcement determined that rather than process two separate applications, the remediation of the unpermitted retaining walls and their reconstruction up to code could be processed simultaneously with the permit to build the new single family residence.

In response, the appellants cite Section 121.0312(b) of the Land Development Code, which addresses restoration and mitigation as a remedy and which states that:

(b) The City Manager shall order the restoration of grading undertaken without a permit, unless technically infeasible. The restoration shall be conducted in accordance with Section 142.0150. No further permits for the premises shall be processed until the restoration has been completed and specified performance criteria have been met as required by the City.

However, it should be noted that the preceding section of the Land Development Code, Section 121.0311, which addresses remedies of violations of the Land Development Code, states, in relevant part:

...The City Manager or designated Code Enforcement Official may also seek criminal or civil injunctive relief and civil penalties in the Superior Court pursuant to Municipal Code Section 12.0202 or pursue any administrative remedy provided in Municipal Code Chapter 1, including administrative abatement, revocation of permits, recordation of notice of violation, and withholding of issuance of City permits.

Thus, the Land Development Code gives local officials various options in pursuing the rectification of known violations of the Land Development Code. In this case, the City reviewed the existing unpermitted retaining walls and determined that no substantial remediation was needed beyond bringing the retaining walls structurally up to compliance with applicable codes, most likely by replacing the existing walls with new walls in the same location, but with additional support such as stronger footings. The approved permit requires that before any building permit for the proposed home is issued, the applicant must obtain a grading permit for remediating the walls, which shall include the submittal of a Geotechnical Investigation Report to be reviewed and approved by Code Enforcement, in addition to all other engineering review required by City regulations. Thus, before any work can be commenced on the proposed single family residence, the applicant and the City will have first studied and compiled the proper plans and success criteria to remediate the retaining walls.

In addition, because the rear of the subject property has long been disturbed and the existing and proposed development would not encroach into any view corridors or environmentally sensitive lands, the replacement of the existing retaining walls with new retaining walls in the same location would not be inconsistent with the environmentally sensitive lands regulations of the Land Development Code. Thus, the City included the likely rebuilding of the retaining walls as a part of this permit and approved it so long as the required geotechnical reports indicated the site could continue to support the walls and that they were built in substantially the same size and scale as to what is already present.

To ensure that any and all work is done in conformance with the certified code and that the final form of the retaining walls are in compliance, the Code Enforcement section will be involved in any and all site inspections and plan reviews for the work done to bring the walls up to code. Should any work beyond replacement of the existing walls in the same location be required, a new permit or permit amendment would be required.

While the City addressed the review of potential impacts of replacement of the retaining walls through the approved City coastal development permit, the Commission, on de novo, must also find that remediation of the code violation by replacing the existing retaining walls with new walls and footings in the same location will be consistent with the resource protection and stability provisions of the certified LCP. As noted, no impacts to views or environmentally sensitive lands would result. However, because the City only required preliminary review of the geotechnical issues related to replacement of the walls, **Special Condition No. 6** requires the submittal of final plans that meet the following criteria: a 1.5 factor of safety for static loads and 1.1 factor of safety for pseudo-static/dynamic loads, stability through the use of tie-backs, deepened foundations, or cantilever support, construction of any new retaining walls in the same size and alignment as the existing walls, and renovation or construction plans that delineate the order of work and BMPs to minimize geological and hydrological impacts.

As long as the proposed wall remediation is consistent with these parameters, the Commission can be assured that there is no potential for adverse geological impacts on coastal resources, and the project can be found consistent with the geologic policies of the certified LCP.

6. The following exhibits shall be added:

Exhibit 16 – Appellant Letter

Exhibit 17 – Disclosure of Ex Parte Communication



La Jolla Community Planning Association

2 June 2014

California Coastal Commission
ATTN: A. Llerandi
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421

RE: Appeal No. A-6-LJS-13-0256 (Henely Trust, San Diego)
Item 13.b. June 12, 2014 Hearing

To Whom It May Concern:

As you are aware, the La Jolla Community Planning Association (LJCPA) is a co-appellant on the subject project. Regretfully, the LJCPA is not able to send a representative to the June 12th hearing in Huntington Beach.

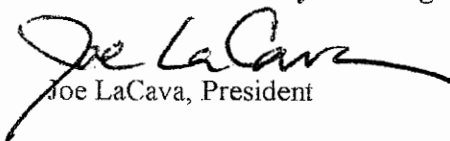
The LJCPA considered the project in August 2013 and by a 7-5-4 vote found "That the findings are not sufficient for a Coastal Development Permit."

At the LJCPA's December 2013 meeting, the LJCPA by a 10-5-2 vote opted to "To appeal the project to the Coastal Commission."

We understand that the Coastal Commission is requiring changes to the project that may resolve some of the issues originally identified by the LJCPA. We respectfully request that the Coastal Commission require all project changes necessary to address the issues listed in the LJCPA's appeal and bring the project into conformance with the La Jolla Community Plan and Local Coastal Program Land Use Plan.

Thank you for your time and consideration.

Sincerely,
La Jolla Community Planning Association


Joe LaCava, President

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EXHIBIT NO. 16
APPLICATION NO.
A-6-LJS-13-256
Appellant Letter
 California Coastal Commission

June Th 13b

DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project: Appeal No. A-6-LJS-13-0256 (Henely Trust)

Appeal by Charles Redfern, La Jollans for Neighborhood Preservation & La Jolla Community Planning group from decision of City of San Diego granting permit with conditions to Henely Trust for demolition of one-story, single family home and construction of new two-story, 30-ft. tall, 6,353 sq.ft. single family home with attached 2-car garage on 14,300 sq.ft. lot, at 615 Wrelton Ave., La Jolla, San Diego, San Diego County.

Date and time of receipt of communication:

May 29, 2014 at 2:00pm

Location of communication: San Diego

Type of communication:

In-person meeting

Person(s) in attendance at time of communication:

Matthew Peterson and Ashley Peterson

Person(s) receiving communication:

Greg Cox and staff Greg Murphy

Detailed substantive description of the content of communication:

(Attach a copy of the complete text of any written material received.)

I met briefly with Matthew Peterson and Ashley Peterson, representatives of the Henely Trust, whose project is being appealed to the Commission. Matt briefly went through a presentation packet and said they are supportive of staff's recommendation. I disclosed to Matt and Ashley that my alternate on the Commission will be in attendance on the day their item will be heard.

Date:

6/2/14

Signature of Commissioner: _____

Greg Cox

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EXHIBIT NO. 17
APPLICATION NO.
A-6-LJS-13-256
Ex Parte Disclosure

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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Th13b

Filed:	12/4/13
49th Day:	Waived
Staff:	A.Llerandi-SD
Staff Report:	5/22/14
Hearing Date:	6/12/14

STAFF REPORT AND RECOMMENDATION ON APPEAL SUBSTANTIAL ISSUE & DE NOVO

Local Government: City of San Diego

Decision: Approved with Conditions

Appeal Number: A-6-LJS-13-0256

Applicant: Donald & Celia Henely Trust

Location: 615 Wrelton Drive, La Jolla, San Diego, San Diego County
(APN No. 415-214-09)

Project Description: Demolition of an existing one-story single family residence and construction of a new, two-story, thirty-foot tall, 6,628 square foot single family residence with attached two-car garage with new landscaping, spa, retaining walls, and cabana on a 14,300 square foot lot.

Appellants: Charles Redfern; La Jollans for Neighborhood Preservation; and La Jolla Community Planning Group

Staff Recommendation: Substantial Issue and Approval with Conditions on De Novo

SUMMARY OF STAFF RECOMMENDATION

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

Staff also recommends that the Commission APPROVE the de novo permit with special conditions.

The project includes the demolition of an existing one-story single family residence and construction of a new two-story, 30-foot tall, 6,628 sq. ft. single family residence with attached two-car garage and new landscaping, spa, retaining walls, and cabana on a 14,300 sq. ft. lot. The project site is a previously developed residential lot with an existing one-story single family residence overlooking Tourmaline Surf Park in the La Jolla community of San Diego.

Appellants Charles Redfern, La Jollans for Neighborhood Preservation, and La Jolla Community Planning Group (appellants) assert in their separate appeals that the project as approved by the City does not conform to the City of San Diego's certified Local Coastal Program (LCP), including the La Jolla Community Plan (LJCP). The appellants raise a number of assertions - some the same, some different - in their separate appeals. While each of the three appeals raises various assertions, the primary allegation common to all three is that the City's approval does not provide adequate protection to the designated public views down Wreton Drive and nearby Tourmaline Street due to encroachment of the proposed home's second story and landscaping. In addition, the appeals by La Jollans for Neighborhood Preservation (LJNP) and the La Jolla Community Planning Group (LJCPG) asserts that the subject property currently has five unpermitted segmental block retaining walls of approximately three to nine feet in height in the rear of the yard, and that the City's after-the-fact approval of these walls, as well as approval of a new spa, will impact coastal bluffs and steep hillsides, recognized as environmentally sensitive lands in the City's certified LCP. LJNP's appeal further asserts that the approved home's bulk and scale will be out of character with the surrounding community. The appeal by LJPG asserts that the new, bigger home will increase intensity of use and lead to increased parking and noise impacts from the property.

As originally proposed the project would have had some impact on public views of the ocean when looking over the property down Wreton Drive, and thus would have been inconsistent with the visual protection policies of the certified Local Coastal Program. However, after meeting with Commission staff, the applicant has revised the project to redesign the second story to pull it back from the front yard setback, removed the northwest corner of the second story that originally would have protruded into the street views, and will remove the two existing king palms that currently sit in the front yard and block the view with their foliage. As redesigned, the project will not substantially impact designated public views.

With regards to the appellants' remaining assertions, the project as redesigned will not have substantial adverse impacts regarding community character, coastal bluffs, parking, and noise. The proposed home as redesigned will conform to applicable floor area and height limitations and will not be out of character with nearby two-story residences. The adjacent Tourmaline Surf

Park does not have coastal bluffs adjacent to the subject property warranting application of the relevant sections of the certified LCP, and the existing unpermitted retaining walls in the rear of the subject property will be analyzed in a focused geotechnical report to assess their structural integrity and suitability for remaining or removal. The proposed residence as redesigned will conform to all parking requirements, and no evidence of noise impacts emanating from the subject property has been furnished to Commission staff.

Therefore, staff recommends that the Commission approve the proposed development on de novo, as modified with the inclusion of **5** special conditions. **Special Condition No. 1** requires the applicant to submit final building plans that show the redesigned second story and landscaping. In addition, landscaping over a certain height could also impact ocean views over the property. As such, **Special Condition No. 2** requires the applicant provide final landscaping plans requiring the proposed landscaping avoids view corridors, limiting the height of landscaping in view corridors, and requiring any fencing in the side yard setback to be at least seventy-five percent open to light. While the subject property is relatively flat and developed, the property is adjacent to Tourmaline Surf Park, a coastal park situated in a coastal canyon. Because there is the possibility of runoff flowing from the property into Tourmaline Surf Park, **Special Condition No. 3** requires the applicant provide a final drainage plan demonstrating how on-site runoff not already directed toward Wrelton Drive will be collected and pumped away from Tourmaline Surf Park. To ensure that measures to protect coastal resources run with the land, **Special Condition No. 4** requires the applicant to record a deed restriction against the subject property to ensure that any successors in interest to the property are duly aware of and adhere to the requirements of this permit. Furthermore, while this development is being heard by the Commission de novo, **Special Condition No. 5** recognizes and makes clear that this permit has no effect on conditions imposed by the City of San Diego pursuant to authority other than the Coastal Act.

Standard of Review: Certified City of San Diego Local Coastal Program and the public access and recreation policies of the Coastal Act.

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APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

Exhibit 1 – Location Map

Exhibit 2 – Aerial Photo

Exhibit 3 – Front View of Subject Property

Exhibit 4 – Site Plan

Exhibit 5 – First Floor Plan

Exhibit 6 – Second Floor Plan

Exhibit 7 – Elevation

Exhibit 8 – Current Wrelton Drive View

Exhibit 9 – Current Tourmaline Street View

Exhibit 10 – Rear View of Subject Property

Exhibit 11 – FLAN

Exhibit 12 – Report to Planning Commission

Exhibit 13 – Local Coastal Development Permit

Exhibit 14 – Appeals

Exhibit 15 – Appellant Submittal

HEARING PROCEDURES

The Commission will not take public testimony during this phase of the appeal hearing unless at least three Commissioners request it. The only persons qualified to testify before the Commission at the “substantial issue” stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. If the Commission finds that the appeal raises a substantial issue, it will proceed directly to the de novo portion of the hearing during which it will take public testimony and any person may testify. Written comments may be submitted to the Commission during either phase of the hearing.

I. APPELLANTS CONTEND

Appellants Charles Redfern, La Jollans for Neighborhood Preservation, and La Jolla Community Planning Group (appellants) assert that the project as approved by the City does not conform to the City of San Diego’s certified Local Coastal Program (LCP), including the La Jolla Community Plan (LJCP). The appellants raise a number of assertions in their separate appeals. While each of the three appeals raises various assertions, the primary concern common to all three is that the City’s approval does not provide adequate protection to the designated public views down Wreton Drive and nearby Tourmaline Street due to encroachment of the proposed home’s second story and landscaping. In addition, the appeal by La Jollans for Neighborhood Preservation (LJNP) and the La Jolla Community Planning Group (LJCPG) asserts that the subject property currently has five unpermitted segmental block retaining walls of approximately three to nine feet in height in the rear of the yard, and that the City’s after-the-fact approval of these walls, as well as approval of a new spa, will impact coastal bluffs and steep hillsides, recognized as environmentally sensitive lands in the City’s certified LCP. LJNP’s appeal further asserts that the approved home’s bulk and scale will be out of character with the surrounding community. The appeal by LJPG asserts that the new, bigger home will increase intensity of use and lead to increased parking and noise impacts from the property.

II. LOCAL GOVERNMENT ACTION

The project was approved with conditions by the Hearing Officer on September 11, 2013. After appeal of that decision at the local level, the approval was upheld by the City Planning Commission on November 14, 2013. No appeals of the Planning Commission’s decision were filed at the local level.

III. APPEAL PROCEDURES

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

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

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

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

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

If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to the de novo portion of the hearing on the merits of the project, then, or at a later date. If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, those allowed to testify at the hearing will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project then, or at a later date, reviewing the project de novo in accordance with sections 13057-13096 of the Commission's regulations. If the Commission conducts the de novo portion of the hearing on the permit application, the applicable standard of review for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program (LCP).

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3. In other words, in regard to public access questions, the Commission is required to consider not only the certified LCP, but also applicable Chapter 3 policies when reviewing a project on appeal.

The only persons qualified to testify before the Commission at the "substantial issue" stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. At the time of the de novo portion of the hearing, any person may testify.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question as to conformity with the certified local coastal program" or, if applicable, the public access and public recreation policies of Chapter 3 of the Coastal Act (Cal. Code Regs. titl. 14 section 13155(b)). In previous decisions on appeals, the Commission has been guided by the following factors:

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

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

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission determine that Appeal No. 6-LJS-13-0256 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

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

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. **A-6-LJS-13-0256** presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

V. FINDINGS AND DECLARATION

A. PROJECT DESCRIPTION

The project as approved and conditioned by the City of San Diego would demolish an existing one-story single family residence and construct a new two-story, thirty-foot tall, 6,628 square foot single family residence with attached two-car garage, landscaping, spa, and retaining walls on a 14,300 square foot lot. The site is located at 615 Wrelton Drive, directly above and adjacent to Tourmaline Surf Park, just west of La Jolla Boulevard in the La Jolla community of the City of San Diego.

The existing property is designated for residential use and is currently developed with an existing one story single family residence, and is neighbored to the west, north, and east by similarly developed residential lots.

B. PROTECTION OF VISUAL RESOURCES

The appellants contend that the design of the proposed two-story residence will block designated public views of the Pacific Ocean.

The City's certified LCP contains the La Jolla Community Plan ("LJCP"), which governs the subject site, and it requires protecting public views to the ocean. Specifically, on page 50, the LJCP states:

2. Visual Resources

- (a) Public views from identified vantage points to and from La Jolla's community landmarks and scenic vistas of the ocean, beach and bluff areas, hillsides, and canyons shall be retained and enhanced for public use.*
- (b) Public views to the ocean from the first public roadway adjacent to the ocean shall be preserved and enhanced, including visual access across private coastal properties at yards and setbacks.*

Page 56 of the LJCP states:

- c.) Protect public views to and along the shoreline as well as to all designated open space areas and scenic resources from public vantage points as identified in Figure 9 and Appendix G (Coastal Access Subarea maps). Public views to the ocean along public streets are identified in Appendix G. Design and site proposed development that may affect an existing or potential public view to be protected, as identified in Figure 9 or in Appendix G, in such a manner as to preserve, enhance, or restore the designated public view.*

d.) Implement the regulation of the building envelope to preserve public views through the height, setback, landscaping, and fence transparency regulations of the Land Development Code that limit the building profile and maximize view opportunities.

[...]

g.) Plant and maintain landscaping or vegetation so that it does not obstruct public views of coastal resources from identified public vantage points as identified in Figure 9.

Page 57 of the LJCP continues:

h) Where new development is proposed on property that lies between the shoreline and the first public roadway, preserve, enhance, or restore existing or potential view corridors within the yards and setbacks by adhering to setback regulations that cumulatively, with adjacent property, form functional view corridors and prevent an appearance of the public right-of-way being walled off from the ocean.

[...]

j) As viewed from identified scenic overlooks, minimize the impact of bulk and scale, rooflines, and landscaping on the viewshed over the property.

In addition, the certified Land Development Code contains similar provisions. Specifically, Section 132.0403 of the Land Development Code states the following:

(a) If there is an existing or potential public view and the site is designated in the applicable land use plan as a public view to be protected,

(i) The applicant shall design and site the coastal development in such a manner as to preserve, enhance, or restore the designated public view, and

(ii) The decision maker shall condition the project to ensure that critical public views to the ocean and shoreline are maintained or enhanced.

(b) A visual corridor of not less than the side yard setbacks or more than 10 feet in width, and running the full depth of the premises, shall be preserved as a deed restriction as condition of Coastal Development permit approval whenever the following conditions exist:

(i) The proposed development is located on premises that lie between the shoreline and the first public roadway, as designated on Map Drawing No. C-731; and

- (ii) The requirement for a visual corridor is feasible and will serve to preserve, enhance, or restore public views of the ocean or shoreline identified in the applicable land use plan.*
- (c) If there is an existing or potential public view between the ocean and the first public roadway, but the site is not designated in a land use plan as a view to be protected, it is intended that views to the ocean shall be preserved, enhanced, or restored by deed restricting required side yard setback areas to cumulatively form functional view corridors and preventing a walled off effect from authorizing development.*

[...]

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

The City's certified implementation plan defines open fencing as "a fence designed to permit public views that has at least 75% of its surface area open to light." Given that the proposed development is located between the first public roadway and the ocean, there is a significant potential for public view impacts.

The appellants contend that the subject development substantially blocks public views from a designated scenic overlook and view corridor as mapped in the LJCP. Wrelton Drive, the street on which the subject property is located, is designated as "Scenic Overlook," while Tourmaline Street, which runs down the coastal canyon south of the subject property, is designated as a "View Corridor." The LJCP defines "Scenic Overlook" as a "view over private properties from a public R.O.W." (right-of-way), while "View Corridor" is defined as "unobstructed framed view down a public R.O.W." As the subject property between the first public road and the sea, adjacent to the popular Tourmaline Surf Park in the popular beach communities of Pacific Beach and La Jolla, the surrounding area is frequented by the public, either driving, biking, or walking. Thus, the protection of public views of the ocean in this area is paramount.

In response to the appellants' contentions, Commission staff visited the subject property and the adjacent roadways. The subject property currently contains a one-story single family residence and substantial landscaping including two large king palms in the front yard partially obstructing the ocean view over the home [Exhibit 3]. The nearby one-story residences are similar to what currently exists on the property, and the nearby two-story residences are of a size and scale similar to the two-story residence being proposed by the applicant. Wrelton Drive gradually slopes upward as it moves inland, meaning the best ocean views over the subject property are had when standing in the landward half of Wrelton Drive in the direction of La Jolla Boulevard, and on La Jolla Boulevard itself [Exhibit 8]. The properties along neighboring Chelsea Street, which fronts the ocean, offer partially obstructed ocean views down their side yard setbacks. Thus, the best view of the ocean in the immediate residential area is down Wrelton Drive.

The subject property is situated at the western end of Wrelton Drive, where it curves to become Chelsea Street [Exhibit 1 & 2]. Due to the location of the subject property and the topography of

the surrounding public streets, when looking west down Wrelton Drive the majority of the public view over the subject property falls over the northern half of the property; the southern half of the property is obstructed by the neighboring two-story single family residence to the east. However, while construction of a new residence does give rise to the opportunity to site the home farther back from the street, the subject property has a private view easement over the existing backyard area in the southern half of the property for the benefit of neighboring properties, severely limiting what development can occur there. As such, any new residence built on the subject property is confined to substantially the same footprint as the current residence on the northern half of the property, which as mentioned before is where the public view down Wrelton Drive crosses the subject property.

The proposed residence approved by the City of San Diego would not have preserved public views because the bulk of the second story was placed close to the northern property line and the northwestern portion of the property, where the public view down Wrelton Drive crosses over the subject property. This, coupled with the two existing king palms in the front yard, would have blocked all but a narrow horizon view of the ocean over the subject property. Because the footprint of the second story is smaller than the footprint of the first story, these view impacts could have been avoided by concentrating the second-story's square footage over the parts of the first story located away from where the public view down Wrelton Drive crosses over the subject property. Furthermore, the landscaping could have also been addressed to remove the king palms from the front of the property, where they were blocking views. Thus, the City-approved design does not preserve, enhance, or restore view corridors as required by the visual protection policies of the LCP, giving cause to substantial issue.

However, while the proposed residence approved by the City of San Diego does raise significant issue because of visual impacts down Wrelton Drive, the development occurring in the rear of the subject property does not raise substantial issue regarding the alleged impacts to view corridor down Tourmaline Street.

Tourmaline Surf Park is a popular beach area located at the western end of a coastal canyon. This canyon is bisected by Tourmaline Street, a public road that runs west from La Jolla Boulevard and ends at a public parking lot adjacent to the beach. This coastal canyon slopes downward from La Jolla Boulevard to the beach, affording the public coastal views all the way near La Jolla Boulevard [Exhibit 9]. The coastal canyon currently contains three apartment buildings, but these are clustered at the landward end of the canyon near La Jolla Boulevard. Atop either side of the coastal canyon are existing residential lots currently developed with single family residences, including the subject property. These residences are set back from the coastal canyon, and to a person standing in the park or on Tourmaline Street, these residences are either not visible or only partially visible, though this would require the viewer to turn away from the ocean and look north or south up to the top of the canyon sides.

As stated before, the subject property is located north of the coastal canyon of Tourmaline Surf Park. As verified by site visits, the current home is substantially, if not completely, obscured from view from the public parking lot [Exhibit 10]. While the second story of the proposed home may be partially visible, this will not have any adverse impacts on the designated public view corridor, as the home will be set far back from the canyon, and by the point in which it could be

seen from the canyon bottom, the viewer is already nearing the sandy beach at the end of the road, and thus the scenic views are away from the subject property.

Regarding the retaining walls and spa, while these will be closer to the southern property line than the proposed residence, because these are low-lying structures that will still be set far back from the canyon bottom itself, they will not encroach into the aforementioned view corridor when looking down Tourmaline Street, and by the time a public viewer will be able to see them from the canyon bottom, the viewer will be almost at the sandy beach.

Regarding height, the subject property is located within the 30-foot Prop D height limit imposed within the Coastal Overlay Zone as mapped by the LCP. The proposed home is approximately 30 feet at its highest point, and thus conforms to the height limit.

Thus, as approved by the City of San Diego, the proposed single family residence will have impacts on visual resources down Wreton Drive that raise a substantial issue and are not in conformance with the certified LCP's visual resource protection policies. However, the development approved by the City will not have adverse impacts on visual resources in the designated view corridor down Tourmaline Street, thus, these contentions do not raise a substantial issue.

C. COMMUNITY CHARACTER

The appellant contends that the bulk and scale of the proposed residence is out of character with the surrounding community.

The City's certified LCP contains the La Jolla Community Plan ("LJCP"), which governs the subject site, and it recommends protecting community character. Specifically, on page 82, the LJCP states:

Community Character

One of the more critical issues associated with single dwelling unit development is the relationship between the bulk and scale of infill development to existing single dwelling units. New construction of single dwelling unit homes have tended to be larger in size than the traditional development in some neighborhoods.

[...]

In some areas of La Jolla, certain features that contribute to community character are quite evident. However, in many areas, residential diversity is emphasized more than a uniform theme or development pattern.

On page 84, The LJCP continues, in relevant part:

Community Character

In order to promote development compatible with the existing residential scale:

- a. The City should apply the development recommendations that are contained in this plan to all properties in La Jolla in order to avoid extreme and intrusive changes to the residential scale of La Jolla's neighborhoods and to promote good design and harmony within the visual relationships and transitions between new and older structures.*

[...]

Page 90 of the LJCP states:

Community Character

- a. In order to maintain and enhance the existing neighborhood character and ambiance, and to promote good design and visual harmony in the transitions between new and existing structures, preserve the following elements:*
 - 1) Bulk and scale – with regard to surrounding structures or land form conditions as viewed from the public right-of-way and from parks and open space;*

[...]

- b. In order to regulate the scale of new development, apply development regulations to all residential properties in La Jolla that proportionally relate the building envelope to the existing lot dimensions. Apply minimum side and rear yard setback requirements that separate structures from adjacent properties in order to prevent a wall effect along the street face as viewed from the public right-of-way. Side yard setbacks should be incrementally increased for wider lots.*
- c. [...]*
- d. For large lots in single dwelling unit areas, apply development regulations that will limit perceived bulk and scale differences relative to surrounding lots. Apply a sliding scale for floor area ratios that will decrease building scale as the lot size increases.*
- e. In order to address transitions between the bulk and scale of new and older development in residential areas, maintain the existing 30-foot height limit of the single dwelling unit zones and Proposition D. Structures with front and side yard facades that exceed one story should slope or step back additional stories, up to the 30-foot height limit, in order to allow for flexibility while maintaining the integrity of the streetscape and providing adequate amounts of light and air.*

Section 113.0103 of the LDC provides the following definitions:

Definitions

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

“Gross Floor Area” means the sum of the horizontal square footage of all existing, proposed, and phantom floors of a building which may or may not be completely enclosed within the exterior surface of the surrounding exterior walls...

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

Section 131.0446(a) of the LDC contains Table 131-04J, which lists the range of maximum F.A.R. for residential development on premises of various sizes. For premises of 14,001 – 15,000 square feet, the maximum permissible F.A.R. is 0.50.

The subject property is listed at 14,300 sq. ft., and the locally approved residence has a total square footage of 6,628 square feet. Dividing the 6,628 sq. ft. gross floor area by the 14,300 square foot premises produces a F.A.R. of approximately 0.46.

The character of the community is a resource called out for protection both in the LJCP and in past Commission action in general. The appellant alleges that the size and scale of the proposed home is not in conformity with the surrounding neighborhood. The proposed residence will be two-stories and have a total square footage of 6,628 square feet, divided accordingly: the second floor will be 2,237 sq. ft., the main level will be 3,791 sq. ft. with a 600 sq. ft. two car garage. Information supplied by the appellant and confirmed by Commission staff site visits demonstrated that there are multiple two story homes on Wrelton Drive of similar height and scale to that being proposed by the applicant. When driving down adjacent Chelsea Street, which fronts the ocean, the number and scale of two-story residences increases substantially. Yet while the proposed residence will be situated towards the larger end of the spectrum of homes in the community, one of the primary tools of LCPs in reigning in oversize development has been restrictions of allowable F.A.R. for residential development. The “creep” of ever larger development and the transformative effect it can have on a community is an ever present concern in coastal development, but in regards to the proposed residence, it is unlikely to start a pattern for future development, as there already exist several two-story residences in the area. Thus, the size and scale of the proposed residence, in and of itself, does not raise substantial issue. In addition, as noted, the proposed residence conforms to the coastal height limit.

The proposed residence’s adherence to permissible F.A.R. and height limits and the presence of multiple other two-story residences of similar height and scale to that approved by the City leads to the conclusion that the project does not raise a substantial issue with regards to the appellant’s contentions concerning community character.

D. GEOLOGIC HAZARDS

The City's certified LCP contains the La Jolla Community Plan ("LJCP"), which governs the subject site and recommends minimizing the impacts to Environmentally Sensitive Lands along the coast. Specifically, on page 50, the LJCP states, in relevant part:

Shoreline Areas and Coastal Bluffs

In addition, development should be avoided in areas that will eventually be damaged or require extensive seawalls for protection. Public coastal access should be considered when evaluating redevelopment along the coast. The Environmentally Sensitive Lands development regulations for Sensitive Coastal Bluffs and Coastal Beaches govern development, coastal bluff repair, shoreline protective work and erosion control. These regulations assure that development occurs in a manner that protects these resources, encourages sensitive development, and maximizes physical and visual public access to and along the shoreline.

Section 113.0103 of the LDC defines "coastal bluff" as:

Coastal bluff means an escarpment or steep face of rock, decomposed rock, sediment, or soil resulting from erosion, faulting, folding, or excavation of the land mass that has a vertical relief of 10 feet or more and is in the coastal zone.

The Coastal Beaches and Bluffs Guidelines is an ancillary publication that is part of the certified LCP and designed to condense, complement, and clarify the various sections of the LDC that deal with coastal beach and bluff development in one smaller, more manageable publication. Section I(A) of the Guidelines also contains the above definition of "coastal bluff" and further clarifies it by stating, in relevant part:

A coastal bluff is a naturally formed precipitous landform that generally has a gradient of at least 200 percent (1:2 slope) with a vertical elevation of at least 10 feet...The gradient of a coastal bluff could be less than 200 percent but the vertical elevation must always be at least 10 feet...

The Coastal Beaches and Bluffs Guidelines also discuss "coastal canyons" and the criteria for identifying those. They state:

Where a site is bounded on at least one side by a coastal canyon, (a large, established regional drainage course that traditionally accepts runoff from off-site), the coastal bluff edge is defined as the portion of the site which drains directly into the ocean. That portion of the site which drains first to the canyon (landward of the drainage divide) is not considered to be a sensitive coastal bluff.

The appellant contends that the City's approval of the development, namely the after-the-fact approval of unpermitted retaining walls, in addition to the new spa, will adversely impact

sensitive coastal bluffs, and that insufficient geological analysis was performed because the local permit was approved with just a preliminary geotechnical study of the property.

The subject property is located above and to the north of Tourmaline Surf Park, and is a substantially flat, previously graded lot currently developed with an existing single family residence. The southern property line does not extend down the canyon side, but instead runs near the rim of the northern canyon wall. As can be seen from aerials of the subject property and its surroundings [Exhibit 2], the subject property is located above and landward of the Tourmaline Surf Park's canyon mouth. The canyon walls of Tourmaline Surf Park are already disturbed, with fencing, non-native vegetation, and drainage pipes occupying various sections of the canyon walls. Furthermore, the entire toe of the canyon wall adjacent to the subject property is composed of a large, approximately twenty-foot wide concrete drainage channel that directs runoff from inland portions of Pacific Beach out to the ocean. According to the definition criteria in the certified LCP's Coastal Beaches and Bluffs Guidelines, the Tourmaline canyon is a clearly established geologic feature with its own drainage separate from the nearby beach. Any drainage flowing from the subject property would first flow into this canyon before flowing towards the ocean. The City identified the neighboring property to the west of the subject property as having coastal bluffs, as it is situated at the junction of the canyon mouth and the beach, but the subject property is too far back to meet the definition of coastal bluffs. Furthermore, the certified LCP also incorporates Resource Map C-720: Coastal Zone Sensitive Slopes, which designates the various sensitive slopes requiring special protection in the coastal zone of San Diego. Resource Map C-720 does not map any such sensitive slopes along the canyon walls of Tourmaline Surf Park, which includes the area adjacent to the subject property.

Based on the City's geological criteria and mapping, the subject property is located in Geologic Hazard Category No. 53, which is characterized as level or sloping terrain, unfavorable geologic structure, low to moderate risk. Based on the City's submittal requirements, a geology report is not required of the Applicant at the time of application for the CDP. However, a Report of Preliminary Geotechnical Investigation dated April 23, 2013 was prepared for the applicant by Christian Wheeler Engineering and submitted to the City in applying for the local CDP. In this preliminary report, the geotechnical investigation looked at the general suitability of the subject property for the proposed residence. While the geotechnical investigation did do preliminary studies and borings of the rear retaining walls, they were not the focus of the geotechnical investigation. However, that is not the end of the geotechnical assessment that the approved development will have to satisfy. Because the retaining walls are unpermitted, the City is requiring that the applicant, prior to the issuance of a grading or building permit, commission and submit a specific, focused geotechnical report for the aforementioned five rear retaining walls. It is this study that will analyze in depth the status of the retaining walls and whether they will be found structurally suitable to remain or, if necessary, remove.

Despite the fact that the Tourmaline coastal canyon not having coastal bluffs adjacent to the subject property, that does not mean it does not warrant any protective consideration. Runoff from the subject property could still erode the canyon sides, adversely impacting the public park below. To guard against such impacts, the Applicant will install a drainage system to capture onsite runoff and utilize a sump pump to direct runoff away from the coastal canyon and towards Wrelton Drive. Thus, runoff from the subject property is not expected to increase with the

approved development and, with regards to runoff into Tourmaline Surf Park, it will most likely decrease due to the installation of the sump pump system.

Due to the status of the adjacent canyon walls as a coastal canyon, and not a coastal bluff or a “Coastal Zone Sensitive Slope,” the sections of the certified LCP dealing with treatment and protection of such slopes are not applicable, and, coupled with the proposed installation of an on-site drainage and sump pump, leads to a findings of no substantial issue regarding the appellants’ assertions of geologic hazard.

E. INTENSITY OF USE

The appellants assert that a larger home will engender increased usage, and thus increased impacts form parking and noise. There are no applicable policies in the certified LCP regarding noise associated with the use of a single family home. The subject property is designated residential and is already developed with a single family residence. The approved project is to likewise construct a single family residence, and the approved residence will meet all floor area ratio (F.A.R.) and off-street parking requirements of the certified LCP.

The appellants further contend that the current residence is used as a short-term vacation rental and that the proposed new residence will likewise be used as such. There is no indication that the proposed residence would be or has been specifically designed to be a short-term vacation rental; however, short-term vacation rentals are not prohibited in the certified LCP, and any of the existing single family residences could potentially operate as a short-term vacation rental. The proposed residence is consistent with the use, density, and intensity allowed in the land use plan and zoning of the certified LCP.

Regarding noise and parking impacts, the appellants were asked during the local permitting process to provide evidence of noise or parking impacts arising from the subject property, such as noise complaints filed with the police. The appellants did not furnish any such evidence, and likewise no such evidence was furnished to Commission staff.

Due to the lack of prohibitions in the certified LCP regarding short-term vacation rentals and lack of evidence of adverse parking and noise impacts emanating from the subject property, no substantial issue is found regarding the appellants contentions on this subject.

F. CONCLUSION

Based on the information cited above, it appears the City’s approval of the proposed development is inconsistent with visual resource protection policies of the City’s certified LCP with regard to public views down Wreton Drive. Alternative designs that could lessen or avoid impacts to public views were not analyzed, minimized, or mitigated through the City’s CDP and would adversely affect the existing scenic visual resources of the subject site and the surrounding area to a degree found inconsistent with the provisions in the La Jolla Community Plan. Regarding the appellants’ remaining contentions regarding views down Tourmaline Street, geologic impacts, community character, and intensity of use, these issues have not been found to be inconsistent with the City’s certified LCP and raise no substantial issue. Therefore, the

Commission finds that a substantial issue exists only with respect to the consistency of the local government action with the City's certified Local Coastal Program on protection of visual resources.

G. SUBSTANTIAL ISSUE FACTORS

As discussed above, there is inadequate factual and legal support for the City's determination that the proposed development is consistent with the certified LCP. The other factors that the Commission normally considers when evaluating whether a local government's action raises a substantial issue also support a finding of substantial issue. The objections to the project suggested by the appellants raise substantial issues of regional or statewide significance and the decision creates a poor precedent with respect to the protection of visual resources. In addition, the coastal resources affected by the decision are significant.

STAFF RECOMMENDATION ON THE COASTAL PERMIT

VI. MOTION AND RESOLUTION ON DE NOVO

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. A-6 LJS-13-0256 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the certified LCP and the public access policies 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.

VII. 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.

VIII. SPECIAL CONDITIONS

The permit is subject to the following conditions:

1. **Final Plans.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final building plans that have been stamped approved by the City of San Diego. Said plans shall be in substantial conformance with the plans submitted by Marengo Morton Architects and that are dated April 10, 2014.

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

2. **Final Landscape/Yard Area Plans.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval final landscaping and fencing plans approved by the City of San Diego. The plans shall be in substantial conformance with the landscape plans submitted by Marengo Morton Architects and that is dated April 10, 2014, and shall include the following:

- a. A view corridor equal to the side yard setbacks shall be preserved in the eastern and western side yard areas. All proposed landscaping in the side yard areas shall be maintained at a height of three feet or lower (including raised planters) to preserve the views from Wrelton Drive toward the ocean.
- b. All landscaping shall be drought tolerant and native or non-invasive plant species. All landscape materials within the identified view corridors shall be species with a growth potential not to exceed three feet at maturity. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property.
- c. Any fencing in the side yard setback areas shall permit public views and have at least seventy-five percent of its surface area open to light.
- d. All proposed landscaping in the western half of the front yard area – excepting the western side yard area governed by Special Condition No. 2(a) of this permit – shall be

maintained at a height less than or equal to the roof line of the first floor of the residence approved in this permit.

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

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

The 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 changes to the plans shall occur without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. **Runoff/Drainage Plan.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a final drainage plan, approved by City of San Diego, which shows that drainage and runoff from the roof, driveway, and other impervious surfaces shall be collected and directed away from the rear of the property and toward the street and into the storm drain system.

The applicant shall undertake mitigation and monitoring in accordance with the approved final, revised upland mitigation plan. Any proposed changes to the approved final, revised plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. **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.

5. **Other Special Conditions of local CDP No. 980406.** Except as provided by this coastal development permit, this permit has no effect on conditions imposed by the City of San Diego pursuant to an authority other than the Coastal Act.

IX. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. PROJECT DESCRIPTION

The project as approved and conditioned by the City of San Diego would demolish an existing single family residence and construct a new two-story, thirty-foot tall, 6,628 square foot single family residence with attached two-car garage, landscaping, spa, and retaining walls on a 14,300 square foot lot. The site is located at 615 Wrelton Drive, directly above and adjacent to Tourmaline Surf Park, just west of La Jolla Boulevard in the La Jolla community of the City of San Diego.

The existing property is designated for residential use and is currently developed with an existing one story single family residence, and is neighbored to the west, north, and east by similarly developed residential lots.

While the proposed two-story residence as originally approved by the City would have had substantial public view impacts down Wrelton Drive, after discussion with Commission staff, the applicant redesigned the proposed residence to shift the second story away from the front property line and the northwest corner of the property.

The standard of review is the certified City of San Diego Local Coastal Program and the public access policies of Chapter 3 of the Coastal Act.

B. PROTECTION OF VISUAL RESOURCES

The City's certified LCP contains the La Jolla Community Plan ("LJCP"), which governs the subject site, and it recommends protecting public views to the ocean. Specifically, on page 50, the LJCP states:

2. Visual Resources

(c) Public views from identified vantage points to and from La Jolla's community landmarks and scenic vistas of the ocean, beach and bluff areas, hillsides, and canyons shall be retained and enhanced for public use.

(d) Public views to the ocean from the first public roadway adjacent to the ocean shall be preserved and enhanced, including visual access across private coastal properties at yards and setbacks.

Page 56 of the LJCP states:

e.) Protect public views to and along the shoreline as well as to all designated open space areas and scenic resources from public vantage points as identified in Figure 9 and Appendix G (Coastal Access Subarea maps). Public views to the ocean along

public streets are identified in Appendix G. Design and site proposed development that may affect an existing or potential public view to be protected, as identified in Figure 9 or in Appendix G, in such a manner as to preserve, enhance, or restore the designated public view.

- f.) Implement the regulation of the building envelope to preserve public views through the height, setback, landscaping, and fence transparency regulations of the Land Development Code that limit the building profile and maximize view opportunities.*

[...]

- g.) Plant and maintain landscaping or vegetation so that it does not obstruct public views of coastal resources from identified public vantage points as identified in Figure 9.*

Page 57 of the LJCP continues:

- i) Where new development is proposed on property that lies between the shoreline and the first public roadway, preserve, enhance, or restore existing or potential view corridors within the yards and setbacks by adhering to setback regulations that cumulatively, with adjacent property, form functional view corridors and prevent an appearance of the public right-of-way being walled off from the ocean.*

[...]

- k) As viewed from identified scenic overlooks, minimize the impact of bulk and scale, rooflines, and landscaping on the viewshed over the property.*

In addition, the certified Land Development Code contains similar provisions. Specifically, Section 132.0403 of the Land Development Code states the following:

- (d) If there is an existing or potential public view and the site is designated in the applicable land use plan as a public view to be protected,*
- (i) The applicant shall design and site the coastal development in such a manner as to preserve, enhance, or restore the designated public view, and*
- (ii) The decision maker shall condition the project to ensure that critical public views to the ocean and shoreline are maintained or enhanced.*
- (e) A visual corridor of not less than the side yard setbacks or more than 10 feet in width, and running the full depth of the premises, shall be preserved as a deed restriction as condition of Coastal Development permit approval whenever the following conditions exist:*

- (i) The proposed development is located on premises that lie between the shoreline and the first public roadway, as designated on Map Drawing No. C-731; and*
- (ii) The requirement for a visual corridor is feasible and will serve to preserve, enhance, or restore public views of the ocean or shoreline identified in the applicable land use plan.*
- (f) If there is an existing or potential public view between the ocean and the first public roadway, but the site is not designated in a land use plan as a view to be protected, it is intended that views to the ocean shall be preserved, enhanced, or restored by deed restricting required side yard setback areas to cumulatively form functional view corridors and preventing a walled off effect from authorizing development.*

[...]

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

In addition, the City's certified implementation plan defines open fencing as "a fence designed to permit public views that has at least 75% of its surface area open to light." Given that the proposed development is located between the first coastal roadway and the sea, it is subject to the above-cited LCP policies and ordinances that protect visual resources.

Wrelton Drive, the street on which the subject property is located, is designated as "Scenic Overlook," while Tourmaline Street, which runs down the coastal canyon south of the subject property, is designated as a "View Corridor." The LJCP defines "Scenic Overlook" as a "view over private properties from a public R.O.W." (right-of-way), while "View Corridor" is defined as "unobstructed framed view down a public R.O.W." As the subject property between the first public road and the sea, adjacent to the popular Tourmaline Surf Park in the popular beach communities of Pacific Beach and La Jolla, the surrounding area is frequented by the public, either driving, biking, or walking. Thus, the protection of public views of the ocean in this area is paramount.

The subject property currently contains a one-story single family residence and substantial landscaping including two large king palms partially obstructing the ocean view over the home [Exhibit 3]. The nearby one-story residences are similar to what currently exists on the property, and the nearby two-story residences are of a size and scale similar to the two-story residence being proposed by the applicant. Wrelton Drive gradually slopes upward as it moves inland, meaning the best ocean views over the subject property are had when standing in the landward half of Wrelton Drive in the direction of La Jolla Boulevard, and on La Jolla Boulevard itself [Exhibit 8]. The properties along neighboring Chelsea Street, which fronts the ocean, offer partially obstructed ocean views down their side yard setbacks. Thus, the best view of the ocean in the immediate residential area is down Wrelton Drive

The subject property is situated at the western end of Wrelton Drive, where it curves to become Chelsea Street [Exhibit 1 & 2]. Due to the location of the subject property and the topography of the surrounding public streets, when looking west down Wrelton Drive the majority of the public view over the subject property falls over the northern half of the property; the southern half of the property is obstructed by the neighboring two-story single family residence to the east. However, while construction of a new residence does give rise to the opportunity to site the home farther back from the street, the subject property has a private view easement over the existing backyard area of the property for the benefit of neighboring properties, severely limiting what development can occur there. As such, any new residence built on the subject property is confined to substantially the same footprint as the current residence on the northern half of the property, which as mentioned before is where the public view down Wrelton Drive crosses the subject property.

The proposed residence approved by the City of San Diego would not have preserved or enhanced public views because the bulk of the second story was placed in the northwestern portion of the property where the public view down Wrelton Drive crosses over the subject property. This, coupled with the two existing king palms, would have blocked all but a narrow horizon view of the ocean over the subject property. Because the footprint of the second story is smaller than the footprint of the first story, these view impacts could have been avoided by concentrating the second-story's square footage over the parts of the first story located away from where the public view down Wrelton Drive crosses over the subject property. Furthermore, the landscaping could have also been addressed to remove the king palms from the front of the property, where they were blocking views. Thus, the City-approved project does not preserve, enhance, or restore view corridors, as required by the visual protection policies of the LCP.

However, after Commission staff conducted site visits and met with the applicant to discuss concerns over view impacts, the applicant redesigned the second story of the home to address the identified issues. Whereas originally the second story was substantially flush with the façade of the first story, the applicant changed the design to increase the front yard setback for the second story, creating a stepped front façade. Additionally, the applicant removed the northwest corner of the second story in the area where the public view down Wrelton Drive falls across the residence, opening up the view over the first story of the property. Regarding landscaping, the applicant will remove both king palms currently in the front yard to eliminate their impacts to public views [Exhibits 4, 5, 6 & 7].

Regarding height, the subject property is located within the 30-foot Prop D height limit imposed within the Coastal Overlay Zone as mapped by the LCP. The proposed home is approximately 30 feet at its highest point, and thus conforms to the height limit. It is possible that after the redesign other residents in the area may have their personal views to the ocean blocked by the proposed two-story residence. However, the policies of the certified LCP call for the protection of *public* views to the ocean—not *private* views.

While the home approved by the City of San Diego does raise adverse visual impacts down Wrelton Drive that have now been mitigated through a substantial redesign, the development occurring in the rear of the subject property does not have substantial adverse impacts to the public views down the Tourmaline view corridor.

Tourmaline Surf Park is a popular beach area located at the western end of a coastal canyon. This canyon is bisected by Tourmaline Street, a public road that runs west from La Jolla Boulevard and ends at a public parking lot adjacent to the beach. This coastal canyon slopes downward from La Jolla Boulevard to the beach, affording the public coastal views all the way near La Jolla Boulevard [Exhibit 9]. The coastal canyon currently contains three apartment buildings, but these are clustered at the landward end of the canyon near La Jolla Boulevard. Atop either side of the coastal canyon are existing residential lots currently developed with single family residences, including the subject property. These residences are set back from the coastal canyon, and to a person standing in the park or on Tourmaline Street, these residences are either not visible or only partially visible, though this would require the viewer to turn away from the ocean and look north or south up to the top of canyon sides.

As stated before, the subject property is located north of the coastal canyon of Tourmaline Surf Park. As verified by site visits, the current home is not visible from the public parking lot. While the second story of the proposed home may be partially visible, this will not have any adverse impacts on the designated public view corridor, as the home will be set far back from the canyon, and by the point in which it could be seen from the canyon bottom, the viewer is already nearing the sandy beach at the end of the road, and thus the scenic views are away from the subject property.

Regarding the retaining walls and spa, while these will be closer to the southern property line than the main residence, because these are low-lying structures that will still be set far back from the canyon bottom itself, they will not encroach into the aforementioned view corridor when looking down Tourmaline Street, and by the time a public viewer will be able to see them from the canyon bottom, the viewer will be almost at the sandy beach.

In order to ensure that the proposed home is built to the redesigned specifications that minimize impacts to public views, **Special Condition No. 1** requires the applicant to submit final plans for Commission review and sign off before issuance of the CDP. Additionally, as staff investigation revealed, the location of the subject property creates the potential for overly large landscaping to impact public views as well. Thus, **Special Condition No. 2** requires the applicant to submit final landscaping plans that place limitations on landscaping and fencing in the side yard setbacks as well as the western half of the front lawn, where the potential for impacts to public views is greatest. Finally, to ensure that the limitations and requirements of this CDP run with the land and are noticed to successors in interest to the property, **Special Condition No. 4** requires the applicant to record a deed restriction against the subject property containing this CDP and the conditions contained therein.

Thus, as approved by the City of San Diego, the proposed single family residence would have had impacts on visual resources down Wreton Drive that rise to substantial issue and were not in conformance with the certified LCP's visual resource protection policies. However, after redesign of the proposed residence and landscaping, along with finding that the development in the rear of the property will not have adverse impacts on visual resources in the designated view corridor down Tourmaline Street, this de novo permit can be found to be in conformance with the City's certified LCP regarding visual resource protection.

C. COMMUNITY CHARACTER

The City's certified LCP contains the La Jolla Community Plan ("LJCP"), which governs the subject site, and it recommends protecting community character. Specifically, on page 82, the LJCP states:

Community Character

One of the more critical issues associated with single dwelling unit development is the relationship between the bulk and scale of infill development to existing single dwelling units. New construction of single dwelling unit homes have tended to be larger in size than the traditional development in some neighborhoods.

[...]

In some areas of La Jolla, certain features that contribute to community character are quite evident. However, in many areas, residential diversity is emphasized more than a uniform theme or development pattern.

On page 84, The LJCP continues, in relevant part:

Community Character

In order to promote development compatible with the existing residential scale:

- b. The City should apply the development recommendations that are contained in this plan to all properties in La Jolla in order to avoid extreme and intrusive changes to the residential scale of La Jolla's neighborhoods and to promote good design and harmony within the visual relationships and transitions between new and older structures.*

[...]

Page 90 of the LJCP states:

Community Character

- f. In order to maintain and enhance the existing neighborhood character and ambiance, and to promote good design and visual harmony in the transitions between new and existing structures, preserve the following elements:*
 - 2) Bulk and scale – with regard to surrounding structures or land form conditions as viewed from the public right-of-way and from parks and open space;*

[...]

- g. *In order to regulate the scale of new development, apply development regulations to all residential properties in La Jolla that proportionally relate the building envelope to the existing lot dimensions. Apply minimum side and rear yard setback requirements that separate structures from adjacent properties in order to prevent a wall effect along the street face as viewed from the public right-of-way. Side yard setbacks should be incrementally increased for wider lots.*
- h. [...]
- i. *For large lots in single dwelling unit areas, apply development regulations that will limit perceived bulk and scale differences relative to surrounding lots. Apply a sliding scale for floor area ratios that will decrease building scale as the lot size increases.*
- j. *In order to address transitions between the bulk and scale of new and older development in residential areas, maintain the existing 30-foot height limit of the single dwelling unit zones and Proposition D. Structures with front and side yard facades that exceed one story should slope or step back additional stories, up to the 30-foot height limit, in order to allow for flexibility while maintaining the integrity of the streetscape and providing adequate amounts of light and air.*

Section 113.0103 of the LDC provides the following definitions:

Definitions

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

“Gross Floor Area” means the sum of the horizontal square footage of all existing, proposed, and phantom floors of a building which may or may not be completely enclosed within the exterior surface of the surrounding exterior walls...

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

Section 131.0446(a) of the LDC contains Table 131-04J, which lists the range of maximum F.A.R. for residential development on premises of various sizes. For premises of 14,001 – 15,000 square feet, the maximum permissible F.A.R. is 0.50.

The subject property is listed at 14,300 sq. ft., and the locally approved residence has a total square footage of 6,628 square feet. Dividing the 6,628 sq. ft. gross floor area by the 14,300 square foot premises produces a F.A.R. of approximately 0.46.

The character of the community is a resource called out for protection both in the LJCP and in past Commission action in general. The proposed residence will be two-stories, thirty feet tall, and have a total square footage of 6,628 square feet, divided accordingly: the second floor will be 2,237 sq. ft., the main level will be 3,791 sq. ft. with a 600 sq. ft. two car garage. Regarding height, the subject property is located within the 30-foot Prop D height limit imposed within the Coastal Overlay Zone as mapped by the LCP. The proposed home is approximately 30 feet at its highest point – as are many of the neighboring two-story residences – and thus conforms to the coastal height limit. Information supplied by the applicant and confirmed by Commission staff site visits demonstrated that there are multiple two story homes on Wrelton Drive of similar height and scale to that being proposed by the applicant. When driving down adjacent Chelsea Street, which fronts the ocean, the number of two-story residences increases substantially. Yet while the proposed residence will be situated towards the larger end of the spectrum of homes in the community, one of the primary tools of LCPs in reigning in oversize development has been restrictions of allowable F.A.R. for residential development. The “creep” of ever larger development and the transformative effect it can have on a community is an ever present concern in coastal development, but in regards to the proposed residence, it is consistent with applicable F.A.R. limitations, as there already exist several two-story residences in the area.

To ensure the proposed residence’s adherence to permissible F.A.R. and height limits and avoid impacts to community character and the pattern of development, **Special Condition No. 1** requires the applicant to submit final plans for Commission review and approval prior to issuance of the CDP. Thus, with the proposed residence design and final plans condition, the proposed project can be found in conformance with the certified LCP’s policies on community character.

D. GEOLOGIC HAZARD

The City’s certified LCP contains the La Jolla Community Plan (“LJCP”), which governs the subject site and recommends minimizing impact of Environmentally Sensitive Lands along the coast. Specifically, on page 50, the LJCP states, in relevant part:

Shoreline Areas and Coastal Bluffs

In addition, development should be avoided in areas that will eventually be damaged or require extensive seawalls for protection. Public coastal access should be considered when evaluating redevelopment along the coast. The Environmentally Sensitive Lands development regulations for Sensitive Coastal Bluffs and Coastal Beaches govern development, coastal bluff repair, shoreline protective work and erosion control. These regulations assure that development occurs in a manner that protects these resources, encourages sensitive development, and maximizes physical and visual public access to and along the shoreline.

Section 113.0103 of the LDC defines “coastal bluff” as:

Coastal bluff means an escarpment or steep face of rock, decomposed rock, sediment, or soil resulting from erosion, faulting, folding, or excavation of the land mass that has a vertical relief of 10 feet or more and is in the coastal zone.

The Coastal Beaches and Bluffs Guidelines is an ancillary publication that is part of the certified LCP and designed to condense, complement, and clarify that various sections of the LDC that deal with coastal beach and bluff development in one smaller, more manageable publication. Section I(A) of the Guidelines also contains the above definition of “coastal bluff” and further clarifies it by stating, in relevant part:

A coastal bluff is a naturally formed precipitous landform that generally has a gradient of at least 200 percent (1:2 slope) with a vertical elevation of at least 10 feet... The gradient of a coastal bluff could be less than 200 percent but the vertical elevation must always be at least 10 feet...

The Coastal Beaches and Bluffs Guidelines also discuss “coastal canyons” and the criteria for identifying those. They state:

Where a site is bounded on at least one side by a coastal canyon, (a large, established regional drainage course that traditionally accepts runoff from off-site), the coastal bluff edge is defined as the portion of the site which drains directly into the ocean. That portion of the site which drains first to the canyon (landward of the drainage divide) is not considered to be a sensitive coastal bluff.

The subject property is located above and to the north of Tourmaline Surf Park, and is a substantially flat, previously graded lot currently developed with an existing single family residence. The southern property line does not extend down the canyon side, but instead runs near the rim of the northern canyon wall. As can be seen from aerials of the subject property and its surroundings, the subject property is located above and landward of the Tourmaline Surf Park’s canyon mouth. The canyon walls of Tourmaline Surf Park are already disturbed, with fencing, non-native vegetation, and drainage pipes occupying various sections of the canyon walls. Furthermore, the entire toe of the canyon wall adjacent to the subject property is composed of a large, approximately twenty-foot wide concrete drainage channel that directs runoff from inland portions of Pacific Beach out to the ocean. According to the definition criteria in the certified LCP’s Coastal Beaches and Bluffs Guidelines, the Tourmaline canyon is a clearly established geologic feature with its own drainage separate from the nearby beach. Any drainage flowing from the subject property would first flow into this canyon before flowing towards the ocean. The City identified the neighboring property to the west of the subject property as having coastal bluffs, as it is situated at the junction of the canyon mouth and the beach, but the subject property is too far back to meet the definition of coastal bluffs. Furthermore, the certified LCP also incorporates Resource Map C-720: Coastal Zone Sensitive Slopes, which designates the various sensitive slopes requiring special protection in the coastal zone of San Diego. Resource Map C-720 does not map any such sensitive slopes along the canyon walls of Tourmaline Surf Park, which includes the area adjacent to the subject property.

Based on the City's geological criteria and mapping, the subject property is located in Geologic Hazard Category No. 53, which is characterized as level or sloping terrain, unfavorable geologic structure, low to moderate risk. Based on the City's submittal requirements, a geology report is not required of the applicant at the time of application for the CDP. However, a Report of Preliminary Geotechnical Investigation dated April 23, 2013 was prepared for the applicant by Christian Wheeler Engineering and submitted to the City in applying for the local CDP. In this preliminary report, the geotechnical investigation looked at the general suitability of the subject property for the proposed residence. While the geotechnical investigation did do preliminary studies and borings of the rear retaining walls, they were not the focus of the geotechnical investigation. However, that is not the end of the geotechnical assessment that the approved development will have to satisfy. Because the retaining walls are unpermitted, the City is requiring that the applicant, prior to the issuance of a grading or building permit, commission and submit a specific, focused geotechnical report for the aforementioned five rear retaining walls. It is this study that will analyze in depth the status of the retaining walls and whether they will be found structurally suitable to remain, or will have to be removed.

Despite the Tourmaline coastal canyon not having coastal bluffs adjacent to the subject property, that does not mean it does not warrant any protective consideration. Runoff from the subject property could still erode the canyon sides, adversely impacting the popular public park below. To guard against such impacts, the applicant will install a drainage system to capture onsite runoff and utilize a sump pump to direct runoff away from the coastal canyon and towards Wrelton Drive.

To ensure that runoff from the subject property towards Tourmaline Street is not increased, and erosion impacts are minimized, **Special Condition No. 3** requires the applicant to submit for Commission review and approval a drainage plan delineating the system of drains, swales, and pumps that will capture runoff and direct it away from Tourmaline Street and towards Wrelton Drive. **Special Condition No. 5** explicitly states that the City of San Diego is still able to apply any and all permit conditions and requirements on the proposed development, such as the requirement for further geotechnical investigation, pursuant to authority other than the Coastal Act.

Due to the status of the adjacent canyon walls as a coastal canyon, and not a coastal bluff or a "Coastal Zone Sensitive Slope," the sections of the certified LCP dealing with treatment and protection of such slopes are not applicable, and, coupled with the proposed installation of an on-site drainage and sump pump, leads to a findings on no substantial issue regarding the appellants' assertions of geologic hazard.

E. PUBLIC ACCESS

Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea "shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3." The project site is located seaward of the first through public road and the sea. Coastal Act Sections 30210 through 30212, as well as Sections 30220 specifically protect public access and recreation, and state:

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. ...

Section 30220 of the Coastal Act States:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

The City's certified LCP contains the La Jolla Community Plan ("LJCP"), which governs the subject site and recommends protecting public access to the coast. Specifically, on page 52, the LJCP states:

5. Public Access

(e) The City should ensure that new development does not restrict or prevent lateral vertical or visual access...to the beach on property that lies between the shoreline and first public roadway, or to and from recreational areas and designated public open space easements. Further, in areas where physical vertical access to the shoreline does not exist within 500 feet of a private development project on the shoreline, consideration of a new accessway across the private property should be analyzed.

Page 58 of the LJCP states:

3. Shoreline Areas

- q.) Where new development is proposed on property that lies between the shoreline and the first public roadway, offer for dedication as a public easement, lateral access along the shoreline.*

In addition, the certified Land Development Code contains similar provisions. Specifically, Section 126.0707 of the Land Development Code states the following:

- (c) Conditions may be imposed by the decision maker when approving a Coastal Development Permit to carry out the purpose and the requirements of this division. The conditions may include a provision for public access, open space, or conservation easements or the relocation or redesign of proposed site improvements...*

Section 126.0708 states, in relevant part:

(a) Findings for all Coastal Development Permits

- 1) The proposed coastal development will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan...*

[...]

- 4) For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.*

The proposed project includes the demolition of an existing one-story single family residence and construction of new two-story, 30-foot tall, 6,628 sq. ft. single family residence with attached two-car garage with new landscaping, spa, retaining walls, and cabana on a 14,300 sq. ft. lot. The site is located at 615 Wrelton Drive, north of Tourmaline Surf Park and west of La Jolla Boulevard in the La Jolla community of San Diego. Generally speaking, the surrounding area is mostly developed with single and multi-family residences. However, La Jolla and neighboring Pacific Beach are popular coastal communities, and the adjacent Tourmaline Surf Park is a popular destination for beach goers wishing to find coastal access and parking.

That being said, the subject property is currently developed with an existing single family residence, as are all the neighboring parcels. There are currently no existing public access paths through the subject property, not are any proposed by the LUP. The proposed project will be developed entirely within private property and will not encroach upon any existing or proposed public accessways. Therefore, the project, as proposed, can be found consistent with the public access and recreational policies of the Coastal Act.

The subject property is located between the ocean and the first public road paralleling the ocean, in this case La Jolla Boulevard. Adequate public access to the shoreline is currently available at nearby Tourmaline Surf Park entrance, which is approximately 500 feet from the subject property. Therefore, vertical public access across the subject property is neither necessary nor warranted given the topographical nature of Tourmaline Surf Park adjacent to the subject property.

Thus, the extent of the proposed development and its location with regards to existing public accessways supports the finding that the project will meet the public access policies of the Coastal Act and the certified LCP.

F. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

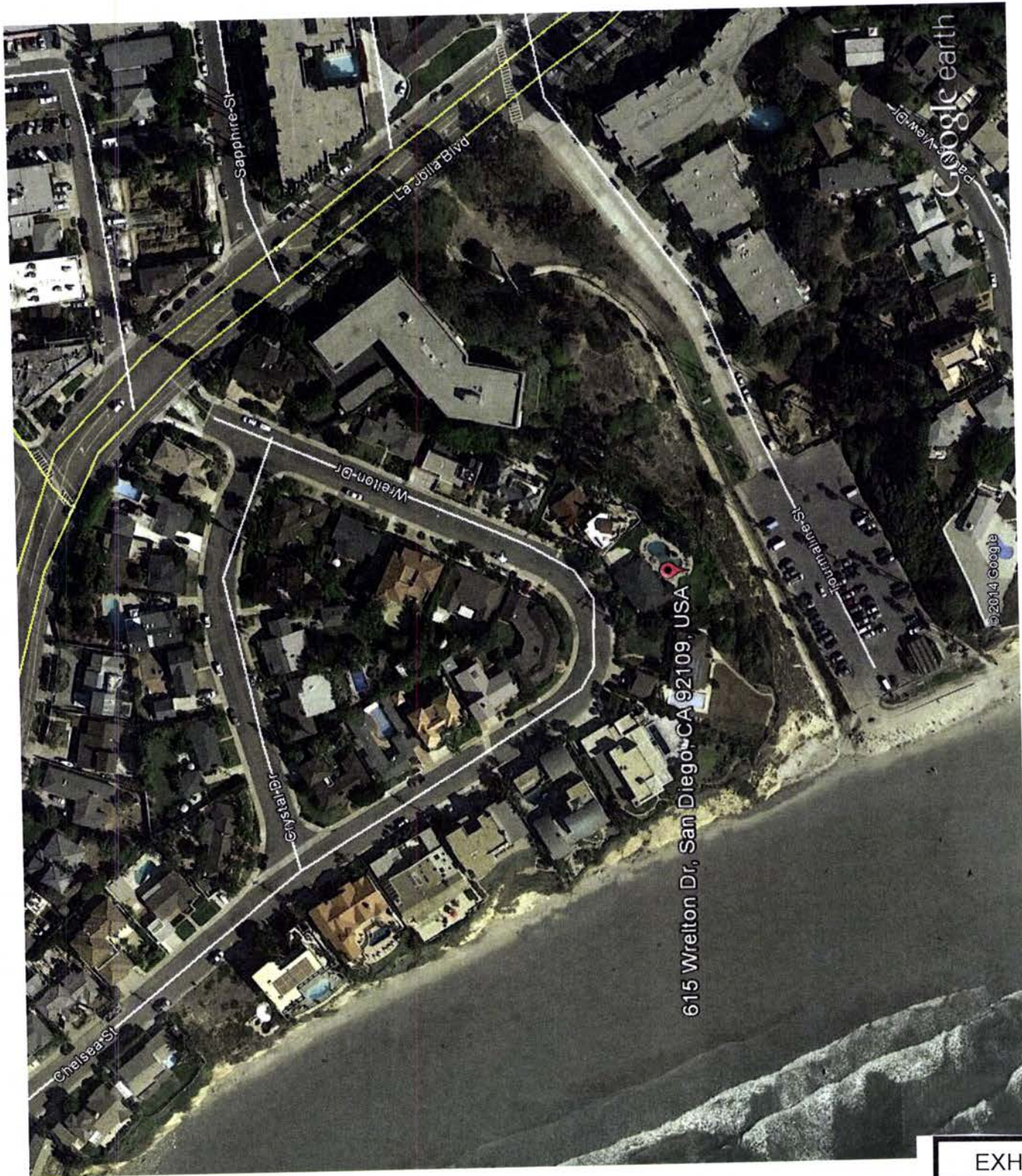
The proposed project has been conditioned in order to be found consistent with the City of San Diego's certified LCP. Mitigation measures, including redesign of the project, will minimize visual resource impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, 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: Appeal by Charles Redfern dated 12/4/13; Appeal by La Jollans for Neighborhood Preservation dated 12/6/13; Appeal by La Jolla Community Planning Group dated 12/9/13; Certified La Jolla Community Plan (LUP); Certified City of San Diego LCP Implementation Plan; City of San Diego Report to the Planning Commission dated 11/7/13; Coastal Development Permit No. 980406; Notice of Final Action dated 11/13/13; Coastal Development Permit Appeal No. A-6-LJS-13-0256



EXHIBIT NO. 1
APPLICATION NO.
A-6-LJS-13-256
Location Map



615 Wreton Dr, San Diego, CA 92109, USA

1000
300

feet
meters

earth

EXHIBIT NO. 2
APPLICATION NO.
A-6-LJS-13-25
Aerial Photo



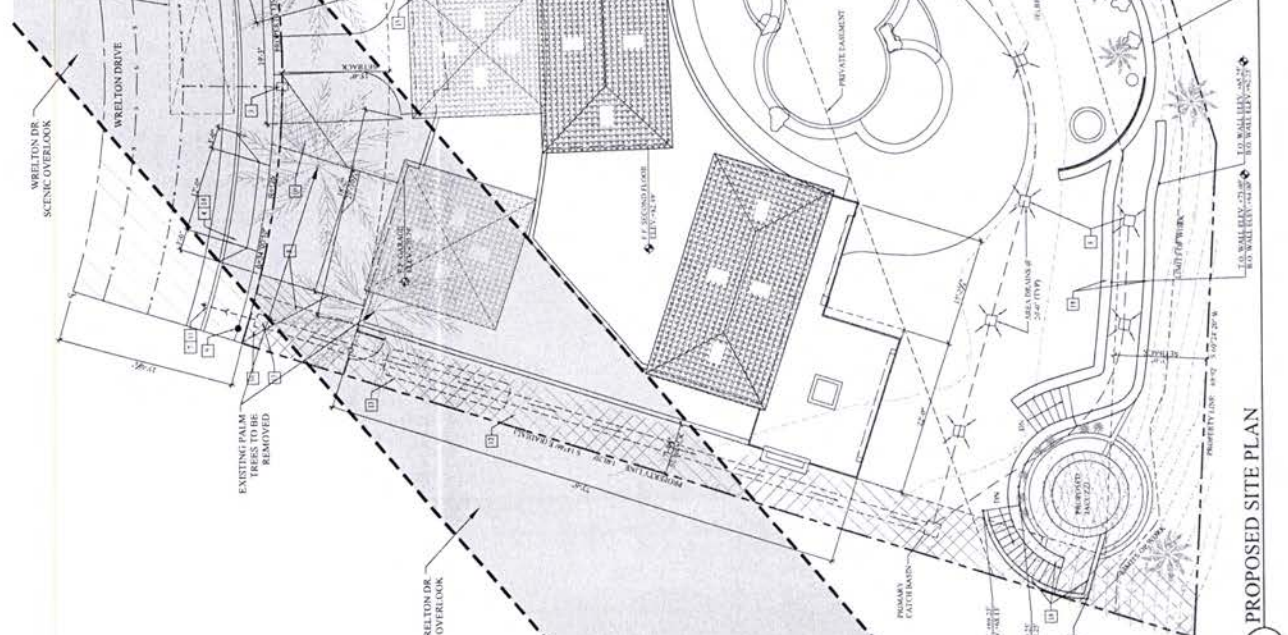
Subject
Property

EXHIBIT NO. 3
APPLICATION NO.
A-6-LJS-13-256
Front View of Subject
Property

[illegible][illegible]

- [illegible]

-




PROPOSED SITE PLAN

EXHIBIT NO. 4
APPLICATION NO.
A-6-LJS-13-256
Site Plan



TOTAL	6,627.7 SQ. FT.
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 California Coastal Commission



California Coastal Commission



EXHIBIT NO. 8

APPLICATION NO.

A-6-LJS-13-256

Current Wreton
Drive View

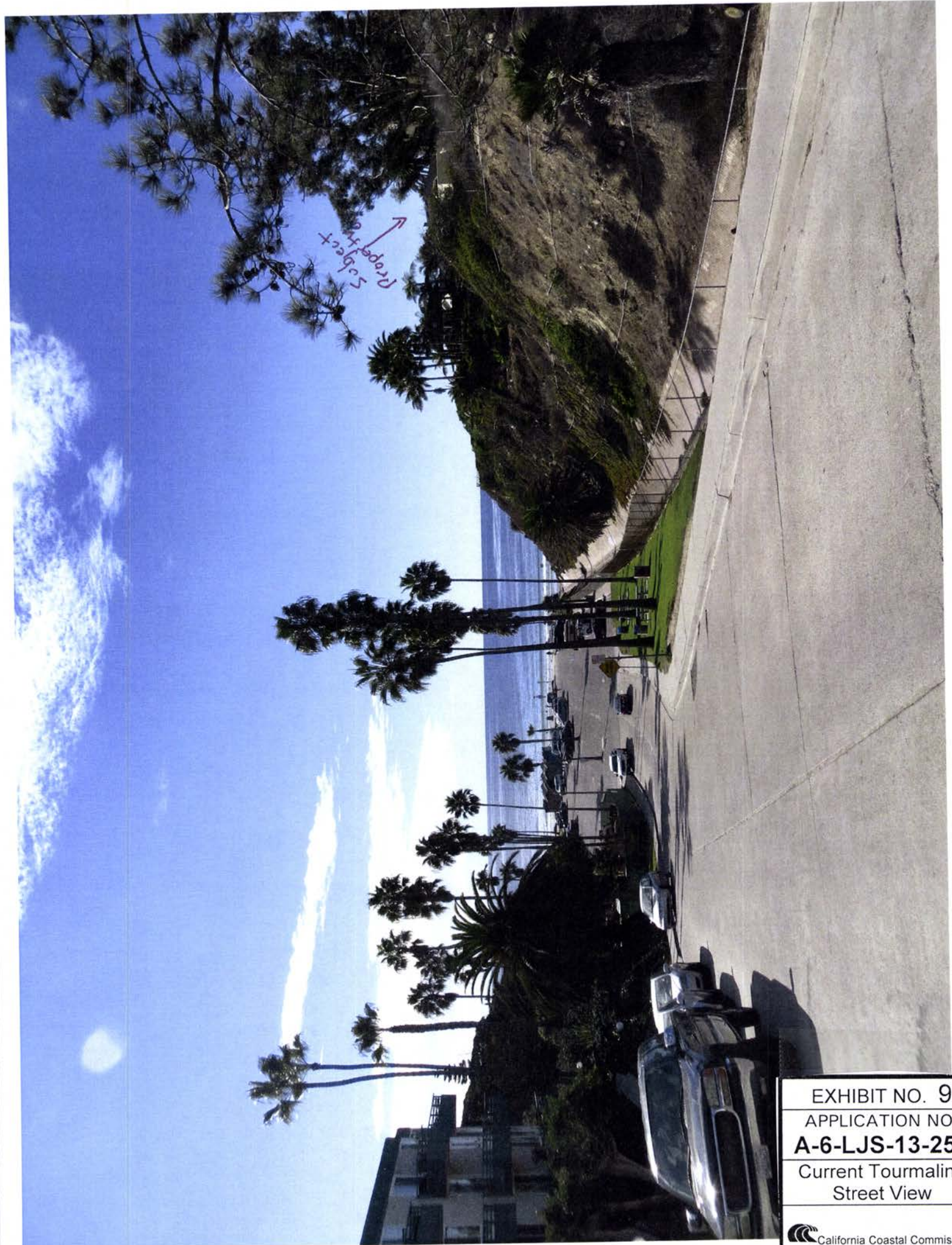


EXHIBIT NO. 9

APPLICATION NO.

A-6-LJS-13-256

Current Tourmaline
Street View



California Coastal Commission



EXHIBIT NO. 10
APPLICATION NO.
A-6-LJS-13-256
Rear View of Subject
Property



THE CITY OF SAN DIEGO

COASTAL DEVELOPMENT PERMIT
NOTICE OF FINAL ACTION

24002631

RECEIVED

NOV 21 2013

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

DATE: November 15, 2013

6-LJS-13-0859

The following project is located within the City of San Diego Coastal Zone. A Coastal Permit application for the project has been acted upon as follows:

PROJECT NAME - NUMBER: Henely Residence – Project No. 279093

PROJECT DESCRIPTION: Coastal Development Permit to demolish existing residence and construct an approximately 6,353 square foot, two-story, single family residence on a 14,300 square foot property.

LOCATION: 615 Wrelton Drive

APPLICANT'S NAME Mr. and Mrs. Donald and Celia Henely
7014 Via Estrada
La Jolla, CA 92037
(858) 336-7030

FINAL ACTION: X APPROVED WITH CONDITIONS

ACTION BY: Planning Commission

ACTION DATE: November 14, 2013

CONDITIONS OF APPROVAL: See attached Permit.

FINDINGS: See attached Resolution.

X Appealable to the Coastal Commission pursuant to Coastal Act Section 30603. An aggrieved person may appeal this decision to the Coastal Commission only after a decision by the City Council (or Planning Commission for Process 3 Coastal Development Permits) and within ten (10) working days following Coastal Commission receipt of this Notice, as to the date the Commission's appeal period will conclude.

Appeals must be in writing to:

EXHIBIT NO. 11
APPLICATION NO.
A-6-LJS-13-256
FLAN
California Coastal Commission

California Coastal Commission
San Diego Area Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4402
Phone (619) 767-2370

cc: California Coastal Commission

Glenn R. Gargas, Development Project Manager
Development Services Department
1222 First Avenue, MS 501, San Diego, CA 92101-4153
Phone: (619) 446-5142

Revised 02/10/05 dcj
document1



THE CITY OF SAN DIEGO

RECEIVED

NOV 21 2013

REPORT TO THE PLANNING COMMISSION

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

DATE ISSUED: November 7, 2013 **REPORT NO. PC-13-119**

ATTENTION: Planning Commission, Agenda of November 14, 2013

SUBJECT: HENELY RESIDENCE APPEAL - PROJECT NO. 279093.
PROCESS 3

REFERENCE: Report to Hearing Officer - Report No. HO-13-077

**OWNER/
APPLICANT:** Donald and Celia Henely, Trustees of Henely Trust, Owner
Mr. Claude-Anthony Marengo, Architect/Consultant

SUMMARY

Issue: Should the Planning Commission uphold or deny an appeal of the Hearing Officer's decision to approve demolition of an existing residence and construction of a new, two-story, single-family residence within the La Jolla Community Plan area?

Staff Recommendation: DENY the appeal and APPROVE Coastal Development Permit No. 980406.

Community Planning Group Recommendation: The La Jolla Community Planning Association voted 7-5-3 to recommend denial of the project at their meeting on August 1, 2013. Their denial did not include any comments or findings (Attachment 13).

Environmental Review: The project is exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19, 15303, that allows for new construction. This project is not pending an appeal of the environmental determination. The exemption determination for this project was made on July 19, 2013; and the opportunity to appeal that determination ended on August 27, 2013.

Fiscal Impact Statement: None. The processing of this application is paid for through a deposit account established by the applicant.

Code Enforcement Impact: Neighborhood Code Compliance has an open case regarding grading and a related keystone block retaining wall located near the rear property line constructed without permits. This unpermitted grading and cons

EXHIBIT NO. 12
APPLICATION NO.
A-6-LJS-13-256
Report to Planning Commission

retaining wall is required to be corrected through a permit condition to obtain a grading permit which will resolve this code violation.

Housing Impact Statement: The subject property being redeveloped is an existing legal building site zoned for single-family residential use. The project proposes to demolish the existing residence and construct a new single family residence. There will be no net gain or loss to the available housing stock within the La Jolla Community Planning Area.

BACKGROUND

The 14,300 square foot project site is currently developed with an approximate 2,110 square foot single family residence built in 1950. The surrounding properties are fairly well developed and form an established single-family residential neighborhood just east of a low coastal bluff region and directly north of the Tourmaline Surfing Park. The project site is located at 615 Wrelton Drive, in the RS-1-7 Zone, Coastal Overlay Zone (appealable), Coastal Height Limitation Overlay Zone, Parking Impact Overlay Zone and the Residential Tandem Parking Overlay Zone within the La Jolla Community Plan area (Attachments 1 – 3).

A Coastal Development Permit is required by the Land Development Code (Section 126.0702) for the proposed development on property within the Coastal Overlay Zone. During the processing of this Coastal Development Permit, Neighborhood Code Compliance opened up a code violation case regarding an existing unpermitted retaining wall located along the southern portion of the project site. Condition No. 18 (Page 4 of Attachment 6) has been added to the draft permit which will require the applicant to obtain a grading permit. The implementation of this required grading permit will correct the violation.

DISCUSSION

Project Description:

The project proposes to demolish the existing residence and construct an approximately 6,353 square-foot, two-story, single-family residence with attached garage and an in-ground spa on the previously disturbed 14,300 square-foot property. The project conforms to all of the development regulations of the RS-1-7 Zone and the applicable Coastal Development Regulations.

Visual Resources Analysis:

The project site is identified as being within or adjacent to a Scenic Overlook as identified by the La Jolla Community Plan and Local Coastal Land Use Plan (Attachment 10). The plan also identifies the site being within the Scenic Roadway designations. City Staff reviewed a submitted visual analysis and conducted a site visit to analyze the public views and the project's potential impact to them. Staff determined that the project conforms to the policies and public vantage point figures in the La Jolla Community Plan and Local Coastal Program by: conforming to the applicable side yard setbacks and height limitations; preserving the required 7' 4" wide view corridor within the western and eastern side yards of the subject property; and preserving a horizon line view of the ocean across the subject property from the portion of Wrelton Drive designated as a Scenic Overlook.

The Project site is located between the ocean and the first public roadway in a southern area of La Jolla near Tourmaline Surfing Park which is identified on Exhibit "A" of Appendix "G", Figure H of the La Jolla Community Plan as the Wrelton Drive Scenic Overlook as well as the La Jolla Boulevard Scenic Roadway. A Scenic Overlook is defined in the La Jolla Community Plan as, "a view over private property from a public right-of-way." The Scenic Overlook designation is different from the Major Viewshed designation which is defined as an, "unobstructed panoramic view from a public vantage point" in Exhibit "A" of Appendix G of the Community Plan. The primary differences between these view designations are that the Scenic Overlook is defined as "over private property," while a Major Viewshed designation requires an unobstructed view from a public vantage point. The Scenic Roadways is defined as "Partially obstructed views over private properties and down public right of ways." This view designation generally provides public views between homes along the side yard setbacks. The proposed project design has located all of the structural massing within the allowable building envelope. There are no encroachments into the required yard setbacks nor any variances requested with this proposal. Currently there are virtually no views down either side setback area because they are blocked by either thick vegetation or solid site fencing. Implementation of this Coastal Development Permit will open, restore and enhance these public views.

Staff reviewed the analysis of the visual impacts, photo simulations, visited the site, and worked with the applicant to document the above mentioned view protections on the site plan and within the permit conditions. Staff concluded that the Project provides both the Scenic Overlook and Scenic Roadway views, with the required public view corridor easements to be recorded, and determined that the proposed project is consistent with the La Jolla Community Plan and Local Coastal Program.

La Jolla Community Planning Association Recommendation – On August 1, 2013, The Association voted 7-5-3 to recommend denial of this project. Issues brought up at the meeting involved building height, public views, potential flooding, current condition of the property, party noise and use of the property as a vacation rental. As detailed in a City Attorney Office Memorandum of Law (Attachment 13) the City does not regulate vacation or short term rentals of Single Family or RS Zoned properties.

APPEAL OF THE HEARING OFFICER APPROVAL

On September 11, 2013, the Hearing Officer approved the project and adopted the project resolutions after hearing public testimony. The Appeals of that decision were filed on September 20, 2013 by Tony Crisafi, Chairmen of the La Jolla Community Planning Association and on September 24, 2013 by a neighbor Charles H. Redfern (Attachment 12). The Appeals focus primarily on public views, bulk and scale and impacts, the use of the property as a vacation rental, drainage and the past unpermitted grading at the back of the property. The following is a list of the Appeal issues followed by the City staff response.

1. Visual Resources – Identified Public Vantage Points – the subject development may impact scenic view from Tourmaline Surfing Park Identified view No. 98, La Jolla Community Plan (LCP) p 47 (Attachment 11).

STAFF RESPONSE:

Tourmaline Surfing Park Identified View No. 98 is a "View Cone" defined by 90 degree angle radiating lines from a public vantage point (the centerline of street) to the corners of the buildable envelope as defined by the setbacks of each corner property closet to the ocean or shoreline. The subject property is not the corner property closet to the ocean. The subject property is located to the north and east of this defined "View Cone" by approximately one lot within the existing subdivision. The proposed development does not encroach upon nor negatively impact this identified public view.

2. Visual Resources – Subarea H; Birdrock Visual Access – the subject development will impact the identified scenic overlook on Wrelton Drive, La Jolla Community Plan (LCP) p. 185 (Attachment 16).

STAFF RESPONSE:

The project site is located between the ocean and the first public roadway in a southern area of La Jolla near Tourmaline Surfing Park which is identified on Exhibit "A" of Appendix "G", Figure H of the La Jolla Community Plan as the Wrelton Drive Scenic Overlook as well as the La Jolla Boulevard Scenic Roadway. A Scenic Overlook is defined in the La Jolla Community Plan as, "a view over private property from a public right-of-way." The Scenic Overlook designation anticipates that the property can be developed within the allowable building envelope of the underlying zone. The Scenic Roadways is defined as "Partially obstructed views over private properties and down public Right of Ways." This view designation generally provides public views between homes along the side yard setbacks. Both of the applicable public views were evaluated for compliance with Exhibit "A" of Appendix G and Figure H of the La Jolla Community Plan and the Project was found to be consistent and will have no adverse impacts to the identified public views.

3. Existing and proposed structures may not conform with La Jolla Community Plan open space policy as this development includes coastal bluff along North boundary of Tourmaline Park. Refer to: La Jolla Community Plan p. 41 – open space visual resources and La Jolla Community Plan p. 51, Item (3) Shoreline and Coastal Bluffs, (d) Accessory Structures.

STAFF RESPONSE:

Based on the City's resource maps the subject property does not contain Sensitive Coastal Resources or Coastal Bluffs. Sensitive Coastal Resources and Coastal Bluffs are mapped on the property directly to the west of this subject site. The subject property is also located within Geologic Hazard Category 53, which is characterized as level or sloping terrain, unfavorable geologic structure, low to moderate risk. This hazard category does not require

the submittal of a geology report with the Coastal Development Permit application. The appeal does not provide any evidence that Coastal Bluffs are located on this property. Since the property does not contain Coastal Bluffs, the referred Community Plan sections are not applicable to this site.

4. Recognizing use of intensity of this property, parking and noise impact mitigations are inadequate.

STAFF RESPONSE:

The proposed project is the redevelopment of the property as one residential single family home. A minimum of two off-street parking spaces are required and the proposed project complies with that requirement.

At the Hearing Officer hearing, during public testimony, claims were made that this property is and will become a "Vacation Rental" property or a small hotel use. The Hearing Officer pointed out that the City does not prohibit the rental of a single family residence and reference the City Attorney Office's Memorandum of Law (Attachment 14) regarding that issue. The Hearing Officer asked if any parking or noise issues were reported to the Police. There was no public testimony or submitted evidence that the parking or noise issues were reported to the Police.

5. Geology – proposed development failed to identify risk and proposed mitigation measures with respect to site grading and augmenting existing pool and site wall structures. Refer to La Jolla Community Plan p. 81 – Residential Land Use.

STAFF RESPONSE:

The project site is located in Geologic Hazard Category No. 53. Based on the City's submittal requirements a geology report is not required. The draft Coastal Development Permit includes a condition requiring the submittal, review and issuance of a grading permit, with a geotechnical report for the rear yard retaining walls and related earthwork, which will correct the identified Neighborhood Code violation case.

6. The report to the Hearing Officer for the HO Hearing indicated that the CEQA exemption determination was made on July 19, 2013, and the opportunity to appeal that determination ended on August 22. However, the notices for the determination were produced on August 5 and August 13. California Public Resources Code section 21152(a) requires the local agency to file the notice within 5 working days after the approval or determination becomes final. Therefore, by the time the notice of public hearing was published on August 26, we were misled into believing that our CEQA appeal period had already expired when in fact it had not.

STAFF RESPONSE:

Both the Public Notice for the Hearing Officer Hearing and the Report to the Hearing

Officer incorrectly stated the CEQA appeal period ended on August 22, 2013, which was an error. However, the revised Notice Of Right To Appeal Environmental Determination (NORA) did contain the correct date to the end of the appeal period of August 27, 2013, which is the official document for this date and was posted on the City's Web Site for approximately two months (Attachment 15).

The appellant believes that the appeal period for the CEQA determination did not end on August 27, 2013 as noted in the revised Notice of Right to Appeal the Environmental Determination (August 13, 2013), a process codified in the City of San Diego Municipal Code (SDMC) Section 112.0520, Environmental Determination Appeals [*note: a notice was posted on August 5, 2013 with an appeal period ending on August 19, 2013; a revised notice with an appeal period ending on August 27, 2013 was posted on August 13, 2013*]. The appellant cites California Public Resources Code (PRC) section 21152(a) as the reason that the appeal period did not end per the NORA. This PRC section is separate and distinct from the established appeal process per the Municipal Code.

PRC Section 21152(a) states that "Whenever a local agency approves or determines to carry out a *project* [emphasis added] that is subject to this division, the local agency shall file notice of the approval or the determination within five working days after the approval or determination becomes final, with the county clerk of each county in which the project will be located." This directs a local agency to file the Notice of Determination (NOD) after a project decision has been made final, not after an environmental determination appeal period has ended. It would not be appropriate to file an NOD prior to a public hearing on a project nor would such a filing be valid. Provided the NOD is filed within five working days after the approval of a project, the statute of limitations to challenge the project approval is 30 days (CEQA Section 15075(g)).

Pursuant to PRC 21151(c), "If a nonelected decision-making body of a local lead agency...determines that a project is not subject to this division, that certification, approval, or determination may be appealed to the agency's elected decision-making body, if any". In order to comply with that section, the Notice of Right to Appeal (NORA) process was established by the City and codified in the SDMC. The NORA for this project was posted as required per the SDMC, and no appeals of that determination were filed. Therefore, the determination is final. Again, the NORA process and the NOD process are separate, and the appellant appears to have confused the two processes.

The appellant also stated that CEQA Section 15304(a) does not apply to this project due to grading. City Staff did not use 15304(a) for this project as it does not apply. The project was determined to be exempt from CEQA pursuant to CEQA Section 15303, New Construction. Staff also considered the exceptions in section 15300.2, and none of those exceptions applied, therefore the New Construction exemption is appropriate for this project.

7. The project will not enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the local Coastal Program Land Use Plan, which is a required finding. The unpermitted retaining walls (which the applicant proposes to remain), and the proposed Jacuzzi, sit at the top of the slope that is part of a view corridor (Item 98) in the La Jolla Community Plan and Local Coastal Program

Land Use Plan, page 47.

STAFF RESPONSE:

Tourmaline Surfing Park Identified View No. 98 is a "View Cone" defined by 90 degree angle radiating lines from public vantage point (the centerline of street) to the corners of the buildable envelope as defined by the setbacks of each corner property closet to the ocean or shoreline. The subject property is not the corner property closet to the ocean. The subject property is located to the north and east of this defined "View Cone" by approximately one residential lot within the existing subdivision and the proposed development, specifically the proposed retaining wall replacement and proposed Jacuzzi are not located within the "View Cone" and do not impact this identified public view.

8. The project is not in conformity with the certified Local Coastal Program Land Use Plan, which is a required finding. Bulk and Scale with regard to surrounding structures as viewed from the public right-of-way must be considered per a.1) of page 90. This project is not compatible with bulk and scale on nearby sites with sensitivity to ocean views.

STAFF RESPONSE:

The proposed development has a calculated Floor Area Ratio of 0.44 (6,353 square feet of floor area on a 14,300 square foot lot), which complies with the maximum Floor Area Ratio of 0.50 of the underlying RS-1-7 Zone, which is the implementing or controlling tool of bulk and scale measurement as adopted under the Local Coastal Program Land Use Plan. The surrounding properties are also Zoned RS-1-7 with the same Floor Area Ratio allowance. The proposed development is designed to comply with the allowable building envelope of the RS-1-7 Zone and the identified public views are to be preserved through the recording of a view easement down each side yard setback area as a condition of the Coastal Development Permit. The Local Coastal Program Land Use Plan contains other design recommendations to promote transitions in scale between new and older structures, such as off-setting planes, building articulation, roofline treatment and variations within the front yard setback, all of which have implemented in the design of this project.

9. The project proposed 5 bedrooms, and will likely have a localized transportation impact due to lack of on-site parking. There is a high possibility of continued use as a short-term rental, due to current use as a short term rental. The local planning group considers 1:1 bedrooms to parking spaces to be adequate ratio.

STAFF RESPONSE:

The proposed project is the redevelopment of the property as one residential single family home. A minimum of two off-street parking spaces are required and the proposed project complies with that requirement.

At the Hearing Officer Hearing, during public testimony, claims were made that this property is and will become a "Vacation Rental" property or a small hotel use. The Hearing Officer pointed out that the City does not prohibit the rental of a single family residence

and reference the City Attorney Office's Memorandum of Law regarding that issue. The Hearing Officer asked if any parking or noise issues were reported to the Police. There was no public testimony or submitted evidence that the parking or noise issues were reported to the Police.

10. A Water Quality Technical Report is required per the Storm Water Requirements Applicability Checklist (part of the Land Development Manual, enforced by the Municipal Code), which includes "Development directly adjacent to a Water Quality Sensitive Area and increases the area of imperviousness of a proposed project site to 10% or more of its naturally occurring condition." "Directly Adjacent" is defined as being situated within 200 feet of the Water Quality Sensitive Area". This project is clearly less than 200 feet from WQSA. The rear portions of the property will produce runoff that leads directly down the hill and to the nearby beach.

STAFF RESPONSE:

The appellant is incorrect in stating that the rear portions of the property will produce runoff that leads directly down the hill and to the nearby beach. The Engineering Section reviewed the drainage plan for conformance with the Storm Water Regulations. The proposed drainage design directs all runoff of the proposed development area back to the City's storm drain system within the public right of way. No additional drainage is being directed to the reference Water Quality Sensitive Area. If the drainage of the entire site would have drained onto the slope at the back of the lot, a Water Quality Technical Report would have been required. However, since the applicant's design directed the runoff towards the street, a Water Quality Study was required, submitted, reviewed and accepted.

11. A separate grading and drainage plan must be prepared as part of the CDP package per the City Submittal Requirements Matrix section 10.7 (enforced and referenced by the Municipal Code), where "any portion of the property has slopes over 25%", or "there is more than a 4 foot height differential between the highest and lowest points of the property." Both of these are true, but this separate document was not prepared.

STAFF RESPONSE:

A separate grading permit is required as a condition of the Coastal Development Permit to correct the Neighborhood Code Violation Case, Condition No. 18 (Page 4 of Attachment 6). This violation was turned in and reviewed during the processing of the Coastal Development Permit Application. During the project's review the Permit Planning Section reviewed as built grading plans, old aerial photos and submitted excerpts from a Geotechnical Report. Based on this information, they determined that the rear slope area, currently and prior to the Code Violation was a disturbed area, is not natural, does not meet the definition of Steep Hillside, therefore, a separate grading plan was not required during the Coastal Development Permit review process.

12. Our own geotechnical evaluation of the 50 foot high slope descending down to Tourmaline Park results in a factor of safety for global stability to be less than 1.5:1

(inadequate), in conflict with the applicant's geotechnical calculations considered by staff during the project review.

STAFF RESPONSE:

The appellant is incorrect in stating that the geotechnical calculations were considered by staff during the project review. The geotechnical report was not required at the time of project submittal for the Coastal Development Permit. The City's Geology Section has not reviewed or accepted the applicant's report, nor has any factor of safety been reviewed or considered by the City's Geologist. A geology report is required in conjunction with the required grading permit, a condition of the Coastal Development permit. The factor of safety of the slope will be evaluated at that time. The applicant has had a geology report prepared, discussed it at the Community Planning Group meetings. The applicant submitted this report to the City's Planning Staff with specific excerpts referenced strictly for the focused review by Planning Staff of the past disturbance of the property to evaluate whether the property was subject to Environmentally Sensitive Lands Regulations.

13. Our own geotechnical evaluation of the unpermitted retaining walls indicates that the embedment depth (foundation) is not deep enough to meet minimum standards, and that internal stability conditions have not yet been demonstrated. The applicant indicated during his presentation to the La Jolla CPA that they would "leave the walls in place and get them certified by a structural engineer". It is very likely instead that these walls will need to be removed and replaced with significant grading operations.

STAFF RESPONSE:

A grading permit with the submittal of a geotechnical report is required through a permit condition, Condition No. 18 (Page 4 of Attachment 6). The proper foundation and stability of the retaining wall will be reviewed by the City's Engineering – Drainage and Grades Section during the ministerial review of this required grading permit.

Community Plan Analysis:

The proposed project is located within the La Jolla Community Plan (LJCP) area and the subject site is designated for low density residential development at 5-9 du/acre. The proposed project conforms to the LJCP designated land use. The LJCP recommends maintaining the character of residential areas by ensuring that redevelopment occurs in a manner that protects natural features, preserves existing streetscape themes and allows a harmonious visual relationship to exist between the bulk and scale of new and older structures.

The property fronts along Wrelton Drive, which does not contain nor is it in the vicinity of any public view as identified by the LJCP. The proposed project does not impact any public view. The proposed height for the residence is less than thirty feet which is consistent with the community plan and the thirty foot height limit.

The community plan also recommends maintaining the existing residential character of La Jolla's neighborhoods by encouraging build out of residential areas at the plan density. The

neighborhood is one which is mainly made up of moderate to large size homes which are mainly older with a few newer residences typically built to the city's standards. The proposed new addition/remodel to this existing residence is consistent with other newer residences in the neighborhood. However, this project site is one of the larger lots in the neighborhood. The proposed new addition to the residence also is consistent with the plan for landscaping and streetscape recommendations. Staff recommends approval of the proposed residential redevelopment as it is consistent with the community plan's policies for residential development.

Conclusion:

The Hearing Officer reviewed the proposed Coastal Development Permit and determined the project is consistent with the La Jolla Community Plan and Local Coastal Program Land Use Plan and the applicable Land Development Code regulations. Staff has provided draft findings supporting the Coastal Development Permit approval (Attachment No. 5). Staff recommends that the Planning Commission uphold the Hearing Officer's approval of the proposed Coastal Development Permit as proposed (Attachment No. 6).

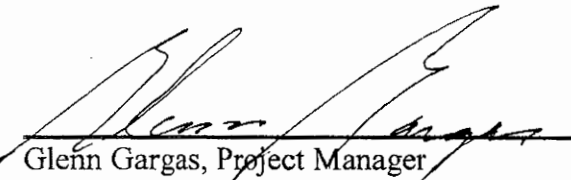
ALTERNATIVES

1. Uphold Coastal Development Permit No. 980406, with modifications.
2. Deny Coastal Development Permit No. 980406, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



Mike Westlake
Acting Deputy Director
Development Services Department

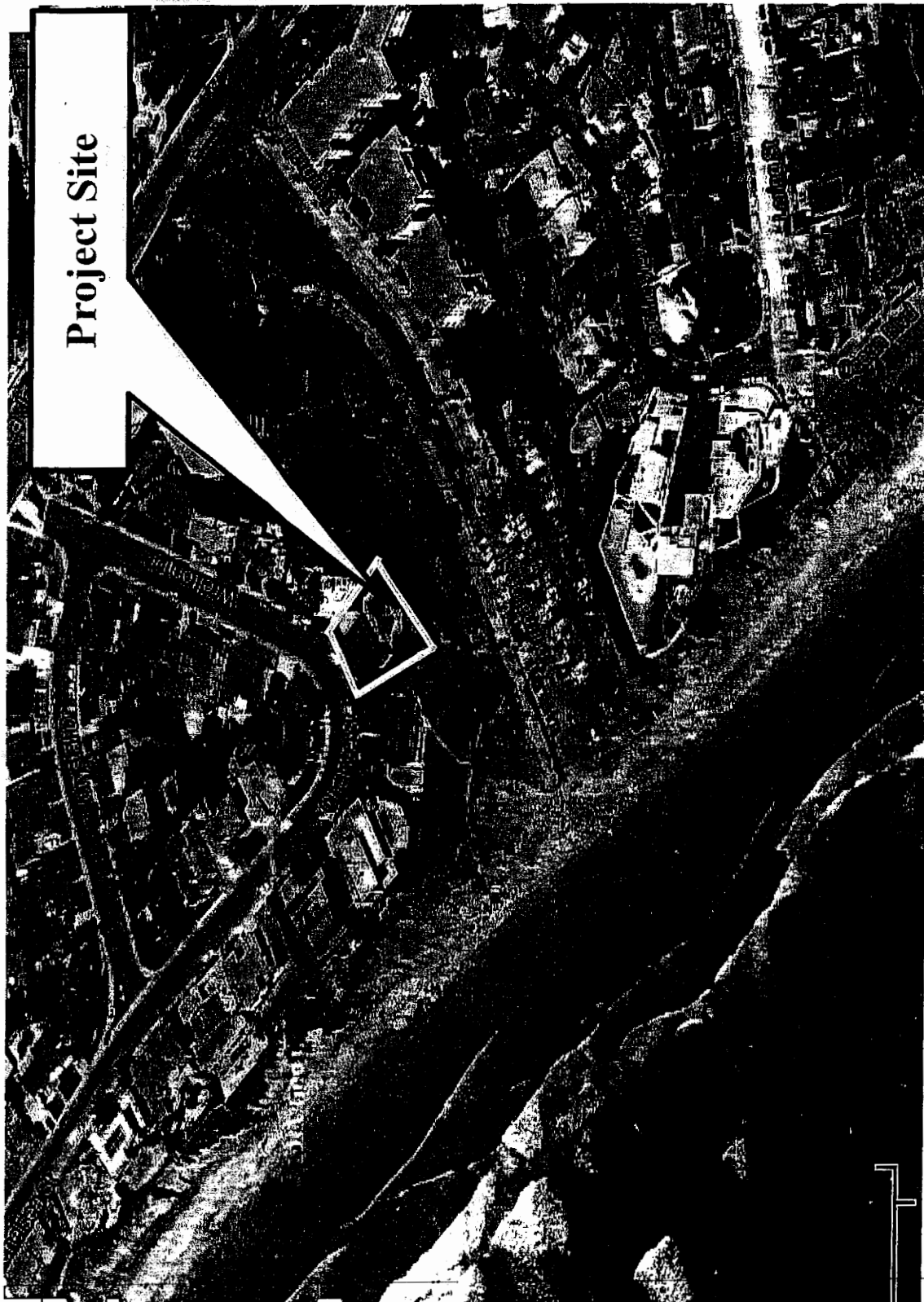


Glenn Gargas, Project Manager
Development Services Department

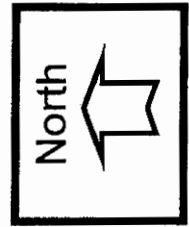
Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Draft Permit Resolution with Findings
6. Draft Permit with Conditions
7. Project Site Plan
8. Project Plans – Building Elevations
9. Project Plans – Building Cross Sections

10. La Jolla Community Plan – Visual Access – Figure H – Page 185
11. La Jolla Community Plan – Visual Resources Pages 46 & 47
12. Copy of Appeals
13. Community Planning Group Recommendation
14. City Attorney's Memorandum of Law Regarding Vacation Rentals
15. Revised Notice of Right to Appeal Environmental Determination
16. Ownership Disclosure Statement
17. Project Chronology



Project Site

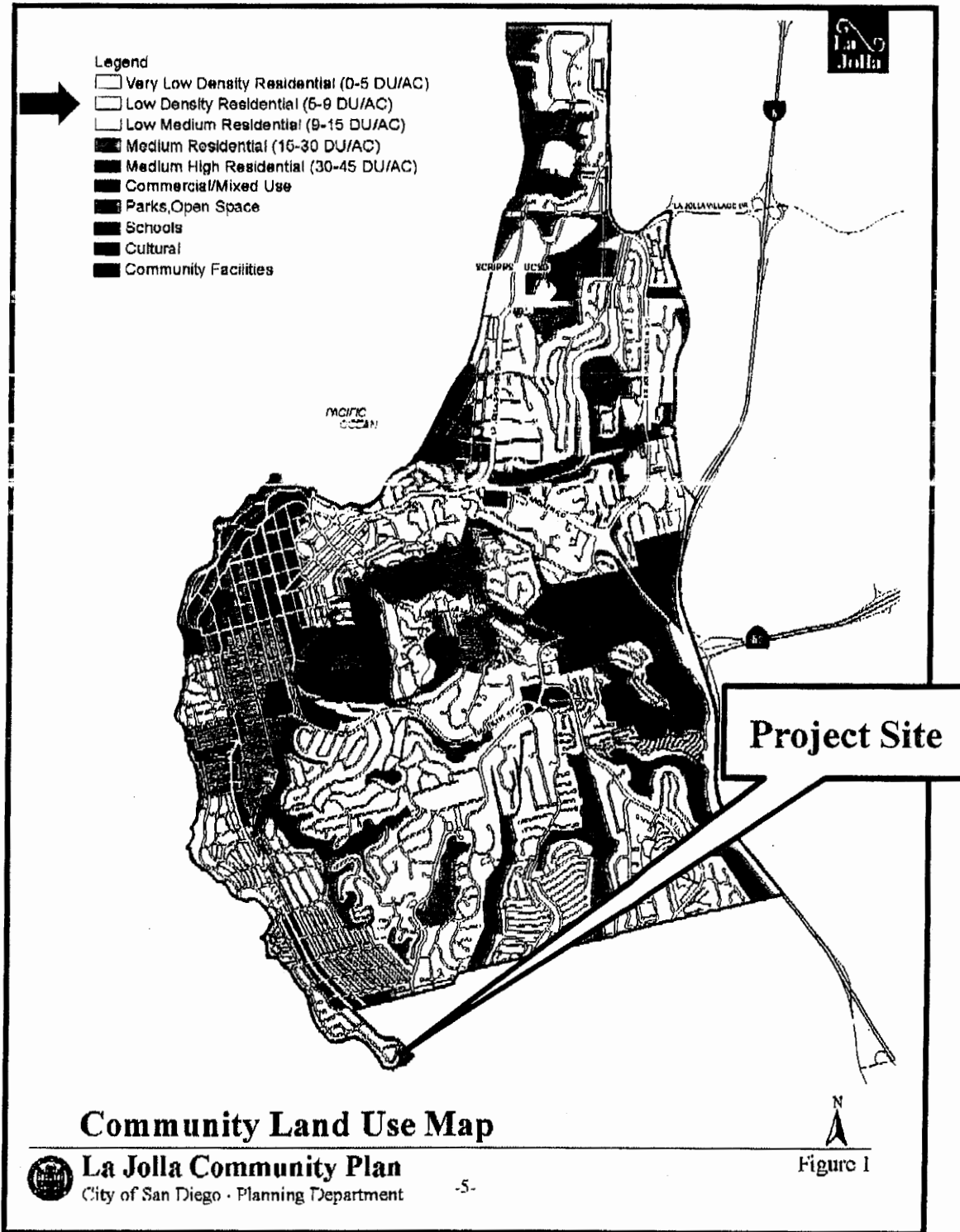


Aerial Photo

HENELY RESIDENCE - 615 WRELTON DRIVE

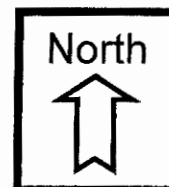
PROJECT NO. 279093

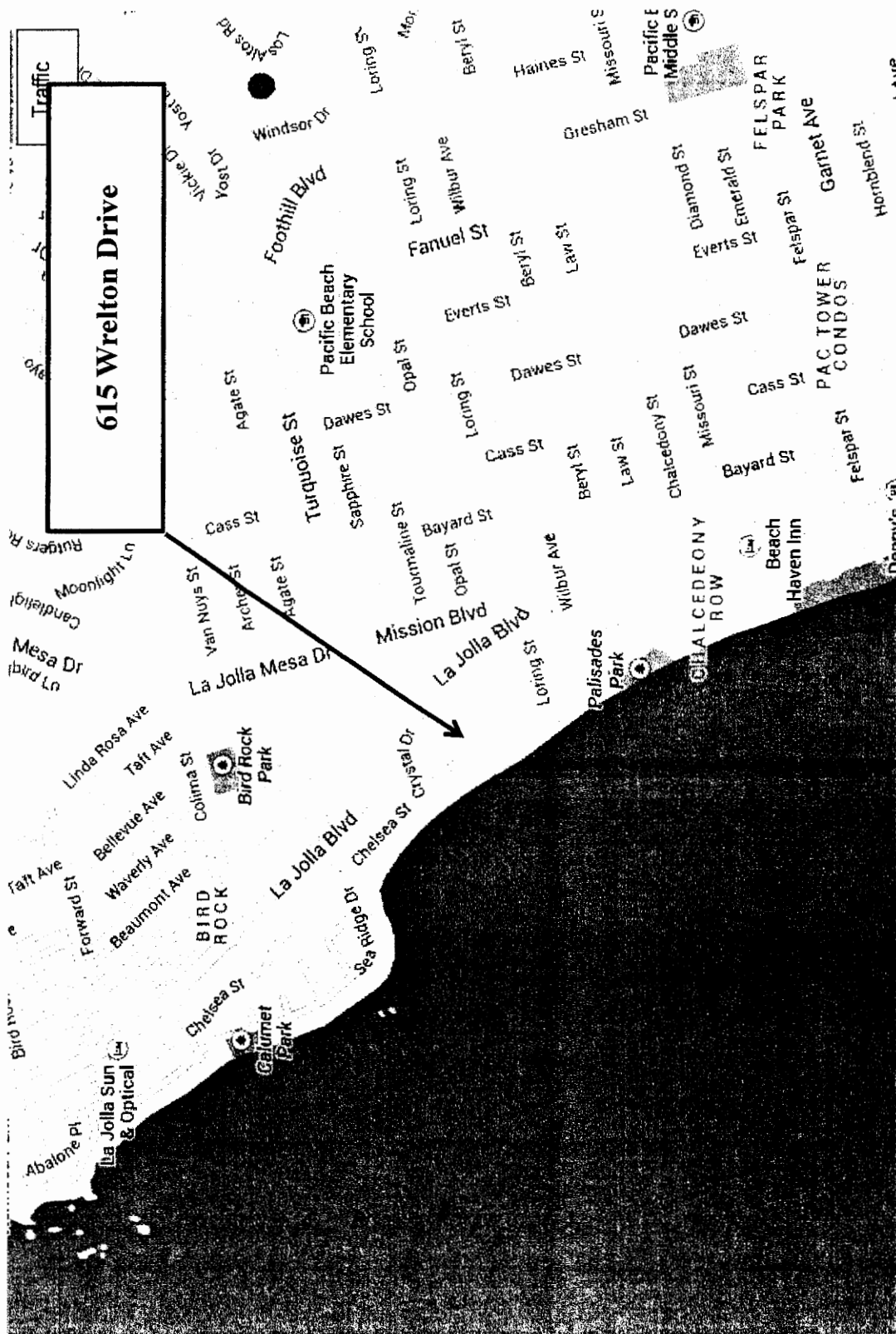




Land Use Map

HENELY RESIDENCE - 615 WRELTON DRIVE
PROJECT NO. 279093 La Jolla





Project Location Map

HENELY RESIDENCE - 615 WRENTON DRIVE

PROJECT NO. 279093



PROJECT DATA SHEET

PROJECT NAME:	Henely Residence -- Project No. 279093
PROJECT DESCRIPTION:	CDP to demolish an existing residence and construct a new approximately 6,353 square foot single-family residence with a two car garage and swimming pool on a 14,300 square foot property.
COMMUNITY PLAN AREA:	La Jolla
DISCRETIONARY ACTIONS:	Coastal Development Permit
COMMUNITY PLAN LAND USE DESIGNATION:	Low Density Residential (5-9 DUs per acre)

ZONING INFORMATION:

ZONE: RS-1-7 Zone

HEIGHT LIMIT: 30/24-Foot maximum height limit.

LOT SIZE: 5,000 square-foot minimum lot size -- existing lot
14,300 sq. ft.

FLOOR AREA RATIO: 0.50 max. allowed -- 0.44 proposed

FRONT SETBACK: 15 feet required -- 15 feet proposed

SIDE SETBACK: 7 feet 4 1/8 inches required -- 7 feet, 4 1/8 inches proposed

STREETSIDE SETBACK: NA

REAR SETBACK: 13 feet required -- 42 feet proposed

PARKING: 2 parking spaces required -- 2 proposed.

<u>ADJACENT PROPERTIES:</u>	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	Low Density Residential; RS-1-7 Zone	Single Family Residence
SOUTH:	Parks & Open Space; RS-1-7 Zone	City Park
EAST:	Low Density Residential; RS-1-7 Zone	Single Family Residence
WEST:	Low Density Residential; RS-1-7 Zone	Single Family Residence
DEVIATIONS OR	None.	

ATTACHMENT 4

VARIANCES REQUESTED:	
COMMUNITY PLANNING GROUP RECOMMENDATION:	The La Jolla Community Planning Association voted 7-5-3 to recommend denial of the proposed project at their meeting on August 1, 2013.

PLANNING COMMISSION RESOLUTION NO. _____
COASTAL DEVELOPMENT PERMIT NO. 980406
HENELY RESIDENCE - PROJECT NO. 279093

WHEREAS, Donald Henely and Celia Henely, Trustees of the Donald and Celia Henely 2000 Trust dated June 27, 2000, Owner/Permittee, filed an application with the City of San Diego for a permit to demolish the existing residence and construct a new, two-story, single family residence on the property (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 980406), on portions of a 0.32-acre property;

WHEREAS, the project site is located at 615 Wrelton Drive, in the RS-1-7 Zone, Coastal (appealable) Zone, Coastal Height Limitation, Residential Tandem Parking and Transit Overlay Zones and within the La Jolla Community Plan area;

WHEREAS, the project site is legally described as Lot 19, Block 4, Pacific Riviera Villas Unit No. 1, Map No. 2531;

WHEREAS, on September 11, 2013, the Hearing Officer of the City of San Diego considered and approved Coastal Development Permit No. 980406, pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on September 20, 2013, that decision was appealed by Tony Crisafi, Chair of the La Jolla Community Planning Association and Charles H. Redfern;

WHEREAS, on July 19, 2013, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et. seq.) under CEQA Guideline Section 15303 that allows for new construction and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520;

BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated November 14, 2013.

FINDINGS:

Coastal Development Permit - Section 126.0708

1. The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.

The 14,300 square-foot project site is located within a developed area of moderate scale single-family residences on approximately 10,000 to 15,000 square foot sized lots. The development proposes to demolish the existing residence and construct a new, two-story, single family residence on the previously disturbed project site. The proposed development is located between the ocean and the first public roadway and the southern/western edge of the project site is approximately 80 feet from the mapped mean high tide line. The project site is not located adjacent to and does not contain an identified public access path identified in the La Jolla Community Plan and Local Coastal Program [LCP] Land Use Plan. Therefore, the proposed project will not encroach upon any existing physical access way that is legally used by the public or any proposed public access way identified in a Local Coastal Program land use plan.

The Local Coastal Program land use plan identifies two public views that relate to the proposed development of the project site: Wrelton Drive Scenic Overlook and La Jolla Boulevard Scenic Roadway. The proposed development preserves, enhances or restores these designated public views. The Wrelton Drive Scenic Overlook is defined as a view over private property from a public right of way. Consistent with the Local Coastal Program land use plan, the project preserves the public view from the Wrelton Drive Scenic Overlook as illustrated by the view analysis prepared by the applicant and reviewed by City Staff.

The Scenic Roadway designation, which is defined as partially obstructed views over private property and down public rights of way, commences at the eastern beginning of the Wrelton Drive Scenic Overlook and continues south past the project site along Wrelton Drive. Currently there are virtually no views down either side setback area because they are blocked by either thick vegetation or solid site fencing. Implementation of this Coastal Development Permit will open, restore and enhance these public views. The project provides enhanced view corridor protections for the Wrelton Drive Scenic Roadway designation by establishing an eastern and western building setback of 7' to 4 1/8' on both side setbacks which complies with the required setback under applicable regulations. As a condition of approval, the public views down each side yard setback area will be protected by the recording of a view easement that places limits on encroachments by buildings, landscaping and fencing.

In addition, the Local Coastal Program land use plan, La Jolla Community Plan, and the Land Development Code include numerous other goals, policies or regulations regarding public views, including protections that apply to properties, such as the project site, that are located between the sea and the first public roadway. The project has been analyzed for consistency with all of those applicable public view protection provisions. Consistent with the City Council adopted Resolution No. R-298578, the proposed residence meets all of the RS-1-7 zone development regulations and enhances view corridor protections by establishing building setbacks required under applicable regulations, policies and goals. The applicant also prepared a project specific visual and community plan consistency analysis that helps illustrate that the proposed structure does not encroach into the designated public views. The visual and community plan analysis submitted to the City was reviewed and it has been determined that the proposed project's design and public view protections are consistent with the Local Coastal Program land use plan, La Jolla Community Plan and the Land Development Code. As such, the proposed development would enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.

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

The 14,300 square-foot project site is currently developed with an existing single family residence and the lot is previously disturbed within an area of developed residential homes. The project site is located within a well established residential neighborhood and it is surrounded by large to moderate sized single family homes to the north, east and west. The proposed demolition of the existing residence and construction of a new, two-story, single-family residence would be developed within the previously disturbed portion of the property. During the project's review the Permit Planning Section of the Development Services Department reviewed as built grading plans, old aerial photos and submitted excerpts from a Geotechnical Report. Based on this information, they determined that the rear slope area, currently and prior to the Code Violation was a disturbed area, is not natural, does not meet the definition of Steep Hillside, nor is it subject to the Environmentally Sensitive Lands Regulations. The proposed residence will not encroach on the Environmentally Sensitive Lands. Furthermore, the project site is not located within the Multiple Habitat Planning Area [MHPA].

The environmental review, determined that the project would not have a significant environmental effect on environmentally sensitive lands and was found to be categorically exempt from environmental review under CEQA. The project proposes only a minimal amount of grading, for the foundation and reconstruction of existing retaining walls only and will not result or propose any encroachment into Environmentally Sensitive Lands. Thus this proposed redevelopment of the property will not adversely affect environmentally sensitive lands.

3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

The project proposes construction of a new, two-story, single-family residence. The project site has a Residential - Low Density (5-9 DU/AC) land use designation as identified by the La Jolla Community Plan, which allows for low density residential development. The surrounding neighborhood is entirely built out with an eclectic mix of architectural styles and sizes of residences. As described previously in these findings, the proposed residence will not encroach upon, negatively alter or reduce the existing publicly designated physical access or visual access to and along the coast nor will it adversely affect Environmentally Sensitive Lands. The project also complies with all applicable requirements of the Land Development Code, which is part of the certified Local Coastal Plan Implementation Program. The project proposes to set the first story of the residence approximately 20 feet, and the closest second story element approximately 25 feet, from the curb of Wreton Drive when only a 15 foot setback from the property line is required. In addition, only a small portion of the residence is proposed to be at the project's maximum height of 30 feet, the proposed floor area ratio is 0.42 when 0.45 is allowed and the amount of livable area above grade is limited to approximately 4,600 square feet. The increased setbacks and other off-setting elements of the project depicted on Exhibit "A" minimize the bulk and scale of the project, help to preserve protected public views and ensure overall conformity with the adopted La Jolla Community Plan, the Land Development Code and the certified Local Coastal Program land use plan and Implementation Program.

4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

The Local Coastal Program land use plan and the Land Development Code identify the permitted use of the project site as single family residential. The 14,300 square-foot project site is currently fully developed with a single family residence. The project site is located within an existing residential neighborhood of larger to moderate size single family homes. The project site is located between the first public road and the sea or shoreline, but the development will be fully within the private property. The western edge of the project site is approximately 80 feet east of the mapped mean high tide line. The proposed development does not encroach onto or adversely affect any public access way. The project does not impact public, pedestrian/recreation access as depicted in Exhibit "A." Therefore, the project is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act.

Although the issue is not addressed in the public access and public recreation policies of Chapter 3 of the California Coastal Act, the project is consistent with City's policies, goals and regulations regarding public view protections. The Natural Resources and Open Space Element of the La Jolla Community Plan designates a Scenic Overlook and a Scenic Roadway public view corridor within the vicinity of the project site and adjacent properties. As described previously in these findings, and based on factors including the location of the proposed home relative to the designated view corridors, compliance with applicable Land Development Code requirements, the requirement of setback based view corridor protections and the preservation of a horizon line view of the ocean above the proposed home from the designated Wrelton Drive Scenic Overlook, the project will preserve, enhance or restore the public view corridors. The applicant prepared a visual and community plan analysis that helps illustrate that the proposed structure does not encroach into the designated public views. City Staff reviewed the applicant's visual analysis and determined that the proposed project's design and public view protections comply with the Local Coastal Program land use plan, the Coastal Act, the La Jolla Community Plan and the Land Development Code.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Coastal Development Permit No. 980406, is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 980406, a copy of which is attached hereto and made a part hereof.

Glenn R. Gargas
Development Project Manager
Development Services

Adopted on: November 14, 2013

Job Order No. 24002631

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

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24002631

COASTAL DEVELOPMENT PERMIT NO. 980406
HENELY RESIDENCE - PROJECT NO. 279093
PLANNING COMMISSION

This Coastal Development Permit No. 980406 is granted by the Planning Commission of the City of San Diego to Donald Henely and Celia Henely, Trustees of the Donald and Celia Henely 2000 Trust dated June 27, 2000, Owner / Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0708. The 0.32-acre site is located at 615 Wrelton Drive, in the RS-1-7 Zone, Coastal (appealable) Zone, Coastal Height Limitation, First Public Roadway, Residential Tandem Parking and Transit Overlay Zones within the La Jolla Community Plan area. The project site is legally described as: Lot 19, Block 4, Pacific Riviera Villas Unit No. 1, Map No. 2531.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner / Permittee to demolish an existing residence and construct a new, two-story, single family residence described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated November 14, 2013, on file in the Development Services Department.

The project shall include:

- a. Demolition of an existing residence and construction of a new, two-story, 6,353 square foot single family residence with an attached two car garage on a 14,300 square foot property;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking;
- d. Site walls, reconstructed rear yard retaining walls, swimming pool and spa; and

- e. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by November , 2016. (Pending State Coastal Commission Appeal Period)
2. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action, or following all appeals.
3. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
4. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
5. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
7. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

8. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

9. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. All of the conditions contained in this Permit have been considered and were determined-necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

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

ENGINEERING REQUIREMENTS:

12. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the reconstruction of the existing driveway with a 12-foot wide City standard driveway, on Wrelton Drive, satisfactory to the City Engineer.
13. Prior to the issuance of any building permit, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement for the curb outlet locate in Wrelton Drive right-of-way, satisfactory to the City Engineer.
14. Prior to the issuance of any construction permits, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.
15. Prior to the issuance of any construction permits, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications, satisfactory to the City Engineer.
16. Prior to the issuance of any construction permits, the Owner/Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards, satisfactory to the City Engineer.
17. The drainage system proposed for this development is private and subject to approval by the City Engineer.
18. Prior to the issuance of a building permit, the Owner/Permittee shall obtain a grading permit for the revised grading and revised retaining wall proposed for this project. This grading permit shall include the submittal/review of a Geotechnical Investigation Report and this permit shall also be reviewed for the proper scope by Neighborhood Code Compliance to assure that the code violation will be corrected. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

PLANNING/DESIGN REQUIREMENTS:

19. Owner/Permittee shall maintain a minimum of two (2) off-street parking spaces on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the appropriate City decision maker in accordance with the SDMC.
20. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

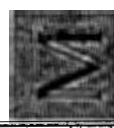
21. Prior to the issuance of any construction permits, the Owner/Permittee shall record a seven foot, four and 1/8 inch (7'4 1/8")-wide View Corridor Easement within both side yard setback areas as shown on Exhibit "A," in accordance with SDMC section 132.0403.

22. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Planning Commission of the City of San Diego on November 14, 2013, by Resolution No. _____.



**Marengo
Morton
Architects**
7724 Girard Ave.
Second Floor
La Jolla, CA 92037
Tel. (858) 459-3769
Fax. (858) 459-3768
Michael Morton AIA



615 WRELTON DR.
615 WRELTON DRIVE
LA JOLLA, CA 92037

42-19348-1
92-09-12 1ST COASTAL SUBMITTAL
04-25-11 DCA CYCLE ISSUES

MUSE	COASTAL PHASE
DATE	12/13/04
REVIEWED BY	CAM
DRAWN BY	JS

DATE 09-1-13

PROPOSED
SITE PLAN

A-1.2

SHEET 3 OF 9

GENERAL SITE NOTES

- A. The test paper is for personal reference only. Refer to other examinations.
- B. This is the English version of the examination paper. Refer to the instructions in Chinese for details.
- C. Please do not write on this examination paper. Write your answers on the answer sheet.
- D. Please do not use a calculator or any other electronic device.
- E. Please do not discuss the questions with other candidates.
- F. Please do not leave the examination room until you are told to do so.
- G. Please do not bring any unauthorized materials into the examination room.
- H. Please do not use any unauthorized materials for writing.
- I. Please do not use any unauthorized materials for calculation.
- J. Please do not use any unauthorized materials for drawing.
- K. Please do not use any unauthorized materials for writing.
- L. Please do not use any unauthorized materials for calculation.
- M. Please do not use any unauthorized materials for drawing.
- N. Please do not use any unauthorized materials for writing.
- O. Please do not use any unauthorized materials for calculation.
- P. Please do not use any unauthorized materials for drawing.
- Q. Please do not use any unauthorized materials for writing.
- R. Please do not use any unauthorized materials for calculation.
- S. Please do not use any unauthorized materials for drawing.
- T. Please do not use any unauthorized materials for writing.
- U. Please do not use any unauthorized materials for calculation.
- V. Please do not use any unauthorized materials for drawing.
- W. Please do not use any unauthorized materials for writing.
- X. Please do not use any unauthorized materials for calculation.
- Y. Please do not use any unauthorized materials for drawing.
- Z. Please do not use any unauthorized materials for writing.

STORM WATER QUALITY NOTES

- CONSTRUCTION BUREAU**
1. Prior to the issuance of any construction permits, the owner/permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, article 2, Section 1 (Ordinance Regulations) of the municipal code, into the construction plans or specifications.
 2. Prior to issuance of any construction permits, the Owner/permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines to Appendix C to the City of Salem Water Standards.

SITE PLAN NOTES

- [illegible]

STORM WATER QUALITY NOTES

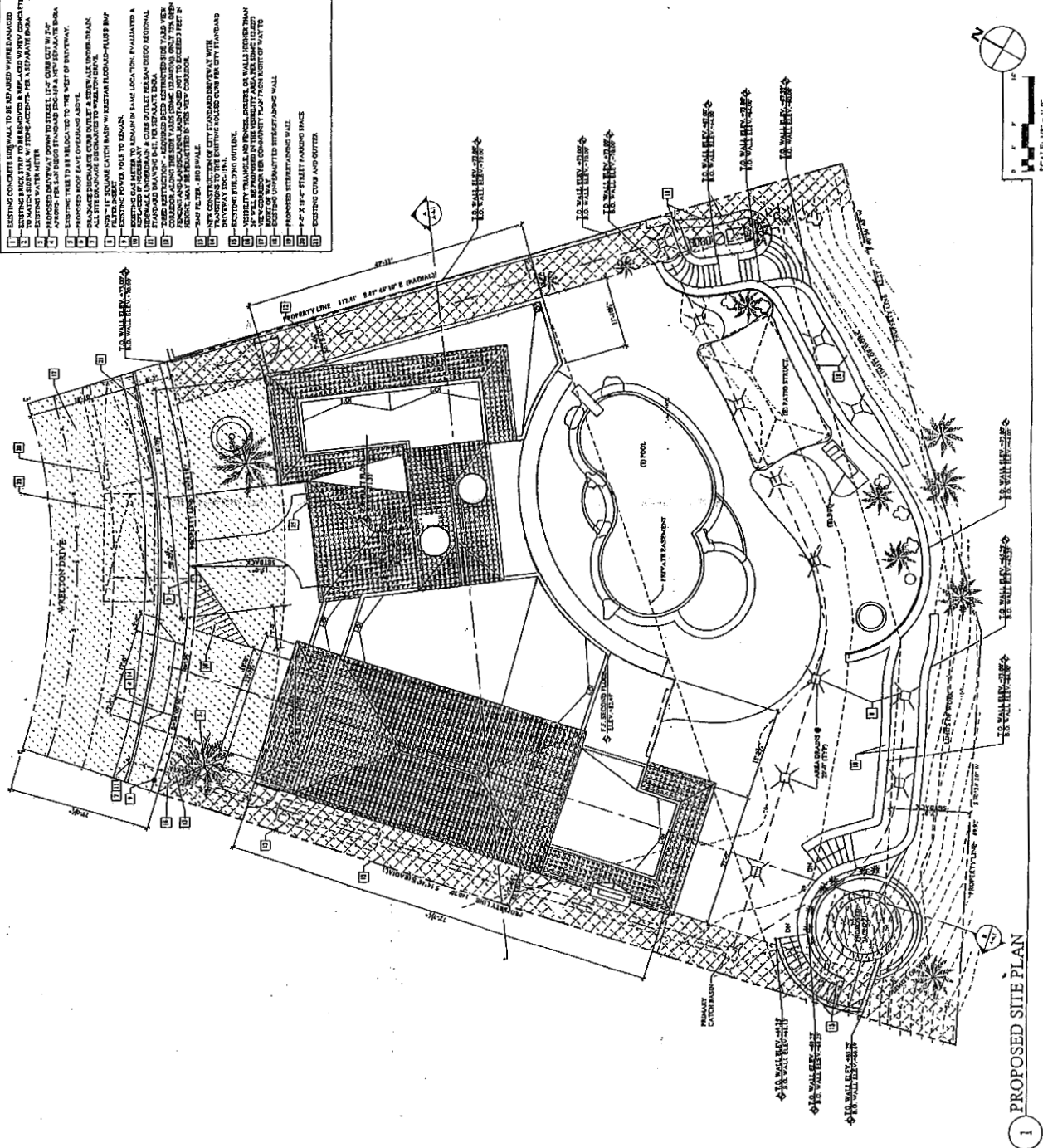
[illegible][illegible][illegible]

SITE PLAN LEGEND

- OUTLINE OF EXISTING SITUATION**
- VIEW CONSIDERS THE COMMUNITY PLAY FROM BUST OF
WAY TO BUST OF WAY
- BASED ON THE VISIBILITY TRIANGLE, NOTING OVER 24 M
WIDE VISION TRIANGLE
- INTERPRETING A CURB OUTLET AS A REDUCTION OF FLOW
- SURFACE DRAINAGE PATTERN**
- DIAGONAL CATCH BASIN WITH BAY FILTER
- LINEAR TROUGH DRAIN BY CURB DRAIN™ USA
- LANDSCAPE AREA DRAIN
- WATER LATERAL
- SEWER LATERAL

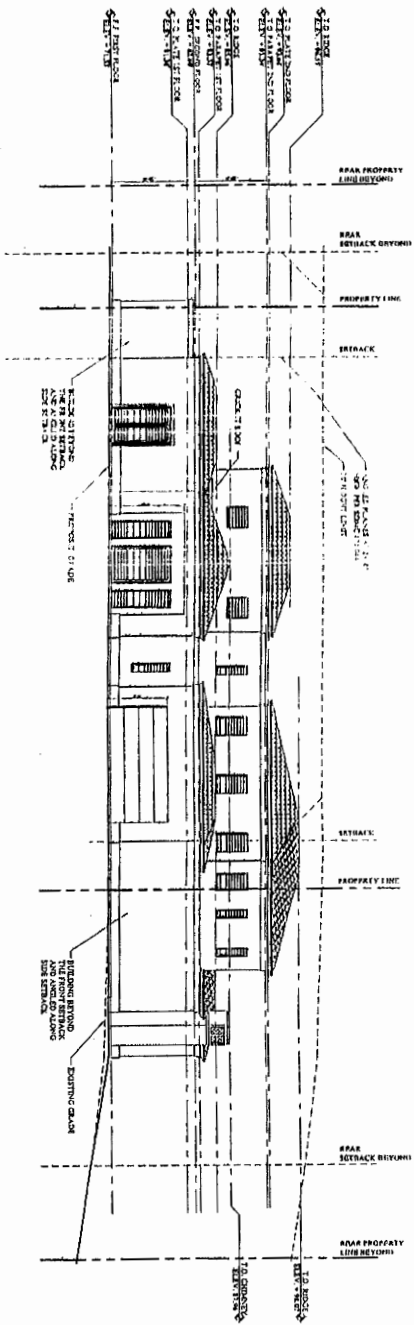
KEYNOTES

- [illegible]



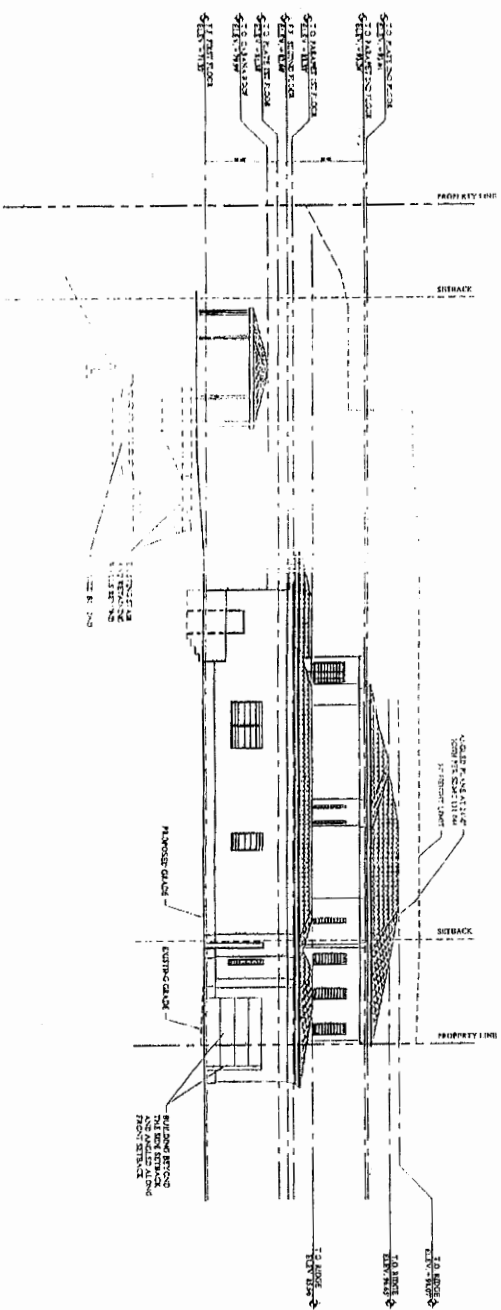
PROPOSED SITE PLAN

SCALE: 1/8" = 1'-0"



1 PROPOSED NORTH ELEVATION

0 2 4 6 8 10 12 14 16 18 20
SCALE 1/8" = 1'-0"



2 PROPOSED EAST ELEVATION




**Marengo
Morton
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7724 Girard Ave.
Second Floor
La Jolla, CA 92037
Tel. (619) 459-1769
Fax. (619) 459-2768
Michael Morton, AIA
Creative Architectural Design




The undersigned hereby certifies that the above is a true and correct copy of the original as submitted to the Planning Commission for the proposed project. The undersigned also certifies that the above is a true and correct copy of the original as submitted to the Planning Commission for the proposed project. The undersigned also certifies that the above is a true and correct copy of the original as submitted to the Planning Commission for the proposed project.

615 WRELTON DR.
615 WRELTON DRIVE
LA JOLLA, CA 92037

PROJECT NO.	615 WRELTON DRIVE
DATE	09-11-13
DESIGNED BY	CAM
CHECKED BY	JS
DATE	09-11-13
PROJECT NO.	615 WRELTON DRIVE
DATE	09-11-13
DESIGNED BY	CAM
CHECKED BY	JS
DATE	09-11-13



Marengo Morton Architects
 7724 Girard Ave.
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 Fax. (858) 459-3768
 Michael Morton AIA
 Chief Architect Marengo Morton Architects



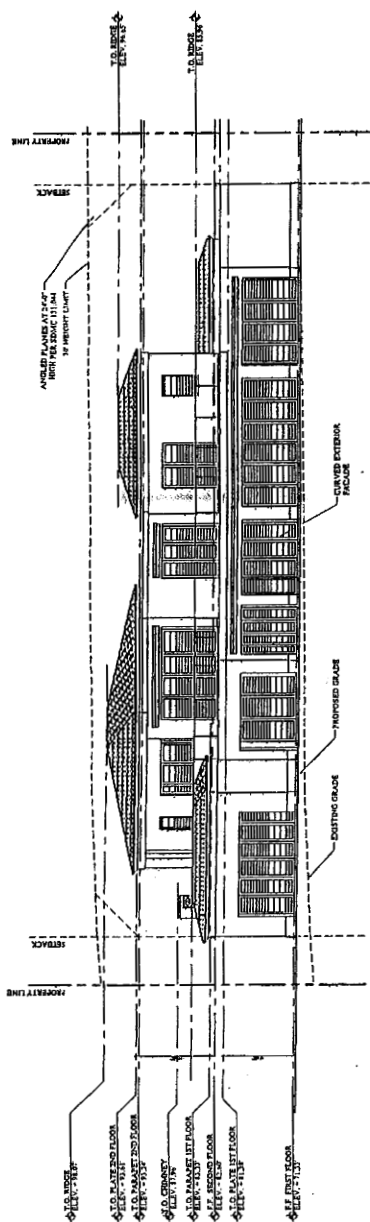
THIS DOCUMENT IS THE PROPERTY OF MARENGO MORTON ARCHITECTS. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF MARENGO MORTON ARCHITECTS.

615 WRELTON DRIVE
 LA JOLLA, CA 92037

PROJECT: 2013-04
 DESIGNED BY: CAM
 DATE: 08-11-13

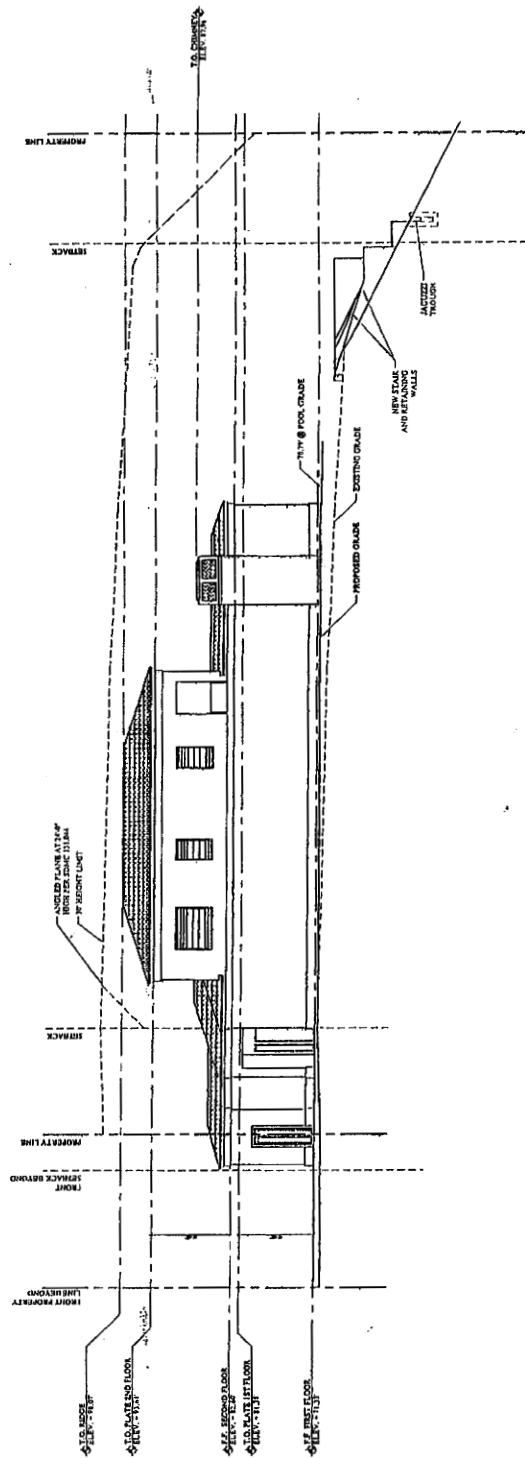
PROJECT: 2013-04
 DESIGNED BY: CAM
 DATE: 08-11-13

A-5.2
 SOUTH & WEST ELEVATIONS
 SHEET 15 OF



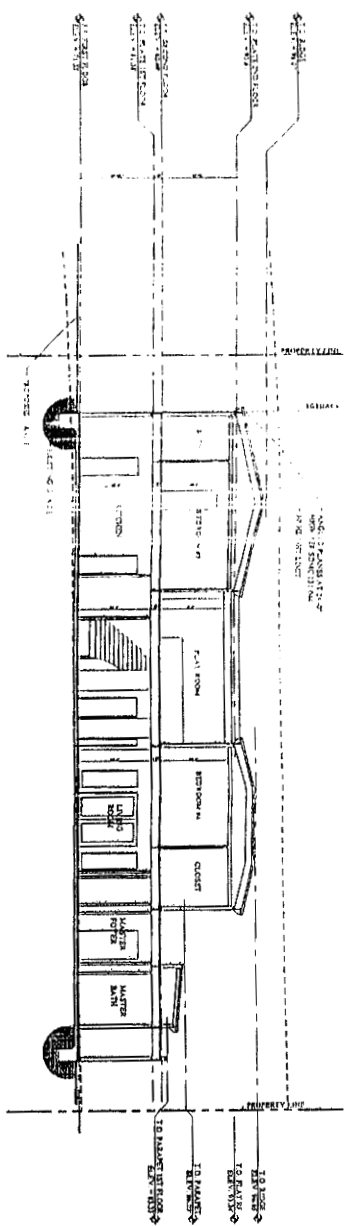
1 PROPOSED SOUTH ELEVATION

SCALE: 1/8" = 1'-0"

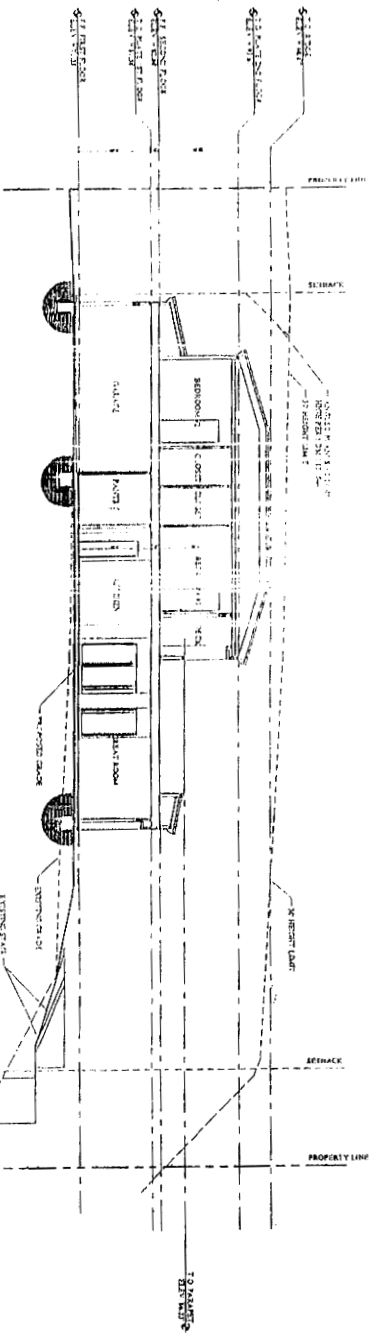


2 PROPOSED WEST ELEVATION

SCALE: 1/8" = 1'-0"



A BUILDING SECTION



B BUILDING SECTION

615 WRELTON DR.

615 WRELTON DRIVE
LA JOLLA, CA 92037

Marengo Morton Architects

7724 Girard Ave.
Second Floor
La Jolla, CA 92037
Tel. (858) 459-3169
Fax. (858) 459-3168
Official Sealer: Marengo Morton Architects

PROJECT INFORMATION

PROJECT NO. 2013-04

DATE: 09-11-13

DESIGNER: CMAN

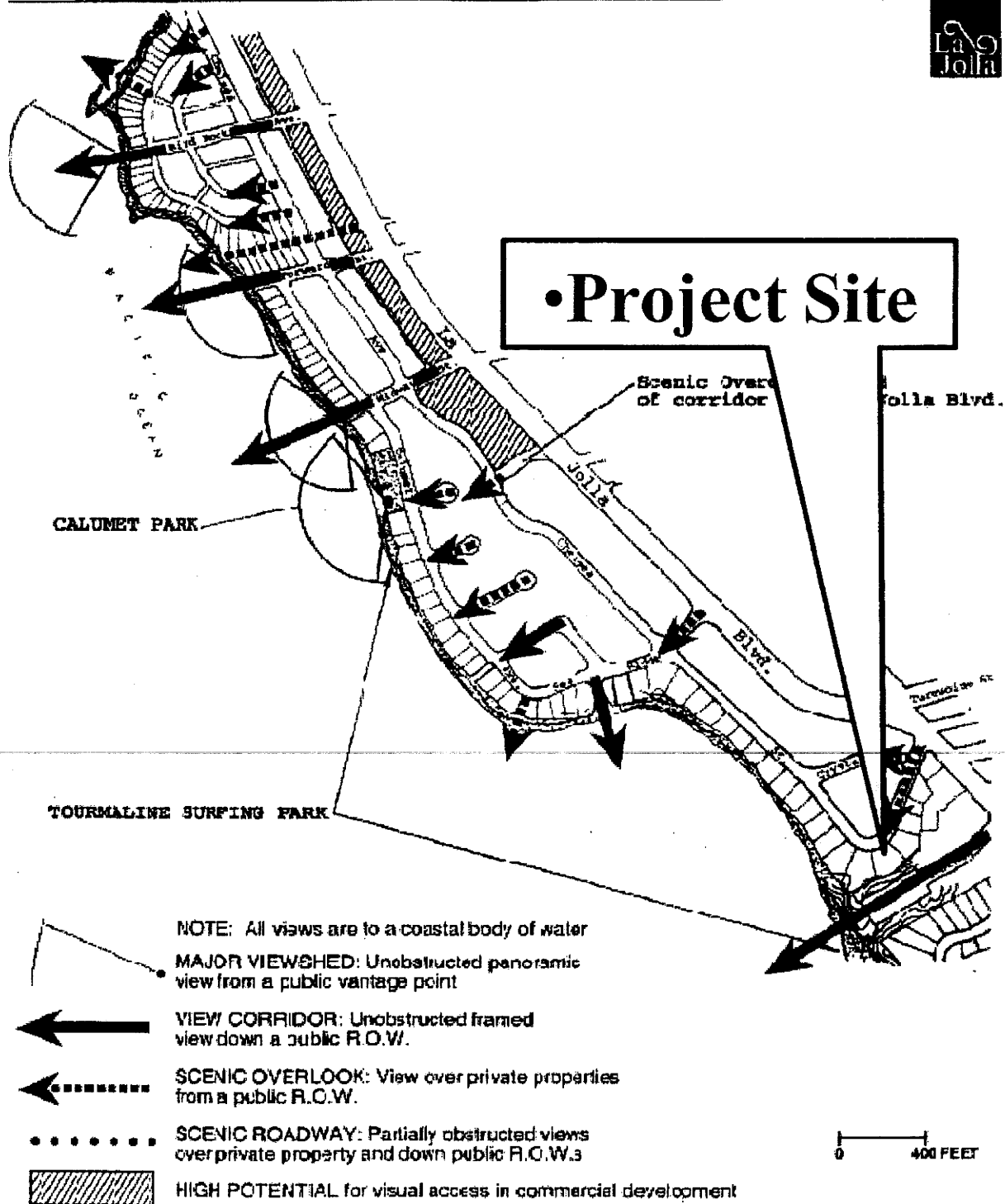
SCALE: 1/8" = 1'-0"

NOTES

1. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2013 CALIFORNIA BUILDING CODE AND ALL APPLICABLE ORDINANCES.

2. THE ARCHITECT'S RESPONSIBILITY IS LIMITED TO THE DESIGN OF THE BUILDING AS SHOWN ON THESE PLANS. THE ARCHITECT DOES NOT WARRANT THE ACCURACY OF ANY INFORMATION PROVIDED BY OTHERS.

3. THE ARCHITECT SHALL NOT BE RESPONSIBLE FOR THE CONSTRUCTION OF THE BUILDING OR FOR THE PERFORMANCE OF THE BUILDING AFTER COMPLETION.



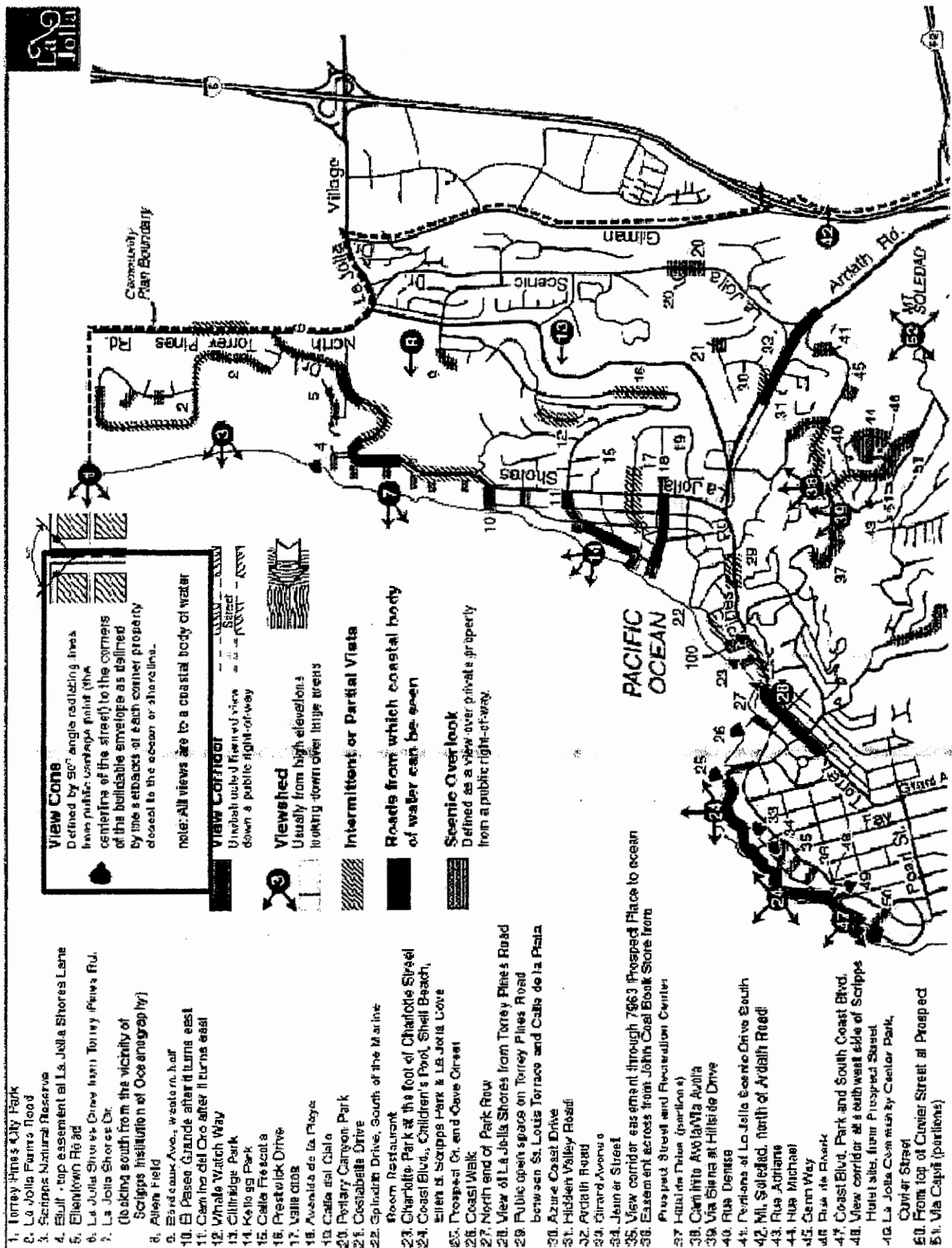
Subarea H: Bird Rock - Visual Access



La Jolla Community Plan
City of San Diego - Planning Department



Figure H



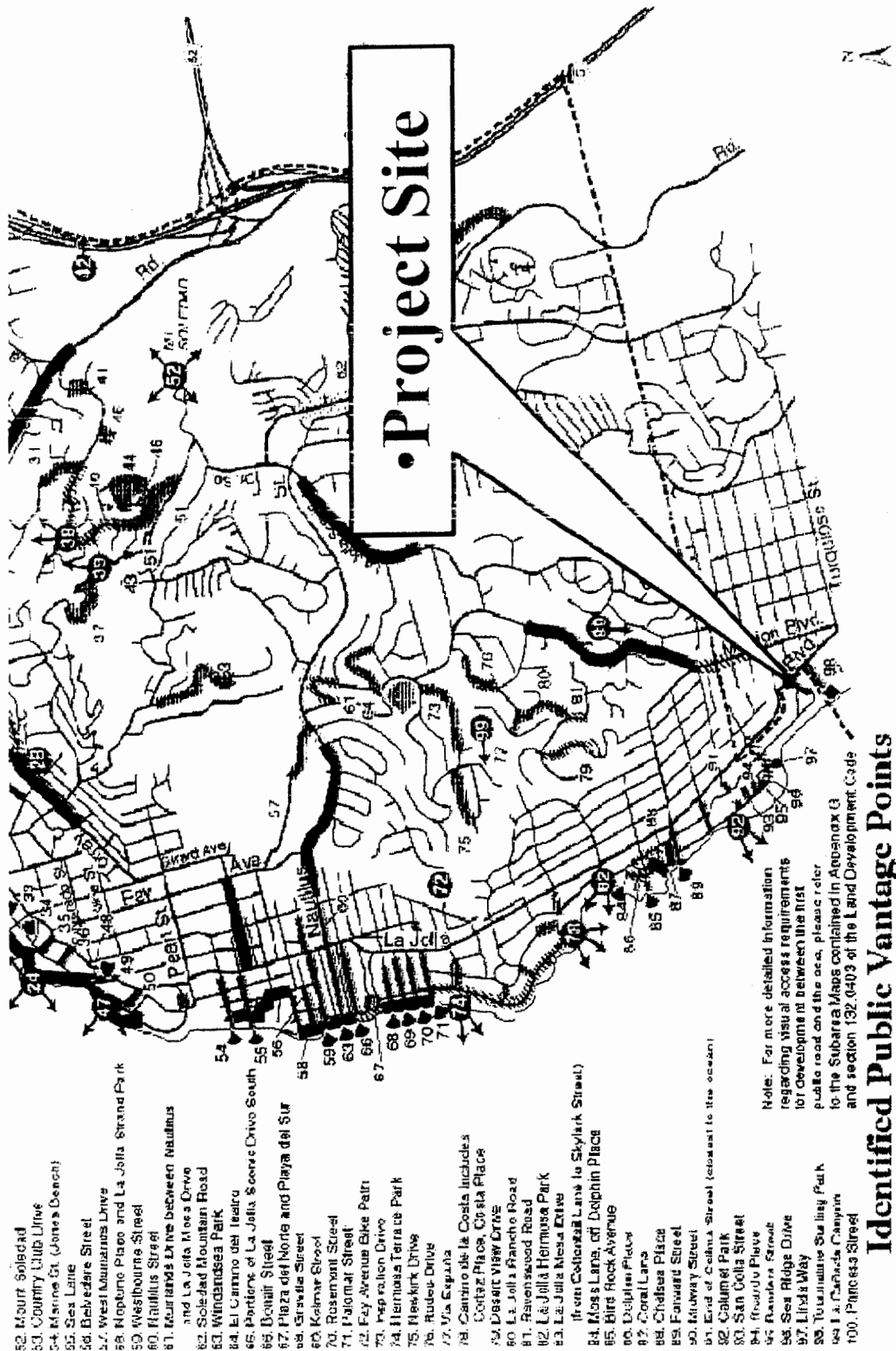


Figure 9

Identified Public Vantage Points

La Jolla Community Plan

City of San Diego - Planning Department



City of San Diego
Development Services
1222 First Ave. 3rd Floor
San Diego, CA 92101
(619) 446-5210

Development Permit/ Environmental Determination Appeal Application

FORM
DS-3031
OCTOBER 2012

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

- ☐ Process Two Decision - Appeal to Planning Commission
☒ Process Three Decision - Appeal to Planning Commission
☐ Process Four Decision - Appeal to City Council
- ☐ Environmental Determination - Appeal to City Council
☐ Appeal of a Hearing Officer Decision to revoke a permit

2. Appellant Please check one ☐ Applicant ☒ Officially recognized Planning Committee ☐ "Interested Person" (Per M.C. Sec. 113.0103)

Name: La Jolla Community Planning Group / Tony Crisafi, Chair E-mail Address: info@lajollacpa.org
Address: P.O. Box 889 City: La Jolla State: CA Zip Code: 92037 Telephone: (858) 459-9291

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

Henely Residence / Claude Anthony Marengo, Marengo Morton Architects

4. Project Information

Permit/Environmental Determination & Permit/Document No.: Project No. 279093	Date of Decision/Determination: September 11, 2013	City Project Manager: Glenn Gargas
---	---	---------------------------------------

Decision (describe the permit/approval decision):
Hearing Officer approved the project, modifying Condition No. 18 of the draft permit, Attachment 6 of Attached HO Report,

(condition requiring a Grading Permit) to include the submittal and review of a Geotechnical Investigation Report and review/
approval of the grading permit by Neighborhood Code Compliance.

5. Grounds for Appeal (Please check all that apply)

- ☐ Factual Error
☐ Conflict with other matters
☒ Findings Not Supported
- ☐ New Information
☐ City-wide Significance (Process Four decisions only)

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in Chapter 11, Article 2, Division 5 of the San Diego Municipal Code. Attach additional sheets if necessary.)

1. Visual Resources - Identified Public Vantage Points - the subject development may impact scenic view from Tourmaline Surfing

Park identified view No. 98, La Jolla Community Plan (LCP) p.47.

2. Visual Resources - Subarea H: Birdrock Visual Access - the subject development will impact the identified scenic overlook on

Wrelton Dr., La Jolla Community Plan (LCP) p.185.

3. Existing & proposed structures may not conform with La Jolla Community Plan open space policy as this development includes

coastal bluff along North boundary of Tourmaline Park. Refer to: La Jolla Community Plan p. 41 -open space visual resources

& La Jolla Community Plan p. 51, item (3) Shoreline & Coastal Bluffs, (d) Accessory Structures

4. Recognizing use of intensity of this property, parking and noise impact mitigations are in adequate.

5. Geology - proposed development failed to identify risk & proposed mitigation measures with respect to site grading and

augmenting existing pool & site wall structures. refer to La Jolla Community Plan p. 81 - Residential Land Use.

6.

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature:

Date: 9/20/2013

Note: Faxed appeals are not accepted. Appeal fees are non-refundable.

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Upon request, this information is available in alternative formats for persons with disabilities.



City of San Diego
Development Services
1222 First Ave. 3rd Floor
San Diego, CA 92101

Development Permit/ Environmental Determination Appeal Application

FORM
DS-3031
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2. Appellant Please check one ☐ Applicant ☐ Officially recognized Planning Committee ☒ "Interested Person" (Per M.C. Sec. 113.0103)

Name:
Charles H. Redfern

E-mail Address:
chredfern@yahoo.com

Address:
2525 Ellentown Road

City:
La Jolla

State:
CA

Zip Code:
92037

Telephone:
(858) 637-7888

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

Donald and Cecilia Hensley, Trustees

4. Project Information

Permit/Environmental Determination & Permit/Document No.:

Date of Decision/Determination:

City Project Manager:

PTS 279093 / CDP 980406

09/11/2013

Glenn Gargas

Decision (describe the permit/approval decision):
Approval by Hearing Officer of 980406

5. Grounds for Appeal (Please check all that apply)

- ☒ Factual Error
☒ Conflict with other matters
☒ Findings Not Supported
☒ New Information
☐ City-wide Significance (Process Four decisions only)

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in Chapter 11, Article 2, Division 5 of the San Diego Municipal Code. Attach additional sheets if necessary.)

(SEE ATTACHED)

RECEIVED

SEP 24 2013

DEVELOPMENT SERVICES

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature: C. Hensley Date: 9/23/13

Note: Faxed appeals are not accepted. Appeal fees are non-refundable.

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DS-3031 (10-12)

Description for Grounds for Appeal – Henely Residence PTS 279093 / CDP 980406 – September 24, 2013New Information

1. The report to the hearing officer for the HO Hearing indicated that the CEQA exemption determination was made on July 19, 2013, and the opportunity to appeal that determination ended on August 22. However, the notices for the determination were produced on August 5 and August 13. California Public Resources Code section 21152(a) requires the local agency to file the notice within 5 working days after the approval or determination becomes final. Therefore, by the time the notice of public hearing was published on August 26, we were misled into believing that our CEQA appeal period had already expired when in fact it had not. The CEQA exemption was based on the single family residence status, but California Code of Regulations Section 15304(a) states that grading is exempt only if done on a slope less than 10 percent. This project has unpermitted retaining walls constructed well into the +10% slopes, and a Jacuzzi is proposed in a steep section of slope. We had good reason to appeal and request a Mitigated Negative Declaration.

Findings for a CDP are Not Supported

2. The project will not 'enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program Land Use Plan', which is a required finding. The unpermitted retaining walls (which the applicant proposes to remain), and the proposed Jacuzzi, sit at the top of the slope that is part of a view corridor (item 98) in the La Jolla Community Plan and Local Coastal Program Land Use Plan, page 47.
3. The project is not in conformity with the certified Local Coastal Program Land Use Plan, which is a required finding. Bulk and Scale with regard to surrounding structures as viewed from the public right-of-way must be considered per a.1) of page 90. This project is not compatible with bulk and scale on nearby sites with sensitivity to ocean views.
4. The project proposed 5 bedrooms, and will likely have a localized transportation impact due to lack of on-site parking. There is a high possibility of continued use as a short-term rental, due to current use as a short term rental. The local planning group considers 1:1 bedrooms to parking spaces to be an adequate ratio.

Decisions in Conflict with the Land Use Plan or Municipal Code

5. A Water Quality Technical Report is required per the Storm Water Requirements Applicability Checklist (part of the Land Development Manual, enforced by the Municipal Code) , which includes "Development directly adjacent to a Water Quality Sensitive Area and increases the area of imperviousness of a proposed project site to 10% or more of its naturally occurring condition. 'Directly Adjacent' is defined as being situated within 200 feet of the Water Quality Sensitive Area". This project is clearly less than 200 feet from the WQSA. The rear portions of the property will produce runoff that leads directly down the hill and to the nearby beach.
6. A separate grading and drainage plan must be prepared as part of the CDP package per the City Submittal Requirements Matrix section 10.7 (enforced and referenced by the Municipal Code),

where "any portion of the property has slopes over 25%", or "there is more than a 4 foot height differential between the highest and lowest points of the property." Both of these are true, but this separate document was not prepared.

Factual Errors

7. Our own geotechnical evaluation of the 50 foot high slope descending down to Tourmaline Park, results in a factor of safety for global stability to be less than 1.5:1 (inadequate), in conflict with the applicant's geotechnical calculations considered by staff during the project review.
8. Our own geotechnical evaluation of the unpermitted retaining walls indicates that the embedment depth (foundation) is not deep enough to meet minimum standards, and that internal stability conditions have not yet been demonstrated. The applicant indicated during his presentation to the La Jolla CPA that they would 'leave the walls in place and get them certified by a structural engineer'. It is very likely instead that these walls will need to be removed and replaced with significant grading operations.

We are in the process of reviewing the project and may have other concerns not yet identified. Thank you.



LA JOLLA COMMUNITY PLANNING ASSOCIATION

P.O. Box 889 La Jolla CA 92038 Ph 858.456.7900
<http://www.LaJollaCPA.org> Email: Info@LaJollaCPA.org

Regular Meeting – 1 August 2013

Attention: Glenn Gargas, PM
City of San Diego

Project: Henely Residence
615 Wrelton Dr.
PN: 279093

Motion: That the findings are not sufficient for a Coastal Development.

Vote: 7-5-3

01 August 2013

Submitted by: Tony Crisafi, President
La Jolla CPA

Date

Gargas, Glenn

From: Michelle Meade [mmeade@islandarch.com]
Sent: Tuesday, August 06, 2013 11:53 AM
To: Gargas, Glenn
Subject: FW: FW: La Jolla Community Group Vote/Recommendation - Henley Res. - Project No. 279093 - 615 Wrelton Drive

See Helen's notes below on Henley.

From: Helen Boyden [mailto:hboyden@san.rr.com]
Sent: Tuesday, August 06, 2013 11:15 AM
To: Michelle Meade
Subject: Re: FW: La Jolla Community Group Vote/Recommendation - Henley Res. - Project No. 279093 - 615 Wrelton Drive

Here is the motion and vote. Please note that the vote was 7-5-3. Only 15 people voted. The six came from when I asked for the nos to raise their hands again and one person has difficulty understanding how she should raise her hand when the motion is a negative one. This motion is not very helpful as to why

I will quote the minutes below, but they don't give the acrimonious nature of the hearing. If you want you can quote the trustee comments if you wish in sending it down.

Approved Motion: That the findings are not sufficient for a Coastal Development Permit (Little, Collins: 7-5-3)

In favor: Bond, Brady, Collins, Emerson, Little, Steck, Zimmerman

Opposed: Ahern, Boyden, Fitzgerald, LaCava, Weiss

Abstain: Courtney, Crisafi, Manno

Recused: Merten

Rest of discussion

Presented by **Claude-Anthony Marengo**. This is a five bedroom house intended for owner occupancy. He stated the slope is already disturbed and the majority of the new structure is in the same place. The soil will be recompacted, to a depth of 15 feet. Drainage will be collected and pumped to the street. The second story covers about 35% of the street frontage of the first story. Geological investigation will continue, particularly with respect to the existing retaining walls, making adjustment during the construction process. Due to the short driveway, guest parking will be provided abutting the property in the street. He responded to queries by **Trustees Manno, Fitzgerald and Zimmerman**: the compaction resulting in no need for caissons; the FAR being .44 where .50 is allowed; the pool was staying; no deviations were being requested; and the total square footage for house and garage would be 6297.

Civil Engineer **Daniel Valdez**, representing neighbors, made several criticisms of the as yet incomplete geological studies, but said issues could probably be ironed out.

Neighbors testifying against the project citing current use and condition of the property, party noise, potential for flooding, view considerations, size of the usable footprint included: Mr. Gafford, Dr. Nathaniel Rose, Charles Redfern, Alex Jvirblis, Mary Kenyon, Evelyn Hill, Brandon Wander, Elisha Shaprut, and Mike Costello.

Additional comments and queries were made by Trustees LaCava, Boyden, Little, Collins, Emerson, Manno, Crisafi, Weiss and Fitzgerald: establishing side yard setbacks, driveway width and length, jacuzzi being built in the ground, building height, party noise from rentals, sympathizing with the noise problem, but also stating that it was a separate issue not under LCPA jurisdiction, the fact that NCCD requirements with respect to unpermitted retaining walls would be fulfilled during the permitting process.

Helen

On 8/6/2013 9:19 AM, Michelle Meade wrote:

Hi Helen, do you know the vote / motion on Henley Residence we could send to Glenn. I found Tony's voting record (attached here) & it shows 7-6-3 vote. He abstained for all else.
Also attaching a scan of a membership application receive in July.
AND...I have the public copy of the agenda pkg here at my desk whenever you are ready for pick up.

Michelle

Michelle (Meagher) Meade

ISLAND ARCHITECTS
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P: 858-459-9291 F: 858-456-0351



mmeagher@islandarch.com | www.islandarch.com

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From: Michelle Meade
Sent: Tuesday, August 06, 2013 7:53 AM
To: 'Gargas, Glenn'; 'Info'
Subject: RE: La Jolla Community Group Vote/Recommendation - Henley Res. - Project No. 279093 - 615 Wrelton Drive

Hi Glenn, Henley Residence did not get approved by the trustees (it was a full hearing at request of the applicant).
I will get you the details / vote today.

Michelle

SHANNON THOMAS
DEPUTY CITY ATTORNEY

OFFICE OF
THE CITY ATTORNEY
CITY OF SAN DIEGO

Michael J. Aguirre
CITY ATTORNEY

1200 THIRD AVENUE, SUITE 1620
SAN DIEGO, CALIFORNIA 92101-4178
TELEPHONE (619) 236-6220
FAX (619) 236-7215

MEMORANDUM OF LAW

DATE: September 12, 2007

TO: Honorable Mayor and City Councilmembers

FROM: City Attorney

SUBJECT: Regulation of Short-Term Vacation Rentals in Residential--Single Unit (RS) Zones

INTRODUCTION

Councilmember Faulconer, in response to inquiries from members of the public, recently asked our office to conduct research and provide advice on issues relating to the regulation of short-term vacation rentals in the single-family residential zone. In addition, the Pacific Beach Community Planning Committee recently requested that the City review and take action on this issue. While there is no definition of "short-term vacation rentals," the term is used throughout this memorandum to mean the rental of a single-family dwelling for any time period less than 30 consecutive calendar days.

Communication from members of the public indicates that short-term vacation rentals in the single-family residential zone cause disturbances relating primarily to noise and overcrowding. Other jurisdictions have addressed similar problems by regulating the use through a permit and/or prohibiting short-term rentals; the permissible rental period varies. The City of San Diego could consider adopting similar municipal code sections. Any prohibition in the Coastal Zone would be subject to approval by the California Coastal Commission prior to being effective.

QUESTIONS PRESENTED

1. Are short-term vacation rentals currently regulated or prohibited in single-family residential zones?
2. Can the Land Development Code be amended to regulate or prohibit short-term vacation rentals in single-family residential zones?

Honorable Mayor and City
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SHORT ANSWERS

1. No. There are currently neither regulations nor prohibitions on short-term vacation rentals in single-family residential zones.
2. Yes. The Land Development Code may be amended to regulate the use of single-family dwellings in single-family residential zones and/or amended to prohibit the use of single-family dwellings in single-family residential zones. However, the California Coastal Commission must certify any amendments to the Land Development Code before they can be effective in the Coastal Overlay Zone.

BACKGROUND

An inquiry was made as to whether prior to the Land Development Code [LDC] update (adopted in 1997, effective in 2000), short-term vacation rentals had been prohibited in the single-family residential zone. The single-family residential zone permitted uses, former §101.0407.B, permitted "[o]ne-family dwellings, provided that if the dwelling or any portion thereof is rented, leased or sublet, and the property is located within the area designated on Map C-841 on file in the office of the City Clerk, it must also be maintained and used in accordance with the One-Family Dwelling Rental Regulations of Section 101.0463."

Then, as is true now, the LDC contained defined terms. A "dwelling, one-family" meant "a detached building, containing only one kitchen, designed or used to house not more than one family, including all necessary employees of such family. Unless otherwise defined or provided for, the term 'one-family dwelling' is synonymous with the terms 'single family dwelling' or 'single family residence,' as they may appear elsewhere in the Municipal Code." San Diego Muni. Code §101.0101.17 (repealed, 2000). A "family" was defined as "two or more persons who are related by blood, marriage, or legal adoption, or joined through a judicial order of placement of guardianship. When used as an adjective to describe the occupants of a residential dwelling, or as an adjective to describe a type of residential dwelling, the term 'family' is synonymous with the term 'single housekeeping unit'." San Diego Muni. Code §101.0101.20 (repealed, 2000).

A "single housekeeping unit" was added to the Municipal Code on June 22, 1992, by ordinance O-17785.¹ New §101.0101.76.1 stated, "The term 'single housekeeping unit' refers to the status of the occupants of a residential dwelling unit and means one person, or, two persons who reside together, jointly occupy and have equal access to all areas of a dwelling unit and who function together as an integrated economic unit for a period of occupancy which exceeds one month." When the LDC was updated in 1997, this definition was deleted and the definition of "family" was amended and no longer included a reference to a "single housekeeping unit." See, San Diego Muni. Code §113.0103.

¹ This ordinance was enacted on the same day as ordinance O-177786, which made minor amendments to the One-Family Dwelling Rental Regulations, yet neither municipal code section references the other.

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The One-Family Dwelling Rental Regulations, former §101.0463, were added in 1991 by ordinance O-17652. The regulations made it unlawful for any "owner of a one-family dwelling within an R-1-5000 zone located within the area designated on Map C-841 on file in the office of the City Clerk to rent, lease, or allow to be occupied or subleased, for any form of consideration, any one-family dwelling unit which is not occupied by that owner, in violation of any of the following regulations...." San Diego Muni. Code §101.0463.C (repealed, 2000). The regulations required, among other things, that there be at least 80 square feet of bedroom area for each person over 18 years old. In 1993, this section was amended by ordinance O-17893, in light of the ruling in the case of *Briseno v. City of Santa Ana*, 6 Cal.App.4th 1378 (1992). The court held that state law preempted local regulations related to minimum room dimensions. Therefore, the regulations in § 101.0463 were amended to delete the City's more restrictive bedroom size requirements, and to reflect state law instead. Non-substantive changes were made in 1992 by ordinance O-177786. Later amendments to this section related to non-substantive changes in department names and renumbering. (See O-17956; O-18088.) In 1997, effective 2000, this section was repealed as part of the LDC update.

ANALYSIS

1. Former Regulations

The former LDC regulated rentals through the One-Family Dwelling Unit Regulations by requiring that the rooms be of a certain size in rental units. Once the regulations were amended to conform to the ruling in *Briseno*, the only remaining requirement was compliance with the State Housing Code; compliance with which is already mandated. There was no restriction in the One-Family Dwelling Unit Regulations on the length of time a unit could be rented.

The former "single housekeeping unit" definition did contain a reference to a period of occupancy. The definition referred to residents who "reside together, jointly occupy and have equal access to all areas of a dwelling unit and who function together as an integrated economic unit for a period of occupancy which exceeds one month." San Diego Muni. Code §101.0101.76.1 (repealed, 2000). However, the section is awkwardly worded at best and seems to be an attempt to define the type of relationships appropriate for the "single-family" zone in that it "refers to the status of the occupants." San Diego Muni. Code §101.0101.76.1 (repealed, 2000). It does not seem to refer to the length of time that residents- regardless of their relationship- must occupy the dwelling. In addition, the application of the ordinance is not limited to non-owner occupants. To interpret this section to have required occupants to reside for a minimum of a "month," which is undefined, would have put every category of occupant in an illegal status until the expiration of that first "month," at which time legitimacy would be granted retroactively. To have attempted to apply these code sections in this manner would have resulted in uncertainty for the occupants, landlords, and law enforcement, and there has simply been no evidence to support that this definition of "single housekeeping unit" was applied to create a required period of occupancy.

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By way of contrast, the former regulations for the Multiple Family Residential Zones allowed apartment houses, "excluding premises designed or used for the temporary residence of persons for less than one week." San Diego Muni. Code §101.0410.B.3 (repealed, 2000). Therefore, the use of apartment houses for residence of less than a week was prohibited. Similar language appears in the current Municipal Code pertaining to multiple-dwelling unit uses, § 131.0422. Table 131-04B reflects that in the RM zone (Residential--Multiple Unit), "Non-owner occupants must reside on the *premises* for at least 7 consecutive calendar days" (except for the RM-5 zone, which does not contain this restriction). This clear language regarding the required length of occupancy is missing from both the former and the current Municipal Code sections on uses in the single-family residential zone. Finally, the One-Family Dwelling Rental Regulations also did not contain any restriction on the length of occupancy.

2. Current Regulations

The City of San Diego zones are set forth in Chapter 13. The general rules for the base zones are set forth in Article 1, Division 1. The base zones are Open Space; Agriculture; Residential; Institutional; Retail Sales; Commercial Services; Office Use; Vehicle and Vehicular Equipment Sales and Services; Wholesale, Distribution, Storage Use; Industrial Use; and Signs Use. Id.

The Residential Use category "includes uses that provide living accommodations for one or more persons." San Diego Muni. Code §131.0112(a)(3). The single dwelling unit subcategory is "[d]welling units where no more than one dwelling unit is located on a *lot*, usually detached, and occupied by a single household unit." San Diego Muni. Code §131.0112(a)(3)(D).

Permitted uses in the RS (Residential--Single Unit) zone are set forth in section 131.0422, Table 131-04B. It is unlawful to use or maintain any *premises* for any purpose not listed in §131.0422. San Diego Muni. Code §131.0420(a). Residential uses allowed in the RS zone are mobile home parks, single dwelling units, boarder and lodger, companion, employee housing of less than 6 employees, garage, yard and estate sales, home occupations, housing for senior citizens, and residential and transitional care facilities. Some of these uses, such as employee housing for 6 or fewer employees and boarder or lodger accommodations, are permitted uses, provided that certain set standards are adhered to. Other uses, such as residential or transitional care for more than 6 people, require a conditional use permit.

The Commercial Services category "includes uses that provide for consumer or business services, for the repair and maintenance of a wide variety of products, and for entertainment." San Diego Muni. Code §131.0112(a)(6). The subcategories are building services; business support; eating and drinking establishments; financial institutions; funeral and mortuary services; off-site services; personal services; assembly and entertainment; radio and television studios; and visitor accommodations. Id. Commercial Services in the RS zone are generally not an allowed use. Bed and Breakfast Establishments and Child Care facilities are exceptions. San Diego Muni. Code §131.0422, Table 131-04B.

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Visitor accommodations are uses "that provide lodging, or a combination of lodging, food, and entertainment, primarily to visitors and tourists. (Outside of the Coastal Overlay Zone, includes single room occupancy hotels.)" San Diego Muni. Code §131.0112(a)(6)(K). There are no examples given in the current code of these uses.² However, because there is no definition of "visitor" or "resident" in the Land Development Code, the "visitor accommodation" regulations do not prohibit the short-term rental of a single-family dwelling.³ Furthermore, the Visitor Accommodations section does not even pertain exclusively to visitors, only referring to "primarily to visitors and tourists." *Id.*, emphasis added.

A dwelling that is rented out in its entirety as a short-term rental is not a hotel or motel. Hotel/motel is defined as "a building containing six or more *guest rooms* that are rented for less than 30 days and used or designed to be used for sleeping purposes. *Hotel* or *motel* does not include any jail, hospital, asylum, sanitarium, orphanage, prison, detention home, or other institution in which human beings are housed and detained under legal restraint." San Diego Mun. Code §113.0103. A guest room is then defined as "any rented or leased room that is used or designed to provide sleeping accommodations for one or more guests in *hotels, motels*, bed and breakfast facilities, private clubs, lodges, and fraternity or sorority houses." *Id.* The rental of an entire dwelling does not constitute the rental of guest rooms, and thus, the dwelling does not become a hotel or motel.

Additionally, to interpret the rental of an entire dwelling as creating a hotel or motel creates a conflict in the LDC sections. Hotels and motels, which fit the description of a type of visitor accommodation, are not a permitted use in the RE (Residential--Estate), RS, RX (Residential--Small Lots), or RT (Residential--Townhouse) zones, nor are they a permitted use in any of the RM zones, except for the RM-4 and RM-5. Multiple-family dwellings are also allowed in the RM-4 zone, however, non-owner occupants must reside on the premises for at least 7 consecutive calendar days. Therefore, in the RM-4 zone only, interpreting the rental of an entire dwelling as creating a hotel/motel directly conflicts with the restrictions placed on multiple-family dwellings: a non-owner occupant in the RM-4 zone must reside in the hotel/motel for at least 7 consecutive calendar days. There is no rational basis for such a distinction.

²The former code, §101.0426.1, Commercial Visitor- Service, was "intended to provide for establishments catering to the lodging, dining, and shopping needs of visitors...." Section 101.0426.1.B listed numerous uses: hotels and motels; retailing of goods and services from the following establishments: agencies for tickets, travel, and car rental; antique shops; apparel shops; art stores and art galleries; bakeries; barber shops and beauty shops; bicycle shops, including rental and repair; book stores; cocktail lounges; confectionaries; delicatessens; drug stores; florists; food stores; gift shops; greeting card shops; hobby shops; jewelry shops; laundromats; liquor stores; music stores; photographic equipment stores and outlets; restaurants, including outdoor dining; shoe stores and shoe repair shops; sporting good stores, including rental and repair; and stationers. In addition, the following uses were allowed on floors other than the ground floor: business and professional offices (excluding employment agencies and hiring halls); private clubs, lodges, and fraternal organizations; studios for teaching art and music; and apartments. *Id.*

³Transient Occupancy Taxes (TOT) must be paid for occupancy of less than 30 days. San Diego Muni. Code, Chapter 3, Article 5, Division 1. While compliance with all laws is required, this section regarding payment of transient occupancy taxes is not a definition of visitor for land uses purposes. See, §§ 111.0101, defining the Land Development Code; and 113.0101, containing definitions specific to the Land Development Code.

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Finally, the issue whether to create a minimum stay for single dwelling units was presented in 1997 to the Land Use & Housing Committee, which recommended against regulating the minimum stay in single dwelling units. On November 18, 1997, the City Council introduced the LDC amendments without a minimum stay requirement. *See*, City Manager's Report P97-153, September 29, 1997, attach. 1, pg. 11; attach. 8, pg. 6.

If the prohibition of short-term rentals is desired, amendments to the Land Development Code should define what length of stay is prohibited, similar to the regulations for the apartment houses in the Residential--Multiple Unit zone.

3. Future Regulations

Many jurisdictions have struggled with issues relating to vacation rentals. Some jurisdictions have addressed the problem by regulating short term vacation rentals in single-family residentially zoned areas. Some common requirements:

- obtain a permit, although some jurisdictions just use the business license as a permit
- length of rental required varies from 7 days to 1 month
- a contact person must be designated that can respond 24 hours a day, 7 days a week; this contact information must be publicly posted and/or on file
- no on-site advertising allowed
- parking restrictions
- occupancy restrictions
- trash collection
- penalties vary- increasing levels of fines, revocation of the business license, misdemeanor prosecution

Other jurisdictions have attempted to ban short-term rentals. Anecdotal evidence supports the belief that most short-term vacation rentals are in the coastal area; any amendments to the City's local coastal program must be certified by the California Coastal Commission [CCC]. However, because of the reduced access to the coast the CCC has rarely approved an actual prohibition on short-term rentals in residential areas. The City of Imperial Beach did succeed in prohibiting the use in residential areas, but they allowed it as a new use in commercial areas, also on the coast. In addition, there were only nine residences affected, and the use was to be phased out at those locations. The City of Coronado also prohibits "transient occupancy" of less than 25 days in any residential area, with a few exceptions. The following is a summary of regulations in various coastal cities and counties:

Encinitas:

Over the last couple of years, the City of Encinitas proposed two changes to their municipal code that are relevant to this issue. One change was that short-term vacation rentals, defined as a rental of 30 days or less, would be completely prohibited in all residential areas. At

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the CCC meeting of November 14, 2006, the Coastal Commission approved this proposed amendment to Encinitas' Local Coastal Program [LCP], with modifications. However, the modifications were that short-term vacation rentals would in fact be *allowed* in residential areas west of Highway 101, where 90% or more of the city's vacation rentals were located, essentially gutting the very regulation that Encinitas was attempting to have the CCC approve.

The second amendment to the Encinitas' municipal code was a regulation of the short-term vacation rentals. Chapter 9.38 was amended to require that short term rentals obtain a permit prior to operation, the operators use their "best efforts" to control various nuisances such as noise, and respond within 2 hours of a report of the nuisance and use their best efforts to resolve the complaint within 24 hours. Any operator that fails to timely respond to two or more complaints is subject to specified fines that range from \$250-\$1000. The occupancy of the short-term rental unit is limited and cannot exceed two persons per bedroom unit, plus one additional person per dwelling.⁴ The number of vehicles is limited to the number of on-site parking spaces. Trash may not be in public view, except for from sunset on of the day prior to trash pick up, and must be in approved receptacles. The information regarding the permissible number of occupants and vehicles, and trash disposal requirements must be included in each rental agreement. The operator must display the permit, which includes the maximum number of applicants and vehicles and the 24 hour, 7 day phone number of the responsible operator, on the inside of the main entry door. This same information must also be displayed on the outside of the unit, in plain view of the general public.

In commenting on the proposed permit system, the Coastal Commission found that the nuisances associated with short-term rentals "can be substantially regulated to assure the compatibility of vacation rentals in the residential neighborhoods." (CCC staff report, Tue 9c, October 26, 2006, pg. 2.) Therefore, the CCC found a complete prohibition on short-term rentals unnecessary.

Imperial Beach:

In 2002, the City of Imperial Beach also sought to amend their LCP to prohibit short-term rentals (defined as rental of a dwelling for less than 30 consecutive calendar days) in all residential zones. The CCC rejected this proposed amendment as unnecessarily restrictive. However, in 2004, the CCC did approve an LCP amendment to add the short-term rentals as a permitted use in the Commercial and Mixed-Use zones near the shoreline, and to phase out the existing uses in the residential area (9 affected residences).

⁴ This occupancy restriction would seem to be preempted by the ruling in *Briseno v. City of Santa Ana*, 6 Cal.App.4th 1378 (1992), in which the court held that local standards on occupancy were preempted by the State Housing Code. An occupancy standard based on state law standards would be permissible. The City of Solana Beach has a handout for landlords of short term vacation rentals, which reminds the landlords of the state occupancy requirements and their duty to comply with the law.

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City of Solana Beach:

In 2003 and 2004, the City of Solana Beach enacted an ordinance requiring a permit for short-term vacation rentals. A short-term vacation rental is defined as the rental of any structure or portion thereof for "occupancy for dwelling, lodging or sleeping purposes for more than seven, but no more than 30, consecutive calendar days in duration in a residential zoning district, including detached single-family residences, condominiums, duplexes, twinplexes, townhomes and multiple-family dwellings." Solana Beach Muni. Code §4.47.030. Rental for less than seven consecutive calendar days is prohibited; rental for more than 30 consecutive calendar days is not regulated. Solana Beach Muni. Code §§4.47.040; 4.47.050.

The operator of a vacation rental is responsible for the nuisance behaviors of the occupants; failure to control the occupants is considered failure to respond. Solana Beach Muni. Code §4.47.060. The permit must be displayed on the inside of the main entry door and posted in public view. Solana Beach Muni. Code §§4.47.080; 4.47.090. Failure to comply results in a \$500 fine for the first violation in any 12 month period, \$1000 fine for the second violation in any 12 month period, and revocation of the permit for the third violation in any 12 month period. Solana Beach Muni. Code §4.47.070.

The City of Solana Beach has not yet submitted their ordinances for CCC certification.

Humboldt County:

The county ordinances had previously prohibited short term vacation rentals, although it seemed the use continued. In 2005, the CCC approved an LCP amendment to allow the use in the single family residential and mixed residential areas in a newly created zone, with a permit. A vacation home rental is defined as the "transient use of single and two family (duplex) dwelling units." Humboldt Co. Code §314-157. A dwelling unit is defined as a "room or combination of rooms including one and only one kitchen (unless otherwise specified in these regulations), and designed or occupied as living or sleeping purposes for a person or family." Humboldt Co. Code §313-139. Transient habitation "includes motels, hotels, resorts and other facilities other than for recreational vehicle parks providing lodging services to guests on a less-than-weekly basis." Humboldt Co. Code §172.17.

The permit requires compliance with residential parking standards⁵, limits the occupancy to 10 persons,⁶ prohibits on-site advertising, and requires that a contact name and number be mailed to all occupied residences within a 300 foot radius. Humboldt Co. Code §314-37.1. The contact person must reside within a 5 mile radius, and must be available 24 hours a day to respond to tenant and neighborhood questions and concerns and to ensure compliance with the

⁵ There are no parking requirements specific to Vacation Rentals.

⁶ See fnnt. 1.

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code. Id. The operator must obtain a business license, collect the appropriate transient occupancy tax, and ensure that trash is disposed of on a weekly basis. Id.

San Luis Obispo County:

In 2003, the CCC approved an amendment to the San Luis Obispo County's LCP to allow short term vacation rentals in some areas, with regulations.⁷ Vacation rentals are limited to one individual tenancy within seven consecutive days (excluding the property owner). San Luis Obispo Co. Code §23.08.165. Vacation rentals may not be located within 200 linear feet of another residential vacation rental or "other type of visitor- serving accommodation that is outside of the Commercial land use category." Id. The code limits the maximum number of occupants to the amount of on-site parking available, not to exceed two persons per bedroom, plus two additional persons.⁸ Id. Advertising on-site is prohibited, all parking is required to be on-site, noise is regulated, and the use of large electrical equipment is prohibited. Id. All vacation rentals must designate a local property manager who is available 24 hours a day to respond to tenant and neighborhood questions or concerns. Id. This contact information must be on file with the county sheriff, provided to property owners within a 300 foot radius, and posted in the rental unit. Id. Failure of the responsible person to respond more than three times in any consecutive six month period may be grounds for revocation of the business license. Id.

City of Coronado:

The City of Coronado generally prohibits "transient occupancy," which is defined as a stay of 25 consecutive calendar days or less, in any residential area. Coronado Muni. Code §§ 86.78.020; 86.78.060; 86.78.070.⁹ However, the Coronado Local Coastal Program was approved by the CCC in 1983, and based on recent CCC actions; it is unlikely that the Commission would support such a restriction today.

Possible future City of San Diego actions regarding short-terms rentals could include a permit system and/or a ban on rentals of a certain length of time. However, should a ban be sought, it is not possible to predict what length of stay the CCC is likely to approve.¹⁰ The CCC staff report for the City of Encinitas' application summarized some of their recent short-term rental decisions, and stated: "In each case, the Commission must evaluate the availability of existing hotel/motel accommodations in the near shore area, the historic pattern of short-term vacation rentals in the area, the specific visitor serving uses available, the services available to

⁷ In comparison to the County of San Luis Obispo, the City of San Luis Obispo prohibits vacation rentals in any zone. San Luis Obispo Muni. Code §17.22.010.G. A vacation rental is a "dwelling or part of a dwelling where lodging is furnished for compensation for fewer than thirty consecutive days." San Luis Obispo Muni. Code §17.100.220.

⁸ See fn. 1.

⁹ Dwelling units within R-4 zone motels, or lodging houses with in the "P" Overlay Zone may be used as transient rentals. Coronado Muni. Code §§ 86.78.060.B.

¹⁰ The May 23, 2007 letter from the Pacific Beach Community Planning Committee requested a minimum rental period of one month.

Honorable Mayor and City
Councilmembers

-10-

September 12, 2007

serve the proposed vacation rental use, and the impacts of such vacation rental use in the residential community." CCC Staff Report, Tue 9C, October 26, 2006, pg. 12.¹¹

Any proposed amendment to the City's local coastal program that proposes to ban short-term rentals should include at a minimum information regarding the size of the area affected, the approximate number of short-term rentals currently available, whether the short-term nature is seasonal or not, where other short-term lodging is located in relation to the coastal area and how much lodging is available, and the historical availability of short-term rentals.

CONCLUSION

There is no evidence that the past zoning codes prohibited short-term vacation rentals in the single-family zone, nor do the current regulations prohibit such a use. Should the City decide that there is sufficient rationale, it may consider requiring a permit, similar to that used by other cities, and/or a prohibition on short-term rentals. A change in the zoning laws of the Coastal Zone will require CCC approval prior to becoming effective.

MICHAEL J. AGUIRRE, City Attorney

By

Shannon Thomas
Deputy City Attorney

ST:sc
ML-2007-14

¹¹ The report is available at <http://documents.coastal.ca.gov/reports/2006/11/T9c-11-2006.pdf>.



THE CITY OF SAN DIEGO

Date of Revised Notice: August 13, 2013

REVISED NOTICE OF RIGHT TO APPEAL ENVIRONMENTAL DETERMINATION

DEVELOPMENT SERVICES DEPARTMENT

Internal Order No. 24002631

PROJECT NAME/NUMBER: Henely Residence/Project No. 279093**COMMUNITY PLAN AREA:** La Jolla Community Plan Area**COUNCIL DISTRICT:** 1**LOCATION:** 615 Wrelton Drive, La Jolla, CA 92037

PROJECT DESCRIPTION: COASTAL DEVELOPMENT PERMIT to construct a new single two-story, 6, 353-square-foot single-dwelling unit with a 562-square-foot garage. The project would also include exterior landscaping and hardscaping work, including landscaping, retaining walls, and a hot tub. The site is located at 615 Wrelton Drive in the RS-1-7 Zone (Single Family, minimum lot size of 5,000 square feet) of the La Jolla Community Plan area, and within the Coastal Overlay (appealable) Zone, Coastal Height Limit, Residential Tandem Parking, and Transit overlay zones.

ENTITY CONSIDERING PROJECT APPROVAL: City of San Diego Hearing Officer (Process 3).

ENVIRONMENTAL DETERMINATION: Categorically exempt from CEQA pursuant to CEQA State Guidelines, Section 15303 (New Construction or Conversion of Small Structures).

ENTITY MAKING ENVIRONMENTAL DETERMINATION: City of San Diego

STATEMENT SUPPORTING REASON FOR ENVIRONMENTAL DETERMINATION:

The City of San Diego conducted an environmental review that determined the project would not have the potential for causing a significant effect on the environment. The project meets the criteria set forth in CEQA Section 15303 that allows for new construction. Furthermore, the exceptions listed in CEQA Section 15300.2 would not apply in that no cumulative impacts were identified; no significant effect on the environment were identified; the project is not adjacent to a scenic highway; the project was not identified on a list of hazardous waste sites pursuant to Section 65962.5 of the Government Code.

CITY CONTACT: Glenn Gargas, Development Project Manager
MAILING ADDRESS: 1222 First Avenue, MS 501, San Diego, CA 92101-4153
PHONE NUMBER: (619) 446-5142

On July 19, 2013 the City of San Diego made the above-referenced environmental determination pursuant to the California Environmental Quality Act (CEQA). This determination is appealable to the City Council. If you have any questions about this determination, contact the City Development Project Manager listed above.

Applications to appeal CEQA determination made by staff (including the City Manager) to the City Council must be filed in the office of the City Clerk within 10 business days from the date of the posting of this Notice (August 27, 2013). The appeal application can be obtained from the City Clerk, 202 'C' Street, Second Floor, San Diego, CA 92101.

This information will be made available in alternative formats upon request.



THE CITY OF SAN DIEGO

City of San Diego
Development Services
1222 First Ave., MS-302
San Diego, CA 92101
(619) 446-5000

Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested: ☐ Neighborhood Use Permit ☒ Coastal Development Permit

☐ Neighborhood Development Permit ☐ Site Development Permit ☐ Planned Development Permit ☐ Conditional Use Permit
☐ Variance ☐ Tentative Map ☐ Vesting Tentative Map ☐ Map Waiver ☐ Land Use Plan Amendment ☐ Other

Project Title 615 Wreilton Drive

Project No. For City Use Only

Project Address: 615 Wreilton Drive, La Jolla

Part I - To be completed when property is held by individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached ☐ Yes ☒ No

Name of Individual (type or print): Donald Henely

☒ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address: 615 Wreilton Drive

City/State/Zip: La Jolla, CA. 92037

Phone No: 858-336-7030 Fax No:

Signature: [Signature] Date: 4-18-12

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No: Fax No:

Signature: Date:

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No: Fax No:

Signature: Date:

Name of Individual (type or print):

☐ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency

Street Address:

City/State/Zip:

Phone No: Fax No:

Signature: Date:

HENELY RESIDENCE
Project No. 279093
Project Chronology

Date	Action	Description	City Review Time	Applicant Response
5/08/12	Applicant submits initial plans/Deemed Complete	Project plans distributed for City staff review.	1 day	
7/09/12	First Assessment Letter	First Assessment Letter identifying required approvals and outstanding issues provided to applicant.	2 Months 1 Day	
11/06/12	Resubmitted revised plans	Distributed plans for staff review.		3 Month 27 Days
2/08/13	Second Assessment Letter	Letter identifying remaining issues.	3 Months 2 Days	
5/30/13	Resubmitted revised plans	Distributed plans for staff review.		3 Months 22 Days
7/29/13	All issues resolved.	Look to schedule for hearing.	1 Month 29 Days	
09/11/13	Hearing Officer	Public Hearing		1 Month 12 Days
11/14/13	Planning Commission	Appeal Hearing.	2 Months 3 Days	
TOTAL STAFF TIME		Averaged at 30 days per month	9 Months 6 Days	
TOTAL APPLICANT TIME		Averaged at 30 days per month		9Months 1 Day
TOTAL PROJECT RUNNING TIME			18 Months, 7 Days	

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

**WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501**

RECEIVED

NOV 21 2013

**CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24002631

**COASTAL DEVELOPMENT PERMIT NO. 980406
HENELY RESIDENCE - PROJECT NO. 279093
PLANNING COMMISSION**

This Coastal Development Permit No. 980406 is granted by the Planning Commission of the City of San Diego to Donald Henely and Celia Henely, Trustees of the Donald and Celia Henely 2000 Trust dated June 27, 2000, Owner / Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0708. The 0.32-acre site is located at 615 Wrelton Drive, in the RS-1-7 Zone, Coastal (appealable) Zone, Coastal Height Limitation, First Public Roadway, Residential Tandem Parking and Transit Overlay Zones within the La Jolla Community Plan area. The project site is legally described as: Lot 19, Block 4, Pacific Riviera Villas Unit No. 1, Map No. 2531.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner /Permittee to demolish an existing residence and construct a new, two-story, single family residence described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated November 14, 2013, on file in the Development Services Department.

The project shall include:

- a. Demolition of an existing residence and construction of a new, two-story, 6,353 square foot single family residence with an attached two car garage on a 14,300 square foot property;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking;
- d. Site walls, reconstructed rear yard retaining walls, swimming pool and spa



- e. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by November ___, 2016. (Pending State Coastal Commission Appeal Period)
2. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action, or following all appeals.
3. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
4. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
5. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
7. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

8. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

9. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. All of the conditions contained in this Permit have been considered and were determined-necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

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

ENGINEERING REQUIREMENTS:

12. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the reconstruction of the existing driveway with a 12-foot wide City standard driveway, on Wrelton Drive, satisfactory to the City Engineer.
13. Prior to the issuance of any building permit, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement for the curb outlet locate in Wrelton Drive right-of-way, satisfactory to the City Engineer.
14. Prior to the issuance of any construction permits, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.
15. Prior to the issuance of any construction permits, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications, satisfactory to the City Engineer.
16. Prior to the issuance of any construction permits, the Owner/Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards, satisfactory to the City Engineer.
17. The drainage system proposed for this development is private and subject to approval by the City Engineer.
18. Prior to the issuance of a building permit, the Owner/Permittee shall obtain a grading permit for the revised grading and revised retaining wall proposed for this project. This grading permit shall include the submittal/review of a Geotechnical Investigation Report and this permit shall also be reviewed for the proper scope by Neighborhood Code Compliance to assure that the code violation will be corrected. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

PLANNING/DESIGN REQUIREMENTS:

19. Owner/Permittee shall maintain a minimum of two (2) off-street parking spaces on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the appropriate City decision maker in accordance with the SDMC.
20. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

21. Prior to the issuance of any construction permits, the Owner/Permittee shall record a seven foot, four and 1/8 inch (7'4 1/8")-wide View Corridor Easement within both side yard setback areas as shown on Exhibit "A," in accordance with SDMC section 132.0403. Open fencing and landscaping may be permitted within the visual corridor, provided such improvements and landscaping do not significantly obstruct public views of the ocean. Landscape within the side yard view corridors shall be planted and maintained to preserve and enhance public views to the ocean.

22. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Planning Commission of the City of San Diego on November 14, 2013, by Resolution No. 4563-PC.

**PLANNING COMMISSION RESOLUTION NO. 4563-PC
COASTAL DEVELOPMENT PERMIT NO. 980406
HENELY RESIDENCE - PROJECT NO. 279093**

WHEREAS, Donald Henely and Celia Henely, Trustees of the Donald and Celia Henely 2000 Trust dated June 27, 2000, Owner/Permittee, filed an application with the City of San Diego for a permit to demolish the existing residence and construct a new, two-story, single family residence on the property (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 980406), on portions of a 0.32-acre property;

WHEREAS, the project site is located at 615 Wrelton Drive, in the RS-1-7 Zone, Coastal (appealable) Zone, Coastal Height Limitation, Residential Tandem Parking and Transit Overlay Zones and within the La Jolla Community Plan area;

WHEREAS, the project site is legally described as Lot 19, Block 4, Pacific Riviera Villas Unit No. 1, Map No. 2531;

WHEREAS, on September 11, 2013, the Hearing Officer of the City of San Diego considered and approved Coastal Development Permit No. 980406, pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on September 20, 2013, that decision was appealed by Tony Crisafi, Chair of the La Jolla Community Planning Association and Charles H. Redfern;

WHEREAS, on July 19, 2013, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et. seq.) under CEQA Guideline Section 15303 that allows for new construction and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520;

BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated November 14, 2013.

FINDINGS:

Coastal Development Permit - Section 126.0708

- 1. The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean**

and other scenic coastal areas as specified in the Local Coastal Program land use plan.

The 14,300 square-foot project site is located within a developed area of moderate scale single-family residences on approximately 10,000 to 15,000 square foot sized lots. The development proposes to demolish the existing residence and construct a new, two-story, single family residence on the previously disturbed project site. The proposed development is located between the ocean and the first public roadway and the southern/western edge of the project site is approximately 80 feet from the mapped mean high tide line. The project site is not located adjacent to and does not contain an identified public access path identified in the La Jolla Community Plan and Local Coastal Program [LCP] Land Use Plan. Therefore, the proposed project will not encroach upon any existing physical access way that is legally used by the public or any proposed public access way identified in a Local Coastal Program land use plan.

The Local Coastal Program land use plan identifies two public views that relate to the proposed development of the project site: Wrelton Drive Scenic Overlook and La Jolla Boulevard Scenic Roadway. The proposed development preserves, enhances or restores these designated public views. The Wrelton Drive Scenic Overlook is defined as a view over private property from a public right of way. Consistent with the Local Coastal Program land use plan, the project preserves the public view from the Wrelton Drive Scenic Overlook as illustrated by the view analysis prepared by the applicant and reviewed by City Staff.

The Scenic Roadway designation, which is defined as partially obstructed views over private property and down public rights of way, commences at the eastern beginning of the Wrelton Drive Scenic Overlook and continues south past the project site along Wrelton Drive. Currently there are virtually no views down either side setback area because they are blocked by either thick vegetation or solid site fencing. Implementation of this Coastal Development Permit will open, restore and enhance these public views. The project provides enhanced view corridor protections for the Wrelton Drive Scenic Roadway designation by establishing an eastern and western building setback of 7' to 4 1/8' on both side setbacks which complies with the required setback under applicable regulations. As a condition of approval, the public views down each side yard setback area will be protected by the recording of a view easement that places limits on encroachments by buildings, landscaping and fencing.

In addition, the Local Coastal Program land use plan, La Jolla Community Plan, and the Land Development Code include numerous other goals, policies or regulations regarding public views, including protections that apply to properties, such as the project site, that are located between the sea and the first public roadway. The project has been analyzed for consistency with all of those applicable public view protection provisions. Consistent with the City Council adopted Resolution No. R-298578, the proposed residence meets all of the RS-1-7 zone development regulations and enhances view corridor protections by establishing building setbacks required under applicable regulations, policies and goals. The applicant also prepared a project specific visual and community plan

consistency analysis that helps illustrate that the proposed structure does not encroach into the designated public views. The visual and community plan analysis submitted to the City was reviewed and it has been determined that the proposed project's design and public view protections are consistent with the Local Coastal Program land use plan, La Jolla Community Plan and the Land Development Code. As such, the proposed development would enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.

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

The 14,300 square-foot project site is currently developed with an existing single family residence and the lot is previously disturbed within an area of developed residential homes. The project site is located within a well established residential neighborhood and it is surrounded by large to moderate sized single family homes to the north, east and west. The proposed demolition of the existing residence and construction of a new, two-story, single-family residence would be developed within the previously disturbed portion of the property. During the project's review the Permit Planning Section of the Development Services Department reviewed as built grading plans, old aerial photos and submitted excerpts from a Geotechnical Report. Based on this information, they determined that the rear slope area, currently and prior to the Code Violation was a disturbed area, is not natural, does not meet the definition of Steep Hillside, nor is it subject to the Environmentally Sensitive Lands Regulations. The proposed residence will not encroach on the Environmentally Sensitive Lands. Furthermore, the project site is not located within the Multiple Habitat Planning Area [MHPA].

The environmental review, determined that the project would not have a significant environmental effect on environmentally sensitive lands and was found to be categorically exempt from environmental review under CEQA. The project proposes only a minimal amount of grading, for the foundation and reconstruction of existing retaining walls only and will not result or propose any encroachment into Environmentally Sensitive Lands. Thus this proposed redevelopment of the property will not adversely affect environmentally sensitive lands.

3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

The project proposes construction of a new, two-story, single-family residence. The project site has a Residential – Low Density (5-9 DU/AC) land use designation as identified by the La Jolla Community Plan, which allows for low density residential development. The surrounding neighborhood is entirely built out with an eclectic mix of architectural styles and sizes of residences. As described previously in these findings, the proposed residence will not encroach upon, negatively alter or reduce the existing publicly designated physical access or visual access to and along the coast nor will it adversely affect Environmentally Sensitive Lands. The project also complies with all

applicable requirements of the Land Development Code, which is part of the certified Local Coastal Plan Implementation Program. The project proposes to set the first story of the residence approximately 20 feet, and the closest second story element approximately 25 feet, from the curb of Wrelton Drive when only a 15 foot setback from the property line is required. In addition, only a small portion of the residence is proposed to be at the project's maximum height of 30 feet, the proposed floor area ratio is 0.44 when 0.50 is allowed and the amount of livable area above grade is limited to approximately 4,600 square feet. The increased setbacks and other off-setting elements of the project depicted on Exhibit "A" minimize the bulk and scale of the project, help to preserve protected public views and ensure overall conformity with the adopted La Jolla Community Plan, the Land Development Code and the certified Local Coastal Program land use plan and Implementation Program.

4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

The Local Coastal Program land use plan and the Land Development Code identify the permitted use of the project site as single family residential. The 14,300 square-foot project site is currently fully developed with a single family residence. The project site is located within an existing residential neighborhood of larger to moderate size single family homes. The project site is located between the first public road and the sea or shoreline, but the development will be fully within the private property. The western edge of the project site is approximately 80 feet east of the mapped mean high tide line. The proposed development does not encroach onto or adversely affect any public access way. The project does not impact public, pedestrian/recreation access as depicted in Exhibit "A." Therefore, the project is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act.

Although the issue is not addressed in the public access and public recreation policies of Chapter 3 of the California Coastal Act, the project is consistent with City's policies, goals and regulations regarding public view protections. The Natural Resources and Open Space Element of the La Jolla Community Plan designates a Scenic Overlook and a Scenic Roadway public view corridor within the vicinity of the project site and adjacent properties. As described previously in these findings, and based on factors including the location of the proposed home relative to the designated view corridors, compliance with applicable Land Development Code requirements, the requirement of setback based view corridor protections and the preservation of a horizon line view of the ocean above the proposed home from the designated Wrelton Drive Scenic Overlook, the project will preserve, enhance or restore the public view corridors. The applicant prepared a visual and community plan analysis that helps illustrate that the proposed structure does not encroach into the designated public views. City Staff reviewed the applicant's visual analysis and determined that the proposed project's design and public view protections

comply with the Local Coastal Program land use plan, the Coastal Act, the La Jolla Community Plan and the Land Development Code.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Coastal Development Permit No. 980406, is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 980406, a copy of which is attached hereto and made a part hereof.

Glenn R. Gargas
Development Project Manager
Development Services

Adopted on: November 14, 2013

Job Order No. 24002631

Permit Type/PTS Approval No.: CDP No. 980406

Date of Approval: Nov. 14, 2013

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Glenn R. Gargas
Development Project Manager

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1189 et seq.**

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

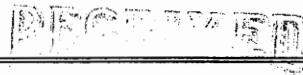
Owner/Permittee

By _____
Donald Henely, Trustee of Donald and
Celia Henely 2000 Trust

Owner/Permittee

By _____
Celia Henely, Trustee of Donald and
Celia Henely 2000 Trust

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO COAST DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
VOICE (619) 767-2370 FAX (619) 767-2384

DEC 04 2013

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

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

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

SECTION I. Appellant(s)

Name: Charles Redfern

Mailing Address: 2525 Ellentown Road

City: La Jolla

Zip Code: 92037

Phone: 858-637-7825

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of San Diego

2. Brief description of development being appealed:

Single Family Residence and related grading between Ocean and first public roadway

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

615 Wrelton Drive, La Jolla, CA 92037

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

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

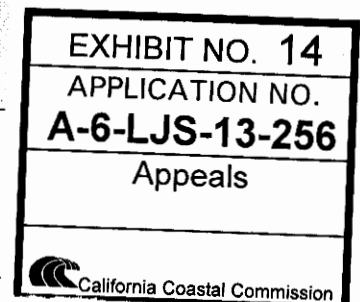
Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-LJS-13-0256

DATE FILED: 12/4/13

DISTRICT:



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

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

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

6. Date of local government's decision: November 14, 2013

7. Local government's file number (if any): 279093

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

Mr. and Mrs. Donald and Cecilia Henely
7014 Via Estrada
La Jolla, CA 92037

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Charles Redfern, MD
2525 Ellentown Road
La Jolla, CA 92037

(2) John S. Coffey, PE, PLS (acting as Agent for Charles Redfern)
Coffey Engineering Inc.
10660 Scripps Ranch Blvd, Suite 102
San Diego, CA 92131

(3) Tony Crisafi, AIA
La Jolla Community Planning Association Chair
Island Architects
7632 Hershel Avenue
La Jolla, CA 92037

(4) (SEE FULL LIST ATTACHED)

Dr. Nat Rose
5160 Chelsea Street
La Jolla, CA 92037

Mike Costello
Idile Costello
626 Wrelton Drive
La Jolla, CA 92037

John Bannon
5184 Crystal Drive
La Jolla, CA 92037

Alex Jvirblis
625 Wrelton Drive
La Jolla, CA 92037

Charles Redfern
2525 Ellentown Road
La Jolla, CA 92037

Tamlin Redfern Henahan
5163 Chelsea Street
La Jolla, CA 92037

Tony Crisafi
7626 Herschel Avenue
La Jolla, CA 92037

Arby Eivazian
6036 Rancho Mission Rd, #348
San Diego, CA 92108

Richard B. Kline
4714 Renovo Way
San Diego, CA 92124

Dave Savage
7110 Caminito Manresa
La Jolla, CA 92037

Daniel Cote
2821 Camino Del Mar
Del Mar, CA 92014

Dan Walshaw
5752 Waverly Avenue
La Jolla, CA 92037

Phillip L. Ginsburg
5821 Box Canyon Road
La Jolla, CA 92037

Jeffrey Elden
8228 Caminito Maritimo
La Jolla, CA 92037

David Russell
3980 Home Avenue
San Diego, CA 92105

Valentina Henely Walshaw
5752 Waverly Avenue
La Jolla, CA 92037

Vidi Henely
5580 La Jolla Blvd.
La Jolla, CA 92037

C.A. Marengo
347 Nautilus Street
La Jolla, CA 92037

Matt Peterson
530 B Street, Suite 1800
San Diego, CA 92101

Don Henely
7014 Via Estrada
La Jolla, CA 92037

Glenn Gargas
City of San Diego Development Serv
1222 First Avenue
San Diego, CA 92101

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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

The Local Coastal Program land use plan (La Jolla) define Wrelton Drive as a 'Scenic Overlook: View over private properties from a public right-of-way.' There are currently views of the ocean and horizon line from a large portion of Wrelton Drive, over existing roof tops. The project applicant proposes a second story in the heart of the Wrelton Drive viewshed. The applicant has not made any attempts to relocate or shift the second story area so that it is not as obtrusive to this ocean view. We ask that the project be revised so as to be sensitive to this important but narrow view corridor. Otherwise, the project does not meet one of the necessary findings for coastal development permits; that the development will 'enhance and protect public views to and along the ocean..as specified in the Local Coastal Program land use plan.'

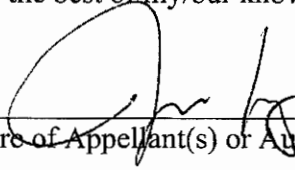
The Local Coastal Program land use plan (La Jolla) define the Tourmaline Surfing Park Access Drive as an 'Unobstructed framed view down a public Right-of-Way. A previous owner constructed retaining walls without required retaining wall permit and grading permit. The current applicant is proposing to retroactively permit those walls. The walls interrupt what would otherwise be a relatively unspoiled view down the corridor. In addition, the current applicant proposed a new Jacuzzi at the very southwest corner of the property, near the top of that slope. The jacuzzi would also interrupt the view corridor, and could be moved further up the slope. These structures also keep the proposed project from meeting the finding to 'enhance and protect public views to and along the ocean...as specified in the Local Coastal Program land use plan.'

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

SECTION V. Certification

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

JOHN S. COFFEY, PE, PLS
COFFEY ENGINEERING, INC.
10660 SCRIPPS RANCH BLVD
SUITE 102
SAN DIEGO, CA 92131
(858) 831-0111



Signature of Appellant(s) or Authorized Agent

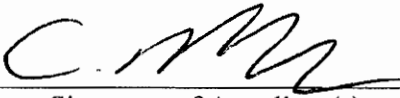
Date: 11/27/13

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

Section VI. Agent Authorization

I/We hereby
authorize

JOHN S. COFFEY, PE, PLS
to act as my/our representative and to bind me/us in all matters concerning this appeal.



Signature of Appellant(s)

Date: 11/22/2013

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
VOICE (619) 767-2370 FAX (619) 767-2384

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

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

SECTION I. Appellant(s)

Name: La Jollans for Neighborhood Preservation c/o The Law Office of Julie M. Hamilton

Mailing Address: 2835 Camino del Rio S., Suite 100

City: San Diego

Zip Code: 92108

Phone: 619-278-0701

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of San Diego

2. Brief description of development being appealed:

Demolish existing residence and construct new 6,353 square foot single-family residence with a two car garage, swimming pool, and spa; remediation of illegally-built wall; reconstruction of existing driveway; landscaping; off-street parking; public and private accessory improvements; grading in Coastal (appealable) Zone.

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

615 Wrelton Drive, La Jolla CA 92037

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

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

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO:

A-6-LSS-13-0256

DATE FILED:

12/6/13

DISTRICT:

San Diego

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

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

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

6. Date of local government's decision: November 14, 2013

7. Local government's file number (if any): PTS 279093

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

Donald and Celia Henely, Trustees of the Donald and Celia Henely 2000 Trust, Owner/Permitee
7014 Via Estrada
La Jolla, CA 92037

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Mike Costello, La Jollans for Neighborhood Preservation, President
Odile Costello
626 Wrelton Drive
La Jolla, CA 92037

(2) John S. Coffey, PE, PLS
Coffey Engineering, Inc.
10660 Scripps Ranch Blvd., Suite 102
San Diego, CA 92131

(3) Tony Crisafi, AIA
La Jolla Community Planning Association Chair
Island Architects
7632 Hershel Avenue
La Jolla, CA 92037

(4) Additional names/addresses attached.

Charles Redfern, MD
2525 Ellentown Road
La Jolla, CA 92037

Dr. Nat Rose
5160 Chelsea Street
La Jolla, CA 92037

John Bannon
5184 Crystal Drive
La Jolla, CA 92037

Alex Jvirblis
625 Wrelton Drive
La Jolla, CA 92037

Tamlin Redfern Henahan
5163 Chelsea Street
La Jolla, CA 92037

Arby Eivazian
6036 Rancho Mission Road, #348
San Diego, CA 92108

Richard B. Kline
4714 Renovo Way
San Diego, CA 92124

Dave Savage
7110 Caminito Manresa
La Jolla, CA 92037

Daniel Cote
2821 Camino Del Mar
Del Mar, CA 92014

Dan Walshaw
5752 Waverly Avenue
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Phillip L. Ginsburg
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Valentina Henely Walshaw
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347 Nautilus Street
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Vidi Henely
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Matt Peterson
530 B Street, Suite 1800
San Diego, CA 92101

Glenn Gargas
City of San Diego
Development Services Dept.
1222 First Avenue
San Diego, CA 92101

City Clerk
City of San Diego
202 C Street, 2nd Floor
San Diego, CA 92101

Don Henely
7014 Via Estrada
La Jolla, CA 92037

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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

The proposed development does not conform to the standards set forth in the certified Local Coastal Program:

The Local Coastal Program defines Wrelton Drive as a Scenic Overlook. There are views of the ocean and horizon line from Wrelton Drive, over existing roof tops. This project proposes a second story in this viewshed, which will obstruct the scenic overlook. The project does not enhance and protect public views to and along the ocean as specified in the Local Coastal Program land use plan.

The Local Coastal Program defines the Touramaline Surfing Park Access Drive as an unobstructed framed view from a public right-of-way. A previous owner constructed retaining walls without the required grading permits, these walls obstruct the view corridor. The current applicant plans to leave the illegal walls and retroactively permit them in addition to building a new spa near the top of the slope on the southwest corner of the property. The retaining walls will continue to obstruct the view and the proposed spa will obstruct the view further. The project does not enhance and protect public views to and along the ocean as specified in the Local Coastal Program land use plan.

The City has improperly piece-mealed the project by failing to include remediation of the illegal retaining walls in the project description. The project is not in conformity with the steep hillsides policy of the Local Coastal Program, including grading and drainage, because the retaining walls are built on a steep hillside. The LCP requires a grading and drainage plan to be submitted for structures on steep hillsides. City staff says it will not review the safety of the slope until the grading permit for the retaining wall is issued. This analysis was required as part of the Coastal Development Permit for the proposed residence.

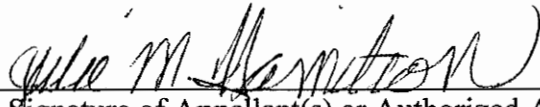
The proposed development is not in conformity with the Local Coastal Program because it failed to identify the risk and propose mitigation measures with respect to grading, modifying the pool, and remediation of the retaining walls.

The proposed project is not in conformity with the Local Coastal Program because the bulk and scale of the project is not compatible with nearby sites with sensitivity to ocean views.

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

SECTION V. Certification

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



Signature of Appellant(s) or Authorized Agent

Date: 12/6/13

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

Section VI. Agent Authorization

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



Signature of Appellant(s)

Date: 12/6/2013



State of California

Secretary of State

REG. NO. _____

REGISTRATION OF UNINCORPORATED NONPROFIT ASSOCIATION PURSUANT TO CALIFORNIA CORPORATIONS CODE SECTION 21300

Instructions:

1. Complete and mail to: Secretary of State, Document Filing Support Unit,
P. O. Box 944225, Sacramento, CA 94244-2250 (916) 657-5448
2. Include filing fee of \$10.00 per box checked below.

This space For Filing Use Only

Association includes any lodge, order, beneficial association, fraternal or beneficial society, historical, military, or veterans organization, labor union, foundation, or federation, or any other society, organization, or association, or degree, branch, subordinate lodge, or auxiliary thereof.

Registration For:

☒ Name ☐ Insignia ☐ Alteration ☐ Cancellation

Association Name

La Jollans for Neighborhood Preservation

Street or Mailing Address

626 Wrelton Drive

City and State

La Jolla, CA

Zip Code

92037

Nature of Alteration (If Any):

Description of Insignia, which may include badge, motto, button, decoration, charm, emblem, or rosette:

Attach Facsimile:

I declare under penalty of perjury under the laws of the State of California that I am a chief officer of the association; that I am authorized to act on behalf of the association with respect to completing and submitting this application; that the information contained in this application is true and correct.

Michael Costello

12/6/2013

Signature of Officer

Date

Signature of Additional Officer (Optional)

Date

Michael Costello, President

Typed Name and Title

Typed Name and Title

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT OFFICE
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
VOICE (619) 767-2370 FAX (619) 767-2384

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

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

SECTION I. Appellant(s)

Name: La Jolla Community Planning group/ Tony Crisafi, Chair

Mailing Address: PO Box 889

City: La Jolla, CA

Zip Code: 92037

Phone: 858-459-9291

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Diego

2. Brief description of development being appealed:

Process Three coastal development permit to demolish an existing residence and construct a two story, approximate 6,353 square foot single family residence on a 14,300 square foot property.

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

615 Wrelton Drive
La Jolla, CA 92037

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

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

DEC 09 2013
CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO:

A-6-LJS-13-0256

DATE FILED:

12/9/13

DISTRICT:

San Diego

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

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

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

6. Date of local government's decision: November 14, 2013

7. Local government's file number (if any): Project # 279093

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

Claude Anthony Marengo, Marengo Morton Architects
7724 Girard Ave. Suite 200
La Jolla, CA 92037

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) La Jolla Community Planning Association
P.O. Box 889
La Jolla, CA 92037

(2) John Coffey- Coffey Engineering
10660 Scripps Ranch Blvd # 102
San Diego, CA 92131

(3) Matt Peterson- Peterson & Price
530 B Street, Suite 1800
San Diego, CA 92101

(4) Odile & Mike Costello
626 Wrelton Drive
La Jolla, CA 92037

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

SECTION IV. Reasons Supporting This Appeal

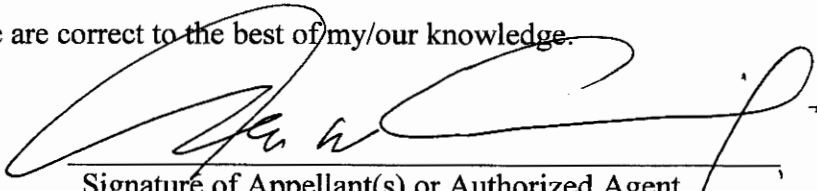
PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
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 - This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.
1. Visual Resources: Identified public vantage points- the subject development may impact scenic view from Tourmaline Surfing Park identified view No. 98, La Jolla Community Plan (LCP) p47.
 2. Visual Resources: Subarea H: Birdrock Visual Access- The subject development will impact identified scenic overlook on Wrelton Dr., La Jolla Community Plan (LCP) p 185.
 3. Existing & proposed structures may not conform with La Jolla Community Plan open space policy as this development includes coastal bluff along North boundry of Tourmaline Park. Refer to: La Jolla Community Plan p.41- open space visual resources and La Jolla Community Plan p. 51, item (3) Shorline and Coastal Bluffs, (d) Accessory Structures.
 4. Recognizing use of intensity of this property, parking and noise impact mitigations are inadequate.
 5. Geology: Proposed development failed to identify risk and proposed mitigation measures with respect to site grading and augmenting existing pool and site wall structures. Refer to La Jolla Community Plan p. 81- Residential Land Use.

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

SECTION V. Certification

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



Signature of Appellant(s) or Authorized Agent

Date: 12.9.2013

President -
La Jolla
Community
Planning
Association

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

Section VI. Agent Authorization

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

Signature of Appellant(s)

Date: _____



COFFEY ENGINEERING, INC.

Cover Sheet

Dec. 09, 2013

California Coastal Commission
7575 Metropolitan Drive, Suite 103
San Diego, Ca. 92108-4421
(619) 727-2370
Attention: Alexander Llerandi

RECEIVED

DEC 09 2013

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

Re: CCC Post Cert No. : 6-L JS13-0858
Henely Residence Appeal

Appellant: Charles Redfern

Dear Alex,

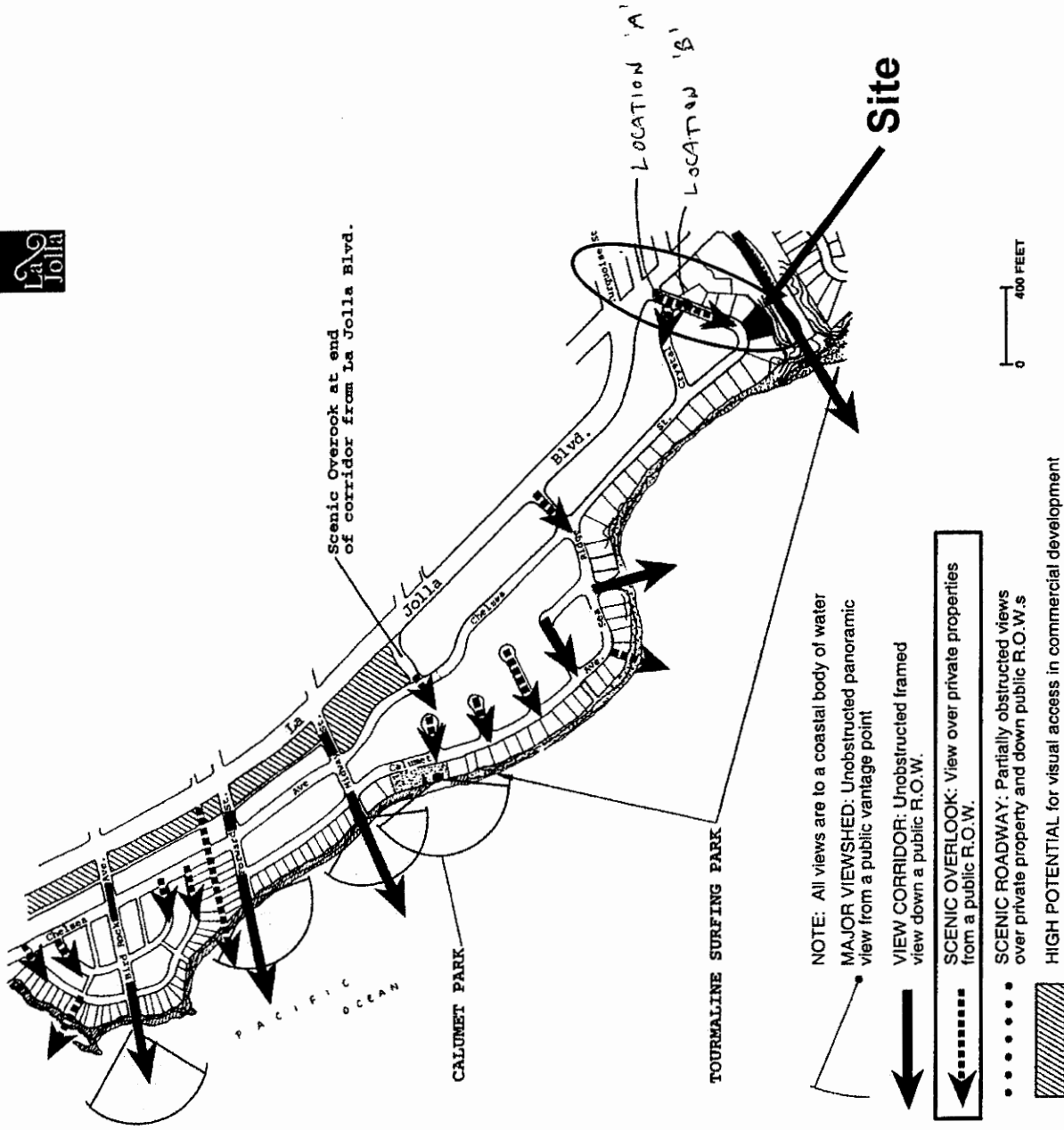
Please make twenty (20) copies of the accompanying Exhibits and distribute appropriately for consideration in the Coastal Commission's decision making process.

Qty	View description and location
1	Site - From La Jolla Community Plan and Local Coastal Program (Locations "A" & "B")
1	View to Ocean over Private Properties - Wrelton Drive
1	Scenic Overlook - View over Private Properties - Wrelton Drive (from Location "A")
1	Henely Site - Existing
1	Henely Site - 2 nd Floor in View Corridor
1	Scenic Overlook - View over Private Properties - Wrelton Drive (from Location "A")
1	Scenic Overlook-View over Private Properties after project completion-Wrelton Drive (from Location "A")
1	Scenic Overlook - View over Private Properties - Wrelton Drive near Crystal Drive (from Location "B")
1	Scenic Overlook - View over Private Properties - Wrelton Drive near Crystal Drive (from Location "B")
1	Site - From La Jolla Community Plan and Local Coastal Program (Location "C")
1	View to Ocean from Tourmaline Park Entrance
1	Henely Site - with Jacuzzi & Un-permitted Retaining Walls
1	Proposed Jacuzzi & Existing Un-permitted Retaining Walls (from Location "C")
1	Proposed Jacuzzi & Existing Un-Permitted Retaining Walls (from Location "C")

Exhibits provided by: John S. Coffey, PE, PLS

John S. Coffey, PE, PLS

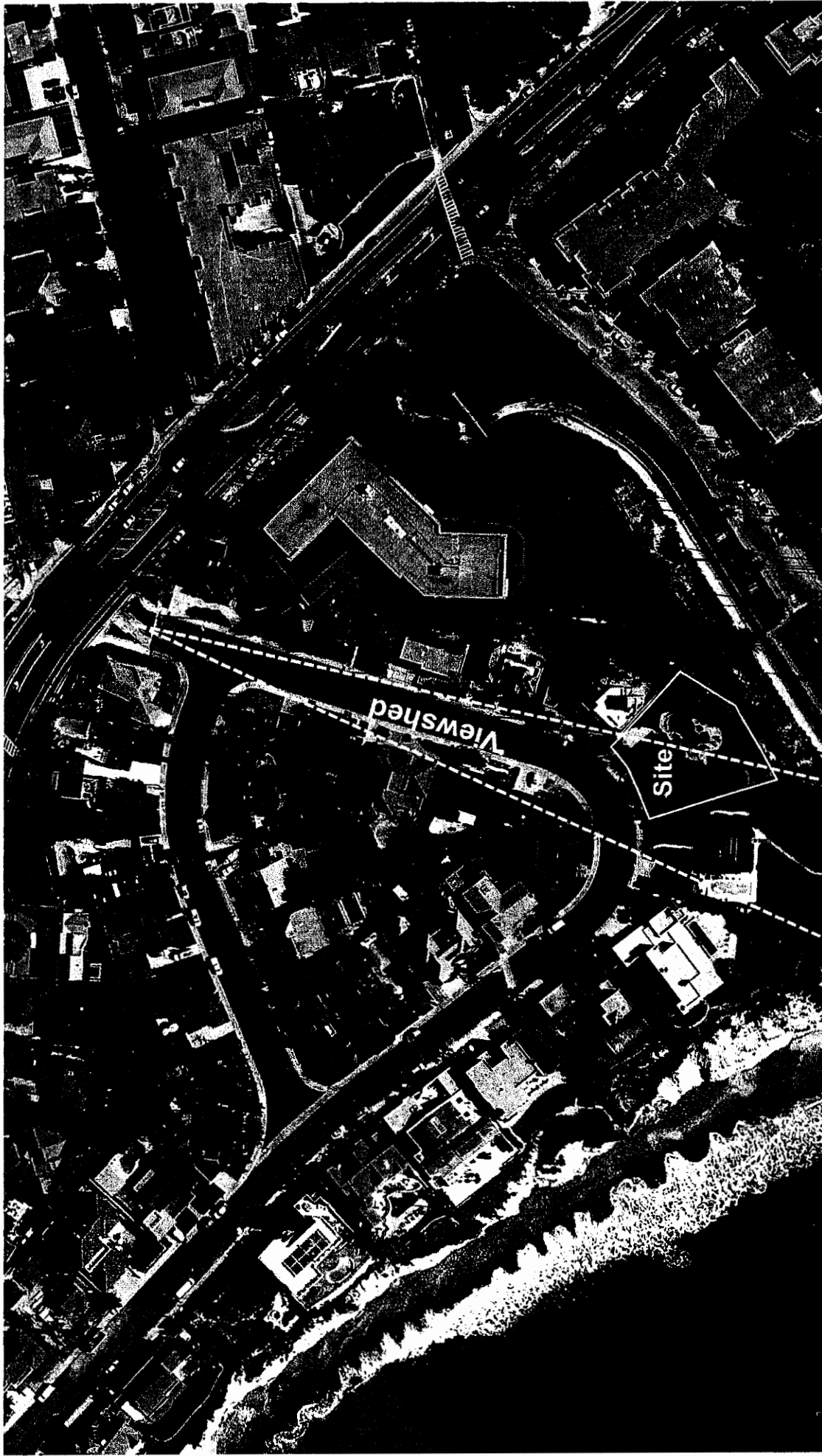




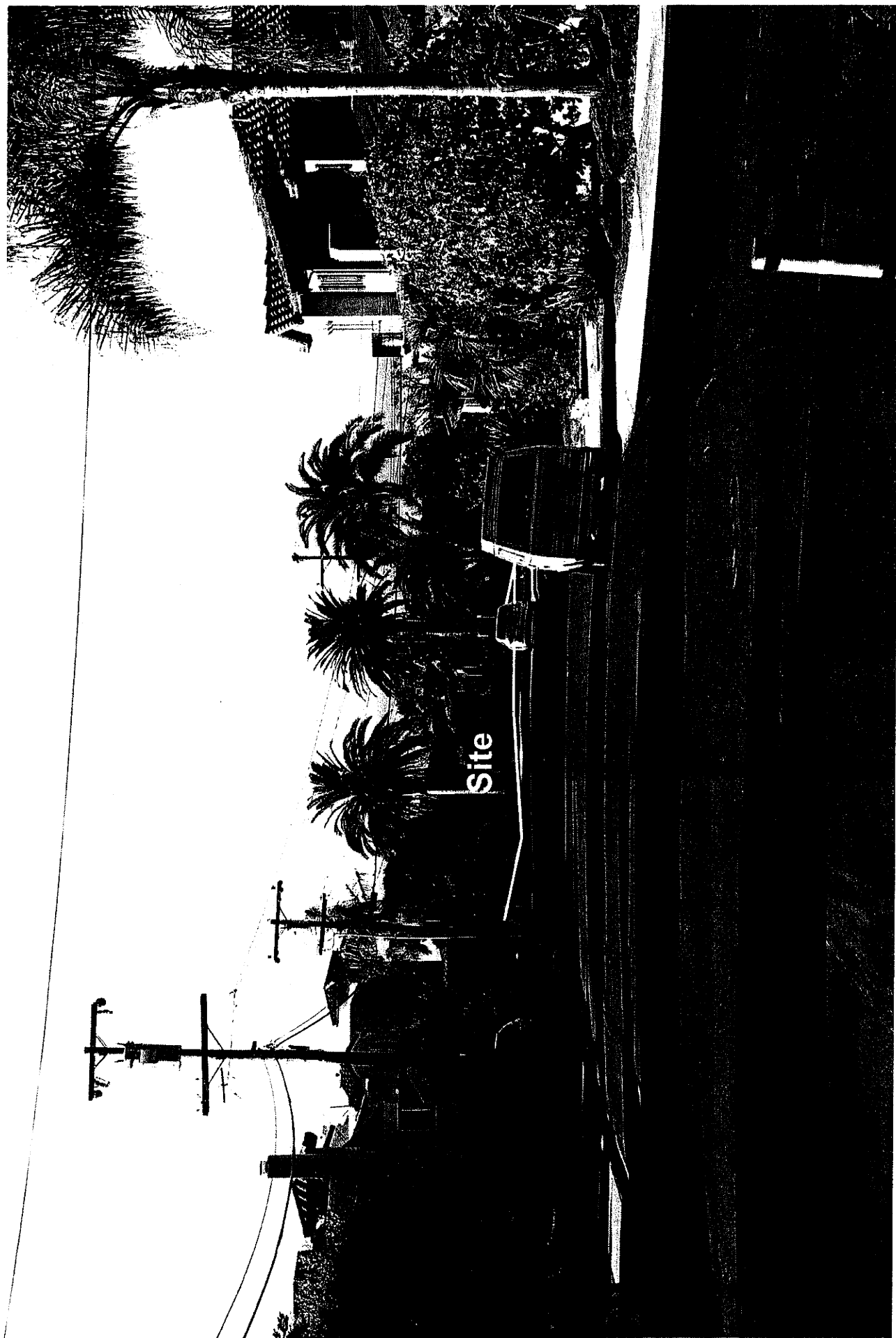
Subarea H: Bird Rock - Visual Access

La Jolla Community Plan
City of San Diego - Planning Department

Figure H



View to Ocean Over Private Properties – Wreton Drive

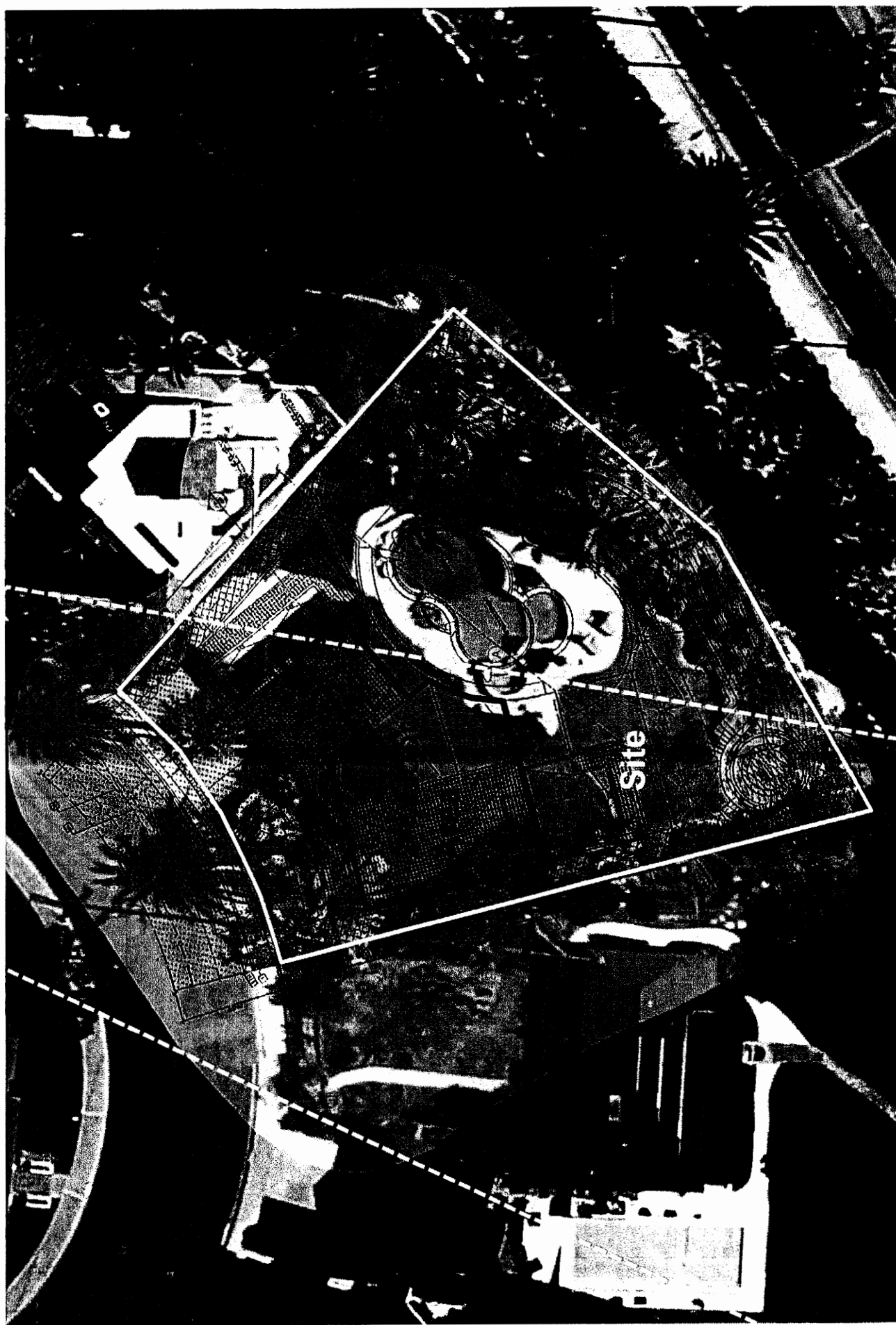


From Location 'A'

Scenic Overlook – View Over Private Properties – Wrelton Drive



Henely Site - Existing



Henely Site – 2nd Floor in View Corridor

Horizon Line

Site

from Location 'A'

Scenic Overlook – View Over Private Properties – Wrelton Drive

Horizon Line



From Location 'A'

Scenic Overlook – View Over Private Properties After Project Completion – Wrelton Drive



From Location 'B'

Scenic Overlook – View Over Private Properties – Wrelton Drive Near Crystal Drive



Scenic Overlook – View Over Private Properties – Wrelton Drive Near Crystal Drive

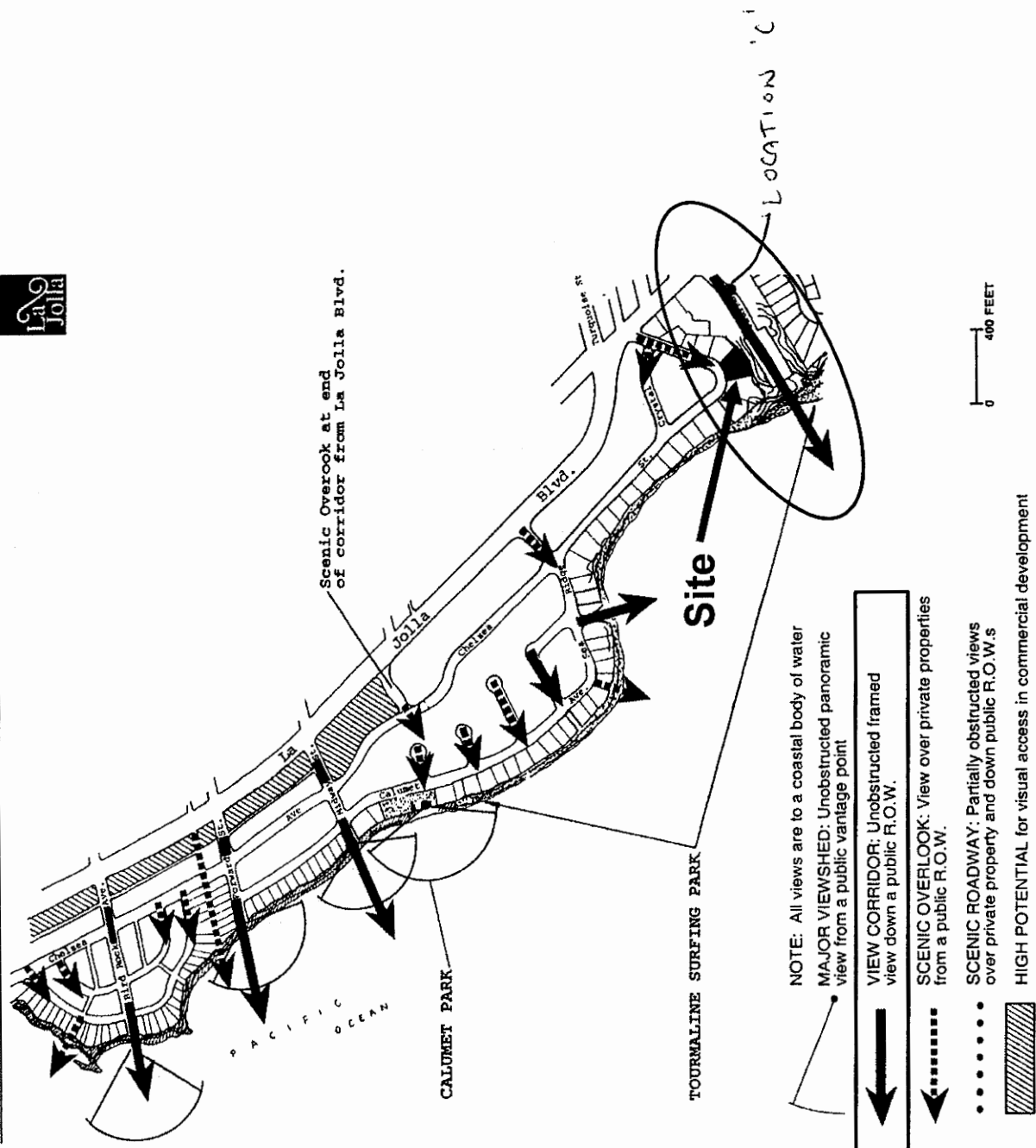
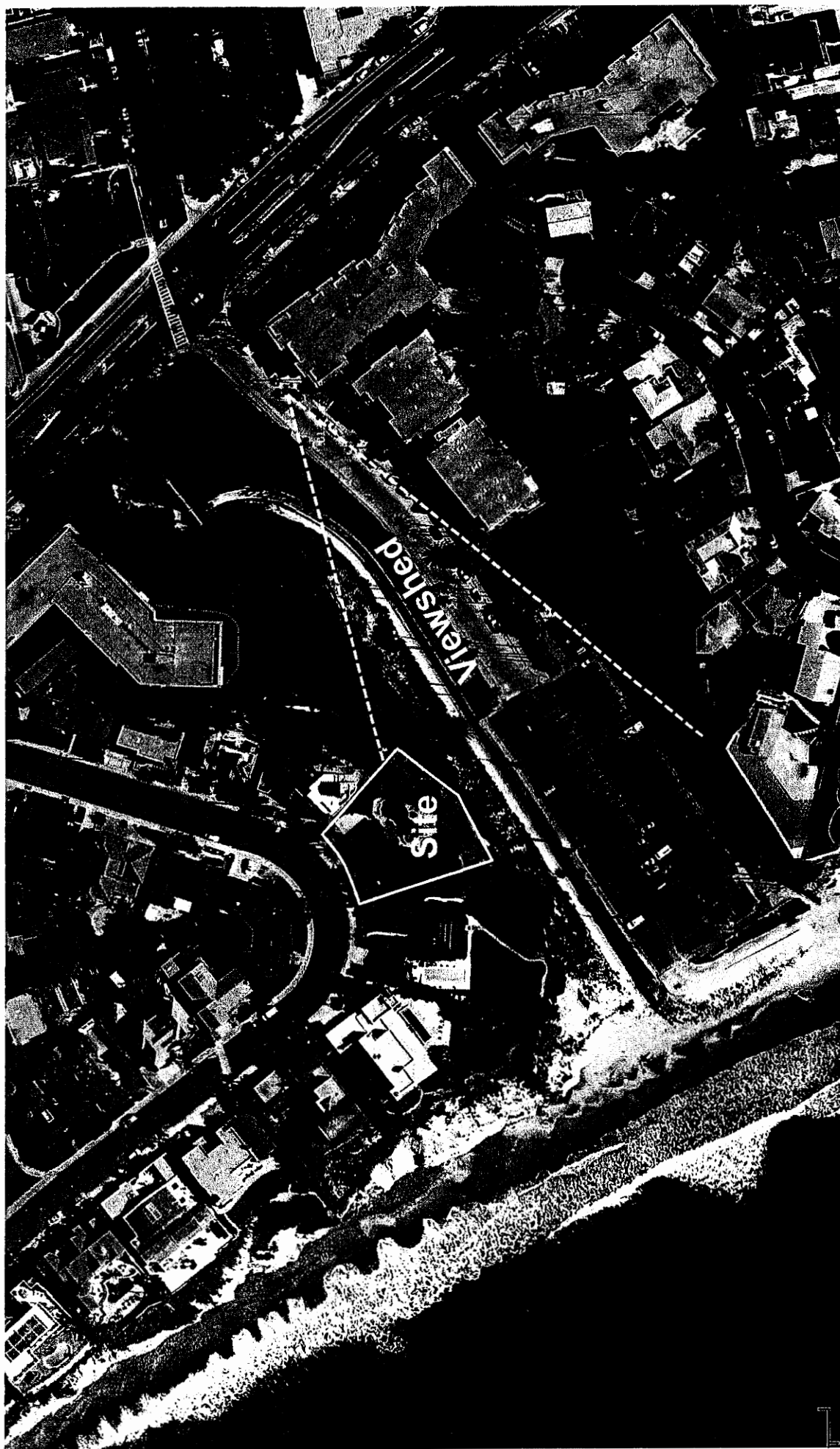


Figure H

Subarea H: Bird Rock - Visual Access

La Jolla Community Plan
City of San Diego - Planning Department

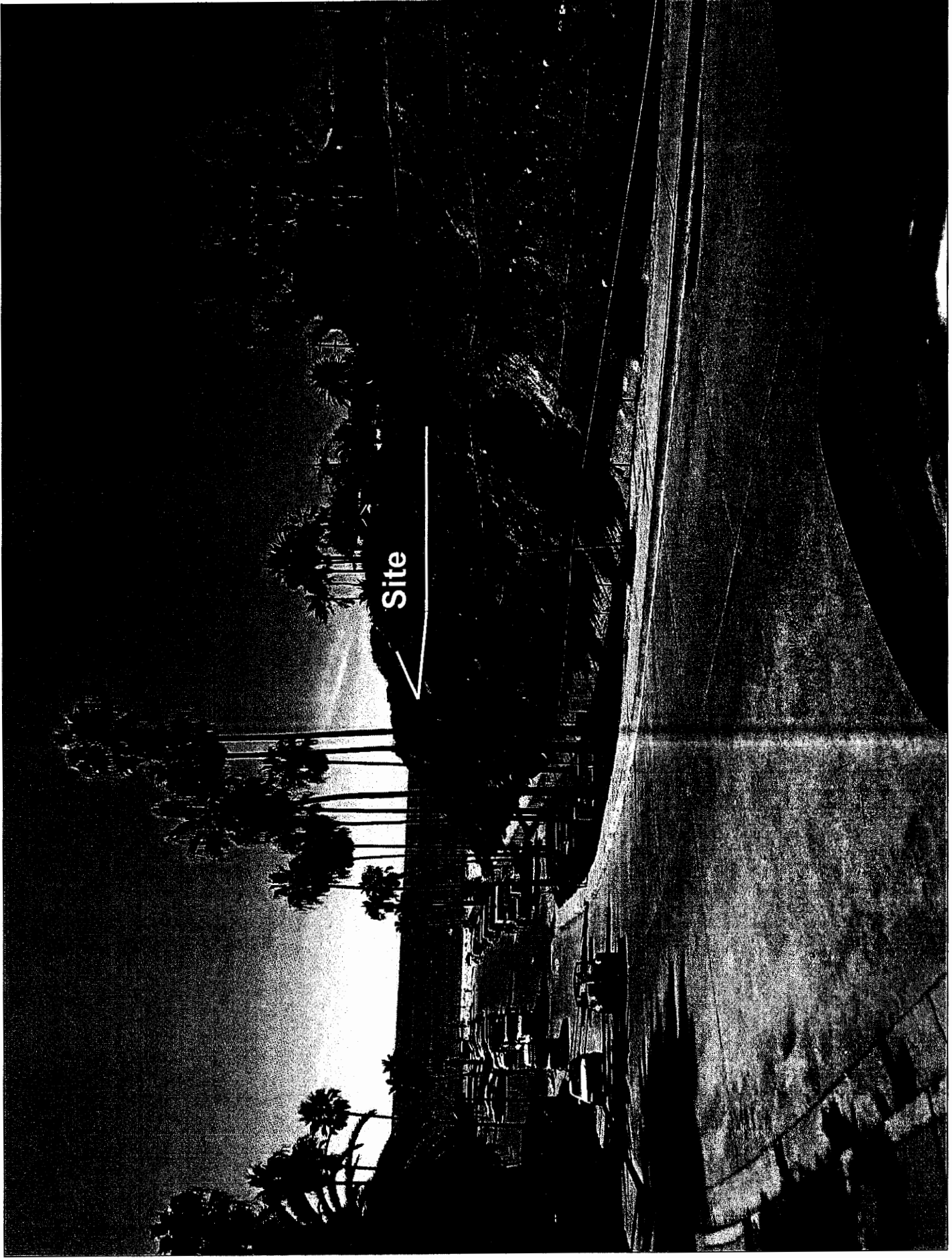


View to Ocean From Tourmaline Park Entrance



Henely Site – With Jacuzzi

From LOCATION 'C'



Location of Proposed Jacuzzi and Existing Un-Permitted Walls



from location 'c'

Location of Proposed Jacuzzi and Existing Un-Permitted Walls