

**CALIFORNIA COASTAL COMMISSION**

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



# Th13a

Click here to go to  
original staff report

## Addendum

October 5, 2015

To: Commissioners and Interested Persons

From: California Coastal Commission  
San Diego Staff

Subject: Addendum to **Item Th13a**, Coastal Commission Revocation Request  
**#6-11-044-REV (City of San Diego)**, for the Commission Meeting of  
October 8, 2015.

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The purpose of this addendum is to add letters of response from the party requesting revocation, to add clarification to the staff report, and to add several public comment letters addressing the hearing notice for the subject revocation request and stating opposition to the proposed development. Staff recommends the following changes be made to the above-referenced staff report, with deletions shown in ~~striketrough~~ and additions underlined:

1. On Page 16 and 17 of the staff report, the Conclusion section shall be revised as follows:

For the reasons discussed in detail in the preceding sections of this report, the revocation request does not demonstrate that the applicant knowingly and intentionally provided inaccurate, erroneous, or incomplete information relevant to the Coastal Act analysis as to whether the development approved by the Commission pursuant to CDP #6-11-044 is consistent with the Chapter 3 policies of the Coastal Act. The original approved plans stating 3,125 total square feet did not count features such as equipment space and stairwells towards the building floor area, whereas the final plans did. Using the same methodology, the original approved plans should have indicated a building floor area of 3,860 square feet. This change in calculation affects internal space only and cannot be seen by observers. The final plans do show a minor increase of 130 square feet to accommodate ADA restrooms, larger rescue vehicles, and a third floor open walkway for a total building size of 3,990 square feet. As a result of these revisions, the easternmost side of the ground floor will be shortened and slightly widened, and the northernmost side of the second floor will be expanded for the walkway. These additions will not cause the building as a whole to be any wider, taller, deeper, or further seaward than approved in the original plans, and thus there will be no substantial changes to the views across the site looking towards the

ocean. As this minor, approximately 3% increase in total building floor area results in no new or expanded impacts from the original approval and thus would not have affected the Commission's action on this permit, the Executive Director determined the final plans were in substantial compliance with the original plans. Furthermore, there is substantive evidence of multiple noticing of residences within 100 feet of the project as required by the Commission's regulations, and no evidence that the Commission would have required additional or different conditions or denied this permit application altogether had it received additional input from the public. Thus, the grounds necessary for revocation under Section 13105(a) or (b) of the Commission's regulations have not been satisfied.

In addition, the party requesting revocation contends that the City's site development permit for the subject development is expired and thus the coastal development permit cannot be valid, but this is neither correct nor in any case is it grounds for revocation of the subject coastal development permit. The applicant has indicated that the site development permit is considered utilized, or vested, as they showed evidence of substantial use in progress by complying with the conditions of the permit and actively pursuing building permits, pursuant to Section 126.0108 of the City's municipal code. The applicant was issued their CDP and vested the permit within the legal timeframe. There is currently a court-ordered restraining order halting construction due to a lawsuit between CBR and the City regarding the validity of the site development permit; however, the Commission's coastal development permit is valid and vested as construction began within the legal timeframe. The Commission's findings that no grounds for revocation exist do not rely on the validity of the site development permit for this project, as that is not relevant to the validity of the subject coastal development permit.

The Commission has also received several letters of complaint that the hearing notice for the subject revocation request states the proposed lifeguard station is 3,125 square feet rather than 3,990 square feet, and that raise objections to the siting of the project. The hearing notice for the subject revocation describes the square footage as originally described by the City and as indicated on the issued CDP, because no amendment to the project description was required to issue the permit. The preceding findings clearly explain that the proposed building size has not significantly increased, and that the discrepancy in square footage calculations was due to omission of areas such as equipment space and stairwells in the original plans rather than a substantial change in building size. The letters do not provide any evidence of intentional inclusion of inaccurate, erroneous or incomplete information in connection with the approved coastal development permit application, or any evidence that such information would have caused the Commission to require additional or different conditions on the permit or deny the application.

There has been no intentional inclusion of inaccurate information where accurate and complete information would have caused the Commission to require additional or different conditions on a permit or deny an application, and there has been no

failure to comply with the notice provisions that could have caused the Commission to require additional or different conditions on a permit or deny an application. No Coastal Act impacts have been identified by the party requesting revocation that were not thoroughly reviewed in the initial approval. Therefore, the Commission finds that the revocation request must be denied because the contentions raised in the revocation request do not establish the grounds identified in Sections 13105(a) or (b) of Title 14 of the California Code of Regulations.

ITEM # Th 13a

PERMIT # 6-11-044-REV

Dear Coastal Commission Executive Board,

After reading through the evidence, we believe, the Board must revoke the Permit in question. Every piece of evidence demonstrates a clear support to our claim and leaves no doubt as to what the proper action should be taken by the Board. One of the main duties of the Coastal Commission is to "monitor" its applicants and if the provided information submitted by CBR and Attorney Craig Sherman is viewed with an eye on fairness then we truly feel revocation of the permit should be granted.

Sincerely, ~

  
Ken Giavara  
President Citizens for Beach Rights

RECEIVED

OCT 05 2015

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT



**CALIFORNIA COASTAL COMMISSION**

San Diego Coast District Office  
7575 Metropolitan Drive, Suite 103  
San Diego, California 92108-4402  
(619) 767-2370 FAX (619) 767-2384

*Exhibit 1*

Page: 1

Date: September 18, 2015

**IMPORTANT PUBLIC HEARING NOTICE  
COASTAL PERMIT APPLICATION**PERMIT NUMBER: **6-11-044-REV**

APPLICANT(S): Citizens for Beach Rights

PROJECT DESCRIPTION: Request for revocation of CDP 6-11-044 for demolition of an existing three-story, 30 ft. high, 897 sq.ft. lifeguard station and construction of a new three-story, 30 ft. high, 3,125 sq.ft. lifeguard station including a buried semi-circular sheet-pile bulkhead seawall located 30 feet seaward of the proposed lifeguard structure. Also proposed is an architectural concrete cap on top of the bulkhead wall a maximum of approximately 3 ft. high.

PROJECT LOCATION: South Mission Beach adjacent to 700 North Jetty Road, Mission Beach, San Diego, San Diego County (APN No. 423-750-01)

HEARING DATE AND LOCATION:

DATE **Thursday, October 8, 2015**ITEM NO: **Th13a**TIME **Meeting Begins at 9:00 a.m.**

PLACE **Long Beach Convention and Entertainment Center  
Seaside Ballroom, 300 E Ocean Blvd. Long Beach, CA 90802**

PHONE **(415) 407-3211**

*This is  
extremely  
misleading.  
The hearing is  
for a 3990 sq ft  
structure.*

**HEARING PROCEDURES:**

This item has been scheduled for a public hearing and vote. People wishing to testify on this matter may appear at the hearing or may present their concerns by letter to the Commission on or before the hearing date. The Coastal Commission is not equipped to receive comments on any official business by electronic mail. Any information relating to the official business should be sent to the appropriate Commission office using U.S. Mail or courier service.

**AVAILABILITY OF STAFF REPORT**

A copy of the staff report on this matter will be available no later than 10 days before the hearing on the Coastal Commission's website at <http://www.coastal.ca.gov/mtgcurr.html>. Alternatively, you may request a paper copy of the report from Brittney Laver, Coastal Program Analyst, at the San Diego Coast District Office.

**SUBMISSION OF WRITTEN MATERIALS:**

If you wish to submit written materials for review by the Commission, please observe the following suggestions:

- We request that you submit your materials to the Commission staff no later than three working days before the hearing (staff will then distribute your materials to the Commission).

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT  
7575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108-4421  
(619) 767-2370 FAX (619) 767-2384  
www.coastal.ca.gov



October 16, 2013

## NOTICE OF EXTENSION REQUEST FOR COASTAL DEVELOPMENT PERMIT

**RECEIVED**

Notice is hereby given that: **City Of San Diego, Engineering & Capital Projects, Attn: Jihad Sleiman**

has applied for a one year extension of Permit No: **6-11-044-E1**

granted by the California Coastal Commission on: **August 10, 2011**

OCT 05 2015

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

for **Demolition of an existing three-story, 30 ft., high, 897 sq. ft. lifeguard station and construction of a new three-story, 30 ft. high, 3,125 sq. ft. lifeguard station including a buried semi-circular sheet-pile bulkhead seawall located 30 feet seaward of the proposed lifeguard structure. Also proposed is an architectural concrete cap on top of the bulkhead wall a maximum of approximately 3 ft. high.**

at **On the beach adjacent to 700 N Jetty Road, Misson Beach (San Diego County)**

Pursuant to Section 13169 of the Commission Regulations the Executive Director has determined that there are no changed circumstances affecting the proposed development's consistency with the Coastal Act. The Commission Regulations state that "if no objection is received at the Commission office within ten (10) working days of publishing notice, this determination of consistency shall be conclusive. . . and the Executive Director shall issue the extension." If an objection is received, the extension application shall be reported to the Commission for possible hearing.

Persons wishing to object or having questions concerning this extension application should contact the district office of the Commission at the ~~above~~ address or phone number.

Sincerely,  
CHARLES LESTER  
Executive Director

By: ALEX LLERANDI  
Coastal Program Analyst

Supervisor:

cc: Local Planning Dept.

EVERY AND ALL PERMITS,  
PERMIT APPLICATIONS AND DOCUMENTS  
LIST PROJECT AT 3125 sq ft !!  
I'M SURE THAT IS WHAT DR. LESTER ALSO BELIEVED.



HEARING OFFICER  
RESOLUTION NO. 5944  
SITE DEVELOPMENT PERMIT NO. 197971  
SOUTH MISSION BEACH LIFEGUARD STATION

WHEREAS, THE ENGINEERING AND CAPITAL PROJECTS DEPARTMENT, Owner/Permittee, filed an application with the City of San Diego for a permit to demolish the existing South Mission Beach Lifeguard Station and construct a replacement 3,125 square-foot lifeguard station with third-story observation tower, first aid room, a reception area, ground-level enclosed parking/storage for safety vehicles and equipment, and restrooms (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 197971 on portions of a 9.79-acre site;

WHEREAS, the project site is located at 700, North Jetty Road in the R-S, R2B, and R2 Zones of the Mission Beach Community Plan Area;

WHEREAS, the project site is legally described as Block No. 6801, Mission Beach, Map No. 1809;

WHEREAS, on September 27, 2006, the Hearing Officer of the City of San Diego considered Site Development Permit No 197971, pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Hearing Officer of the City of San Diego as follows:

That the Hearing Officer adopts the following written Findings, dated September 27, 2006.

FINDINGS:

**Site Development Permit - Section 126.0504**

**A. Findings for all Site Development Permits**

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

The project would demolish an existing lifeguard tower and construct a new lifeguard tower at South Mission Beach. The Mission Beach Precise Plan does not specify a land use designation for the project area. However, the Plan requires that open space be preserved and that views to and along the shoreline from public areas be protected from blockage by development and or vegetation. The proposed new lifeguard station would be a public safety accessory use supporting the beach open space and has been designed to minimize blockage of public views. The station would be constructed in an orientation perpendicular to the shoreline, and, therefore, would present its narrowest dimension to the public view areas to the east of the project site. As

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA  
7575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108-4421  
(619) 787-2370

**W7a**

Filed: 6/2/11  
49th Day: 7/21/11  
180th Day: 11/29/11  
Staff: M.Ahrens-SD  
Staff Report: 7/22/11  
Hearing Date: 8/10-12/11

**CONSENT CALENDAR**

Application No.: 6-11-044

Applicant: City of San Diego

Agent: Jihad Sleiman

Description: Demolition of an existing three-story, 30 ft. high, 897 sq.ft. lifeguard station and construction of a new three-story, 30 ft. high, 3,125 sq.ft. lifeguard station including a buried semi-circular sheet-pile bulkhead seawall located 30 feet seaward of the proposed lifeguard structure. Also proposed is an architectural concrete cap on top of the bulkhead wall a maximum of approximately 3 ft. high.

Site: On the beach adjacent to 700 North Jetty Road, Mission Beach, San Diego, San Diego County. APN 423-750-01

Substantive File Documents: Certified Mission Beach Precise Plan; Certified Mission Beach Planned District Ordinance; Geotechnical Investigation by TerraCosta Consulting Group, Inc. Dated 2/16/05; Updates to Geotechnical Report by TerraCosta Consulting Group, Inc. dated 3/31/05, 5/10/06 and 1/21/07; Letters from Dominy + Associates Architects 2/17/05 and 4/4/05; CCC CDP #F8974; City of San Diego Site Development Permit No. 197971 approved 9/27/06. Updates to Geotechnical Investigation by TerraCosta Consulting Group, Inc. letter Dated 6/2/11; Dominy + Associates Letter dated 6/2/11; Dominy + Associates Plans dated 6/2/11. CDP # 6-05-017.

**I. STAFF RECOMMENDATION:**

The staff recommends the Commission adopt the following resolution:

**MOTION:** *I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

COMMISSION ACTION ON AUG 10 2011

- ☒ Approved as Recommended  
☐ Denied as Recommended  
☐ Approved with Changes  
☐ Denied  
☐ Other

**CALIFORNIA COASTAL COMMISSION****FILE COPY**

San Diego Coast Area Office  
7575 Metropolitan Drive, Suite 103  
San Diego, CA 92108-4421  
(619) 767-2370  
[www.coastal.ca.gov](http://www.coastal.ca.gov)



Page: 1

Date: **August 30, 2011**  
Permit Application No.: **6-11-044**

**COASTAL DEVELOPMENT PERMIT**

On **August 10, 2011**, the California Coastal Commission granted to:

**City of San Diego**

this permit subject to the attached Standard and Special Conditions, for development consisting of

**Demolition of an existing three-story, 30 ft. high, 897 sq. ft. lifeguard station and construction of a new three-story, 30 ft. high, 3,125 sq. ft. lifeguard station including a buried semi-circular sheet-pile bulkhead seawall located 30 feet seaward of the proposed lifeguard structure. Also proposed is an architectural concrete cap on top of the bulkhead wall a maximum of approximately 3 ft. high**

more specifically described in the application filed in the Commission offices.

The development is within the coastal zone

**On the beach adjacent to 700 North Jetty Road, Mission Beach, San Diego, San Diego County. APN 423-750-01.**

Issued on behalf of the California Coastal Commission by

PETER M. DOUGLAS  
Executive Director

By: **MELISSA AHRENS**  
Coastal Program Analyst

**ACKNOWLEDGMENT:**

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part that: "A Public entity is not liable for injury caused by the issuance. . . of any permit. . ." applies to the issuance of this permit.



RECEIVED

JUN 02 2011

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

# NOTICE OF PENDING PERMIT

A PERMIT APPLICATION FOR DEVELOPMENT ON THIS SITE IS PENDING BEFORE THE CALIFORNIA COASTAL COMMISSION.

PROPOSED DEVELOPMENT: Demolition of an existing 897 sq. ft., three  
story lifeguard tower built in 1974, and the construction of an approximately 3000  
sq. ft. lifeguard station. The improvements will also include erosion control barrier,  
extension of a 6 ft. sidewalk, restriping of accessible parking stalls and landscaping repairs

LOCATION: 700 North Jetty Rd.

San Diego, CA 92109

APPLICANT: Jihad Sleiman, Project Manager. City of San Diego, (619)533-7532

APPLICATION NUMBER: 10-11-044

DATE NOTICE POSTED: June 8, 2011

FOR FURTHER INFORMATION, PLEASE PHONE OR WRITE THE OFFICE LISTED BELOW BETWEEN 8 A.M. AND 5 P.M., WEEKDAYS.



CALIFORNIA COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT OFFICE  
7575 METROPOLITAN DRIVE, STE 103  
SAN DIEGO, CA 92108-4402  
(619) 767-2370

PRINT ON YELLOW STOCK CARD

NO OUT OF  
STATE OR  
OUT OF TOWN  
OWNERS



## Section 1000 Public Hearing Notice

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[illegible]

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SECRET

The diagrams show the interaction between a Z boson, a photon, and a gluon. The top row shows a Z boson decaying into a photon and a gluon. The bottom row shows a photon and a gluon merging into a Z boson. The diagrams are arranged in two columns, with the first column showing the Z boson as an incoming line and the second column showing it as an outgoing line.

CALIFORNIA  
COASTAL COMMISSION  
SANDIEGO COUNTY OFFICE

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OCT 05 2015

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

EXHIBIT

3

Note: 1 of 53 pages depicting similar returned envelopes in association with CDP 6-11-044

During the 16 years we have owned this home we have never received any type of notification from the Coastal Commission, nor the City of San Diego in regards to any hearings or information whatsoever concerning the Life Guard Station which the City of San Diego has already begun.

Laura L. Thomas  
Laura L. Thomas, Trustee

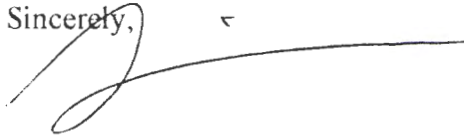
Declarations from  
OCEAN FRONT WALK OWNERS  
Regarding Notification

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT



Our names are Ken and Lindsey Giavara and we own 2703 Ocean Front Walk. We have owned and lived here since March of 2006. This is our only address as well as our legal address of our tax records. We are writing this on September 18, 2015. We have never once received any type of notice from the City of San Diego nor The Coastal Commission regarding any type of hearing or meeting regarding the Lifeguard Command Station in South Mission Beach as was our legal right based on the City's municipal codes as well as the Coastal Commission Codes.

Sincerely,

A handwritten signature in black ink, appearing to be 'Ken', followed by a long horizontal line extending to the right.

Ken Giavara

A handwritten signature in black ink, appearing to be 'Lindsey Giavara'.

Lindsey Giavara

September 15, 2015

Re: South Mission Life Guard Station

To whom it may concern:

We bought our South Mission Beach condo in July of 2003 (2709 Ocean Front Walk.)

We first heard about the proposed life guard tower shortly after that. It was sent to us by the City of San Diego in the form of a questionnaire about the project. We filled out the questionnaire and asked to be kept informed about the proposed development. This questionnaire was sent to my office in La Mesa at 9633 Grossmont Summit Drive. This is the address of record for my ownership of our condo in Mission Beach. We assumed the project had been cancelled and or put on hold because of lack of city funds. We do not receive mail at 2709 Ocean Front Walk. We never got any further correspondence from the City of San Diego until the project was ready to break ground. They put a flyer on our condo door and sent notice once again, to my La Mesa office.

Sincerely,

Rendell Whittington

11977 Fuerte Vista Lane

El Cajon, CA 92020

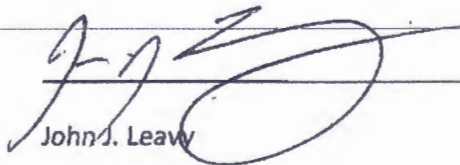
9/23/15

**Declaration:**

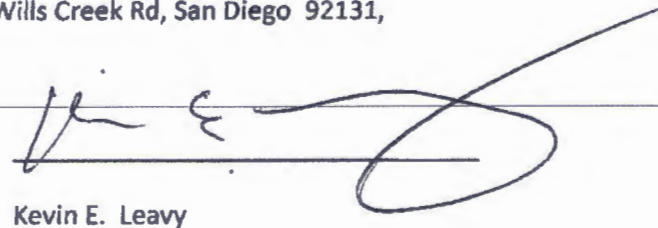
We John J Leavy and Kevin E Leavy own the property at 2663 Unit # 2 Ocean Front Walk, Pacific Beach Ca. 92109. We purchased this property in December of 2008. The title is held in our limited liability company called OFW LLC and the two sole members of OFW LLC are John and Kevin Leavy. Our property is located directly behind the current life guard station on So Mission, PB. We have never received notification from the coastal commission about the construction or intent to construct the proposed new life guard station located in So, Mission near the jetty and parking area.

Our Legal home mailing addresses are: John J Leavy 5350 Alta Bahia Ct. Pacific Beach Ca. 92109

Kevin E. Leavy 11305 Wills Creek Rd, San Diego 92131,



John J. Leavy



Kevin E. Leavy

# Declaration

I am the Owner of 2689 Ocean Front Walk. I have owned the condominium since late summer of 2010. My permanent home address, the same address to which all correspondences are sent to N14W30422 Willow Hill Road, Delafield WI 53018.

I have never received any notification from the Coastal Commission of the City of San Diego about building the Life Guard Station in front of my unit.

Thank You,



Bindu Bamrah M.D.

September 23, 2015

TO WHOM IT MAY CONCERN:

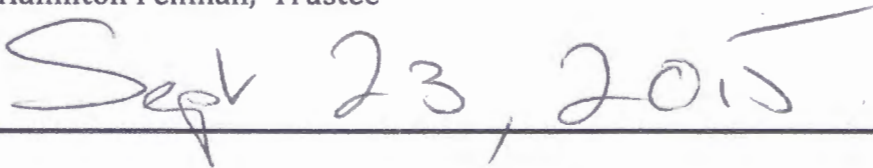
DECLARATION

As the owner of the property at 2595 Ocean Front Walk, I declare I have never received any notification or any other information from the Coastal Commission or City of San Diego regarding the proposed construction or hearings regarding such, of a life guard tower at South Mission Beach Jetty in San Diego.

The Alison Hamilton Fellman Trust is the owner of 2595 Ocean Front Walk, Unit 3. This property was purchased for residential use in March 1996. The legal address of this Trust is 1603 Beryl Street, San Diego, CA 92109.

A handwritten signature in dark ink, appearing to read "Alison Hamilton Fellman", is written over a horizontal line.

Alison Hamilton Fellman, Trustee

A handwritten date "Sept 23, 2015" is written in dark ink over a horizontal line.

DECLARATION: Dated September 23, 2015

The Nielson Family Trust is the owner  
of:

2693 Ocean Front Walk  
San Diego, California 92109

We purchased our  
property March of 1998.

This is our second and vacation home. It is not a  
rental.

We reside in Chandler, Arizona. Our Legal address where all mail is  
received which includes all correspondence/mail from the State of California  
is:

35 South Fairway Court  
Chandler, Arizona 85225

We NEVER received any  
correspondence of any kind or notifications from anyone, especially from The  
Coastal Commission on any hearings or meetings in regards to this project. This  
is very disturbing and deceitful on how such a LARGE PROJECT could slip through  
the cracks!

Deneen and Kirk Nielson  
Nielson Family Trust

Sent from my  
iPad

To whom it may concern:

We are the owners of 2721 oceanfront walk 92109, and have been since 1984.

The title is in the name of HFLP.LLC. I am the manager of that llc.

The tax and license notices have been sent to my address at 26 n state st ,84103

For over 12 years .

I have never received any notice regarding the construction of a life guard tower, especially

From the California Coastal Comm. yet i have from time to time received notices from them regarding other matters.

Respectfully

Steve Harmsen mgr.

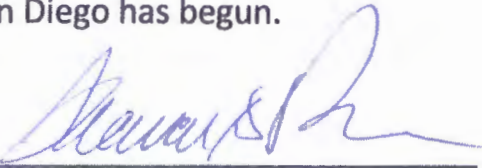
HFLP LC

## Declaration

Dated 9/23/2015

The Price Trust is the owner of 2687 Ocean Front Walk, San Diego, California 92109. This condominium was purchased June 30, 2006. The legal address of the Price Trust is 135 E Sir Francis Drake Blvd. Larkspur, California 94939.

We have never received any notification from the Coastal Commission or the City of San Diego concerning any hearings on the Life Guard Station that The City of San Diego has begun.

A handwritten signature in blue ink, appearing to read 'Thomas A. Price', is written over a horizontal line.

Thomas A. Price, Trustee

Price Trust u/t/a dated 10/5/84



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Marin )

On September 23, 2015 before me, Martha Tallant Sogol, Notary Public,  
Date Here Insert Name and Title of the Officer  
personally appeared Thomas A. Price  
Name(s) of Signer(s)

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

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Martha Tallant Sogol  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: Declaration Document Date: 9/23/2015  
Number of Pages: 1 Signer(s) Other Than Named Above: none

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: Thomas A. Price  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Individual ☐ Attorney in Fact  
☒ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_  
Signer Is Representing: Price Trust

Signer's Name: \_\_\_\_\_  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Individual ☐ Attorney in Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

EXHIBIT 5

Revocation Request No. 6-11-044-REV (City of San Diego)

no evidence that the Commission would have required additional or different conditions or denied this permit application altogether had it received additional input from the public. Thus, the grounds necessary for revocation under Section 13105(a) or (b) of the Commission's regulations have not been satisfied. In addition, the party requesting revocation contends that the City's site development permit for the subject development is expired and thus the coastal development permit cannot be valid, but this is neither correct nor in any case is it grounds for revocation of the subject coastal development permit. The applicant has indicated that the site development permit is considered utilized, or vested, as they showed evidence of substantial use in progress by complying with the conditions of the permit and actively pursuing building permits, pursuant to Section 126.0108 of the City's municipal code. The applicant was issued their CDP and vested the permit within the legal timeframe.

Therefore, the Commission finds that the revocation request must be denied because the contentions raised in the revocation request do not establish the grounds identified in Sections 13105(a) or (b) of Title 14 of the California Code of Regulations.

RECEIVED

OCT 05 2015

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

This was ruled on in Superior Court by Hon. Becal and the "argument" the applicant makes here was the same one that Judge Becal ruled against.

Please view Atty Craig Sherman's letter to see the language used by Judge Becal.

It's too bad Coastal Staffer did not cite the ruling rather than the applicant's opinion.

A TRO was granted<sup>17</sup> on behalf of CBR!

EXHIBIT 6

**Laver, Brittney@Coastal**

---

**From:** Sleiman, Jihad <JSleiman@sandiego.gov>  
**Sent:** Tuesday, February 24, 2015 3:26 PM  
**To:** Laver, Brittney@Coastal  
**Subject:** RE: South Mission Beach Lifeguard Station

Thanks.

RECEIVED

OCT 05 2015

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

**From:** Laver, Brittney@Coastal [mailto:Brittney.Laver@coastal.ca.gov]  
**Sent:** Tuesday, February 24, 2015 3:25 PM  
**To:** Sleiman, Jihad  
**Subject:** RE: South Mission Beach Lifeguard Station

Okay no problem, see you Thursday at 2.

**From:** Sleiman, Jihad [mailto:JSleiman@sandiego.gov]  
**Sent:** Tuesday, February 24, 2015 3:21 PM  
**To:** Laver, Brittney@Coastal  
**Subject:** RE: South Mission Beach Lifeguard Station

Thanks Brittney for your quick response, I understand you're super busy, but we have made modifications and prepared several exhibits that we would like to explain to you and Dianne, the meeting should not take longer than a half hour. Thanks for understanding. Jihad

**From:** Laver, Brittney@Coastal [mailto:Brittney.Laver@coastal.ca.gov]  
**Sent:** Tuesday, February 24, 2015 3:15 PM  
**To:** Sleiman, Jihad  
**Subject:** RE: South Mission Beach Lifeguard Station

Do you mind me asking what you would like to meet about? If it is anything that I can discuss with you over phone or email that would be great, as the rest of this week is very busy for me.

**From:** Sleiman, Jihad [mailto:JSleiman@sandiego.gov]  
**Sent:** Tuesday, February 24, 2015 2:50 PM  
**To:** Laver, Brittney@Coastal  
**Subject:** South Mission Beach Lifeguard Station

Hi Brittney, can we set up a meeting with you and Dianne to discuss the CDP for the subject project this Thursday at 2:00 PM, Please let me know. Thanks, Jihad

Project Manager -

Rushing to get this final CDP,  
he realizes people are asking  
questions regarding the project.



**Laver, Brittney@Coastal**

---

**From:** Sleiman, Jihad <JSleiman@sandiego.gov>  
**Sent:** Wednesday, February 18, 2015 7:42 AM  
**To:** Laver, Brittney@Coastal  
**Subject:** South Mission Beach Lifeguard Station- SWPPP  
**Attachments:** Risk Determination Worksheet.pdf

Hi Brittney, hope all is well, please find below the links to the SWPPP and the Post Construction document (WQTR). Also please note that these links will expire in a week, let me know if you want me to send you hard copies. Looking forward to your comments, input and permit issuance.

<https://eftp.mbakerintl.com/link/ZI8BVFQBRdbu8SggePvOE2>

<https://eftp.mbakerintl.com/link/AVOB6s6imegieddiVCN2K8>

Thanks, Jihad

## **Laver, Brittney@Coastal**

---

**From:** Sleiman, Jihad <JSleiman@sandiego.gov>  
**Sent:** Wednesday, February 04, 2015 2:04 PM  
**To:** Laver, Brittney@Coastal  
**Subject:** RE: South Mission Beach Lifeguard Station

Got it, thanks Brittney, you're the best. Jihad

**From:** Laver, Brittney@Coastal [<mailto:Brittney.Laver@coastal.ca.gov>]  
**Sent:** Wednesday, February 04, 2015 2:03 PM  
**To:** Sleiman, Jihad  
**Subject:** RE: South Mission Beach Lifeguard Station

Hi Jihad,

Condition compliance review and approval is done through the Executive Director, which is done at a staff level through me as the planner assigned to this project. You will not need to go back to the Commission for this project unless another extension is needed, or if an amendment is applied for, or anything along those lines. Once staff deems your condition compliance materials complete, we send you your coastal development permit. I hope this answered your question.

Thanks,

**Brittney Laver**  
*Coastal Program Analyst*  
California Coastal Commission  
San Diego District Office  
(619) 767-2370  
[Brittney.laver@coastal.ca.gov](mailto:Brittney.laver@coastal.ca.gov)  
[www.coastal.ca.gov](http://www.coastal.ca.gov)

**From:** Sleiman, Jihad [<mailto:JSleiman@sandiego.gov>]  
**Sent:** Wednesday, February 04, 2015 1:16 PM  
**To:** Laver, Brittney@Coastal  
**Subject:** South Mission Beach Lifeguard Station

Hi Brittney, do you know when this item will be reported out to the full Coastal Commission? Thanks, Jihad

## **Laver, Brittney@Coastal**

---

**From:** Laver, Brittney@Coastal  
**Sent:** Monday, March 16, 2015 4:36 PM  
**To:** 'Sleiman, Jihad'  
**Subject:** RE: Bulk Building comparison

Hi Jihad, I hope to get you a final answer tomorrow. Thanks again for your patience.

**From:** Sleiman, Jihad [<mailto:JSleiman@sandiego.gov>]  
**Sent:** Monday, March 16, 2015 4:06 PM  
**To:** Laver, Brittney@Coastal  
**Subject:** RE: Bulk Building comparison

Hi Brittney, hope you had a nice and relaxing weekend. As you know this was an unfortunate and unforeseen situation for a project with a short construction window, your assistance toward a resolution is most welcomed. I'm hoping you were able to speak to your DD today and we look forward to your expedited news. Thanks, Jihad

**From:** Laver, Brittney@Coastal [<mailto:Brittney.Laver@coastal.ca.gov>]  
**Sent:** Thursday, March 12, 2015 12:37 PM  
**To:** Genova, Darren; Cetin, Elif; Sleiman, Jihad  
**Subject:** RE: Bulk Building comparison

Hi all,

Diana and I will need to finalize this decision with our DD, but she is occupied with the Commission hearing this week so we will not be able to meet with her until next week. I will let you know as soon as possible, we understand this is a high priority. Thank you for your patience.

Brittney

**From:** Laver, Brittney@Coastal  
**Sent:** Wednesday, March 11, 2015 7:15 AM  
**To:** 'Genova, Darren'  
**Cc:** Cetin, Elif; Sleiman, Jihad  
**Subject:** RE: Bulk Building comparison

Thank you Darren, I really appreciate your time on this. I will try to get back to you this week after discussing with staff.

**From:** Genova, Darren [<mailto:DGenova@sandiego.gov>]  
**Sent:** Tuesday, March 10, 2015 5:34 PM  
**To:** Laver, Brittney@Coastal  
**Cc:** Cetin, Elif; Sleiman, Jihad  
**Subject:** Bulk Building comparison

Hi Brittney,

Please find the attachments showing how these buildings compare. Thanks!

*Darren D. Genova*  
Senior Planner, LEED AP

EXHIBIT  
7

**PRESENTATION OF CONE PENETRATION TEST DATA**

**MISSION BEACH LIFE GUARD TOWERS**

**SAN DIEGO, CALIFORNIA**

**RECEIVED**

OCT 05 2015

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

Prepared for:

TERRACOSTA  
San Diego, California

Prepared by:

GREGG IN SITU, INC.  
Signal Hill, California  
03-238sh

Prepared on:

September 15, 2003

GEOTECHNICAL INVESTIGATION AND  
COASTAL ENGINEERING REPORT  
SOUTH MISSION BEACH LIFEGUARD TOWER  
SAN DIEGO, CALIFORNIA

Prepared for  
**DOMINY + ASSOCIATES ARCHITECTS**  
San Diego, California



Prepared by  
TERRACOSTA CONSULTING GROUP, INC.  
San Diego, California

Project No. 2231  
February 16, 2005



Citizens for Beach Rights

EXHIBIT

# South Mission Surfers Preserving the Beach! STOP the Illegal Construction in South Mission Beach!

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OCT 05 2015

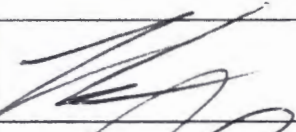
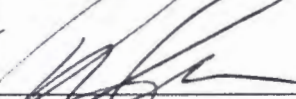


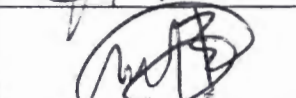


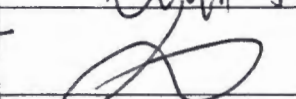
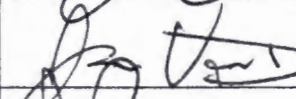

Petition Summary: The City is attempting to build a 4000 sq ft lifeguard hub on the beach ILLEGALLY! They never sent notice to anyone of hearings or size. They don't even have the required permits. Our group wants a nice sleek new tower with all the safety equipment for 1.5 million like they have at La Lolla Shores. NOT a 5 Million dollar massive structure and seawall that could potentially ruin our great surf break at South Mission!

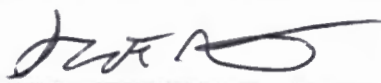
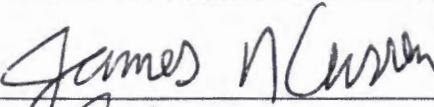
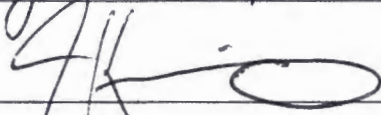
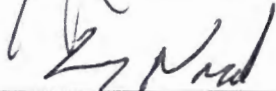
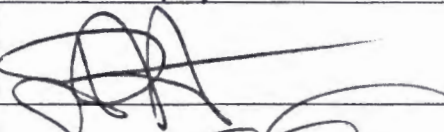

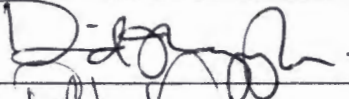
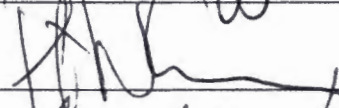
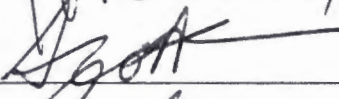
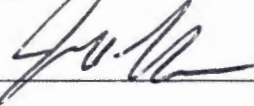
Action Petitioned For: We the undersigned are concerned citizens who urge our leaders to act now to STOP the lifeguard Hub!

Date	Signature	Printed Name	Address	Comment
9-26-15	[Signature]	MT [Signature]	1145 Lido St	
9-26-15	[Signature]	Byron Palmer	1603 Berg 1st	Stop this
9-28-15	[Signature]	Justin Parsons	2640 Bayside	"
9-26-15	[Signature]	J P deKervor	761 Bon Air Way	
9-26-15	[Signature]	Rafael Patterson	490 Rosas Ave	"
9-26-15	[Signature]	Douglas SUTTON	2944 Bayside Dr	

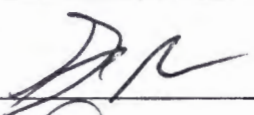
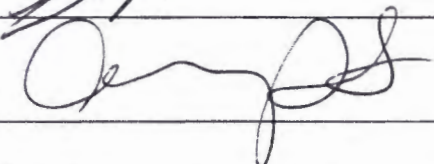
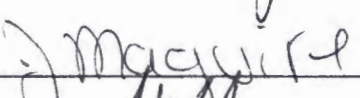

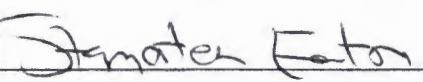
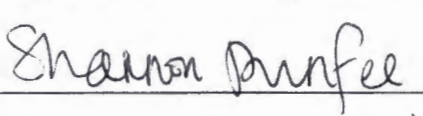
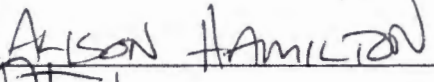
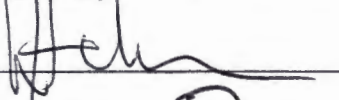
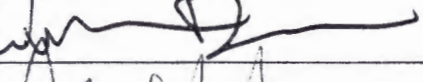
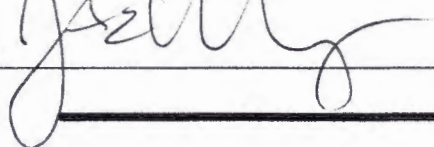
Go to [www.AtYourBusiness.com](http://www.AtYourBusiness.com) for more free business forms

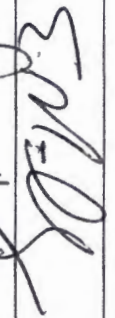


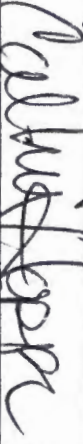






Petition from a one day surf contest in front of the proposed new structure. These voices should have been heard at the hearing.

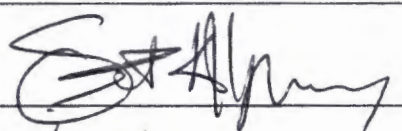
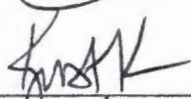
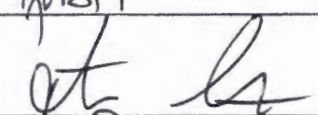
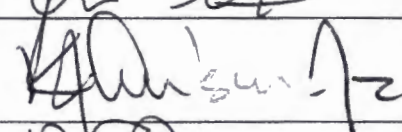


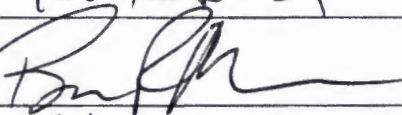
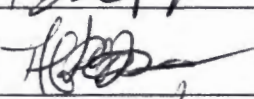
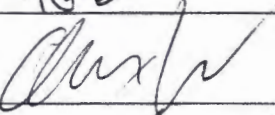
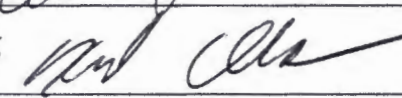
Date	Signature	Printed Name	Address	Comment
9-26-15		Eric Giral	2716 Fornasetti Dr	why spend the \$ there a main river within 1 mile
9-26-15		Rich Genco	2692 State St.	NO NEED
9-26-15		Charlie Rids	3904 HAWK ST. SD 92103	NONE
9-26-15		Jim Ferraris	1327 Emcard SD CA 92109	SCALE IT DOWN
9-26-15		Matt Barth	4171 Taps Dr SD CA 92117	
9/26/15		Joe Popper	7760 Vickers	NONE
9/26/15		Charles Turcek		
9/26/15		Milla Wagon	2880 Murray St SD CA 92117	TO BIG!
9/26/15		Jason Vandenberg	705 1/2 Avalon Ct 92109	PUT IT IN EXISTING SITE
9/26/15		Jens Rasmussen	2555 Willow St San Diego CA 92106	

Date	Signature	Printed Name	Address	Comment
9-26-15		SCOTT MORRISON	Pil Venice CT 92107	Too Big
9-26-15		JAMES N. CURREN	839 BALBOA CT SAN DIEGO CA. 92109	\$ WHY SO LARGE?
9-26-2015		Jeff Kinney	4786 LITHROP PI SD CA 92117	
9-26-2015		GARY NOVAK	957 Loring St S.D CA 92109	
9-26-2015		ROB MOLT	2077 OCEANVIEW	KEEP IT SMALL
9-26-15		SCOTT CADAM	2038 Beryl St San Diego CA	TOO LARGE
9/26/15		David Garczynski	3315 Dale St SD, CA. 92104	
9-26-15		PETER CURRY	4587 ROBBINS ST SD 92122	CAS RECCARY
9-26-15		SCOTT ALLEN	3479 Via Beltran SD CA 92117	Too Big
9-26-15		JULES NACARIO	3417 ARDEN AVE SD 92104	Too Big



Date	Signature	Printed Name	Address	Comment
9/25/15		George Rogers	6822 IVES CT SD, 92111	
9/26/2015		Ann-Marie Schmidt	<del>4790</del> 4790 Robbins St San Diego CA 92122	
9/26/15		J. Maguire	720 Capistrano SD CA 92109	
9/26/15		ERIC NEEL	871 STARFLOWER ENCINITAS, CA 92024	WHERE'S PAM ANDERSON
9/26/15		Stomater	1145 Law St SD CA 92109	
9/26/15		Shannon Dunfee	530 Granilla Place	
9/26/15		ALISON HAMILTON	2595 Mission Blvd	STOP!
9/26/15		LARS FELLMAN	2555 OCEAN FRONT WALK	
9/26/15		Andre DESJARDINS	4064 LAMONT ST. SD, CA 92109	SPEND \$5 million on something we need
9/26/15		Jason West	30 Buena Vista Newport Beach 92658	

Date	Signature	Printed Name	Address	Comment
9-20		Earl McIlroy	4023 Dunhill Ct 2880 Murat St. San Diego, Ca. 92117	NO
9/26		Denise Matheson	4099 Puerteco Ave. #221 SD, CA 92117	NO!
9/26		Andrea Cardona	SD, CA 92117	NO
9/26		Cathy Hopp	2880 Murat St. SD, CA 92117	N/A
9/26		MARY KOPP	3639 MONTEVUE ST. ST. SD. 92109	—
9/26		Matthew Kopp	1258 Kopp St SD CA 92109	NO
9/26		James Dodd	4120 Datchford SD CA 92112	NO
9/26		Ada Fiacri	771 Whitegate St Calhoun CA	NO!
9/26		Michael Fitts	552 Oliver San Diego CA	NO.
9/26		John Ready	3829 Mission Blvd SD CA	NO

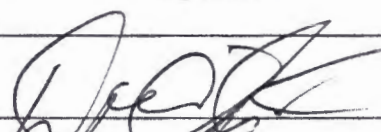
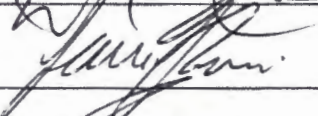
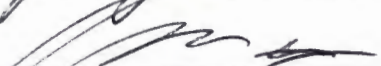
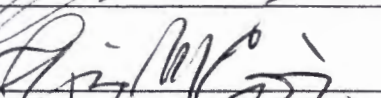
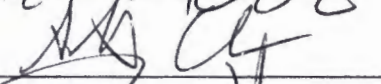
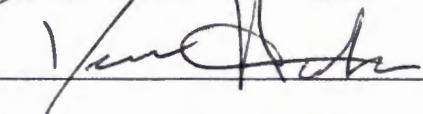
Date	Signature	Printed Name	Address	Comment
9-26-15		Stuart Kellermyer	405 Encino Dr. Aptos, CA	
9-26-15		Kristen Kellermyer	805 ENCINO DR Aptos, CA 95003	
9-26-15		Justin Strong	4735 Moraga San Diego, CA 92117 AVE	
9/26/15		K. J. Caruso	213 Reed Circle MILL VALLEY, CA 94041	
9.26.15		ROBBY GORDON	1500 AULI VIERA WAY. 92109	TOO BIG TOO EXPENSIVE !!!
9-26		KENT SEIKER	3755 Ingraham St #104 San Diego, CA	Too big too time consuming
9-26-2015		Ben Rhynders	3878 Canning Ave San Diego, CA 92111	Too Big Too expensive
9-26-2015		Nick Poon	8811 Starwood Ln Unit 2 San Jose, CA	"TO BIG TO" much #
9-26-2015		Alex Wagner	8651 A Hag View Dr Santee CA	TOO BIG!!! Too expensive
9-26-2015		Kirk Childress	17376 Eos Ct El Cajon 92011	TOO BIG Sound money for OTHER things


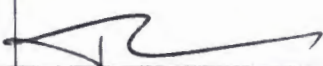
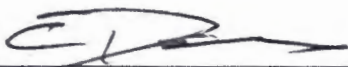

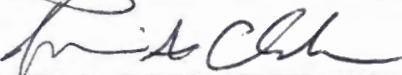
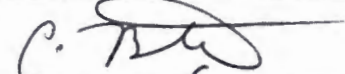
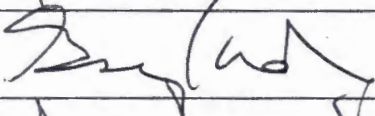
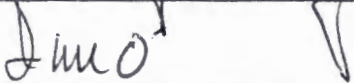
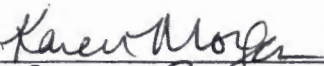

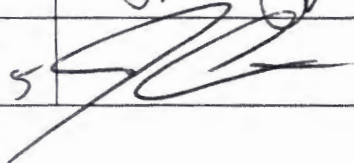


# South Mission Surfers Preserving the Beach! STOP the Illegal Construction in South Mission Beach!

Petition Summary: The City is attempting to build a 4000 sq ft lifeguard hub on the beach ILLEGALLY! They never sent notice to anyone of hearings or size. They don't even have the required permits. Our group wants a nice sleek new tower with all the safety equipment for 1.5 million like they have at La Lolla Shores. NOT a 5 Million dollar massive structure and seawall that could potentially ruin our great surf break at South Mission!

Action Petitioned For: We the undersigned are concerned citizens who urge our leaders to act now to STOP the lifeguard Hub!

Date	Signature	Printed Name	Address	Comment
9/26/11		Danny Goveas	3655 Vel Del conquistador	NO!
9/26/11		Jesus Ruiz	710 CARISTANO PL. S.D. CA 92001	
9/26		Gene Barker	3352 Grosvenor St. San Diego CA 92104	
9/26		Chris McCall	441 110th Ave San Diego 92109	
9/29		Salt Chlores	1846 Westlake Ave 92109 San Diego	
9/29/15		Pernian Hartman	553 Gravilla St SD CA 92037	

Date	Signature	Printed Name	Address	Comment
9/26/15		MICHAEL P. BROWN	921 CANDLELIGHT PL LA Jolla, CA	
9/26		Tracy Cook	5704 Waverly LI CA 92333	
9/26		CHRIS DART	922 ARCHER ST SD 92109	
9/26		Jennifer Caden	2038 BERNIS San Diego CA 92109	
9/26		Jessica Cleek	705 1/2 Ashlan Ct. SD. CA 92109	
9/26		Christi Burt	4071 Toos Dr. S.D. CA 92117	
9/26		Gary Katz	775 Balboa CA SD	
9/26		Ian O'ROURKE	3605 Wilshire S.D. CA. 92104	
9/26/15		Karen Morgan	2396 Warden St San Diego CA 92107	
9/26/15		Jason Zane	4906 Pacific Dr San Diego CA 92109	
9/26/15		Joseph Carrere	11156 ACASO San Diego CA 92126	



AGENDA & ITEM NO Wed 7A

Exhibit

9

REQUEST TO SPEAK

Application/Appeal No: 6-11-41

PERMIT/APPEAL ITEM

Date: 7/13/11

Sarah Dameron

Name

Surfrider Foundation

Organization Represented (if any)

2222 East Cliff Dr #234 Santa Cruz

Address

CHECK ALL APPROPRIATE BOXES

- ☒ In favor of project  
☒ Opposed to project  
☐ Concerned about project but no firm position  
☐ I am/represent appellant  
☐ I am/represent applicant  
☐ I have handouts for the Commissioners  
☐ I will give a presentation (please give presentation to the staff before the hearing)

RECEIVED

SEP 06 2012

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

DECLARATION OF CAMPAIGN CONTRIBUTION (please complete)

Within the past year, I have made campaign contributions of more than \$250 to the following Commissioner(s) or Alternate(s):

Name(s) of Commissioner(s) or Alternate(s) or "None"

(See other side for time limits)

PERMIT/APPEAL

REQUEST FOR NOTICE Application/Appeal No.: \_\_\_\_\_

OF FUTURE HEARINGS Date: \_\_\_\_\_

Fill out this section ONLY if you are interested in being notified of any upcoming Commission business concerning this subject.

NAME \_\_\_\_\_

ADDRESS STREET \_\_\_\_\_

CITY \_\_\_\_\_ COUNTY \_\_\_\_\_ ZIP \_\_\_\_\_

TELEPHONE AREA CODE (\_\_\_\_) \_\_\_\_\_

RECEIVED

OCT 05 2015

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

The only person to show up at the hearing. The only reason this individual showed up is because the "Surfrider Foundation" monitors the coast.

## **Laver, Brittney@Coastal**

---

**From:** Ken Giavara <Kengiavara@aol.com>  
**Sent:** Monday, October 05, 2015 3:15 PM  
**To:** Laver, Brittney@Coastal; Lilly, Diana@Coastal; Lee, Deborah@Coastal  
**Subject:** \$250k raised, lifeguard project stopped | San Diego Reader

Hi- Can you please include this in our materials to the exec committee? Thanks

<http://m.sandiegoreader.com/news/2015/oct/05/ticker-250k-raised-mission-beach-lifeguard-stopped/>

Sent from my iPhone



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## \$250K RAISED, LIFEGUARD PROJECT STOPPED

"I placed 44 calls to Zapf's office. She refused to speak on the issue."

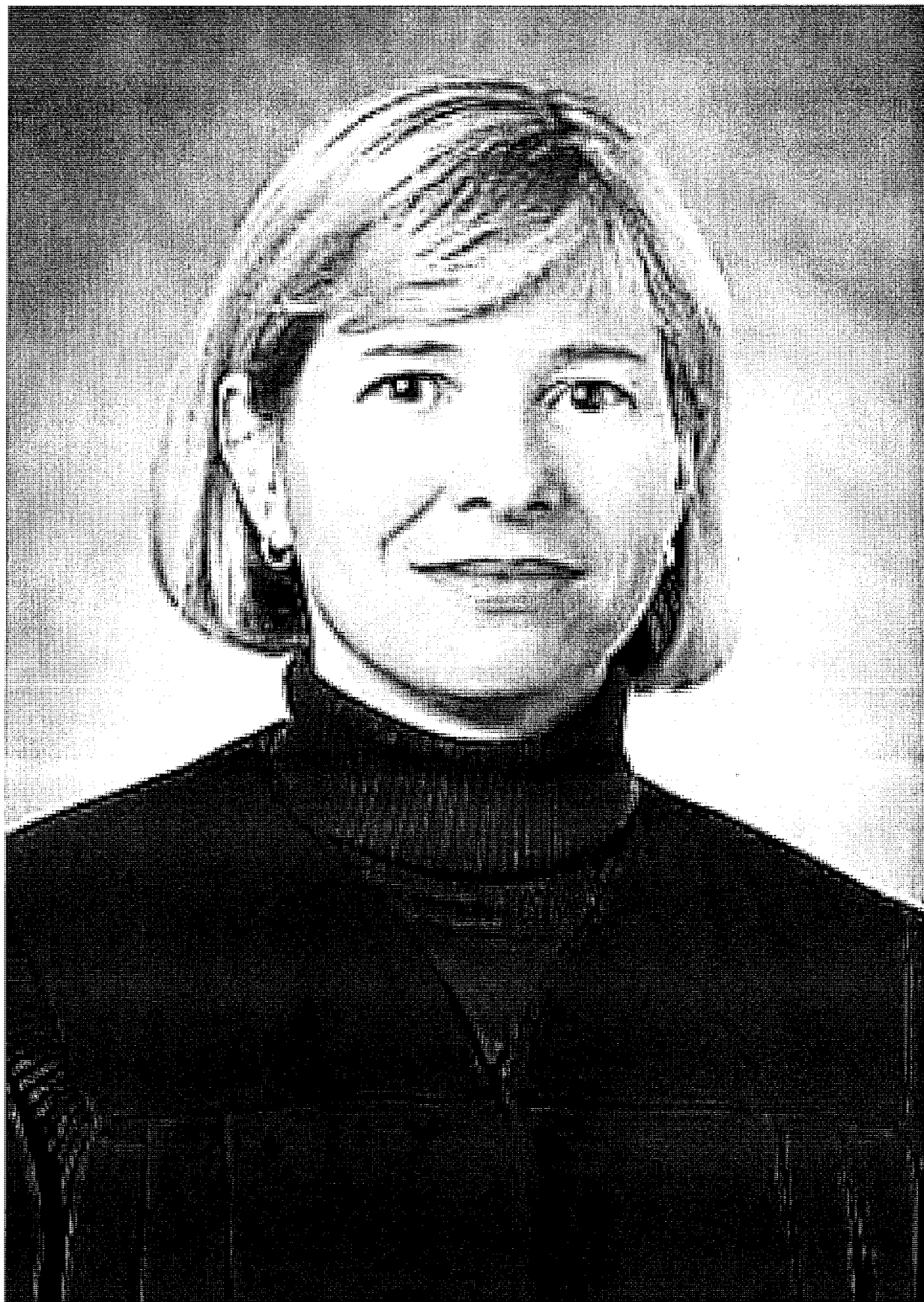
By Dorian Hargrove, Oct. 5, 2015

MISSION BEACH | NEWS TICKER



South Mission Beach lifeguard station

A group of Mission Beach residents fighting against **unpermitted construction of a new lifeguard tower** near the Mission Beach Jetty has raised the **\$250,000 bond** needed to **stop the project** until a court trial can take place.



Judge Katherine Bacal

On October 2, the group known as Citizens for Beach Rights submitted the bond money to Superior Court judge Katherine Bacal. Stopping construction, says the group's leader, Ken Giavara, was essential in order to strip a possible legal defense by the city that the project was too far along to stop.

Because the city had already hired contractor EC Constructors, and because construction had already begun, Bacal had ordered the beach-rights group to post a \$250,000 bond to pay for lost revenues by the construction company in case residents lost the case. Attorney Craig Sherman tried to reduce the bond but to no avail.

Giavara assumed the high bond amount would prove to be the end of the case. The bar is set high for judges when ordering removal of new construction. Typically, the more money spent on construction, the harder the case is to win.

But Giavara's doubts were eased when residents and members of the group began pledging large amounts of money to pay for the bond.

"The fact that private citizens have to pay a bond to prove to the city that their own permit is void is just mind-boggling," says Giavara. "When the bond was set at \$250,000 we had to dig in even deeper and really demonstrate our commitment to not only protect our rights but to protect the rights of every citizen in San Diego.

"It was not easy to come up with that amount of money for the bond — it was actually incredibly difficult but it was a necessity. We couldn't allow the city to win this case based on the bond issue and have the case decided on the merits of the lawsuit, which we believe are clearly on our side....



Lorie Zapf

"We are fine with building something reasonable, a state-of-the-art station," continues Giavara. "But our ultimate goal is bring it back to the public. The reason permits have expiration dates is because neighborhoods change, zoning laws change, environmental laws change, and technology changes. A lot has changed since they got this permit seven years ago.

"I'm most disappointed with Lorie Zapf's office. I placed 44 calls to Zapf's office. She refused to speak on the issue. This whole thing could have been avoided. The city was even given a chance to settle and they refused. Now that the bond has been paid a trial will occur. Legal fees will have to be paid. Talk about taxpayer waste..."

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## MORE FROM SDREADER

More stories by Dorian Hargrove

**Mission Beach lifeguard station saga continues** — Sept. 21, 2015

**Mission Beach to wait longer for new lifeguard tower** — Sept. 3, 2015

**Zapf's left turn into O.B.** — Feb. 7, 2015

**Group of Rolando residents file suit over controversial mixed-use project**

**Centrepont** — Oct. 10, 2013

**A View of the Bay** — March 6, 1980

## COMMENTS

1 Comment

Sort by Top



Add a comment...




**Steve Sites**

After sitting through a few City Council meetings observing Lori Zapf, I'm not surprised. Unless you are a developer or a city insider count on Lorie to become mute on almost any subject which may ruffle her handlers feathers.

She has NO business representing anyone other than herself and those who financially support her politically.

Like · Reply · 3 hrs

 Facebook Comments Plugin

**Laver, Brittney@Coastal**

---

**From:** Ken Giavara <Kengiavara@aol.com>  
**Sent:** Monday, October 05, 2015 4:16 PM  
**To:** Laver, Brittney@Coastal; Lilly, Diana@Coastal; Lee, Deborah@Coastal  
**Subject:** Judge halts lifeguard tower, citing expired permit | SanDiegoUnionTribune.com

Hi- Please include this article from last week also. Thanks

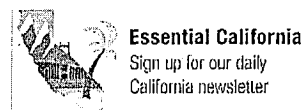
<http://www.sandiegouniontribune.com/news/2015/sep/21/south-mission-lifeguard-tower-halted/>

Sent from my iPhone

(/)

[Today's Paper\(/todays-paper/\)](#)
[Weather 71° F\(/weather/\)](#)
[Traffic\(/mytraffic/\)](#)
[Surf\(/surf-report/\)](#)
[Newsletters\(/newsletter/signup/\)](#)
[Text Alerts\(/text-alerts/\)](#)
[Twitter\(/https://twitter.com/sdut\)](#)
[Facebook\(/https://www.facebook.com/SanDiegoUnionTribune/\)](#)
[Google+\(/https://plus.google.com/sandiegouniontribune/\)](#)
[SUBSCRIBE/LOGIN\(/ACCOUNTS/LOGIN/?NEXT=/NEWS/2015/SEP/21/SOUTH-MISSION-LIFEGUARD-TOWER-HALTED/?FLOW\\_TYPE=SUBSCRIPTION\)](#)
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<a href="#">LIFESTYLE(/NEWS/ENTERTAINMENT/LIFESTYLE/)</a>	<a href="#">MILITARY(/NEWS/MILITARY/)</a>	<a href="#">OPINION(/NEWS/OPINION/)</a>	<a href="#">VIDEO(/TV/)</a>
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			<a href="#">CARS(/NEWS/CARS/)</a>


[COMMUNITIES\(/NEWS/COMMUNITIES/\)](#) | [BEACH AREAS\(/NEWS/COMMUNITIES/BEACH-AREAS/\)](#)

# Judge halts lifeguard tower, citing expired permit



(/staff/jeff-mcdonald/) By Jeff McDonald(/staff/jeff-mcdonald/) | 3:30 p.m. Sept. 21, 2015



Construction of the new lifeguard tower long-planned for South Mission Beach will not restart anytime soon.



(http://www.facebook.com/sdut) <http://www.sandiegouniontribune.com/news/2015/sep/21/south-mission-lifeguard-tower-halted/all/>



(https://twitter.com/sdut) <http://www.sandiegouniontribune.com/news/2015/sep/21/south-mission-lifeguard-tower-halted/all/>



(http://www.google.com/sdut) <http://www.sandiegouniontribune.com/news/2015/sep/21/south-mission-lifeguard-tower-halted/all/>



the neighborhood and obstructs views. They complained that city planners relied on an expired permit when the workers finally started building.



(http://www.sandiegouniontribune.com/news/2015/sep/21/south-mission-lifeguard-tower-halted/all/) <http://www.sandiegouniontribune.com/news/2015/sep/21/south-mission-lifeguard-tower-halted/all/>

The city received a site development permit in 2006 to develop the new tower, but did not start the actual construction until April 2015. The three-story project is supposed to replace a wooden tower that was built in the 1970s.

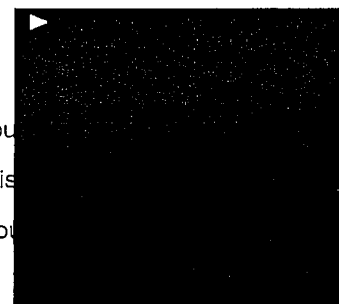
"The SDP clearly states construction, grading or demolition must commence within 36 months," Bacal wrote. "That did not happen. There is no evidence that the city requested an extension of time."

Citizens for Beach Rights sued the city earlier this year to halt construction, and received a temporary restraining order last month.

The city, which has a moratorium on beach development between the Memorial and Labor day holidays, was scheduled to restart work on the \$5 million project earlier this month. The tower, originally budgeted at about \$1 million, was supposed to be completed by May 2016 but now will likely be delayed until 2017 or later.

The construction site, immediately north of the existing tower, is fenced off from beachgoers. The work to date is largely limited to construction of a concrete pad.

It was not clear Monday if the city will pursue a new permit or continue to litigate the dispute.



## TOP STORIES



Report card: Chargers rally over Browns  
(/news/2015/oct/04/chargers-report-card-browns/)



(/news/2015/oct/03/child-heatstroke-deaths-cars-accident-or-crime/)

Child heatstroke deaths in cars: accident or crime?



(/news/2015/oct/03/stem-cell-meeting-mesa-2016/)

Stem cell clinical trials are multiplying



Drug figure extradited 20 years later  
(/news/2015/oct/03/reynoso-drug-tunnel-extradited-20-years-later/)



City officials, who did not immediately respond to questions about the injunction, argued in court that by seeking the additional permit they needed from the California Coastal Commission, they were in fact utilizing the first permit.

Craig Sherman, the San Diego attorney who represents Citizens for Beach Rights, said the judge was right to stop the work because the city's argument made little sense.

"I believe the court recognized major problems with the city's internal and/or written 'policy' argument that a site-development permit becomes utilized and vested in perpetuity simply because a permittee goes or has gone to another agency to obtain a permit," he said.

Bacal ruled that supporters of the new tower will not be significantly harmed by the delay.

"It has been left in the same condition for several months due to the summer moratorium," she wrote. "This project is fenced off and can remain that way."

The judge is expected to make her tentative ruling final this week.



(/staff/jeff-mcdonald/)

Jeff McDonald()



(http://twitter.com/sdutMcDonald)



(http://facebook.com/UTwatchdog)

#### More from Jeff McDonald

- Heat takes toll on prison inmates  
(/news/2015/oct/05/donovan-heat/)
- State closes probe of CPUC president  
(/news/2015/oct/02/picker-fpcc-case-closed/)
- District accused of covering for principal  
(/news/2015/sep/30/green-lawsuit/)

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From the Web

(http://www.yourdailydish.com/galleries/james-bond-girls-then-and-now/?utm\_source=taboola&utm\_term=ys&utm\_medium=tribunedigital-sandiegouniontribune&utm\_content=http%3A%2F%2Fcdn.taboola.com%2Flibre%2Fstatic%2Fthumbnails%2F919845a9b8578767dbf143065252dc23.jpg&utm\_campaign=taboola\_IBQ)

What These 31 Bond Girls Look Like Now Is Incredible

Your Daily Dish

(http://www.yourdailydish.com/galleries/james-bond-girls-then-and-now/?utm\_source=taboola&utm\_term=ys&utm\_medium=tribunedigital-sandiegouniontribune&utm\_content=http%3A%2F%2Fcdn.taboola.com%2Flibre%2Fstatic%2Fthumbnails%2F919845a9b8578767dbf143065252dc23.jpg&utm\_campaign=taboola\_IBQ)

(http://www.lowratesolar.com/?moid=121627&sourceid=lmbl-41060-70827&utm\_source=taboola&utm\_medium=referral)

Why Aren't California Homeowners Taking Advantage Of Solar Panels?

LowerMyBills

(http://www.lowratesolar.com/?moid=121627&sourceid=lmbl-41060-70827&utm\_source=taboola&utm\_medium=referral)  
(http://try.dollarshaveclub.com/disrupt-desk/?utm\_medium=display&utm\_source=taboola&utm\_campaign=disrupt&utm\_content=hp-disrupt-desk&cvsource=display.taboola.disrupt\_hp-disrupt-desk)

Meet The Man Who Is Disrupting a \$13 Billion Razor Industry

Dollar Shave Club

(http://try.dollarshaveclub.com/disrupt-desk/?utm\_medium=display&utm\_source=taboola&utm\_campaign=disrupt&utm\_content=hp-disrupt-desk&cvsource=display.taboola.disrupt\_hp-disrupt-desk)  
(https://www.lendingtree.com/info/3-highest-paying-cash-back-cards?sourceid=6183136&channel=display&source=taboola&cnme=3BanksIntroduceNewCardsPayingUnusuallyHighCashRewards)

3 Banks Introduce New Cards Paying Unusually High Cash Rewards

LendingTree

(https://www.lendingtree.com/info/3-highest-paying-cash-back-cards?sourceid=6183136&channel=display&source=taboola&cnme=3BanksIntroduceNewCardsPayingUnusuallyHighCashRewards)  
(http://comparisons.org/homeowners-act-now-to-refinance-your-home-before-rates-rise.php?aff=1169&sub=refl\_desk\_network&utm\_medium=tribunedigital-sandiegouniontribune)

Brilliant Mortgage Payoff Method Has Banks On Edge

Comparisons.org

(http://comparisons.org/homeowners-act-now-to-refinance-your-home-before-rates-rise.php?aff=1169&sub=refl\_desk\_network&utm\_medium=tribunedigital-sandiegouniontribune)

(/news/2015/oct/03/right-to-be-forgotten-debate/)



Is there a 'right to be forgotten'?



**Help families affected by Typhoon Haiyan in the Philippines**



(https://www.wfp.org/publications)

#### TRENDING

Chargers re-sign RB Donald Brown  
(/news/2015/oct/05/chargers-sign-donald-brown/)

Five candidates for Padres' managerial job  
(/news/2015/oct/04/padres-manager-search-candidates/)

No NFL meetings news could be good news  
(/news/2015/oct/05/chargers-stadium-nfl-meetings-los-angeles-october/)

California governor signs hard-won right-to-die legislation  
(/news/2015/oct/05/california-governor-signs-hard-won-right-to-die/)

Gates-Green not Gronk-Hernandez, but Chargers tandem is exciting  
(/news/2015/oct/05/antonio-gates-chargers-nfl-steelers/)

15 Comments

Sort by Top

Add a comment...

**John Oliver · UCSD Extension**

Nice to see government stuck by paperwork for once!

Like · Reply · 5 · Sep 21, 2015 7:10pm

**Michael D. Murphy**

Lets all hope that this project does not cost the citizens any more wasted money going to attorney fees. How about this money be spent on the people for clean and working bathrooms, and showers that are not covered in mold, and walls and seating all in disrepair. Stop wasting our money.

Like · Reply · 5 · Sep 21, 2015 4:03pm

**Alex Clarke · CCMS**

The City sure as hell would hold a citizens feet to the fire if they tried to build something with an expired building permit. Those involved in this fiasco should be fired starting with the department head.

Like · Reply · 3 · Sep 22, 2015 6:09am

**Cynthia Lambert · San Diego, California**

The La Jolla towers cost \$9 million. Still not done. Why 4000 sf? This is big enough for a tower plus 3 condos. City Planning is out of control. Permit problems? What reputable construction company does this? City Council approving huge amounts for lifeguard towers? Who designs these, seemingly without cost considerations? No public weigh-in? No consideration for neighborhood impact? THIS IS NOT PLANNING. Start over - new design, new permit, new bid process with a couple million shaved off. The winning bid should then be audited by a third party for competitive pricing - the City Council certainly does not know a dollar from a donut. How could block brick and plumbing cost so much? There should be a community oversight committee that reviews the design, bids and cost.

Like · Reply · 5 · Sep 22, 2015 7:08am

**Robin Mortinger · Port Huron High School**

The wants of the few, out weigh the safety of the many...

Like · Reply · 1 · Sep 22, 2015 6:26am

**Lee Phillippi**

The city bungled the entire project. The residents aren't to blame.

Like · Reply · 3 · Sep 22, 2015 7:49am

**Jim Berg · University of Wisconsin-Madison**

Lee Phillippi no, say it ain't so! You mean the same people who never get fired for bungling such things, get pensions and healthcare for life, spend tax payer money like it's theirs, and won't be held accountable for anything by anyone? You mean those people?

Like · Reply · 2 · Sep 22, 2015 12:54pm

**David Yamaguchi Roe ·**

When a property owner owns land, the property owner doesn't own the view.

Like · Reply · Sep 22, 2015 8:54am

**Chris Brewster**

A Pyrrhic victory. The tower will eventually be built and now there will just be construction fences on the beach that much longer. But if you're rich and want to prioritize the preservation of your views over the public's safety, perhaps you can't see that far down the road.

Like · Reply · Sep 22, 2015 7:47am

**Lee Phillippi**

Villainizing the residents isn't a valid argument and it's beneath you.

The city is to blame for many reasons:

Like · Reply · 1 · Sep 22, 2015 8:00am

**Lee Phillippi**

They failed to provide proper notification and review of the project.

The permit expired 6 years ago!

They were about to erect a structure that exceeded the terms of the expired permit.

Like · Reply · Sep 22, 2015 8:01am

**Lee Phillippi**

I'm certain that they can keep the public safe and abide by the law at the same time.

Like · Reply · Sep 22, 2015 8:03am

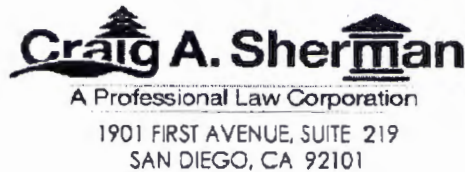
**Victoria VW · San Diego State University**

Not necessary. Widen the boardwalk, make a separate bike lane.. and fix the broken down wall. The bathrooms are a disgrace. If you can't swim stay out of the water. Too many lifeguards.

Like · Reply · Sep 22, 2015 8:17am

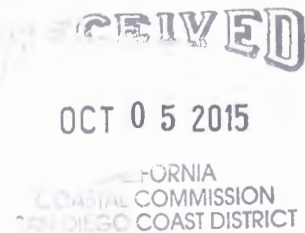
**Mike Johnson**

Tower was moved farther north for two reason. To be closer to swim zone. Second reason was to save the city to not



TELEPHONE  
(619) 702-7692

October 5, 2015



FACSIMILE  
(619) 702-9291

*Via Fax at (619) 767-2384*

San Diego Coast District Office  
C/O Brittney Laver  
7575 Metropolitan Drive #103, San Diego, CA 92108  
Ph: (619) 767-2370

Re: Citizen for Beach Right's Response to Staff Recommendation (*Mission Beach Lifeguard Station Project*)

To the Commissioners of the California Coastal Commission:

The Staff Report for Citizen for Beach Right's ("CBR") request to rescind Coastal Development Permit No. 6-11-044 ("CDP") for Applicant City of San Diego's Mission Beach Lifeguard Station Project ("Project") recommends that CBR's request to revoke the CDP be denied.

Respectfully, Staff is incorrect and the CDP *should* be revoked. CBR's request laid out multiple reasons under California Code of Regulations Title 14, section 13105 (a) and (b) why the CDP should be revoked in its original request which the Staff Report did not adequately address in its recommendation of denial. Further, Subsequent to CBR's request and the Staff Report in response, a strongly worded preliminary injunction order was issued against the City of San Diego ("City"), and finding that CBR is likely to prevail in its suit against City on the basis that the City's Site Development Permit ("SDP") is void, the ruling and an explanation of its significance was provided to the California Coastal Commission ("Commission") in a letter to the Commission dated September 30, 2015.

#### 1. Section 13105 (a)

##### A. Inclusion of inaccurate and erroneous information in connection with CDP Permit No. 6-11-044

CBR is contending a misrepresentation of square footage from 3,125 square feet to, what is now, a 3,990 square foot building from 2005 to 2015. The Staff Report agrees that the square footage from 2005 to 2015 was **always** indicated in all permits, permit applications, paper work, and notices as a 3,125 square foot structure.<sup>1</sup> The Staff Report states that on March 18, 2015 the staff recalculated the square footage and **admits** "an error in the method of calculation of building floor area in the original plans to the final design." (Staff Report at p. 11.) This acknowledgment precisely supports CBR's point. Never was any permit or approval for this project granted at 3,990 square feet. The error is proof that the City did in fact "include inaccurate, erroneous, or incomplete information in connection with its application." (See Section 13105(a).)

Staff contends that it approved the "identical project" from 2007 to 2015 (Staff Report at p. 6). However, Exhibit 5 of the Staff Report clearly shows that the footprint of the structure has changed

<sup>1</sup> With the sole exception being the March 18, 2015 Notice of Acceptance acknowledging that the actual size of the Project is 3,990 sq. ft.



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substantially. This is glaringly apparent on the third floor of the structure. Once again, CBR's revocation request should be granted based on the Coastal Commission's own exhibit which unequivocally illustrates a change in the footprint of the building.

Staff also admits changes include rescue vehicles and additional walkway (Staff Report p. 11; See also footprint diagrams Exhibit 5 to staff report.)

An important fact in this matter is that in 2004, this project was rejected by the Mission Beach Precise Planning Board (MBPPB) at 3,500 square feet as being "too big and too obtrusive" (CBR's Request for Revocation Exhibit C thereto at pp. 10-11.) It was only approved by the MBPPB after the size was reduced to 3,125 square feet.

Staff attempts to downplay and disregard credible evidence provided by CBR. For example, CBR provided a memorandum dated February 26, 2014 from the City architect to the City explaining that the actual square footage of the Project was 3,990 sq. ft. (and not 3,125 sq. ft.). (Revocation Request Exhibit A attached thereto at p. 3.) Staff claims that, for the date on the February 26, 2014 memorandum, "there is an error in the date of the referenced memorandum." (Staff Report at p. 13.) Staff provides no evidence that there was a "mistake," instead, it relies on the conjecture that because the document is stamped received on "February 27, 2015" that it must have been written the day before, there is no evidence to support Staff's contention.

The size of the Project continues to be misrepresented in the Staff Report. The Staff Report under "Project Description" states the structure is 3,125 square feet. (Staff Report at p. 1.) In addition, in the hearing notice sent out by the Commission dated September 18, 2015 in regards to the October 8, 2015 hearing, Staff once again states the hearing is in regard to a 3,125 square foot structure. The information for the current hearing is "inaccurate, erroneous, and incomplete" and does not allow for a properly noticed hearing on CBR's request.

#### B. Intent of Applicant Project Manager Jihad Sleiman

Mr. Sleiman first presented the lifeguard station to the MBPPB in 2004. The station he presented was 3,500 square feet and it was rejected by the MBPPB as being "too big and too obtrusive" (CBR's Request for Revocation Exhibit C thereto at pp. 10-11.) Mr. Sleiman returned to the MBPPB and proposed a 3,125 square foot structure, which was approved by the MBPPB.

CBR contends that Mr. Sleiman always knew the size of the building was greater than 3,500 square feet. Because the 3,500 square foot size had been rejected, Mr. Sleiman chose to indicate on each and every permit, permit application, notice to the hearing officer, as well as every permit application to the Coastal Commission the square footage as 3,125 square feet (See e.g. CBR's Request for Revocation Exhibit D thereto at p. 1) It wasn't until CBR contacted the Coastal Commission in the spring of 2015 that the Coastal Commission admitted in the March 18, 2015 Notice of Acceptance that "the Commission in 2011 contained an error in the building floor area calculations. Although the plans and staff report stated that the square footage of the building was 3,125 square feet, upon careful review of the plans City and Commission staff confirmed that the correct total floor area for the approved building was approximately 3,860 square feet." (Exhibit 4 to Staff Report.)

Mr. Sleiman appeared before the City Hearing Officer in 2006, and he reported that the Board voted unanimously for the approval, and recommended no changes (CBR's Request for Revocation Exhibit C thereto at p. 12.) This is patently false; the vote was 10-4-1. (CBR's Request for Revocation Exhibit C thereto at pp. 10-11.) The Board rejected a 3,500 square foot structure and approved a

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3,125 square foot structure, and recommended the new building be on the same site as the existing station. It is obvious that Mr. Sleiman provided "inaccurate, erroneous, and incomplete" information to the City, the Coastal Commission, and the community *with intent* at all phases of this project.

When the SDP expired in 2009 Mr. Sleiman never addressed the issue because he would be forced to bring the project back through the community and MBPPB. Curiously, Mr. Sleiman has not provided any statement nor declaration in CBR's case against the City. This is odd, as Mr. Sleiman signed and authorized every and all permits and permit applications to the City as well as the Coastal Commission from 2004 to 2015.

In February of 2015, Mr. Sleiman was called to an emergency meeting by the MBPPB. Mr. Sleiman was directly asked by the Board's president, Debbie Watkins, if all permits were approved by the City and Coastal Commission. Mr. Sleiman assured the Board that all permits were approved and valid. President Watkins also asked if all notices were sent out and Mr. Sleiman assured the Board that required notices were sent to property owners. Board members also expressed concerns about the length of time to start construction, the size of the garage, and whether the current plans were the new and smaller design plans approved by the Board at the February 17, 2004 meeting. They wanted to know whether the plans were modified since the February 17, 2004 meeting, and whether extensions were approved over the ten-year period. Mr. Sleiman stated that "the plans were not modified and an extension was approved on August 31, 2015" Attached hereto as Exhibit 1 is a true and correct copy of the Mission Beach Precise Planning Board Tuesday, February 17, 2015 Meeting Minutes.

The evidence of Mr. Sleiman's actions and statements are more than sufficient to show that, as the Project Manager for Applicant, Mr. Sleiman intentionally provided false information about the size of the Project.<sup>2</sup>

## **2. Section 13105 (b)**

### **A. Mr. Sleiman's Failure to Notify Owner's was Intentional**

CBR also contends that Mr. Sleiman intentionally did not provide any notification to any owners or residents within a 100 foot radius of the property line pursuant to the noticing requirements of the CDP. CBR has attached and presented ten (10) letters and declarations from long-time owners that *should* have been noticed for the CDP but were not. (Attached hereto as Exhibit 2.) Notice of the Project is required to go out to all residents and owners. Staff states on page 14 of the Staff Report that "Commission staff believes notice was mailed to all properties within the required notice October 5, 2015

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<sup>2</sup> The Commission should consider that Applicant continues to break the rules on this Project. It began construction work not only with a void SDP but also before obtaining a final permit from the Coastal Commission on March 18, 2015. Pictures depict on February 20, 2015 City property stakes outlining the project site. Attached hereto as Exhibit 4 are true and correct copies of photographs taken by Ken Giavara of the Project site on February 20, 2015. On February 25, 2015 pictures also show City trucks preparing the site. Attached hereto as Exhibit 5 are true and correct copies of photographs taken by Ken Giavara of the Project site on February 25, 2015



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Area." (Staff Report at p. 14.) Where staff only relies on a "belief" that notice was sent, and then only to *properties* and not all owners, the Commission should accept the explicit statements of long-time owners, that they did not receive notice.

The Staff Report indicates that notices sent in 2011 were only sent to properties in the 100 foot radius of the project and that the names on the envelopes were made out to "owner/resident." No notices were made out to a proper name as it appears on the Tax Assessment Log. At no time did Staff send out notices to out of state or out of town owners (Exhibit 2). CBR also contends that the noticing to residents was flawed, as no one in the area received notice. Out of its many members, CBR has two owners who reside at their Ocean Front Walk addresses: Lindsey Oswalt and Dr. Edmund Thile. Neither one of them ever received any notice (See Exhibit 2). In addition, the MBPPB and the Mission Beach Town Council never received any notification on any hearing from 2005 to 2015. A look at the Commission's files clearly shows the Applicant placed "owner/resident" on the envelope. (Attached hereto as Exhibit 3 are true and correct copies of envelope faces made out to "Owner/Resident" as part of the Notice for the CDP in 2011.) Moreover, the list provided by the City from the tax assessor's office was dated 2005. The verification from owners within the 100 foot project property line that no notification was ever given provides unequivocal proof that the permit requires revocation.

B. If Resident's had been Given Notice of the Project, the Commission Would have Denied or Required Additional Conditions to the CDP

If proper notice had been given, at a minimum, the public would have alerted the Commission that the Project was not 3,125 square feet. Further, the Commission would have actually heard from longtime owners and residents and would have required additional conditions on the size and bulk of the Project. Without participation of local residents, the Commission was denied needed knowledgeable and local information about the Project and the site on South Mission Beach. If the Commission had been given input by local residents, it would have either denied or required additional conditions on the CDP.

**3. Conclusion**

Citizens for Beach Rights requests the California Coastal Commission to not accept the conclusion of the Staff Report and vote to revoke the CDP.

Sincerely,



Craig A. Sherman  
Attorney for Plaintiff

# EXHIBIT 1

**Mission Beach Precise Planning Board**  
**Tuesday, February 17, 2015 @ 7 PM**  
**Belmont Park Coaster Terrace – Community Room**

**Minutes of Meeting**

**Board Members Present:**

Bob Craig	Tim Cruickshank	Carole Havlat	Dennis Lynch
Mike Meyer	Bob Ondeck	John Ready	Mary Saska
Gernot Trolf	Debbie Watkins	Jenine Whittecar	

**Absent:** Peggy Bradshaw

**OPENING FUNCTIONS**

Meeting was called to order by Chair Debbie Watkins at 7:05 PM.

- **Approval of Minutes** for January, 2015  
Copies of the draft January 20, 2015 Minutes of Meeting were distributed and reviewed. There were no changes. The Minutes were approved by unanimous consent as written.

**ADMINISTRATIVE ITEMS**

- **Revisions to Agenda**  
Copies of the February 17, 2015 Agenda were distributed and reviewed. There were no additions or subtractions.

- **Chair's Report**  
None.

**Secretary's Report**  
None.

**PUBLIC COMMENT** (limited to 3 minutes per speaker)  
None.

**REPORTS FROM GOVERNMENT OFFICIALS**  
None.

**OTHER**

**Information Item:**

- **New South Mission Beach Lifeguard Station (CIP Project ID: S00791) – Jihad Sleiman, City of San Diego Project Manager, Engineering and Capital Projects; Discuss proposed plans for the new Lifeguard Station**

**Present:** Project Manager Jihad Sleiman; San Diego Lifeguards – Chief Rick Wurts and Lieutenant James Garland; Wayne Holton, Principal Architect, domusstudio Architecture

Chair Watkins apprised the Board that the Mission Beach Precise Planning Board approved the new and smaller design of the new lifeguard station at its February 17, 2004 Meeting, and noted it has taken over 12 years for construction to begin.

City Project Manager Jihad Sleiman made the presentation. He pointed out the lifeguard tower was constructed in 1974 as a temporary facility, is deteriorated and no longer serves the needs of the city lifeguards and public in the area. Mr. Sleiman gave a Power Point presentation showing the project overview. He noted the structure will consist of (3) levels with a rescue vehicle facility on the first floor. He commented that door hangers will be placed on residences within 300 feet to notify them before construction starts in a couple of weeks. He reported the construction budget is \$4.9 Million and the contract is \$3.9 Million. Work is expected to be completed by summer of 2016, and the old structure will be removed at that time.

Chief Rick Wurts briefed the Board on the number of rescues and the need for the lifeguard station. He noted the new lifeguard station will be constructed 75 feet north of the old structure because it is more centrally located offering better views of the area lifeguards protect.

Board Members were given an opportunity to ask questions. Chair Watkins asked about the public approval process and whether the City Council and Coastal Commission approved the project. Mr. Sleiman explained that community workshops were held in November 2003 and January 2004, all permits were approved by the City and Coastal Commission, and the City Council was not required to vote on the building plans. Mr. Sleiman assured the group that required notices were sent to property owners. Chair Watkins pointed out the dimensions of the facility were not included in the presentation and asked Mr. Sleiman to send them under separate email.

Board Members expressed concerns about the length of time to start construction, the size of the garage, and whether the current plans were the new and smaller design plans approved by the Board at the February 17, 2004 Meeting. They wanted to know whether the plans were modified since the February 17, 2004 Meeting, and whether extensions were approved over the 10-year period. Mr. Sleiman pointed out the plans were not modified, an extension was approved on August 31, 2015, and a financing plan by deferred capital bond sale was put in place to pay for the lifeguard station before construction began.

Other Board Members expressed concern about the high-tide line and beach erosion, security and vandalism, and whether the 30-ft height limit included the flag pole. Mr. Sleiman responded there are no issues regarding high tide or beach erosion and the 30-foot height limit will be followed. He noted that anti-graffiti material will be added to the surface and glass will be elevated. Mr. Sleiman stated there are no plans for video surveillance but can be added in the future.

Members of the public were invited to comment. Ken Giavara introduced himself and his wife Lindsey as property owners on Ocean Front Walk and San Luis Rey. He stated he is here to express their concerns and concerns of other neighbors in the area. Mr. Giavara stated he and his neighbors had not been properly noticed by the City about the project. They contend the new lifeguard station is too close to existing residences and ought to be moved south to higher elevation, which would allow easier access to the parking lot and would be less intrusive. Mr. Giavara pointed out 13 years is a long time and much has changed including property owners living nearby, and that should afford additional public review before starting construction.

Chair Watkins thanked Mr. Giavara for his comments and suggested he contact Councilmember Lori Zapf for District 2.



**OTHER****Information Item:**

- **Belmont Park Construction Update: Dan Hayden, Director of Engineering of Pacifica Enterprises, Inc.**

Dan Hayden reported the Belmont Park Lease Extension matter was deferred and the City is fine tuning the document. He noted construction on the elevator is coming along and the elevator will be enclosed in shrink wrap until it is done. Mr. Hayden apprised the Board that Cheap Rentals will expand its business to a 800 sq. ft. site at Belmont Park next to Wings at Building 5. He expects Cannonball to open in 6 – 8 weeks.

**BUILDING PLAN REVIEWS****Action Item:**

- **2719 Bayside Walk Sewer Easement Vacation; Project No. 399948 – Process 2 Public Easement Vacation to vacate a 40-foot wide sewer easement at 2719 Bayside Walk**

**Present:** Andrew Kahn, Principal Engineer and Cole Stafford, Engineer with OMEGA Engineering Consultants, Inc.; Property Owner

Chair Watkins apprised the Board that in order to recommend approval of this project, certain findings must be substantiated pursuant to San Diego Municipal Code §125.1040 - Public Service Easement and Other Easement Vacations as follows:

- (a) There is no present use or prospective public use for the easement, either for the facility or purpose for which it was originally acquired or for any other public use of a like nature that can be anticipated;
- (b) The public will benefit from the action through improved utilization of the land made available by the vacation;
- (c) The vacation is consistent with any applicable land use plan; and
- (d) The public facility or purpose for which the easement was originally acquired will not be detrimentally affected by the vacation or the purpose for which the easement was acquired no longer exists.

Principal Engineer Andrew Kahn presented the project plans and addressed each of the above-mentioned findings to the Board's satisfaction. He noted the easement never served as a public use.

Plan Reviewers Dennis Lynch and Mike Meyer reviewed the project plans for the Board. Dennis Lynch noted the City has no problem with vacating the sewer easement.

After further discussion, the following motion was duly made:

**Motion 1 was made by Mike Meyer and seconded by Dennis Lynch TO SUPPORT the easement vacation to vacate a 40-foot wide sewer easement at 2719 Bayside Walk.**

**VOTE For: 10 Against: 0 Abstain: 0**

**Motion passes.**



**BOARD COMMUNICATIONS****ACTION ITEMS:**

- **Nominations for Area Representatives for March 17, 2015 Election**

Chair Watkins reported there are seven (7) vacancies. The open seats are as follows:

- **Two openings in Area 1** (between San Diego Place and south side of Capistrano Place): **3-year term 2015-2018; 2-year term (2014-2017)**
- **Two openings in Area 2** (between north side of Capistrano Place and south side of West Mission Bay Drive & Ventura Place): **3-year term 2015-2018; 1-year term 2013-2016;**
- **One opening in Area 3** (between north side of West Mission Bay Drive and south side of El Carmel Place): **3-year term 2015-2018;**
- **One opening in Area 4** (between north side of El Carmel Place and south side of San Jose Place): **3-year term 2015-2018**
- **One opening in Area 5** (between north side of San Jose Place and south side of Pacific Beach Drive): **3-year term 2015-2018**

Accordingly, Chair Watkins announced the following four (4) eligible candidates for nominations as Area Representatives to be included on the March 2015 Election Ballot:

<b>Area 1</b>	<b>John Ready (Incumbent, Property Owner)</b>	<b>Term 2015-2018</b>
<b>Area 2</b>	<b>Robert Ondeck (Incumbent, Resident)</b>	<b>Term 2015-2018</b>
<b>Area 3</b>	<b>Debbie Watkins (Incumbent, Property Owner)</b>	<b>Term 2015-2018</b>
<b>Area 5</b>	<b>Peggy Bradshaw (Incumbent, Property Owner)</b>	<b>Term 2015-2018</b>

Chair noted there were no eligible candidates to fill remaining vacancies for Areas 1, 2 and 4.

After further discussion, the following motion was duly made:

**Motion 2 was made by Gernot Trolf and seconded by Mike Meyer TO APPROVE the four (4) eligible candidates for nominations as Area Representatives on the March 2015 Election Ballot as discussed above.**

**VOTE For: 10 Against: 0 Abstain: 0**

**Motion passes.**

- **Approve March 2015 Ballot Design**

Chair Watkins distributed copies of the sample Election Ballot for review. After review and discussion, a motion was duly made as follows:

**Motion 3 was made by Tim Cruickshank and seconded by Gernot Trolf TO APPROVE the Sample Election Ballot for use at the March 2015 Election of Area Representatives.**

**VOTE For: 10 Against: 0 Abstain: 0**

**Motion passes.**

- **Appoint March 2015 Election Secretary**

Chair Watkins explained the duties of the Election Secretary. Jenine Whittecar volunteered. After discussion, Jenine Whittecar was appointed Election Secretary.

As a result, the Election Secretary will prepare the Election Ballot of Area representatives for the March 17, 2015 Election of Area Representatives.

There being no further business, Chair Debbie Watkins noted Agenda Items need to be submitted to the Chair 10 days **PRIOR** to the scheduled Board meeting and the **next meeting will be held on Tuesday, April 21, 2015, at 7PM in the Belmont Park Community Room.**

**ADJOURNMENT**

Motion 4 was made by Carole Havlat and seconded by Gernot Trolf TO ADJOURN the meeting at 8:25 PM.

VOTE For: 10

Against: 0

Abstain: 0

Motion passes.

Submitted by: Debbie Watkins, Secretary

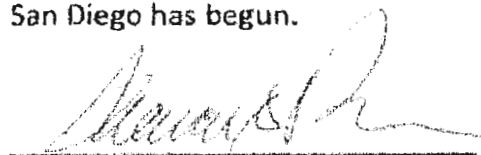
## EXHIBIT 2

## Declaration

Dated 9/23/2015

The Price Trust is the owner of 2687 Ocean Front Walk, San Diego, California 92109. This condominium was purchased June 30, 2006. The legal address of the Price Trust is 135 E Sir Francis Drake Blvd. Larkspur, California 94939.

We have never received any notification from the Coastal Commission or the City of San Diego concerning any hearings on the Life Guard Station that The City of San Diego has begun.

A handwritten signature in cursive script, appearing to read 'Thomas A. Price', is written over a horizontal line.

Thomas A. Price, Trustee

Price Trust u/t/a dated 10/5/84



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT****CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )

County of Marin )On September 23, 2015 before me, Martha Tallant Sogol, Notary Public

Date

Here Insert Name and Title of the Officer

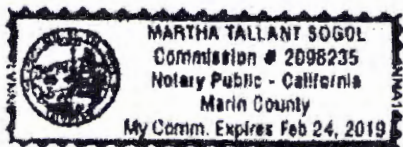
personally appeared Thomas A. Price

Name(s) of Signer(s)

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

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature

Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**Title or Type of Document: Declaration Document Date: 9/23/2015Number of Pages: 1 Signer(s) Other Than Named Above: none**Capacity(ies) Claimed by Signer(s)**Signer's Name: Thomas A. Price☐ Corporate Officer -- Title(s): \_\_\_\_\_☐ Partner -- ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☒ Trustee ☐ Guardian or Conservator☐ Other: \_\_\_\_\_Signer Is Representing: Price Trust

Signer's Name: \_\_\_\_\_

☐ Corporate Officer -- Title(s): \_\_\_\_\_☐ Partner -- ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

To whom it may concern:

We are the owners of 2721 oceanfront walk 92109, and have been since 1984.

The title is in the name of HFLP, LLC. I am the manager of that llc.

The tax and license notices have been sent to my address at 26 n state st ,84103

For over 12 years .

I have never received any notice regarding the construction of a life guard tower, especially

From the California Coastal Comm. yet i have from time to time received notices from them regarding other matters.

Respectfully

Steve Harmsen mgr.

HFLP LC

10/1/15, 7:22 AM

DECLARATION: Dated September 23, 2015

The Nielson Family Trust is the owner  
of:

2693 Ocean Front Walk  
San Diego, California 92109

We purchased our  
property March of 1998.

This is our second and vacation home. It is not a  
rental.

We reside in Chandler, Arizona. Our Legal address where all mail is  
received which includes all correspondence/mail from the State of California  
is:

35 South Fairway Court  
Chandler, Arizona 85225

We NEVER received any  
correspondence of any kind or notifications from anyone, especially from The  
Coastal Commission on any hearings or meetings in regards to this project. This  
is very disturbing and deceitful on how such a LARGE PROJECT could slip through  
the cracks!

Deneen and Kirk Nielson  
Nielson Family Trust

Sent from my  
iPad

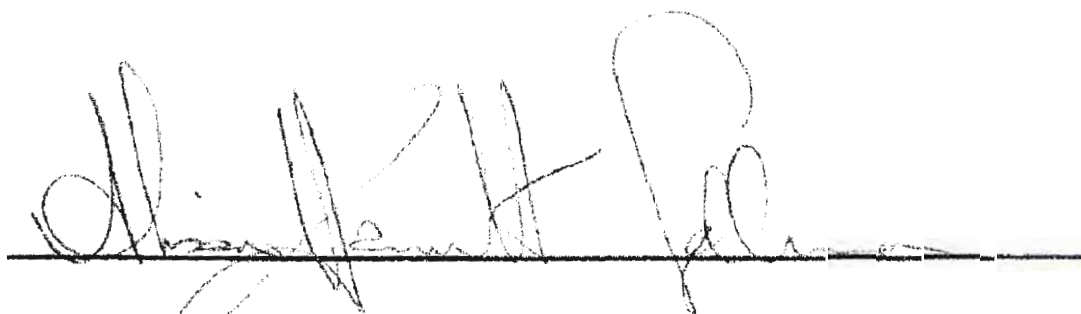
September 23, 2015

TO WHOM IT MAY CONCERN:

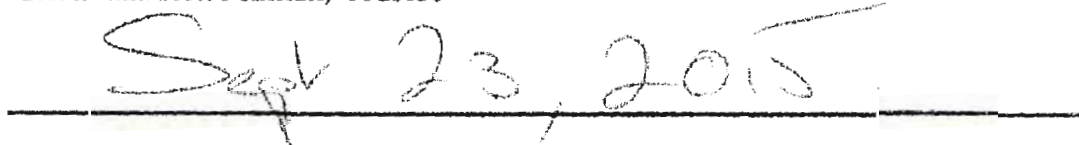
DECLARATION

As the owner of the property at 2595 Ocean Front Walk, I declare I have never received any notification or any other information from the Coastal Commission or City of San Diego regarding the proposed construction or hearings regarding such, of a life guard tower at South Mission Beach Jetty in San Diego.

The Alison Hamilton Fellman Trust is the owner of 2595 Ocean Front Walk, Unit 3. This property was purchased for residential use in March 1996. The legal address of this Trust is 1603 Beryl Street, San Diego, CA 92109.

A handwritten signature in dark ink, appearing to read "Alison Hamilton Fellman", is written over a horizontal line.

Alison Hamilton Fellman, Trustee

A handwritten date "Sept 23, 2015" is written in dark ink over a horizontal line.



# Declaration

I am the Owner of 2689 Ocean Front Walk. I have owned the condominium since late summer of 2010. My permanent home address, the same address to which all correspondences are sent to N14W30422 Willow Hill Road, Delafield WI 53018.

I have never received any notification from the Coastal Commission of the City of San Diego about building the Life Guard Station in front of my unit.

Thank You,



Bindu Bamrah M.D.

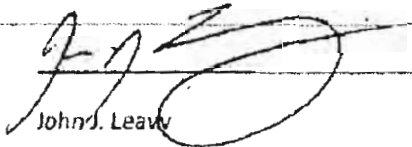
9/23/15

Declaration:

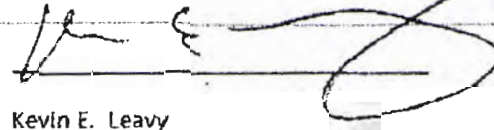
We John J Leavy and Kevin E Leavy own the property at 2663 Unit # 2 Ocean Front Walk, Pacific Beach Ca. 92109. We purchased this property in December of 2008. The title is held in our limited liability company called OFW LLC and the two sole members of OFW LLC are John and Kevin Leavy. Our property is located directly behind the current life guard station on So Mission, PB. We have never received notification from the coastal commission about the construction or intent to construct the proposed new life guard station located in So, Mission near the jetty and parking area.

Our legal home mailing addresses are: John J Leavy 5350 Alta Bahia Ct. Pacific Beach Ca. 92109

Kevin E. Leavy 11305 Wills Creek Rd, San Diego 92131,



John J. Leavy



Kevin E. Leavy

September 15, 2015

Re: South Mission Life Guard Station

To whom it may concern:

We bought our South Mission Beach condo in July of 2003 (2709 Ocean Front Walk.)

We first heard about the proposed life guard tower shortly after that. It was sent to us by the City of San Diego in the form of a questionnaire about the project. We filled out the questionnaire and asked to be kept informed about the proposed development. This questionnaire was sent to my office in La Mesa at 9633 Grossmont Summit Drive. This is the address of record for my ownership of our condo in Mission Beach. We assumed the project had been cancelled and or put on hold because of lack of city funds. We do not receive mail at 2709 Ocean Front Walk. We never got any further correspondence from the City of San Diego until the project was ready to break ground. They put a flyer on our condo door and sent notice once again, to my La Mesa office.

Sincerely,

Rendell Whittington

11977 Fuerte Vista Lane

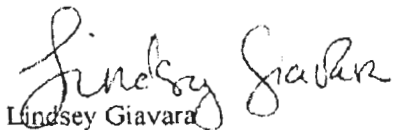
El Cajon, CA 92020

Our names are Ken and Lindsey Giavara and we own 2703 Ocean Front Walk. We have owned and lived here since March of 2006. This is our only address as well as our legal address of our tax records. We are writing this on September 18, 2015. We have never once received any type of notice from the City of San Diego nor The Coastal Commission regarding any type of hearing or meeting regarding the Lifeguard Command Station in South Mission Beach as was our legal right based on the City's municipal codes as well as the Coastal Commission Codes.

Sincerely,



Ken Giavara

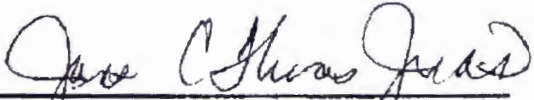


Lindsey Giavara



The property located at 2705 Ocean Front Walk, San Diego, Ca. 92109 was purchased on July 30th, 2000 by The J & L Thomas Trust. Our legal address is 1005 Championship Ct., Las Vegas, NV., 89134.

During the 16 years we have owned this home we have never received any type of notification from the Coastal Commission, nor the City of San Diego in regards to any hearings or information whatsoever concerning the Life Guard Station which the City of San Diego has already begun.

  
Dr. James Thomas, Jr., Trustee

  
Laura L. Thomas, Trustee

9-30-15

## EXHIBIT 3

California Coastal Commission  
San Diego Coastal Area  
7575 Metropolitan Drive, Suite 103  
San Diego, CA 92108-4402

Important - Public Hearing Notice

*Handwritten signature/initials*

**RECEIVED**

AUG 01 2011

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT



San Diego 92108-4402

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

OWNER/RESIDENT  
2685 OCEAN FRONT WK  
SAN DIEGO, CA 92109

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

RETURN TO SENDER  
NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

California Coastal Commission  
San Diego Coast Area  
7575 Metropolitan Drive, Suite 103  
San Diego, CA 92108-4402

Important — Public Hearing Notice

*PR  
6/1/11*

RECEIVED

AUG 01 2011

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

DATE: 08/01/11 09:00 AM  
2011 AUG 12 PM 3:5



OWNER/RESIDENT  
2695 OCEAN FRONT WK  
SAN DIEGO, CA 92109

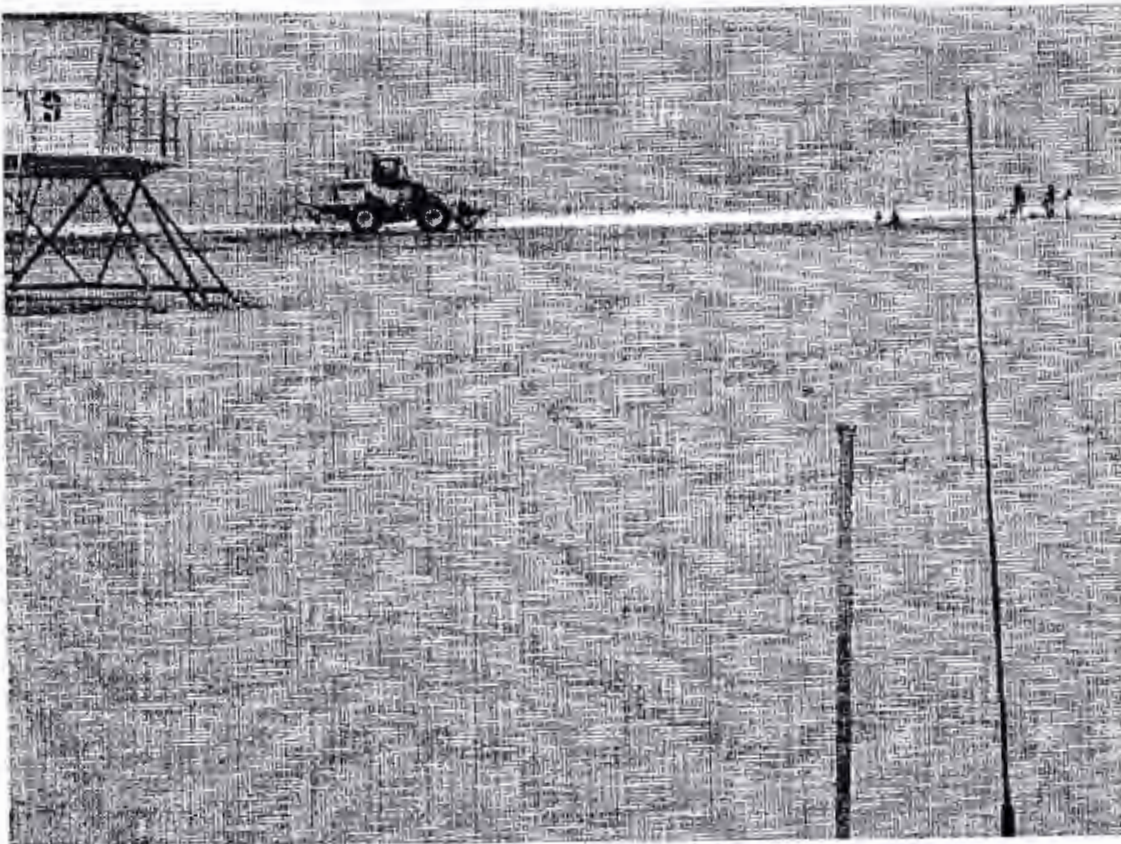
NIXTE 921 12 1 00 07/20/11  
RETURN TO SENDER  
UNDELIVERABLE  
NO: 321084402100 11204-10202-00-00  
921094 221080000000



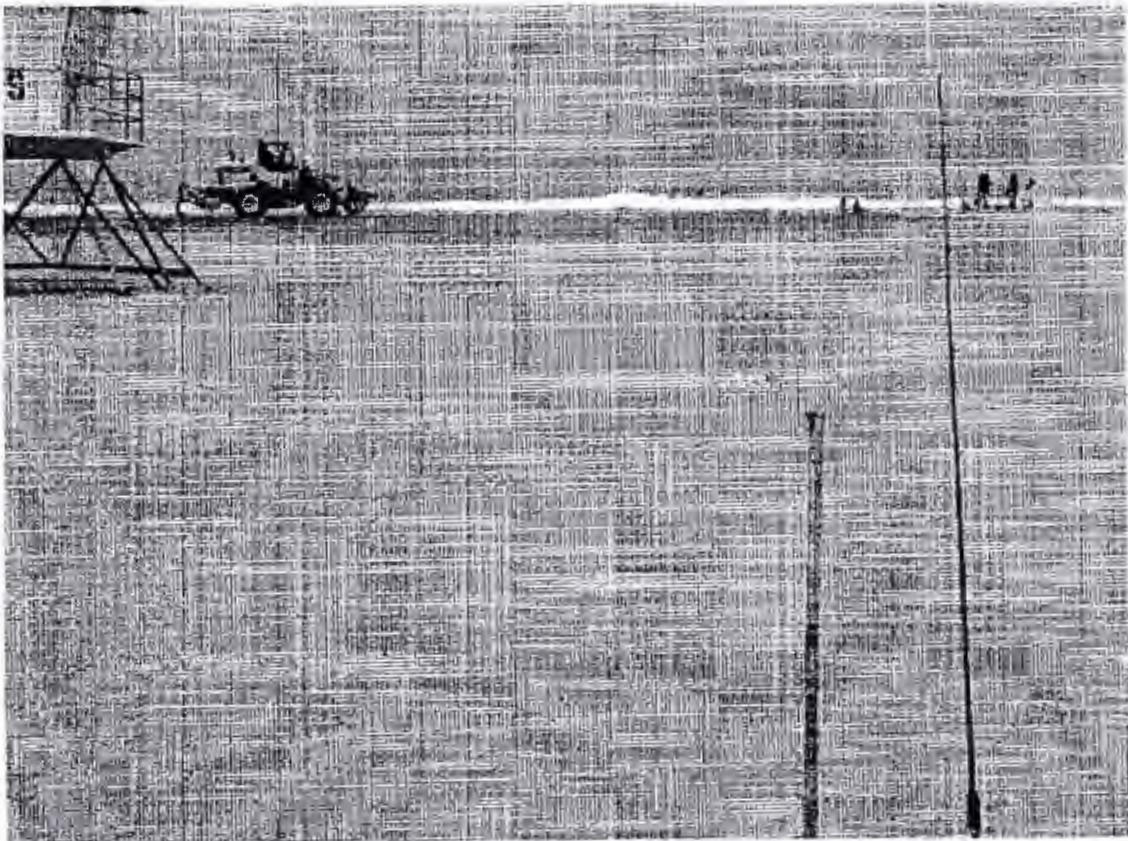


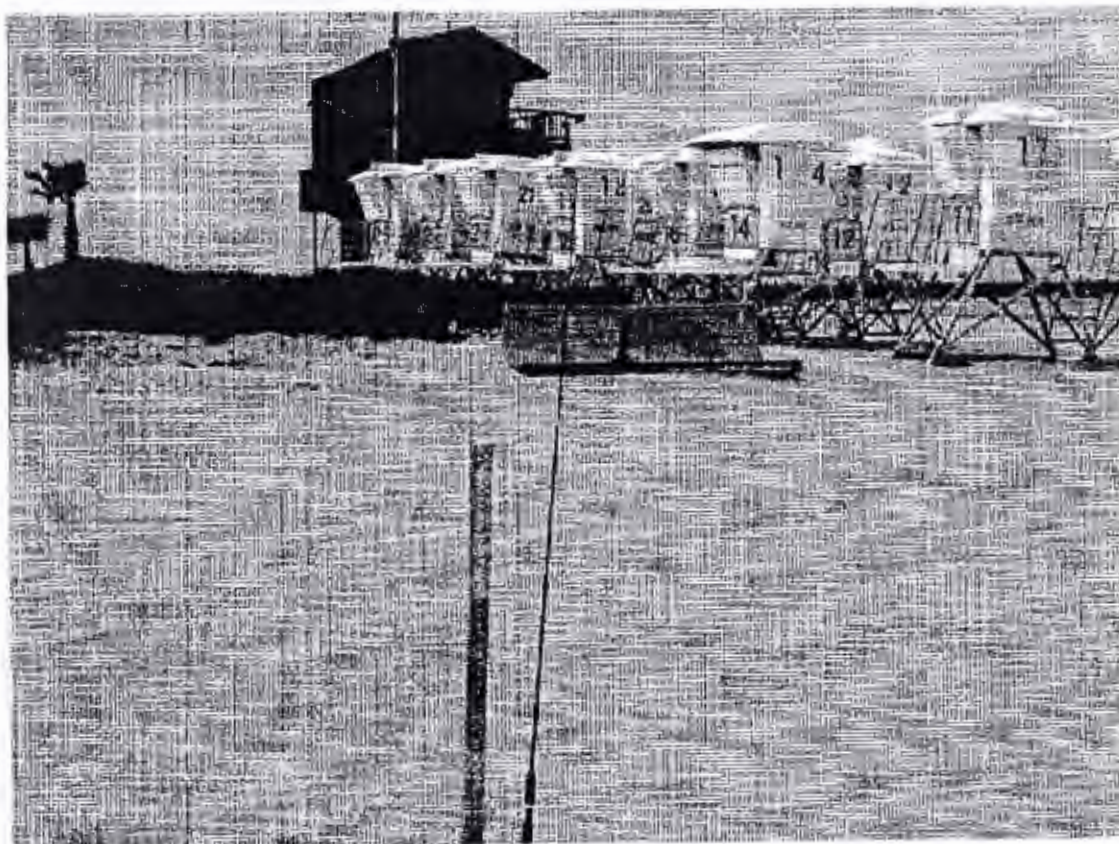


## EXHIBIT 4

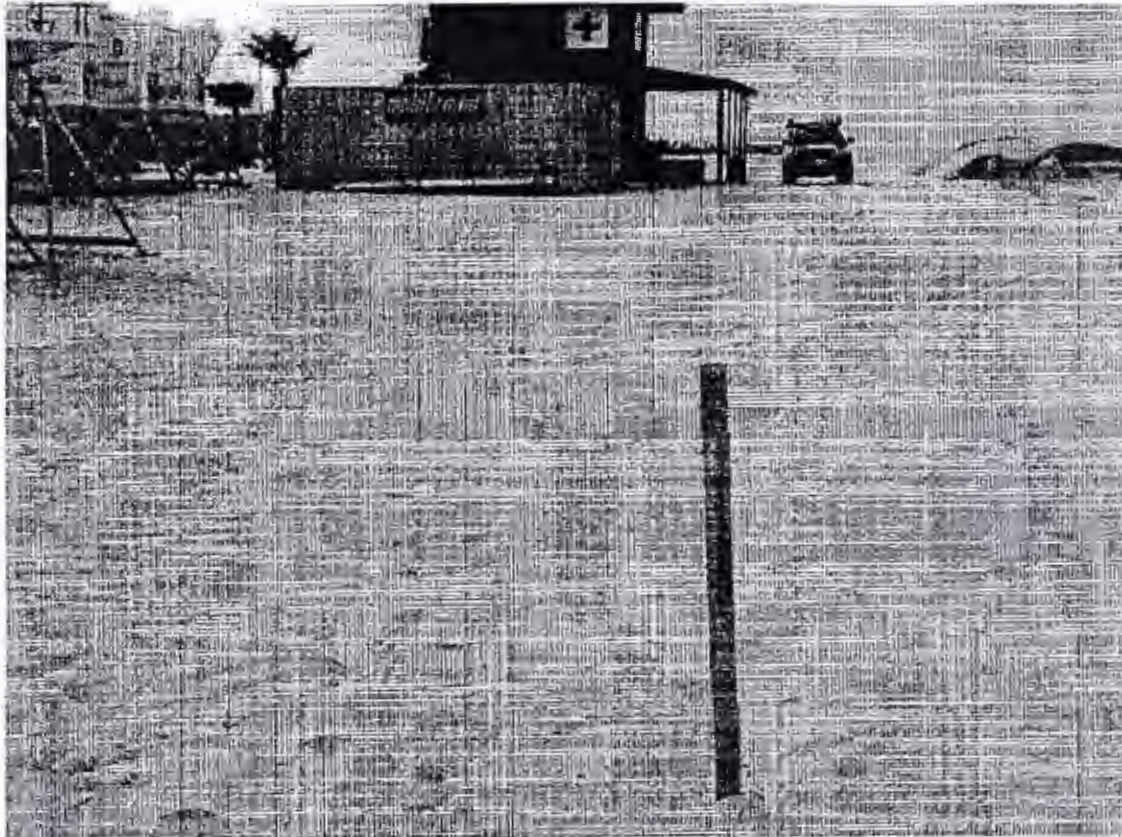






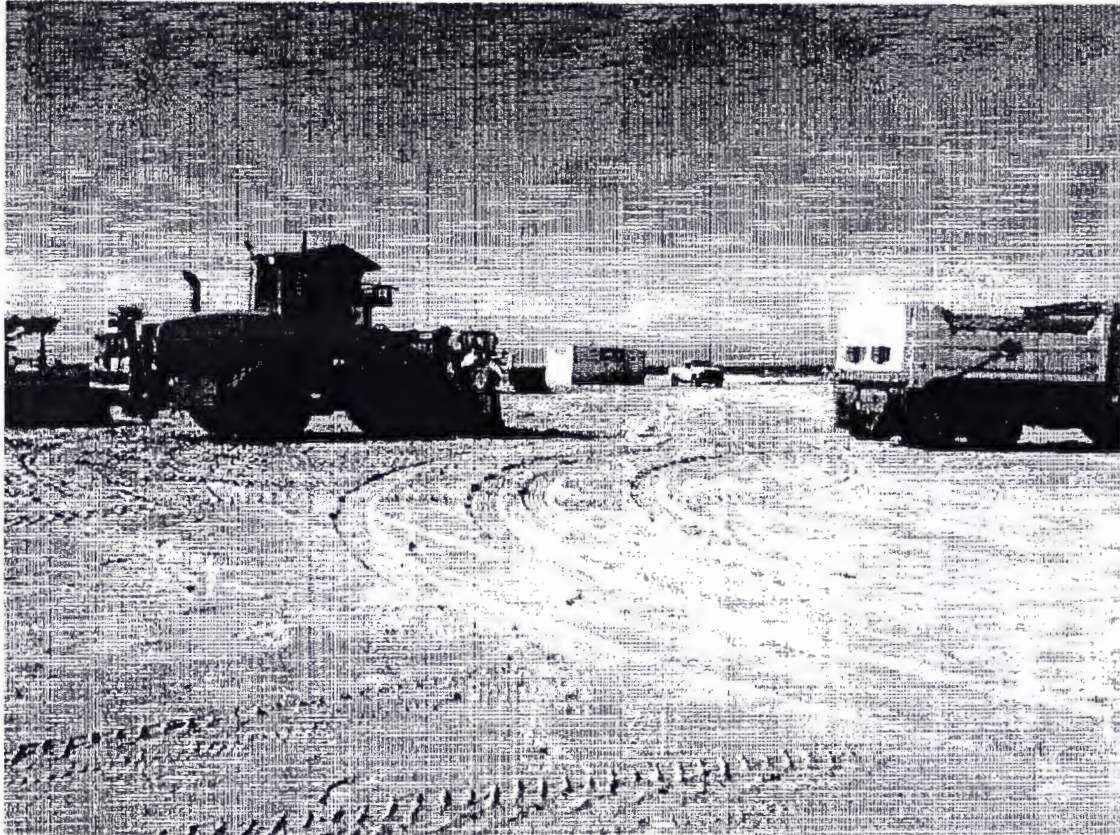






## EXHIBIT 5























TELEPHONE  
(619) 702-7892

FACSIMILE  
(619) 702-9291

September 30, 2015

Via Facsimile (415) 904-5400  
Dr. Charles Lester  
Executive Director  
CALIFORNIA COASTAL COMMISSION  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105

**RECEIVED**

**OCT 01 2015**

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

Re: UPDATE IN SUPPORT OF REVOCATION – CITY PERMIT IS “VOID”  
*Revocation Request CDP 6-11-044 (So. Mission Beach Lifeguard Station Project)*

Honorable Commissioners and Executive Director Lester:

On behalf of the petitioner for the above revocation - Citizens for Beach Rights (“CBR”), I write to inform you of a significant issue with your Staff Report regarding the referenced “Revocation Request” for CDP 6-11-044 for the South Mission Beach Lifeguard Station Project (“Project”).

**THE CITY’S DEVELOPMENT RIGHTS FOR THE SUBJECT BEACH  
AREA HAVE BEEN RENDERED STALE, EXPIRED AND VOID.**

In a strongly worded Court Order, on September 24, 2015 the Honorable Katherine Bacal, Judge of the San Diego County Superior Court granted a preliminary injunction, finding that CBR is likely to prevail in its suit against the applicant City of San Diego (“City”) on the basis that the City’s Site Development Permit (“SDP”) is void.

Attached hereto as Exhibit A is a true and correct copy of Judge Bacal’s Preliminary Injunction Order.

**A CORRECTION AND REEVALUATION IS NOW REQUIRED TO  
REFLECT THIS TRUE AND CORRECT FACT, AND IMMEDIATE  
REVOCATION BY THE COASTAL COMMISSION IS NOW WARRANTED.**

The Staff Report relies on City’s incorrect and now judicially rejected argument that it has “utilized” the Site Development Permit (Staff Report at p. 17) as part of staff’s finding that CBR’s request for revocation of the Coastal Development Permit 6-11-044 (“CDP”) is without merit. Staff can no longer unreasonably rely on the City’s faulty assurance.



Page Two  
September 30, 2015  
California Coastal Commission

**THE COMMISSION HAS MISAPPLIED ITS REGULATION FOR  
REVOCATION. A NEW REQUEST FOR IMMEDIATE AND  
INTERIM SUSPENSION IS REQUIRED.**

In its report, Commission staff uses the incorrect standard under California Code of Regulations, Title 14, section 13106 for suspension. California Code of Regulations, Title 14, section 13106 states:

“The executive director shall review the stated grounds for revocation and, unless the request is **patently frivolous and without merit**, shall initiate revocation proceedings.” (bold added.)

This standard clearly requires that the Executive Director must find that the request for revocation is both (1) patently frivolous and (2) without merit. Here, the Executive Director and/or staff has made a determination only that the revocation request is “without merit” (Staff Report at p. 3). Therefore, staff appears to be finding that a request for revocation is “without merit,” but then sets a hearing anyway for review and decision by the Commissioners. This suggests that staff sets such requests for hearings while sidestepping the suspension requirement. CBR objects that this this approach, interpretation and unwritten policy violates the plain reading of California Code of Regulations, Title 14, section 13106 and the spirit of said regulation.

**THE CITY OF SAN DIEGO (APPLICANT) WILL NOT BE  
HARMED BY SUSPENSION BECAUSE IT IS UNDER A COURT  
ORDER PREVENTING BUILDING AT THIS TIME. (EXHIBIT A)**

In conclusion, because the City and the South Coast Office have botched the notices and disclosures about the Project so badly, it is necessary for the Coastal Commission to do the right thing and rescind. Perpetuating the *faux pas* will serve no one and likely further tie this matter up in the courts.

**THE FACE OF THE COMMISSION NOTICE FOR THE UPCOMING  
OCTOBER HEARING STILL ADVERTISES A 3,125 SQUARE FOOT  
LIFEGUARD STATION BUT THE STAFF REPORTS STILL  
MISREPRESENTS THAT THE STATION IS 3,990 SQUARE FEET.**

**(STAFF REPORT AT P. 11)**



Page Three  
September 30, 2015  
California Coastal Commission

Considering that the Public Notice for CBR's request for revocation incorrectly describes the Project, it would be prudent for the Executive Director to re-set the hearing for CBR's revocation request for the next available hearing *after* October 8, 2015 in order to give the interested public proper notice and time to respond. In the meantime, the subject CDP should be suspended for the reasons in CBR's request for revocation, and as stated above.

Sincerely,

Craig A. Sherman  
Attorney for CBR

cc: Coastal Commission, San Diego Coast District Office (via fax 619-767-2384)  
Commissioners: Gregory Cox, (via email [gregcoastal@sdcounty.ca.gov](mailto:gregcoastal@sdcounty.ca.gov))  
Marthe McClure (via email [mmcclureccc@co.del-norte.ca.us](mailto:mmcclureccc@co.del-norte.ca.us))  
Mary Luévano (via email [mluevanocoastal@gmail.com](mailto:mluevanocoastal@gmail.com))  
Carole Groom (via email [cgroom@smcgov.org](mailto:cgroom@smcgov.org))  
Dayna Bochco (via fax)  
Effie Turnbull-Sanders (via fax)  
Wendy Mitchell (via fax)  
Mary K. Shallenberger (via fax)  
Mark Vargas (via fax)  
Steve Kinsey (via fax)  
Erik Howell (via fax)  
Roberto Uranga (via fax)



SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN DIEGO  
CENTRAL

MINUTE ORDER

DATE: 09/24/2015

TIME: 11:41:00 AM

DEPT: C-69

JUDICIAL OFFICER PRESIDING: Katherine Bacal

CLERK: Jay Browder

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT: Robert Trombley

CASE NO: 37-2015-00028857-CU-WM-CTL CASE INIT. DATE: 08/26/2015

CASE TITLE: **Citizens for Beach Rights vs. City of San Diego [IMAGED]**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Writ of Mandate

---

**APPEARANCES**

*Clerk's Note: These minutes are amended on 9/25/2015 nunc pro tunc to 9/24/2015 to correct the first minute entry.*

The Court, having taken the above-entitled matter under submission on 9/18/2015, having invited additional briefing considered the City's late-filed declarations and plaintiff's objections thereto, and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

The order to show cause re: preliminary injunction, filed by plaintiff and petitioner Citizens for Beach Rights, is granted. Plaintiff is to provide an undertaking in the amount of \$250,000.

*Preliminary Matters*

Plaintiff's objections to the City's request for judicial notice are overruled. Plaintiff's objection to the declaration of Rick Wurts is sustained. Plaintiff's speculation objection to James Summer's declaration, ¶ 9: 15-18, is sustained. Plaintiff's foundational objections to Gary Geiler's supplemental declaration, ¶ 3, p. 2:1-3, and Robert Vacchi's supplemental declaration, ¶ 4:7-9 and ¶ 6 (as to what occurred and what the City's policies were before he joined the Development Services Department) are sustained. Plaintiff's remaining objections are overruled. The Court notes that it gives evidence the weight it deserves.

Plaintiff's unopposed request for judicial notice is granted.

**Factual and Procedural Background**

Plaintiff filed this action to enjoin construction of the South Mission Beach Lifeguard Station. A Site Development Permit ("SDP") for the project was approved on September 27, 2006. Petition, Ex. B. According to the terms of the permit, if it is not utilized within 36 months, it is "automatically void" unless an extension of time is granted. *Ibid* at p. 2. The permit also requires construction, grading or demolition to commence "and be pursued in a diligent manner" within 36 months of approval. *Ibid*

DATE: 09/24/2015

MINUTE ORDER

Page 1

DEPT: C-69

Calendar No.

CASE TITLE: Citizens for Beach Rights vs. City of San Diego [IMAGED]

CASE NO: 37-2015-00028857-CU-WM-CTL

(emphasis added). Construction began in early April 2015. Giavara Decl., ¶ 7 & Ex. A [Photograph]. There is a summer moratorium on beach construction between Memorial and Labor Day. Nagelvoort Decl., ¶ 11. Plaintiff filed this lawsuit in late August and obtained a temporary restraining order. The Court set a hearing to show cause why a preliminary injunction should not be granted.

### Discussion

In deciding whether to issue an injunction, the court must consider if the plaintiff is likely to suffer greater injury from the denial of the injunction than the defendants are likely to suffer if it is granted. *Robbins v. Superior Court* (1985) 38 Cal.3d 199, 205. The court must also consider the likelihood of success on the merits but, where the interim harm is great, plaintiffs need only show some possibility they will ultimately prevail. *Butt v. State of California* (1992) 4 Cal.4th 668, 678.

The applicable version of San Diego Municipal Code section 126.0108 states a development permit is void unless it is utilized within 36 months in one of the methods specified by the ordinance. SDMC § 126.0108 [City's RJN, Ex. A]. The City contends it utilized the SDP by pursuing a Coastal Development Permit.

It is undisputed that the City needed approval from the California Coastal Commission ("CCC") before it could begin any construction. Cetin Decl., ¶ 5. Relying in large part on a written policy its Development Services Department implemented in November 2014, the City argues that because the SDP required the City to obtain a Coastal Development Permit, proof of active pursuit of the Coastal Development Permit constitutes compliance with the terms of the SDP. Vacchi Decl, Ex. A, § 2. In other words, the City argues, it "utilized" the SDP by actively pursuing the Coastal Development Permit within 36 months. Vacchi Decl., ¶ 3.

There are several problems with the City's argument. First, the City ignores the clear terms of the permit, which requires construction, grading or demolition to commence and be pursued in a diligent manner within 36 months of approval. It is undisputed that no construction, grading or demolition commenced within 36 months of the permit's approval. Second, the City's written policy is not applicable because it was adopted in late 2014, after the SDP expired in 2009.

Apparently recognizing the problem of relying on a policy adopted after the SDP expired, the City submitted a supplemental declaration of Robert Vacchi, asserting that the written policy "merely formalized standards and practices" that were previously in effect. At oral argument, counsel for the City asked the Court to consider this declaration, arguing that it shows there was a City policy even before the written policy was adopted. Given that the Court has sustained the foundational objections to Mr. Vacchi's supplemental declaration, there is no evidence to support the City's position. Further, even if the Court considered this testimony, standards and practices are not necessarily the same thing as a policy which must be followed. Finally, even if there were an applicable City policy, it would not change the result.

The applicable statute, SDMC § 126.0108, states that a permit may be utilized by complying with its terms (subsection (b)(2)) or through evidence of "substantial use in progress, according to standards as developed by the City Manager" (subsection (b)(3)). Again, the City clearly did not comply with the SDP's terms, because no construction, grading or demolition commenced within 36 months of its approval. However, the City's written policy states as follows: "Where conditions within an individual permit require action to be taken by the City or other agency and that action needs to be completed before other permit conditions can be addressed, proof of *active pursuit* of the City or other agency

CASE TITLE: Citizens for Beach Rights vs. City of San Diego [IMAGED]

CASE NO: 37-2015-00028857-CU-WM-CTL

approval shall constitute compliance with the terms contained in the individual permit." Vacchi Decl, Ex. A, § 2 (emphasis added).

It is clear from the evidence that the Coastal Development Permit was not actively pursued, as the application and extension expired. Cetin Suppl. Decl., ¶ 5:20. More than a year after the application for Coastal Development Permit No. 6-05-017 expired, the City applied for a different Coastal Development Permit, No. 6-11-044. Cetin Suppl. Decl., p. 34. The City never clearly states which attempt to obtain a Coastal Development Permit supports its view that it was "utilizing" the SDP. Indeed, it is undisputed that the City started the application process with the CCC before it obtained the SDP permit at issue here. Cetin Suppl. Decl., ¶ 5. The dictionary defines "utilize" as "make use of." The City simply did not make use of the SDP to obtain a Coastal Development Permit.


As to subsection (b)(3) of the statute, the City presented no evidence of substantial use in progress, "according to standards developed by the City Manager." In fact, the written policy submitted by the City sets forth standards inapplicable to the current situation. Vacchi Decl, Ex. A, § 3.

In sum, there is simply no credible evidence that the SDP was utilized within 36 months. The City also argues, however, that this suit is time-barred by SDMC section 121.0102. Under that ordinance, an action to "challenge, review or void any decision made in accordance with the Land Development Code" must be filed within 90 days after the decision becomes final. That section is inapplicable here because plaintiff is not challenging the decision to grant the SDP. To the contrary, the premise of this action is that the SDP was validly issued but expired by its own terms. At oral argument, the City's attorney argued that if the statute of limitations does not bar plaintiff's claims, they could have been asserted at any time, even if the tower had been substantially completed. However, this is not the case at hand. Moreover, even if there were no applicable statute of limitations, the doctrine of laches would prevent such a late-filed claim.

As plaintiff has established a reasonable likelihood of prevailing on the merits, the court turns to the comparison of the relative interim harms that would be suffered if relief were granted. Such comparison weighs in favor of granting the injunction. The general purpose of a preliminary injunction is to preserve the status quo until a final determination of the merits of the case. *Continental Baking Co. v. Katz* (1968) 68 Cal.2d 512, 528. Minimal work has been done on the project. It has been left in the same condition for several months due to the summer moratorium. The project is fenced off and can remain that way. The City has not demonstrated that it would be more economical to go forward with the construction and then demolish the lifeguard station in the event plaintiff prevails than to maintain the status quo while this action is pending.

For the foregoing reasons, the Court grants a preliminary injunction.

An undertaking is generally required when an injunction is issued. Code Civ. Proc., § 529, subd. (a); *Abba Rubber Co. v. Seaquist* (1991) 235 Cal.App.3d 1, 14 (court must estimate the harmful effect the injunction is likely to have on the restrained party). Absent an injunction, the City expects the project will be completed by the end of May, 2016. Nagelvoort Decl., ¶ 10. The general contractor (EC Constructors, Inc.) estimates it will incur at least \$1,403 in costs per calendar day if the project is delayed, not including subcontractor costs. Summers Decl., ¶ 7. Given this, but also noting that there is no evidence that construction would take place seven days a week, the Court sets the undertaking at \$250,000.



Judge Katherine Bacal

## **Laver, Brittney@Coastal**

---

**From:** Gmail <tom.tpvintage@gmail.com>  
**Sent:** Friday, October 02, 2015 2:26 PM  
**To:** Laver, Brittney@Coastal; Lilly, Diana@Coastal; Murphy, Greg;  
gregcoastal@sdcounty.ca.gov; mmclureccc@co.delNorte.ca.us; cgroom@smcgov.org  
**Subject:** Hearing on San Diego life guard station

I received the coastal commission hearing notice in regards to the revocation of the referenced permit. I received in spite of it being sent to an incomplete address. I am very confused- the PROJECT DESCRIPTION on the hearing notice states the building is 3,125 sq ft. San Diego city's plans in question show 3990 sq ft. even though they have no permit and have not advised the residents of their plans. This doesn't make sense and needs clarification. I was shown the STAFF REPORT and that also states the building is 3,125 sq ft. Please revoke this false permit that expired many years ago.

Tom

Tom Price  
Price-Simms Auto Group  
135 E Sir Francis Drake Blvd  
Larkspur, CA 94939  
Mob: +1 415-260-2175



## **Laver, Brittney@Coastal**

---

**From:** Edmund Thile <drthile@county-speech.com>  
**Sent:** Friday, October 02, 2015 2:53 PM  
**To:** Laver, Brittney@Coastal; Lilly, Diana@Coastal; Murphy, Greg; 4; 5; 6  
**Subject:** Hearing Notice California Coastal Commission  
**Attachments:** Letter to Commission & Exec Dir re RECSISSION (9-30-15) COMPLETE.pdf

Regarding: Citizens for Beach Rights (CBR) vs. City of San Diego  
Matter: Construction Project: Mission Beach Lifeguard Station

As a member of Citizens for Beach Rights (CBR) and resident/legal owner of a home on Ocean Front Walk, South Mission Beach, I received the coastal commission hearing notice in regards to the revocation of the referenced permit. I am extremely confused, however, since the PROJECT DESCRIPTION on the hearing notice states the building is 3,125 sq ft. I know the building in question is 3990 sq ft. This doesn't make sense and needs clarification. I also checked the STAFF REPORT and that also states the building is 3,125 sq ft.

Thank you for your thoughtful contribution in this matter.

Edmund L. Thile  
CBR Board Member

**Laver, Brittney@Coastal**

---

**From:** Tim McKernan <timm@mckernan.com>  
**Sent:** Friday, October 02, 2015 3:52 PM  
**To:** Laver, Brittney@Coastal  
**Cc:** Lilly, Diana@Coastal; Murphy, Greg; gregcoastal@sdcounty.ca.gov; cgroom@smcgov.org; mmcclureccc@co.delnorte.ca.us  
**Subject:** Ocean Front Walk and Life Guard project Mission Beach- Coastal Commission Permit.

Dear Sir/Madam

I did not receive the coastal commission hearing notice in regards to the revocation of the referenced permit. However, everyone I talk with is extremely confused- the PROJECT DESCRIPTION states the building is 3,125 sq ft. I know the building in question is 3990 sq ft. This doesn't make sense and needs clarification. I also checked the STAFF REPORT and that also states the building is 3,125 sq ft.

I would appreciate your clarification in this matter.

Sincerely Yours

Tim McKernan, Trustee, Cricklewood Property LLC, Reno, Nevada.

2663 Ocean Front Walk, San Diego.

**Laver, Brittney@Coastal**

---

**From:** Steve Harmsen <smh@att.net>  
**Sent:** Friday, October 02, 2015 8:12 PM  
**To:** Laver, Brittney@Coastal  
**Subject:** Mission beacg lifeguard station hearing

Ms Laver

Please carefully review this matter as the description is erroneous and with the brand new lifeguard station being built at belmont park less than a half mile a way this enlarged facility is going to be a beachfront rec center for lifeguards and firemen This station should not be moved or enlarged

## **Laver, Brittney@Coastal**

---

**From:** Chip <chip@dswni.com>  
**Sent:** Saturday, October 03, 2015 7:47 AM  
**To:** Lee, Deborah@Coastal; Laver, Brittney@Coastal; Lilly, Diana@Coastal; Murphy, Greg; gregcoastal@sdcounty.ca.gov; cgroom@smcgov.org; mmclureccc@co.delNorte.ca.us  
**Cc:** 'Chip'  
**Subject:** South Mission Beach Lifeguard Building

I received the coastal commission hearing notice in regards to the revocation of the referenced permit however I am extremely confused- the PROJECT DESCRIPTION on the hearing notice states the building is 3,125 sq ft. I know the building in question is 3990 sq ft. This doesn't make sense and needs clarification. I also checked the STAFF REPORT and that also states the building is 3,125 sq ft.

Carl Petersen  
2685 Ocean Front Walk  
San Diego, CA  
801-599-8486



## Laver, Brittney@Coastal

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**From:** Laura <heylthomas@aol.com>  
**Sent:** Saturday, October 03, 2015 9:25 AM  
**To:** Lee, Deborah@Coastal; Laver, Brittney@Coastal; Lilly, Diana@Coastal; Murphy, Greg; gregcoastal@sdcounty.ca.gov; cgroom@smcgov.org; mmclureccc@co.delNorte.ca.us  
**Subject:** S. Mission Beach Lifeguard Project

To whom it may concern:

I received the coastal commission hearing notice in regards to the revocation of the referenced permit however I am extremely confused- the PROJECT DESCRIPTION on the hearing notice states the building is 3,125 sq ft. I know the building in question is 3990 sq ft. This doesn't make sense and needs clarification. I also checked the STAFF REPORT and that also states the building is 3,125 sq ft.

Sincerely,

Dr James and Laura Thomas

Homeowners  
2705 Ocean Front Walk

Sent from my iPhone

**Laver, Brittney@Coastal**

---

**From:** Jay Leavy <jay@harvestmeat.com>  
**Sent:** Sunday, October 04, 2015 10:02 AM  
**To:** Laver, Brittney@Coastal  
**Cc:** Lee, Deborah@Coastal; Lilly, Diana@Coastal; Mmclur Coastal; Murphy, Greg; Cgroom  
**Subject:** Coastal commission

Dear Coastal Commission,

I received the coastal commission hearing notice in regards to the revocation of the referenced permit however I am extremely confused- the PROJECT DESCRIPTION on the hearing notice states the building is 3,125 sq ft. I know the building in question is 3990 sq ft. This doesn't make sense and needs clarification. I also checked the STAFF REPORT and that also states the building is 3,125 sq ft.

Thank you

John J Leavy owner  
2663 Ocean Front Walk  
92109

**Laver, Brittney@Coastal**

---

**From:** Kevin Leavy <kevin@harvestmeat.com>  
**Sent:** Sunday, October 04, 2015 11:08 AM  
**To:** Laver, Brittney@Coastal  
**Cc:** Lee, Deborah@Coastal; Lilly, Diana@Coastal; Mmcclur Coastal; Murphy, Greg; Cgroom  
**Subject:** 2663 OFW

Dear Coastal Commission,

I received the coastal commission hearing notice in regards to the revocation of the referenced permit however I am extremely confused- the PROJECT DESCRIPTION on the hearing notice states the building is 3,125 sq ft. I know the building in question is 3990 sq ft. This doesn't make sense and needs clarification. I also checked the STAFF REPORT and that also states the building is 3,125 sq ft.

Thank you

Kevin Leavy owner  
2663 Ocean Front Walk  
92109

## **Laver, Brittney@Coastal**

---

**From:** Rand whittington <randsun@sbcglobal.net>  
**Sent:** Sunday, October 04, 2015 11:22 AM  
**To:** Lee, Deborah@Coastal; Laver, Brittney@Coastal; Lilly, Diana@Coastal; Murphy, Greg; cgroom@smcgov.org; mmclureccc@co.delNorte.ca.us  
**Subject:** Mission Bay Lifeguard tower San Diego

Coastal Committee

The original submittal for this project showed it as being 3125 square feet. It has grown to 3990 square feet, a 27% increase. You continue to call it 3125 square feet. It is not 3125 square feet. I request that the coastal approval be rescinded.

Sincerely,

Rendell L Whittington



## Laver, Brittney@Coastal

---

**From:** Darlene Smith <tartangown@icloud.com>  
**Sent:** Sunday, October 04, 2015 12:27 PM  
**To:** Laver, Brittney@Coastal  
**Subject:** South mission beach life guard tower

I received the coastal commission hearing notice in regards to the revocation of the referenced permit however I am extremely confused- the PROJECT DESCRIPTION on the hearing notice states the building is 3,125 sq ft. I know the building in question is 3990 sq ft. This doesn't make sense and needs clarification. I also checked the STAFF REPORT and that also states the building is 3,125 sq ft.

Our family purchased our condo in 1988. This is the view from our porch.  
The current LG tower is there on the left at just under 900 sq ft.  
The new tower is slated at more than 4x that size and the pad is poured just beyond that last net.



Sent from my iPhone

Sent from my iPhone

## **Laver, Brittney@Coastal**

---

**From:** Lindsey oswalt <lonzabeth@gmail.com>  
**Sent:** Sunday, October 04, 2015 5:14 PM  
**To:** Lee, Deborah@Coastal; Laver, Brittney@Coastal; Lilly, Diana@Coastal; Murphy, Greg; gregcoastal@sdcounty.ca.gov; cgroom@smcgov.org; mmclureccc@co.delNorte.ca.us  
**Subject:** October 8th Coastal Hearing

To Whom it May Concern,

I received the Coastal Commission hearing notice in regards to the revocation of the permit for the lifeguard station in South Mission Beach. The project description on the hearing notice states the building is 3,125 square feet. I know the building is really 3,990 square feet. This is confusing. I also checked the Staff Report and it states the building is 3,125 square feet. Can someone please clarify these discrepancies for me?

Thank you for your time,  
Lindsey Oswalt

## **Laver, Brittney@Coastal**

---

**From:** Deneen Nielson <dnielson53@gmail.com>  
**Sent:** Sunday, October 04, 2015 6:00 PM  
**To:** Lee, Deborah@Coastal  
**Cc:** Laver, Brittney@Coastal; Murphy, Greg; gregcoastal@sdcounty.ca.gov; cgroom@smcgov.org; mmclureccc@co.delnorte.ca.us  
**Subject:** Mission Beach Life Guard Building Project

To whom it may concern:

We received the Coastal Commission hearing notice regarding the revocation of the referenced building permit. We are extremely confused in regards to the project description on the hearing notice stating the building application of 3,125 sq. ft.

We know the building in question is now showing 3990 sf. which is considerable larger than originally designed?

This is confusing and does not make sense, and we would appreciate some clarification in regards to the actual proposed and subsequent buildings actual square footage.

The staff report confirms the proposed building will be 3,125 sf. when finished. This is just another one of the issues we are concerned and misrepresentations about this project.

Kirk & Deneen Nielson  
The Nielson Family Trust

## Laver, Brittney@Coastal

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**From:** Alison Fellman <alison@fellman.nz>  
**Sent:** Monday, October 05, 2015 8:04 AM  
**To:** Laver, Brittney@Coastal; Lilly, Diana@Coastal; Murphy, Greg;  
gregcoastal@sdcounty.ca.gov; cgroom@smcgov.org; mmccloreccc@co.delNorte.ca.us;  
Lee, Deborah@Coastal  
**Subject:** Proposed construction on South Mission Beach, San Diego

Dear Ladies and Gentlemen,

As a 20 year homeowner, tax payer and resident of South Mission Beach, I received the coastal commission hearing notice in regards to the revocation of the referenced permit. There is incorrect information on the hearing notice. It states the building is 3,125 sq ft. I know the building in question is 3990 sq ft. I also checked the Staff report and that also states the building is 3,125 sq ft.

I have never received notification or any other information pertaining to this until last week.  
And to top it off, the notification information is incorrect and misleading.

While we all appreciate the work of the lifeguards and police, to place such a facility at the "dead end" of the beach, when there is a large lifeguard facility a mile away more central to all beaches, bay, emergency services, freeways and hospitals doesn't make sense. The collateral damage to the area cannot be known until after the fact, with the potential to destroy one of the best and safest swimming and surfing spots in Southern California.

Surely our role is to protect our shoreline?

Alison Hamilton  
La Fin #3  
[Alison@fellman.co.nz](mailto:Alison@fellman.co.nz)

Sent from my iPad



## **Laver, Brittney@Coastal**

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**From:** Bindu Bamrah <bbamrah@gmail.com>  
**Sent:** Monday, October 05, 2015 12:57 PM  
**To:** Laver, Brittney@Coastal  
**Subject:** South Mission Beach Project

I received the coastal commission hearing notice at my permanent place of residence in Wisconsin in regards to the revocation of the referenced permit

however I am extremely confused- the PROJECT DESCRIPTION on the hearing notice states the building is 3,125 sq ft. I know the building in question is 3990 sq ft. This doesn't make sense and needs clarification. I also checked the STAFF REPORT and that also states the building is 3,125 sq ft.

Thank You

Bindu Bamrah M.D.

**CALIFORNIA COASTAL COMMISSION**

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



# Th13a

Submitted: 8/28/15  
Staff: B. Laver-SD  
Staff Report: 9/17/15  
Hearing Date: 10/8/15

## STAFF REPORT: REVOCATION REQUEST

**Application No.:** 6-11-044-REV

**Applicant:** City of San Diego

**Agent:** Jihad Sleiman

**Project Location:** South Mission Beach adjacent to 700 North Jetty Road, Mission Beach, San Diego, San Diego County (APN No. 423-750-01)

**Project Description:** Demolition of an existing three-story, 30 ft. high, 897 sq.ft. lifeguard station and construction of a new three-story, 30 ft. high, 3,125 sq.ft. lifeguard station including a buried semi-circular sheet-pile bulkhead seawall located 30 feet seaward of the proposed lifeguard structure. Also proposed is an architectural concrete cap on top of the bulkhead wall a maximum of approximately 3 ft. high.

**Revocation Requested By:** Citizens for Beach Rights

**Staff Recommendation:** Denial

**Motion & Resolution:** Pages 5 and 6

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## SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission deny the proposed request for revocation on the basis that no grounds have been shown to exist for revocation under Section 13105 of Title 14 of the California Code of Regulations.

The coastal development permit (CDP) that is the subject of this revocation request is for demolition of an existing lifeguard station and construction of a new three-story, 30 ft. high, 3,125 sq.ft. lifeguard station, a buried semi-circular sheet-pile bulkhead seawall located 30 feet seaward of the proposed lifeguard structure, and an architectural concrete cap on top of the bulkhead wall a maximum of approximately 3 ft. high. The Commission approved this permit on August 10, 2011 with special conditions that required the applicant to submit final plans, implement construction and post-construction water quality protection measures, remove the visible rip rap fronting the structure proposed to be demolished, and obtain authorization for the proposed development from the State Lands Commission.

The party requesting revocation contends that grounds for revocation exist pursuant to Section 13105(a), because the applicant allegedly submitted inaccurate, erroneous, and incomplete information to the Commission in connection with CDP Application No. 6-12-061. The alleged inaccurate, erroneous, and incomplete information relates to the size and bulk of the proposed structure. The request further contends that grounds for revocation exist pursuant to Section 13105(b), because the applicant allegedly did not comply with the noticing provisions of Section 13054 for the permit or for its two extensions. Finally, the party seeking revocation contends that the lack of notice did not allow the public and residents within the required noticing area to provide input that could have caused the Commission to require additional or different conditions on the permit or deny it altogether.

However, there is no evidence of intentional misleading of the Commission in regards to the size and bulk of the proposed structure, as required by Section 13105(a). In the Commission's action on this permit, the Commission found that the proposed development, as conditioned, would not cause significant adverse impacts to public views, sand supply, coastal access or recreational opportunities. In review of the final plans for condition compliance, staff identified some discrepancies in the method of calculating building floor area. The original approved plans stating 3,125 total square feet did not count features such as equipment space and stairwells towards the building floor area, whereas the final plans did, and thus resulted in a higher total square footage count. Thus, the original approved plans should have indicated a building floor area of 3,860 square feet. After a careful floor-by-floor comparison of the originally approved plans with the final plans, it was determined that the bulk and scale was essentially the same as the approved project, and that there was only a minor increase--less than 150 sq. ft.--in building square footage resulting from the need to accommodate ADA restrooms and larger rescue vehicles on the ground floor and a third floor open walkway. There has been no change in the siting of the building, the maximum height, or the function of the lifeguard facility (Exhibit #5). As these minor revisions cause no new or expanded impacts from the original approval, the final plans were found to be in substantial conformance with the originally approved plans and there is no reason that the Commission would have required new or different conditions based on this information.

In addition, noticing did occur for this permit and its two extensions, and there is no basis for the Commission to have acted differently had the Commission received additional

input from the public. Mr. Ken Giavara, the director of the party requesting revocation, has previously contacted Commission staff regarding his opposition to the proposed development based on private view blockage and lack of noticing. It was determined that Mr. Giavara's property is within the 100-foot noticing radius and Commission staff believes notice was mailed to all properties within the required notice area, including Mr. Giavara's, prior to Commission approval of the permit and the two extensions. Staff also notes that even if notice did fail to reach some interested parties, no information has been submitted suggesting or explaining how the views of the persons(s) not notified would have caused the Commission to require additional or different conditions, or deny the project, as no project inconsistencies with the Chapter 3 policies of the Coastal Act have been identified.

Pursuant to Section 13106 of Title 14 of the California Code of Regulations, when a revocation request is received, the Executive Director is required to review the stated grounds for revocation and, unless the request is patently frivolous and without merit, shall initiate revocation proceedings. Upon reviewing the subject request, and comparing it to the administrative record, the Executive Director found the revocation request to be without merit. Specifically, the Executive Director has determined that in this case, in accord with Section 13106, **no grounds exist for revocation of the permit.** Nevertheless, because some familiarity with the record is necessary in order to demonstrate the lack of merit of this particular revocation request, and to maximize the opportunity for the revocation requestor and the public to be heard, the Executive Director determined it would be prudent to set a hearing for an examination of the request and the record.

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## EXHIBITS

Exhibit 1 – August 28, 2015 Revocation Request Submittal  
Exhibit 2 – CDP 6-11-044 7/22/11 Staff Report  
Exhibit 3 – CDP 6-05-017 1/25/07 Staff Report  
Exhibit 4 – March 18, 2015 Notice of Acceptance  
Exhibit 5 – Originally Approved and Final Plans Comparison



## PROCEDURAL NOTE: STANDARD OF REVIEW

The California Code of Regulations, Title 14, Section 13105 states that the requested grounds for the revocation of a coastal development permit are as follows:

*a) Intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application, where the Commission finds that accurate and complete information would have caused the Commission to require additional or different conditions on a permit or deny an application;*

*(b) Failure to comply with the notice provisions of Section 13054, where the views of the person(s) not notified were not otherwise made known to the commission and could have caused the commission to require additional or different conditions on a permit or deny an application.*

Revocation of a permit removes a previously granted permit. Even if a permit is vested (i.e., the permittee has begun construction of the project), if the Commission revokes the permit, the permittee is required to stop work and, if wishing to continue, to reapply for a new permit for the project. If the Executive Director determines that evidence clearly shows that there are grounds for revocation, Section 13107 of the Commission's regulations provides that permit be suspended. In this case, the Executive Director has determined that grounds for revocation *do not exist* and that the operation of the permit is not suspended.

Because of the impact on a permittee, the grounds for revocation are necessarily narrow. The rules of revocation do not allow the Commission to have second thoughts on a previously-issued permit based on information that comes into existence after the granting of a permit, no matter how compelling that information might be. Similarly, a violation of the Coastal Act or the terms and conditions of a permit, or an allegation that a violation has occurred, do not constitute grounds for revocation as violations are addressed under the Commission's enforcement powers (Coastal Act, § 30800 et seq.; Cal. Code of Regs., tit. 14, § 13172 et seq.). The grounds for revocation under Article 16 of Commission regulations are confined to information in existence at the time of the Commission's action.

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## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission grant revocation of Coastal Development Permit No. 6-11-044.*

Staff recommends a **NO** vote on the foregoing motion. Passage of this motion will result in denial of the request for revocation and adoption of the following resolution and

findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**Resolution:**

*The Commission hereby denies the request for revocation of the Commission's decision on Coastal Development Permit No. 6-11-044 on the grounds that there was no:*

- (a) intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application, where the Commission finds that accurate and complete information would have caused the Commission to require additional or different conditions on a permit or deny an application; OR*
- (b) failure to comply with the notice provisions of § 13054, where the views of the person(s) not notified were not otherwise made known to the Commission and could have caused the Commission to require additional or different conditions on a permit or deny an application.*

## **II. FINDINGS AND DECLARATIONS**

### **A. PROJECT DESCRIPTION AND BACKGROUND**

The coastal development permit that is the subject of this revocation request was approved by the Commission on August 10, 2011. The Commission approved demolition of an existing lifeguard station and construction of a new three-story, 30 ft. high, 3,125 sq.ft. lifeguard station, a buried semi-circular sheet-pile bulkhead seawall located 30 feet seaward of the proposed lifeguard structure, and an architectural concrete cap on top of the bulkhead wall a maximum of approximately 3 ft. high. The Commission had approved this identical project on February 15, 2007 with CDP #6-05-017, which expired in 2010 after a one-year extension was approved in 2009. The applicant reapplied for the subject permit (CDP #6-11-044), which was extended twice after its approval due to funding complications, but was issued on March 18, 2015 after condition compliance was completed. The permit has since been vested as construction has commenced within one year of the extended permit expiration date of August 10, 2015.

The site is located in South Mission Beach seaward of where Ocean Front Walk, the public boardwalk, begins to curve in a southwesterly direction away from the row of residential development that borders the oceanfront. The proposed lifeguard station development is on the public beach in a location where the Commission retains original permit jurisdiction. Therefore, Chapter 3 of the Coastal Act is the standard of review, with the City's certified LCP used as guidance. Immediately west of the boardwalk in this area is a very wide sandy beach and several volleyball courts that are frequently used by the public. Further west is a basketball court, and the existing lifeguard station

proposed to be demolished is located approximately 240 feet west of the court. West of the basketball court is a large grassy picnic area with picnic tables and barbecues, and to the south is a large 250-space public parking lot. At the very northwest corner of the parking lot is a comfort station which is proposed to remain. South of the parking lot is a jetty that borders along the north entrance channel to Mission Bay Park. This marks the southern boundary of Mission Beach, which is inaccessible any further south other than by boat. Across the channel to the south is the Ocean Beach community.

The existing lifeguard structure is 27 years old and was approved pursuant to CDP #F8974 in 1980 to replace a former lifeguard station (that according to the City was built in 1974 as a “temporary facility”) that was damaged by waves and tidal action in the 1980 winter storms. As described in the staff report for CDP #6-11-044, the proposed lifeguard tower will result in a net coverage of an additional 2,000 sq. ft. of sandy beach area. However, in its approval of the project development, the Commission found that the proposed structure would not significantly adversely impact public access or recreation as the beach in this location is very wide and there is ample sandy beach area for the public to enjoy, the structure was sited and designed to minimize public view impacts, and there will be no adverse impacts to sand supply or water quality. In addition, the proposed development will provide a necessary public safety service.

Conditions of approval required final plans showing that no advertising is permitted on the approved structure, that disturbance to sand and intertidal areas be minimized to the extent feasible during construction, and deletion of the proposed landscaping; as-built plans to be submitted within 60 days of completion of the project; construction access and staging restrictions including a prohibition on construction between Memorial Day weekend and Labor Day of any year; implementation of construction and post-construction water quality protection measures; a final color board of the exterior materials to be used; a plan for removal of the visible riprap seaward of the existing lifeguard station and any additional riprap that may become exposed in the future; authorization to construct the proposed development from the State Lands Commission; no future seaward extension of the proposed shoreline protective device; and assumption of risk from hazards in connection with the permitted development.

In December 2014, the City submitted final project plans as required to comply with the conditions of approval. As discussed in detail below in Section D. Analysis of Asserted Grounds for Revocation, during review of these plans, Commission staff identified some discrepancies in the manner in which the building floor area was calculated. However, after a careful review and floor-by-floor comparison of the originally approved plans with the final plans, it was determined that the building square footage has not significantly changed. Specifically, there has only been a minor increase (less than 150 sf.) in building square footage resulting from the need to accommodate accessible ADA restrooms and larger rescue vehicles on the ground floor and a third floor open walkway. Commission staff evaluated these minor revisions and found the final plans to be in substantial conformance with the originally approved plans because the overall bulk and scale of the final structure is essentially the same; the building location and orientation has not changed; the maximum height and number of floors of the final structure is not changing (30 feet and three floors) and the building is not being located any further seaward.

Therefore, as the City complied with all conditions necessary for release of the coastal development permit, the permit was issued. Construction work began on about April 6, 2015, and thus, the coastal development permit has been vested.

## **B. REVOCATION REQUEST CONTENTIONS**

### **1. Summary of Revocation Request Contentions**

On August 28, 2015, Craig A. Sherman submitted a revocation request for CDP #6-11-044 on behalf of Citizens for Beach Rights (CBR) (Exhibit 2). The request for revocation contends that grounds for revocation in Section 13105(a) of the Commission's regulations exist because the applicant allegedly intentionally submitted inaccurate, erroneous, and incomplete information to the Commission in connection with CDP #6-12-061 with regard to the size and bulk of the proposed structure (Exhibit A of the revocation request letter). Specifically, CBR contends that the project size has increased from 3,125 sq.ft. to over 3,990 sq.ft., and that the building has changed in bulk, scale, and configuration. The requestor contends that this information was intentionally withheld, and thus grounds for revocation exist, because the applicant did not come forward with plans showing changes to bulk, scale, and configuration of the proposed structure until after the second extension was approved on May 28, 2014. In addition, the requestor contends that grounds for revocation in Section 13105(b) of the Commission's regulations exist because the applicant did not provide a mailing list of all residences within 100 feet of the subject property for noticing requirements. Finally, the requestor contends that had the Commission known of this information regarding changes in the bulk and size of the structure or had heard input from members of the public who were allegedly unduly noticed, they would have denied the permit or imposed additional or different conditions. The requestor also claims that the City's Site Development Permit (SDP) for this project is expired and void and no CDP can be issued or valid at this time.

### **2. Revocation Request Contentions with Respect to Section 13105(a)**

The party requesting revocation, Citizens for Beach Rights (CBR), claims that the applicant intentionally included inaccurate, erroneous or incomplete information in regards to the size and bulk of the proposed lifeguard tower.

The revocation request asserts that this information was intentionally omitted based on the fact that there were recalculations and configurations to the project that were withheld by the applicant until after receiving approval for the second extension. The revocation request states, on Page 5:

*During, and as part of the application and reconsideration proceeding for the 2014 extension application for CDP [6-11-044], the City, through Sleiman, failed to disclose to the public or the CCC that the actual overall size of the Project had changed in configurations and would increase in size such that the lifeguard station Project would now be differently configured and would now amount to an approximately 3,860 square foot building.*

The requestors offer to support the claim of intentional inaccuracy and omission by referring to a memorandum from the City's hired architect, Domusstudio Architecture, to the City dated February 26, 2014 that shows changes to the size and configuration of the building (attached as Exhibit A of the revocation request, which is provided as Exhibit 2 of this staff report).

### **3. Revocation Request Contentions with Respect to Section 13105(b)**

CBR claims that the applicant failed to follow the notice procedures prescribed in Section 13054 of the Commission's regulations. The revocation request states, on Page 4:

*For all required public noticing for CDP [6-11-044], as well as applications for the 2013 and 2014 [extensions], City project manager Jihad Sleiman failed to provide the CCC with the addresses of all residences located within one hundred feet of the perimeter of the Site as part of its application in violation of section 13054 and CCC instructions for the original application and extension of coastal development permits.*

CBR asserts that due to this noticing failure, homeowners and residents within the project area were denied any input on the project that could have caused the Commission to impose additional or different conditions or deny the proposed development altogether. The requestor also claims that since noticing did occur for CDP #6-05-017, the first approval of the lifeguard tower project, failure to follow the noticing requirements for the subject permit cannot be attributed to ignorance. Further, the requestor asserts that the applicant did not complete required posted notices because the file copy of the Declaration of Notice is incomplete.

Aside from claims that grounds for revocation exist pursuant to Section 13105(a) and (b) of the Commission's regulations, the request concludes that the City's SDP for the project is expired and void and no CDP can be issued or valid at this time.

## **C. APPLICABLE STANDARDS OF REVIEW**

The following Coastal Act policies and Commission regulations in Title 14 of the California Code of Regulations are relevant to the consideration of this revocation request.

### **ARTICLE 16. REVOCATION OF PERMITS**

#### **§ 13105. Grounds for Revocation.**

*Grounds for revocation of a permit shall be:*

*(a) Intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application, where the commission finds that accurate and complete information would have caused the commission to require additional or different conditions on a permit or deny an application;*



*(b) failure to comply with the notice provisions of Section 13054, where the views of the person(s) not notified were not otherwise made known to the Commission and could have caused the Commission to require additional or different conditions on a permit or deny an application.*

**§ 13107. Suspension of Permit.**

*Where the executive director determines in accord with Section 13106, that grounds exist for revocation of a permit, the operation of the permit shall be automatically suspended until the commission votes to deny the request for revocation. The executive director shall notify the permittee by mailing a copy of the request for revocation and a summary of the procedures set forth in this article, to the address shown in the permit application. The executive director shall also advise the applicant in writing that any development undertaken during suspension of the permit may be in violation of the California Coastal Act of 1976 and subject to the penalties set forth in Public Resources Code, Sections 30820 through 30823.*

**§ 13108. Hearing on Revocation.**

*(a) At the next regularly scheduled meeting, and after notice to the permittee and any persons the executive director has reason to know would be interested in the permit or revocation, the executive director shall report the request for revocation to the commission with a preliminary recommendation on the merits of the request.*

*(b) The person requesting the revocation shall be afforded a reasonable time to present the request and the permittee shall be afforded a like time for rebuttal.*

*(c) The commission shall ordinarily vote on the request at the same meeting, but the vote may be postponed to a subsequent meeting if the commission wishes the executive director or the Attorney General to perform further investigation.*

*(d) A permit may be revoked by a majority vote of the members of the commission present if it finds that any of the grounds specified in section 13105 exist. If the commission finds that the request for revocation was not filed with due diligence, it shall deny the request.*

**D. ANALYSIS OF ASSERTED GROUNDS FOR REVOCATION**

**1. Analysis of Revocation Request Contentions with Respect to Section 13105(a)**

The request for revocation contends that grounds for revocation in Section 13105(a) of the Commission's regulations exist because the applicant intentionally submitted inaccurate, erroneous and incomplete information to the Commission in conjunction with the subject CDP application with regards to the size and bulk of the proposed structure. Grounds for revocation under Section 13105(a) can be reduced to three tests, all of which

must be satisfied for the Commission to grant revocation. The following is an analysis of these three tests as they relate to the subject revocation request for CDP #6-11-044.

**Test 1:** Did the applicant for CDP #6-11-044 (City of San Diego) include inaccurate, erroneous or incomplete information in connection with its application?

**Test 1 Analysis:**

The requestor alleges a deliberate omission on the part of the applicant, or in the words of the request, alleges the applicant “failed to disclose...the actual overall size of the Project” in connection with the permit application. This in turn implies the record before the Commission was incomplete, or contained information that was inaccurate or erroneous. Neither implication is correct. The Commission approved a lifeguard structure of a certain bulk and size, and found that the proposed development was sited and designed to minimize or avoid impacts to coastal resources and public coastal views.

In review of the final project plans for condition compliance, the City indicated that several minor changes were made to the building design primarily to address operational updates and current ADA and Building Codes. These changes resulted in an approximately 130 sq. ft. increase in floor area. However, as CBR points out, the final plans submitted by the City state a total square footage of approximately 3,800 on the title sheet, whereas the permit and the preliminary plans approved by the Commission state a square footage of 3,125. Thus, Commission and City staff did a careful floor-by-floor analysis of the originally approved plans with the final plans to determine where this discrepancy came from. It was determined that there was an error in the method of calculation of building floor area in the original approved plans, because the size and bulk of the original design and the final design are essentially the same. The original approved plans did not count features such as equipment space and stairwells towards the building floor area, whereas the final plans did, and thus resulted in a higher total square footage count. Thus, the original approved plans that were reviewed and approved by the Commission showing the size and configuration of the lifeguard facility should have indicated a building floor area of 3,860 square feet. The Commission determined that, as conditioned, the proposed lifeguard station would not result in any significant impacts to coastal resources including public views, public access, public recreation, or shoreline sand supply. After approval of the project, the City submitted final plans as required by the permit condition. These plans indicate the final design of the building, showing that the bulk and scale are essentially the same, but that there was a 130 sq. ft. increase in size resulting from the need to accommodate ADA restrooms and larger rescue vehicles on the ground floor and a third floor open walkway, for a total building floor area of 3,990 square feet (Exhibit #5).

Commission staff evaluated these minor revisions and found the final plans to be in substantial conformance with the originally approved plans. This determination was based on the following findings: the overall bulk and scale of the final structure is essentially the same; the building location and orientation has not changed; the maximum height and number of floors of the final structure is not changing (30 feet and three floors) and there has been no change to the location of the building. In addition, the

proposed uses and functions of the lifeguard facility remain unchanged from the original approval. Based on these considerations, Commission staff found the minor revisions to be in substantial conformance and in compliance with the final plans condition.

The intent of requiring that final plans be submitted after approval of a project by the Commission is to allow for minor changes and adjustments that can occur during final building and structural review, or as a result of new requirements, such as meeting ADA requirements. Commission staff reviewed the minor changes made to the original plans and determined that the changes could be found in substantial compliance with the original plans for the reasons stated above, and thus no amendment or further action on the City's part was legally required.

Therefore, there was no failure to disclose information in connection with the subject permit application, and the record before the Commission was complete. Thus, the revocation request fails Test 1.

**Test 2:** If the applicant included inaccurate, erroneous or incomplete information, was the inclusion of such information intentional?

**Test 2 Analysis:**

Neither the Coastal Act nor the Coastal Commission regulations define the term "intent" for purposes of determining whether an applicant has intentionally submitted inaccurate, erroneous or incomplete information to the Commission. In general, the Commission may review the evidence on a matter and conclude there was intent based on "the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs." (Cal. Code of Regs., tit. 14, §13065). The law related to fraudulent misrepresentation, however, explores the definition of intent in the context of misrepresentation of facts, which is what is at issue in a revocation hearing. As a result, this area of law is instructive to the Commission when it considers a revocation request.

One element of a claim for fraudulent misrepresentation is the intent to defraud or induce reliance. (*Cicone v. URS Corp.* (1986) 183 Cal.App.3d 194, 200.) In establishing this element, "the only intent by a defendant necessary to prove a case of fraud is the intent to *induce reliance*. Moreover, liability is affixed not only where the plaintiff's reliance is *intended* by the defendant but also where it is *reasonably expected* to occur." (*Lovejoy v. AT&T Corp.* (2001) 92 Cal.App.4th 85, 93 (emphasis in original)). Thus, a defendant may be liable for fraud even for unanticipated reliance by a plaintiff. (*Id.* at p. 94.) In addition, a party's intent to induce reliance may be inferred from his or her failure to disclose facts as required by statute. (*Lovejoy v. AT&T Corp.* (2004) 119 Cal.App.4th 151, 161.) Thus, the Commission may infer that the applicant intentionally submitted inaccurate, erroneous or incomplete information if it finds that the applicant failed to disclose facts as required by the Coastal Act.

The requestor has failed to demonstrate an intent to induce reliance. Neither did the Commission rely on the alleged missing facts as the Commission reviewed and approved essentially the same proposed structure shown in the final plans as in the original plans,

with the minor increase in floor area found to be in substantial conformance to the original plans. The applicant complied with all statutory requirements.

The requesting party does not supply any relevant evidence that the applicant intentionally failed to supply the Commission with complete information. The revocation request asserts that the alleged omission was intentional for two reasons: the City “came forward” with their final plans showing the “moving around” of bulk and scale of the proposed development only after the second extension for the permit was approved in 2014, and a memorandum from the City’s hired architect to the City showing changes in building size is dated February 20, 2014, which is approximately three months prior to the City’s request for the second extension.

First, the fact that the City did not discuss the minor revisions to the proposed development with the Commission until after the second extension was approved is irrelevant. The City was preparing its condition compliance documents for review and approval of the Executive Director, including final plans that the City openly indicated that it included said minor revisions to address updates in ADA and building codes. As described above, it is common for applicants to make minor changes to their approved plans and this is the intent of the final plans condition; to ensure that no substantive changes to the proposed development will occur without the Executive Director’s approval or an amendment to the permit before the CDP is released and vested. Second, there is an error in the date of the referenced memorandum. The memorandum was written on February 26, 2015, rather than 2014, in response to a February 23, 2015 meeting between Commission and City staff discussing the condition compliance material for this development. This memorandum was updated on March 2, 2015, as shown on Page 3 of Exhibit A of the revocation request. Therefore, this information is irrelevant for the reasons stated above.

Therefore, there is no evidence of intentional withholding of information, and thus the revocation request does not meet the requirements of Section 13105(a) for establishing grounds for revocation.

**Test 3:** If the answers to both Test 1 and Test 2 are yes, would accurate and complete information have caused the Commission to require additional or different conditions or to deny the application?

**Test 3 Analysis:**

The revocation request fails Test 1 and Test 2. As stated above, there was no intentional failure to disclose information in connection with the subject permit application, and the record before the Commission was complete. Commission staff found the final plans to be in substantial conformance with the original plans, meaning that there were no substantive changes that would have necessitated additional or different conditions or would have caused the Commission to deny the proposed development.

Therefore, the revocation request does not meet the requirements of Section 13105(a) for establishing grounds for revocation.

## **2. Analysis of Revocation Request Contentions with Respect to Section 13105(b)**

The party requesting revocation contends that grounds for revocation exist pursuant to Section 13105(b), because the applicant did not comply with the noticing provisions of Section 13054 for the permit or for its two extensions. In addition, the party seeking revocation contends that the lack of notice did not allow the public and residents within the required noticing area to provide input that could have caused the Commission to require additional or different conditions on the permit or deny it altogether. Grounds for revocation under Section 13105(b) can be reduced to two tests, both of which must be satisfied for the Commission to grant revocation. The following is an analysis of these two tests as they relate to the subject revocation request for CDP #6-11-044.

**Test 1:** Did the applicant for CDP #6-11-044 (City of San Diego) fail to comply with the notice provisions of Section 13054 in connection with its application?

### **Test 1 Analysis:**

The requestor alleges a failure to meet the noticing requirements of the Commission's regulations on the part of the applicant. Specifically, the requestor claims that the applicant did not provide the Commission with the addresses of all residences located within one hundred feet of the perimeter of the subject site for noticing of CDP #6-11-044 and its two extensions.

However, noticing did occur as required. The permit file for CDP #6-11-044 is missing a completed Appendix C, the form in the CDP application used for listing property owners and residents within 100 feet of the project site; however, this is a filing error, not a noticing error. Notice occurred for this permit application in a timely manner as required; the permit file for CDP #6-11-044 contains returned envelopes (from addresses with no forwarding information, for example), indicating that noticing did occur. Noticing materials are also included in the permit file for the previously approved CDP #6-05-017 for the identical proposal and in the file for the first extension for CDP #6-11-044. Noticing procedures require all residents and property owners of any property located within 100 feet of the perimeter of the property on which development is proposed to be sent notice of the public hearing for the development proposal. Mr. Ken Giavara, the director of the party requesting revocation, contacted Commission staff regarding his opposition to the proposed development based on private view blockage and lack of noticing. It was determined that Mr. Giavara's property is within the 100-foot noticing radius and thus was given notice of this permit and its two extensions, as well as of CDP #6-05-017 and its extension. The noticing material provided in association with both permits for the identical proposal contains Mr. Giavara's address, and his address is not one of the returned envelopes from the CDP #6-11-044 mailed notices. Therefore, Commission staff believes notice was mailed to all properties within the required notice area, including Mr. Giavara's. The revocation request claims that telephone conversations with Commission staff confirmed that zero residents, owners, or interested party mailings were made. However, this is incorrect as Commission staff provided Mr. Giavara with



the same information stated above. Thus, notice of this project has been provided by the Commission to surrounding property owners on five separate occasions: the original permit (CDP #6-05-017), the extension of that permit (CDP #6-05-017-E1), the current permit (CDP #6-11-044), and the two permit extensions (CDPs #6-11-044-E1 & -E2).

In addition, the requestor claims that the applicant failed to complete the required posted notice because the “Declaration of Notice” submitted as part of the CDP application was incomplete, because it does not include the date and location of posting. This Notice serves as proof that notice of a pending application has been posted at the site. However, this claim is irrelevant because these forms are often submitted without being completely filled out because the applicant needs to include the referenced CDP number on the posted notice, which takes several days after an application is submitted to generate in the Commission’s record system. The applicant signed and dated the Declaration of Notice as required. Therefore, there is no evidence that the applicant failed to meet the noticing requirements of the Commission’s regulations.

**Test 2:** If the answer to Test 1 is yes, would the views of the person(s) not notified not otherwise made known to the Commission and could have caused the Commission to require additional or different conditions or to deny the application?

The revocation request fails Test 1. The revocation request cites Section 30251 of the Coastal Act, and claims that the homeowners and residents within the required noticing area who have the best direct knowledge of the scenic and visual qualities of the subject site were denied any input on the project. In addition, in conversation with Commission staff, Mr. Giavara expressed opposition to the project based on private view blockage. As described above, the subject development was approved by the Commission twice as the first permit expired. Both staff reports address the potential for public view impacts from structures located on the beach. However, as indicated in the reports, the City sited and designed the proposed structure to address public concerns of the potential for view blockage from the public boardwalk to the east of the site. As stated on Page 23 of the staff report for CDP #6-05-017:

*The proposed lifeguard station needs to be in the proposed location to meet the needs of the lifeguard service. In addition, the size of the station is the minimal necessary to meet the current and long-term needs of the lifeguard service as far as function. Given these factors, the applicant went about designing the structure such that it would be as unobtrusive as possible as viewed from the east. The City held a number of community meetings to obtain the local input from the residents of the community. The major concern brought up by the public was the potential for blockage of views as seen from Ocean Front Walk (the public boardwalk) to the east. Based on this input, the applicant spent considerable time designing the new lifeguard station to minimize its impacts to views to and along this scenic coastal area. The City specifically designed the footprint of the new lifeguard tower such that it was more narrow from north to south but wider from west to east to minimize its potential impacts on public views. In other words, the proposed station is long and narrow as viewed from the east.*

*Although the lifeguard station is proposed to be larger to accommodate the current lifeguard service's long-term needs, the impact on public views has been minimized by designing the station in a manner to reduce its bulk and scale by placing additional spaces into the first-story, narrow structure on an axis that is east-to-west. The first floor is the largest and the two upper levels are quite small by comparison. This narrow profile of the proposed building minimizes the bulk and scale and optimizes and maintains the public views to the ocean (ref. Exhibit No. 6).*

Therefore, the Commission was well aware of the potential for impacts to public views and the ways in which the proposed development was sited and designed to minimize or avoid such potential impacts, and approved the project with the exact same conditions in CDP #6-11-044 as approved in CDP #6-05-017. The Commission does not consider impacts to private views as a Coastal Act issue nor a reason for modification or denial of a proposed development. Thus, there is no reason to believe that any additional input from the public regarding public view impacts could have caused the Commission to require additional or different conditions or to deny the application, and the revocation request does not meet the requirements of Section 13105(b) for establishing grounds for revocation.

#### **E. SECTION 13108(D) OF THE CALIFORNIA CODE OF REGULATIONS**

Pursuant to Section 13108(d) of the California Code of Regulations, if the Commission finds that the request for revocation was not filed with due diligence, it shall deny the revocation request. Revocation grounds are limited to those based on information in existence at the time of the Commission's action on the coastal development permit application.

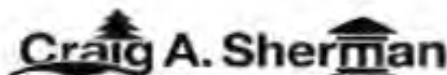
The director of the party requesting revocation owns a property within 100 feet of the project site, which was noticed five times since 2007 due to several extensions and re-application of a new CDP for this project. However, the revocation request letter asserts that the requesting party did not become aware of the above-described changes in bulk and size of the proposed development until March 2015, when the City was completing their condition compliance and the permit was issued. The letter states CBR has been diligently looking into this in March through May of 2015. The revocation request was received within approximately four months of this time frame. Thus, according to the requestor's statements, this request was filed with due diligence.

#### **F. CONCLUSION**

For the reasons discussed in detail in the preceding sections of this report, the revocation request does not demonstrate that the applicant knowingly and intentionally provided inaccurate, erroneous, or incomplete information relevant to the Coastal Act analysis as to whether the development approved by the Commission pursuant to CDP #6-11-044 is consistent with the Chapter 3 policies of the Coastal Act. Furthermore, there is substantive evidence of multiple noticing of residences within 100 feet of the project, and

no evidence that the Commission would have required additional or different conditions or denied this permit application altogether had it received additional input from the public. Thus, the grounds necessary for revocation under Section 13105(a) or (b) of the Commission's regulations have not been satisfied. In addition, the party requesting revocation contends that the City's site development permit for the subject development is expired and thus the coastal development permit cannot be valid, but this is neither correct nor in any case is it grounds for revocation of the subject coastal development permit. The applicant has indicated that the site development permit is considered utilized, or vested, as they showed evidence of substantial use in progress by complying with the conditions of the permit and actively pursuing building permits, pursuant to Section 126.0108 of the City's municipal code. The applicant was issued their CDP and vested the permit within the legal timeframe.

Therefore, the Commission finds that the revocation request must be denied because the contentions raised in the revocation request do not establish the grounds identified in Sections 13105(a) or (b) of Title 14 of the California Code of Regulations.



A Professional Law Corporation

1901 FIRST AVENUE, SUITE 219  
SAN DIEGO, CA 92101

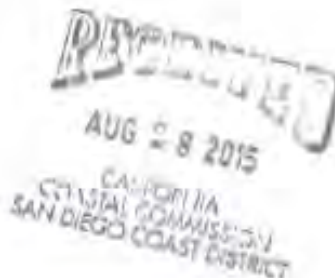
TELEPHONE  
(619) 702-7892

FACSIMILE  
(619) 702-9291

August 28, 2015

*Via Facsimile (619) 767-2384  
Followed by U.S. Mail*

Dr. Charles Lester, Executive Director  
c/o Holly Parker  
San Diego Coast District Office  
CALIFORNIA COASTAL COMMISSION  
7575 Metropolitan Drive, Suite 103  
San Diego, CA 92108



**Request for Revocation of Permit – 14 Cal. Code of Regs. Section 13105**  
**Invalidity of Coastal Development Permit 6-11-044**  
***(Mission Beach Lifeguard Station Project)***

Dear Dr. Lester:

**1. Introduction**

On behalf of my client Citizens for Beach Rights ("CBR"),<sup>1</sup> I make this formal request under the above cited Commission Regulation to request revocation of the CDP 6-11-044 that was issued for the City of San Diego's ("City") South Mission Beach Lifeguard Station Project ("Project"), that was subsequently twice extended without the applicant having given notice as required by California Code of Regulations Title 14, section 13054.<sup>2</sup>

Pursuant to California law, the California Coastal Commission ("CCC"), "is required to revoke a permit previously issued 'if it determines that the permit was granted without proper notice having been given.'" (*Oceanside Marina Towers Assn. v. Oceanside Community Development Com.*, (1986) 187 Cal.App.3d 735, 742-743; citing Title 14 Cal. Code of Regs. § 13054)

<sup>1</sup> CBR is a nonprofit corporation registered in the State of California and County of San Diego which has numerous members and supporters who reside within the City of San Diego and area of the South Mission Beach Lifeguard Station Project that stands to be affected by the Project.

<sup>2</sup> Unless otherwise noted, all code citations are to California Code of Regulations Title 14 and is also denominated "Commission Regulation."

EXHIBIT NO. 1

APPLICATION NO.

**6-11-044-REV**

Revocation Request

Letter



California Coastal Commission

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August 28, 2015

CALIFORNIA COASTAL COMMISSION

Request for Revocation of Permit (14 Cal. Code of Regs. § 13105)

Coastal Development Permit CDP 6-11-044

Evidence indicates that the City's application and subsequent applications for extension contained intentional inclusion of inaccurate, erroneous or incomplete information as to the size and bulk of the Project.

Pursuant to Section 13105 of Title 14 of the California Code of Regulations, the two reasons stated above are grounds (and requirements) for the revocation of Coastal Development Permit 6-11-044.

## 2. Background

The location of the Project is at the end of South Mission Beach with a common given address of 700 North Jetty Road, San Diego, CA 92109 and registered with the San Diego County Assessor/Recorder's office as APN No. 423-750-01 (hereafter, the "Site").

Relevant to this action and current Project, the local planning group, the Mission Beach Precise Planning Board ("MBPPB") voted on or about May 17, 2005 to reject a 3,500 square foot station as being too large and obtrusive. The MBPPB approved, by a vote of 10-3-1, to approve a **scaled-down version at 3,000 square feet to be located on the site of the old station.**

On September 27, 2006, a City-designated Hearing Officer approved a City Site Development Permit (SDP No. 197971). The decision and SDP granted by the Hearing Officer expressly and only authorized a replacement lifeguard station to be 3,125 square feet. The City's project manager misrepresented to the Hearing Officer about the opposition and conditional approval made by the MBPPB after community review and consideration.

On October 10, 2006, City applied for a coastal development permit CDP No. 6-05-017 (hereafter, "CPD 1"). The CCC approved CPD 1 on February 15, 2007. Terms and conditions for CDP 1 required the replacement lifeguard station to be 3,125 square feet. However, the Project was never initiated or built, and the City allowed CDP 1 to expire on February 15, 2010.

The City applied for a new coastal development permit on June 2, 2011 via application and CDP No. 6-11-044 (hereafter, "CPD 2"). On August 10, 2011, the CCC approved the Project for CDP 2. **Once again, the replacement lifeguard station was to be 3,125 square feet.**

The City later applied for two permit extensions to CDP 2. First, on July 23, 2013 (denominated CDP No. 6-11-044-E1) - that was granted by the CCC on October 16, 2013, and a second, on May 5, 2014 (denominated CDP No. 6-11-044-E2) - that was granted by the CCC on May 28, 2014.



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CALIFORNIA COASTAL COMMISSION

Request for Revocation of Permit (14 Cal. Code of Regs. § 13105)

Coastal Development Permit CDP 6-11-044

The CCC record for this matter indicates the City's project manager, Jihad Sleiman ("Sleiman"), did not provide the names and addresses, or stamped envelopes for, adjacent landowners, residents, and other interested persons in its original CPD 2 application or either of the subsequent extensions – as required by Commission Regulation section 13054.

It was not until 2015, when the City began gearing up construction and final permits, well after the May 28, 2014 extension for the problematic and non-noticed CDP 2, that the City came forward and had behind-closed-door communications and meetings with Commission staff to **show changes to bulk, scale and configurations, and indicating the Project size has increased from 3,125 square feet to over 3,990 square feet.**<sup>3</sup> Drawings obtained by CBR, as contained within the CCC's files for CDP 2, clearly show the moving around of bulk and scale of the building that no one from the public and CBR ever got to review or comment on. (Exhibit A)

CBR began diligently looking into this in March through May of 2015 and brought some of this to the attention of City and Commission officials. While the City and its contractor EC Constructors, Inc. have commenced some of the bulkhead and foundation work for the Project's structure, the beach construction moratorium during Memorial Day through Labor Day has prevented further construction. With such minimally installed foundational structures (see photo, Exhibit B) there is nothing that irrevocably commits the CCC to allow the Project's building to go forward in light of the substantial grievances of public notice and opportunity to be heard. (See 14 Cal. Code Regs. § 13107)<sup>4</sup>

---

<sup>3</sup> The Commission has never explained or authorized how or why this subject Project has been converted from being 3,125 to 3,860 square feet, a fact and occurrence contrary to all public information conveyed by City in every CCC record and file. The Commission does, however, attempt to substantiate a further increase to 3,990 square feet, in a March 18, 2015 Notice of Acceptance letter, but this defies the fact there was never any such authorized building to be such a size to begin with.

<sup>4</sup> Even if the permit is vested, i.e. the applicant has undertaken construction of the project, if the CCC revokes the permit, the applicant is required to stop work and, if wishing to continue, to reapply for the project. In fact, if the evidence clearly shows that there are grounds for revocation, the Executive Director, upon receipt of a request for revocation, can order the project to stop work. Section 13107 provides, in part: "Where the executive director determines, in accord with Section 13106, that grounds exist for revocation of a permit, the operation of the permit shall be suspended."

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Request for Revocation of Permit (14 Cal. Code of Regs. § 13105)

Coastal Development Permit CDP 6-11-044

Further reasons exist to enable (and require) the Commission to revoke and reconsider a new CDP to correct the noticing violations explained above. The City will likely be re-filing and reconsidering a new development permit for the Project because **the Project's SDP is expired and deemed void**. On August 26, 2015 CBR filed suit in the Superior Court to have construction halted on the basis the SDP is void. (Attached hereto as Exhibit C is a copy of the Complaint filed by CBR)

### 3. Lack of Notice Subjects CPD 2 Permit and Its Two Extensions to Revocation

Failure to follow the notice procedures prescribed in section 13054, "where the views of the person(s) not notified were not otherwise made known to the commission and **could have** caused the commission to require additional or different conditions on a permit or deny an application," are grounds for revocation of a coastal development permit. (Commission Regulation § 13105 (b), bold added.) For all required public noticing for CDP 2, as well as applications for the 2013 and 2014 CDP 2, City project manager Jihad Sleiman failed to provide the CCC with the addresses of all residences located within one hundred feet of the perimeter of the Site as part of its application in violation of section 13054 and CCC instructions for the original application and extension of coastal development permits. Telephone conversations with Commission staff, and a review of the Commission's file for CDP 2, confirms that no (**zero**) resident, owner, or interested party mailings were made.

The CCC's failure – as caused by the City and its declarant Jihad Sleiman – to follow the notice requirements in conjunction with the City's CDP 2 application (and the subsequent extensions) cannot be attributed to ignorance. Sleiman was the City's project manager when the City applied for CPD 1 and the extension of CPD 1. Sleiman signed the application for a 2009 extension of CPD 1, and with it he included an address list for the purpose of providing notice. Attached hereto as Exhibit D are copies of address list pages obtained from the CCC's files on the City's CPD 1 application extension.<sup>5</sup>

Further, Sleiman failed to complete required posted notices. For example, on the Declaration of Notice for the CPD 2, Sleiman failed to fill out the date and location of a purported posted notice required as part of City's CPD 2 application. Attached hereto as Exhibit E is a true and correct copy of City's Declaration of Notice dated June 1, 2011 signed by Jihad Sleiman. Without such information the declaration is not complete and it is presumed Sleiman never posted notice of the City's re-application which was rubber-stamped by the CCC (especially in light of the fact that no one knew about and they could not appear and comment).

<sup>5</sup> Even if the City tries to argue this 2009 list was meant to be used for noticing in 2012, or subsequent thereto (which is highly dubious and unlikely because CCC has already revised the file and informed CBR that no notice was given), this outdated list is certainly invalid and stale for 2014 noticing.

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Request for Revocation of Permit (14 Cal. Code of Regs. § 13105)

Coastal Development Permit CDP 6-11-044

Based on the fact that no notice was been provided to residents and homeowners, as required by Commission Regulation section 13054, this revocation request meets the low threshold that input from the public or members of CBR **could have** caused the Commission to require additional or different conditions on CPD 2, or deny it altogether.

Homeowners and residents within the required noticing area of the Project, who have the best direct knowledge regarding the scenic and visual qualities of the Site, were denied any input on the Project. It is this noticing purpose that would have allowed and imparted information to the public and Commission in making its review and decision on the Project.

California Public Resource Code section 30251 states, in part:

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

Considering that what the CCC approved in CPD 2 and subsequent extensions is no longer a Project with a square footage of 3,125, the actual Project is seven to eight hundred square feet bigger, and it has bulk and scale features enlarged and removed up and down and around the proposed lifeguard station (see Exhibit A), it is expected and known that input from members of the public, including CBR and other local homeowners and residents, would have commented so as to cause the commission to consider or require or reject whether the Project be located and sized in a manner that was changing or that could otherwise interfere with scenic and visual qualities at the site.

**4. The CPD 2 Application and Extensions Contained Intentional Inclusion of Inaccurate, Erroneous or Incomplete Information**

Pursuant to section 13105, grounds for the revocation of a coastal development permit exists where there is the "[i]ntentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application, where the commission finds that accurate and complete information would have caused the commission to require additional or different conditions on a permit or deny an application." During, and as a part of the application and reconsideration proceeding for the 2014 extension application for CDP 2, the City, through Sleiman, failed to disclose to the public or the CCC that the actual overall size of the Project had changed in configurations and would increase in size such that the lifeguard station Project would now be differently configured and would now amount to an approximately 3,860 square foot building.



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August 28, 2015

CALIFORNIA COASTAL COMMISSION

Request for Revocation of Permit (14 Cal. Code of Regs. § 13105)

Coastal Development Permit CDP 6-11-044

For the initial application and each of the extensions to CDP 2, Sleiman represented to the CCC on the applications and in communications that the Project was 3,125 square feet in size. However, a memorandum from the City's hired architect, Domusstudio Architecture, to the City dated February 26, 2014 (approximately three months before City's May 5, 2014 application for its second extension of CDP 2) shows tabulations and extensive diagraming that the Project was well in excess of 3,125 square feet in size and that the building's configuration was changing. Attached hereto as Exhibit A is a true and correct copy of Domusstudio Architecture's February 26, 2014 memorandum to the City of San Diego.

#### 5. Conclusion

Citizens for Beach Rights requests the California Coastal Commission revoke Coastal Development Permit 6-11-044 on the bases that: (1) the Commission's noticing was blatantly defective, and in fact was nonexistent, due to City's omissions and misrepresentations in its original and extended permit applications; (2) there were known recalculations and configurations to the Project that were withheld by the applicant until after it got its CDP 2 extension; and (3) the City's SDP for the Project is expired and void and no CDP can be issued or valid at this time.

As the City may be actively interested in recommencing construction of the Project after the construction moratorium is lifted after Labor Day, time is of the essence for the Commission's consideration and decision on this Request.

Based on the multiple and clear grievances set forth above, the CDP is respectfully requested to be rescinded immediately.

Sincerely,



Craig A. Sherman  
Attorney for Citizens for Beach Rights

Attachments (Exhibits A - F)

# EXHIBIT A



**RECEIVED**

FEB 27 2015

domusstudio architecture

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT**Memorandum**

domusstudio

DATE: 2/26/2014

SPOKE WITH: Calif Coastal Commission

PROJECT: SMBLS

☐ PHONE☒ CONFERENCE☐ OTHER:

PROJECT NO: 1106

TO:

RE:

SENT BY:

City of San Diego

Square Foot Tabulations

Wayne Holtan (ext. 15)  
wayne.holtan@domusstudio.com

COPY TO:

EMAIL:

file

REMARKS

Diana and Brittney,

Find summarized below two Floor Area Tables with attached exhibit documentation to use as reference to clarify the tabulation discrepancies between the CDP 2011 Plans Square Footage and the current Bldg. Permit Plans Square Footage.

The **CDP Area Summary Table** below shows the development of the plan summary from the original submittal to the current plan footprints. The plans have evolved to address changes to operations/equipment, code/accessibility, and technology/lessons learned. We have attached three b/w exhibits showing the original footprint (heavy dashed line) overlaid onto the current footprint for each floor level (titled Floor Plan Footprint Comparisons). We have also included a b/w north elevation (south elevation would be similar) showing the original profile (heavy dashed line) overlaid onto the current profile for the full length and height (titled Elevation Profile Comparison). Then to correlate with those same exhibits and the Table Summary columns below, we have provided color coded exhibits that identify the Table Areas for:

- Notes \*1 - Building area not accounted in the square footage (Exterior Gross Floor Area by definition), as shown in yellow.
- Notes \*2 - Calculation erroneously not included in the building area (Cabinetry areas not included).
- Current Plan Adds - current floor area outside of the original footprint, as shown in green.
- Current Plan Deducts - original floor area outside of the current footprint, as shown in blue.

Note that we have also included a corresponding color coded north elevation (south elevation would be similar) showing the original profile (heavy dashed line) overlaid onto the current profile with the same representative color coded adds and deducts for the full length and height.

The Table is completed with a tabulation of New Square Foot Totals of 3,538 SF.

The **Building Permit Area Summary Table** below shows the reduced adjustments to the floor area of the Bldg. Permit CD Plans. We have identified proposed plan adjustments to reduce the Main Level Plan area by 295 sf. We have also identified proposed plan adjustments to reduce the 2nd Level Plan area by 35 sf, in addition to reductions resulting from having duplicated floor area (22 sf at Stair # 1) and erroneously including the shaft area (11 sf at Admin #202). To identify those specific proposed areas to be reduced, we have attached two color coded floor plans of the current Bldg. Permit CD Plan (titled Main Level Building Permit CD Plan - Adjusted Areas and 2nd Level Building Permit CD Plan - Adjusted Areas), with the plans changes shown in tan color and duplicated floor area shown in light blue.

The Table is completed with a tabulation of Updated Bldg. Permit CD Totals of 3,446 SF, within 20 SF of the total for the Actual CDP Listing column in the CDP Area Summary Table.

As a result of this clarification and adjustments to the tabulations and plans, the resulting plans show to be in general conformance with the CDP Listing of 3,426 SF and the intent of the proposed Coastal Development Permit.

2150 West Washington Street, Suite 303, San Diego, California 92116 619.692.9393 domusstudio.com

\\server1\domusstudio\09 Project Files\1106 South Mission Beach Lifeguard Station\01 Client\7.1 Off Regulatory Approvals\7.1.6.1 Documentation\JC15.02.26 Floor Area Studies\1 Floor Area Study Plans & Tables.doc

Exhibit A, Page 1

domusstudio architecture

**Memorandum (continued)**

domusstudio

## CALCULATION TABLE SUMMARY:

## CDP AREA SUMMARY

AREA	CDP 2011 TOTALS	AREA NOT ACCOUNTED FOR IN 2011 CDP TOTAL	ACTUAL CDP LISTING	CURRENT PLAN ADDS	CURRENT PLAN DEDUCTS	NET CHANGE	NEW SF TOTALS
MAIN LEVEL	2,436	+120 *1	2,556 <i>2860</i>	+320	-243	+ 92	2,633
2ND LEVEL	435	+137 *2	572 <i>746</i>	+ 81	- 53	+ 28	600
OBSERV. LEVEL	254	+44 *2	298	+142	-135	+ 7	305
TOTAL	3,125		3,426				3,538

## NOTES:

- \*1. Building area not accounted in the square footage.  
 \*2. Calculation erroneously not included in the building area.

## BLDG. PERMIT AREA SUMMARY

AREA	BLDG. PERMIT CD TOTALS	DUPLICATED FLOOR AREA	PLAN ADJUSTMENTS	UPDATED BLDG. PERMIT CD TOTALS
MAIN LEVEL	2,913		-285 <i>230</i>	2,618
2ND LEVEL	682	-22 & -11 & -35		614
OBSERV LEVEL	214			214
TOTAL	3,809			3,446



REC-111

MAR 02 2015

domusstudio architecture

CALIFORNIA  
COASTAL COMMUNITY COLLEGE  
SAN DIEGO CAMPUS

# Memorandum

domus studio

DATE: 3/2/2015

**SPOKE WITH:** Calif Coastal Commission

PROJECT: SMBLS

 PHONE**CONFERENCE**☐ OTHER:

PROJECT NO: 1106

10:

RE:

SENT BY-

City of San Diego

### Square Foot Tabulations

Wayne Holtan (ext. 15)  
wayne.holtan@domusstudio.com

**COPY TO:**

EMAIL:

file

## REMARKS

**Diana and Britlney.**

Find summarized below two Floor Area Tables with attached exhibit documentation to use as reference to clarify the tabulation discrepancies between the CDP 2004 and 2011 Plans Square Footage and the current Bldg. Permit Plans Square Footage.

The **CDP Area Summary Table** below shows the development of the plan summary from the original submittal to the current plan footprints. The plans have evolved to address changes to:

- operations/equipment - rescue vehicles and clearances have gotten larger (rescue vehicle garage), interior storage of equipment and access for security and ease of use (boards, buoys and equipment).
- code/accessibility - Building Code and Accessibility Codes have changed to require additional areas of access and size of spaces (restrooms and locker rooms).
- technology - alarm, notification, low voltage systems require separate climate controlled areas.
- lesson's learned from built stations - Observation Level glass and workspace spec and plan.

We have attached three b/w exhibits showing the original footprint (heavy dashed line) overlaid onto the current footprint for each floor level (titled Floor Plan Footprint Comparisons). We have also included a b/w north elevation (south elevation would be similar) showing the original profile (heavy dashed line) overlaid onto the current profile for the full length and height (titled Elevation Profile Comparison). Then to correlate with those same exhibits, we have provided color coded exhibits that identify the Table Areas for:

- Notes \*1 - Building area not accounted in the square footage (Floor Area by definition), as shown in yellow.
- Notes \*2 - Calculation erroneously not included in the building area (Cabinetry areas not included).
- Current Plan Adds - current floor area outside of the original footprint, as shown in green.
- Current Plan Deducts - original floor area outside of the current footprint, as shown in blue.

Note that we have also included a corresponding color coded north elevation (south elevation would be similar) showing the original profile (heavy dashed line) overlaid onto the current profile with the same representative color coded adds and deducts for the full length and height.

The Table is completed with a tabulation of New Square Foot Totals of 3,426 SF.

The **Building Permit Area Summary Table** below shows the reduced adjustments to the floor area of the Bldg. Permit CD Plans. We have identified proposed plan adjustments to reduce the Main Level Plan area by 295 sf. We have also identified proposed plan adjustments to reduce the 2nd Level Plan area by 36 sf, in addition to reductions resulting from having duplicated floor area (22 sf at Stair # 1) and erroneously including the shaft area (11 sf at Admin #202). To identify those specific proposed areas to be reduced, we have attached two color coded floor plans of the current Bldg.

2150 West Washington Street, Suite 303, San Diego, California 92110 619.692.9393 domusstudio.com

\\nasir\tdm\src\study\Q-Projekt\1401106\_Sarkis\_Mission\_Speech\Figures\Barnes170115\7.1\_QP\_Eng\_Summary\_Accessible\_V1.1\_F01\_Documents\ryh2013\_Q2\_2016en\_Arns\_Sarkis\1401106\_03\_03\_Floor\_Audio\_Sounds\Images\Tables.doc

domusstudio architecture

**Memorandum (continued)**

domusstudio

Permit CD Plan (titled Main Level Building Permit CD Plan - Adjusted Areas and 2nd Level Building Permit CD Plan - Adjusted Areas), with the plan changes shown in tan color and duplicated floor area shown in light blue. The Table is completed with a tabulation of Updated Bldg. Permit CD Totals of 3,446 SF, within 20 SF of the total for the Actual CDP Listing column in the CDP Area Summary Table.

As a result of this clarification and adjustments to the tabulations and plans, the resulting plans show to be in general conformance with the CDP Listing of 3,426 SF and the intent of the proposed Coastal Development Permit.

**CALCULATION TABLE SUMMARY:****CDP AREA SUMMARY**

AREA	CDP 2011 TOTALS	AREA NOT ACCOUNTED FOR IN 2011 CDP TOTAL	ACTUAL CDP LISTING
MAIN LEVEL	2,436	+120 *1 <del>15</del> <del>120</del>	2,556 (125=1)
2ND LEVEL	435	+137 *2 — total of 2	572
OBSERV LEVEL	254	+44 *2 ? N/A → 0	298 +7
TOTAL	3,125	361	3,426 3242

**NOTES:**

- \*1. Building area not accounted in the square footage.  
 \*2. Calculation erroneously not included in the building area.

**BLDG. PERMIT AREA SUMMARY**

AREA	BLDG. PERMIT CD TOTALS	DUPLICATED FLOOR AREA	PLAN ADJUSTMENTS	UPDATED BLDG. PERMIT CD TOTALS
MAIN LEVEL	2,913		-295	2,618 (+15 = 2633)
2ND LEVEL	682	-22 & -11	-35	614
OBSERV LEVEL	214			214
TOTAL	3,809			3,446 (3461)

domusstudio architecture

**Memorandum (continued)**

domusstudio

Permit CD Plan (titled Main Level Building Permit CD Plan - Adjusted Areas and 2nd Level Building Permit CD Plan - Adjusted Areas), with the plan changes shown in tan color and duplicated floor area shown in light blue. The Table is completed with a tabulation of Updated Bldg. Permit CD Totals of 3,446 SF, within 20 SF of the total for the Actual CDP Listing column in the CDP Area Summary Table.

As a result of this clarification and adjustments to the tabulations and plans, the resulting plans show to be in general conformance with the CDP Listing of 3,426 SF and the intent of the proposed Coastal Development Permit.

**CALCULATION TABLE SUMMARY:****CDP AREA SUMMARY**

AREA	CDP 2011 TOTALS	AREA NOT ACCOUNTED FOR IN 2011 CDP TOTAL	ACTUAL CDP LISTING	
			<b>Bulk Building Area</b>	
MAIN LEVEL	2,436	+120 *1	2886.5	2,556
2ND LEVEL	435	+137 *2	676.5	572
OBSERV LEVEL	254	+ 44 *2	297	298
TOTAL	3,125		3860	3,426

**Current Proposed Bulk Building Area**

2911  
672.5  
406  
3989.5

**Net Change (sf)**

24.5  
-4  
109  
129.5

**NOTES:**

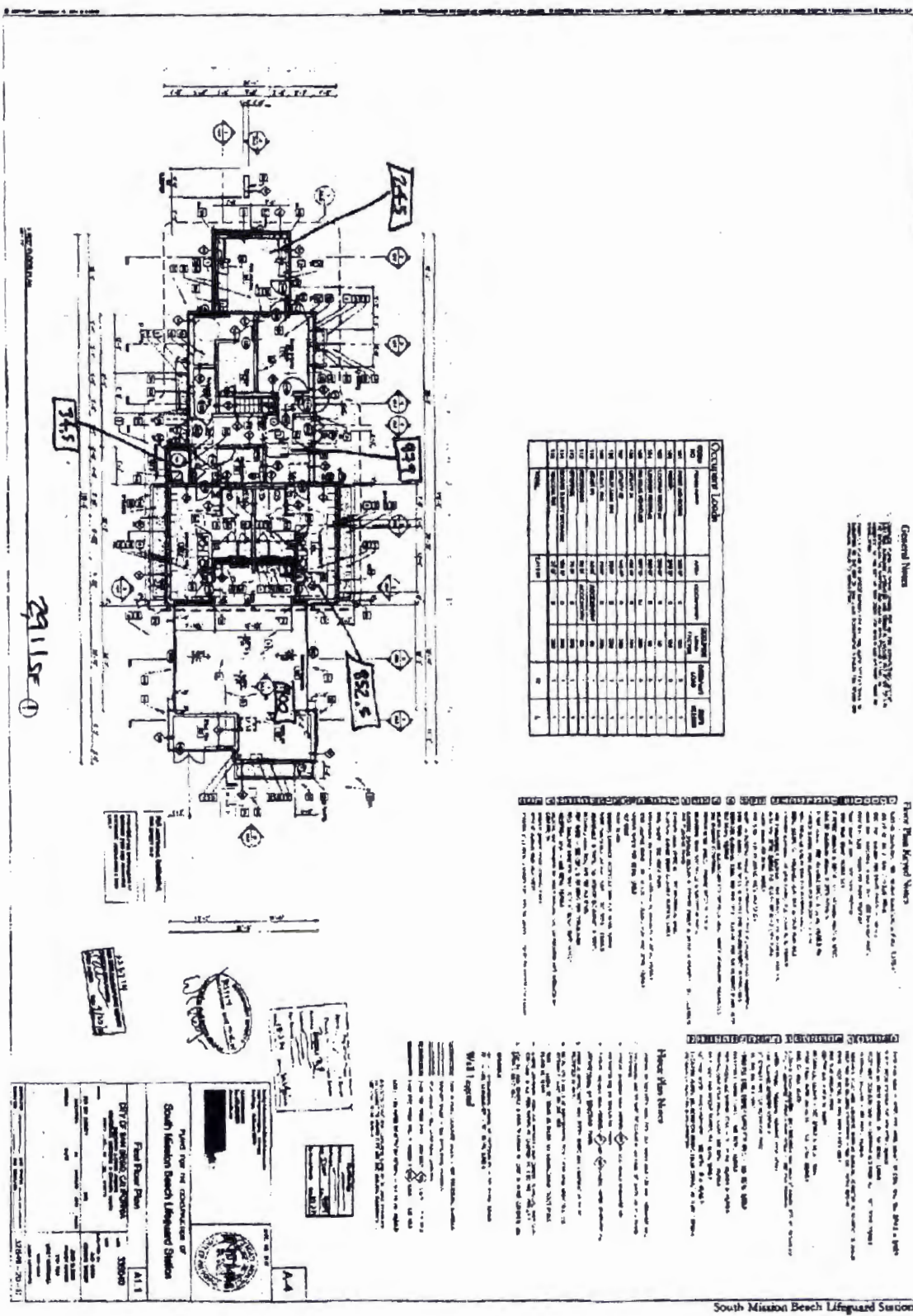
\*1. Building area not accounted in the square footage.

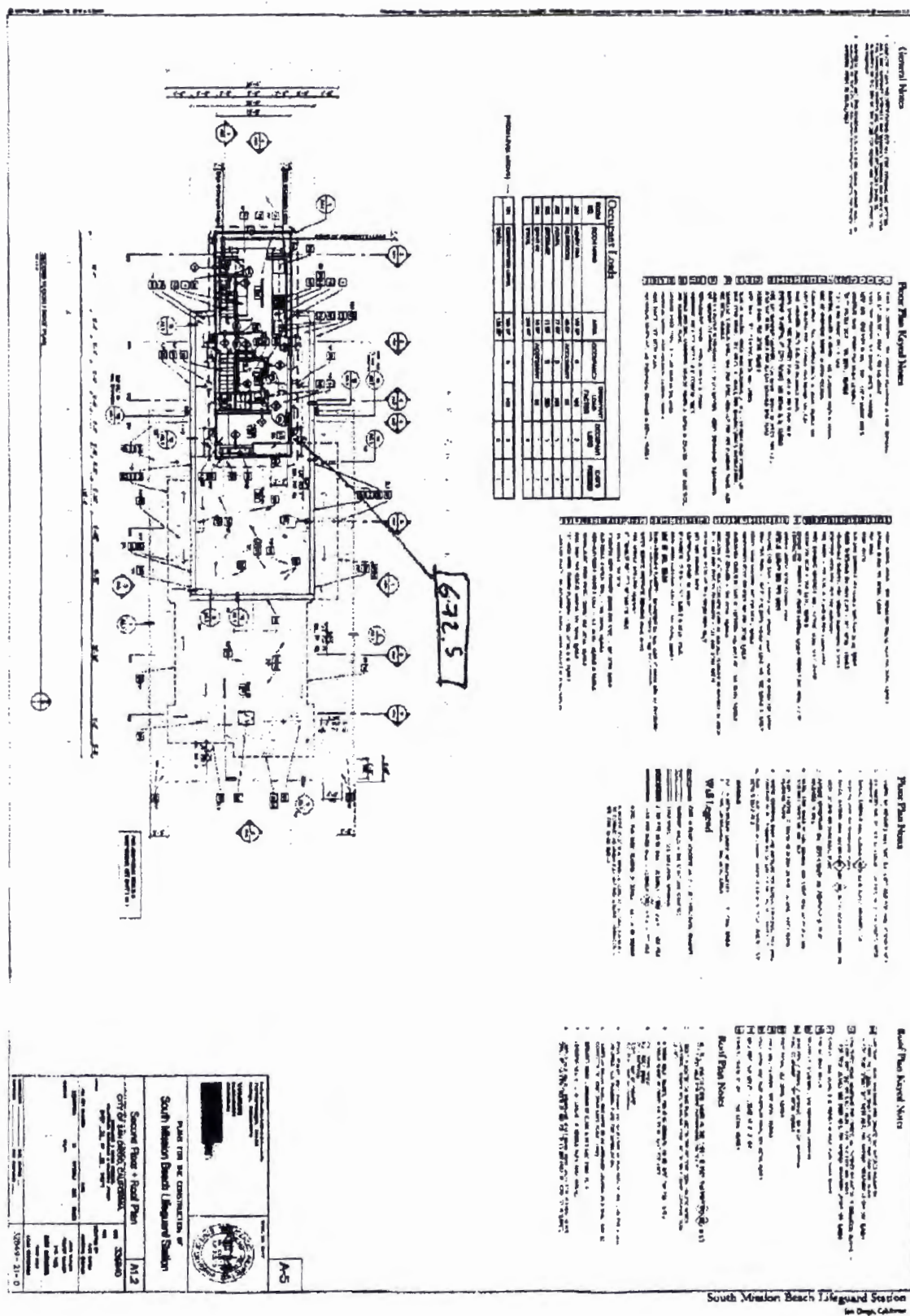
\*2. Calculation erroneously not included in the building area.

\*Bulk Building Area includes areas not normally counted as floor area for the sole purpose of comparing the proposed building mass to the approved 2011 building mass.

AREA	BLDG. PERMIT CD TOTALS	DUPLICATED FLOOR AREA	PLAN ADJUSTMENTS	UPDATED BLDG. PERMIT CD TOTALS
MAIN LEVEL	2,913		-295	2,618
2ND LEVEL	682	-22 & -11 & -35		614
OBSERV LEVEL	214			214
TOTAL	3,809			3,446







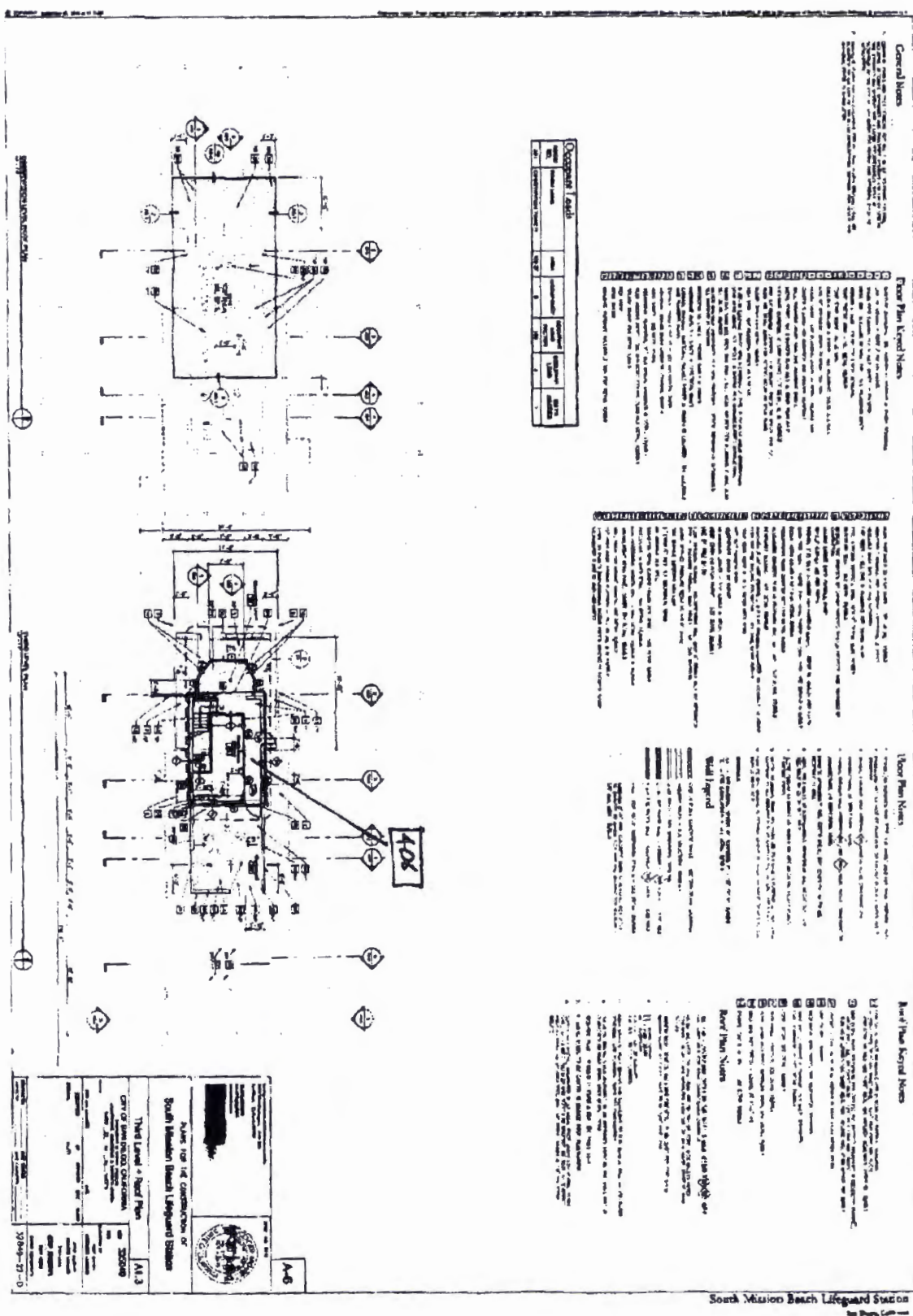
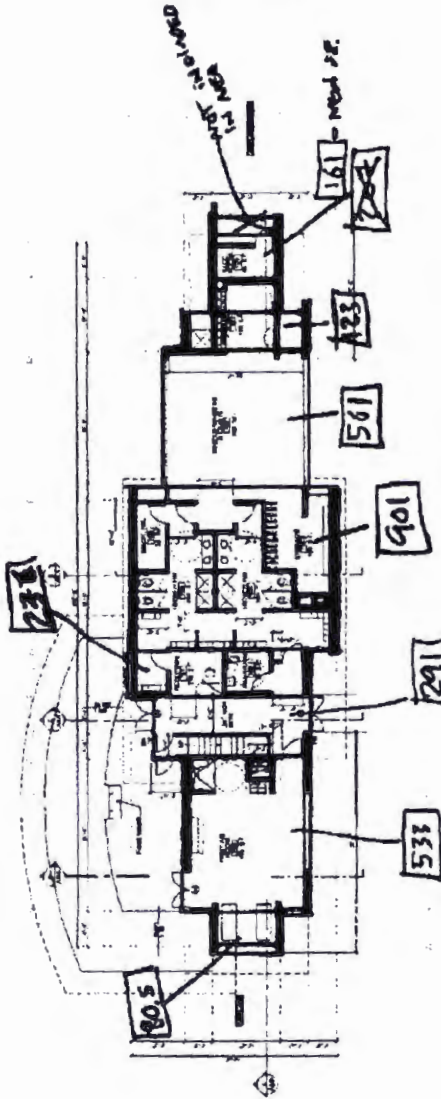
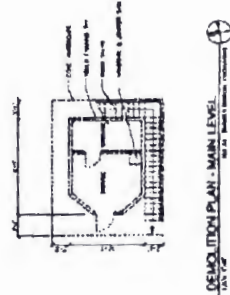
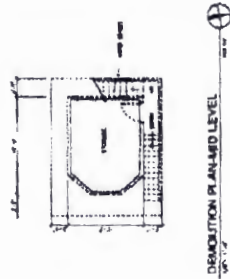
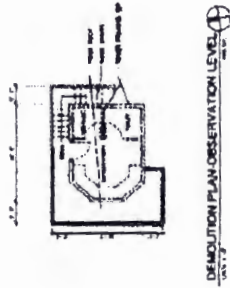


Exhibit A, Page 8



South Mission Beach Lifeguard Station  
San Diego, Calif. 92161

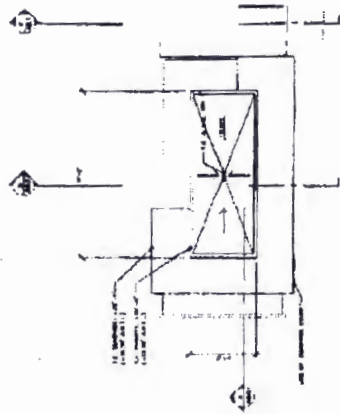


~~2,932.55~~  
Revised total = 2886.5

used red total = 2886.5

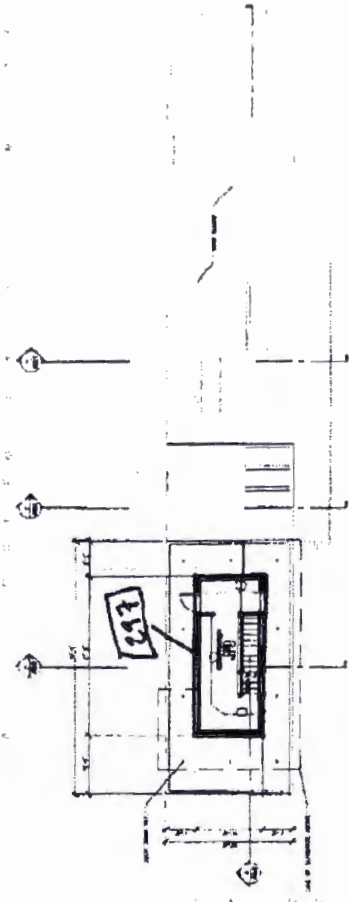
Exhibit A, Page 9

South Mission Beach Lifeguard Station  
 2nd Floor Plan (12' x 12')

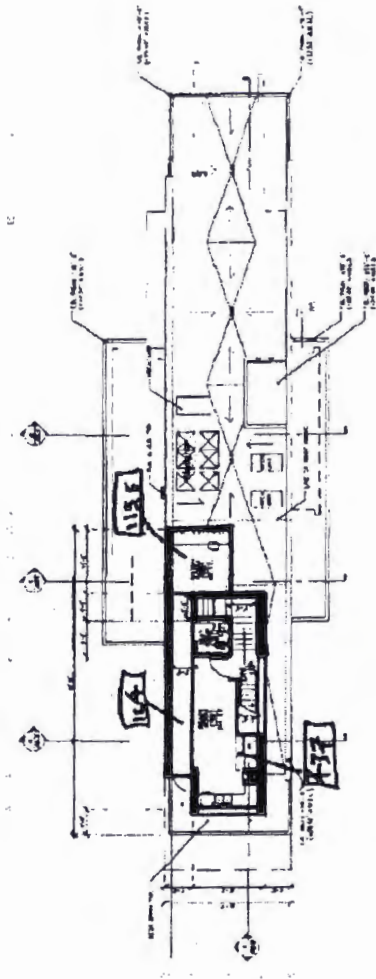


OBSERVATION ROOF PLAN

NOT FOR CONSTRUCTION	
DATE: 08/28/2015	PROJECT: 2nd & Observation A1.1
BY: [Signature]	FOR: City of San Diego, CA/USDA
South Mission Beach Lifeguard Station	
22849-12-3	



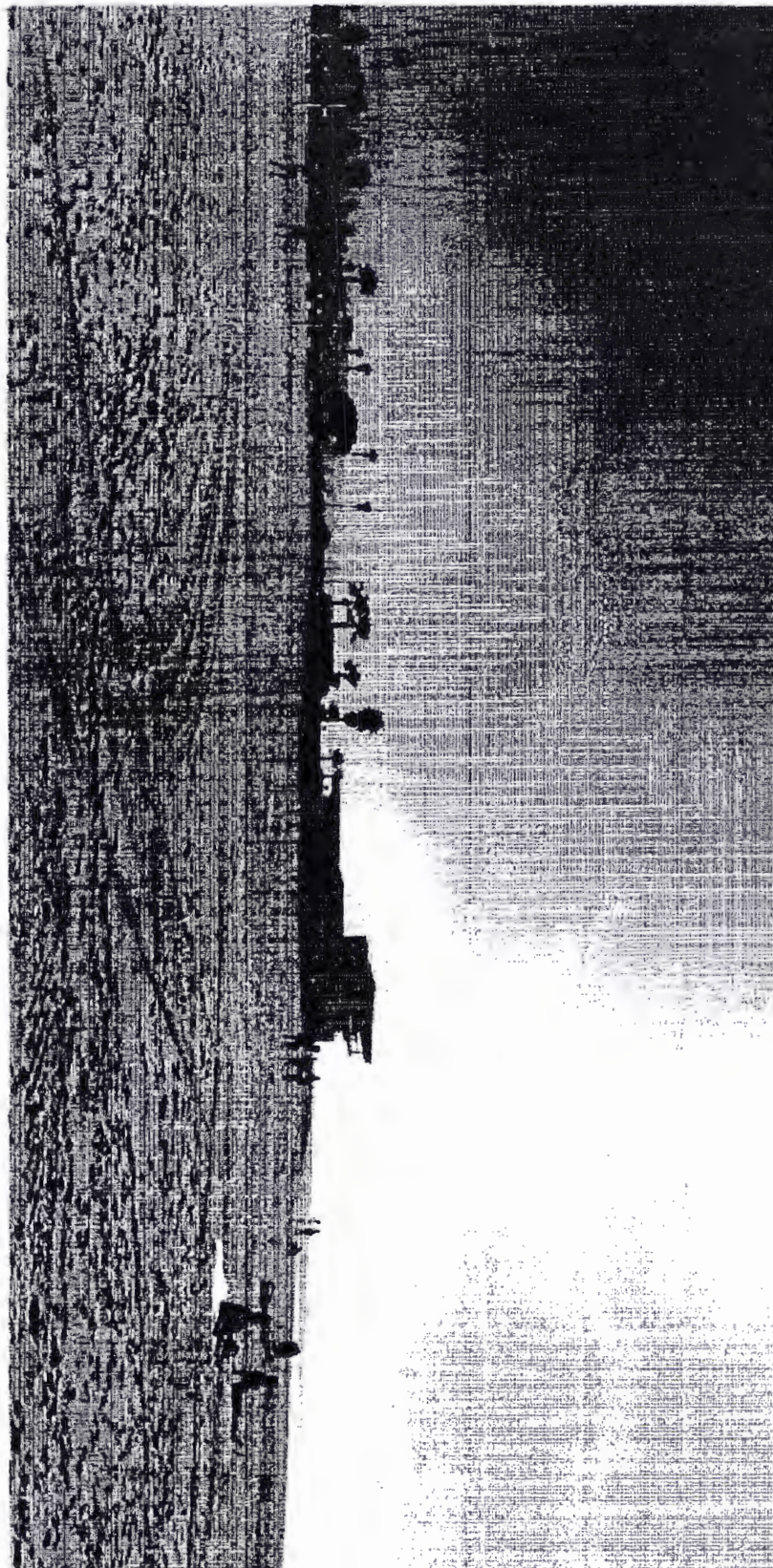
FLOOR PLAN - OBSERVATION LEVEL 297.5 SF



SECOND LEVEL FLOOR PLAN / ROOF PLAN 676.5 SF



3D Rendering: View from Northeast



**RECEIVED**

MAR 02 2015

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT



South Mission Beach Lifeguard Station

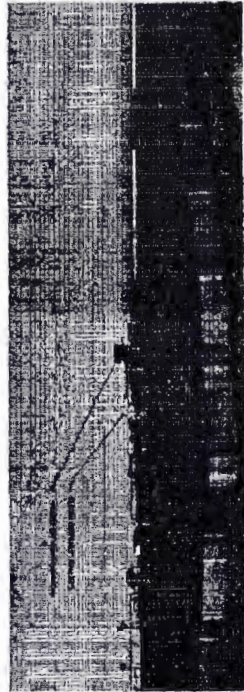
domus studio architecture Tel 619 692 0193  
**Exhibit A, Page 11**



South Mission Beach Lifeguard Station



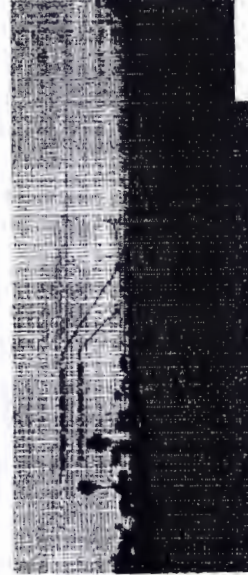
VIEW FROM AIR




VIEW FROM AIR



VIEW FROM AIR



VIEW FROM AIR

		<b>NOT FOR CONSTRUCTION</b>	
PROJECT NO. 15-0000 PROJECT NAME: South Mission Beach Lifeguard Station CITY OF SAN DIEGO DEPARTMENT OF PUBLIC WORKS DIVISION OF PLANNING AND DESIGN		DATE: 08/28/2015 DRAWING NO. 15-0000-01 SCALE: 1" = 100'	
PREPARED BY: [Name] CHECKED BY: [Name] DESIGNED BY: [Name] IN CHARGE: [Name]		APPROVED BY: [Signature] TITLE: [Title]	

**RECEIVED**  
 MAR 02 2015  
 CALIFORNIA  
 COASTAL COMMISSION  
 SAN DIEGO COUNTY

South Mission Beach | Lifeguard Station  
Tel: 0895 7 221 111

[illegible]

NOT FOR CONSTRUCTION

AD 4

335048

Southwestern Bell  
Integrated Network

Visual Access South

CITY OF SAN JOSE, CALIFORNIA

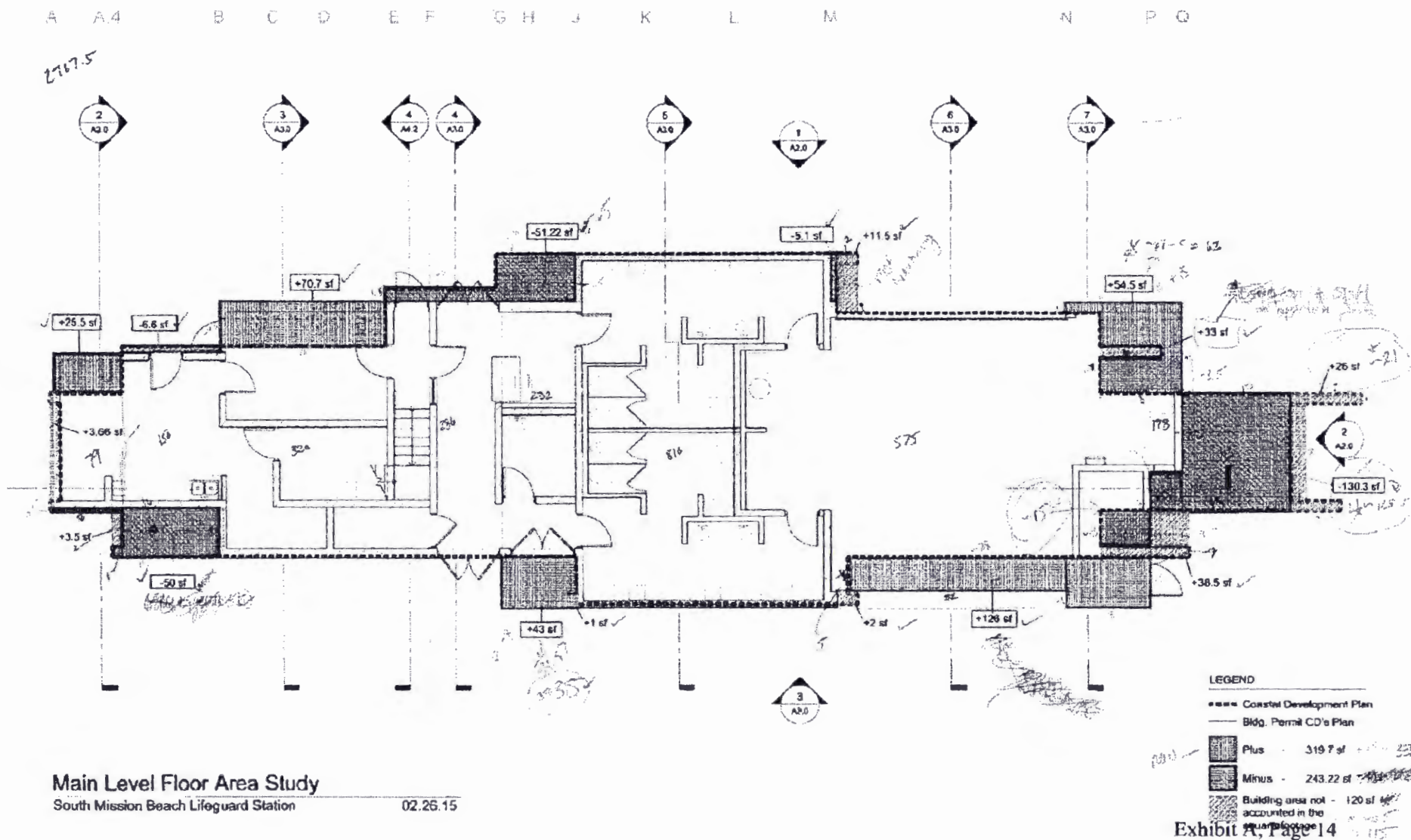
RECEIVED

MAR 02 2015

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

**VISUAL ACCESS STUDY**

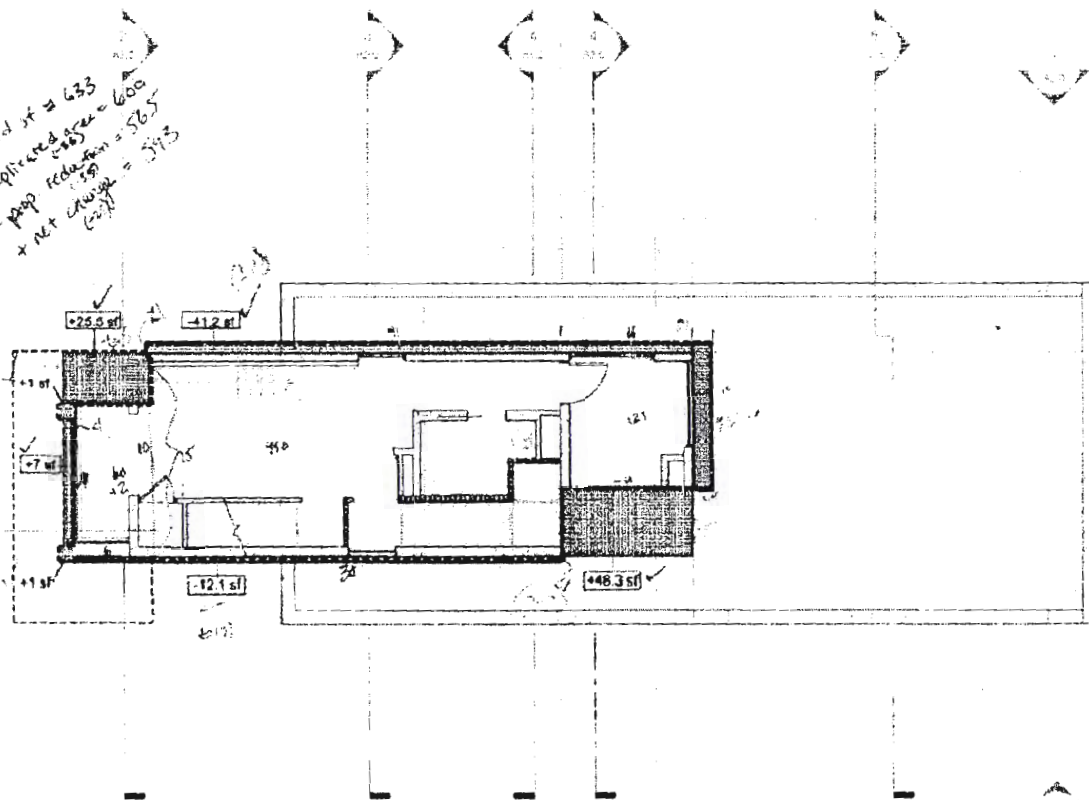
Exhibit A, Page 13





A A.4 B C D E F G H J K L M N P Q

getting approval of 633  
 - duplicated area = 600  
 - prop reduction = 565  
 + net change = 543



LEGEND

- Coastal Development Plan
- Bldg. Permit CD's Plan
- Plus - 80.8 sf
- Minus - 53.3 sf
- Building area not accounted in the square footage - 2 sf

2nd Level Floor Area Study  
 South Mission Beach Lifeguard Station

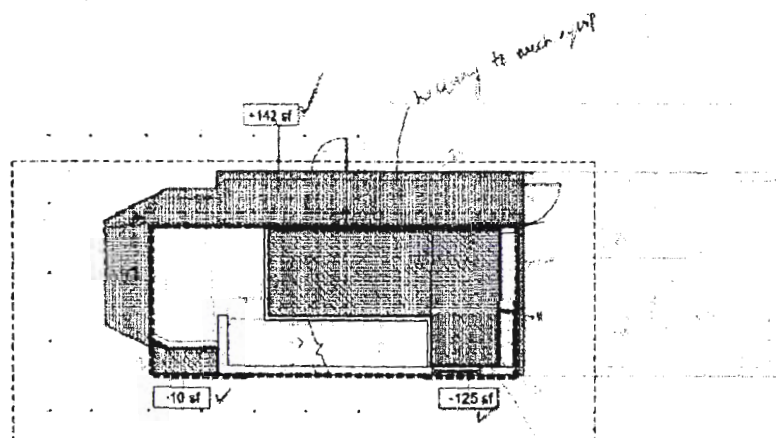
02.26.15

Exhibit A, Page 15



A A.4 B C D E F G H J K L M N P Q

approved ~  $27 \times 11 = 297$   
 + net change = 305  
 (+7)



# Observation Level Floor Area Study

South Mission Beach Lifeguard Station

02.26.15

## LEGEND

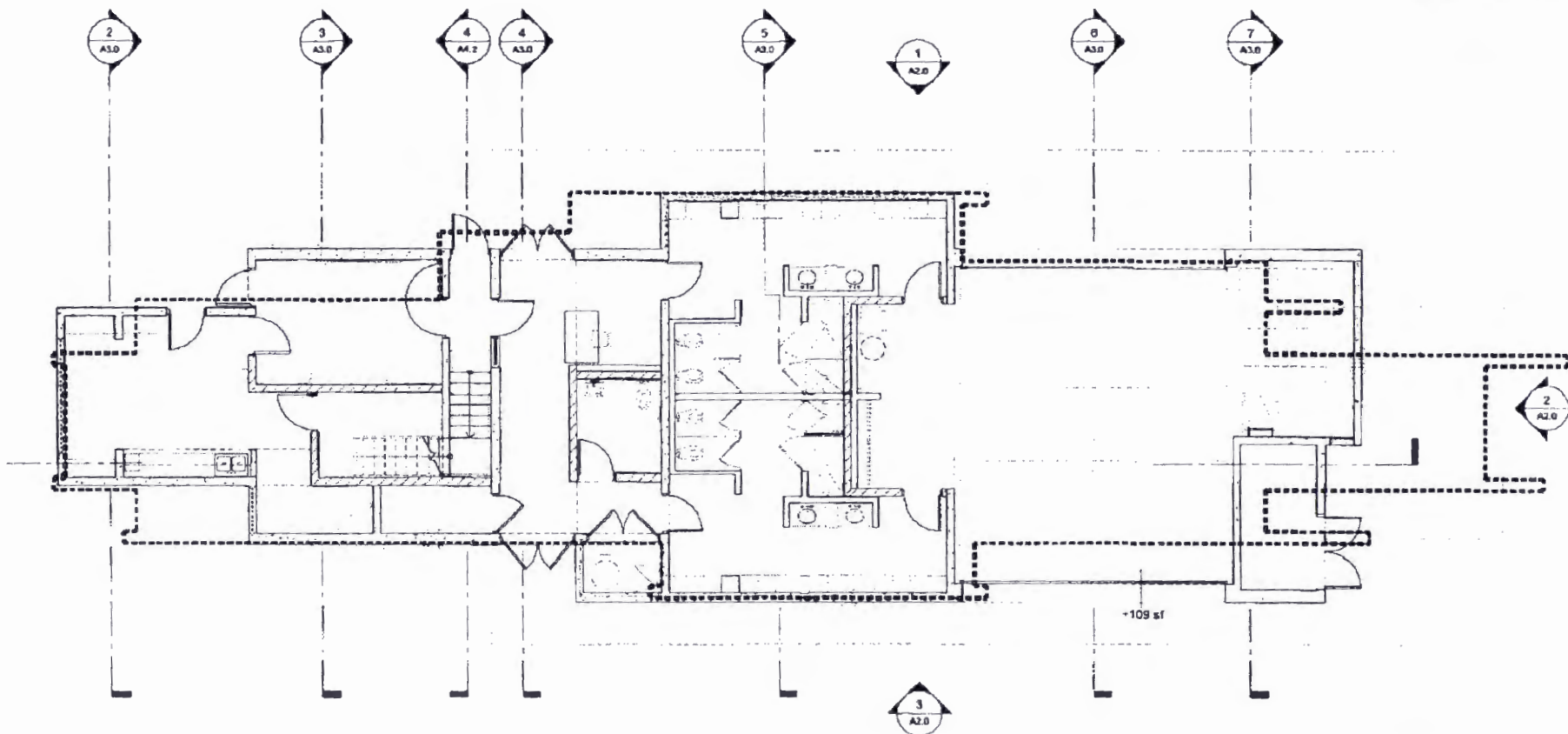
Coastal Development Plan  
 Bldg. Permit CD's Plan

Plus - 142 sf  
 Minus - 135 sf  
 Building area not accounted in the square footage - N/A

Exhibit A, Page 16



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 FEB 27 2015  
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 COASTAL COMMISSION  
 SAN DIEGO COAST DISTRICT



**Main Level Footprint Comparison**

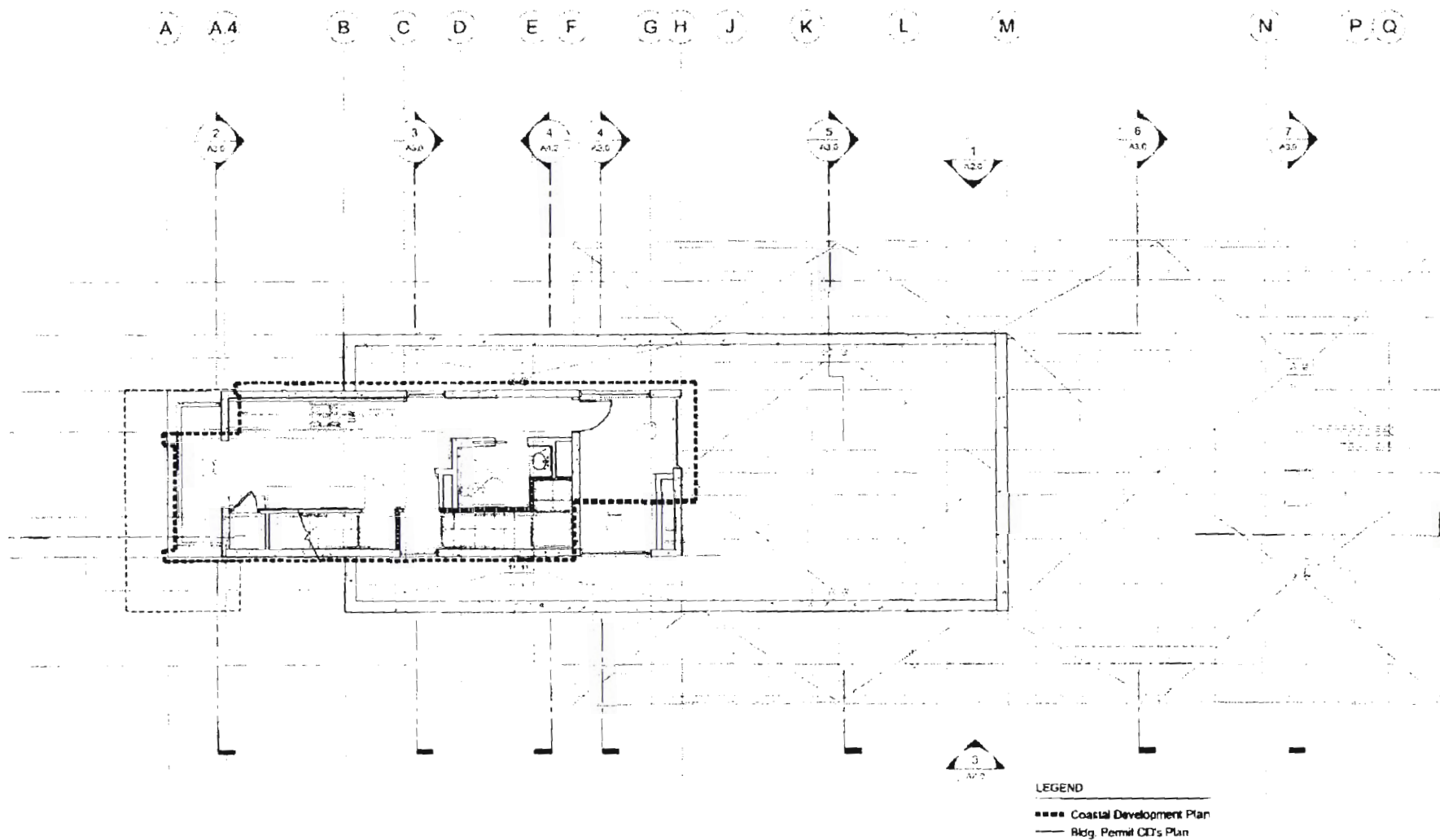
South Mission Beach Lifeguard Station

02.26.15

**LEGEND**

- Coastal Development Plan
- Bldg. Permit CD's Plan

Exhibit A, Page 18



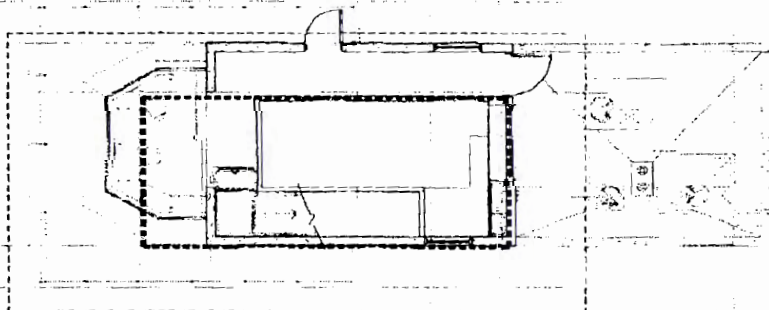
## 2nd Level Footprint Comparison

South Mission Beach Lifeguard Station

02.26.15

Exhibit A, Page 19

A A.4 B C D E F G H J K L M N P Q



LEGEND

- Coastal Development Plan
- Bldg. Permit CD's Plan

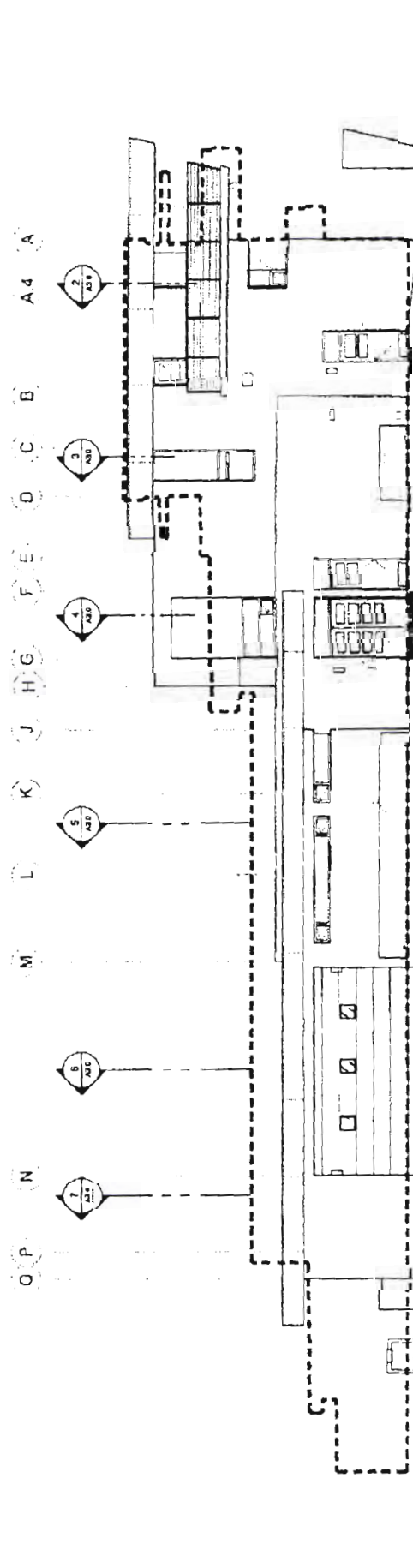
Observation Level Footprint Comparison

South Mission beach Lifeguard Station

02.26.15

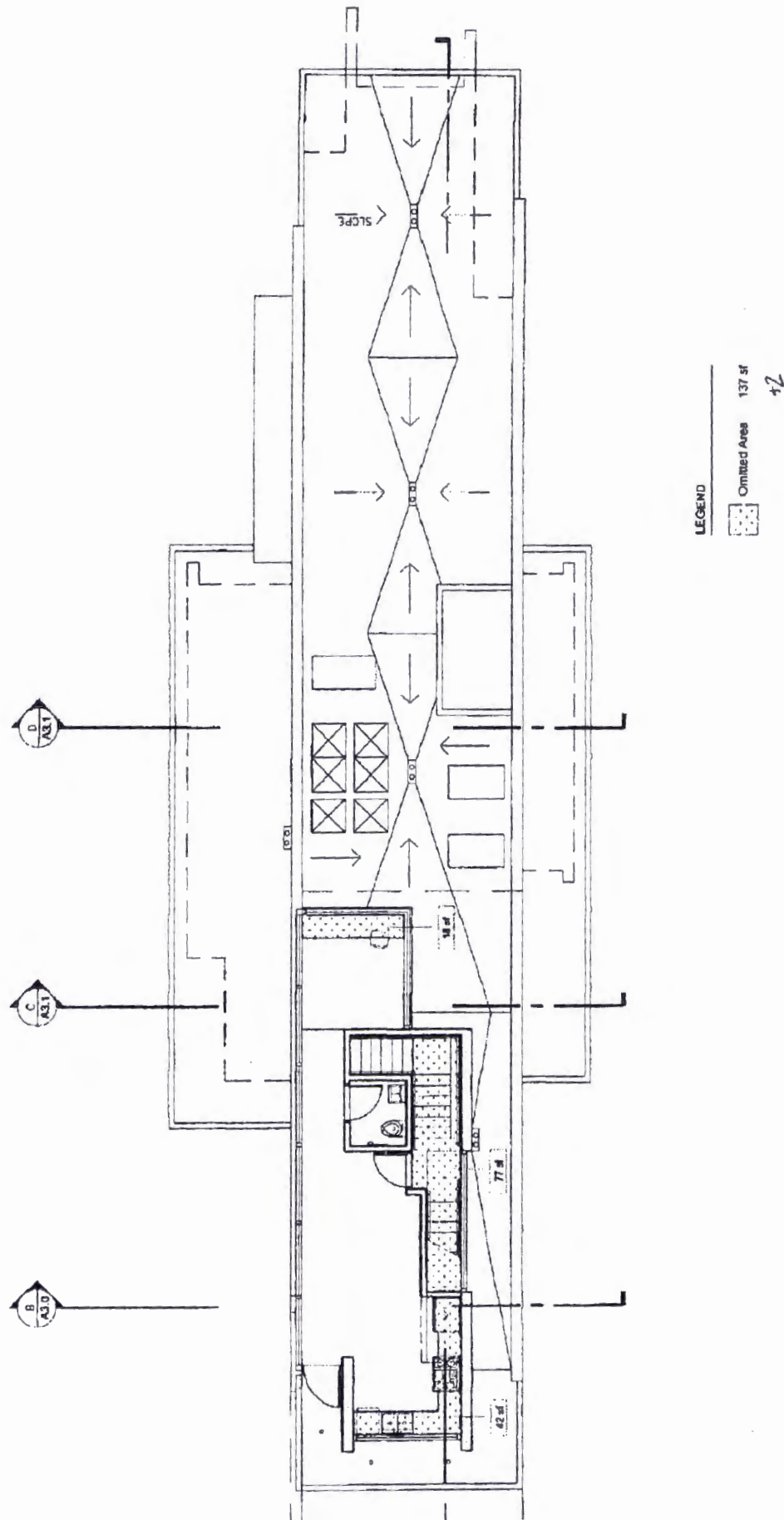
Exhibit A, Page 2.0





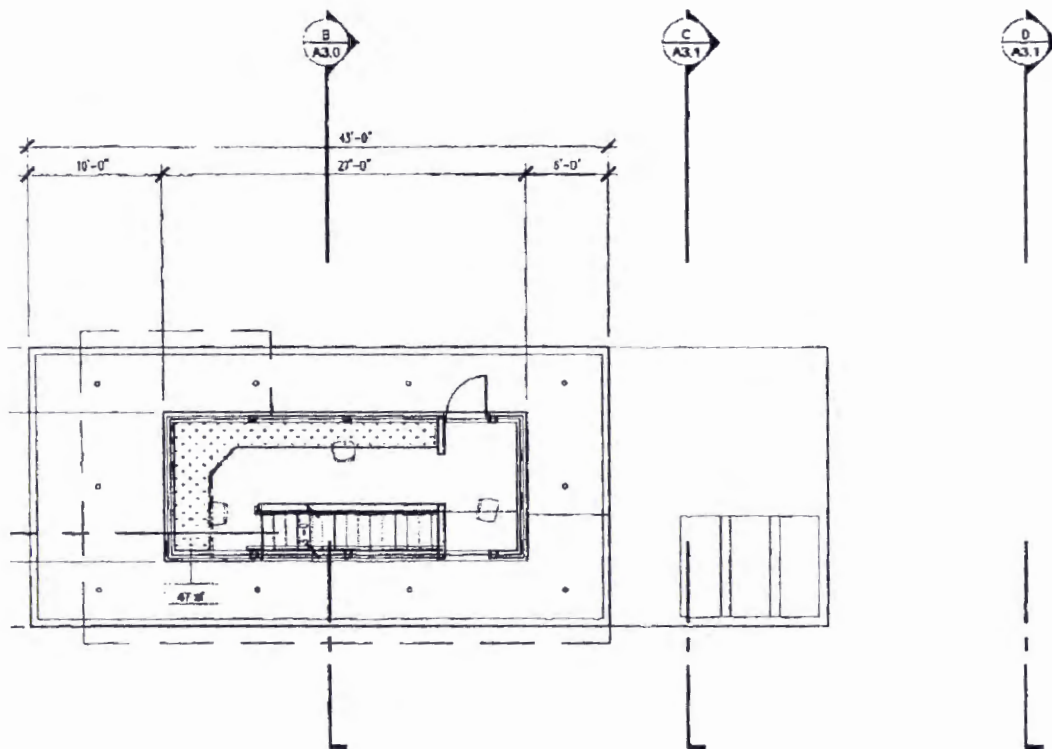
LEGEND  
--- Coastal Development Plan  
--- Big Permit CD's Plan

North Elevation - Profile Comparison  
South Mission Beach Lifeguard Station  
02.28.15



2nd Level (Cabinetry Area Omitted)  
South Mission Beach Lifeguard Station

02.25.15



LEGEND

 Omitted Area 47 sf

Observation Level (Cabinetry Area Omitted)

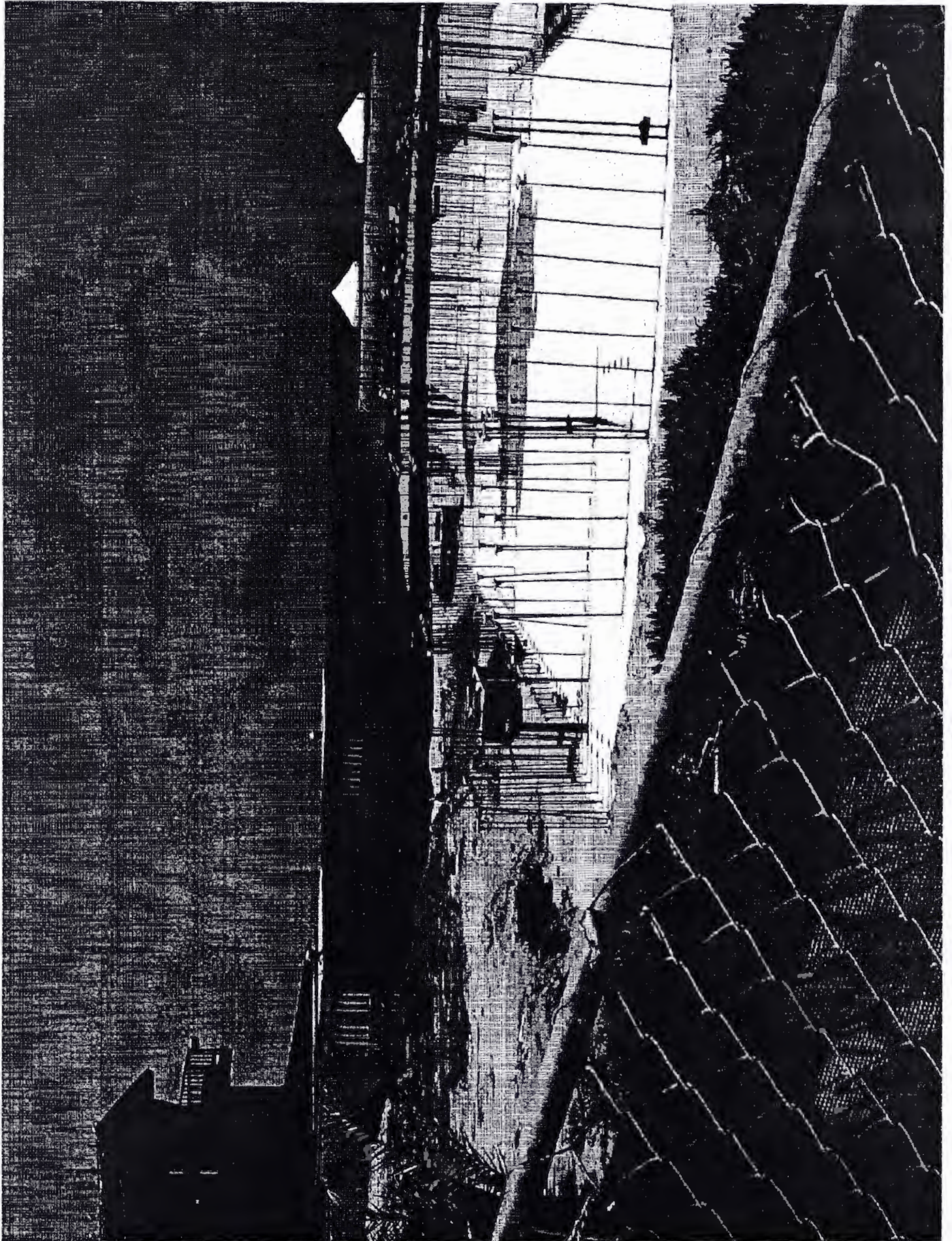
South Mission Beach Lifeguard Station

02.25.15

Exhibit A, Page 23

## EXHIBIT B







## EXHIBIT C

1 Craig A. Sherman, Esq. (SBN 171224)  
 2 CRAIG A SHERMAN, A PROFESSIONAL LAW CORP.  
 3 1901 First Avenue, Suite 219  
 4 San Diego, CA 92101  
 5 Tel: (619) 702-7892  
 6 Fax: (619) 702-9291  
 7 [Shermanlaw@aol.com](mailto:Shermanlaw@aol.com)

**ELECTRONICALLY FILED**  
 Superior Court of California,  
 County of San Diego

**08/26/2015 at 08:00:00 AM**

Clerk of the Superior Court  
 By Calvin Beutler, Deputy Clerk

Attorney for Plaintiff and Petitioner  
 CITIZENS FOR BEACH RIGHTS

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF SAN DIEGO, CENTRAL DIVISION**

CITIZENS FOR BEACH RIGHTS, a  
 California Nonprofit Corporation,

Plaintiff and Petitioner,

v.

CITY OF SAN DIEGO; and  
 DOES ONE through TEN, inclusive,

Defendants and Respondents,

EC CONSTRUCTORS, INC.; and DOES  
 ELEVEN through TWENTY, inclusive,

Real Parties in Interest.

Case No.: 37-2015-00028857-CU-WM-CTL

**VERIFIED COMPLAINT FOR  
 DECLARATORY AND INJUNCTIVE  
 RELIEF; PETITION FOR WRIT OF  
 MANDATE**

**I.**

**INTRODUCTION**

1. Plaintiff and petitioner CITIZENS FOR BEACH RIGHTS ("CBR") files this action to enforce applicable local law and express development permit conditions, including but not limited to San Diego Municipal Code ("SDMC") section 126.0108 and California Code of Civil Procedure §§ 1060 and 1085, for a declaratory judgment and permanent injunction, that the applicant and permittee, defendant and respondent CITY OF SAN DIEGO ("City"), cannot

- 1 -

VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF; PETITION FOR WRIT OF MANDATE

Exhibit C, Page 1

1 proceed with construction of the South Mission Beach Lifeguard Station (the "Project") due to  
2 an ineffective, expired, and void permit.

3 2. The Site Development Permit ("SDP") issued by the City in 2006 has long  
4 expired and is invalid based on the SDP's own express terms and conditions, as well as pursuant  
5 to unambiguous local law. (SDMC §§ 126.0108 and 112.0501)

6 3. The City, through its elected and paid officials, is subject to the laws and  
7 regulations of the San Diego Municipal Code, and the other applicable laws of this state as  
8 alleged herein.

9 4. CBR alleges that the City has plans to violate applicable development rules and  
10 laws, and that a judicial determination, permanent injunction, and judgment are supported and  
11 required based on the allegations and laws pleaded herein.

## 12 II.

### 13 GENERAL ALLEGATIONS

14 5. Plaintiff and petitioner, Citizens for Beach Rights ("Plaintiff" or "CBR"), is a  
15 nonprofit corporation registered in the State of California and County of San Diego which,  
16 along with its members and supporters whom reside within the City of San Diego and area of  
17 the Project, are residents, owners, users, and recreationalists, within said geographical area of  
18 the City and Project. Plaintiff has collectively formed and is currently united for the purpose to  
19 monitor and ensure that laws are faithfully and fully complied with to protect beach areas  
20 within the community, while at the same time preserving neighborhood values, and ensuring  
21 strict and good faith compliance with the laws, regulations and ordinances adopted to preserve  
22 the same. Plaintiff has standing to enforce such laws that are designed to prevent and enjoin  
23 the misuse of beach areas, and those laws that are designed to control development and  
24 degradation of community values, and unmitigated adverse environmental impacts resulting  
25 from the same. The uncontrolled and illegal actions of the City will have detrimental impacts  
26 on Plaintiff, its members, and the general public, who reside in and around the Project, Project  
27 site, other areas within the City boundaries. Plaintiff and its members include those who use,  
28 visit and pay for the subject and affected community beach and adjacent areas.

1           6.     Respondent and defendant City of San Diego ("City") is a charter city of the  
2 State of California charged with complying with applicable provisions of state law, the general  
3 laws of this State where applicable, the California Constitution, city charter, municipal code  
4 and other regulations of the City of San Diego. For the purposes herein, the "City" includes all  
5 of its departments, officers, elected officials, and appointed and elected city council members  
6 charged with the duties and obligations as alleged herein. City, through its respective  
7 departments, officers, elected officials, and appointed and elected city council members, have  
8 taken and/or will continue to take action to construct the Project without proper lawful  
9 compliance.

10           7.     EC Constructors, Inc. ("EC") is alleged to be currently authorized, approved  
11 and/or contracted with by the City to construct the Project. Therefore, EC is included and  
12 named in this lawsuit as a real party in interest because EC may have a beneficial interest in the  
13 subject matter of this lawsuit and therefore may have to be allowed a right to defend the City's  
14 Project against being rescinded, ceased, and disallowed based on the allegations of this lawsuit.  
15 EC is alleged and believed to be a corporation doing business within the state of California,  
16 including within the City and County of San Diego.

17           8.     Plaintiff is ignorant of the true names and capacities of the defendants and  
18 respondents sued herein as DOES ONE through TEN, inclusive, and therefore sues these  
19 defendants by such fictitious names. Plaintiff is also ignorant of the true names and capacities of  
20 any other real parties in interest named herein as DOES ELEVEN through TWENTY, inclusive,  
21 and therefore sues these defendants by such additional fictitious names. Plaintiff will amend this  
22 complaint to allege their true names and capacities when and if ascertained. Plaintiff also  
23 designates all persons unknown claiming any interests in the Project as DOE parties.

24           9.     Venue and jurisdiction in this Court are proper pursuant to the California Code  
25 of Civil Procedure for a matter relating to subject property located within, and an  
26 administrative action decided within, the Court's geographical venue jurisdiction.



## III.

**FACTUAL, LEGAL, AND PROCEDURAL BACKGROUND****GIVING RISE TO THIS ACTION**

10. The location of the Project is at the end of South Mission Beach with a common given address of 700 North Jetty Road, San Diego, CA 92109 and registration with the San Diego County Assessor/Recorder's office as APN No. 423-750-01 (hereafter, the "Site").

11. Relevant to this action and current Project, the local planning group, Mission Beach Precise Planning Board ("MBPPB"), voted on or about February 17, 2004 ten in favor, three against, and one abstention to approve as scaled-down approximately 3,000 square foot lifeguard station. A proposed 3,500 square foot station was rejected by MBPPB as being too big and obtrusive. The importance of this reduced size and scale was reflected in the minutes of said meeting with a larger tower being specifically rejected. A true and correct copy of the Minutes of the MBPPB's February 17, 2004 action is attached hereto as Exhibit A.

12. On September 27, 2006, a city-designated Hearing Officer approved the subject SDP (No. 197971) by adopting Resolution No. 5944. Relevant to this action, the decision and SDP granted by the Hearing Officer expressly authorized and required that:

- a) the replacement lifeguard station was to be 3,125 square feet; and
- b) construction, grading, or demolition had to be diligently pursued and commenced within three years or the permit would automatically expire and be void.

A true and correct copy of the SDP approved on September 27, 2006 is attached hereto as Exhibit B.

13. There has been no extension of the expiration date for the SDP nor any new City approval for the Project since the September 27, 2006 decision of the Hearing Officer.

14. Notice of the September 27, 2006 action and public hearing of the Hearing Officer was not disseminated to property owners and tenants as required by SDMC § 112.0501. City has failed to properly give notice prior to the approval of this Project. City is required



1 pursuant to SDMC §112.0302 to give notice 300 feet from the boundary of the real property  
2 line of the Project.

3 15. On or about May 2015 the City and its contractor began placing some pylons  
4 and structural supports for the Site's seawall/breaker/bulkhead however no construction of the  
5 Project's main structure has commenced.

6 16. During and since the time between Memorial Day and Labor Day, there is a  
7 construction moratorium (and CDP requirement) that no construction can or has taken place on  
8 the Project or at the Site.

9 IV.

10 FIRST CAUSE OF ACTION AGAINST THE CITY OF SAN DIEGO -

11 COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

12 **Violation of the San Diego Municipal Code – Site Development Permit is Void**

13 **(SDMC § 126.0108)**

14 17. Plaintiff hereby realleges and incorporates by reference ¶¶ 1-16 above, as  
15 though fully set forth herein.

16 18. Plaintiff is beneficially interested in the issuance of a declaration of law and  
17 injunction by virtue of the proposition of facts and law set forth herein.

18 19. Plaintiff has a clear, present and beneficial right to the proper performance by  
19 City with respect to its interpretation, application, and implementation of the laws and  
20 regulations of the City. Plaintiff has no plain, speedy or adequate remedy in the ordinary  
21 course of the law other than the relief herein sought.

22 20. The declaratory relief requested herein is proper to delineate and clarify the  
23 parties' rights and liabilities and resolve, quiet, or stabilize an uncertain or disputed jural  
24 relation. Without the grant of declaratory relief and the granting of an injunction the City will  
25 continue to proceed in an unlawful manner, resulting in harm to Plaintiff, its individual  
26 members, and the citizenry of the San Diego community for whom the laws and regulations of  
27 the City are enacted to protect.

1           21.     The SDP for the Project was approved and issued on September 27, 2006  
2     (Exhibit B)

3           22.     Pursuant to the applicable provisions of SDMC § 126.0108(a) in operation  
4     during the time of the SDP, development permits such as the subject SDP expire after thirty-six  
5     months if a building permit and/or significant work or investment has not occurred within that  
6     time period according to the then applicable version of SDMC § 126.0108(b), and an applicant  
7     is required to submit an application for extension prior to the expiration of a development  
8     permit, or the permit becomes void. Attached hereto as Exhibit C is a true and correct copy of  
9     the provisions of SDMC § 126.0108 in operation during the applicable 2006-2014 time period  
10    of the subject SDP.

11          22.     According to SDMC § 126.0108(b), no valid or authorized extensions of the  
12    SDP were given or obtained, and no building permit was obtained and maintained, and no  
13    significant work or investment occurred to construct, build or develop the Project during the  
14    thirty-six months following issuance of the SDP.

15          23.     Pursuant to express terms, condition and requirements in Condition No. 1 of the  
16    SDP, construction, grading or demolition must commence and be pursued in a diligent manner  
17    within thirty-six months after the effective date of final approval, and the failure to utilize the  
18    permit within thirty-six months will automatically void the permit unless an extension of time  
19    has been granted that meets all the SDMC requirements and applicable guidelines in effect at  
20    the time the extension is considered. (Exhibit B hereto, SDP p. 2.)

21          24.     No construction, grading or demolition work occurred at the Site or on the  
22    Project during the thirty-six months following issuance of the SDP and no valid or authorized  
23    extensions of the SDP were given or obtained according to the then applicable provisions of  
24    SDMC § 126.0108(b).

25          25.     As alleged in the preceding paragraphs, pursuant to the past and present  
26    provisions of SDMC § 126.0108(a), the subject SDP expired on September 26, 2009, the SDP  
27    is void, and no work or construction may occur under said SDP.

26. Plaintiff requests a declaratory judgment and the issuance of an injunction to enjoin and prevent any conduct or action of the City to allow the Project to continue being built.

**V.**

### PRAYER FOR RELIEF

**WHEREFORE**, Plaintiff respectfully prays for judgment as follows:

1. For Plaintiff's claims for declaratory and injunctive relief, that this Court order, describe, and declare the proper interpretation and application of law(s) which are the subject of this lawsuit, and grant an injunction or appropriate declaration of law to prevent past, present and ongoing or repeated violations of law by the City related to the SDP or Project identified in this lawsuit;

2. That this Court order the SDP null and void and having no current legal force or effect;

3. That there be issued a declaration of law, permanent injunction, and judgment that no construction of the Project can occur under the existing SDP, and that no construction of the Project shall occur or take place until and unless the City complies with all permitting and notice requirements required for the Project as required by applicable local, state and/or federal laws;

4. That until such time as Plaintiff's above claims can be adjudicated by this Court, City and any real party in interest be enjoined, restrained and stayed from implementing or constructing the Project so as to preserve the status quo, prevent waste, and prevent frustration of Plaintiff's and the public's rightful claims and right to judicial review;

5. That Plaintiff be awarded its reasonable costs incurred in this action, including attorneys' fees under Section 1021.5 or other provisions of the California Code of Civil Procedure for matters involving and brought in the public interest and based on unreasonable actions and conduct of government agencies; and

///


111

1 Procedure for matters involving and brought in the public interest and based on unreasonable  
2 actions and conduct of government agencies; and

3 6. For such other and further relief as the Court deems just and proper.

4 Dated: August 25, 2015

5 **LAW OFFICE OF CRAIG A. SHERMAN**

6   
7 Craig A. Sherman  
8 Attorney for Plaintiff and Petitioner  
9 **CITIZENS FOR BEACH RIGHTS**  
10  
11  
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## VI.

VERIFICATION

I, Ken Giavara, as a duly authorized officer and board member of the Plaintiff organization, Citizens for Beach Rights, hereby verifies this *VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF; PETITION FOR WRIT OF MANDATE* pursuant to Civil Procedure Section 446. The facts herein alleged are true of my own and my organization's knowledge, except as to the matters which are based on information and belief, which I believe to be true.

I declare under the penalty of perjury under the laws of California that the above foregoing is true and correct and that this verification was executed on the below stated date in San Diego County, California.

Dated: August 27, 2015

By: 

KEN GIAVARA, Authorized Officer and Director  
CITIZENS FOR BEACH RIGHTS



Minutes From MBPTB  
Feb 2004

02/03/2005 09:21 City of S.D. Purchasing → 33112

NO.035 0001

Mission Beach Precise Planning Board  
2681 Mission Boulevard  
San Diego, CA 92109

E-mail [glover86@aol.com](mailto:glover86@aol.com)

December 27, 2004

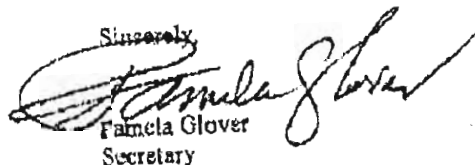
Jihad Sleiman  
City of San Diego  
Engineering and Capital Projects  
1010 2<sup>nd</sup> Ave 5<sup>th</sup> Floor  
San Diego, CA 92101

RE: South Mission Beach Lifeguard Station

Dear Mr. Sleiman:

Attached are the minutes of the Mission Beach Precise Planning Board for February 17, 2004.  
Page 2, paragraph 7 shows the Board voted 10/3/1 to approve the new and smaller design. If you  
have any questions please contact Chair Gary Glover at (858) 488-1386.

Sincerely,



Pamela Glover  
Secretary

02-93/2805 09:21 City of S.D. Purchasing → 33112

NO.035 0003

There was discussion on the illegal stairway at 750 York. This was previously turned over to Dennis Lynch and he will report back to us next month.

Tatiana Ambrosius from Mayor Murphy's stated the Mayor is working on Public Safety issues. The Council has revised several building codes as they relate to roof materials to make communities safer. The Fire Study Report recommends a regional air support program for fires. It was recommended that San Diego needs a minimum of three air support helicopters. At this time the mayor is working on locating funds for the purchase of a helicopter. At this time we are on a month to month lease for a helicopter in partnership with the County.

The City Council has voted to support a Police Academy starting in the spring. There will be 15 new recruits and 5 lateral transfers.

Nicole Surratt from Councilman Zucchet's office reported the speed limit changes on West Mission Bay Drive were done due to State Vehicle Codes. The area will be patrolled for speeders.

The recommendations on the re-striping of the Boardwalk are in the City Manager's office. Surratt will advise when the report is released.

Mike Tudury reported on two issues: there are no limits on the number of lots that can be consolidated for building and compact parking spaces are allowed in construction projects in our area.

Mike Tudury asked for a three person subcommittee to review existing condition maps for our community. The committee members are Richard Miller, Mike Meyer, and Dennis Lynch. They will meet with Tudury at 6:30 on March 16<sup>th</sup>, just prior to our regular meeting.

There was a presentation on the changes made to the proposed lifeguard station for the south jetty. The new design is smaller and the layout is more acceptable as it is less obstructive. **MOTION 1:** It was moved and seconded (P. Glover/Soltan) to accept the plan for the new lifeguard station at the south jetty. Motion carried 10/3/1.

Chris Cott discussed the issue of the environmental and code violations in the alley north of Ventura. Chris Gonzalez from the City Environmental Services spoke and indicated that he is working with business owners to clean up the alley. There are suggestions being discussed such as using smaller dumpsters and having more frequent pick ups. Mike Flores, the Chief Code Inspector for Environmental Services is on the site three times a week to inspect the area. Flores is working with the private waste collection company regarding the trash that is being dropped on the property when trash is emptied and the leakage out of the dumpsters. It is the responsibility of the property owner to keep the area clean. There has been some improvement in the last four weeks and some violations have been issued.

Nicole Surratt is working with City Code Compliance regarding the electrical box that encroaches into the alley.

Ex. A to Complaint - M.B. Planning Group Minutes

Exhibit C, Page 11

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

**WHEN RECORDED MAIL TO  
PERMIT INTAKE  
MAIL STATION 501**

THE ORIGINAL OF THIS DOCUMENT  
WAS RECORDED ON MAY 13, 2011  
DOCUMENT NUMBER 2011-0249341  
Ernest J. Dronenburg, Jr., COUNTY RECORDER  
SAN DIEGO COUNTY RECORDER'S OFFICE  
TIME 11:14 AM

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 335040

**Site Development Permit No. 197971  
South Mission Beach Lifeguard Station  
Hearing Officer**

This Site Development Permit No. 197971 is granted by the Hearing Officer of the City of San Diego to the Engineering and Capital Projects Department, of the City of San Diego Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 143.0110. The 9.79-acre site is located at the south end of South Mission Beach and just north of the North Jetty in the Mission Beach Precise District in the R-S, R-2B and R-2 zones of the Mission Beach Precise Plan. The project site is legally described as Block No. 6801, Mission Beach, Map No. 1809.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish the existing South Mission Beach Lifeguard Station and construct a replacement 3,125 square-foot lifeguard station with third-story observation tower, first aid room, a reception area, ground-level enclosed parking/storage for safety vehicles and equipment, and restrooms as described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated September 27, 2006, on file in the Development Services Department.

The project or facility shall include:

- a. Demolition of an existing South Mission Beach Lifeguard Station, construction of a replacement 3,125 square-foot lifeguard station with third-story observation tower, first aid room, a reception area, ground-level enclosed parking/storage for safety vehicles and equipment, and restrooms.
- b. Landscaping (planting, irrigation and landscape related improvements).
- c. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement

requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

**STANDARD REQUIREMENTS:**

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. 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 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.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the 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.).
7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," on file in the Development Services Department. No changes,



modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

10. In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" 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.

#### LANDSCAPE REQUIREMENTS:

11. In the event that the Landscape Plan and the Site Plan conflict, the Site Plan shall be revised to be consistent with the Landscape Plan such that landscape areas are consistent with the Exhibit "A," Landscape Development Plan.

12. No change, modification, or alteration shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City.

13. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Office of Development Services.

14. Prior to final inspection, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections. The permittee or subsequent Owner will maintain all required landscape improvements, on a permanent basis, in accordance with the Land Development Code and Landscape Standards.

15. All required landscape shall be maintained in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

16. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size



per the approved documents to the satisfaction of the City Manager within 30 days of damage or Certificate of Occupancy.

17. Invasive species are prohibited from being planted adjacent to any, water course, wet land or native habitats within the city limits of San Diego. Invasive plants are those which rapidly self propagate by air born seeds or trailing as noted in section 1.3 of the Landscape Standards.

**PLANNING/DESIGN REQUIREMENTS:**

18. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

19. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

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 Permittee.

21. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

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.

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

24. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

**WATER REQUIREMENTS:**

25. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s) on each water service (domestic, fire, and irrigation), in a manner satisfactory to the Water

Department Director, the City Engineer, and the Cross Connection Supervisor in the Customer Support Division of the Water Department.

26. Prior to the issuance of any certificates of occupancy, public water facilities necessary to serve the development, including services, shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.

27. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities shall be modified at final engineering to comply with standards.

**WASTEWATER REQUIREMENTS:**

28. All proposed sewer facilities will be privately maintained by the Park and Recreation Department.

29. No structures or landscaping that would inhibit access shall be installed in or over any public sewer main or its access easement.

30. No trees or shrubs exceeding three feet in height at maturity shall be located within ten feet of any public sewer facilities.

31. The developer shall design and construct any proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.

32. Proposed private underground sewer facilities shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

**INFORMATION ONLY:**

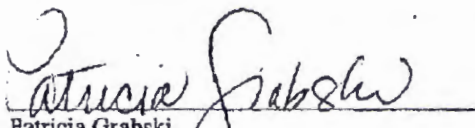
Any party, on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the Hearing Officer of the City of San Diego on September 27, 2006.

Permit Type/PTS Approval No.: Site Development Permit No. 197971

Date of Approval: September 27, 2006

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES  
DEPARTMENT

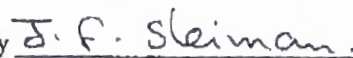
  
Patricia Grabski  
Development Project Manager

**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.

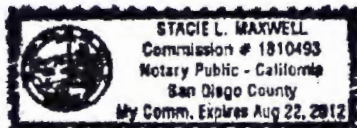
Engineering and Capital Projects Department  
Owner/Permittee

By   
Jihad Sleiman  
Project Manager

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

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of San Diegoon May 10, 2011 before me, Stacie L. Maxwell, Notary Publicpersonally appeared Patricia Graboski

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

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

**Description of Attached Document**Title or Type of Document: South Mission Beach Lifeguard Station PIs 197971

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

- ☐ Individual  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer is Representing: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here

Signer's Name: \_\_\_\_\_

- ☐ Individual  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer is Representing: \_\_\_\_\_

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here

**ORIGINAL**

Ex. B - to Complaint (Site Dev. Permit)

Exhibit C, Page 18



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of

San Diegoon May 10, 2011

Date

before me,

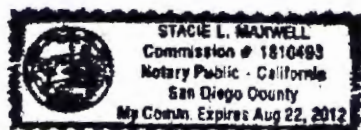
Stacie L. Maxwell, Notary Public

-- Here Insert Name and Title of the Officer

personally appeared

Jihad Steiman

Name(s) of Signer(s)



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

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

**Description of Attached Document**

Title or Type of Document:

South Mission Beach Lifeguard Station

Document Date:

Number of Pages:

Signer(s) Other Than Named Above:

**Capacity(ies) Claimed by Signer(s)**

Signer's Name:

- ☐ Individual  
☐ Corporate Officer — Title(s):  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other:

Signer Is Representing:

RIGHT THUMBPRINT  
OF SIGNER  
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Signer's Name:

- ☐ Individual  
☐ Corporate Officer — Title(s):  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other:

Signer Is Representing:

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OF SIGNER  
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**ORIGINAL**

Ex. B - to Complaint (Site Dev. Permit)

Exhibit C, Page 19



**San Diego Municipal Code**  
(12-2013 Rev.)**Chapter 12: Land Development Reviews****§126.0107 Issuance of a Development Permit**

- (a) A *development permit* will be issued to the *applicant* within 5 *business days* of the date on which the original recorded permit or a certified copy of the permit is returned to the City from the County Recorder.
- (b) It is unlawful for any *applicant* to begin work or use of the property that is authorized by a *development permit* until the *development permit* has been issued. If a *construction permit* is also required, construction may not begin until the *construction permit* has been issued.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

**§126.0108 Initial Utilization of a Development Permit**

- (a) A *development permit* grants the *applicant* 36 months to initiate utilization of the permit. If none of the actions listed in Section 126.0108(b) has occurred within 36 months after the date on which all rights of appeal have expired, the *development permit* shall be void.
- (b) A *development permit* may be utilized by the following methods:
  - (1) Issuance of a *construction permit* for the entire project or for a substantial portion of the activity regulated by the *development permit*, as determined by standards developed by the City Manager;
  - (2) Compliance with the terms contained in the individual permit, such as a phasing program, or the terms contained in an approved Development Agreement;
  - (3) Evidence of substantial use in progress, according to standards as developed by the City Manager; or
  - (4) Approval of a *final map* or a *parcel map*, if the map was a condition of the *development permit*.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

**§126.0109 Maintaining Utilization of a Development Permit**

- (a) If issuance of a *construction permit* in accordance with Section 126.0108 is the method used for initial utilization of the *development permit*, the *construction permit* shall be kept active until completion of the final inspection or issuance of the certificate of occupancy to maintain utilization of the *development permit*.

Ch.	Art.	Div.
12	6	1 3

- (b) If the *construction permit* is allowed to expire before completion of the project, the initial utilization of the *development permit* gained by that *construction permit* shall become void.
- (c) A *development permit* that is voided in accordance with 126.0109(b) may be reactivated by obtaining a new *construction permit* either during the original 36-month timetable for that *development permit*, or during the timeline as may have been extended in accordance with Section 126.0111.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

#### §126.0110 Cancellation of a Development Permit

- (a) An owner or permittee may request cancellation of a *development permit* at any time before initial utilization of the permit. The owner or permittee shall submit the request for cancellation in writing to the City Manager. The City shall forward a written declaration of the cancellation to the County Recorder for recordation in accordance with Section 126.0106. The *development permit* shall be void on the date that the declaration of cancellation is recorded with the County Recorder. The City shall mail a copy of the declaration of cancellation to the owner and permittee.
- (b) Once a *development permit* has been utilized, an owner or permittee may submit an application to rescind the *development permit* in accordance with the following:
  - (1) Where the *development* complies with all use and *development* regulations the application to rescind a *development permit* shall be processed in accordance with Process One.
  - (2) For *development* not in compliance with Section 126.0110(b)(1), an application to rescind a *development permit* shall be processed in accordance with the same process as would a new application for the same permit.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 3-1-2006 by O-19467 N.S.; effective 8-10-2006.)

(Amended 6-18-2013 by O-20261 N.S.; effective 7-19-2013.)

**[Editors Note:** Amendments as adopted by O-20261 N. S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.

Click the link to view the Strikeout Ordinance highlighting changes to prior language  
[http://docs.sandiego.gov/municode\\_strikeout\\_ord/O-20261-SO.pdf](http://docs.sandiego.gov/municode_strikeout_ord/O-20261-SO.pdf) ]

Ch.	Art.	Div.
12	6	1

## EXHIBIT D

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA  
 1375 METROPOLITAN DRIVE, SUITE 103  
 SAN DIEGO, CA 92108-4421  
 (619) 767-2170



## APPLICATION FOR EXTENSION OF PERMIT

## NOTE TO APPLICANTS:

1. Filing. Application for extension of a permit for a period not to exceed one year where construction is not expected to commence prior to the expiration date of the permit may be made by submitting this form completed and signed, together with the applicable filing fee, to the Commission Area Office. Such applications will not be accepted more than 90 days prior to the expiration date of the permit.

Extensions must be applied for prior to the expiration date of the permit, but filing of an application for extension will automatically extend the expiration date of the permit until the final action of the Commission on the request. Construction may not be commenced during this period of automatic extension. 14 Cal. Admin. Code Section 13169(a)(2).

2. Procedures. The Commission regulations require the Executive Director to follow the following procedures (Cal. Admin. Code Title 14, Section 13169): If the Executive Director determines that there are no changed circumstances that may affect the consistency of the proposed development with the Coastal Act of 1976, notice of such determination shall be posted at the project site and mailed to all parties who may be interested in the application. The necessary forms are available from the Area office. If no written objection is received at the Area office within 10 working days of publishing notice, the determination of no changed circumstances is conclusive and the extension will be granted. If the Executive Director determines that due to changed circumstances the proposed development may not be consistent with the Coastal Act, or if objection is made to the determination of consistency, a report shall be made to the Commission. If three Commissioners object to the extension, the application shall be set for a full hearing as though it were a new application.

## SECTION 1. APPLICANT

1. Name, address and telephone number of applicant:

Jihad Sleiman, Project Manager, City of San Diego  
 600 B St. Suite 800 SD CA 92101 (619) 533-7532  
 (Zip) (Area Code) (Telephone No.)

Name, address and telephone number of applicant's representative, if any:

Same as above

(Zip) (Area Code) (Telephone No.)

## TO BE COMPLETED BY COMMISSION:

Date Received: 2/5/09

Application Fee: \$ N/A

Date Filed: 2/5/09

Date Paid: N/A

Receiver  
 1-800-05-7009  
 California Coastal Commission  
 San Diego Coastal District



-2-

SECTION II. INFORMATION REQUIRED

1. Date of issuance and number of permit:

2-15-2007      Permit # G-05-17

2. Attachments. The following documents must be enclosed with this application form completed to ensure prompt processing of your application:

- a. Documentation evidencing permit holder's continued legal interest in the property.
- b. Copy of original permit showing that it has not expired.
- c. Documentation of completed or proposed satisfaction of permit conditions, if any.
- d. List of names and addresses for all known interested parties and property owners/tenants within 100 feet of project site, plus one stamped, addressed envelope for each person on the list.

SECTION III. FILING FEE

This application will not be deemed filed until payment of a filing fee of \$500.00 for single-family houses and \$1000.00 for all other developments.

SECTION IV. CERTIFICATION

1. I hereby certify that I or my authorized representative will complete and post the "Notice of Extension Request" form furnished me by the Commission in a conspicuous place on the development property upon receipt of said notice from the Commission.

2. I hereby certify that to the best of my knowledge, the information in this application and all attached exhibits is full, complete, and correct, and I understand that any failure to provide information requested or any misstatement in the information submitted in support of the application may be grounds for either non-acceptance of the application, for denying the application for extension, or for the seeking of such other and further relief as may seem proper to the Commission.

D. F. Sleiman

Signature of Applicant(s) or Agent

NOTE: If signed by Agent, Applicant must sign below.

SECTION V. AUTHORIZATION OF AGENT

I hereby authorize \_\_\_\_\_ to act as my (our) representative and bind me (us) in all matters concerning this application.

\_\_\_\_\_  
Signature of Applicant(s)

(5604A)



JEAN R FRONING  
2877 BAYSIDE WALK  
PACIFIC BEACH CA 92109

WILLIAM A BAME  
PO BOX 9003  
SAN DIEGO CA 92169-0003

WILLIAM A BAME  
PO BOX 9003  
SAN DIEGO CA 92169-0003

HAYNES FAMILY TRUST 08-30-  
89  
3711 ELLIOTT ST  
SAN DIEGO CA 92106-1206

H P C PUCKETT & CO  
PO BOX 9063  
RANCHO SANTA FE CA 92067-  
4063

JORDAN PHILLIP LIVING  
TRUST  
PO BOX 9531  
SAN DIEGO CA 92169-0531

JORDAN PHILLIP LIVING  
TRUST  
PO BOX 9531  
SAN DIEGO CA 92169-0531

WILLIAM & JENNIFER STERN  
3200 S 7TH ST  
PHOENIX AZ 85040-1113

DUE DAVID J & MARY J NO 1  
7786 SIERRA MAR DR  
LA JOLLA CA 92037-3857

LAURENCE FEDAK  
721 BRIGHTON CT  
PACIFIC BEACH CA 92109

WILLIAM L & SARA D  
LOIZEAUX  
4443 ADONIS DR  
SALT LAKE CITY UT 84124-3901

FRANK R BROWN  
730 BALBOA CT  
PACIFIC BEACH CA 92109

MERLE L WAHL  
10067 GRANDVIEW DR  
LA MESA CA 91941-6837

SUZANNE K CATALINO  
4305 NEWPORT AVE  
SAN DIEGO CA 92107-2919

DAVID R CATALINO  
720 BALBOA CT  
PACIFIC BEACH CA 92109

ROBERTA J SPOON  
4585 DEL MONTE AVE  
SAN DIEGO CA 92107-3556

NANEITE L & PHILIP D DCSD  
SHARP  
721 BALBOA CT  
PACIFIC BEACH CA 92109

JOHN J MARTIN  
1528 CORCORAN ST NW  
WASHINGTON DC 20009-3806

CLARK-CHRISTOPHERSON  
TRUST 02-  
738 AVALON CT #12  
PACIFIC BEACH CA 92109

KATHERINE A LUNDGREN  
734 AVALON CT  
PACIFIC BEACH CA 92109

H F L P L C  
26 N STATE ST  
SALT LAKE CITY UT 84103-2059

2711 OCEANFRONT  
3865 MISSION BLVD  
PACIFIC BEACH CA 92109

RENDELL & MARGARET  
WHITTINGTON  
9633 GROSSMONT SUMMIT DR  
LA MESA CA 91941-4159

MARK PANISSIDI  
2707 OCEANFRONT WALK  
PACIFIC BEACH CA 92109

LINDSEY P OSWALT  
2703 OCEANFRONT WALK  
PACIFIC BEACH CA 92109

J THOMAS  
1005 CHAMPIONSHIP CT  
LAS VEGAS NV 89134-0513

GERARD HOHNER  
2757 MISSION BLVD  
PACIFIC BEACH CA 92109

BEN & ILENE F CELNIKER  
406 W OCO'TILLO RD  
PHOENIX AZ 85013-1135

ALEXANDRE W SMITH  
434 MOUNTAIN VIEW RD  
EL CAJON CA 92021-3848

NIELSON FAMILY TRUST 07-  
25-95  
2693 OCEANFRONT WALK  
PACIFIC BEACH CA 92109

DAVID S MARABELLA  
1320 NEPTUNE AVE  
ENCINITAS CA 92024-1431

CARL S & PEGGY B PETERSEN  
3051 CARRANZA DR  
SALT LAKE CITY UT 84118

PRICE TRUST 10-05-84  
135 E SIR FRANCIS DRAKE  
BLVD  
LARKSPUR CA 94939-1860

MERLE L WAHL  
10067 GRANDVIEW DR  
LA MESA CA 91941-6837

VONEICHHORN J P H TRUST  
6143 CALLE VERACRUZ  
LA JOLLA CA 92037-6917

SONNTAG FAMILY TRUST 09-  
21-98  
725 AVALON CT  
PACIFIC BEACH CA 92109

GARY D WONACOTT  
731 AVALON CT  
PACIFIC BEACH CA 92109

JOHN J MARTIN  
1528 CORCORAN ST NW  
WASHINGTON DC 20009-3806

FREDERICK SCHWARTZ  
2540 JUAN ST  
SAN DIEGO CA 92110-2806

SAVAGE PROPERTIES L L C  
734-736 SAN LUIS REY PL  
PACIFIC BEACH CA 92109

JOSEPH A & PRISCILLA CASO  
23707 WILDWOOD CANYON RD  
NEWHALL CA 91321-3824

DUCKOR FAMILY TRUST 10-  
19-94  
728 SAN LUIS REY PL  
PACIFIC BEACH CA 92109

STEBLETON FAMILY 1986  
TRUST  
722 SAN LUIS REY PL  
PACIFIC BEACH CA 92109

SANDRA C WIEBE  
718 SAN LUIS REY PL  
PACIFIC BEACH CA 92109

GERARD HOHNER  
2757 MISSION BLVD  
PACIFIC BEACH CA 92109

OCTAVIO & JULIE TUDELA  
1139 ALBERTA PL  
SAN DIEGO CA 92103-2834

GIFFORD TRUST  
1325 CLOVE ST  
SAN DIEGO CA 92106-2539

HENRY J & LISA S KLINKER  
721 SAN LUIS REY PL  
PACIFIC BEACH CA 92109

CULLMER TRUST 03-18-02  
725-727 SAN LUIS REY PL  
PACIFIC BEACH CA 92109

FRANK ROWDEN  
4655 CASS ST #407  
PACIFIC BEACH CA 92109

M & N ZIMMERMAN  
2667-2669 STRANDWAY  
PACIFIC BEACH CA 92109

PAUL R & SAOZINHA A  
OBOYLE  
13269 DEER CANYON PL  
SAN DIEGO CA 92129-4607

ALBERT A & JUDY JANC  
2656 STRANDWAY  
PACIFIC BEACH CA 92109

PAUL M SCHIWAN  
17916 CIELO CT  
POWAY CA 92064-1022

PENNER FAMILY  
INVESTMENTS LP  
5912 AVENIDA CHAMNEZ  
LA JOLLA CA 92037-7402

KATHERINE L ROSS  
2643 OCEAN FRONT WALK  
PACIFIC BEACH CA 92109

PROVENZANO FAMILY TRUST  
01-31-92  
2636-2638 OCEAN FRONT WAY  
PACIFIC BEACH CA 92109

TERRY W & LYNE A LEWIS  
7509 DRAPER AVE #A  
LA JOLLA CA 92037-4857

A & B HUNTAMER  
4444 MISSION BLVD  
PACIFIC BEACH CA 92109

MILLER FAMILY TRUST 03-09-  
95  
2614 STRANDWAY  
PACIFIC BEACH CA 92109

DARRELL D & LIANA MILLS  
PO BOX 460  
CLARKSTON WA 99403-0460

SING CHUNG KAM  
10577 MONTEGO DR  
SAN DIEGO CA 92124-1915

JOSHUA & JUDYANN WALDEN  
PO BOX 759  
CORRALES NM 87048-0759

ALISON L HAMILTON  
1603 BERYL ST  
PACIFIC BEACH CA 92109

MICHAEL & JOANNA SMITH  
3412 DEVONSHIRE CT  
FLOWER MOUND TX 75022-2770

,KIM&CHUNG H  
16528 CORTE PAULINA  
POWAY CA 92064-1919

DANA K HORNE  
6910 MIRAMAR RD #B203  
SAN DIEGO CA 92121-2647

DANA K HORNE  
6910 -B MIRAMAR RD #203  
SAN DIEGO CA 92121

GRADY DEVELOPMENT L P  
3949 LA CRESTA DR  
SAN DIEGO CA 92107-2612

OTT 07-12-02  
4220 MIGUEL VIEW RD  
LA MESA CA 91941-7227

OTT 07-12-02  
4220 MIGUEL VIEW RD  
LA MESA CA 91941-7227

WHEELER 08-11-04  
2676 MISSION BLVD  
PACIFIC BEACH CA 92109

ROBERT J & MAUREEN E  
MCGOWAN  
730 BRIGHTON CT  
PACIFIC BEACH CA 92109

MICHAEL MONROE  
1050 RANCHO CIR  
LAS VEGAS NV 89107-4623

SUSAN FITZPATRICK  
8759 CAIRO CT  
SAN DIEGO CA 92123-3903

BRADLEY BERMAN  
809 ALLERTON CT  
PACIFIC BEACH CA 92109

JUDITH P WILLGOSS  
PO BOX 102  
YACHATS OR 97498-0102

OLIVER TRUST 08-18-06  
4782 VALDINA WAY  
SAN DIEGO CA 92124-2436

JEAN P LABRUCHERIE  
PO BOX 1420  
EL CENTRO CA 92244-1420

WILLIAM A VANLEEUEWEN  
13000 CITRUS ST  
CORONA CA 92880-9213

BEACH HOUSE V S M L L C  
2084 16TH AVE  
SAN FRANCISCO CA 94116-1238

LESTER L LOUIS  
2612 BAYSIDE WALK  
PACIFIC BEACH CA 92109

STEPHEN M & JOAN D PIERCE  
14000 N 7 V RANCH RD  
PRESCOTT AZ 86305-9407

SHOOK JEFFREY & L FAMILY  
TRUST  
3934 N GOLFVIEW DR  
BUCKEYE AZ 85396-7604

BENJAMIN C & CAROLYN  
THOMAS  
3411 E ROVEY AVE  
PARADISE VALLEY AZ 85253-  
3737

YUNKER FAMILY TRUST 04-13-  
00  
16 PANORAMA CREST AVE  
LAS VEGAS NV 89135-7831

MICHAEL G & LAURYL Z  
DRISCOLL  
2613 MISSION BLVD #1  
PACIFIC BEACH CA 92109

CASCIANI FAMILY TRUST 12-  
04-97  
3230 CHICAGO ST  
SAN DIEGO CA 92117-6115

PAUL R & FAYE A BLOOM  
6105 PASATIEMPO AVE  
SAN DIEGO CA 92120-3818

VOLKER H R SOMMER  
959 SAPPHIRE ST  
PACIFIC BEACH CA 92109

JACOBS FAMILY TRUST 08-12-95  
6820 LANEWOOD CT  
SAN DIEGO CA 92111-4739

JASON DAWSON  
450 J ST #6031  
SAN DIEGO CA 92101-5439

JAMES H & SUSAN B FURMAN  
707 W 34TH ST  
AUSTIN TX 78705-1204

GEORGE H & VERA N BYE  
1451 HILLSMONT DR  
EL CAJON CA 92020-2940

KENNETH & JOANNE  
ROSENSTEEL  
1 BILTMORE EST  
PHOENIX AZ 85016-2802

DOUGLAS K WESTPHAL  
33 TAFT CT  
NOVATO CA 94947-4440

HERNANDEZ FAMILY TRUST  
03-24-93  
2613 MISSION BLVD #12  
PACIFIC BEACH CA 92109

RAYMOND F TILLILIE  
600 GARDEN WAY  
WEXFORD PA 15090-5603

AMES PHYLLIS SEPARATE  
PROPERTY  
80833 CAMINO SAN LUCAS  
INDIO CA 92203-7468

MISSION BEACH PRECISE  
PLANNING BOARD  
ATTN: RICHARD MILLER  
716 LIVERPOOL COURT  
SAN DIEGO CA 92109

OCCUPANT  
805 ALLERTON CT  
PACIFIC BEACH CA 92109

OCCUPANT  
807 ALLERTON CT  
PACIFIC BEACH CA 92109

OCCUPANT  
809 ALLERTON CT  
PACIFIC BEACH CA 92109

OCCUPANT  
811 ALLERTON CT  
PACIFIC BEACH CA 92109

OCCUPANT  
813 ALLERTON CT  
PACIFIC BEACH CA 92109

OCCUPANT  
815 ALLERTON CT  
PACIFIC BEACH CA 92109

OCCUPANT  
819 ALLERTON CT  
PACIFIC BEACH CA 92109

OCCUPANT  
805 ANACAPA CT  
PACIFIC BEACH CA 92109

OCCUPANT  
808 ANACAPA CT  
PACIFIC BEACH CA 92109

OCCUPANT  
704 ASBURY CT  
PACIFIC BEACH CA 92109

OCCUPANT  
718 ASBURY CT  
PACIFIC BEACH CA 92109

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720 ASBURY CT  
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715 AVALON CT  
PACIFIC BEACH CA 92109

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720 AVALON CT  
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721 AVALON CT  
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725 AVALON CT  
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729 AVALON CT  
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735 AVALON CT  
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737 AVALON CT  
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741 AVALON CT  
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743 AVALON CT  
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738 AVALON CT  
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706 BALBOA CT  
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708 BALBOA CT  
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722 BALBOA CT  
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724 BALBOA CT  
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OCCUPANT  
730 OCEAN FRONT WALK  
PACIFIC BEACH CA 92109

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2606 BAYSIDE WALK  
PACIFIC BEACH CA 92109

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2610 BAYSIDE WALK  
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2612 BAYSIDE WALK  
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2625 BAYSIDE WALK  
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2632 BAYSIDE WALK  
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2634 BAYSIDE WALK  
PACIFIC BEACH CA 92109

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719 BRIGHTON CT  
PACIFIC BEACH CA 92109

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721 BRIGHTON CT  
PACIFIC BEACH CA 92109

OCCUPANT  
725 BRIGHTON CT  
PACIFIC BEACH CA 92109

OCCUPANT  
2641 MISSION BLVD  
PACIFIC BEACH CA 92109

OCCUPANT  
2660 MISSION BLVD  
PACIFIC BEACH CA 92109

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2672 MISSION BLVD  
PACIFIC BEACH CA 92109

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2674 MISSION BLVD  
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2676 MISSION BLVD  
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2686 MISSION BLVD  
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2688 MISSION BLVD  
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2613 MISSION BLVD 1  
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2613 MISSION BLVD 10  
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2613 MISSION BLVD 11  
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2613 MISSION BLVD 13  
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2613 MISSION BLVD 14  
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2613 MISSION BLVD 3  
PACIFIC BEACH CA 92109

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2682 MISSION BLVD 3  
PACIFIC BEACH CA 92109

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2613 MISSION BLVD 4  
PACIFIC BEACH CA 92109

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2613 MISSION BLVD 5  
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2613 MISSION BLVD 6  
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2613 MISSION BLVD 7  
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2613 MISSION BLVD 8  
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2613 MISSION BLVD 9  
PACIFIC BEACH CA 92109

OCCUPANT  
2682 MISSION BLVD A  
PACIFIC BEACH CA 92109

OCCUPANT  
2601 OCEAN FRONT WALK  
PACIFIC BEACH CA 92109

OCCUPANT  
2611 OCEAN FRONT WALK  
PACIFIC BEACH CA 92109

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2641 OCEAN FRONT WALK  
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2643 OCEAN FRONT WALK  
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2647 OCEAN FRONT WALK  
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2649 OCEAN FRONT WALK  
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2673 OCEAN FRONT WALK  
PACIFIC BEACH CA 92109

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2685 OCEAN FRONT WALK  
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2687 OCEAN FRONT WALK  
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2705 OCEAN FRONT WALK  
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2707 OCEAN FRONT WALK  
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2709 OCEAN FRONT WALK  
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2711 OCEAN FRONT WALK  
PACIFIC BEACH CA 92109

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2721 OCEAN FRONT WALK  
PACIFIC BEACH CA 92109

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2723 OCEAN FRONT WALK  
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2735 OCEAN FRONT WALK  
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2737 OCEAN FRONT WALK  
PACIFIC BEACH CA 92109

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2751 OCEAN FRONT WALK  
PACIFIC BEACH CA 92109

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2753 OCEAN FRONT WALK  
PACIFIC BEACH CA 92109

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2755 OCEAN FRONT WALK  
PACIFIC BEACH CA 92109

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2757 OCEAN FRONT WALK  
PACIFIC BEACH CA 92109

OCCUPANT  
2761 OCEAN FRONT WALK  
PACIFIC BEACH CA 92109

OCCUPANT  
2595 OCEAN FRONT WALK 1  
PACIFIC BEACH CA 92109

OCCUPANT  
2595 OCEAN FRONT WALK 3  
PACIFIC BEACH CA 92109

OCCUPANT  
2595 OCEAN FRONT WALK 4  
PACIFIC BEACH CA 92109

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2595 OCEAN FRONT WALK 5  
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OCCUPANT  
2595 OCEAN FRONT WALK 6  
PACIFIC BEACH CA 92109

OCCUPANT  
2595 OCEAN FRONT WALK 7  
PACIFIC BEACH CA 92109

OCCUPANT  
712 SAN LUIS REY PL  
PACIFIC BEACH CA 92109

OCCUPANT  
716 SAN LUIS REY PL  
PACIFIC BEACH CA 92109

OCCUPANT  
718 SAN LUIS REY PL  
PACIFIC BEACH CA 92109

OCCUPANT  
720 SAN LUIS REY PL  
PACIFIC BEACH CA 92109

OCCUPANT  
721 SAN LUIS REY PL  
PACIFIC BEACH CA 92109

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722 SAN LUIS REY PL  
PACIFIC BEACH CA 92109

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723 SAN LUIS REY PL  
PACIFIC BEACH CA 92109

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724 SAN LUIS REY PL  
PACIFIC BEACH CA 92109

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725 SAN LUIS REY PL  
PACIFIC BEACH CA 92109

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727 SAN LUIS REY PL  
PACIFIC BEACH CA 92109

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728 SAN LUIS REY PL  
PACIFIC BEACH CA 92109

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732 SAN LUIS REY PL  
PACIFIC BEACH CA 92109

OCCUPANT  
733 SAN LUIS REY PL  
PACIFIC BEACH CA 92109

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734 SAN LUIS REY PL  
PACIFIC BEACH CA 92109

OCCUPANT  
736 SAN LUIS REY PL  
PACIFIC BEACH CA 92109

OCCUPANT  
712 SAN LUIS REY PL  
PACIFIC BEACH CA 92109

OCCUPANT  
2614 STRANDWAY  
PACIFIC BEACH CA 92109

OCCUPANT  
2626 STRANDWAY  
PACIFIC BEACH CA 92109

OCCUPANT  
2656 STRANDWAY  
PACIFIC BEACH CA 92109

OCCUPANT  
2667 STRANDWAY  
PACIFIC BEACH CA 92109

OCCUPANT  
2669 STRANDWAY  
PACIFIC BEACH CA 92109

OCCUPANT  
2740 STRANDWAY  
PACIFIC BEACH CA 92109

OCCUPANT  
2745 STRANDWAY  
PACIFIC BEACH CA 92109

## EXHIBIT E




**APPENDIX D**  
**(Permit Application)**

**RECEIVED**  
**JUN 02 2011**

**DECLARATION OF POSTING**

Prior to or at the time the application is submitted for filing, the applicant must post, at a conspicuous place, easily read by the public and as close as possible to the site of the proposed development, notice that an application for the proposed development has been submitted to the Commission. Such notice shall contain a general description of the nature of the proposed development. The Commission furnishes the applicant with a standardized form to be used for such posting. If the applicant fails to post the completed notice form and sign the Declaration of Posting, the Executive Director of the Commission shall refuse to file the application. 14 Cal. Code Regs. Section 13054(d).

Please sign and date this Declaration of Posting form when the site is posted; it serves as proof of posting. It should be returned to our office with the application.

Pursuant to the requirements of California Administrative Code Section 13054(b), I hereby certify	
that on, _____	I or my authorized representative posted the <b>Notice</b>
<small>(date of posting)</small>	
<b>of Pending Permit</b> for application to obtain a coastal development permit for the development of	
A New 3,125 s.f. Three Story Lifeguard Station and Demolition of an Existing 897 s.f.	
Three Story Lifeguard Tower	
_____	
<small>(description of development)</small>	
Located at 700 N. Jetty Road, San Diego, CA 92109	
APN # 423-750-01	
<small>(address of development or assessor's parcel number)</small>	
The public notice was posted at _____	
<small>(a conspicuous place, easily seen by the public and as close as possible to the site of the proposed development)</small>	
 <small>(signature)</small>	
06-01-2011 <small>(date)</small>	

**NOTE:** Your application cannot be processed until this **Declaration of Posting** is signed and returned to this office.

<b>FOR OFFICE USE ONLY</b>	
PERMIT NUMBER.....	6-11-044
RECEIVED .....	6/2/11
DECLARATION COMPLETE .....	

HP LaserJet M2727nf MFP

# Fax Confirmation Report

HP LASERJET FAX

Aug-28-2015 3:37PM

Job	Date	Time	Type	Identification	Duration	Pages	Result
1504	8/28/2015	3:08:04PM	Receive	619 702 9291	29:45	69	OK

Aug 28 2015 03:04PM Law Off Craig A. Sherman 619-702-9291

page 1

**Craig A. Sherman**

A Professional Law Corporation

1901 FIRST AVENUE, SUITE 219  
SAN DIEGO, CALIFORNIA 92101-2322

TELEPHONE  
619-702-7892

FACSIMILE  
619-702-9291

## FACSIMILE

**DATE:** August 28, 2015

**TO:** Dr. Charles Lester, Executive Director  
c/o Holly Parker  
San Diego Coast District Office  
CALIFORNIA COASTAL COMMISSION

**FAX NUMBER:** 619-767-2384

**FROM:** Craig A. Sherman, Esq

**PAGES:** 69  
(incl. cover)

**RE:** Request for Revocation Permit

**Hard Copy  
to Follow:** Yes

THE INFORMATION CONTAINED IN THIS FACSIMILE IS PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INTENDED RECIPIENT NAMED ABOVE. IF YOU ARE NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY COPYING OR COMMUNICATION OR DISSEMINATION OR DISTRIBUTION OF IT TO ANYONE OTHER THAN THE INTENDED RECIPIENT IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY THE LAW OFFICE OF CRAIG A. SHERMAN AT THE ABOVE TELEPHONE NUMBER AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE.

## CALIFORNIA COASTAL COMMISSION

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



# W7a

Filed: 6/2/11  
49th Day: 7/21/11  
180th Day: 11/29/11  
Staff: M.Ahrens-SD  
Staff Report: 7/22/11  
Hearing Date: 8/10-12/11

## CONSENT CALENDAR

Application No.: 6-11-044

Applicant: City of San Diego

Agent: Jihad Sleiman

Description: Demolition of an existing three-story, 30 ft. high, 897 sq.ft. lifeguard station and construction of a new three-story, 30 ft. high, 3,125 sq.ft. lifeguard station including a buried semi-circular sheet-pile bulkhead seawall located 30 feet seaward of the proposed lifeguard structure. Also proposed is an architectural concrete cap on top of the bulkhead wall a maximum of approximately 3 ft. high.

Site: On the beach adjacent to 700 North Jetty Road, Mission Beach, San Diego, San Diego County. APN 423-750-01

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Substantive File Documents: Certified Mission Beach Precise Plan; Certified Mission Beach Planned District Ordinance; Geotechnical Investigation by TerraCosta Consulting Group, Inc. Dated 2/16/05; Updates to Geotechnical Report by TerraCosta Consulting Group, Inc. dated 3/31/05, 5/10/06 and 1/21/07; Letters from Dominy + Associates Architects 2/17/05 and 4/4/05; CCC CDP #F8974; City of San Diego Site Development Permit No. 197971 approved 9/27/06. Updates to Geotechnical Investigation by TerraCosta Consulting Group, Inc. letter Dated 6/2/11; Dominy + Associates Letter dated 6/2/11; Dominy + Associates Plans dated 6/2/11. CDP # 6-05-017.

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### **I. STAFF RECOMMENDATION:**

The staff recommends the Commission adopt the following resolution:

**MOTION:** *I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

EXHIBIT NO. 2

APPLICATION NO.

**6-11-044-REV**

CDP 6-11-044

Staff Report



California Coastal Commission

**STAFF RECOMMENDATION TO ADOPT CONSENT CALENDAR:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

**II. Standard Conditions.**

See attached page.

**III. Special Conditions.**

The permit is subject to the following conditions:

1. Final Plans. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval final site and building plans for the proposed lifeguard station. The final plans shall be in substantial conformance with the plans by Dominy + Associates Architects dated 6/2/2011, but shall be revised to include the following notes:

- a) No advertising shall be permitted on the approved structures;
- b) Clocks, temperature displays, or other safety information may be located on the façade of the approved structures.
- c) Any fill material used during construction shall be clean, beach compatible material with no rubble, organics, or other debris.
- d) During construction of the approved development, disturbance to sand and intertidal areas shall be minimized to the maximum extent feasible. All excavated beach sand shall be redeposited on the beach. Local sand, cobbles or shoreline rocks shall not be used for backfill or for any other purpose as construction material.
- e) The landscaping proposed along the perimeter of the new lifeguard station shall be deleted.

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

2. As-Built Plans. Within 60 days following completion of the project, the permittees shall submit as-built plans to be reviewed and approved in writing by the

Executive Director, documenting that the lifeguard station and seawall have been constructed consistent with the Executive Director approved construction plans

3. Storage and Staging Areas/Access Corridors. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, final plans indicating the location of access corridors to the construction site and staging areas. The final plans shall indicate that:

- a) No overnight storage of equipment or materials shall occur on sandy beach or public parking spaces.
- b) Access corridors shall be located in a manner that has the least impact on public access to and along the shoreline via Mission Boulevard, Ocean Front Walk and the public parking lot south of the project site.
- c) No work shall occur on the beach between Memorial Day weekend and Labor Day of any year.
- d) The applicant shall submit evidence that the approved plans/notes have been incorporated into construction bid documents. The staging site shall be removed and/or restored immediately following completion of the development.

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

4. Protection of Water Quality - During Construction. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and approval of the Executive Director a Construction Best Management Practices Plan for the project site, prepared by a licensed professional, and shall incorporate erosion, sediment, and chemical control Best Management Practices (BMPs) designed to minimize to the maximum extent practicable the adverse impacts to receiving waters associated with construction. The applicant shall implement the approved Construction Best Management Practices Plan on the project site prior to and concurrent with the project staging, demolition and construction operations. The BMPs shall be maintained throughout the development process.

A. Said plan shall include the following requirements:

- (i) No construction materials, debris, or waste shall be placed or stored in a manner where it may be subject to wave, wind, rain, or tidal erosion and dispersion.



(ii) Any and all refuse and debris resulting from construction and demolition activities shall be removed from the project site within 72 hours of completion of demolition and construction. Construction and demolition debris and sediment shall be removed from or contained and secured within work areas each day that construction or demolition occurs to prevent the accumulation of sediment and other debris that could be discharged into coastal waters. All demolition/construction debris and other waste materials removed from the project site shall be disposed of or recycled in compliance with all local, state and federal regulations. No debris or other waste materials shall be placed in coastal waters or be allowed to move into coastal waters. If a disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.

(iv) Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control dust and sedimentation impacts to coastal waters during construction and demolition activities. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the storm drain system and Pacific Ocean

(v) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and kept as far away from a storm drain inlet and receiving waters as possible.

B. The required Construction Best Management Practices Plan for the project site shall also include the following BMPs designed to prevent spillage and/or runoff of construction and demolition-related materials, sediment, or contaminants associated with construction activity. The applicant shall:

(i) Develop and implement spill prevention and control measures and ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The fueling and maintenance area shall be located as far away from the receiving waters and storm drain inlets as possible and shall not be located on the beach if at all possible. If fueling or maintenance is proposed to be on the beach then the applicant shall submit a plan showing how there is essentially no possibility of contaminating beach materials through those operations.

(ii) Maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a controlled location not subject to runoff into coastal waters, and more than fifty feet away from a storm drain, open ditch or surface waters.

(iii) Provide and maintain adequate disposal facilities for solid waste, including excess concrete, produced during construction.

(iv) Provide and maintain temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, wind barriers such as solid board fence or hay bales, and silt fencing.

(v) Stabilize any stockpiled fill with geofabric covers or other appropriate cover, and close and stabilize open trenches as soon as possible.

(vi) Prior to final inspection of the proposed project the applicant shall ensure that no gasoline, lubricant, or other petroleum-based product was deposited on the beach or at any beach facility. If such residues are discovered, the residues and all contaminated sand shall be reported to the Executive Director in order to determine if the removal and disposal of the contaminated matter shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

The Construction Best Management Practices Plan approved by the Executive Director pursuant to this condition shall be attached to all final construction plans. The permittee shall undertake the approved development in accordance with the Construction Best Management Practices Plan approved by the Executive Director pursuant to this condition. Any proposed changes to the approved Construction Best Management Practices Plan shall be reported to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. Protection of Water Quality - Project Design & Post Construction. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and approval of the Executive Director, a Water Quality Management Plan (WQMP) for the post-construction project site, prepared by a licensed water quality professional, and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of storm water and nuisance flow leaving the developed site. The plan shall be in conformance with the following requirements:

A. Water Quality Goals.

(i) Appropriate site design, source control and treatment control BMPs shall be implemented to minimize the amount of polluted runoff from all surfaces and activities on the development site.

(ii) Runoff from all parking areas, maintenance areas, rooftops, and driveways shall be collected and directed through a system of appropriate structural BMPs. The filter elements shall be designed to 1) trap sediment, particulates and other solids and 2) remove or mitigate contaminants through filtration and/or biological uptake. There shall be no construction of drain outlets onto the beach. The

drainage system shall also be designed to convey and discharge runoff from the building site in a non-erosive manner.

(iii) If the applicant uses post-construction structural BMPs (or suites of BMPs), they should be designed to treat, infiltrate or filter the amount of storm water runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.

#### B. Monitoring and Maintenance

All BMPs shall be operated, monitored, and maintained for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired, at the following minimum frequencies: 1) prior to October 15th each year; 2) during each month between October 15<sup>th</sup> and April 15<sup>th</sup> of each year and, 3) at least twice during the dry season (between April 16 and October 14).

(i) Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner.

(ii) All inspection, maintenance and clean-out activities shall be documented in an **annual report** submitted to the Executive Director no later than June 30th of each year. This report shall be submitted for the first three years following the completion of development.

(iii) It is the applicant's responsibility to maintain the drainage system and the associated structures and BMPs according to manufacturer's specification.

The permittee shall undertake and maintain the approved development in accordance with the Water Quality Management Plan approved by the Executive Director pursuant to this condition. Any proposed changes to the approved Water Quality Management Plan shall be reported to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

6. Exterior Treatment. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit for the review and approval in writing of the Executive Director, a final color board or other indication of the exterior materials and color scheme to be utilized in the construction of the proposed lifeguard station, in substantial conformance with the plans by Dominy + Associates Architects dated 6/2/2011. The color of the structures and roofs permitted hereby shall be restricted to colors compatible with the surrounding environment with no bright tones except as minor accents. All windows shall be comprised of non-glare glass.

The permittee shall undertake the development in accordance with the color board. Any proposed changes to the approved color board shall be reported to the Executive Director. No changes to the color board that result in either building taking on a substantially different appearance inconsistent with the surrounding environment shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**7. Removal of Riprap. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for review and written approval of the Executive Director a plan for removal of the rip rap from the beach fronting the existing lifeguard station proposed to be demolished. The removal plan shall provide:

- a. All visible and extractable rip rap seaward of the existing lifeguard station proposed to be demolished shall be removed from the beach. The rock shall be removed within the identified work area (Site Plan from TerraCosta Consulting Group/Figure 1).
- b. After the initial removal effort that is part of construction, future maintenance efforts shall include removal of any additional riprap (excluding approved toestone) from the portions of the dry beach seaward of the existing lifeguard station that may become visible in the future.
- c. A schedule for removal, with the first extraction to occur within 1 year of issuance of the Coastal Development Permit;
- d. Criteria for removal, such as all visible rock, all rock within 3 feet of the surface of the sand layer;
- e. Method of removal;
- f. Location of the export site. If the export site is within the coastal zone, a separate Coastal Development Permit or permit amendment may be required from the California Coastal Commission or its successors in interest;
- g. General plans for the disposal of additional riprap that may become visible in subsequent years.
- h. Removal of riprap shall not occur between Memorial Day weekend and Labor Day of any year.

**8. State Lands Commission Review. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall obtain a copy of written authorization to construct the proposed development from the State Lands Commission.

9. No Future Seaward Extension of Shoreline Protective Device.

A. By acceptance of this Permit, the applicant agrees, on behalf of itself (or himself or herself, as applicable) and all successors and assigns, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protective device for the lifeguard tower approved pursuant to Coastal Development Permit No.6-11-044, as described and depicted on an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit, shall be undertaken if such activity extends the footprint seaward of the subject shoreline protective device. By acceptance of this Permit, the applicant waives, on behalf of itself (or himself or herself, as applicable) and all successors and assigns, any rights to such activity that may exist under Public Resources Code Section 30235.

**B. PRIOR TO THE ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI FOR THIS PERMIT,** the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the shoreline protective device approved by this permit, as generally described above and shown on Exhibit #s 1 & 7 attached to this staff report, showing the footprint of the device and the elevation of the device referenced to NGVD (National Geodetic Vertical Datum).

10. Assumption of Risk, Waiver of Liability and Indemnity Agreement

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

**B. PRIOR TO ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS COASTAL DEVELOPMENT PERMIT,** the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The restriction shall include a legal description of the applicant's entire parcel or parcels. It shall also indicate that, in the event of an



extinguishment or termination of the deed restriction for any reason, the Standard and Special Conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes – or any part, modification, or amendment thereof – remains in existence on or with respect to the subject property.

**C. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

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#### IV. Findings and Declarations.

The Commission finds and declares as follows:

**A. Detailed Project Description.** The applicant proposes the demolition of an existing three-story, 30 ft. high, 897 sq.ft. wooden lifeguard station and construction of a new three-story, 30 ft. high, 3,125 sq.ft. lifeguard station on the public beach in South Mission Beach. The main level of the new lifeguard station will have a total of 2,436 sq.ft. consisting of a fully accessible reception and general information area, a first aid room, locker room, and a ground-level enclosed garage/storage area for lifeguard vehicles, rescue craft and equipment and restrooms. The second level will have 435 sq.ft. and consist of a ready room, restrooms and watch room. The third level will have a total of 254 sq.ft. and consist of the observation tower. The new lifeguard station will be situated in the general vicinity of the existing lifeguard station but it will be sited 80 feet further north and 12 feet further east (inland). No portion of the lifeguard station will extend further west than the existing lifeguard station. In addition, in order to preserve public views from the west along Ocean Front Walk (the public boardwalk) for both residents and members of the public who heavily use this recreational resource, the City designed it such that its greatest length extends from west to east. The existing lifeguard station will be demolished after the existing lifeguard station construction is completed. In addition, revetment rock that was placed around the existing lifeguard station during the 1982/1983 El Nino storms shall be removed at the time the existing lifeguard station is removed. The rock that is visible or within easy excavation depth should be cleared off the beach. Any buried rock should be removed over time as it becomes exposed.

The new lifeguard station will not have any public restrooms (other than for members of the public who are injured and are being treated at the lifeguard facility). An existing comfort station south of the existing lifeguard station and adjacent to the public parking lot next to the jetty is proposed to remain. The City also proposes to re-stripe four parking spaces in the public parking lot south of the lifeguard station. Presently, four existing handicapped spaces are located on the far south part of the parking lot and not closest to the sidewalk and comfort station near the north side of the parking lot where they would be most accessible for the handicapped. The City proposes to re-stripe the spaces in the northwest corner of the lot for handicapped use only and re-stripe the existing handicapped spaces for general use. The number of parking spaces is proposed

to remain the same. However, this latter improvement does not require a permit and is described here for informational purposes only.

Also proposed is a buried semi-circular sheet-pile bulkhead around the seaward portion of the lifeguard tower located a minimum of 30 feet seaward of the lifeguard structure. The buried sheet-pile bulkhead also proposes to incorporate an architectural concrete cap for those infrequent periods when the buried bulkhead is exposed to maintain its architectural appearance and to minimize the potential for any injury to the public that could otherwise result from an exposed steel sheet-pile bulkhead. The architectural concrete cap will vary in height between 1 ½ feet to 3 ft. high depending on the seasonal sand elevations and will resemble the structures along the Ocean Front Walk public boardwalk (ref. Exhibit No. 8). In addition, along the perimeter of the facility, mats of durable concrete erosion control block are proposed just below the sand elevation. These mats will protect the building and help reduce potential erosion and they will also facilitate lifeguard vehicle movement along the sand. A small concrete patio is proposed on the north side of the lifeguard tower near the entrance/reception area of the lifeguard station. An erosion control mat will be located on the north side of the lifeguard tower to facilitate access to the proposed parking garage. In addition, a 6-foot wide concrete sidewalk is proposed to provide pedestrian access to the lifeguard structure from a large public parking lot to the south. An existing concrete walk that provides access to the existing lifeguard structure from that same parking lot will be demolished along with the existing lifeguard station.

The existing lifeguard structure is 27 years old and was approved pursuant to CDP #F8974 in 1980 to replace a former lifeguard station (that according to the City was built in 1974 as a “temporary facility”) that was damaged by waves and tidal action in the 1980 winter storms. In 2005, the Commission approved a CDP for the exact project as proposed herein (ref. CDP #6-05-17). However, the City let the permit expire and has submitted a new permit application for the same project. The proposed lifeguard tower will be located on a wide sandy beach about 600 feet west of the public boardwalk (Ocean Front Walk). The site is located in South Mission Beach seaward of where Ocean Front Walk begins to curve in a southwesterly direction away from the row of residential development that borders the oceanfront. Immediately west of the boardwalk in this area is a very wide sandy beach and several volleyball courts that are frequently used by the public. Further west is a basketball court (for a frame of reference, the existing lifeguard station proposed to be demolished is located approximately 240 feet west of the basketball courts). West of the basketball court is a large grassy picnic area with picnic tables and barbecues. To the south is a large 250-space public parking lot. At the very northwest corner of the parking lot is a comfort station which is proposed to remain. South of the parking lot is a jetty that borders along the north entrance channel to Mission Bay Park. This marks the southern boundary of Mission Beach which is inaccessible any further south other than by boat. Across the channel to the south is the Ocean Beach community.

Although the footprint of the proposed lifeguard tower will result in the net coverage of an additional 2,000 sq. ft. of sandy beach area, the project, as proposed and conditioned,

will not result in impacts to public beach access in this area. The subject stretch of Mission Beach is very wide and currently provides ample passive and active beach recreation uses. While Mission Beach is generally flat and broad in this region, the proposed lifeguard tower is located in a sloping transitional area of the beach that is not frequently utilized by the public as documented by the lifeguard service. Due to the large expansive sandy beach available in this area, copious amounts of open beach area will still be available for public use and enjoyment even after construction of the proposed structure. In addition, the existing lifeguard station will be demolished after the new one is constructed which will open up 400 sq. ft. of additional flatter beach area for public use.

The proposed lifeguard station development is on the public beach in a location where the Commission retains original permit jurisdiction. Therefore, Chapter 3 of the Coastal Act is the standard of review, with the City's certified LCP used as guidance.

**B. Shoreline Hazards.** Development adjacent to the ocean is inherently hazardous. In the case of the proposed project, the applicants have demonstrated that the proposed lifeguard station is in need of protection and that, in addition to the seawall, the City will continue to utilize a built-up berm in front of the lifeguard station. However, in this case, the applicant's coastal engineer has indicated that the proposed seawall would not have an adverse impact on sand supply. The Coastal Commission's coastal engineer concurs with this statement. The proposed buried seawall will function as a last line of defense and protection against threat from wave overtopping and erosion during severe storm events. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

**C. Community Character /Visual Quality.** The proposed structure is smaller in size than the previous structure and has been sited to minimize ocean view impacts from public vista points. The development, as conditioned, will be compatible with the character and scale of the surrounding area and will not impact public views. Therefore, the Commission finds that the development, as conditioned, conforms to Section 30251 of the Coastal Act.

**D. Biological Resources.** Coastal Act policies 30240 and 30251 restrict the alteration of natural landforms and protect sensitive habitats. Section 30231 of the Coastal Act requires that coastal waters are protected and runoff minimized.

The proposed development will not have an adverse impact on any sensitive habitat, and, as conditioned, will not result in erosion or adverse impacts to water quality, as adequate temporary erosion controls (construction BMPs) will be provided. Thus, the project is consistent with the resource protection policies of Chapter 3 of the Coastal Act.

**E. Public Access/Parking.** As conditioned, the proposed development will not have an adverse impact on public access to the coast or to nearby recreational facilities.

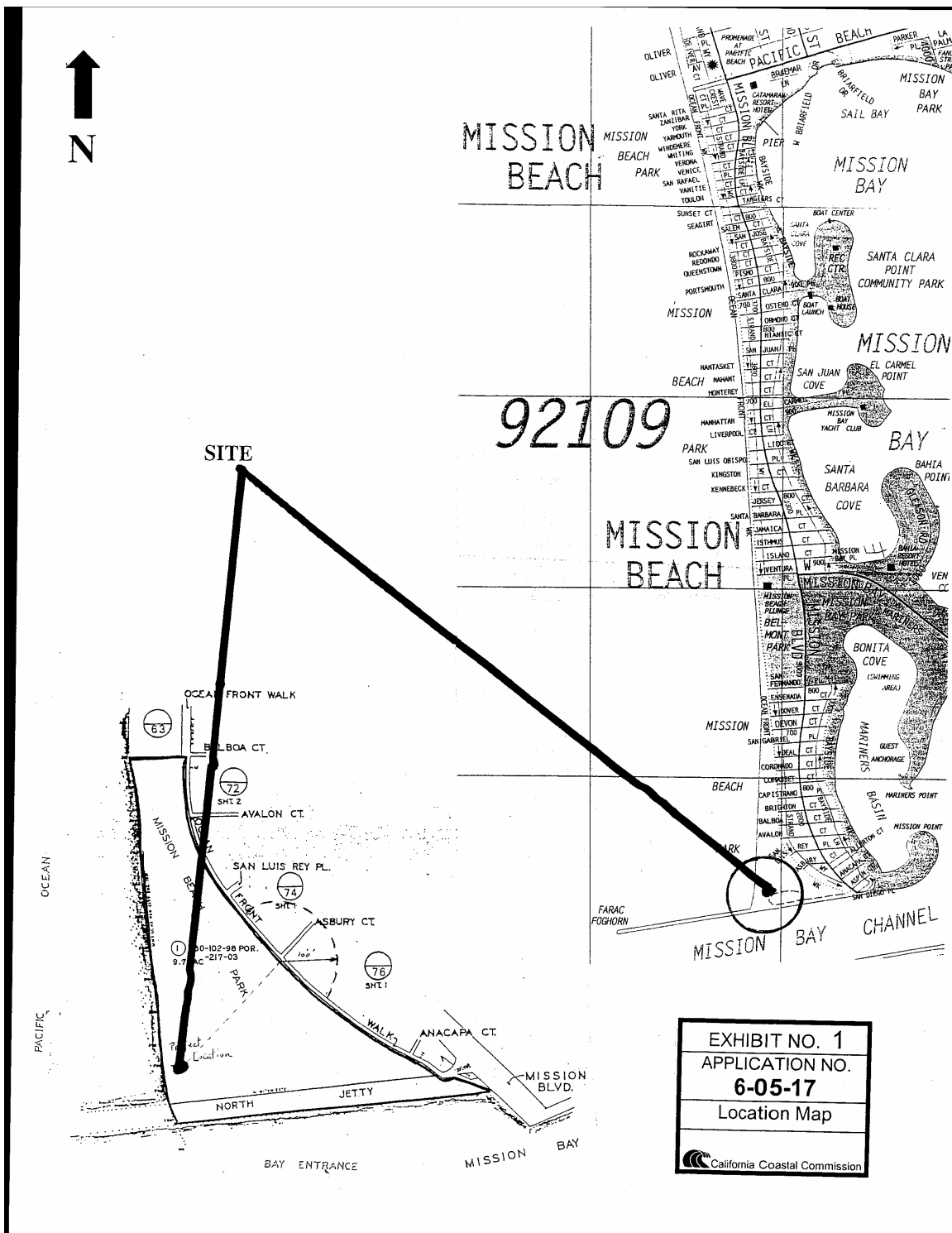
As conditioned, the proposed development conforms to Sections 30210 through 30214, Sections 30220 through 30224, Section 30252 and Section 30604(c) of the Coastal Act.

**F. Local Coastal Planning.** The subject site is located in an area of original jurisdiction, where the Commission retains permanent permit authority. The subject permit will result in the improvement of a public works facility which will result in improved public safety, public access and recreational opportunities consistent with the policies of the certified Mission Beach Precise Plan. As conditioned, the project is consistent with all applicable Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed development will not prejudice the ability of the City of San Diego to continue to implement its certified LCP for the Mission Beach community.

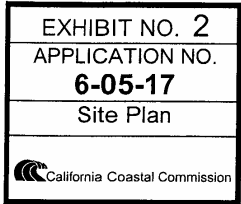
**G. Consistency with the California Environmental Quality Act (CEQA).** As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

**STANDARD CONDITIONS:**

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







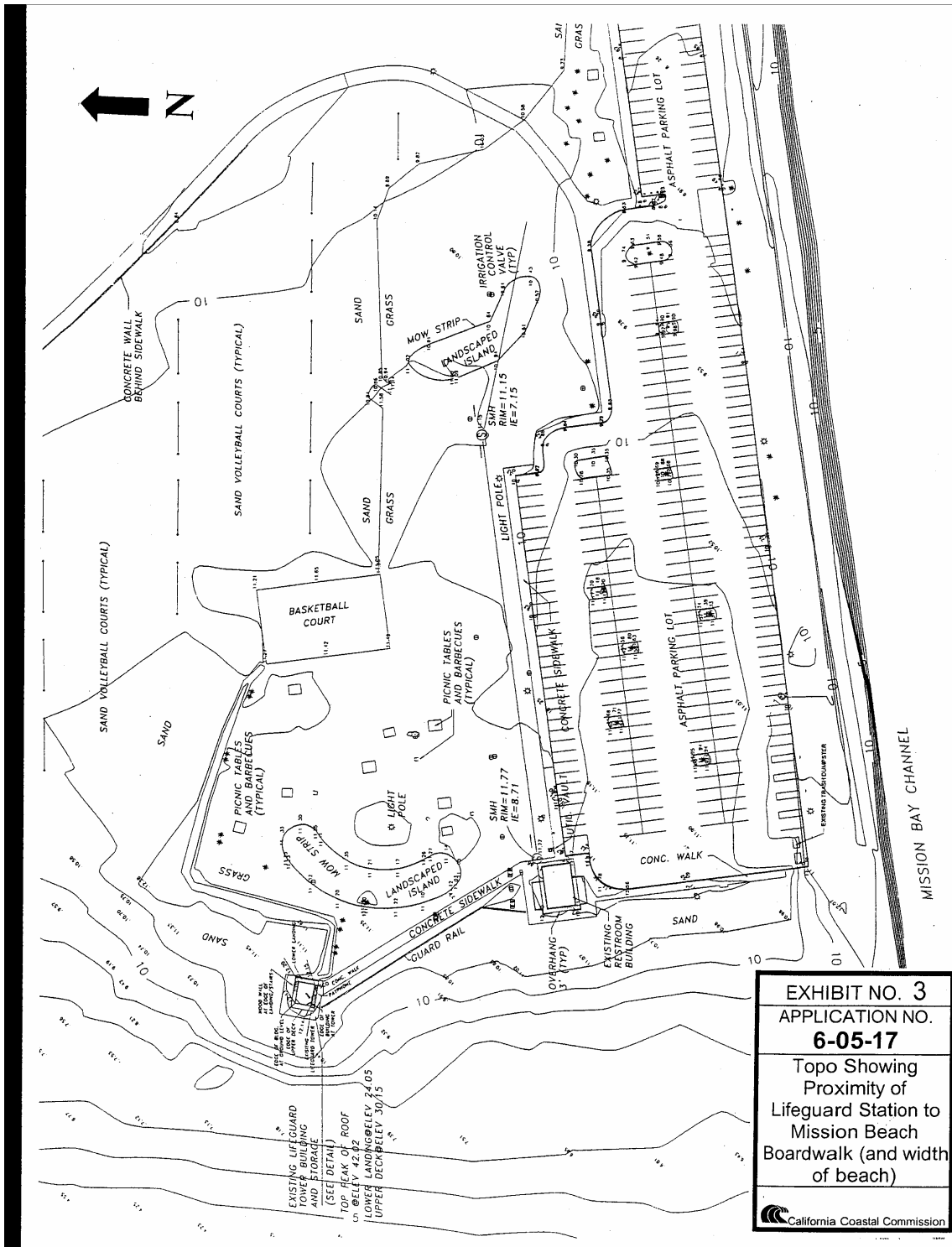
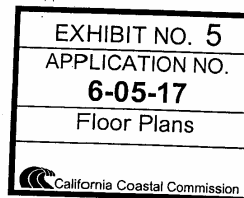
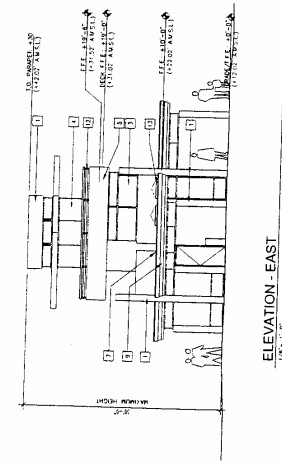


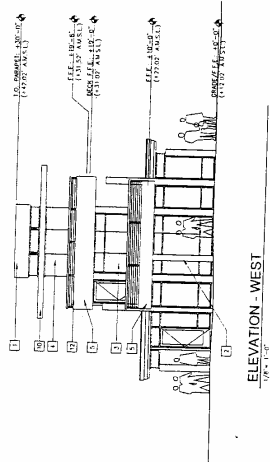


EXHIBIT NO. 4  
APPLICATION NO.  
**6-05-17**  
Floor Plans

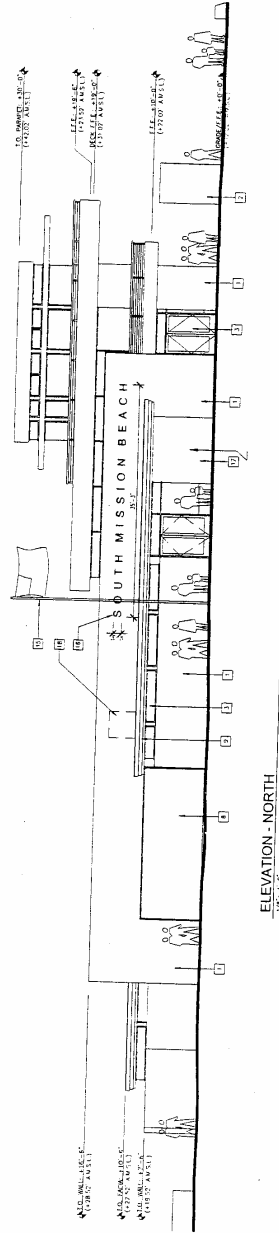




ELEVATION - EAST  
1/8" = 1'-0"



ELEVATION - WEST  
1/8" = 1'-0"



ELEVATION - NORTH  
1/8" = 1'-0"

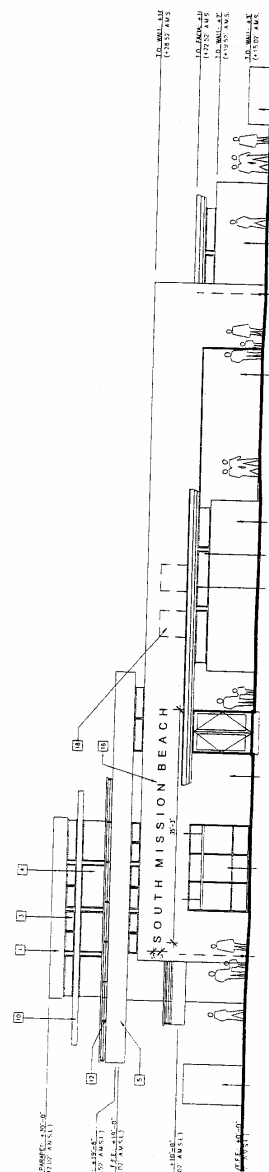
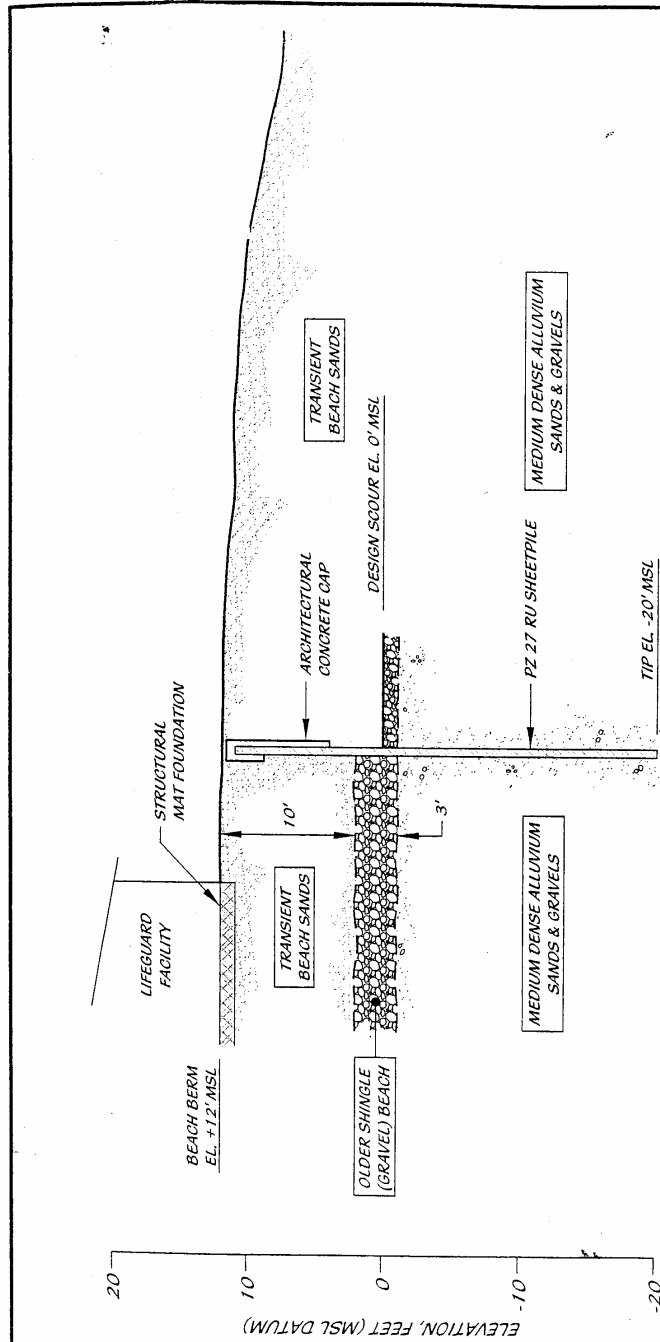


EXHIBIT NO. 6
APPLICATION NO.
6-05-17
Elevations

California Coastal Commission



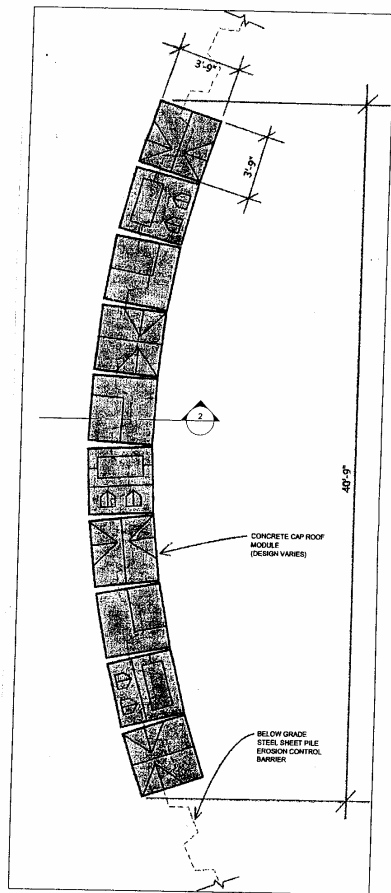


### GENERALIZED BEACH PROFILE

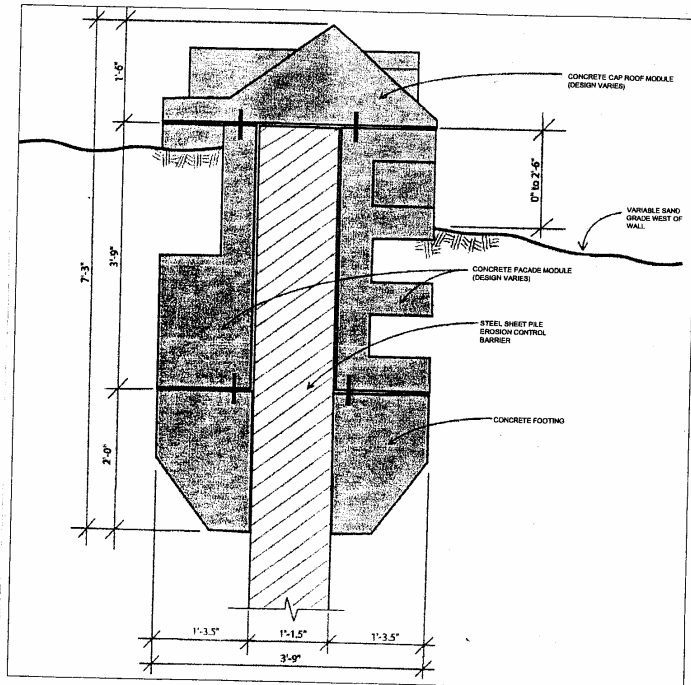
SCALE: 1"=10' (HORIZ.; VERT.)

EXHIBIT NO. 7
APPLICATION NO.
6-05-17
X-Section of Buried Seawall
California Coastal Commission

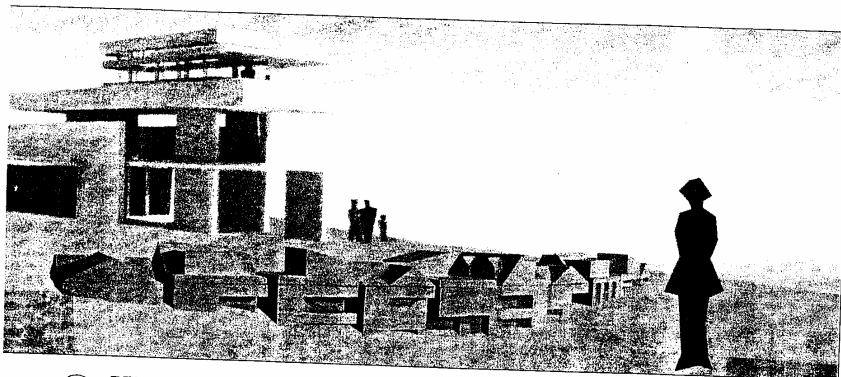
<b>TerraCosta</b> Consulting Group	<b>TERRACOSTA CONSULTING GROUP</b> ENGINEERS AND GEOLOGISTS 4445 CANTON ROAD, SUITE 100 SAN DIEGO, CA 92123 (619) 573-8900	<b>FIGURE NUMBER</b> 3
	<b>PROJECT NAME</b> SO. MISSION BEACH LIFEGUARD TOWER	<b>PROJECT NUMBER</b> 2231
<b>GENERALIZED BEACH PROFILE</b>		



1 PLAN  
1/4" = 1'-0"



2 SECTION  
1" = 1'-0"



3 RENDERING  
NTS

EXHIBIT NO. 8  
APPLICATION NO.  
**6-05-17**  
Architectural  
Rendering of  
Proposed Concrete  
Cap On Top of  
Bulkhead Seawall  
California Coastal Commission

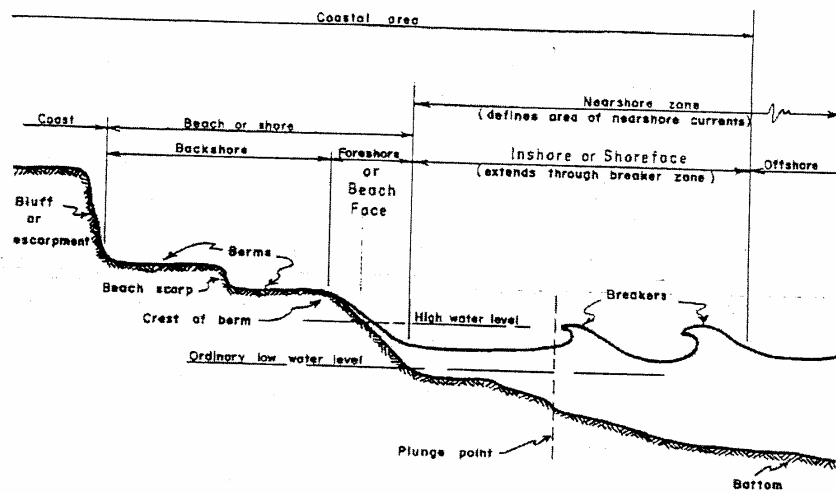


EXHIBIT NO. 9  
APPLICATION NO.  
**6-05-17**  
1984 ACOE Shore  
Protection Manual  
Exhibit of  
Backshore/Foreshore  
/Beach Face

California Coastal Commission

**CALIFORNIA COASTAL COMMISSION**

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



# Thu 18b

## Addendum

February 13, 2007

To: Commissioners and Interested Persons

From: California Coastal Commission  
San Diego Staff

Subject: Addendum to Thu 18b, Coastal Commission Permit Application  
#6-05-17 (San Diego), for the Commission Meeting of 2/15/07

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

1. On Page 8 of the staff report, Special Condition No. 9 shall be revised as follows:

9. No Future Seaward Extension of Shoreline Protective Device.

[...]

B. PRIOR TO THE ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI FOR THIS PERMIT, the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the shoreline protective device approved by this permit, as generally described above and shown on Exhibit #s 5 1 & 7 attached to this staff report, showing the footprint of the device and the elevation of the device referenced to NGVD (National Geodetic Vertical Datum).

2. On Page 9 of the staff report, the following shall be added as new Special Condition #11:

11. No Future Bluff or Shoreline Protective Device

A(1) By acceptance of this Permit, the applicant agrees, on behalf of itself (or himself or herself, as applicable) and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the accessory improvements approved pursuant to Coastal Development Permit No. 6-05-17 including, but not limited to concrete walkways, concrete erosion control matting, or concrete patios, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, or other natural hazards in the

EXHIBIT NO. 3

APPLICATION NO.

**6-11-044-REV**

CDP 6-05-017

Staff Report



California Coastal Commission

future. By acceptance of this Permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

3. On Page 11 of the staff report, the second paragraph shall be revised as follows:

The existing lifeguard structure is 27 years old and was approved pursuant to CDP #F8974 in 1980 to replace a former lifeguard station (that according to the City was built in 1974 as a “temporary facility”) that was damaged by waves and tidal action in the 1980 winter storms. A new tower was then approved and constructed pursuant to CDP # F8974. The existing lifeguard station was constructed 500 feet south of the former lifeguard station that was damaged. The existing lifeguard structure was also damaged in the 1982-1983 El Nino storm. It was during this time that rip rap was placed seaward of the lifeguard station as an emergency protective measure. Although the lifeguard structure functioned adequately for a number of years it no longer adequately serves the needs of the City’s lifeguards and the beach-going public. The City’s program for the new lifeguard tower requires inside parking for two vehicles, one boat and a personal watercraft, along with a variety of other new program requirements. The footprint of the existing lifeguard station is approximately 400 sq.ft. and the footprint of the proposed lifeguard station is approximately 2,400 sq.ft. resulting in 2,000 sq.ft. of additional beach coverage. For purposes of comparison, the existing lifeguard station varies in width from 24'1" x 17' to 11' and the newly proposed lifeguard station will vary in width from 120' x 35 1/2' to 11'. Both the existing and new lifeguard stations are 30 feet high.

4. On Page 15 of the staff report, the third paragraph shall be revised as follows:

The applicant’s architect has also provided additional information regarding the necessity of such a larger lifeguard station facility. Essentially, this lifeguard station has the responsibility for the heavily-used mile-long section of coastline from the South Mission Beach jetty, north to Ventura Place, which is one of the busiest public beach areas in the City. The existing lifeguard station is undersized, inaccessible and deteriorating badly. The City further noted that although the lifeguard station is proposed to be increased in size, it is to accommodate the City lifeguard service’s long-term needs. The purpose of the project is to replace an aging lifeguard station that is not adequately serving the lifeguards. It has been documented previously (CDP #6-01-170/South Pacific Beach Lifeguard Station) that due to the larger public crowds using the populous Pacific Beach/Mission Beach areas, these facilities must be upgraded and enlarged to meet both today's and future needs of the public in terms of public health and safety. According to a San Diego Lifeguard Service Oceanfront Statistics Report for 2005, the crowd count at South Mission Beach for 2005 was 1,534,961 people. In addition, a total of 12,607 preventive actions were made (i.e., warnings to the public to stay out of dangerous surf and other similar actions). The lifeguard service has indicated that their goal is to reduce the number of rescues by instead performing preventive actions that will lower the number of rescues that are necessary.



5. On Page 20, the second full paragraph shall be revised as follows:

Thus, to ensure that the proposed project is consistent with Sections 30235 and 30253, and that the proposed project does not result in future adverse effects to coastal processes, the Commission imposes Special Condition #1 for submittal of final plans. ~~This condition requires minimal disturbance to the sand and intertidal areas as well as requiring the City to continue the practice of sand berming seaward of the lifeguard structure. [...]~~

6. On Page 20 of the staff report, the third full paragraph shall be revised as follows:

As noted earlier, the Commission's engineer has reviewed the project and concluded that as proposed, the buried bulkhead wall has been designed to be adequate to protect the proposed structure from storms. Special Condition #9 requires the City to waive any rights to additional protection in the future that would increase the seaward extent of the seawall. If, in the future, the shoreline protection is damaged or fails to protect the station, the City should apply for a new permit or amendment to this permit to repair or rebuild the seawall in a manner that does not require additional encroachment on the beach. In addition, Special Condition #11 requires the City to waive rights to protection for all proposed accessory improvements.

7. On Page 22 in the first full paragraph, the reference to an Exhibit should be to Exhibit No. 1.

**CALIFORNIA COASTAL COMMISSION**

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



# Thu 18b

Filed: 12/6/06  
49th Day: 1/24/07  
180th Day: 6/4/07  
Staff: Laurinda Owens-SD  
Staff Report: 1/25/07  
Hearing Date: 2/14-16/07

REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-05-17

Applicant: City of San Diego

Agent: Jihad Sleiman

Description: Demolition of an existing three-story, 30 ft. high, 897 sq.ft. lifeguard station and construction of a new three-story, 30 ft. high, 3,125 sq.ft. lifeguard station including a buried semi-circular sheet-pile bulkhead seawall located 30 feet seaward of the proposed lifeguard structure. Also proposed is an architectural concrete cap on top of the bulkhead wall a maximum of approximately 3 ft. high.

Site: 700 North Jetty Road, Mission Beach, San Diego, San Diego County.  
APN 423-750-01

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STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff recommends approval of the project, with special conditions. The applicant has demonstrated that the proposed replacement lifeguard station is necessary at the proposed location and that its size and seaward extent has been minimized to reduce its impact on public views and public access, but still meet the needs of the lifeguard service. The new lifeguard station will be located 80 feet north and 12 feet east of the existing facility, but because the structure is larger, will result in almost a 2,000 sq.ft. of additional beach coverage. However, the larger structure will accommodate a first aid station and related safety facilities that will provide improved public services. The proposed buried sheet-pile bulkhead seawall will provide reasonable and necessary protection for the proposed replacement lifeguard station while minimizing impacts to public access and shoreline processes. Special conditions prohibit the addition of any future shoreline protection.

The structure has been sized and located appropriately to minimize encroachment on the beach and adverse impacts to public access and recreation. Other conditions prohibit the placement of advertising on the structure, restrict the color and appearance of the buildings, require pre- and post-construction water quality BMPs, address construction access and timing, and require State Lands Commission review.

Standard of Review: Chapter 3 polices of the Coastal Act.

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Substantive File Documents: Certified Mission Beach Precise Plan; Certified Mission Beach Planned District Ordinance; Geotechnical Investigation by TerraCosta Consulting Group, Inc. Dated 2/16/05; Updates to Geotechnical Report by TerraCosta Consulting Group, Inc. dated 3/31/05, 5/10/06 and 1/21/07; Letters from Dominy + Associates Architects 2/17/05 and 4/4/05; CCC CDP #F8974; City of San Diego Site Development Permit No. 197971 approved 9/27/06.

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I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

**MOTION:**     *I move that the Commission approve Coastal Development Permit No. 6-05-17 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 policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Final Plans. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for

review and written approval final site plans for the proposed lifeguard station. The final plans shall be in substantial conformance with the plans by Dominy + Associates Architects dated 4/6/06, but shall be revised to include the following notes:

- a) No advertising shall be permitted on the approved structures;
- b) Clocks, temperature displays, or other safety information may be located on the façade of the approved structures.
- c) Any fill material used during construction shall be clean, beach compatible material with no rubble, organics, or other debris.
- d) During construction of the approved development, disturbance to sand and intertidal areas shall be minimized to the maximum extent feasible. All excavated beach sand shall be redeposited on the beach. Local sand, cobbles or shoreline rocks shall not be used for backfill or for any other purpose as construction material.
- e) The landscaping proposed along the perimeter of the new lifeguard station shall be deleted.

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

2. As-Built Plans. Within 60 days following completion of the project, the permittees shall submit as-built plans approved by the City of San Diego Beach to be reviewed and approved in writing by the Executive Director documenting that the lifeguard station and seawall have been constructed consistent with the Executive Director approved construction plans

3. Storage and Staging Areas/Access Corridors. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, final plans indicating the location of access corridors to the construction site and staging areas. The final plans shall indicate that:

- a) No overnight storage of equipment or materials shall occur on sandy beach or public parking spaces.
- b) Access corridors shall be located in a manner that has the least impact on public access to and along the shoreline via Mission Boulevard, Ocean Front Walk and the public parking lot south of the project site.

c) No work shall occur on the beach between Memorial Day weekend and Labor Day of any year.

d) The applicant shall submit evidence that the approved plans/notes have been incorporated into construction bid documents. The staging site shall be removed and/or restored immediately following completion of the development.

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

4. Protection of Water Quality - During Construction. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and approval of the Executive Director a Construction Best Management Practices Plan for the project site, prepared by a licensed professional, and shall incorporate erosion, sediment, and chemical control Best Management Practices (BMPs) designed to minimize to the maximum extent practicable the adverse impacts to receiving waters associated with construction. The applicant shall implement the approved Construction Best Management Practices Plan on the project site prior to and concurrent with the project staging, demolition and construction operations. The BMPs shall be maintained throughout the development process.

A. Said plan shall include the following requirements:

(i) No construction materials, debris, or waste shall be placed or stored in a manner where it may be subject to wave, wind, rain, or tidal erosion and dispersion.

(ii) Any and all refuse and debris resulting from construction and demolition activities shall be removed from the project site within 72 hours of completion of demolition and construction. Construction and demolition debris and sediment shall be removed from or contained and secured within work areas each day that construction or demolition occurs to prevent the accumulation of sediment and other debris that could be discharged into coastal waters. All demolition/construction debris and other waste materials removed from the project site shall be disposed of or recycled in compliance with all local, state and federal regulations. No debris or other waste materials shall be placed in coastal waters or be allowed to move into coastal waters. If a disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.

(iv) Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control dust and sedimentation impacts to coastal waters during construction and demolition activities. BMPs shall include, but are not limited to:



placement of sand bags around drainage inlets to prevent runoff/sediment transport into the storm drain system and Pacific Ocean

(v) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and kept as far away from a storm drain inlet and receiving waters as possible.

B. The required Construction Best Management Practices Plan for the project site shall also include the following BMPs designed to prevent spillage and/or runoff of construction and demolition-related materials, sediment, or contaminants associated with construction activity. The applicant shall:

(i) Develop and implement spill prevention and control measures and ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The fueling and maintenance area shall be located as far away from the receiving waters and storm drain inlets as possible and shall not be located on the beach if at all possible. If fueling or maintenance is proposed to be on the beach then the applicant shall submit a plan showing how there is essentially no possibility of contaminating beach materials through those operations.

(ii) Maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a controlled location not subject to runoff into coastal waters, and more than fifty feet away from a storm drain, open ditch or surface waters.

(iii) Provide and maintain adequate disposal facilities for solid waste, including excess concrete, produced during construction.

(iv) Provide and maintain temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, wind barriers such as solid board fence or hay bales, and silt fencing.

(v) Stabilize any stockpiled fill with geofabric covers or other appropriate cover, and close and stabilize open trenches as soon as possible.

(vi) Prior to final inspection of the proposed project the applicant shall ensure that no gasoline, lubricant, or other petroleum-based product was deposited on the beach or at any beach facility. If such residues are discovered, the residues and all contaminated sand shall be reported to the Executive Director in order to determine if the removal and disposal of the contaminated matter shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

The Construction Best Management Practices Plan approved by the Executive Director pursuant to this condition shall be attached to all final construction plans. The permittee shall undertake the approved development in accordance with the Construction Best Management Practices Plan approved by the Executive Director pursuant to this condition. Any proposed changes to the approved Construction Best Management Practices Plan shall be reported to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. Protection of Water Quality - Project Design & Post Construction. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and approval of the Executive Director, a Water Quality Management Plan (WQMP) for the post-construction project site, prepared by a licensed water quality professional, and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of storm water and nuisance flow leaving the developed site. The plan shall be in conformance with the following requirements:

A. Water Quality Goals.

- (i) Appropriate site design, source control and treatment control BMPs shall be implemented to minimize the amount of polluted runoff from all surfaces and activities on the development site.
- (ii) Runoff from all parking areas, maintenance areas, rooftops, and driveways shall be collected and directed through a system of appropriate structural BMPs. The filter elements shall be designed to 1) trap sediment, particulates and other solids and 2) remove or mitigate contaminants through filtration and/or biological uptake. There shall be no construction of drain outlets onto the beach. The drainage system shall also be designed to convey and discharge runoff from the building site in a non-erosive manner.
- (iii) If the applicant uses post-construction structural BMPs (or suites of BMPs), they should be designed to treat, infiltrate or filter the amount of storm water runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.

B. Monitoring and Maintenance

All BMPs shall be operated, monitored, and maintained for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired, at the following minimum frequencies: 1) prior to October 15th

each year; 2) during each month between October 15<sup>th</sup> and April 15<sup>th</sup> of each year and, 3) at least twice during the dry season (between April 16 and October 14).

(i) Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner.

(ii) All inspection, maintenance and clean-out activities shall be documented in an **annual report** submitted to the Executive Director no later than June 30th of each year. This report shall be submitted for the first three years following the completion of development.

(iii) It is the applicant's responsibility to maintain the drainage system and the associated structures and BMPs according to manufacturer's specification.

The permittee shall undertake and maintain the approved development in accordance with the Water Quality Management Plan approved by the Executive Director pursuant to this condition. Any proposed changes to the approved Water Quality Management Plan shall be reported to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

6. Exterior Treatment. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit for the review and approval in writing of the Executive Director, a final color board or other indication of the exterior materials and color scheme to be utilized in the construction of the proposed lifeguard station, in substantial conformance with the plans by Dominy + Associates Architects dated 4/6/06. The color of the structures and roofs permitted hereby shall be restricted to colors compatible with the surrounding environment with no bright tones except as minor accents. All windows shall be comprised of non-glare glass.

The permittee shall undertake the development in accordance with the color board. Any proposed changes to the approved color board shall be reported to the Executive Director. No changes to the color board that result in either building taking on a substantially different appearance inconsistent with the surrounding environment shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

7. Removal of Riprap. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for review and written approval of the Executive Director a plan for removal of the rip rap from the beach fronting the existing lifeguard station proposed to be demolished. The removal plan shall provide:

- a. All visible and extractable rip rap seaward of the existing lifeguard station proposed to be demolished shall be removed from the beach. The rock

shall be removed within the identified work area (Site Plan from TerraCosta Consulting Group/Figure 1).

- b. After the initial removal effort that is part of construction, future maintenance efforts shall include removal of any additional riprap (excluding approved toestone) from the portions of the dry beach seaward of the existing lifeguard station that may become visible in the future.
- c. A schedule for removal, with the first extraction to occur within 1 year of issuance of the Coastal Development Permit;
- d. Criteria for removal, such as all visible rock, all rock within 3 feet of the surface of the sand layer;
- e. Method of removal;
- f. Location of the export site. If the export site is within the coastal zone, a separate Coastal Development Permit or permit amendment may be required from the California Coastal Commission or its successors in interest;
- g. General plans for the disposal of additional riprap that may become visible in subsequent years.
- h. Removal of riprap shall not occur between Memorial Day weekend and Labor Day of any year.

8. State Lands Commission Review. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall obtain a copy of written authorization to construct the proposed development from the State Lands Commission.

9. No Future Seaward Extension of Shoreline Protective Device.

A. By acceptance of this Permit, the applicant agrees, on behalf of itself (or himself or herself, as applicable) and all successors and assigns, that no future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protective device for the lifeguard tower approved pursuant to Coastal Development Permit No. 6-04-140, as described and depicted on an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit, shall be undertaken if such activity extends the footprint seaward of the subject shoreline protective device. By acceptance of this Permit, the applicant waives, on behalf of itself (or himself or herself, as applicable) and all successors and assigns, any rights to such activity that may exist under Public Resources Code Section 30235.

**B. PRIOR TO THE ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI FOR THIS PERMIT**, the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the shoreline protective device approved by this permit, as generally described above and shown on Exhibit #5 attached to this staff report, showing the footprint of the device and the elevation of the device referenced to NGVD (National Geodetic Vertical Datum).

10. Assumption of Risk, Waiver of Liability and Indemnity Agreement

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

**B. PRIOR TO ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The restriction shall include a legal description of the applicant's entire parcel or parcels. It shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the Standard and Special Conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes – or any part, modification, or amendment thereof – remains in existence on or with respect to the subject property.

**C. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

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IV. Findings and Declarations.

The Commission finds and declares as follows:



1. Detailed Project Description. The applicant proposes the demolition of an existing three-story, 30 ft. high, 897 sq.ft. wooden lifeguard station and construction of a new three-story, 30 ft. high, 3,125 sq.ft. lifeguard station on the public beach in South Mission Beach. The main level of the new lifeguard station will have a total of 2,436 sq.ft. consisting of a fully accessible reception and general information area, a first aid room, locker room, and a ground-level enclosed garage/storage area for lifeguard vehicles, rescue craft and equipment and restrooms. The second level will have 435 sq.ft. and consist of a ready room, restrooms and watch room. The third level will have a total of 254 sq.ft. and consist of the observation tower. The new lifeguard station will be situated in the general vicinity of the existing lifeguard station but it will be sited 80 feet further north and 12 feet further east (inland). No portion of the lifeguard station will extend further west than the existing lifeguard station. In addition, in order to preserve public views from the west along Ocean Front Walk (the public boardwalk) for both residents and members of the public who heavily use this recreational resource, the City designed it such that its greatest length extends from west to east. The existing lifeguard station will be demolished after the existing lifeguard station construction is completed. In addition, revetment rock that was placed around the existing lifeguard station during the 1982/1983 El Nino storms shall be removed at the time the existing lifeguard station is removed. The rock that is visible or within easy excavation depth should be cleared off the beach. Any buried rock should be removed over time as it becomes exposed.

Also proposed is a buried semi-circular sheet-pile bulkhead around the seaward portion of the lifeguard tower located a minimum of 30 feet seaward of the lifeguard structure. The buried sheet-pile bulkhead also proposes to incorporate an architectural concrete cap for those infrequent periods when the buried bulkhead is exposed to maintain its architectural appearance and to minimize the potential for any injury to the public that could otherwise result from an exposed steel sheet-pile bulkhead. The architectural concrete cap will vary in height between 1 ½ feet to 3 ft. high depending on the seasonal sand elevations and will resemble the structures along the Ocean Front Walk public boardwalk (ref. Exhibit No. 8). In addition, along the perimeter of the facility, mats of durable concrete erosion control block are proposed just below the sand elevation. These mats will protect the building and help reduce potential erosion and they will also facilitate lifeguard vehicle movement along the sand. A small concrete patio is proposed on the north side of the lifeguard tower near the entrance/reception area of the lifeguard station. An erosion control mat will be located on the north side of the lifeguard tower to facilitate access to the proposed parking garage. In addition, a 6-foot wide concrete sidewalk is proposed to provide pedestrian access to the lifeguard structure from a large public parking lot to the south. An existing concrete walk that provides access to the existing lifeguard structure from that same parking lot will be demolished along with the existing lifeguard station.

The proposed lifeguard tower as noted above will be located on a wide sandy beach about 600 feet west of the public boardwalk (Ocean Front Walk). The site is located in South Mission Beach seaward of where Ocean Front Walk begins to curve in a southwesterly direction away from the row of residential development that borders the oceanfront.

Immediately west of the boardwalk in this area is a very wide sandy beach and several volleyball courts that are frequently used by the public. Further west is a basketball court (for a frame of reference, the existing lifeguard station proposed to be demolished is located approximately 240 feet west of the basketball courts). (Ref. Exhibit No. 3). West of the basketball court is a large grassy picnic area with picnic tables and barbecues. To the south is a large 250-space public parking lot. At the very northwest corner of the parking lot is a comfort station which is proposed to remain. South of the parking lot is a jetty that borders along the north entrance channel to Mission Bay Park. This marks the southern boundary of Mission Beach which is inaccessible any further south other than by boat. Across the channel to the south is the Ocean Beach community.

The existing lifeguard structure is 27 years old and was approved pursuant to CDP #F8974 in 1980 to replace a former lifeguard station (that according to the City was built in 1974 as a “temporary facility”) that was damaged by waves and tidal action in the 1980 winter storms. A new tower was then approved and constructed pursuant to CDP #F8974. The existing lifeguard station was constructed 500 feet south of the former lifeguard station that was damaged. The existing lifeguard structure was also damaged in the 1982-1983 El Nino storm. It was during this time that rip rap was placed seaward of the lifeguard station as an emergency protective measure. Although the lifeguard structure functioned adequately for a number of years it no longer adequately serves the needs of the City’s lifeguards and the beach-going public. The City’s program for the new lifeguard tower requires inside parking for two vehicles, one boat and a personal watercraft, along with a variety of other new program requirements. The footprint of the existing lifeguard station is approximately 400 sq.ft. and the footprint of the proposed lifeguard station is approximately 2,400 sq.ft. resulting in 2,000 sq.ft. of additional beach coverage.

The lifeguards have also built up a sand berm seaward of the existing tower during the winter months to protect the tower from wave activity. There is currently no seawall associated with the existing lifeguard tower. However, there is buried riprap that needs to be removed. The new lifeguard station will not have any public restrooms (other than for members of the public who are injured and are being treated at the lifeguard facility). An existing comfort station south of the existing lifeguard station and adjacent to the public parking lot next to the jetty is proposed to remain. The City also proposes to re-stripe four parking spaces in the public parking lot south of the lifeguard station. Presently, four existing handicapped spaces are located on the far south part of the parking lot and not closest to the sidewalk and comfort station near the north side of the parking lot where they would be most accessible for the handicapped. The City proposes to re-stripe the spaces in the northwest corner of the lot for handicapped use only and re-stripe the existing handicapped spaces for general use. The number of parking spaces is proposed to remain the same. However, this latter improvement does not require a permit and is described here for informational purposes only.

The proposed lifeguard station development is on the public beach in a location where the Commission retains original permit jurisdiction. Therefore, Chapter 3 of the Coastal Act is the standard of review, with the City’s certified LCP used as guidance.

2. Seawall/Shoreline Protective Devices/Hazards. Sections 30235 and 30253 of the Coastal Act are applicable to the subject project and state the following, in part:

Section 30235

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

Section 30253

New development shall:

- (l) Minimize risks to life and property in areas of high geologic, flood, and fire hazard;...

In addition, Section 30255 of the Coastal Act states the following:

Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland. When appropriate, coastal-related developments should be accommodated within reasonable proximity to the coastal-dependent uses they support.

The new replacement lifeguard station raises potential conflicts with the shoreline protection policies of the Coastal Act. As noted in the project description, proposed is the demolition of an existing lifeguard station and the construction of a newer and larger lifeguard station in close proximity to its present location. The new station will be a little over three times the size of the existing lifeguard station resulting in an increase from 897 sq.ft. to 3,125 sq.ft. The new lifeguard station was designed so that it would be narrow from north to south but wider (longer) from west to east, in part, due to community concerns to preserve views looking west from Ocean Front Walk. In addition, the station is proposed to be larger to accommodate many amenities necessary for operation of this important public safety facility. While the Commission certainly recognizes the important function of a lifeguard station to the beach-going public, the structure must be located and designed to reduce impacts on shoreline sand supply and public access.

There are several ways in which any permissible structure on a beach can have an adverse impact on these coastal resources. The first is that such buildings could interfere directly with public access by *occupying beach area that would otherwise be available for public use*.

The second effect is that any hard structure on the beach, like a building or shoreline protective device can have *adverse impacts on sand supply*. Coastal Act Section 30235 acknowledges that seawalls, revetments, cliff retaining walls, groins and other such structural or “hard” solutions alter natural shoreline processes. Shoreline protective devices can result in a number of adverse effects on the dynamic shoreline system and the public's beach ownership interests. First, shoreline protective devices can cause *changes in the shoreline profile*, particularly changes in the slope of the profile resulting from a reduced beach berm width. This may alter the usable area available to the public seaward of the structure. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the actual area in which the public can pass on public property.

Another effect related to sand supply that a shoreline protective device (or other hard structure) has on public access is through a progressive loss of sand as the natural shore material is not available to nourish offshore sand bars. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore where it is no longer available to nourish the beach. A loss of sandy beach area is a significant adverse impact on public access to the beach.

Third, shoreline protective devices can *cumulatively affect shoreline sand supply and public access by causing accelerated and increased erosion on adjacent public beaches*. This effect may not become clear until such devices are constructed individually along a shoreline and they reach a public beach. In the case of the proposed development, Mission Beach is a very wide sandy beach. However, the width of the beach can vary after severe storm events. The Commission notes that if a seasonal eroded beach condition occurs with greater frequency due to the placement of a shoreline protective device on the subject site, then the subject beach would also accrete at a slower rate. The Commission also notes that many studies performed on both oscillating and eroding beaches have concluded that loss of beach occurs on both types of beaches where shoreline protective devices or other hard structures exist.

Fourth, if not sited in a landward location that ensures that the seawall is only acted upon during severe storm events, *beach scour during the winter season will be accelerated because there is less beach area to dissipate the wave's energy*. Finally, as noted, *revetments, bulkheads, seawalls and other hard structures interfere directly with public access by their occupation of beach area that will not only be unavailable during high tide and severe storm events, but also potentially throughout the winter season*.

Pursuant to Section 30235 of the Coastal Act, shoreline protection devices are required to be approved only when necessary to protect coastal-dependent uses, existing structures, or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local sand supply. The Coastal Act does not require the Commission to approve shoreline altering devices to protect vacant land or in connection with requests to construct new development that is not a coastal-dependent use. A shoreline protective device proposed in those situations is likely to be inconsistent with various Coastal Act

policies. For example, Section 30253 addresses new development and requires that it be sited to lessen the risks due to hazards. In this case, those risks are from waves, storm events, erosion and flooding. Thus, while the Commission certainly recognizes the important function of a lifeguard station for the beach-going public, the structure must be the minimum size necessary and located and designed to reduce impacts on public access and shoreline sand supply. These issues are further addressed below.

#### Need for Facility/Alternatives Analysis

Several alternative locations for the new lifeguard station as well as different foundation designs were considered. First of all, there are a number of reasons why the new station is proposed to be sited 80 feet further north than the existing station. One of the primary reasons is that it will allow the existing facility to remain in operation until the new one is built. A secondary reason is so that the new station will be more centrally located in its area of responsibility on the beach.

Specifically, as noted in a letter from TerraCosta dated 3/31/05, a more landward location for the new lifeguard tower was considered and subsequently rejected for several reasons, including the need for its proximity to the active beach face or foreshore. Although located about 600 feet out onto the public beach, under normal summer conditions, the backshore width is about 800 feet at this location, placing both the current and proposed lifeguard station at times upwards of 200 feet and more from the water's edge. Simply put, the lifeguard station must be located a reasonable distance from the water's edge to effectively observe and track water activities and allow for timely water rescues. In addition, the lifeguards need to be able to observe the jetty entrance in order to perform rescues there, as well. People like to wade in the water near the jetty because it gives the perception of a "sheltered" area rather than being in the "open ocean". The jetty is also a popular fishing place. Also, the waves break at the jetty which can cause hazardous conditions for people in the area. It is very important that the lifeguards be able to monitor both of these areas used by the public to perform rescues is the need arises. If the lifeguard station was moved further back (east) they would not be able to view these two areas of high public use.

Specifically, the applicant has stated that it is important to maintain the alignment with the existing station but in the east/west axis for the following reasons:

- 1) Response time and beach distractions - Moving the station to the east will adversely affect rescue response time and matter of seconds can affect the lifeguard's ability to save lives...
- 2) Scanning ability- Moving the station to the east would dramatically cut down clarity of natural sight lines to the water. Natural eyesight viewing is the most effective way to scan the beach for potential incidences or victims. Having to use binoculars can cause tunnel vision and the inability for the lifeguard to scan larger areas and thus miss observing the entire area they are responsible for.



- 3) Observing the Mission Bay Channel – The lifeguards are also responsible for observation and rescues at the channel. The westerly tip of the jetty is the most active area with waves breaking on the rocks. Moving the station to the east would adversely impact response time to the channel.

It is also stated that both the current and proposed lifeguard station location sited a distance of 200 +/- feet back from the summer foreshore is relatively protected by the fairly wide and stable backshore seaward of the tower location (ref. Exhibit No. 9). In the 27 years since the lifeguard tower was constructed, it was only damaged once during severe storms that occurred in the 1982-83 El Nino storm. In order to have avoided any damage, the structure would have had to be located as far inland as another 200-300 feet. But such a location would not be functional for performing water rescues. Another reason it would not be feasible to locate the tower further inland is that it would be much closer to the residences along Ocean Front Walk which would result in more of a visual impact to both residents and the public using the boardwalk and/or sandy beach area(s).

The applicant's architect has also provided additional information regarding the necessity of such a larger lifeguard station facility. Essentially, this lifeguard station has the responsibility for the heavily-used mile-long section of coastline from the South Mission Beach jetty, north to Ventura Place, which is one of the busiest public beach areas in the City. The existing lifeguard station is undersized, inaccessible and deteriorating badly. The City further noted that although the lifeguard station is proposed to be increased in size, it is to accommodate the City lifeguard service's long-term needs. The purpose of the project is to replace an aging lifeguard station that is not adequately serving the lifeguards. It has been documented previously (CDP #6-01-170/South Pacific Beach Lifeguard Station) that due to the larger public crowds using the populous Pacific Beach/Mission Beach areas, these facilities must be upgraded and enlarged to meet both today's and future needs of the public in terms of public health and safety.

The proposed lifeguard station has been designed not only to meet today's needs, but to also meet the needs and demand of the future. As noted by the lifeguard services, with improved public transportation and possible future trolley routes that will also service the beach areas, combined with population growth and upsurges in tourism, the proposed lifeguard station will be able to accommodate and serve the needs of the public in the future. According to the applicant, the new lifeguard station will have a 50-year design life.

The new lifeguard station proposes to incorporate many features that the existing facility does not presently have. For example, the existing facility does not have first aid room or a garage to store lifeguard vehicles or watercraft. It also lacks a reception room to address members of the public. The proposed two-car garage will accommodate emergency vehicles and personal water craft and all equipment used for life saving including long boards, etc.

Another alternative reviewed for the project is relocating some of the ancillary equipment in the proposed new lifeguard station inland or to a different station in order to reduce the size of the new lifeguard station. However, the applicant's architect has indicated that such an alternative would imperil public safety in that the lifeguards would lose quick access to this public safety equipment if located in another lifeguard station. Time cannot be wasted trying to retrieve equipment from a remote location as lives could be lost. The City pointed out that locating a structure further inland would significantly increase the response time in emergency situations and significantly diminishes visibility for rescue operations.

Another alternative reviewed was to eliminate the proposed garage as a component of the new lifeguard tower. The applicant's architect responded that currently lifeguard vehicles are required to drive from the existing Mission Beach station located at Belmont to the existing lifeguard station because the current station does not have a place to store vehicles. As such, if there is a problem, they need to drive over from the other station. The new building will have a garage for storage of lifeguard vehicles and as such because the vehicles will be located immediately on site this will reduce the distance of travel by public safety vehicles by .8 of a mile which will result in an overall improvement to public safety at this location.

The City further considers this to be the reconstruction of an existing public works facility which services the coastal dependent land use and provides a central public service that is vital to the economic health of the region. Mission Beach has a high volume of beach visitors year round and it is essential that the existing lifeguard station be demolished and replaced with a new station that adequately meets the needs of the lifeguard staff to service the beach-going public.

In addition, the City has long-term plans for widening the entire length of the public boardwalk in both Mission Beach and Pacific Beach and has received several recent coastal development permits to do so. The boardwalk has already been widened from Ventura Court north to Santa Barbara Place and from Santa Rita Place south to Santa Barbara Place. Future phases of this widening will occur in south Mission Beach directly east of the project site (between San Fernando Place south to the southern terminus of Ocean Front Walk near the jetty). The widened boardwalk will accommodate larger beach crowds and provide more public access opportunities. The lifeguard service has pointed out that the larger building footprint of the lifeguard station is in keeping with the trend to expand and improve public access and safety as a whole along the beachfront. As an example of other lifeguard structures which have recently been improved and enlarged are the Pacific Beach lifeguard station, the City of Coronado lifeguard station and the Bolsa Chica/Huntington Beach lifeguard station. The Pacific Beach Lifeguard station is 4,303 sq.ft., the Coronado Lifeguard station is 2,574 sq.ft., and the Bolsa Chica/Huntington Beach station is 4,800 sq.ft. As such, the proposed new South Mission Beach Lifeguard station, at 3,125 sq.ft. in size is not only comparable in size to these other recently constructed lifeguard stations but even smaller than some of the stations noted.

As has been stated by the lifeguard service in the past, when a modern lifeguard station fully equipped with all of the necessary emergency and rescue equipment/supplies exists on a populous beach such as this (South Mission), both beach visitors and tourists feel much more at ease knowing that public access to the ocean is safe at this location.

In addition, as noted previously, the project also includes the construction of a buried sheetpile seawall to provide protection to the station. As such, several alternatives to the foundation of the structure and the need for the shoreline protection were considered as stated in the 2/16/05 geology report:

*In general, foundation systems should fulfill three requirements. First, they should provide support for the design vertical loads without failure or excessive settlement. Second, they should provide support for the design lateral loads without failure or excessive deformation. Third, they should mitigate the effects of vertical and lateral soil movement on the proposed structure. Soil movement can occur due to site and environmental conditions, as well as environmental changes.*

*...given the difficulty of excavating footings in the relatively clean sands, we have recommended the use of a structural concrete mat foundation for the new lifeguard tower.*

*For long-term protection of the new lifeguard tower against marine erosion, a variety of alternatives exist, including foundation support on either driven piles, drilled piers, or deepened stemwalls. [...] Recognizing that during the life of the structure, it should be anticipated that at some time, the entire transient beach profile will be at least temporarily scoured away during a severe storm, this would likely also result in the loss of utilities and at least the temporary loss of the building's use until all of the utilities and associated infrastructure have been replaced. Structural support could also be provided by a rock revetment, with the revetment protecting the building's foundation soils from wave-induced scour.*

*Given the various viable foundation alternatives with a view toward marine erosion protection, we have recommended the installation of a buried sheet-pile bulkhead around the seaward portion of the lifeguard tower, with sufficient offset along its sides to allow both beach scour and wave run-up to extend around and beyond the tower without compromising the structure. We have recommended a semi-circular sheet-pile bulkhead with its landward ends a minimum of 30 feet beyond the proposed structure to enable the placement of additional temporary protection under a worst-case southerly storm condition that might displace a significant portion of the backshore away from the proposed facility. In this regard, we have recommended that the sheet-pile bulkhead be of cantilever design and be designed to accommodate a maximum design scour depth at the front face of the structure of 12 feet, consistent with the design scour elevation of 0 feet, MSL.*

The report goes on to state that one of the advantages of this alternative is that it can be easily removed at some future date if the lifeguard tower were to be moved. Also, the proposed structural mat foundation which is entirely separated from the seaward perimeter of the buried bulkhead wall would also make it the easiest type of foundation to facilitate a landward location if it became necessary to do so.

The geology report further states:

*With regard to the proposed wall, and particularly in view of it being almost buried, this wall represents the absolute minimum necessary to provide reasonable protection to the proposed facility. City forces have routinely built up a berm around this lifeguard facility to provide protection during storm surf, and to facilitate access to a scoured beach profile, access that is used by both the public and for lifeguard vehicles. The City envisions continuing this practice and the presence of the wall is only necessary to protect the reconstructed facility during periods of severe storm activity. This construction will not alter natural shoreline processes, as the City is committed to maintaining a sand berm in front of the structure to ensure its uninterrupted service.*

*Beach nourishment is always a available project alternative an a wide protective sand beach is clearly the most efficient form of shoreline protection, and particularly well suited for Mission Beach, recognizing that the project site lies along he southerly margin of a somewhat isolated 3 1/2 mile long subcell, with the only practical source of beach sand being by artificial beach renourishment. Simply stated, a sufficiently wide beach would not allow waves to impact directly upon shore-based structures. Severe storms, will, however, displace considerable sand, thus the need for a sufficiently wide sacrificial cross section of beach to allow erosion and displacement of the transient sandy beach materials. The Resources Agency of the State of California (1997) and SANDAG's Shoreline Preservation Strategy (1993) recognize that beach renourishment especially for low-lying areas, is by far the best approach to shoreline protection. SANDAG has championed the use of opportunistic sand for beach nourishment and is responsible for the 100,000 cubic yard sand fill allocated for the Mission Beach subcell in May 2001. Undeniably, beach nourishment provides both increased shoreline protection and recreational benefits. An ongoing commitment to beach nourishment and capitalizing on available opportunistic sand sources will reduce the potential for an extreme storm event damaging the new South Mission Beach lifeguard facility. The proposed buried erosion barrier merely provides a last line of defense during those infrequent periods when storm surf scours the beach. Given sufficient artificial beach renourishment, the proposed buried bulkhead would never become more exposed and, thus, would be unnecessary. However, until sufficient artificial beach renourishment occurs, the proposed buried structure merely provides additional protection to the new facility.*

On a related matter, the Commission's engineer has indicated that the issue of tsunamis or worst-case run-up elevation must also be considered in shoreline development as well

as whether the observation level is high enough to be safe, whether the building could survive the wave forces and the feasibility of vertical evacuation of the structure as a safety measure in response to tsunami preparedness efforts being developed by the local Office of Emergency Services (OES). In response to this concern, the applicant's engineer has indicated in a letter dated 1/21/07 that although the still water level during a tsunami event would be considerable less than the maximum design still water level, assumed to be at elevation 7.0 MSL, from which runup is typically measured, the extremely long wave length and associated energy of the tsunami will not dissipate as quickly as a typical wind-generated wave, with much of the tsunami's energy passing the lifeguard station and breaching the short, Mission Beach Boardwalk seawall, inundating the houses along Mission Beach. It is also stated in the letter that whether or not the building could withstand a tsunami event would require further evaluation. However, the observation tower level of the proposed structure is significantly higher than the predicted two meter wave height which would easily accommodate vertical evacuation as a safety measure.

In summary, the City has concluded the building footprint has been reduced to the maximum extent possible and the seaward encroachment has been reduced to the maximum amount possible. As noted earlier in this report, the City has adequately demonstrated why the new lifeguard station needs to be larger in size. The lifeguard service has emphasized that each year the beach crowds get larger and public transportation may be improved in the future with possible trolley lines servicing the beach areas.

A geotechnical report has been completed for the proposed project and states that the need for its presence in this area is undisputed and its increased size is also dictated by the City Lifeguard Services New Program requirements. The existing lifeguard station was constructed in 1980 and no longer adequately serves the needs of the City of San Diego's lifeguards and the beach-going public. Both the new and the existing lifeguard station extend about 600 feet out onto the public beach and are required to do so to enable unobstructed views for a mile-long section of heavily-used coastline from the Mission Bay jetty northerly to Ventura Place.

Although Section 30235 prohibits the construction of a shoreline protection device for non-coastal dependent new development, it may be allowed for a coastal dependent use provided that all adverse impacts on shoreline sand supply have been eliminated or mitigated. In this particular case, the proposed lifeguard station can be considered a coastal dependent use. The Coastal Act defines a coastal dependent use as "...any development or use which requires a site on, or adjacent to, the sea to be able to function at all." In this particular case, as demonstrated earlier, the lifeguard structure must be the size that it is proposed and sited in the location proposed, resulting in the need for some form of shoreline protection to assure its safety into the future. The proposed seawall is proposed to be located 30 ft. seaward of the proposed new lifeguard structure.

The Commission's coastal engineer has also reviewed the proposed project and submitted technical reports and concurs with the findings of the geotechnical report. The



Commission's engineer has also indicated that based on the applicant's geotechnical reports, it is unlikely the erosion protection structure will alter sand transport on a permanent basis. Although there is some temporary alteration of sand during those times when the lifeguard station would otherwise be at risk, the sand that would be moved from the backshore to the foreshore is already being used for public recreation so it is not a loss but rather prevention of a transfer from one public area to another.

The Commission recognizes the necessity of the proposed development for public safety purposes and in this particular case finds that the impacts on shoreline sand supply, public access and visual resources have been reduced to the maximum extent possible, therefore, its siting on the beach is consistent with the Coastal Act.

Thus, to ensure that the proposed project is consistent with Sections 30235 and 30253, and that the proposed project does not result in future adverse effects to coastal processes, the Commission imposes Special Condition #1 for submittal of final plans. This condition requires minimal disturbance to the sand and intertidal areas as well as requiring the City to continue the practice of sand berming seaward of the lifeguard structure. Special Condition #2 requires the applicant to submit as-built plans within 60 days of construction of the proposed development to assure that the development has been constructed according to the approved plans.

As noted earlier, the Commission's engineer has reviewed the project and concluded that as proposed, the buried bulkhead wall has been designed to be adequate to protect the proposed structure from storms. Special Condition #9 requires the City to waive any rights to additional protection in the future that would increase the seaward extent of the seawall. If, in the future, the shoreline protection is damaged or fails to protect the station, the City should apply for a new permit or amendment to this permit to repair or rebuild the seawall in a manner that does not require additional encroachment on the beach.

Although the Commission finds that the proposed seawall has been designed to minimize the risks associated with its implementation, the Commission also recognizes the inherent risk of shoreline development. The lifeguard tower will be subject to wave action. Thus, there is a risk of damage to the structure or damage to property as a result of wave action. Given that the applicants have chosen to construct the structure despite these risks, the applicants must assume the risks. Accordingly, Special Condition #10 requires that the applicants submit a letter which acknowledges the risks associated with the development and that indemnifies the Commission against claims for damages that may be brought by third parties against the Commission as a result of its approval of this permit.

In summary, the Commission finds that the proposed lifeguard structure has been minimized to the maximum extent feasible. However, to assure its long-term protection the applicants have demonstrated that the proposed lifeguard station is in need of protection and that, in addition to the seawall, the City will continue to utilize a built-up berm in front of the lifeguard station. However, in this case, the applicant's coastal engineer has indicated that the proposed seawall would not have an adverse impact on

sand supply. The Coastal Commission's coastal engineer concurs with this statement. The proposed buried seawall will function as a last line of defense and protection against threat from wave overtopping and erosion during severe storm events. Therefore, the Commission finds that the proposed development will minimize seaward encroachment to the extent possible and is, thus, consistent with Sections 30235 and 30253 and with the public access and recreation policies of the Coastal Act

3. Public Access/Recreation/Parking. The following public access policies are applicable to the proposed development:

Section 30210

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

Section 30212

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

Section 30221

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

Section 30222

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

As noted earlier, the project site is located on South Mission Beach near the jetty. The proposed lifeguard station will be located approximately 600 feet seaward from Ocean Front Walk, the public boardwalk in this area that runs from the South Mission Beach

Jetty north approximately 2.36 miles to Thomas Avenue in the community of Pacific Beach. Directly east of the project is where Ocean Front Walk begins to veer away from a general north/south alignment and turn west towards the ocean. It terminates at the public parking lot that is located just north of the jetty. The boardwalk is a heavily-used recreational facility frequented by pedestrians, bicyclists, skaters, skateboarders, runners, and persons in wheelchairs. The walkway is accessible from the east/west streets off of Mission Boulevard, and provides access to the sandy beach at stairways located at various points along the seawall.

This beach area is a very popular destination for beachgoers and the public park includes a landscaped area with picnic tables and BBQ's. There are also basketball courts and adjacent sand volleyball courts. The jetty is also used by the public for fishing. Construction activities during the busy summer months when beach attendance is at its greatest demand would significantly impact public access at this location. South Mission Beach is a heavily populated beach especially during the summer months. It is also one of the widest beaches in San Diego County ranging in width from approximately 750 feet in the vicinity of Asbury Court to a width of approximately 1,000 feet in the vicinity of Anacapa Court (ref. Exhibit No. X).

The proposed demolition of the existing lifeguard station and construction of a new lifeguard station is a major project along this popular beach. With regard to impacts on public access as a result of the proposed lifeguard station itself, the structure is proposed to be located 80 feet further north and 12 feet further east than the existing lifeguard station. This revised location will have no adverse effect on public access. The applicant has stated that the station will be located in an area of the beach that is not used much by the public for sunbathing. It is "transition zone" between the wide sandy beach to the east and lower shoreline platform to the west.

With regard to construction impacts, the project will temporarily disrupt public access to this recreational area by the construction and demolition of beach facilities and the stockpiling of debris and equipment storage. The Commission requires special conditions for this project to limit the disruption and ensure that public access to this beach remains open and clear for recreational uses. The peak beach use season runs through the summer from May to the beginning of September (typically from the start of Memorial Day weekend to Labor Day). During the construction phase of the project there would be a temporary impact to public access. In this particular case, the existing lifeguard station will remain in operation until the new one is constructed, and a prohibition on work during the summer months would not jeopardize public safety. Therefore, in order to reduce the project's impacts on coastal access and limit the disruption of the recreational uses, Special Condition #3 requires that no work occur between Memorial Day weekend and Labor Day of any year. In addition, Special Condition #7 requires State Lands Commission review to assure that if state lands are involved, all permits have first been obtained.

As noted in earlier findings, there is an existing rip rap revetment seaward of the existing lifeguard station. Therefore, Special Condition #8 requires that any exposed rip rap or

rock that can be easily excavated shall be removed at the time that the lifeguard station is demolished in order to minimize its impact on public access. Any rock that is not exposed shall be removed over time as it becomes visible. The condition further details the requirements of such removal.

In summary, the proposed larger lifeguard station will not result in any impacts on public access at this location for a number of reasons. First, the beach is very wide at this location and its occupation of beach area will not usurp beach area for the public because it is located in an area of the beach that is not used much by the public as documented by the lifeguard service. Also, due to the width of the beach, there is still plenty of room for beachgoers to sunbathe and picnic, etc. In addition, the existing lifeguard station will be demolished after the new one is constructed which will open up more beach area for public use as well. As conditioned, the proposed improvements will not result in any adverse impacts on coastal access at this location. As such, the proposed project, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act addressing public access and recreation.

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

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

In addition, the certified Mission Beach Precise Plan contains policies addressing the protection of visual resources including the protection of public views to the ocean. Presently, ocean views are visible looking west across the beach from Ocean Front Walk, the public parking lot to the south near the jetty, and all along the beach in this area. Although the existing lifeguard station is in the middle of the “viewshed” associated with the view, it represents a minor intrusion into this viewshed primarily because it has been designed to be narrow from south to north as viewed from the west thus making it appear smaller as well as the fact that it will be located a long way from the public boardwalk (approximately 600 feet away). In addition, the new lifeguard station will not exceed the 30-ft height of existing structure.

The proposed lifeguard station needs to be in the proposed location to meet the needs of the lifeguard service. In addition, the size of the station is the minimal necessary to meet the current and long-term needs of the lifeguard service as far as function. Given these factors, the applicant went about designing the structure such that it would be as unobtrusive as possible as viewed from the east. The City held a number of community meetings to obtain the local input from the residents of the community. The major concern brought up by the public was the potential for blockage of views as seen from Ocean Front Walk (the public boardwalk) to the east. Based on this input, the applicant spent considerable time designing the new lifeguard station to minimize its impacts to

views to and along this scenic coastal area. The City specifically designed the footprint of the new lifeguard tower such that it was more narrow from north to south but wider from west to east to minimize its potential impacts on public views. In other words, the proposed station is long and narrow as viewed from the east.

Although the lifeguard station is proposed to be larger to accommodate the current lifeguard service's long-term needs, the impact on public views has been minimized by designing the station in a manner to reduce its bulk and scale by placing additional spaces into the first-story, narrow structure on an axis that is east-to-west. The first floor is the largest and the two upper levels are quite small by comparison. This narrow profile of the proposed building minimizes the bulk and scale and optimizes and maintains the public views to the ocean (ref. Exhibit No. 6).

Also, the proposed buried erosion barrier wall (bulkhead seawall) for the majority of the time will never be visible. The proposed improvements to the lifeguard station are essential to assure the public safety in this populous beach area and the City has adequately designed the project such that public views looking west from Ocean Front Walk will not be significantly impeded, as was the consensus of the Mission Beach community.

The City also proposes to incorporate a public art feature as part of the proposed project. A short length of the buried erosion control bulkhead will have an exposed concrete cap in the form of a variety of "architectural" beach cottage profiles that mirror the residences along the public boardwalk in this community. In addition, limited landscaping is proposed along the entry walk to the lifeguard station. Although this is intended to beautify the outside of the lifeguard station, landscaping on the beach is not appropriate and is very difficult to maintain. As such, no landscaping is permitted pursuant to Special Condition 1(e).

Special Condition #6 requires that the City maintain the exterior of the structures with colors and materials compatible with the surrounding environment. Special Condition #1 also requires, in part, that the placement of advertising on the lifeguard structure is prohibited. Clocks, temperature displays, or other public safety or informational displays would be permitted. Therefore, as conditioned, the Commission finds that the proposed development is consistent with Section 30251 of the Coastal Act.

5. Water Quality. The following sections of the Coastal Act are applicable to the proposed development and state:

Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will



maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

#### Section 30231

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

#### Section 30232

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

Sections 30230, 30231 and 30232 of the Coastal Act require that marine resources be maintained, enhanced, and restored in a manner that will sustain the biological productivity of all species of marine organisms in coastal waters, and that the biological productivity and water quality of coastal waters be maintained and restored by controlling polluted runoff.

The lifeguard station will be located directly on the beach. Pollutants such as sediments, toxic substances (e.g., grease, motor oil, heavy metals, and pesticides), bacteria, and trash and particulate debris are often contained within urban runoff entering via the storm water system or directly into the ocean. The discharge of polluted runoff into the ocean would have significant adverse impacts on the overall water quality of the ocean.

Construction activities may have an adverse effect on water quality in a number of ways. For example, the storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain, surf, tide, or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. In addition, the use of machinery not designed for use in coastal waters may result in the release of lubricants or oils that are toxic to marine life. Sediment discharged to coastal waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species' ability to see food in the water column. In order to avoid adverse construction-related impacts upon marine resources, Special Condition #4 outlines construction-related requirements to provide for the safe use and storage of construction materials and the safe disposal of construction debris.

This condition requires the applicant to submit a Construction Best Management Practice Plan. In addition, Special Condition #4 requires the implementation of Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity prior to the onset of construction. Such measures include, in part, proper handling, storage, and application of petroleum products and other construction materials; maintaining and washing equipment and machinery in confined areas specifically designed to control runoff; and stabilizing any stockpiled fill with geofabric covers or other appropriate cover.

The proposed project will result in an increase in impervious surfaces. Currently, water runoff from the existing lifeguard station sheet flows onto the beach and into the ocean. Since the existing lifeguard tower was constructed decades ago, the project site is lacking in water quality measures to treat or filtrate storm water runoff that leaves the site and enters the coastal waters.

The discharge of these pollutants to coastal waters can cause cumulative impacts which reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health. Therefore, in order to find the proposed development consistent with the water and marine resource policies of the Coastal Act, the Commission finds it necessary to require Special Condition #5 which requires the incorporation of a Water Quality Management Plan with BMPs designed to reduce the amount of polluted runoff from all surfaces and activities on the development site. The Water Quality Best Management Plan (Special Condition #5) requires the implementation of appropriate BMPs for the project including restrooms, rooftops and driveways associated with the lifeguard station. Critical to the successful function of any post-construction structural BMPs in removing pollutants in storm water is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small in scale. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small,

more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost. Therefore, any post-construction structural BMPs (or suites of BMPs) should be designed to treat, infiltrate or filter the amount of storm water runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.

Special Condition #5 requires that all BMPs be operated, monitored, and maintained for the life of the project and at a minimum, any structural BMPs shall be inspected, cleaned-out, and when necessary, repaired at the following minimum frequencies: (1) prior to October 15th each year; (2) during each month between October 15<sup>th</sup> and April 15<sup>th</sup> of each year and, (3) at least twice during the dry season. Debris and other water pollutants removed from filter device(s) during clean-out shall be contained and disposed of in a proper manner. Special Condition #4 also requires the applicant to dispose of all demolition and construction debris at an appropriate location outside of the coastal zone and informs the applicant that use of a disposal site within the coastal zone will require an amendment or new coastal development permit. The Commission's Water Quality staff have reviewed the project and the special conditions and determined that as conditioned, the project will protect marine resources and coastal waters.

Therefore, as conditioned to comply with construction related requirements, dispose of all debris at an approved disposal site, and incorporate and maintain Best Management Practices during and after construction, the proposed project is consistent with the water quality provisions of the Coastal Act as cited above.

6. Local Coastal Planning. The subject site is located in an area of original jurisdiction, where the Commission retains permanent permit authority. The subject permit will result in the improvement of a public works facility which will result in improved public safety, public access and recreational opportunities consistent with the policies of the certified Mission Beach Precise Plan. As conditioned, the project is consistent with all applicable Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed development will not prejudice the ability of the City of San Diego to continue to implement its certified LCP for the Mission Beach community.

7. 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 geologic hazard, visual resource, water quality and public access and recreational policies

of the Coastal Act. Mitigation measures, include conditions addressing timing of construction and construction access staging, landscaping and water quality will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

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

## CALIFORNIA COASTAL COMMISSION

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



March 18, 2015

Jihad Sleiman  
City of San Diego  
Public Works Department  
525 B Street, Suite 750  
San Diego, CA 92101

NOTICE OF ACCEPTANCEDate: March 18, 2015Applicant: City of San Diego

Document or Plans: Final plans, SWPPP, construction BMPs plan, WQMP, final color board, riprap removal plan, letter from State Lands Commission, SPD legal description and graphic depiction, contract documents, written agreements pursuant to Special Conditions 7, 9, and 10.

Submitted in compliance with Special Condition(s) No(s): 1, 3, 4, 5, 6, 7, 8, 9, and 10  
of Coastal Development Permit No. 6-11-044

Remaining Special Condition(s): 2 (As-built plans required to be submitted within 60 of project completion)

Material submitted in compliance with said Special Conditions of your development permit has been reviewed by the District Director and found to fulfill the requirements of said conditions.

As discussed between Commission and City staff, the plans approved by the Commission in 2011 contained an error in the building floor area calculations. Although the plans and the staff report stated that the total square footage of the proposed building was 3,125 sq. ft., upon careful review of the plans, City and Commission staff confirmed that the correct total floor area for the approved building was approximately 3,860 sq. ft. In addition, the final plans submitted for this project, date stamped as received by this office on December 19, 2014, contain minor changes from the approved plans, primarily to address operational updates and current ADA and Building Codes. These minor changes include interior reconfiguration and a small increase in square footage on the ground floor to accommodate ADA restrooms and larger rescue vehicles, as well as a small increase in square footage on the third floor to incorporate a walkway. As a result of these revisions, the easternmost side of the ground floor will be shortened and slightly

EXHIBIT NO. 4

APPLICATION NO.

6-11-044-REV

Notice of Acceptance





March 18, 2015

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widened, and the northernmost side of the second floor will be expanded for the walkway. In total, the revised building floor area will be approximately 3,990 sq. ft.

Commission staff have reviewed these revisions and determined that they will not have any adverse impacts on visual resources, sand supply, or public access and recreation. The overall bulk and scale of the final structure is essentially the same, even reduced in some areas, as the bulk and scale of the approved structure. The building will provide the same uses and functions as of the approved structure. The building location is unchanged, and the revisions will not change the maximum height of the building (30 feet), or result in the building being located any further seaward than the approved structure. No other project components or conditions of approval are affected by said minor changes. Thus, the final plans are found to be in substantial conformance with the preliminary plans.

Therefore, all prior to issuance special conditions have been met and the coastal development permit can be issued. Your submitted material and a copy of this letter have been made a part of the permanent file. Please feel free to contact our office if you have any questions or concerns.

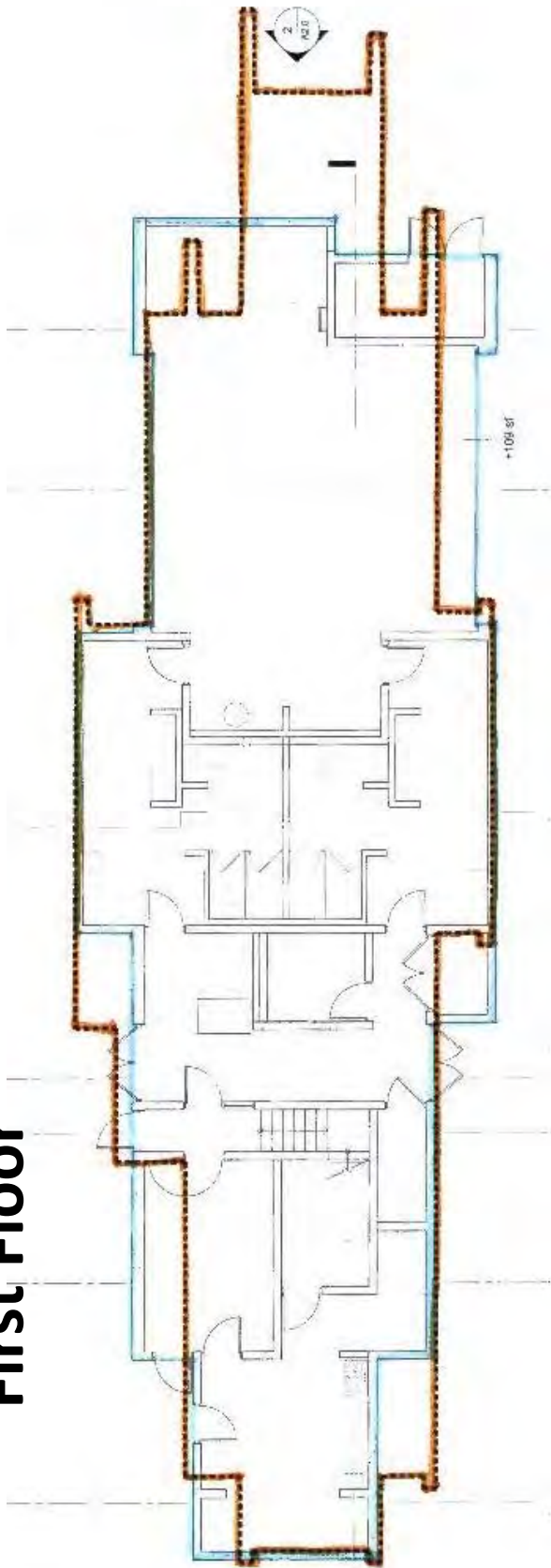
Sincerely,



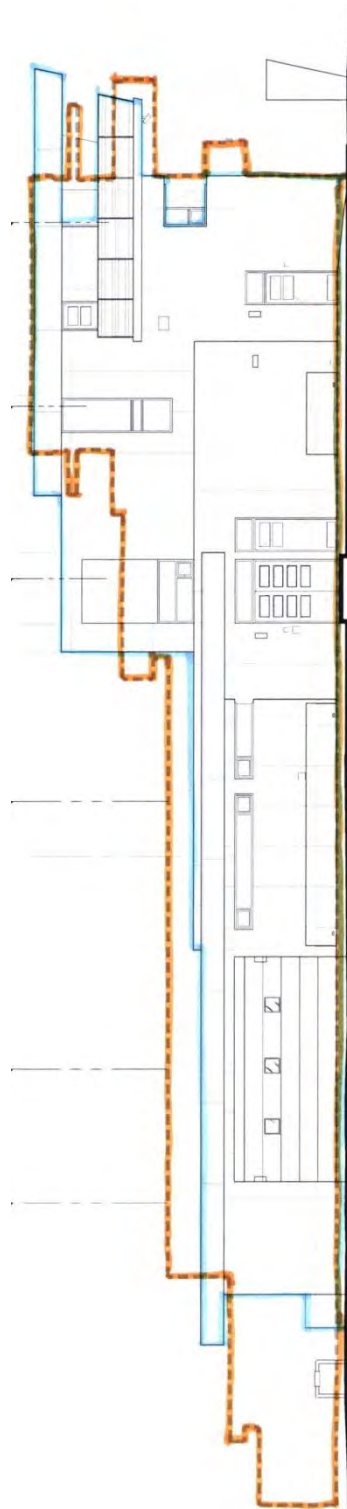
Deborah Lee  
District Manager

By: Brittney Laver, Coastal Planner

# First Floor



# North Elevation



**Originally Approved Footprint** ———  
**Final Plans Footprint** ———

EXHIBIT NO. 5

APPLICATION NO.

**6-11-044-REV**

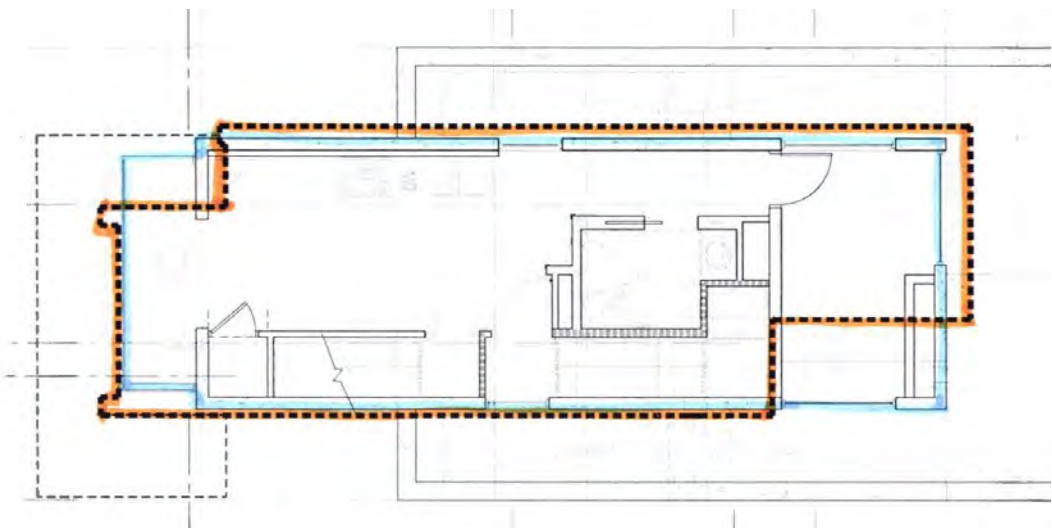
Approved and Final

Plans Comparison

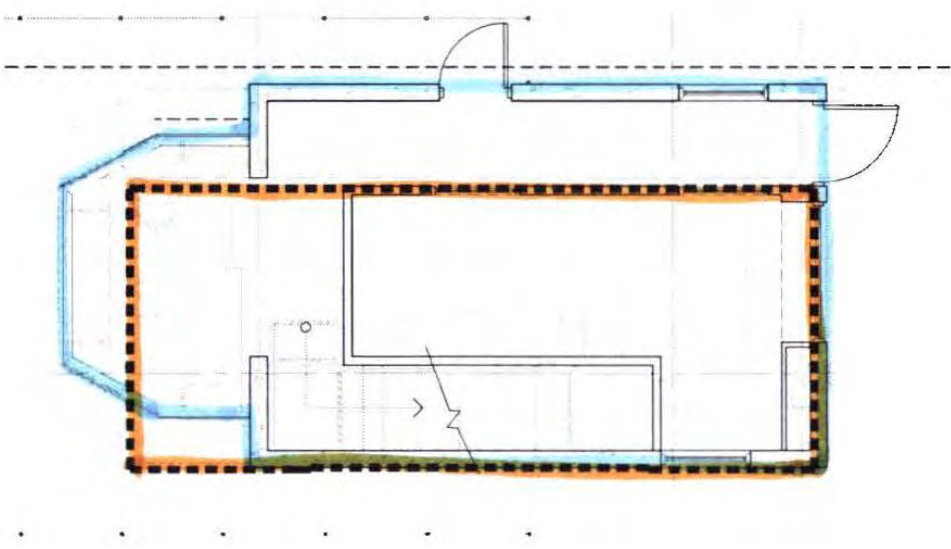


California Coastal Commission

# Second Floor



# Third Floor



**Originally Approved Footprint** ———

**Final Plans Footprint** ———