

CALIFORNIA COASTAL COMMISSION

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



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original staff report

Th 12a

Addendum

October 1, 2015

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item Th 12a**, Coastal Commission Permit Application
#A-6-CII-15-0039 (Nolan), for the Commission Meeting of October 8,
2015

Staff recommends the following modifications and corrections be made to the above-referenced staff report, with deletions shown in strikethrough and additions underlined:

1. On Page 16 of the staff report, Special Condition No.1 shall be revised as follows:
 1. **Final Plans.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final building plans that have been stamped approved by the City of Carlsbad. Said plans shall be in substantial conformance with the plans submitted by the applicant dated September 10, 2015 by Island Architects and include the following:
 - a. The location of the pool and associated decking shall be located approximately 5 feet inland of the originally proposed location approved by the City and shown on the plans dated 11/06/14 and as depicted in Exhibit #~~11X~~.
 - b. All development proposed beyond the stringline location established by Exhibit #~~11X~~ shall be restricted to at-grade or below-grade improvements.

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

2. On Page 16 of the staff report, Special Condition No.3 shall be revised as follows:
3. **No Future Bluff or Shoreline Protective Device(s) to Protect the Proposed Development.**

- a) By acceptance of this permit, the applicant agrees, on behalf of itself and all other successors and assigns, that the existing rock revetment shoreline protective device on the subject site shall not be repaired, enhanced/augmented or reconstructed for purposes of protecting the development approved by this coastal development permit with the exception of maintenance necessary to protect the existing homes immediately located on the properties to the north and south (~~5034XX and 50XX~~ Tierra del Oro Street and 5051 Shore Drive) and that no new shoreline or bluff protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit #A-6-CII-15-0039 including, but not limited to, the residence, the pool, foundations, patios, decks, balconies and any future improvements, in the event that the development is threatened with damage or destruction from erosion, landslides, waves, storm conditions, flooding, sea level rise or other natural coastal hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to augment, maintain and/or construct such devices that may exist under Public Resources Code Section 30235 or the certified Local Coastal Program...
3. On Page 13 of the staff report, the first paragraph shall be revised as follows:

First, thick deposits of fill were used to level the building pad and have buried and obscured the natural bluff edge; the obvious topographic break on the property represents the top of a fill slope, rather than a natural bluff edge, which is buried beneath the fill. Second, the prominent ridge that descends the topographic slope, identified as the bluff edge by the applicant's consultants, has been created by cutting and lowering the bluff face, extending the bluff edge seaward. Thus, although staff concurs with the bluff edge delineation on Exhibit #~~3X~~...
4. On Page 18 of the staff report, Special Condition No. 18 shall be revised as follows:
 6. **Final Landscape/Yard Area Plans.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval final landscaping and fencing plans approved by the City of Carlsbad ~~San Diego~~. The plans shall include the following:
 - a. A view corridor a minimum of 6 ft. wide shall be preserved in the north ~~and south~~ yard areas. All proposed landscaping in this yard area shall be maintained at a height of three feet or lower (including raised planters) to preserve views from the street towards the ocean. Any gates or fencing across the north side yard setback area shall be at least 75% see through/open. [...]
5. On Page 21 of the staff report, the third paragraph shall be revised as follows:

With regard to the home, the City determined the stringline location by drawing a line from the nearest adjacent corner of development to the north and the furthest point, not the most adjacent corner, on the home located directly to the south (ref. Exhibit #~~9X~~). The Commission has for the most part historically interpreted the City's stringline provisions to be measured using only the *most adjacent* corner of existing structures, which has

resulted in previous appeals within the City of Carlsbad (ref. CDP Nos. A-6-CII-07-017/Riley, A-6-CII-08-028/Moss, A-6-CII-03-26/Kiko) and Commission issued permits (ref. CDP Nos. 6-90-25/Kunkel; 6-90-299/Rowe; 6-92-107/Phillips and 6-95-144/Bownes'). Therefore, as approved, the stringline would allow for development to be located much further seaward than if it were measured from the most adjacent corner.

6. On Page 22 of the staff report, the third paragraph shall be revised as follows:

In response to the concerns raised by the subject appeal, the applicant submitted modified plans (ref. Exhibit #~~11~~~~X~~). As modified, the pool would be relocated an additional 5 feet inland of the original proposal, although still approximately 2-5 feet seaward of the stringline. However, in this particular case, the proposed redevelopment of this site would result in a setback of the pool from the bluff edge to between 25-35 feet inland of the bluff edge, and inland of the existing development. Thus, no grading of the bluff or in close proximity to the bluff edge is proposed. In addition, all proposed decking/pool/patio areas will either be at- or below-grade and thus will not encroach into any existing coastal or ocean views. The setback provided decreases the chance the development could impact coastal views compared to the existing structure, and also provides a larger geologic setback from the bluff edge. The bluff edge at this location has been severely modified for this location, which will be discussed in greater detail below, and thus an additional setback provides added assurance of geologic stability. Finally, the applicant's geologist has submitted a geotechnical report that indicates the construction of a pool in this location will not jeopardize the stability of the bluff.

7. On Page 25 of the staff report, the third paragraph shall be revised as follows:

The Commission's Staff Geologist reviewed the conflicting erosion rates and has concluded that there are a number of factors specific to this section of coastal bluff that makes it unique, including that there is a reef located directly west of this bluff has sheltered the beach from wave action, which has provided additional protection for this section of bluff protection. Additionally, the bluff has been protected by the existing rock revetment for an extended length of time and thus natural erosion hasn't occurred along this headland for more than 50 years. In reviewing aerial photos of this section of Carlsbad, it is apparent that this area of the coast is a salient relative to areas immediately to the north and south (ref. Exhibit #~~10~~~~X~~), and thus erosion rates may be less than those of the surrounding area. The combination of these factors makes determining an exact erosion rate for this area infeasible. However, based on all of these factors, staff concludes that the home and accessory structures are very likely to be subject to hazards within their expected life if not for the existing rock revetment.

8. On Page 30, of the staff report, the third paragraph shall be revised as follows

In addition, the City's LCP requires that any development along the shorefront be required to dedicate 25 feet of dry sandy beach for lateral public access. In this case, there is an existing lateral access easement (ref. Exhibit No. ~~8~~~~X~~, and recorded document No. 79-49669). The existing easement was required associated with the maintenance work on the revetment permitted through CDP No. F7529 and extends from the property line inland. However, there remains a significant portion of sand (approximately 30 feet in width) located west of the revetment and inland of the existing easement. As proposed, the

applicant will be recording an additional lateral public access easement that will bridge the gap between the revetment and the existing easement, thereby creating an uninterrupted lateral public access area beginning at the base of the revetment and extending to the property line (ref. Exhibit #8~~X~~). To assure this easement is created, **Special Condition #8** requires the applicant to adhere to all conditions (unless expressly modified herein) placed on this proposal as required by the permit issued by the City of Carlsbad. As such, the project will protect and provide for public access.

9. On Page 31 of the staff report, the first paragraph shall be revised as follows:

The project site is currently developed with a single-family home and public ocean views do not currently exist from Tierra Del Oro across the site and to the ocean. The proposal includes construction of a two-story, 8,845 sq. ft. single-family residence including a guesthouse, two car garage, and daylighted basement. The surrounding community is comprised of structures of similar size and scale to the proposed structure. Public views are limited without the sideyard setback areas of the lot. As proposed the sideyard area will be developed with fencing only 50% open to light, and landscaping will include trees that may grow to as tall as 30 feet. As such, both fencing and landscaping may block views from Tierra del Oro Street to the ocean. The City of Carlsbad has provisions for such see-through construction. However, the City's provisions would allow for fencing that is only 50% open to light, and does not limit the height of vegetation. As such, the combination of the fencing and landscaping could effectively eliminate public views, inconsistent with the intent of the City's LCP. As such the Commission has typically required that new residences on Tierra del Oro include fencing that is 75% open to light, and limits landscaping height (including planters) to 3 feet in height (ref. A-A-CII-07-017/Riley, A-6-CII-08-028/Moss). However, due to the angle of the cul-de-sac and the location of existing development obstruct any potential views from the road to the ocean, there are no existing or potential public views available on the south side of the proposed project. Thus, in this case, requiring a view corridor be protected on only the north side of the lot is appropriate. As such, **Special Condition #6** requires that any gating of the side yard setback areas on the north side of the lot be 75% open so as to allow public views through to the ocean. In addition, **Special Condition #6** limits the height of landscaping within the northern sideyard areas to no taller than three feet or lower (including raised planters). This condition will maintain the view corridors remaining in the side yard setback. Therefore, as conditioned, the project can be found consistent with the Coastal Act provisions protecting public coastal views.

10. Exhibit No. 11 shall be replaced with the updated Exhibit No. 11, attached.

SITE PLAN NOTES

OWNER
Tierra Del Oro, LLC
P.O. Box 909
Marina Del Mar, CA 92037

PROJECT NAME
Tierra Del Oro Redevelopment

CIVIL ENGINEER
CUFFY ENGINEERING INC.
10865 SERRA RANCH BLVD., STE. 102
SAN DIEGO, CA 92121-1077
PH: (619) 531-0111

APPLICATION TYPES SUBMITTED
Coastal Development Permit (CDP) #4026
Administrative Variance (AV) 15-04
Coastal Development Permit (CDP) 15-13

SUMMARY TABLE

SITE ADDRESS	A.P.N.	LEGAL DESCRIPTION
5039 Tierra Del Oro Carlsbad, CA 92008	210-020-08	Lot 8 of Map 3052
SITE AREA	ZONE	EXISTING & PROPOSED LAND USE
26,600 sq. ft. (81 acres)	R-1	SINGLE FAMILY RESIDENCE
NUMBER OF LOTS	DENSITY	
1 EXISTING, 1 PROPOSED	EXISTING - 1 MAIN DWELLING w/ GUEST HOUSE PROPOSED - 1 MAIN DWELLING & SECOND DWELLING UNIT	

TOTAL BUILDING COVERAGE:	
ALLOWABLE FOR ZONE (R-1)	40%
LOT AREA	26,600 SF
BUILDING COVERAGE	5,110 SF
	19%

PROPOSED BUILDING AREA	% OF LANDSCAPING
MAIN HOUSE	15%
2nd DWELLING UNIT	537 SF
GARAGE	577 SF
PARKING SPACES REQUIRED & PROVIDED	
2 SPACES	
WATER	SEWER
CARLSBAD	CARLSBAD

SCHOOL DISTRICT
CARLSBAD UNITED

Location of new pool and decking relocated 5 feet inland



California Coastal Commission

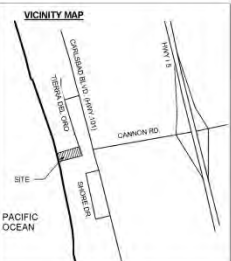
Revised Site Plan

A-6-CII-15-0039

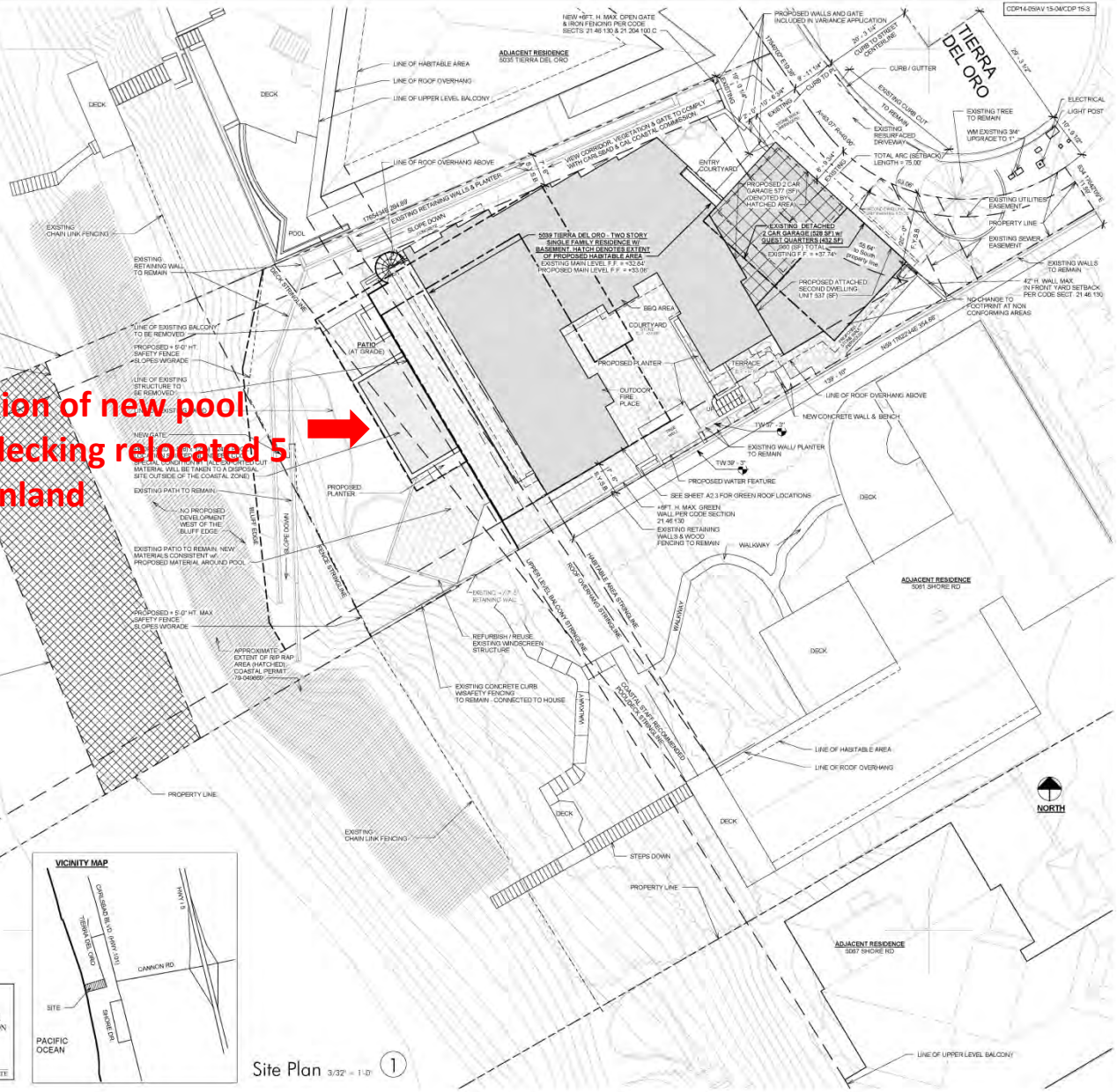
EXHIBIT NO. 11

APPLICATION NO.

APPROVED
THIS IS THE APPROVED TENTATIVE MAP/SITE PLAN FOR PROJECT NO. _____ PER CONDITION NO. _____ OF PLANNING COMMISSION RESOLUTION NO. _____
PLANNING DIVISION DATE _____ ENGINEERING DIVISION DATE _____



Site Plan 3/32" = 1'-0" ①



ISLAND ARCHITECTS
JAMES FLATTIRON, R.A. | TONY CRANIT, R.A.
700 JACARANDA AVENUE, SUITE 100
SAN JUAN CAPISTRANO, CA 92675
TEL: 949-497-9595 FAX: 949-497-9591

Tierra Del Oro Residence
5039 Tierra Del Oro, Carlsbad CA 92008

A1.0

Site Plan
12/26/15

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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SAN DIEGO, CA 92108-4421
(619) 767-2370



Th 12a

Filed: 6/17/2015
49th Day: Waived
Staff: T.Ross-SD
Staff Report: 6/25/2015
Hearing Date: 7/9/2015

STAFF REPORT AND RECOMMENDATION ON APPEAL SUBSTANTIAL ISSUE & DE NOVO

Local Government: City of Carlsbad

Decision: Approved with Conditions

Appeal Number: A-6-CII-15-0039

Applicant: Carson Nolan (Island Architects)

Location: 5039 Tierra Del Oro, Carlsbad, San Diego County (APN No. 210-020-08)

Project Description: Demolition of existing 3,056 square foot single-story single-family residence with basement, partial demolition of existing detached 528 square foot two-car garage with 432 square foot guest house; construction of a new two-story 8,845 square foot single-family residence with basement and new pool and deck.

Appellants: Commissioner Dayna Bochco, Commissioner Jana Zimmer

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

IMPORTANT HEARING PROCEDURE NOTE

The Commission will not take testimony on this “substantial issue” recommendation unless at least three commissioners request it. The Commission may ask questions of the applicant, any aggrieved person, the Attorney General or the executive director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally and at the discretion of the Chair limited to 3 minutes total per side. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify during this phase of the hearing. Others may submit comments in writing.

If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will occur at this Commission meeting, during which it will take public testimony.

SUMMARY OF STAFF RECOMMENDATION

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

The proposed project involves demolition of an existing 3,056 square foot, one-story single-family residence with basement, along with partial demolition of an existing detached 528 square foot two-car garage, with attached 432 square foot guest house, and the construction of a new two-story 8,845 square foot single-family residence with basement and a new pool (with pool deck) on a 26,600 square foot blufftop property. The project site is a coastal blufftop lot located on the west side of Tierra Del Oro, just south of Cannon Road. The existing residence was built in 1959, with private stair access extending across the bluff face and to the beach, and a rip rap revetment along the rear property line established prior to the Coastal Act.

The City found that the subject single-family residence is consistent with the public access, public recreation, blufftop, and shoreline development provisions of the certified Local Coastal Program (LCP). However, the development, as approved by the City, raises several LCP consistency issues with regard to stringline setbacks, geologic stability analysis, bluff edge determination, and previously unpermitted development.

The City's certified LCP prohibits new development from extending further seaward than a "stringline" drawn between adjacent developments. This stringline rule not only applies to habitable (enclosed) development, but also applies to decks or other appurtenances, which shall not be permitted further seaward than those allowed by a line drawn between those appurtenances on the adjacent structures to the north and south. In this case, the City did not correctly apply the habitable or the deck/pool/patio areas stringline to the proposed development. This would result in the seaward encroachment of the aforementioned development up to 30 feet beyond the allowable stringline.

The certified Carlsbad Mello II LCP Segment ("City's LCP") contains policies that address when reliance on shoreline protective devices can be permitted. These policies establish that shoreline armoring shall only be allowed to protect existing development, coastal-dependent uses, or public beaches in danger of erosion. The Geotechnical Report for the proposed project identified that taking into account sea level rise, with an applied erosion rate over 75 years; the subject site could accommodate the proposed new development with reliance on the existing revetment. The Geotechnical Report failed, however, to evaluate whether or not the proposed new development would be safe without reliance on shoreline armoring. This is especially concerning as it does not allow for flexibility regarding adaptive measures that may be necessary related to future shoreline management strategies.

Bluff preservation policies within the City's LCP establish that no development shall be permitted on the face of any ocean bluff, with the exception of accessways to provide public beach access and for limited public recreation facilities. The Geotechnical Report conducted for the subject site delineated the bluff edge for the property at a lower elevation, and further seaward, than several other bluff edge determinations conducted for the previous redevelopment of properties located in close proximity to the subject site,

and along the same coastal headland. The Geotechnical Report identified the bluff edge as following a line extending downslope along an existing concrete walkway and retaining wall that traverse the bluff. This identification resulted in a bluff edge determination descending to an elevation approximately 10 feet lower than previous bluff edge determinations conducted for similar properties located atop the same bluff. However, upon review of additional material submitted by the applicant, the Commission's geologist determined that because of substantial alterations made to the bluff face prior to the Coastal Act, the applicant's determination of the bluff edge for the subject site is accurate. Thus, the location of the bluff edge does not raise a substantial issue regarding conformity with the certified LCP or the public access policies of the Coastal Act.

However, because of the above-described inconsistencies with the LCP and the Coastal Act, staff recommends that the Commission determine that the project raises a substantial issue regarding conformance with the certified LCP and the Chapter 3 policies of the Coastal Act.

Commission staff further recommends **approval** of the application on de novo with special conditions. The primary coastal resource issues raised include development west of the ocean or "stringline" setback and potential hazards associated with natural coastal erosion and sea level rise.

With respect to the "stringline" setback, the project proposes development beyond what would be permitted with strict application of the City's "stringline" setback policy. Through cooperative work between the applicant and Commission staff, the applicant submitted revised plans relocating accessory structures an additional 5 feet inland. These structures will still be located between 2-4 feet beyond the stringline; however, as proposed and conditioned herein, all improvements located beyond the stringline include only at- or below-grade development, thereby eliminating the potential for the proposed improvement to obstruct existing public ocean/coastal views. In addition, the proposed decking/pool/patio areas will be located further inland than existing patio area that is being retained, and within the established line of development for the Tierra del Oro neighborhood. As such, in this specific case, allowing for a small intrusion into the ocean or "stringline" setback can be found consistent with the City's LCP. **Special Condition #1** has been included and will require the submittal of final plans that demonstrate relocation of accessory improvements an additional 5 feet inland and that newly constructed improvements located beyond the stringline be placed at- or below-grade.

With respect to the concerns regarding shoreline development and associated hazards, the proposed development is located on an eroding coastal bluff, which is currently protected by an existing rock revetment. Policy 4-1 of the City's LCP mirrors Section 30253 of the Coastal Act, both of which permit the use of shoreline protection only when necessary to protect existing structures. In this case, the proposal includes construction of a new home, thus, location of the home should be sited without the necessity for the existing shoreline protection. There are a number of factors specific to this section of coastal bluff that makes determining an exact erosion rate for this area difficult. However, the

Commission's geologist has concluded that the home and accessory structures are very likely to be subject to hazards within their expected life if not for the existing rock revetment.

Specifically, in this case, due to protection from a natural reef and the amount of time the bluff has been armored, it is not feasible to identify an erosion rate for the area, and thus determining the appropriate setback is problematic. In addition, the revetment in front of the house is part of a larger scale revetment that protects eight homes located on the west side of Tierra del Oro Street. Thus, removal of the revetment is also infeasible at this time as it is required to protect adjacent properties. Therefore, , **Special Condition #2** requires the applicant to acknowledge the proposed home is subject to hazards associated with erosion and flooding and **Special Condition #3** waives the applicant's and any successor's right to future shoreline protection. Thus, the proposed new development will not result in new shoreline protection, or require the continued existence of the existing shoreline protection. In order to assure no new development will be constructed in an unsafe location, and no maintenance work done to the revetment without Commission review, **Special Condition #4** requires the all future development be reviewed by the Coastal Commission. **Special Condition #5** requires the applicant record a generic deed restriction so that future property owners are made aware of these conditions.

Special Condition Nos. 7 & 8 require the submittal of revised landscape plans showing the use of native, drought tolerant and non-invasive plants and final drainage plans indicating all runoff to be filtered through vegetation or other filtering media respectively. **Special Condition #8** requires the applicant to adhere to all conditions imposed by the City of Carlsbad's conditions of approval, including the provision for an additional lateral public access easement. Finally, **Special Condition #9** requires the applicant to limit construction schedules and/or staging areas to times and locations that will not impact the public's access to the beach.

The standard of review is the certified City of Carlsbad Local Coastal Program, Mello II segment and, because the site is between the sea and the first public road, the public access and recreation policies of the Coastal Act.

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APPENDICES

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EXHIBITS

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Exhibit 2 – Aerial Map
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Exhibit 5 – Stringline
Exhibit 6 – Resolution
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Exhibit 8 – Lateral Access Easements
Exhibit 9 – CCC Habitable Stringline
Exhibit 10 – Aerial of Headland
Exhibit 11 – Revised Site Plan

I. APPELLANTS CONTENTION

The project as approved by the City does not conform to the City of Carlsbad's certified Local Coastal Program (LCP), with regard to ocean setback ("stringline"), geologic analysis, delineation of coastal bluff edge, and unpermitted development. Most prominent are concerns related to shoreline development setback, bluff edge determination, and the reliance of new development on shoreline protective devices. An additional concern is the permit history for the stairway located within the riprap for private access to the ocean. The appellants contend that the development, as approved by the City, allows for encroachment of the proposed pool, pool deck, and terrace further westward than the Commission's historic interpretation of the City's stringline provisions. The appellants identify that the information contained within the Geotechnical Report does not include any analysis regarding the stability of the proposed residence without reliance on existing or future shoreline protection. The appellants also contend that the bluff edge was sited incorrectly in the Geotechnical Report; which could allow for future development on the face of the bluff, beyond that permissible by the City of Carlsbad's LCP. Finally, the appellants also raise concerns that unpermitted development consisting of a private beach access stairway has not been addressed by the City in the review of the proposed project.

II. LOCAL GOVERNMENT ACTION

The project was approved with conditions by the City of Carlsbad Planning Commission on May 20, 2015. The conditions of approval found within the City's approval resolution associated with the Coastal Development Permit (CDP) included: compliance with the City's latest storm water regulations, the requirement to obtain a grading permit from the City, and the dedication of a lateral public access easement with a minimum of 25 feet of dry sandy beach at all times of the year to the California Coastal Commission or its designee.

III. APPEAL PROCEDURES

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

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

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

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

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

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

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

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

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question as to conformity with the certified local coastal program" or, if applicable, the public access and public recreation policies of Chapter 3 of the Coastal Act (Cal. Code Regs., tit. 14, § 13115(b)). In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP;
2. The extent and scope of the development as approved or denied by the local government;

3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

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

The City of Carlsbad has a certified Local Coastal Program (LCP), and because the subject site is located between the first public road and the sea, Chapter 3 public access and recreational policies additionally apply. Before the Commission considers the appeal de novo, the Commission must find that a substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603. In this case, for the reasons discussed further below, the Commission exercises its discretion to determine that the development approved by the City raises a substantial issue with regard to the appellant's contentions regarding coastal resources.

IV. SUBSTANTIAL ISSUE MOTION AND RESOLUTION

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission determine that Appeal No. A-6-CII-15-0039 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION:

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

RESOLUTION: *The Commission hereby finds that Appeal No. A-6-CII-15-0039 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.*

V. SUBSTANTIAL ISSUE FINDINGS AND DECLARATION

The Commission finds and declares as follows:

A. PROJECT DESCRIPTION/HISTORY

The proposed project involves demolition of an existing 3,056 square foot, one-story single-family residence with basement, and partial demolition of an existing detached 528 square foot two-car garage with an attached 432 square foot guest house, and the construction of a new two-story 8,845 square foot single-family residence with a basement and a new pool on a 26,600 square foot blufftop property. The existing deck on the seaward side of the structure would be either retained or replaced in the same location. The project site is a coastal blufftop lot located on the west side of Tierra Del Oro, just south of Cannon Road in the City of Carlsbad. The existing residence was built in 1959, with private stair access extending across the bluff face and to the beach, and a rip rap revetment along the rear property line.

The site slopes down from Tierra Del Oro, transitioning into a steep coastal bluff. Development on the site includes the residence and terraced rear yard patios that include retaining walls on the eastern 40% of the lot. The remainder of the site consists of terraced coastal bluffs covered in landscaping that slope to the bottom of the bluff face which is currently covered with a large riprap revetment.

The proposed development is located in an existing single-family residential neighborhood. Most of the oceanfront residences have decks, patios and other structures which extend seaward of the principal residential structure. A number of these residences also have walkways which extend to the bluff edge. Additionally, several of these oceanfront residences have platforms at the bluff edge and private beach access stairways which extend down the bluff face to the beach. However, a number of these improvements are unpermitted or were constructed prior to the Coastal Act. Since the enactment of the Coastal Act, and subsequently, the City's LCP, development of patios, stairways and the like on the bluff face would not be permitted. As such, in looking at the general pattern of development in the Tierra del Oro neighborhood, it is important to recognize that what appears to be the pattern of development (structures both at and beyond the coastal bluff edge) should not be considered when determining where development would be permitted at the present time.

The neighborhood is planned for residential development within the Mello II Segment of the City's certified Land Use Plan (LUP), and the subject property has a land use designation of Residential Low-Medium Density/Open Space (RLM/OS). The OS designation applies to the bluff and beach portions of the property. The subject site is also located within, and subject to, the Coastal Resource Protection Overlay zone and the Coastal Shoreline Development Overlay Zone of the Carlsbad Municipal Code (i.e. the City's Implementation Plan, "IP").

The City found that the subject single-family residence is consistent with the public access, public recreation, blufftop and shoreline development provisions of the certified Local Coastal Program (LCP).

B. OCEAN SETBACK (“STRINGLINE”)

The appellants contend that the project, as approved by the City, is inconsistent with the City of Carlsbad’s certified LCP regarding the interpretation of the western boundary of the deck/other appurtenances “stringline.” The appellants contend that the deck stringline (which includes the proposed pool, pool deck, and terrace) allows for seaward encroachment on the subject site. The certified LCP prohibits new development along the ocean from extending further seaward than a “stringline” drawn between adjacent developments. Specifically Section 21.204.050B of the Coastal Shoreline Development Overlay Zone states:

New development fronting the ocean shall observe at a minimum, an ocean setback based on “stringline” method of measurement. No enclosed portions of a structure shall be permitted further seaward than allowed by a line drawn between the adjacent structure to the north and south, no decks or other appurtenances shall be permitted further seaward than those allowed by a line drawn between those on the adjacent structure to the north and south. A greater ocean setback may be required for geological reasons and if specified in the Local Coastal Program.

The City made the finding that for the proposed swimming pool, deck and patio, no stringline opportunity exists to the south because there is not an existing, detached and permitted deck, or other appurtenance, seaward of the main residence on the lot south of the subject site, and that because the new pool, deck and patio are proposed to be located within an area of existing development (i.e. the existing concrete terrace and previous basement footprint), the stringline method does not apply to the subject proposal. However, the existing development is seaward of the required deck stringline between the northern and southern adjacent properties and, thus creates a visual impact (ref. Exhibit 5). Allowing new development in the same location would perpetuate this impact.

The Commission has historically applied the City’s stringline provisions to any new development along the shoreline. The Commission has considered the issue in previous appeals of CDPs within the City of Carlsbad, the most recent being the property located at 5015 Tierra Del Oro (CDP No. A-6-CII-08-028/Moss) among others (ref. CDP Nos. A-6-CII-07-17/Riley; A-6-CII-03-26/Kiko), and for Commission issued permits (ref. CDP Nos. 6-90-25/Kunkel; 6-90-299/Rowe; 6-92-107/Phillips; and 6-95-144/Bownes). In this particular case, the City’s interpretation would allow the development to encroach between up to 30 feet seaward of the deck stringline between the northern and southern adjacent properties, which is inconsistent with the Coastal Shoreline Development Overlay Zone.

Setbacks provide visual relief from the cluster of private development lining the shoreline of the Tierra Del Oro community, stepping back primary residences and accessory development in a measured, consistent manner while preserving open space and scenic vistas as viewed from the adjacent beach and public access points. Allowing the encroachment of development beyond the required stringline would create a precedent for shifting the pattern of development seaward along this stretch of coastline, and would represent a significant change in the community character and scenic quality of the area. Thus, the project raises a substantial issue regarding conformity with the LCP.

C. GEOLOGIC ANALYSIS

The appellants contend that the project, as approved by the City, is inconsistent with the City of Carlsbad's certified LCP regarding shoreline protective devices. The certified Carlsbad Mello II LCP Segment contains policies that address when reliance on shoreline protective devices can be permitted. The City's certified Mello II Land Use Plan (LUP) includes the following policies that address shoreline development and protection:

Policy 4-1, Subsection I. (Development Along Shoreline)

- a. For all new development along the shoreline, including additions to existing development, a site-specific geologic investigation and analysis similar to that required by the Coastal Commission's Geologic Stability and Blufftop Guidelines shall be required; for permitted development, this report must demonstrate bluff stability for 75 years, or the expected lifetime of the structure, whichever is greater...*

Policy 4-1, Subsection III. (Shoreline Structures), which is echoed by Section 21.204.040.B. (Conditional Beach Uses) of the City's IP with the following language:

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.

These policies have been interpreted by the Commission in previous appeals (including A-6-CII-08-028/Moss and A-6-CII-03-26/Kiko) to mean that shoreline armoring shall only be allowed to protect existing development, coastal-dependent uses, or public beaches in danger of erosion. In establishing the development setbacks and their adequacy to protect development over the lifespan of the improvements, the applicant's Geotechnical Report identified that a 1.5 factor of safety delineation for the subject site, with an applied erosion rate over 75 years, could likely only accommodate the proposed development with reliance upon the existing rip rap revetment fronting the subject site as a shoreline protection measure. The Geotechnical Report failed to evaluate whether or not the proposed new development would be safe without reliance on shoreline armoring.

In this case, the proposed project includes demolition of the existing residence and the construction of an entirely new residence that, in accordance with the LCP, should be

sited in a location that would not require stability afforded by either existing or future shoreline armoring, and should not assume the existing revetment will remain in perpetuity. This requirement is especially relevant given the future potential for sea level rise, and the need for greater flexibility regarding adaptive measures that may be necessary to implement future shoreline management strategies. Thus, the project raises a substantial issue regarding conformity with the LCP.

D. DELINEATION OF COASTAL BLUFF EDGE

The appellants contend that the project, as approved by the City, is inconsistent with the City of Carlsbad's certified LCP in that the Geotechnical Report's delineation of the bluff edge determination could allow for future encroachment of development along the bluff face. The certified Carlsbad Mello II LUP contains policies that address bluff preservation. Policy 4-1 provides:

(d) Undevelopable Shoreline Features

No development shall be permitted on any sand or rock beach or on the face of any ocean bluff, with the exception of accessways to provide public beach access and of limited public recreation facilities.

As identified on the submitted plans and geotechnical reports, the location of the bluff edge is located at +10' MSL elevation. However, this is different from the location of the bluff edge for the Tierra del Oro neighborhood established through previous Commission actions. Specifically, in 2007, the Commission's geologist reviewed in depth the geotechnical information submitted associated with an appeal to a City-issued CDP (ref. A-6-CII-07-017/Riley). Previous to this review, the bluff edge accepted in previous actions was defined at approximately the +20' Mean Sea Level (MSL) elevation. However, after more in-depth review of submitted geotechnical reports by the Commission's staff geologist for the above cited project in 2007, it was determined that a more accurate location of the bluff edge on that site was at approximately the +36' (MSL) elevation. The Commission appealed the project (ref. A-6-CII-07-017/Riley) and required the project to be modified to remove all development located west of the 36' contour (i.e., remove all permanent improvements from the face of the coastal bluff). The Commission required similar modification to a subsequent appeal in 2008 (ref. A-6-CII-08-028/Moss).

With regard to the subject site, after the appeal was filed, staff requested additional information be submitted regarding the location of the bluff edge. This report, prepared by Geotechnical Exploration and dated July 8, 2015 includes the following:

The coastal hillside changes profile to the south from the profile existing at other lots to the north. As the bluff height descends to the south the bluff edge moves to the west and is therefore lower and farther to the west than on higher elevation properties to the north.

Staff has reviewed the submitted report and concurs with the bluff edge delineation for the subject site as identified by the applicant's consultants. However, it should be noted that the natural bluff edge has been severely modified by grading at this site. First, thick deposits of fill were used to level the building pad and have buried and obscured the natural bluff edge; the obvious topographic break on the property represents the top of a fill slope, rather than a natural bluff edge, which is buried beneath the fill. Second, the prominent ridge that descends the topographic slope, identified as the bluff edge by the applicant's consultants, has been created by cutting and lowering the bluff face, extending the bluff edge seaward. Thus, although staff concurs with the bluff edge delineation on Exhibit #X, it is important to note for purposes of future development on adjacent sites that the bluff edge on this site cannot be confidently extended to the north and south of the subject property without additional offsite geotechnical information. However, the development as proposed is considered to be located inland of the bluff edge for this location, consistent with Policy 4-1 of the City's LCP. Thus, the delineation of the bluff edge does not raise a substantial issue.

E. SUBSTANTIAL ISSUE FACTORS

As discussed above, the factors that the Commission often considers when evaluating whether a local government's action raise a substantial issue also support a finding of substantial issue. First, there is inadequate factual and legal support for the City's determination that the proposed development is consistent with the certified LCP. In this case, the development, as approved by the City, raises several LCP consistency issues with regard to stringline setbacks and geologic stability analysis. While the extent and scope of development is for a single family residence, the coastal resources affected are significant; in particular, the bluff face and geological stability in the area. The local government's approval sets poor precedent for future interpretations of its LCP because it did not establish a string line to determine the required setback or calculate the stability of the proposed home without shoreline protection, especially as it relates to analysis necessary in the face of anticipated future sea level rise. The objections to the project raised by the appellants identify substantial issues of regional or statewide significance, due to the intensely debated issues of geological stability and sea level rise impacts and how they affect development on bluffs up and down the California coast.

F. NOTE ON UNPERMITTED DEVELOPMENT

There is existing unpermitted development within the footprint of the existing rip rap revetment along the subject property's rear property line consisting of a private stairway access to the beach. The certified Carlsbad Mello II LUP contains policies that address bluff preservation, including Policy 4-1, which provides:

(d) Undevelopable Shoreline Features

*No development shall be permitted on any sand or rock beach or on the face of any ocean bluff, with the exception of accessways to provide **public** [emphasis added] beach access and of limited public recreation facilities.*

The existing residence was built in 1959, with private stair access to the beach and a rip rap revetment along the rear property line established prior to the Coastal Act. In 1978 (under permit #F7529) seven properties along Tierra Del Oro (including the subject site), received Coastal Commission approval to repair and upgrade the existing revetment, due to erosional impacts at the time. When the revetment was repaired, the portion of the pre-coastal stairway on the property that was located within the footprint of the revetment was removed. However, at some point between 1989 and 2002 (based on imagery provided by the California Coastal Records Project), a new private stairway was constructed through the revetment on the subject property to access the beach, without any local or Commission approval. San Diego District staff has an existing violation case on the subject property regarding construction of the stairway. Resolution of such violations are typically addressed at the time of redevelopment, as was the case with the A-6-CII-08-028 (Moss) and A-6-CII-03-26 (Kiko) appeals.

In addition, a geotechnical report submitted by Geotechnical Exploration, Inc. and dated November 12, 2013 identifies that significant repairs occurred in 1986-1987 following significant storm damage.

However, the City's review of the subject proposal did not address either of these two potential violations.

STAFF RECOMMENDATION ON THE COASTAL PERMIT

VI. MOTION AND RESOLUTION ON DE NOVO

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. A-6 CII-15-0039 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the certified LCP and the public access policies of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

VII. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

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

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

VIII. SPECIAL CONDITIONS

The permit is subject to the following conditions:

1. **Final Plans.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final building plans that have been stamped approved by the City of Carlsbad. Said plans shall be in substantial conformance with the plans submitted by the applicant dated September 10, 2015 by Island Architects and include the following:
 - a. The location of the pool and associated decking shall be located approximately 5 feet inland of the originally proposed location approved by the City and shown on the plans dated 11/06/14 and as depicted in Exhibit #X.
 - b. All development proposed beyond the stringline location established by Exhibit #X shall be restricted to at-grade or below-grade improvements.

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

2. **Assumption of Risk, Waiver of Liability and Indemnity**

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from waves, storm eaves, bluff retreat, 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.

3. **No Future Bluff or Shoreline Protective Device(s) to Protect the Proposed Development.**

- a) By acceptance of this permit, the applicant agrees, on behalf of itself and all other successors and assigns, that the existing rock revetment shoreline protective device on the subject site shall not be repaired, enhanced/augmented or reconstructed for purposes of protecting the development approved by this coastal development permit with the exception of maintenance necessary to protect the existing homes immediately located on the properties to the north and south (50XX and 50XX Tierra del Oro Street) and that no new shoreline or bluff protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit #A-6-CII-15-0039 including, but not limited to, the residence, the pool, foundations, patios, decks, balconies and any future improvements, in the event that the development is threatened with damage or destruction from erosion, landslides, waves, storm conditions, flooding, sea level rise or other natural coastal hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to augment, maintain and/or construct such devices that may exist under Public Resources Code Section 30235 or the certified Local Coastal Program.
 - b) On acceptance of this Permit, the applicant and the landowner further agree, on behalf of themselves and all successors and assigns, that the landowner(s) shall remove the development authorized by this Permit, including the residence, the pool, foundations, patios, decks, balconies and any other future improvements if any government agency has ordered that the structures must not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit, unless the Executive Director determines a permit is not legally required.
4. **Future Development.** This permit is only for the development described in Coastal Development Permit No. A-6-CII-15-0039. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply. Accordingly, any future improvements to the proposed single family residence, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Code section 30610(d) and Title 14 of the California Code of Regulations, section 13252(a)-(b), shall require an amendment to permit No. A-6-CII-15-0039 from the California Coastal Commission.
5. **Deed Restriction.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval documentation demonstrating that the landowner has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized

development on the subject property subject to the terms and conditions that restrict the use and enjoyment of that property, and (2) imposing the special conditions of this permit as covenants, conditions, and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence or with respect to the subject property.

6. **Final Landscape/Yard Area Plans.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval final landscaping and fencing plans approved by the City of San Diego. The plans shall include the following:
 - a. A view corridor a minimum of 6 ft. wide shall be preserved in the north and south yard areas. All proposed landscaping in these yard areas shall be maintained at a height of three feet or lower (including raised planters) to preserve views from the street towards the ocean. Any gates or fencing across the side yard setback areas shall be at least 75% see through/open.
 - b. All landscaping shall be drought tolerant and native or non-invasive plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property.
 - c. No permanent irrigation system may be installed west of the established bluff edge location at +10 MSL.
 - d. All irrigation installed inland of the bluff edge and utilizes potable water must utilize only drip or micro spray systems for delivery.
 - e. A written commitment by the applicant that five years from the date of the issuance of the coastal development permit for the residential structure, the applicant will submit for the review and written approval of the Executive Director a landscaping monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies whether the on-site landscaping is in conformance with the landscape plan approved pursuant to this special condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in

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

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

7. Drainage Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit for the review and written approval of the Executive Director, a final drainage and runoff control plan, with supporting calculations, that has been approved by the City of Carlsbad. This plan shall include the following requirements:

- (a) The plans shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site.
- (b) Drainage from all roofs, parking areas, driveways, and other impervious surfaces within the development shall be directed to a structural BMP, such as a biofiltration swale or media filter device(s).
- (c) Structural BMPs shall be effective at removing pollutants such as sediment, nutrients, bacteria, and chemicals from all rainfall events up to and including the 85th percentile, 1-hour storm event with a factor of safety of 2 or more.
- (d) Treated runoff, and stormwater runoff in excess of the treatment design flow, shall be conveyed off-site in a non-erosive manner, without allowing runoff to percolate into the bluff face.
- (e) The plan shall specify all maintenance and operating procedures necessary to keep the structural and non-structural BMPs effective for the life of the development.

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

8. **Other Special Conditions of local CDP No.14-05.** Except as provided by this coastal development permit, this permit has no effect on conditions imposed by the City of Carlsbad pursuant to an authority other than the Coastal Act.
9. **Construction Schedule/Staging Areas/Access Corridors.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval, detailed plans identifying the location of access corridors to the construction site and staging areas, and a final construction schedule. Access shall only be via the identified access corridors. Said plans shall include the following criteria specified via written notes on the plan:
 - a. Use of sandy beach and public parking areas outside the actual construction site, including on-street parking, for the interim storage of materials and equipment is prohibited.
 - b. No work shall occur on the beach during the summer peak months (start of Memorial Day weekend through Labor Day) of any year.
 - c. Equipment used on the beach shall be removed from the beach at the end of each workday.

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

IX. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. PROJECT DESCRIPTION

The detailed project description is described above under the substantial issue findings of this report and is incorporated herein by reference.

The standard of review is the certified Local Coastal Program and the public access and recreation policies of the Coastal Act.

B. OCEAN “STRINGLINE” SETBACK

The proposed development is located in a region that utilizes stringline policies to regulate the seaward extent of development. The goal of limiting new development from

extending beyond a stringline drawn from the seaward of the extent of the adjacent structures to the north and south is to restrict encroachment onto the shoreline/coastal bluffs and to preserve public views along the shoreline. As noted above, setbacks provide visual relief from the wall of private development lining the shoreline of the Tierra Del Oro community, and stepping back primary residences and accessory development in a measured, consistent manner preserves open space and scenic vistas as viewed from the adjacent beach and public access points. The LCP policy includes two stringline measurements, one for enclosed portions of a structure, and the other for decks or other appurtenances. Since the time of the appeal, the Commission has identified that the stringline for the enclosed portion of the home was also not measured consistent with the LCP policies as typically interpreted by the Commission. Thus both the proposed habitable as well as the deck stringline for the proposed location could result in impacts to coastal resources.

The relevant portions of the City of Carlsbad's certified LCP are cited in the Substantial Issue portion of the staff report, and are incorporated herein.

With regard to the home, the City determined the stringline location by drawing a line from the nearest adjacent corner of development to the north and the furthest point, not the most adjacent corner, on the home located directly to the south (ref. Exhibit #X). The Commission has for the most part historically interpreted the City's stringline provisions to be measured using only the *most adjacent* corner of existing structures, which has resulted in previous appeals within the City of Carlsbad (ref. CDP Nos. A-6-CII-07-017/Riley, A-6-CII-08-028/Moss, A-6-CII-03-26/Kiko) and Commission issued permits (ref. CDP Nos. 6-90-25/Kunkel; 6-90-299/Rowe; 6-92-107/Phillips and 6-95-144/Bownes'). Therefore, as approved, the stringline would allow for development to be located much further seaward than if it were measured from the most adjacent corner.

However, the Tierra Del Oro cul-de-sac street property frontage and street is angled in such a manner that the closest portion of the residence on the adjacent lot to the south is set back considerably farther back than the house on the subject site. As such, these constraints must be considered when determining the appropriateness of the standard stringline interpretation. Specifically, utilizing the conservative interpretation of the stringline, the area available for the proposed new home, at its most constricted point, would allow for a structure no larger than 30-40 feet in depth on a 70 foot wide lot, limiting the development envelope to just over 2,000 sq. ft. This development area would be further restricted by required setbacks and existing easements, the need for a garage, etc. Therefore, measuring from the nearest edge of the properties on either side, rather than the seaward edge, could constrain development on the site to the point that any reasonable building design would be infeasible.

In addition, as proposed, all of the new living area will be located considerably further back from the ocean than the existing residential footprint. Specifically, the basement will be located 21 feet further inland and the first level located 12 feet further inland than existing development. Additionally, no development will be located on the bluff face, or in close proximity (between 25-65 feet setback) to the bluff face. Thus, the proposed development will increase the setback from the coastal bluff. Finally, the applicant's geologist has submitted a geotechnical report that indicates the construction of the home

will not jeopardize the stability of the bluff. As such, allowing the home to be located beyond the stringline of the westernmost portion of the adjacent structure to the south as proposed will not result in impacts to views or the coastal bluff, and would not allow the general line of development to intrude further west.

With regard to the proposed decking/pool/patio areas, the City's review failed to identify the appropriate location of the stringline. Exhibit #5 shows the location of the stringline between the northern and southern adjacent properties. The existing deck currently extends approximately 25 feet beyond the stringline. As approved by the City, a portion of the existing deck/patio would remain in place approximately again approximately 25 feet seaward of the stringline and the rest would have been rebuilt several feet further inland than the existing deck, but still approximately 7-10 feet seaward of the stringline. The certified LCP allows existing non-conforming structures to be retained or replaced in the same location. However, the proposed pool is new, and as such, should not be located beyond the deck stringline.

In response to the concerns raised by the subject appeal, the applicant submitted modified plans (ref. Exhibit #X). As modified, the pool would be relocated an additional 5 feet inland of the original proposal, although still approximately 2-5 feet seaward of the stringline. However, in this particular case, the proposed redevelopment of this site would result in a setback of the pool from the bluff edge to between 25-35 feet inland of the bluff edge, and inland of the existing development. Thus, no grading of the bluff or in close proximity to the bluff edge is proposed. In addition, all proposed decking/pool/patio areas will either be at- or below-grade and thus will not encroach into any existing coastal or ocean views. The setback provided decreases the chance the development could impact coastal views compared to the existing structure, and also provides a larger geologic setback from the bluff edge. The bluff edge at this location has been severely modified for this location, which will be discussed in greater detail below, and thus an additional setback provides added assurance of geologic stability. Finally, the applicant's geologist has submitted a geotechnical report that indicates the construction of a pool in this location will not jeopardize the stability of the bluff.

In conclusion, the City's stringline policy was established to serve two main functions; to protect views to and along the ocean and to limit development from incrementally encroaching closer to the coastal bluff edge. As proposed, the home is located well inland of the coastal bluff, and the location of both the home and the proposed deck/pool/patio areas are within or inland of the line of development established by the general pattern of development on Tierra del Oro Street. In addition, the encroachment of decking/pool/patio area beyond the stringline is minimal (between 2-5 feet) and is entirely at- or below-grade, thus no impacts to coastal views will result from the proposed improvements. Finally, all proposed accessory improvements are located inland of the existing decking to remain, thereby not increasing the degree of non-conformity. While measuring the stringline from the most seaward extent of the adjacent homes is not the typical interpretation by the Commission; this interpretation is justified under these specific circumstances and will not set an adverse precedent. As such, **Special Condition No. 1** requires the applicant to submit final plans consistent with the draft

modified plans submitted on September 10, 2015 that include relocating the pool in additional 5 feet inland. Thus, as conditioned, the location of the home and accessory structures can be found consistent with the applicable policies of the City's certified LCP and the Coastal Act.

C. SHORELINE DEVELOPMENT/HAZARDS

The relevant portions of the City of Carlsbad's certified LCP are cited in the Substantial Issue portion of the staff report, and are incorporated herein.

As proposed, the project will include demolition of an existing single-story single family home, including a basement, garage and guest house, with the subsequent construction of a larger two-story single family home including a basement, garage and guesthouse located on a coastal bluff that is subject to erosion.

The City's LCP requires that for proposed development along the shorefront, bluff stability must be demonstrated through a geotechnical reconnaissance. The City's LCP further requires that no development (with the exception of public access improvements) be located on a bluff face.

Coastal Hazards and Future Shoreline Protection

The Commission has historically evaluated the location of proposed development on a coastal bluff by a combination of 1) a standard minimum distance from the bluff edge and, 2) safe siting of the structure, as demonstrated through a site specific geotechnical reconnaissance. Safe siting of a home has been generally accepted by the Commission to mean that the home at its proposed location will maintain a minimum 1.5 factor of safety against landsliding for its expected life, coupled with expected bluff retreat over its economic life, often assumed to be 75 years. The City of Carlsbad's LCP does not include provisions for a standard minimum geologic setback. As such, the location of development on a coastal bluff in the City of Carlsbad is based on bluff stability.

In order to assure that a minimum factor of safety of 1.5 be maintained for the life of the development, the setback necessary to attain a 1.5 factor of safety (if any) *today* must be added to the expected bluff retreat over the life of the development. Quantitative slope stability analyses performed in the geotechnical reports submitted demonstrate, to the satisfaction of the Commission's staff geologist, that the bluff does indeed possess a greater than 1.5 factor of safety today. Accordingly, no setback is necessary to assure a 1.5 factor of safety for the development. The setback necessary to assure stability for the life of the development is accordingly equal to the expected bluff retreat over that time, plus a buffer (commonly taken to be 10 feet) to account for uncertainty in the analyses and to allow some room for remediation measures as the foundations become threatened.

The applicant submitted a total of four geotechnical reports all of which concluded that both the home and the proposed pool would not destabilize the property of the coastal bluff at the site. However, the reports failed to indicate if the proposed development would be safe without benefit of the existing shoreline protective device.

The City's LCP and the Coastal Act only permit shoreline protective devices when necessary to protect *existing* structures. The subject coastal development permit includes the demolition of the existing home and subsequent redevelopment of a new single family home and, thus, it is also necessary to assure that these new structures would be safe *without* benefit of shoreline protection, which includes the existing revetment.

Additionally, the geotechnical reports did not include potential changes to conditions over time associated with climate change and sea-level rise (SLR). In addition to addressing historical bluff erosion rates, in recent years, the Commission has been charged with the responsibility to address development proposals with regard to how they may affect and/or impact the ability to address changes to California's coast associated with climate change and sea-level rise. In August of this year, the Commission formally approved a Sea Level Rise Policy Guidance document geared to aid in policy addressing sea-level rise both at the state and local levels. The omission of considering these factors was raised in the current appeal and, in response; the applicant submitted an updated geotechnical report which included the following conclusions:

- *The proposed development is designed and located such that coastal hazards, including extreme future Sea Level Rise combined with anticipated erosion will not impact the development over the next 75 years*
- *The proposed development is designed such that is [sic] does not rely on the existing permitted shore protection in place*
- *The existing shore protection cannot be removed from this site or reduced without signification adverse impacts on the adjacent structures.*

In addition, the report identified the specific rate of erosion for this location, and concluded:

If we assume a conservative (high) future bluff erosion rate of 0.33 ft/yr, the shoreline/bluff will retreat about 25 feet over the 75-year life of the structure. As currently proposed the principle structure is approximately 64 feet landward of the revetment protected bedrock. For the cliff to retreat to the principle structure the rate would need to be 0.85 ft/yr or 2.5 times the 0.33 ft/yr current conservative (high) rate. There are proposed ancillary improvements that are located about 35 feet back from the revetment protected bedrock. Using the 0.33 ft/yr erosion rate these accessory improvement [sic] will still be safe from shoreline erosion even without the revetment in place.

The Commission's staff geologist has reviewed all submitted geotechnical reports associated with the subject development and identified concerns with the calculated erosion rate for the property. Specifically, while the updated geotechnical report provided identified an erosion rate of 0.33 ft/yr, a previous geotechnical report identified a much larger erosion rate for the area. Specifically, the original geotechnical report

submitted by Geotechnical Exploration Inc., and dated November 12, 2013 included the following:

*Using historical aerial photos and maps, we have calculated a bluff recession rate of 0.33 feet/year on properties on Tierra del Oro north of the subject site prior to installation of the existing rip rap. Calculated recession of the bluff over a 75-year period would range from to [sic] 24.75 feet without the benefit of the existing rip rap. **Using the Benumof and Griggs maximum rates of recession (i.e. 1.41 and 1.83 feet/year), recession of the sea cliff rages [sic] from 105.75 to 137.25 feet over a 75-year period, again, without the protection of the existing rip rap revetment.***
[emphasis added]

As such, it appears that the erosion rate for the coastal bluff at this location may be greater than those identified in the most recent geotechnical report. When applying the erosion rate identified in the Benumof and Griggs report, rates of erosion between 1.41 and 1.83, recession of the bluff would be between 105.75 and 137.25 feet in 75 years. The Commission's geologist has reviewed the various geotechnical report for the site and while not able to identify a specific rate of erosion, based on these conflicting reports and knowledge of erosion rates in the area, he cannot agree that the rate of retreat is as low as 0.33 ft/yr, but agrees it may not be as high as 1.83 ft/yr. If the lowest potential rate of identified erosion (0.33 feet/year) were used to site new development, 25 feet of bluff retreat would be expected over the economic life of the structure. If using the lowest estimated rate of erosion from Benumof and Greffs (1.41 ft/yr), the expected bluff retreat would be 105.75 feet. The upper estimate of (1.83 ft/yr) would require the home to be set back as far 137.25 feet, which would effectively eliminate development of the site.

As proposed, and at its nearest point, the proposed home is located approximately 40 feet landward of the bluff edge. Accessory structures (although not considered entitled to shoreline protection), are located as close as 25 feet from the bluff edge. Thus, applying the erosion rates identified by Benumof and Griggs, both the home and the accessory structures would be at risk from bluff retreat and erosion without benefit of the existing revetment, inconsistent with the City's LCP.

The Commission's Staff Geologist reviewed the conflicting erosion rates and has concluded that there are a number of factors specific to this section of coastal bluff that makes it unique, including that there is a reef located directly west of this bluff has sheltered the beach from wave action, which has provided additional protection for this section of bluff protection. Additionally, the bluff has been protected by the existing rock revetment for an extended length of time and thus natural erosion hasn't occurred along this headland for more than 50 years. In reviewing aerial photos of this section of Carlsbad, it is apparent that this area of the coast is a salient relative to areas immediately to the north and south (ref. Exhibit #X), and thus erosion rates may be less than those of the surrounding area. The combination of these factors makes determining an exact erosion rate for this area infeasible. However, based on all of these factors, staff concludes that the home and accessory structures are very likely to be subject to hazards within their expected life if not for the existing rock revetment.

As noted, both the LCP and Coastal Act policies require that the home be sited safely

without the revetment and when it is no longer necessary, the revetment in front of the subject site should be removed. However, in this case, it is not feasible to identify a specific erosion rate for the area, and thus requiring a specific setback is problematic. In addition, the revetment is part of a larger revetment that protects eight homes located on the west side of Tierra del Oro Street, starting at the property directly to the north and ending at the last property on the southern end of Tierra del Oro Street. The Commission approved repair and upgrading of the existing and pre-Coastal Act revetment for 7 of the 8 lots in January, 1978 (ref. CDP No.F7529). Thus, removal of the revetment is infeasible at this time as it is required to protect adjacent properties.

Nevertheless, the construction of a new home and accessory structures on a bluff fronting lot are not entitled to shoreline protection under Policy 4-1 of the City's LCP. Thus, should the revetment be removed at this location, either through natural processes, or future planned retreat, the home in its proposed location may be subject to a number of risks including bluff failure and erosion. Given that the applicants have chosen to construct the proposed development despite these risks, the applicants must assume the risks. Therefore, **Special Condition #2** requires the applicant to acknowledge that the site may be subject to hazards from waves, storm eaves, bluff retreat, and erosion; and to assume the risks from such hazards.

In addition, allowing the retention of existing shoreline protection to address such threats could conflict with City of Carlsbad LCP Policies as well as Coastal Act requirements regarding public access and recreation, shoreline sand supply, and protection of views to and along the shoreline. **Special Condition #3** requires the applicant to waive on behalf of itself and all successors and assigns, any rights to new shoreline protection that may exist under Policy 4-1 to protect the proposed development. Because the revetment may not be allowed to protect the existing structure, **Special Condition #3** requires that any maintenance proposed to the existing revetment be for the sole purpose of protecting the existing homes on the adjacent properties and not for protection of the development approved through this CDP. **Special Condition #5** requires the applicants to record a deed restriction imposing the conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. Finally, **Special Condition #4** requires that all future development improvements on the subject site shall require an amendment to permit No. A-6-CII-15-0039 from the California Coastal Commission. Thus, only as conditioned to ensure that the proposed new development will not result in new shoreline protection, or require the continued existence of the existing shoreline protection, can the proposed new residence be found consistent with the certified LCP.

In conclusion, in this case, the proposed location of the home cannot be assured to be free from the risk of erosion without the use of the existing shoreline protection. In addition, allowing the revetment to be retained for protection of the proposed structure would be inconsistent with the City's LCP and would result in impacts to coastal resources inconsistent with both the City's LCP and the public access and recreation policies of the Coastal Act. As such, special conditions have been incorporated that require the applicant to acknowledge and assume the risks present on the site and waive the right to any future shoreline protection or maintenance of the existing revetment to protect the existing

structure. Thus, as conditioned, the Commission can be assured that the proposed development is not considered reliant upon existing shoreline protection. Thus, as conditioned the project is consistent with the applicable policies of the City's certified LCP.

D. WATER QUALITY/DRAINAGE/MARINE RESOURCES

The proposed development is located along the Carlsbad shoreline. The City of Carlsbad's LCP contains applicable policies which state, in part:

Policy 4-3

Detached residential homes shall be required to use efficient irrigation systems and landscape designs or other methods to minimize or eliminate dry weather flow, if they are within 200 feet of an ESA[Environmentally Sensitive Area], coastal bluffs or rocky intertidal areas.

Policy 4-6

Apply sediment control practices as a perimeter protection to prevent off-site drainage. Preventing sediment from leaving the site should be accomplished by such methods as diversion ditches, sediment traps, vegetative filters and sediment basins. Preventing erosion is of course the most efficient way to control sediment runoff.

Section 21.204.050 of the Coastal Shoreline Development Overlay zone provides:

1) ...Building sites shall be graded to direct surface water away from the top of the bluff, or, alternatively, drainage shall be handled in a manner satisfactory to the City which will prevent damage to the bluff by surface and percolating water..

Section 21.205.060 of the Coastal Resource Overlay zone provides:

All development must include mitigation measures for the control of urban runoff flow rates and velocities, urban pollutants, erosion and sedimentation in accordance with the requirements of the city's Grading Ordinance, Stormwater Ordinance, SUSMP, JURMP, master drainage plan, the San Diego County Hydrology Manual and amendments to them and the additional requirements enumerated by this section.

The certified Carlsbad LCP Mello II segment contains in its Zoning Plan, Coastal Development Regulations that include a Coastal Resource Protection Overlay Zone and the Coastal Shoreline Development Overlay Zone, with relevant citations above. The purpose of these overlays is to regulate development and land uses along the coastline in order to maintain the shoreline as a unique recreational and scenic resource, afford public safety and access, and avoid the adverse geologic and economic effects of bluff erosion, including siting drainage towards the street rather than the bluff and using appropriate landscape designs to further reduce erosion caused by dry weather flow. The proposed project did not include a detailed drainage plan indicating where the drainage associated

with this development would be directed. As such, as approved by the City, the proposed project cannot be found consistent with the above-mentioned policies. **Special Condition #7** requires the applicant to submit final drainage plans, indicating that all drainage directed to a structural BMP, such as a biofiltration swale or media filter device and then conveyed off-site in a non-erosive manner, without allowing runoff to percolate into the bluff face, thus eliminating impacts to water quality consistent with the City's applicable policies.

Further, the applicant submitted a landscape plan associated with the proposal. The proposed landscaping includes a significant portion of native habitat species, however also included are plants that may be of concern. Specifically, the plan includes the planting of *Melaleuca*, which is listed as a Federal Noxious Weed. In addition, while the plan includes a conceptual water conservation plan including an efficient irrigation system and elimination of dry weather flow it does not limit irrigation to drip or micro-spray. As such, **Special Condition #6** requires the applicant to submit a revised landscape plan that requires the use of only native and/or non-invasive plantings. **Special Condition #6** further requires all irrigation using potable water must utilize only drip or micro spray systems for delivery.

Lastly, the proposed development requires 1,570 cubic yards of cut associated with the portions of the basement level and construction of the pool. While the submitted plans indicate that all exported cut material will be outside the coastal zone, **Special Condition #1** requires the applicant to submit final plans, that are consistent with the originally submitted plans, which include a note that all export will be taken to a location outside the coastal zone, thus reducing any impacts to water-quality through sediment deposit.

In conclusion, the project as proposed included potentially invasive landscaping, inappropriate irrigation, and failed to adequately indicate where any drainage would be directed. Special conditions have been provided to address these impacts, and therefore, as conditioned, the project is consistent with the City's policies pertaining to water quality and marine resources.

E. PUBLIC ACCESS

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

Section 30210

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and

recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211

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

Section 30212

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

(3) agriculture would be adversely affected. ...

Additionally, the City of Carlsbad's LCP contains the "Coastal Shoreline Development Overlay Zone", an implementing measure of Carlsbad's certified Mello II LCP and contains an applicable policy, which states:

Policy 7-3

The city will cooperate with the state to ensure that lateral beach access is protected and enhanced to the maximum degree feasible, and will continue to formalize shoreline prescriptive rights....

The project is located on a bluff top site on Tierra Del Oro. The Tierra Del Oro neighborhood is an inlet coastal street that runs parallel with the ocean, and has one entrance and street parking that is open to the public. Currently there is no vertical access to the ocean along Tierra Del Oro. The Commission has previously reviewed the lack of public access within this development and concluded:

No vertical public access to the shore presently exists along Tierra Del Oro or in the adjacent residential area to the south along Shore Drive. Public access does exist about 100 yards further to the north at Carlsbad State Beach across from Encina Power Plant and approximately 1/3 mile to the south where a section of Carlsbad State Beach also exists. This access allows the public to gain access to the beach below the subject site. The commission finds that with access available nearby to the north and south that imposition of a vertical access requirement is not warranted for this project.

The Commission finds that the same is true today, in that public access to the shoreline is currently available a short distance north of the subject site. Therefore, it is not necessary to require public vertical access on the subject site.

As discussed above in detail, it also is important to site development appropriately to avoid the need for shoreline protection in the future, which can occupy public beach and prevent the shoreline from retreating naturally, impacting public access and recreation. At this time, no work to the existing revetment is proposed. However, the subject proposal has been conditioned to ensure that any future work to the revetment be solely for the protection of the adjacent structures and will require additional review by the Commission, so that any proposed work, and potential encroachment onto beach area, will be reviewed at that time.

In addition, the City's LCP requires that any development along the shorefront be required to dedicate 25 feet of dry sandy beach for lateral public access. In this case, there is an existing lateral access easement (ref. Exhibit No. X, and recorded document No. 79-49669). The existing easement was required associated with the maintenance work on the revetment permitted through CDP No. F7529 and extends from the property line inland. However, there remains a significant portion of sand (approximately 30 feet in width) located west of the revetment and inland of the existing easement. As proposed, the applicant will be recording an additional lateral public access easement that will bridge the gap between the revetment and the existing easement, thereby creating an uninterrupted lateral public access area beginning at the base of the revetment and extending to the property line (ref. Exhibit #X). To assure this easement is created, **Special Condition #8** requires the applicant to adhere to all conditions (unless expressly modified herein) placed on this proposal as required by the permit issued by the City of Carlsbad. As such, the project will protect and provide for public access.

The demolition of the existing home and the grading for the basement and reconstruction of the new home will require heavy equipment and staging areas, as well as adequate parking. The laborers required for the project may choose to park their cars within the available on-street parking. The combination of construction materials, equipment and parking requirements may result in decreased access opportunities for the public. As such, **Special Condition #9** requires the applicant to identify any locations which will be used as staging and storage areas for materials and equipment during the construction phase of this project. Use of public parking areas and the sandy beach, including on-street parking, for the interim storage of materials and equipment shall be avoided to ensure that public access and parking will not be affected.

F. PUBLIC VIEWS

The City of Carlsbad has policies pertaining to the protection of public views and state in part:

Policy 8-1

The Scenic Preservation Overlay Zone should be applied where necessary throughout the Carlsbad coastal zone to assure the maintenance of existing views and panoramas. Sites considered for development should undergo review to determine if the proposed development will obstruct views or otherwise damage the visual beauty of the area. The Planning Commission should enforce appropriate height limitations and see-through construction, as well as minimize alterations to topography.

Section 21.204.100 (B & C) of the Coastal Shoreline Development Overlay Zone states:

- B. Appearance – Buildings and structures will be so located on the site as to create a generally attractive appearance and be agreeably related to surrounding development and the natural environment.*
- C. Ocean Views – Buildings, structures, and landscaping will be so located as to preserve the degree feasible any ocean views as may be visible from the nearest public street.*

The project site is currently developed with a single-family home and public ocean views do not currently exist from Tierra Del Oro across the site and to the ocean. The proposal includes construction of a two-story, 8,845 sq. ft. single-family residence including a guesthouse, two car garage, and daylighted basement. The surrounding community is comprised of structures of similar size and scale to the proposed structure. Public views are limited without the sideyard setback areas of the lot. As proposed the sideyard area will be developed with fencing only 50% open to light, and landscaping will include trees that may grow to as tall as 30 feet. As such, both fencing and landscaping may block views from Tierra del Oro Street to the ocean. The City of Carlsbad has provisions for such see-through construction. However, the City's provisions would allow for fencing that is only 50% open to light, and does not limit the height of vegetation. As such, the combination of the fencing and landscaping could effectively eliminate public views, inconsistent with the intent of the City's LCP. As such the Commission has typically required that new residences on Tierra del Oro to include fencing that is 75% open to light, and limits landscaping height (including planters) to 3 feet in height (ref. A-A-CII-07-017/Riley, A-6-CII-08-028/Moss). As such, **Special Condition #6** requires that any gating of the side yard setback areas be 75% open so as to allow public views through to the ocean. In addition, **Special Condition #6** limits the height of landscaping within the sideyard areas to no taller than three feet or lower (including raised planters). This condition will maintain the view corridors remaining in the side yard setback. Therefore, as conditioned, the project can be found consistent with the Coastal Act provisions protecting public coastal views.

G. UNPERMITTED DEVELOPMENT

Development has occurred on the subject site without benefit of a Coastal Development Permit. As previously discussed, the original revetment was constructed prior to the Coastal Act. In 1978 the Commission approved repair and maintenance work to seven residences along Tierra del Oro Street including the subject site. When the revetment

was repaired, the portion of the pre-coastal stairway on the property that was located within the footprint of the revetment was removed. Because the stairway portion on top of the revetment was removed and reconstructed, it lost its legal non-conforming status. In addition, one of the geotechnical reports submitted includes a history of the revetment and associated maintenance activities. Specifically, geotechnical report prepared by Geotechnical Exploration Inc. and dated November 12, 2013 included the following:

According to a repair proposal by Dave Martin (dated October 27, 1986), more significant repairs occurred in 1986-1987 following significant storm damage, include the placement of larger "...toe anchor stones of the eight to twelve-ton class with large, flat bottom surfaces to maximize friction and resistance to movements." Subsequent to that repair, the owner reports that the newer portion of the walkway (from termination of the older walkway and extending to the sand) was added in the early 1990's.

Commission staff have reviewed the permit history for the site and while there was a permit issued for the maintenance work completed in 1979, there is no permit history for the work to the revetment that occurred in 1986-1987. As such, the unpermitted development on site includes both maintenance to the revetment as well as construction of a replacement private access stairway located on top of the revetment. However, no development is being proposed within the revetment at this time. In addition, San Diego District staff has an existing violation case on the subject property regarding construction of the stairway, and will continue to research the previous unpermitted maintenance work to the revetment. As such, the unpermitted development will be addressed through a separate enforcement action.

Although development has taken place prior to submission of this permit application, consideration of this application by the Commission has been based solely upon the policies and provisions of the certified City of Carlsbad LCP as well as the public access and recreation policies of Chapter 3 of the Coastal Act. Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

H. LOCAL COASTAL PLANNING

The certified Carlsbad LCP Mello II segment contains in its Implementation Program, a Coastal Development (C-D) Overlay Zone, which has been discussed in this report. The purpose of the C-D zone is, among other purposes, to provide regulations for development and land uses along the coastline in order to maintain the shoreline as a unique recreational and scenic resource, affording public safety and access, and to avoid the adverse geologic and economic effects of bluff erosion.

The project as proposed would result in development that cannot be considered safe for its expected life without the protection provided by the existing rock revetment. Both the Coastal Act and the City's LCP include a provision that shoreline protective devices are

only permitted when proposed to protect *existing structures*. As such, the construction of the new home should not be reliant on the existing shoreline protection. However, the revetment is part of a larger-scale device that protects multiple homes, and thus cannot be removed at this time. A condition has been incorporated herein requiring the applicant to acknowledge that the home is sited in a location that may be subject to hazards from waves, storm eaves, bluff retreat, and erosion. An additional condition has been included providing that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to coastal development permit No. A-6-CII-15-0039 including, but not limited to, the residential addition, and any future improvements, in the event the development is threatened with damage or destruction from sea level rise, flooding, erosion, storm conditions, or other natural hazards in the future consistent with Policy 4-1 of the City's certified LCP. Furthermore, **Special Condition #8** requires the applicant to adhere to all conditions placed on the proposed development associated with the City's approval, including the provision for additional lateral public access. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the ability of the City to continue implementation of its certified LCP.

I. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits, or permit amendments, to be supported by a finding showing the permit or amendment, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). The City found the project categorically exempt from the requirement to prepare environmental documents, according to CEQA guidelines that exempt certain development. (See Cal. Code of Regs., tit. 14, §§ 15301(l) [demolition of single family residence], 15303(a) [construction of a single family residence], and 15305(a) [variances that do not create a new parcel].)

Section 21080.5(d)(2)(A) of CEQA prohibits the Commission from approving a proposed development if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Special conditions have been included that require the applicant's acknowledgement that the home is sited in an unsafe location and may be subject to hazards associated with storm events, wave activity and flooding. In addition, the project has been conditioned to require the applicant to waive their rights to any future shoreline protection. Both conditions have been included to assure the changes to the bluff, through natural erosion, storm events, and potential sea level rise will be accommodated without the construction of a new shoreline protective device. Additional conditions have been included that will prevent impacts to public access during construction, require landscaping to be native and non-invasive and chosen in the manner that will open public views from Tierra del Oro Street through the sideyard setbacks on the property and to the ocean. Finally, special conditions have been included that will assure drainage will be filtered and not flow down the coastal bluff face.

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.

(G:\San Diego\Reports\Appeals\2015\A-6-CII-15-0039 5039 Tierra Del Oro Appeal SI & de Novo staff report.docx)

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS:

- Appeal by Commissioner Dayna Bochco dated June 16, 2015;
- Appeal by Commissioner Jana Zimmer dated June 17, 2015;
- Certified City of Carlsbad Local Coastal Program.
- Geotechnical reports prepared by Geotechnical Exploration Inc. dated November 12, 2013, August 4, 2014, September 11, 2014, November 4, 2014 and July 8, 2015
- Geotechnical report prepared by Geosoils Inc. dated July 6, 2015

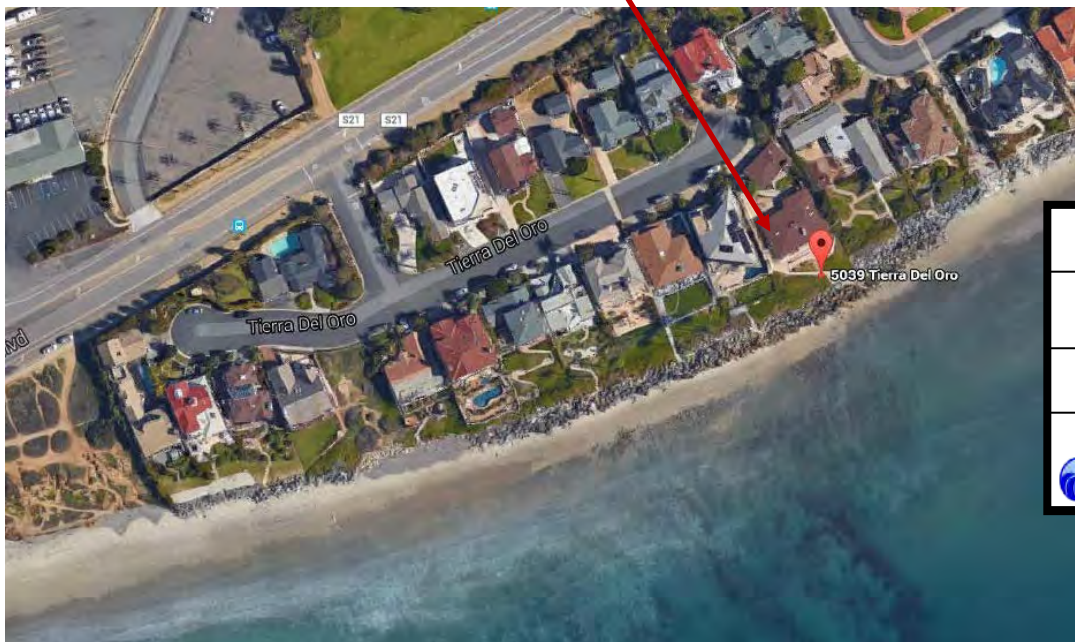


EXHIBIT NO. 1

APPLICATION NO.
A-6-CII-15-0039

Nolan

Location Map



California Coastal Commission



5039 Tierra Del Oro

EXHIBIT NO. 2

APPLICATION NO.
A-6-CII-15-0039

Nolan

Aerial Map



California Coastal Commission



5039 Tierra Del Oro

Unpermitted Stairway

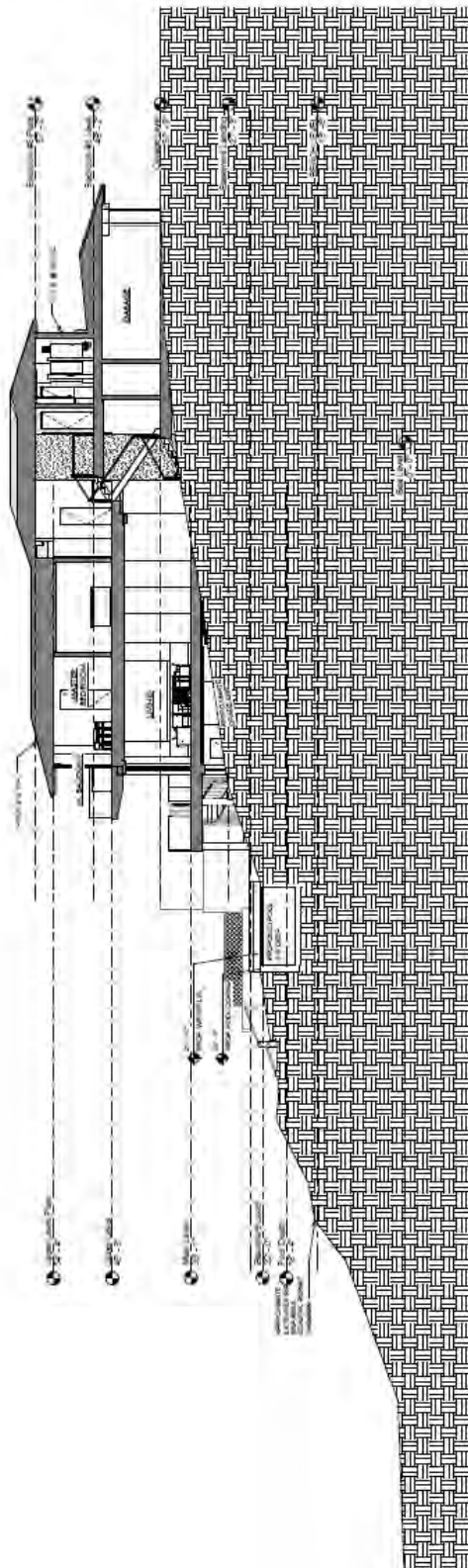


EXHIBIT NO. 4

APPLICATION NO.
A-6-CII-15-0039

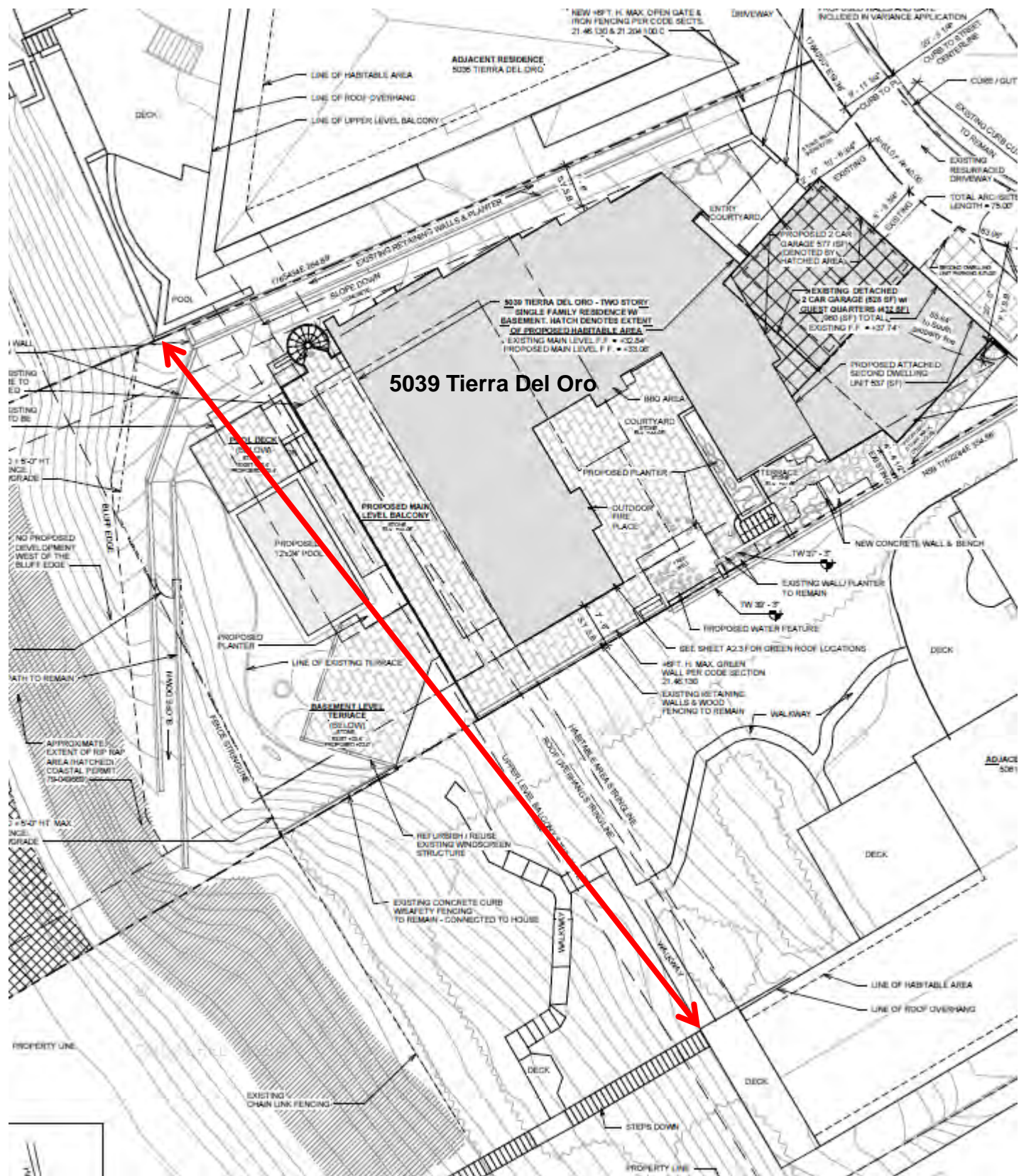
Nolan

Cross-Section



California Coastal Commission





Applied "Deck Stringline" – CCC Staff Interpretation

PLANNING COMMISSION RESOLUTION NO. 7101

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING A COASTAL DEVELOPMENT PERMIT AND MINOR VARIANCE TO 1) ALLOW FOR THE DEMOLITION OF AN EXISTING 3,056 SQUARE FOOT ONE-STORY SINGLE-FAMILY RESIDENCE WITH BASEMENT AND A PARTIAL DEMOLITION OF AN EXISTING DETACHED 528 SQUARE FOOT TWO-CAR GARAGE WITH A 432 SQUARE FOOT GUEST HOUSE; 2) ALLOW FOR THE REMODEL, EXPANSION, AND ATTACHMENT OF THE EXISTING TWO-CAR GARAGE AND GUEST HOUSE TO A NEW TWO-STORY SINGLE-FAMILY RESIDENCE WITH BASEMENT TOTALING 8,845 SQUARE FEET OF LIVING AREA ALONG WITH CONSTRUCTION OF RELATED SITE IMPROVEMENTS, INCLUDING A NEW SWIMMING POOL; AND 3) ALLOW FOR A REDUCED FRONT YARD SETBACK FROM 20'-0" TO 8'-9¾" AND A REDUCED SIDE YARD SETBACK FROM 7'-6" TO 4'-4½" TO PRESERVE THE ESTABLISHED DEVELOPMENT FOOTPRINT OF THE EXISTING GARAGE/GUEST HOUSE; AND A REDUCED FRONT YARD SETBACK FROM 20'-0" TO 12'-6¾" FOR THE REPLACEMENT OF A NEWLY DESIGNED FRONT ENTRY COURTYARD WALL WITH DECORATIVE WOOD GATE AND IRON VIEW FENCE GREATER THAN FORTY-TWO INCHES IN HEIGHT ON PROPERTY LOCATED AT 5039 TIERRA DEL ORO WITHIN THE MELLO II SEGMENT OF THE CITY'S COASTAL ZONE AND LOCAL FACILITIES MANAGEMENT ZONE 3.

CASE NAME: TIERRA DEL ORO RESIDENCE

CASE NO.: CDP 14-05/AV 15-04

WHEREAS, the Tierra Del Oro, LLC, "Owner/Developer" has filed a verified application with the City of Carlsbad regarding properties described as:

Lot 8 of Tierra Del Oro, in the City of Carlsbad, County of San Diego, State of California, according to Map thereof No. 3052, filed in the Office of the County Recorder of San Diego County, February 4, 1954

("the Property"); and

WHEREAS, said verified application constitutes a request for a Coastal Development Permit and Minor Variance as shown on Exhibits "A" – "II" dated May 20, 2015, on file in the Planning Division, TIERRA DEL ORO RESIDENCE – CDP 14-05/AV 15-04, as provided by Chapters 21.50 and 21.201 of the Carlsbad Municipal Code; and

WHEREAS, the Planning Commission did, on May 20, 2015, hearing as prescribed by law to consider said request; and

EXHIBIT NO. 6

APPLICATION NO.
A-6-CII-15-0039

Nolan

Resolution



California Coastal Commission

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, said Commission considered all factors relating to the Coastal Development Permit and Minor Variance.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the City of Carlsbad as follows:

- A) That the foregoing recitations are true and correct.
- B) That based on the evidence presented at the public hearing, the Planning Commission APPROVES TIERRA DEL ORO RESIDENCE – CDP 14-05/AV 15-04 based on the following findings and subject to the following conditions:

Findings:

Coastal Development, CDP 14-05

1. That the proposed development is in conformance with the Certified Local Coastal Program and all applicable policies in that the project site is designated for single-family residential development and the development consists of demolition, partial remodel and expansion of an existing single-family residence with an accessory garage/guest house on a 0.61 acre property; the development is consistent with the Mello II land use designation of RLM/OS; no development is proposed within the Open Space (OS) designated portions of the site reserved for the coastal bluff and the beach area below; the proposed residence, which includes a decorative iron type view fencing perpendicular to the north property line with ≥50% open type design, does not obstruct views of the coastline as seen from public lands or public rights-of-way or otherwise damage the visual beauty of the coastal zone; no agricultural activities, geological instability or coastal access opportunities exist on the previously graded and developed site; and no sensitive biological resources exist on site as discussed in the project staff report.
2. The proposal is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act in that while the property is located adjacent to the shore, the project will not interfere with the public's right to physical access as there are existing vertical shoreline public access points in close proximity of the project site located to the north along Carlsbad Boulevard across from the Encina Power Plant, and to the south along Carlsbad Boulevard near Cerezo Drive; and the proposal will not deny the public access to the beach in that the project is conditioned to dedicate a lateral public access easement with a minimum width of 25 feet of dry sandy beach at all times of the year to the California Coastal Commission or their designee as agreed to with the California Coastal Commission.
3. The project is consistent with the provisions of the Coastal Resource Protection Overlay Zone (Chapter 21.203 of the Zoning Ordinance) in that the project will adhere to the City's Master Drainage Plan, Grading Ordinance, Storm Water Ordinance, Standard Urban Storm Water Mitigation Plan (SUSMP) and Jurisdictional Urban Runoff Management Program (JURMP) to avoid increased urban run-off, pollutants and soil erosion. No development occurs within areas of natural steep slopes (≥25%); no native vegetation is located on the subject property;

1 and no development occurs within the 100 year flood plain. A geotechnical analysis prepared
2 for the project indicates that the site is not located in an area prone to landslides or slope
3 instability; and seismic hazards, such as risk of liquefaction, tsunami and seiche, is considered
4 low.

4. The project is consistent with the provisions of the Coastal Shoreline Development Overlay
5 Zone (Chapter 21.204 of the Zoning Ordinance) in that a) the project does not interfere with
6 the public's right to physical access as there are existing vertical shoreline public access points
7 in close proximity to the north and south of the project site as discussed in the project staff
8 report; b) the proposal does not deny the public access to the beach in that the project has
9 been conditioned to dedicate a lateral public access easement with a minimum width of 25
10 feet of dry sandy beach at all times of the year to the California Coastal Commission or their
11 designee as agreed to with the California Coastal Commission; c) a geotechnical analysis and
12 subsequent updates for the project concluded that the proposed development, including the
13 addition of a new swimming pool, will have no adverse effect on the stability of the coastal
14 bluff and that the site is suitable for the proposed development; d) all enclosed portions of
15 the proposed structures, including decks and other appurtenances, adhere to the coastal
16 "stringline" setback requirements; and for the proposed swimming pool, where no
17 "stringline" opportunity exists to the south, is proposed at or below existing grade, does not
18 encroach into or penetrate the coastal bluff, and is proposed within an area of existing
19 improvements (i.e., existing concrete patio and existing basement footprint); e) the project
20 proposes an attractive architectural design that is well articulated and consistent with other
21 adjacent homes within the neighborhood; and with exception to the southwest corner of the
22 existing garage/guest house structure, which is proposed to remain and the subject of a minor
23 variance, all new additions comply with the applicable side yard setback requirements, and to
24 the extent feasible along the north elevation, will continue to preserve existing ocean views
25 from the public street. Decorative iron type view fencing with a ≥50% open design replaces
26 an existing iron view fence with wide iron slats and a solid stone wall, thus increasing ocean
27 views from the public street; f) the proposed single-family home, to the extent feasible,
28 retains the natural features and topography of the site, and all new habitable living area is
stepping further back from the ocean in comparison to the existing residential footprint (i.e.,
the proposed basement footprint moves eastward approximately 21 feet while the main level
moves eastward approximately 12 feet); g) the improved site has been previously graded to
accommodate the existing single-family residence, basement and detached accessory
garage/guest house, and only minor grading for the basement and swimming pool
improvements are proposed; and h) the proposed landscape has been designed to use an
efficient irrigation system and eliminate dry weather flow.

Minor Variance, AV 15-04

5. That because of special circumstances applicable to the subject property, including size, shape,
topography, location or surroundings, the strict application of the zoning ordinance deprives
such property of privileges enjoyed by other property in the vicinity and under identical zoning
classification, in that the subject site is constrained between the street right-of-way and
coastal bluff, and application of both the "stringline" setback requirements for structures and
rear yard amenities combined with a required 20-foot front yard setback, the buildable area
of the site is significantly reduced and an average of less than 18% of the site is considered
developable. Therefore, setbacks applicable to the subject lot results in a significantly smaller
buildable area than that of comparable sized lots. Additionally, other residences within the
immediate neighborhood and along other coastal bluff areas of the city have been developed

1 with 10-foot or less front yard setbacks and/or 5-foot or less side yard setbacks, or have
2 received approval of variances for 10-foot or less front yard setbacks and/or 5-foot or less
3 side yard setbacks. The requested 12'-6 $\frac{3}{4}$ " reduced front yard setback for the replacement of
4 a newly designed front entry courtyard wall with decorative wood gate and iron view fence
5 greater than forty-two inches in height; and also the 8'-9 $\frac{3}{4}$ " front yard setback and 4'-4 $\frac{1}{2}$ " side
6 yard setback for a limited portion of the existing garage/guest house is consistent with that
7 which was legally constructed in 1959; does not exceed 75% (i.e., 15'-0") of the required front
8 yard; does not exceed 75% (i.e., 5'- $\frac{3}{4}$ ") of the required side yard; does not exceed other front
9 and side yard setback variance requests granted in the same zone and general vicinity, and
10 would not constitute a special privilege that is not enjoyed by other properties in the general
11 vicinity and under identical zoning classifications.

12 6. That the minor variance shall not constitute a grant of special privileges inconsistent with the
13 limitations upon other properties in the vicinity and zone in which the subject property is
14 located and is subject to any conditions necessary to assure compliance with this finding, in that
15 other residences within the immediate neighborhood and along other coastal bluff areas of
16 the city that have 10-foot or less front yard setbacks and 5-foot or less side yard setbacks, so
17 the proposed setback reductions will be consistent with the setbacks allowed for other
18 properties in the same general vicinity and zone; and therefore, would not constitute a special
19 privilege that is not enjoyed by other properties in the same general vicinity and under the
20 identical zoning classification.

21 7. That the minor variance does not authorize a use or activity which is not otherwise expressly
22 authorized by the zone regulation governing the subject property, in that the proposed design
23 will result in the remodel of an existing legally constructed garage/guest house and the
24 replacement of an existing courtyard wall and iron view fence greater than forty-two inches in
25 height with a newly designed courtyard wall with decorative wood gate and iron view fence
26 greater than forty-two inches in height, maintaining the current use of the property as a one-
27 family dwelling while updating the appearance and functionality. The granting of the minor
28 variance does not authorize a use or activity which is not otherwise expressly authorized by
the zone regulations governing the property.

8. That the minor variance is consistent with the general purpose and intent of the general plan
and any applicable specific or master plans, in that the proposed use will remain as a one-
family dwelling, consistent with the Residential Low-Medium (RLM) Density designation; the
proposed project does not change the use or density of the property as discussed above; no
development is proposed within the Open Space (OS) designated portions of the site reserved
for coastal bluff and beach area below; and the granting of this variance would not be
materially detrimental to the public welfare or injurious to the property or improvements in
the vicinity and zone in which the property is located in that other residences within the
immediate neighborhood and along other coastal bluff areas of the city have been developed
with reduced setbacks.

9. That the minor variance is consistent with and implements the requirements of the certified
local coastal program and that the variance does not reduce or in any manner adversely affect
the protection of coastal resources as specified in the zones included in this title, and that the
variance implements the purposes of zones adopted to implement the local coastal program
land use plan, in that the granting of a minor variance is consistent with and implements the
requirements of the Local Coastal Program, and will not have an adverse effect on coastal
resources as discussed in the project staff report. Furthermore, the project will maintain

1 coastal "stringline" limits, building height and lot coverage requirements; will not impact
2 steep slopes; will continue to preserve ocean views as seen from the public street along the
3 north property line; and will have no impact on sensitive environmental resources.

4 **California Environmental Quality Act (CEQA):**

- 5 10. The City Planner has determined that the project belongs to a class of projects that the State
6 Secretary for Resources has found do not have a significant impact on the environment, and it is
7 therefore categorically exempt from the requirement for preparation of environmental
8 documents pursuant to Sections 15301(l), 15303(a), and 15305(a) of the State CEQA
9 Guidelines. More specifically, CEQA Section 15301(l) – Existing Structures, is a Class 1
10 exemption that includes demolition and removal of small structures, such as but not limited
11 to, one single-family residence. Consistent with this section, the project includes the
12 demolition of one (1) existing single-family residence in preparation for the construction of a
13 new single-family home along with the remodel of an existing accessory structure consisting
14 of a two-car garage and guest house. CEQA Section 15303(a) – New Construction or
15 Conversion of Small Structures, is a Class 3 exemption that includes the construction of one
16 single-family residence or second dwelling unit in a residential zone. Consistent with the
17 section, the project is proposing to construct a new single-family residence in place of an
18 existing single-family residence, which is located on a residentially zoned property (i.e., R-1
Zone). CEQA Section 15305(a) – Minor Alterations in Land Use Limitations, is a Class 5
exemption consisting of minor alterations in land use limitations in areas with an average
slope of less than 20%, which do not result in any changes in land use density, including but
not limited to, minor lot line adjustments, side yard, and setback variances not resulting in
the creation of any new parcels. Consistent with this section, the project is proposing a
setback variance (i.e., 8'-9½" reduced front yard and a 4'-4½" reduced side yard along the
south side of an existing detached garage/guest house, and a 12'-6¾" reduced front yard
setback for the replacement of a newly designed front entry courtyard wall with decorative
wood gate and iron view fence that is greater than forty-two inches in height) in an area of
the parcel with an average slope of less than 20% and of which does not result in any changes
in land use density. In making this determination, the City Planner has found that the
exceptions listed in Section 15300.2 of the State CEQA Guidelines do not apply to this project.

19 **General**

- 20 11. The project is consistent with the City-Wide Facilities and Improvements Plan, the Local
21 Facilities Management Plan for Zone 3 and all City public policies and ordinances. The project
22 includes elements or has been conditioned to construct or provide funding to ensure that all
23 facilities and improvements regarding: sewer collection and treatment; water; drainage;
24 circulation; fire; schools; parks and other recreational facilities; libraries; government
25 administrative facilities; and open space, related to the project will be installed to serve new
26 development prior to or concurrent with need. Specifically,
27
28 a. The project has been conditioned to provide proof from the **Carlsbad Unified School District**
that the project has satisfied its obligation for school facilities.
b. The Public Facility fee is required to be paid by Council Policy No. 17 and will be collected
prior to the issuance of building permit.

c. The Local Facilities Management fee for Zone 3 is required by Carlsbad Municipal Code Section 21.90.050 and will be collected prior to issuance of building permit.

12. That the project is consistent with the City's Landscape Manual and Water Efficient Landscape Ordinance (Carlsbad Municipal Code Chapter 18.50).

13. The Planning Commission has reviewed each of the exactions imposed on the Developer contained in this resolution, and hereby finds, in this case, that the exactions are imposed to mitigate impacts caused by or reasonably related to the project, and the extent and the degree of the exaction is in rough proportionality to the impact caused by the project.

Conditions:

Note: Unless otherwise specified herein, all conditions shall be satisfied prior to the **approval of the demolition permit, grading permit or building permit whichever occurs first.**

1. If any of the following conditions fail to occur, or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the City shall have the right to revoke or modify all approvals herein granted; deny or further condition issuance of all future building permits; deny, revoke, or further condition all certificates of occupancy issued under the authority of approvals herein granted; record a notice of violation on the property title; institute and prosecute litigation to compel their compliance with said conditions or seek damages for their violation. No vested rights are gained by Developer or a successor in interest by the City's approval of this **Coastal Development Permit and Minor Variance.**

2. Staff is authorized and directed to make, or require the Developer to make, all corrections and modifications to the **Coastal Development Permit and Minor Variance** documents, as necessary to make them internally consistent and in conformity with the final action on the project. Development shall occur substantially as shown on the approved Exhibits. Any proposed development, different from this approval, shall require an amendment to this approval.

3. Developer shall comply with all applicable provisions of federal, state, and local laws and regulations in effect at the time of building permit issuance.

4. If any condition for construction of any public improvements or facilities, or the payment of any fees in-lieu thereof, imposed by this approval or imposed by law on this Project are challenged, this approval shall be suspended as provided in Government Code Section 66020. If any such condition is determined to be invalid, this approval shall be invalid unless the City Council determines that the project without the condition complies with all requirements of law.

5. Developer/Operator shall and does hereby agree to indemnify, protect, defend, and hold harmless the City of Carlsbad, its Council members, officers, employees, agents, and representatives, from and against any and all liabilities, losses, damages, demands, claims and costs, including court costs and attorney's fees incurred by the City arising, directly or indirectly, from (a) City's approval and issuance of this **Coastal Development Permit and Minor Variance** (b) City's approval or issuance of any permit or action, whether discretionary or nondiscretionary, in connection with the use contemplated herein, and (c) Developer/Operator's installation and operation of the facility permitted hereby, including

without limitation, any and all liabilities arising from the emission by the facility of electromagnetic fields or other energy waves or emissions. This obligation survives until all legal proceedings have been concluded and continues even if the City's approval is not validated.

6. Developer shall submit to the **Planning Division** a reproducible 24" x 36" mylar copy of the **Site Plan** reflecting the conditions approved by the final decision-making body.

7. Prior to the issuance of a building permit, the Developer shall provide proof to the Building Division from the **Carlsbad Unified** School District that this project has satisfied its obligation to provide school facilities.

8. This project shall comply with all conditions and mitigation measures which are required as part of the **Zone 3 Local Facilities Management Plan** and any amendments made to that Plan prior to the issuance of building permits.

9. This approval shall become null and void if building permits are not issued for this project within 24 months from the date of project approval.

10. Developer shall submit to the City a Notice of Restriction executed by the owner of the real property to be developed. Said notice is to be filed in the office of the County Recorder, subject to the satisfaction of the City Planner, notifying all interested parties and successors in interest that the City of Carlsbad has issued a **Coastal Development Permit and Minor Variance** by Resolution No. 7101 on the property. Said Notice of Restriction shall note the property description, location of the file containing complete project details and all conditions of approval as well as any conditions or restrictions specified for inclusion in the Notice of Restriction. The City Planner has the authority to execute and record an amendment to the notice which modifies or terminates said notice upon a showing of good cause by the Developer or successor in interest.

11. Building permits will not be issued for this project unless the local agency providing water and sewer services to the project provides written certification to the City that adequate water service and sewer facilities, respectively, are available to the project at the time of the application for the building permit, and that water and sewer capacity and facilities will continue to be available until the time of occupancy.

12. Developer shall pay the citywide Public Facilities Fee imposed by City Council Policy #17, the License Tax on new construction imposed by Carlsbad Municipal Code Section 5.09.030, and CFD #1 special tax (if applicable), subject to any credits authorized by Carlsbad Municipal Code Section 5.09.040. Developer shall also pay any applicable Local Facilities Management Plan fee for **Zone 3**, pursuant to Chapter 21.90. All such taxes/fees shall be paid at issuance of building permit. If the taxes/fees are not paid, this approval will not be consistent with the General Plan and shall become void.

13. Developer shall submit and obtain City Planner approval of a Final Landscape and Irrigation Plan showing conformance with the approved Preliminary Landscape Plan and the City's Landscape Manual. Developer shall construct and install all landscaping as shown on the approved Final Plans, and maintain all landscaping in a healthy and thriving condition, free from weeds, trash, and debris.

14. The first submittal of Final Landscape and Irrigation Plans shall be pursuant to the landscape plan check process on file in the Planning Division and accompanied by the project's building, improvement, and grading plans.
15. Approval is granted for **CDP 14-05 and AV 15-04** as shown on Exhibits "A" – "II", dated **May 20, 2015**, on file in the Planning Division and incorporated herein by reference. Development shall occur substantially as shown unless otherwise noted in these conditions.
16. **Prior to the issuance of a building permit, the owner shall comply with the Coastal Shoreline Development Overlay Zone (Chapter 21.204 of the Zoning Ordinance), and dedicate a lateral public access easement with a minimum width of twenty-five feet of dry sandy beach at all times of the year to the California Coastal Commission or their designee as agreed to with the California Coastal Commission.**
17. The proposed bar area located within the basement level of the proposed single-family home shall comply with all zoning standards governing "wet bars" as defined in Section 21.04.378.1 of the Carlsbad Municipal Code.

Engineering:

General

18. Prior to hauling dirt or construction materials to or from any proposed construction site within this project, developer shall apply for and obtain approval from, the city engineer for the proposed haul route.
19. Developer shall install sight distance corridors at all driveways in accordance with City Engineering Standards. The property owner shall maintain this condition.

Fees/Agreements

20. Developer shall cause property owner to execute and submit to the city engineer for recordation, the city's standard form Geologic Failure Hold Harmless Agreement.
21. Developer shall cause property owner to execute and submit to the city engineer for recordation the city's standard form Drainage Hold Harmless Agreement.
22. Prior to approval of any grading or building permits for this project, developer shall cause owner to give written consent to the city engineer for the annexation of the area shown within the boundaries of the site plan into the existing City of Carlsbad Street Lighting and Landscaping District No. 1 and/or to the formation or annexation into an additional Street Lighting and Landscaping District. Said written consent shall be on a form provided by the city engineer.

Grading

23. Based upon a review of the proposed grading and the grading quantities shown on the site plan, a grading permit for this project is required. Developer shall prepare and submit plans and technical studies/reports for city engineer review, post security and pay all applicable grading plan review and permit fees per the city's latest fee schedule.

24. Developer acknowledges that, pursuant to Order No. R9-2013-0001 issued by the California Regional Water Quality Control Board, new storm water requirements become effective near the end of 2015, could affect the design of this project. Prior to construction, Developer shall demonstrate compliance with latest storm water requirements to the satisfaction of the city engineer.

25. Developer shall comply with the city's Stormwater Regulations, latest version, and shall implement best management practices at all times. Best management practices include but are not limited to pollution control practices or devices, erosion control to prevent silt runoff during construction, general housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices or devices to prevent or reduce the discharge of pollutants to stormwater, receiving water or stormwater conveyance system to the maximum extent practicable. Developer shall notify prospective owners and tenants of the above requirements.

26. Developer shall complete and submit to the city engineer a Project Threat Assessment Form (PTAF) pursuant to City Engineering Standards. Concurrent with the PTAF, developer shall also submit the appropriate Tier level Storm Water Compliance form and appropriate Tier level Storm Water Pollution Prevention Plan (SWPPP) as determined by the completed PTAF all to the satisfaction of the city engineer. Developer shall pay all applicable SWPPP plan review and inspection fees per the city's latest fee schedule.

27. Developer is responsible to ensure that all final design plans (grading plans, landscape plans, building plans, etc.) incorporate all source control, site design and Low Impact Design (LID) facilities.

28. Developer shall incorporate measures with this project to comply with Standard Stormwater Requirements per the city's Standard Urban Stormwater Management Plan (SUSMP). These measures include, but are not limited to reducing the use of new impervious surfaces (e.g.: paving) and designing drainage from impervious surfaces to discharge over pervious areas (e.g.: turf, landscape areas) all to the satisfaction of the city engineer.

Utilities

29. Developer shall meet with the fire marshal to determine if fire protection measures (fire flows, fire hydrant locations, building sprinklers) are required to serve the project. Fire hydrants, if proposed, shall be considered public improvements and shall be served by public water mains to the satisfaction of the district engineer.

30. Prior to issuance of building permits, developer shall pay all fees, deposits, and charges for connection to public facilities.

Code Reminders:

The project is subject to all applicable provisions of local ordinances, including but not limited to the following:

31. Prior to the issuance of a building permit, Developer shall pay the Local Facilities Management fee for Zone 3 as required by Carlsbad Municipal Code Section 21.90.050.

- 1 32. Developer shall pay a landscape plan check and inspection fee as required by Section 20.08.050
2 of the Carlsbad Municipal Code.
- 3 33. Developer shall pay planned local area drainage fees in accordance with Section 15.08.020 of
4 the City of Carlsbad Municipal Code to the satisfaction of the city engineer.
- 5 34. Approval of this request shall not excuse compliance with all applicable sections of the Zoning
6 Ordinance and all other applicable City ordinances in effect at time of building permit issuance,
7 except as otherwise specifically provided herein.
- 8 35. Premise identification (addresses) shall be provided consistent with Carlsbad Municipal Code
9 Section 18.04.320.

10 NOTICE TO APPLICANT

11 An appeal of this decision to the City Council must be filed with the City Clerk at 1200 Carlsbad Village
12 Drive, Carlsbad, California, 92008, within ten (10) calendar days of the date of the Planning
13 Commission's decision. Pursuant to Carlsbad Municipal Code Chapter 21.54, section 21.54.150, the
14 appeal must be in writing and state the reason(s) for the appeal. The City Council must make a
15 determination on the appeal prior to any judicial review.

16 NOTICE

17 Please take **NOTICE** that approval of your project includes the "imposition" of fees, dedications,
18 reservations, or other exactions hereafter collectively referred to for convenience as "fees/exactions."

19 You have 90 days from date of final approval to protest imposition of these fees/exactions. If you
20 protest them, you must follow the protest procedure set forth in Government Code Section 66020(a),
21 and file the protest and any other required information with the City Manager for processing in
22 accordance with Carlsbad Municipal Code Section 3.32.030. Failure to timely follow that procedure will
23 bar any subsequent legal action to attack, review, set aside, void, or annul their imposition.

24 You are hereby FURTHER NOTIFIED that your right to protest the specified fees/exactions DOES NOT
25 APPLY to water and sewer connection fees and capacity charges, nor planning, zoning, grading, or other
26 similar application processing or service fees in connection with this project; NOR DOES IT APPLY to any
27 fees/exactions of which you have previously been given a NOTICE similar to this, or as to which the
28 statute of limitations has previously otherwise expired.

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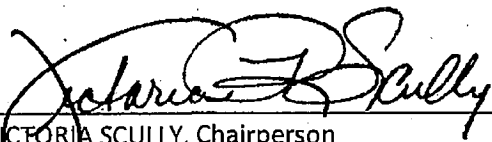
1 PASSED, APPROVED, AND ADOPTED at a regular meeting of the Planning Commission of the City
2 of Carlsbad, California, held on **May 20, 2015**, by the following vote, to wit:

3 AYES: Chairperson Scully, Commissioners Anderson, Black, L'Heureux,
4 Montgomery and Segall

5 NOES:

6 ABSENT: Commissioner Siekmann

7 ABSTAIN:

8
9
10 
11 VICTORIA SCULLY, Chairperson
12 CARLSBAD PLANNING COMMISSION

13 ATTEST:

14 
15 DON NEU
16 City Planner

CALIFORNIA COASTAL COMMISSION

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

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Dayna Bochco
Mailing Address: 45 Fremont Street
Suite 2000
San Francisco, CA 94105
Phone Number: (415) 904-5200

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Carlsbad
2. Brief description of development being appealed: Demolition of existing 3,056 square foot, one-story single-family residence with basement, along with the partial demolition of an existing detached 528 square foot two-car garage with attached 432 square foot guest house, and the construction of a new two-story 8,845 square foot single-family residence with basement and a new pool (with pool deck) on a 26,600 square foot blufftop lot.
3. Development's location (street address, assessor's parcel no., cross street, etc.):
The property is located at the southern terminus of Tierra Del Oro, at 5039 Tierra Del Oro (APN: 210-020-08) within the Mello II LCP Segment.
4. Description of decision being appealed:
a. Approval; no special conditions: ☐ b. Approval with special conditions: ☒
c. Denial: ☐ d. Other: ☐ _____
Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-CII-15-0039
DATE FILED: 6/17/2015
DISTRICT: San Diego

RECEIVED

JUN 16 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

EXHIBIT NO. 7

APPLICATION NO.
A-6-CII-15-0039

Nolan

Appeal Forms



California Coastal Commission

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

a. ☐ Planning Director/Zoning
Administrator

c. ☒ Planning Commission

b. ☐ City Council/Board of
Supervisors

d. ☐ Other

Date of local government's decision: May 20, 2015

Local government's file number (if any): CDP 14-05

SECTION III. Identification of Other Interested Persons

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

Name and mailing address of permit applicant:

Carson Nolan
Island Architects
7626 Herschel Avenue
La Jolla, CA 92037

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

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Page 3

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

SEE ATTACHMENT A

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

SECTION V. Certification

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

Signed: *[Signature]*
Appellant or Agent

Dated: *6/14/15*

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Dated: _____

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CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

Attachment A

6/17/2015

The proposed project involves demolition of an existing 3,056 square foot, one-story single-family residence with basement, along with the partial demolition of an existing detached 528 square foot two-car garage with attached 432 square foot guest house, and the construction of a new two-story 8,845 square foot single-family residence with basement and a new pool (with pool deck) on a 26,600 square foot blufftop property. The project site is a coastal blufftop lot located on the west side of Tierra Del Oro, just south of Cannon Road. The existing residence was built in 1959, with private stair access extending across the bluff face and to the beach, and a rip rap revetment along the rear property line established prior to the Coastal Act.

The City found that the subject single family residence is consistent with the blufftop and shoreline development provisions of the certified Local Coastal Program (LCP). However, the development as approved by the City raises several LCP consistency issues with regard to stringline setbacks, geologic stability analysis, bluff edge determination, and previously unpermitted development.

Ocean Setback ("Stringline")

The City's certified LCP prohibits new development from extending further seaward than a "stringline" drawn between adjacent developments. Specifically, Section 21.204.050.B. of the Coastal Shoreline Development Overlay Zone (part of the City's Implementation Plan, "IP") states:

New development fronting the ocean shall observe at a minimum, an ocean setback based on a "stringline" method of measurement. No enclosed portions of a structure shall be permitted further seaward than those allowed by a line drawn between the adjacent structure to the north and south; no decks or other appurtenances shall be permitted further seaward than those allowed by a line drawn between those on the adjacent structures to the north and south. A greater ocean setback may be required for geologic reasons and if specified in the local coastal program.

The new single-family residence would be rebuilt 12 feet inland of the existing building footprint, at the main level, and by 21 feet at the basement level. This proposed change to relocate the main residence landward of the existing building footprint complies with the enclosed (habitable) development stringline requirement. The City, however, did not apply a stringline for decks/unenclosed accessory structures.

The City found that the project is consistent with the stringline provisions of the LCP; however, while the stringline for habitable structures was applied correctly and resulted in the new residence being sited further landward, the stringline for decks/unenclosed accessory structures was not applied to the approved plans. This would result in the encroachment of new development approximately 1 – 10' seaward beyond the allowable stringline and result in the existing terrace, pool, pool deck, and other accessory developments extending seaward beyond similar existing accessory structures on adjacent properties to the north and south of the subject site.

Geologic Analysis

The certified Carlsbad Mello II LCP Segment contains policies that address when reliance on shoreline protective devices can be considered. The City's certified Mello II Land Use Plan (LUP) includes Policy 4-1, Subsection III (Shoreline Structures), which is echoed by Section 21.204.040.B. (Conditional Beach Uses) of the City's IP, and both identify that shoreline armoring shall only be allowed to protect existing development, coastal-dependent uses, or public beaches in danger of erosion.

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

In establishing the development setbacks and their adequacy to protect development over the lifespan of the improvements, the Geologic Report identified that a 1.5 factor of safety delineation for the subject site, with an applied erosion rate over 75 years, could only accommodate the proposed development with reliance upon the existing rip rap revetment fronting the subject site as a shoreline protection measure. The Geologic Report failed to evaluate whether or not the proposed new development would be safe without reliance on shoreline armoring. In this case the proposed project includes demolition of the existing structure and the construction of a new structure that should be sited in a location that would not require stability afforded by either existing or future shoreline armoring. This requirement is especially relevant given the future potential for sea level rise, and provides for greater flexibility regarding adaptive measures that may be necessary related to future shoreline management strategies.

Delineation of Coastal Bluff Edge

The certified Carlsbad Mello II LUP contains policies that address bluff preservation. Policy 4-1 provides:

(d) Undevelopable Shoreline Features

No development shall be permitted on any sand or rock beach or on the face of any ocean bluff, with the exception of accessways to provide public beach access and of limited public recreation facilities.

The Geologic Report conducted for the subject site delineated the bluff edge for the property at a lower elevation and further seaward than several other bluff edge determinations conducted for the previous redevelopment of properties located in close proximity to the subject site, and along the same coastal headland. The Geologic Report identified the bluff edge as following a line extending downslope along an existing concrete walkway and retaining wall that traverse the bluff. This identification resulted in a bluff edge determination at an elevation approximately 10 feet lower than previous bluff edge determinations conducted for similar properties located atop the same bluff. While the City did not directly rely on the bluff edge determination to identify appropriate setback and siting for the proposed development, the bluff edge identified within the Geologic Report could allow for

future encroachment along the bluff face that could be inconsistent with the certified LCP if allowed to be recognized at this lower elevation.

Unpermitted Development

The existing residence was built in 1959, with private stair access to the beach and a rip rap revetment along the rear property line established prior to the Coastal Act. In 1978 (under permit #F7529) seven properties along Tierra Del Oro (including the subject property), received Coastal Commission approval to repair and upgrade the existing revetment, due to erosional impacts at the time. When the revetment was repaired, the portion of the pre-coastal stairway on the property that was located within the footprint of the revetment was removed. However, several years later, a new private stairway was constructed through the revetment on the subject property to access the beach, without any local or Commission approval. The City's recent review of the subject site did not address the potential violation of the revetment stairway which accesses the beach, and instead remained silent on the existence of the unpermitted stairway within the revetment. Any redevelopment should address unpermitted development existing on the subject site in order to bring those items into conformance with the certified LCP.

CALIFORNIA COASTAL COMMISSION

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



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Jana Zimmer
Mailing Address: 45 Fremont Street
Suite 2000
San Francisco, CA 94105
Phone Number: (415) 904-5200

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Carlsbad
2. Brief description of development being appealed: Demolition of existing 3,056 square foot, one-story single-family residence with basement, along with the partial demolition of an existing detached 528 square foot two-car garage with attached 432 square foot guest house, and the construction of a new two-story 8,845 square foot single-family residence with basement and a new pool (with pool deck) on a 26,600 square foot blufftop lot.
3. Development's location (street address, assessor's parcel no., cross street, etc.):
The property is located at the southern terminus of Tierra Del Oro, at 5039 Tierra Del Oro (APN: 210-020-08) within the Mello II LCP Segment.
4. Description of decision being appealed:
 - a. Approval; no special conditions: ☐
 - b. Approval with special conditions: ☒
 - c. Denial: ☐
 - d. Other: ☐ _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-CII-15-0039

DATE FILED: 6/17/2015

DISTRICT: San Diego

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JUN 17 2015

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

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

a. ☐ Planning Director/Zoning
Administrator

c. ☒ Planning Commission

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Supervisors

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Ref: 5039 Tierra Del Oro Carlsbad

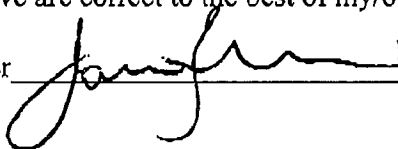
See Attached

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Signed: Commissioner Jana Zimmer
Appellant or Agent



Dated: June 17, 2015 _____

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Dated: _____

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6/17/2015

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SITE PLAN NOTES

OWNER
 Terra Del Oro LLC
 4700 Terra Del Oro
 Rancho Santa Fe, CA 92057

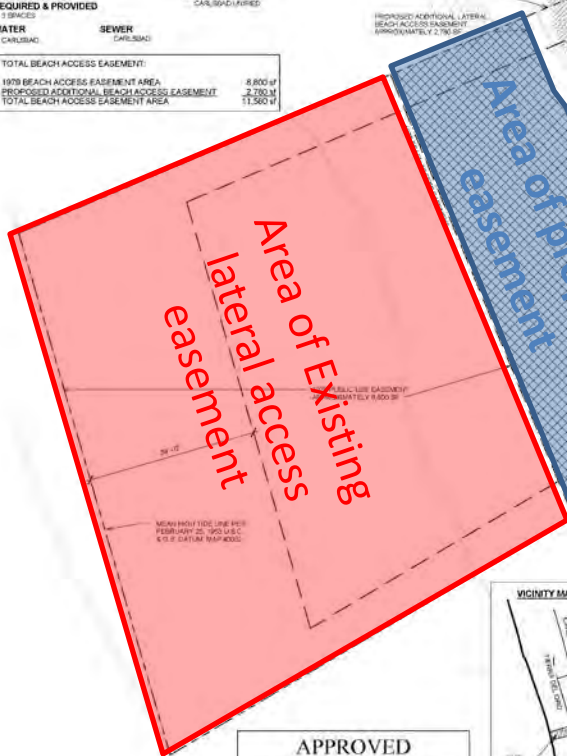
CIVIL ENGINEER
 SOUTHERN ENGINEERING, INC.
 10400 JENNIFER ROAD, SUITE 100
 SAN DIEGO, CA 92121-5277
 TEL: (619) 594-0101

PROJECT NAME
 Terra Del Oro Residence

APPLICATION TYPES SUBMITTED
 Coastal Development Permit (CDP) 14-09
 Administrative Reviewing (AR) 15-06
 Coastal Development Permit (CDP) 15-18

SUMMARY TABLE

SITE ADDRESS	A.P.N.	LEGAL DESCRIPTION
5039 Terra Del Oro Carlsbad, CA 92008	000000000000000000	14-0-0-0000000000000000
SITE AREA	ZONE	EXISTING & PROPOSED LAND USE
5084 sq. ft. (net)	R-1	Residential Single-Family
NUMBER OF LOTS	DENSITY	
1 EXISTING 1 PROPOSED	EXISTING: 1 MAIN DWELLING w/ QUART HOUSE PROPOSED: 1 MAIN DWELLING & SECOND DWELLING UNIT	
TOTAL BUILDING COVERAGE:		
ALLOWABLE FOR ZONE (R-1):	40%	
LOT AREA:	26,800 SF	
BUILDING COVERAGE:	5,110 SF	19%
PROPOSED BUILDING AREA	% OF LANDSCAPING	
MAIN HOUSE: 8,108 SF	15%	
2ND DWELLING UNIT: 107 SF		
PARKING SPACES REQUIRED & PROVIDED	SCHOOL DISTRICT	
2 SPACES	CARLSBAD UNIFIED	
WATER	SEWER	
CARLSBAD	CARLSBAD	
TOTAL BEACH ACCESS EASEMENT:		
1979 BEACH ACCESS EASEMENT AREA	8,800 SF	
PROPOSED ADDITIONAL BEACH ACCESS EASEMENT	2,700 SF	
TOTAL BEACH ACCESS EASEMENT AREA	11,500 SF	



APPROVED

THIS IS THE APPROVED TENTATIVE MAP/SITE PLAN FOR PROJECT NO. _____ FOR CONSIDERATION NO. _____ OF PLANNING COMMISSION RESOLUTION NO. _____

PLANNING DIVISION DATE: _____ ENGINEERING DIVISION DATE: _____

Site Plan 3/22 - 11-0 ①

EXHIBIT NO. 8

APPLICATION NO. A-6-CII-10-0039

Lateral Access Easements

California Coastal Commission

Tierra Del Oro Residence
 5039 Terra Del Oro, Carlsbad CA 92008

A1.0

1/10/2014

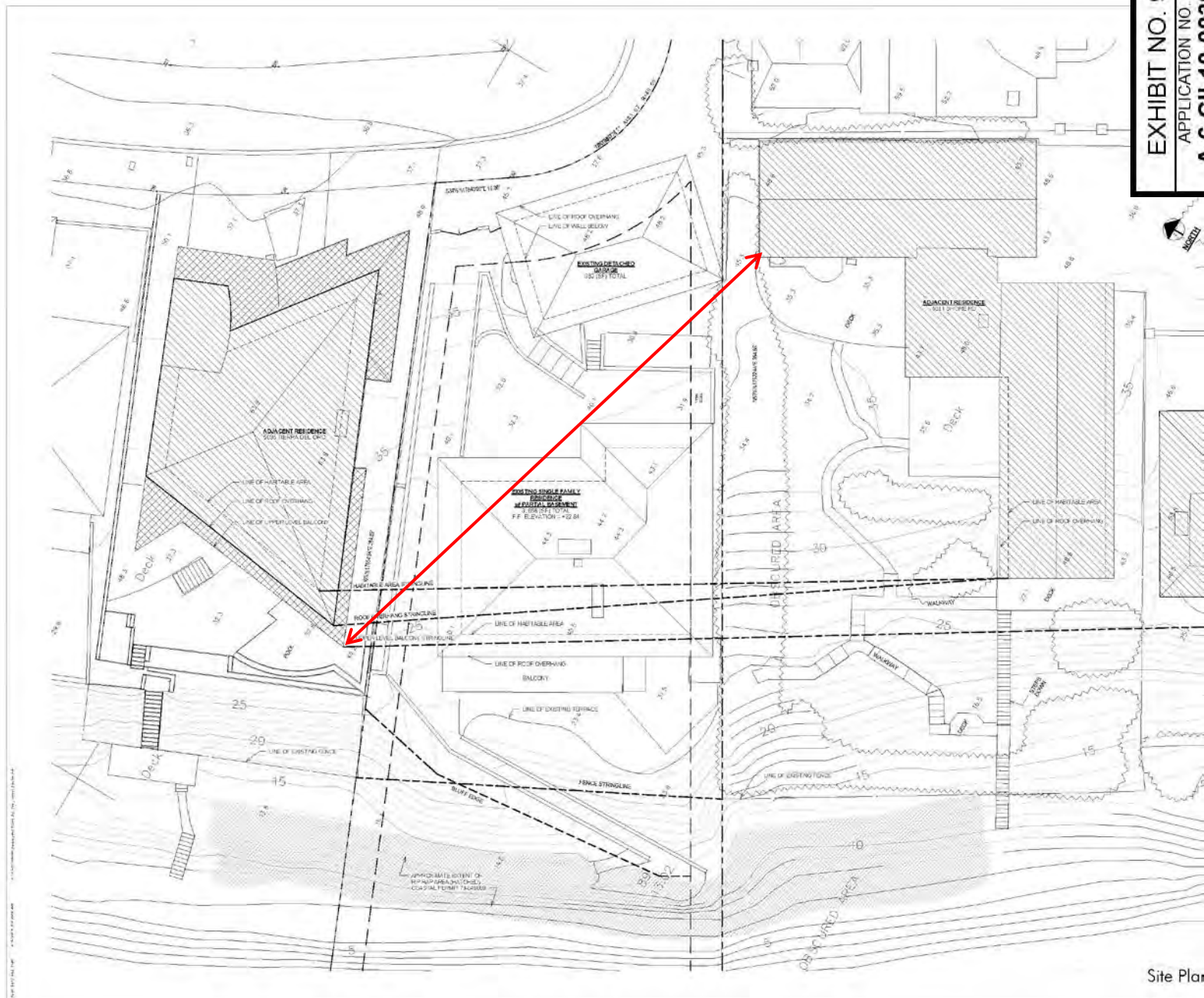


EXHIBIT NO. 9

APPLICATION NO.

A-6-CII-10-0039

CCC Habitable

Stringline



Applied “Habitable Stringline” – CCC Staff Interpretation

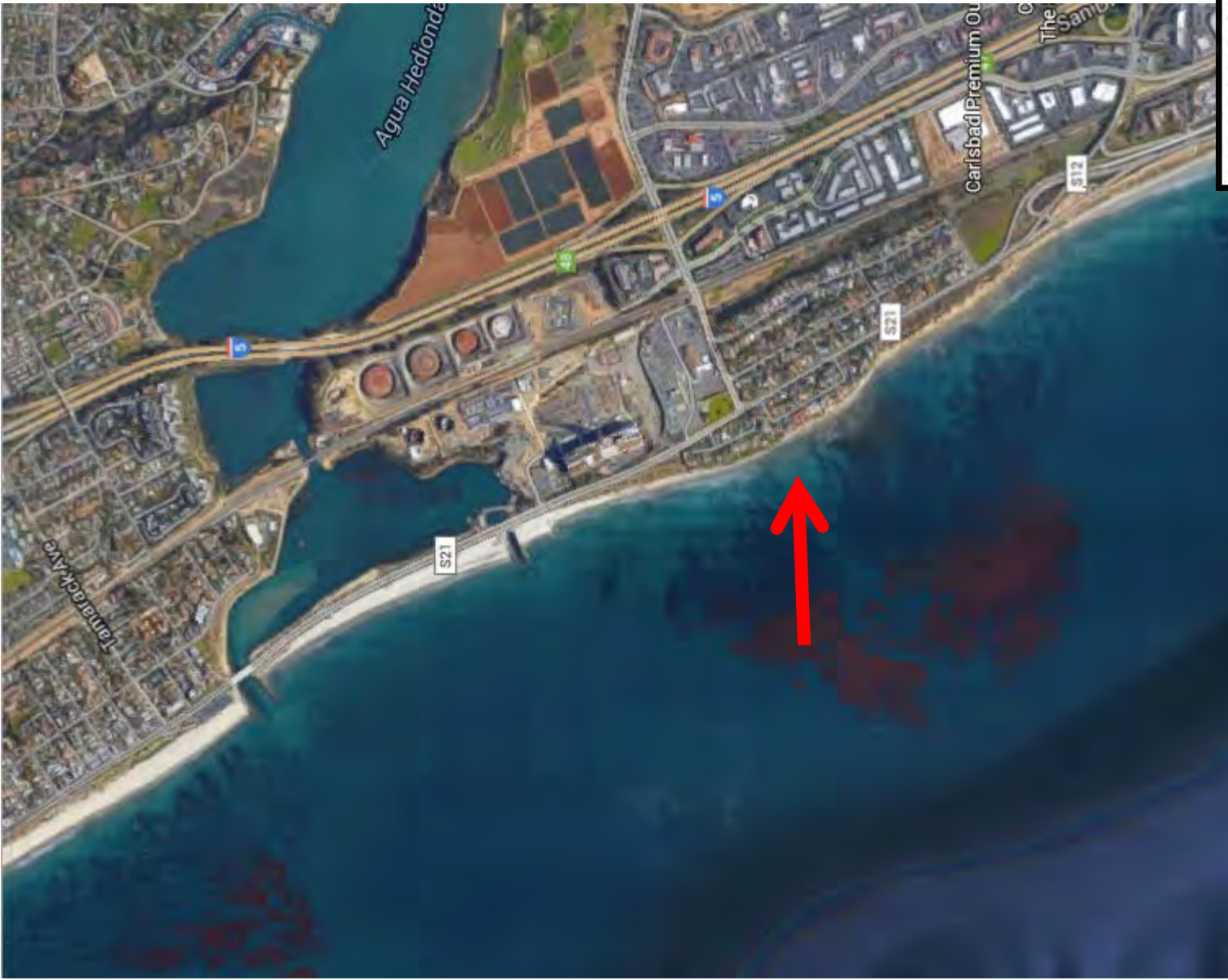


EXHIBIT NO. 10
APPLICATION NO. A-6-CII-10-0039
Aerial of Headland
California Coastal Commission

Location of new pool
and decking relocated
5 feet inland

