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STAFF REPORT: MATERIAL PERMIT AMENDMENT

Amendment Application No.:	6-84-496-A2
Applicants:	Cameron and Penelope Craig
Project Location:	4871 Rancho Viejo Drive, Lomas Santa Fe, San Diego County. (APN: 302-222-11)
Description of Previously Approved Project:	Construction of a one-story, 3,150 sq. ft. single-family residence on a 43,787 sq. ft. lot.
Description of Amendment:	Construction of a 1,102 sq. ft. first- and second-story addition, 460 sq. ft. exterior deck and stairway.
Staff Recommendation:	Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The proposed additions are located on a site that contains a natural canyon that was placed under the protection of an open space deed restriction through the original permit. The proposed additions will not encroach into the open space or directly or indirectly impact any sensitive vegetation, but will require an amendment because of restrictions on the removal of vegetation outside the open space required by the brush management plan adopted through a previous amendment.

In order to ensure that future development on the site is protective of the adjacent open space, revised **Special Condition #4** revises the previously adopted brush management plan to clarify that on the portions of the site outside of the open space, vegetation removal is allowed, but any new plants must be fire-resistant, drought-

tolerant, native or non-invasive. All existing limitations on brush removal within the open space will remain unchanged.

While no new development is proposed within the deed-restricted open space covering the southern portion of the site, approximately 3 sq. ft. of the existing residence currently extends into the open space. The applicants proposes to remove the unpermitted encroachment through this permit action.

New **Special Condition #6** requires the applicants to submit revised final plans showing the distance between the existing residence and proposed deck and stairway, use of non-combustible materials for the construction of the exterior deck and stairway, and removal of all encroachments located in the deed-restricted open space area. To ensure that the matter of unpermitted development is resolved in a timely manner, new **Special Condition #8** requires that the applicants satisfy all conditions of this permit within 180 days of Commission action, or within such additional time as the Executive Director may grant for good cause.

Given the drainage patterns on the subject site and slight increase in the amount of impervious surface from the proposed project, site runoff could potentially discharge pollutants from demolition and construction activities into San Dieguito Lagoon. Therefore, new **Special Condition #7** requires the applicants to submit a Construction Pollution Prevention Plan, prepared by a licensed engineer, that incorporates BMPs designed to address contaminants associated with construction activity. Commission staff is also recommending revised **Special Condition #2** to address potential increases in upland erosion as a result of increasing the amount of impervious surface on the site. Unless otherwise expressed, all prior conditions remain in effect.

Commission staff recommends that the Commission **APPROVE** coastal development permit application 6-84-496-A2, as conditioned. The motion is on page 4. The standard of review is Chapter 3 of the Coastal Act.

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I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** the proposed amendment to Coastal Development Permit 6-84-496-A2 subject to conditions set forth in the staff recommendation specified below.

Staff recommends a **YES** vote on the foregoing motion. 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 Commissioners present.

Resolution:

The Commission hereby approves the Coastal Development Permit amendment for the proposed project and adopts the findings set forth below on grounds that the development as amended and conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

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 applicant 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 applicant to bind

all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

NOTE: Appendix A, attached, includes all standard and special conditions that apply to this permit, as approved by the Commission in its original action and modified and/or supplemented by all subsequent amendments, including this amendment no. 6-84-496-A2. All of the Commission's adopted special conditions and any changes in the project description proposed by the applicant and approved by the Commission in this or previous actions continue to apply in their most recently approved form unless explicitly changed in this action. New conditions and modifications to existing conditions imposed in this action on amendment no. 6-84-496-A2 are shown in the following section. Within Appendix A, changes to the previously approved special conditions are also shown in strikeout/underline format. This will result in one set of adopted special conditions.

1. [Special Condition #1 of CDP No. 6-84-496 remains unchanged and in effect]
2. **Updated Drainage Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**~~Prior to transmittal of the permit,~~ the applicants shall submit a drainage and runoff control plan documenting that runoff from the roof and any impervious surfaces will be collected and appropriately discharged. The runoff control plan shall be submitted to and determined adequate in writing by the Executive Director and shall provide that any runoff directed over the hillside shall be retained and discharged at a non-erosive velocity and elevation, to protect the scenic resources and habitat values of the hillsides from degradation by scouring or concentrated runoff.

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

3. [Special Condition #3 of CDP No. 6-84-496 remains unchanged and in effect]
4. **Updated Final Brush Management Plans. PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT AMENDMENT 6-84-496-A12,** the applicants shall submit to the Executive Director for review and written approval, revised detailed brush management plans addressing the area within 100 feet of the ~~basement level, exempt residence additions~~residence. Said plans shall be approved by the Rancho Santa Fe Fire Department and shall include the following:
 - (a) Within the open space area of the subject property that lies between 0 and 50 ft. from the basement additions (Fuel Modification Zone 1) ~~as shown on the plan by MOA, Inc. dated stamped received by the Coastal Commission's San Diego office on November 29, 2005 and attached as~~ [Exhibit #23](#) to this staff report, the

plans shall identify that only native, fire-resistant, irrigated vegetation may be present. No invasive species are permitted.

- (b) Within the open space area of the subject property that lies between 50 and 100 ft. from the basement additions (Fuel Modification Zone 2) as shown on [Exhibit #3](#) the plan by MOA, Inc. referenced in the prior paragraph, the plans shall note that only dead and dying plant material shall be removed or cut. No clear cut, grubbing (removal of roots below the soil surface) or trimming of living plants shall occur, and no irrigation is permitted.
- (c) A licensed biologist shall be present during the brush management to assure that no work occurs if California Gnatcatchers are present, and that all work is in accordance with the approved plan. If it is determined that Gnatcatchers are present, brush management work shall be postponed until the biologist determines that no Gnatcatchers are present.
- (d) The property owner shall be responsible for at least annual maintenance within the ~~designated 100 ft. brush management~~ open space area to remove any introduced non-native or invasive plant species; invasive plant species should be regularly removed from anywhere on the site.
- (e) ~~Any future brush clearance within the designated 100 ft. brush management area, other than removal of invasive and non-native plant species and removal of dead and dying plants shall require approval of a coastal development permit or amendment to the subject permit, unless the Executive Director determines no permit or amendment is legally required.~~ Only fire-resistant, drought-tolerant native or non-invasive plant materials may be planted on the portion of the project site located outside of the deed-restricted open space. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be planted.

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

5. [Special Condition #5 of CDP No. 6-84-496-A1 remains unchanged and in effect]

6. Revised Final Plans.

- (a) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicants shall submit for the review and written approval of the Executive Director, revised final project plans in substantial conformance with the plans prepared by JLC Architecture, dated 4/27/20, stamped approved

by the County of San Diego, except that they shall be modified to reflect the following:

- i. The distance from the proposed deck and stairway and from the existing residence to the north perimeter of the open space boundary shall be labelled.
 - ii. Only non-combustible materials shall be used for the construction of the exterior deck and stairway.
 - iii. Removal of all encroachments located in the existing deed-restricted open space area depicted on [Exhibit #3](#).
- (b) The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

7. Construction Pollution Prevention Plan (CPPP).

- (a) **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the permittee shall submit for the review and approval of the Executive Director, two (2) sets of a CPPP prepared and signed by a licensed engineer that, at a minimum, includes the following:
- (b) Best Management Practices (BMPs) designed to prevent spillage and runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the on-set of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of project. Such measures shall include:
- i. No demolition or construction materials, equipment, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain or tidal erosion or dispersion;
 - ii. Any and all debris resulting from demolition or construction activities, and any remaining construction material, shall be removed from the project site within 24 hours of completion of the project;
 - iii. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters or storm drains;
 - iv. Erosion control/sedimentation BMPs shall be used to control dust and sedimentation impacts to coastal waters during construction. BMPs shall

include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and

- v. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
 - vi. The applicants shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
 - vii. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a Coastal Development Permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;
 - viii. All construction materials stockpiled on site shall be covered and enclosed on all sides to ensure that the materials are not discharged to a storm drain inlet or receiving waters;
 - ix. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. If thinners, petroleum products or solvents must be used on site, they shall be properly recycled or disposed after use and not be discharged into storm drains, sewers, receiving waters or onto the unpaved ground.
 - x. The discharge of any hazardous materials into any receiving waters shall be prohibited;
 - xi. Spill discharge and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction material. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The designated area shall be equipped with spill control materials and located to minimize the risk of spills reaching receiving waters, storm drains, sewers or unpaved ground.
- (c) The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

- 8. Condition Compliance.** Within 180 days of Commission action on this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall satisfy all requirements specified in the conditions hereto. Failure to comply with this requirement may result in the institution of enforcement action under the provision of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS

A. Project History/Amendment Description

The project site is located west of El Camino Real and north of Via De La Valle in the unincorporated Lomas Santa Fe community in the County of San Diego ([Exhibit #1](#)). The roughly rectangle-shaped parcel includes naturally vegetated steep slopes on the southern portion of the site. A split-level, 3,989 sq. ft. single-family residence with a 918 sq. ft. attached garage is located on the north portion of the site.

Originally proposed and approved on the project site was the construction of a one-story, 3,150 sq. ft. single-family residence and attached garage with a septic system and front yard lap pool on an undeveloped one-acre lot (CDP #6-84-496). The site where the existing pool and portions of the home are located is flat but part of the home is supported by posts where the slopes begin. The property then drops steeply off into an inland canyon south of the house. To protect those steep slopes, the Commission's original permit approval included several special conditions, including requiring the recordation of an open space deed restriction over all portions of the site south of and immediately adjacent to the approved residence. The deed restriction prohibits any alteration of any landforms, removal of existing vegetation, and the erection of structures of any type, unless approved by the Coastal Commission ([Exhibit #4](#)).

Two exemptions were later issued for the site, including one for construction of an approximately 1,268 sq. ft. basement addition, 130 sq. ft. entry level addition, and 342 sq. ft. garage addition (6-04-110-X) and another for construction of a 604 sq. ft. addition (6-06-062-X).

An amendment was approved in February 2006 to adopt a brush management plan that allows only fire-resistant, native, and irrigated vegetation to be located in the portion of the open space located within 50 feet of the existing residence, and prohibits irrigation and the removal of vegetation other than dead plants in the area 50-100 feet from the structure (CDP #6-84-496-A1). The condition also limits the removal of any vegetation on the site other than invasive and non-native plant material without the approval of a coastal development permit or amendment to the underlying permit.

The new development proposal consists of construction of an approximately 100 sq. ft. first floor, and 1,000 sq. ft. second floor addition on the northeast side of the residence, and construction of a 460 sq. ft. first-floor backyard exterior deck and exterior stairway connecting the first-floor backyard deck and an existing elevated deck attached to the southside of the existing home ([Exhibit #3](#)). Although all work will be occurring outside of the open space area, because the exterior deck/stairway will require the removal of existing vegetation, an amendment is required. A small portion, approximately three sq. ft., of the existing structure, currently encroaches into the deed-restricted open space; it is unclear whether this area was an unpermitted addition, or the original structure was built slightly differently than the approved plans; however, the applicants are now proposing to remove it.

The Commission approved the County's LCP Land Use Plan (LUP) in May 2017 with suggested modifications that the County accepted. The County has submitted implementing ordinances that Commission staff is currently reviewing; however, an implementation plan has not yet been certified by the Commission. Thus, the standard of review for the subject development is the Chapter 3 Policies of the Coastal Act, with the provisions of the County's certified LUP used as guidance.

B. Biological Resources/New Development

Section 30240 of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Section 30250 of the Coastal Act states, in part:

- (a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

Section 30253(1) of the Coastal Act states, in part:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

The County of San Diego Certified LUP states:

Policy 3.22 Limit development in steep hillside areas to minimize potential impacts on native plant and animal species and protect native habitat.

Policy 3.36 When fuel modification is necessary, new development shall be sited so that fuel management protects structures and avoids impacts to native vegetation and sensitive habitats. Fuel modification should occur as determined necessary by the Fire Authority Having Jurisdiction (FAHJ) and should preserve sensitive habitats and native vegetation to the maximum extent feasible.

Policy 9.15 Require development to be located, designed, and constructed to provide adequate defensibility and minimize the risk of structural loss and life safety resulting from wildland fires.

Policy 9.18 Require all new development or redevelopment, as defined in Section 7, Planning, New Development, and Public Works of this LCP, to meet current ignition resistance construction codes and establish and enforce reasonable and prudent standards that support retrofitting of existing structures in high fire threat areas.

Policy 9.19 Support programs consistent with state law that require fuel management/modification within established defensible space boundaries. . . . Impacts to other native vegetation shall be avoided to the maximum extent feasible.

Policy 9.24 All new development in the WUI [Wildland-Urban Interface] or adjacent to ESHA shall be sited and designed to minimize required fuel modification to the maximum extent feasible in order to avoid environmentally sensitive habitat disturbance or destruction, and removal or modification of natural vegetation, while providing for fire safety.

The north portion of the subject site is relatively flat adjacent to Rancho Viejo Drive where the existing residence is located; however, the property declines steeply into an inland canyon located on the south end of the property ([Exhibit #2](#)). The canyon is relatively isolated and surrounded by developed homes on the mesa top. No biological resources were identified on the project site or addressed in the original approval, which established an open space area over the southern portion of the site based only on steep slope concerns, not to protect biological resources. In order to protect the scenic value of the steep slopes and avoid erosion, almost the entire steep portion of subject site was placed into open space, which prohibited the removal of existing vegetation or the erection of structures, while development was allowed to occur up to the slope edge ([Exhibit #3](#)). The flat, developable portion of the site located outside of the deed-restricted open space is almost entirely developed with a single-family residence and septic system, decks, lap pool, and landscaping.

In 1984 when the Commission approved the existing residence, brush management was not identified as an issue for development adjacent to open space areas. Planning issues and concerns have changed since 1984 and understanding of fire hazards and how to address them has evolved. In 2006, the property owner was instructed by the County Fire Marshal to implement brush management measures for the existing residence. However, because the original residence was permitted to be constructed immediately adjacent to the open space, any brush management on the southern portion of the site (i.e., the removal of vegetation) would necessarily encroach into the open space.

The open space restriction on the site was not originally established to protect native habitat, and the 2006 amendment acknowledged that the area of the open space within 50 feet of the residence was vegetated with iceplant, eucalyptus trees, and other non-

native/exotic/ornamental species. However, beyond 50 feet, the slope drops off much more steeply, and the canyon appears to be vegetated with native habitat, either coastal sage or chaparral vegetation.

Therefore, in order to protect the scenic, landform, and any biological resource value of the open space area, while still allowing brush management to limit the hazard to the residence, the first amendment to the project required the following:

4. Final Brush Management Plans. PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT AMENDMENT 6-84-496-A1, the applicant shall submit to the Executive Director for review and written approval, revised detailed brush management plans addressing the area within 100 feet of the basement-level, exempt residence additions. Said plans shall be approved by the Rancho Santa Fe Fire Department and shall include the following:

- (a) Within the open space area of the subject property that lies between 0 and 50 ft. from the basement additions (Fuel Modification Zone 1) as shown on the plan by MOA, Inc. dated-stamped received by the Coastal Commission's San Diego office on November 29, 2005 and attached as Exhibit #2 to this staff report, the plans shall identify that only native, fire-resistant, irrigated vegetation may be present. No invasive species are permitted.
- (b). Within the open space area of the subject property that lies between 50 and 100 ft. from the basement additions (Fuel Modification Zone 2) as shown on the plan by MOA, Inc. referenced in the prior paragraph, the plans shall note that only dead and dying plant material shall be removed or cut. No clear cut, grubbing (removal of roots below the soil surface) or trimming of living plants shall occur, and no irrigation is permitted.
- (c). A licensed biologist shall be present during the brush management operation to assure that no work occurs if California Gnatcatchers are present, and that all work is in accordance with the approved plan. If it is determined that Gnatcatchers are present, brush management work shall be postponed until the biologist determines that no Gnatcatchers are present.
- (d). The property owner shall be responsible for at least annual maintenance within the designated 100 ft. brush management area to remove any introduced non-native or invasive plant species.
- (e). Any future brush clearance within the designated 100 ft. brush management area, other than removal of invasive and non-native plant species and removal of dead and dying plants shall require approval of a coastal development permit or amendment to the subject permit, unless the Executive Director determines no permit or amendment is legally required.

The permittee shall undertake development in accordance with the approved plans. Any proposed changes to the approved brush management plan should be reported to the Executive Director. No changes to the approved plans shall occur

without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

The condition as adopted identifies the brush management plan as applicable to “the area within 100 feet of the basement-level, exempt residence additions,” which were located on the south side of the structure near the slope edge adjacent to the open space. However, the referenced Exhibit #2 to the staff report for CDP #6-84-496-A1 shows the Zone 1 brush management zone as covering the entire northern portion of the lot, even those areas on the street side of the house greater than 100 feet from the exempted additions ([Exhibit #5](#)). In addition, as adopted, the condition limits any future brush clearance that involves the removal of native material within the brush management area, even on the landscaped portions of the lot entirely outside of the open space.

The proposed interior additions would be located on the northeast side of the structure, no closer to the open space area than the existing residence ([Exhibit #3](#)). The exterior deck and stairway would be located on the south side of the structure, closer to the open space than the existing residence; however, the applicants have submitted evidence from the County Fire Marshal that no additional brush management will be required for these structures, as they will be constructed using non-combustible materials. Thus, no direct or indirect encroachment into the open space will result from the proposed addition. Nevertheless, because the area proposed for the deck and first floor addition is currently landscaped with (planted) native and non-native material, the existing brush management condition requires that the proposed additions, which would otherwise be exempt from permit requirements, be processed through an amendment.

As previously noted, the flat, landscaped, developed portion of the lot does not contain any sensitive vegetation, and as such, the existing limitation on the removal of vegetation in this area does not serve any protective purpose. However, planting new invasive material could impact the native habitat in the adjacent canyon. Thus, Special Condition #4 of CDP #6-84-496-A1 is revised to remove the limitation on vegetation removal outside of the open space deed restriction, but instead require that any new landscaping consist of fire-resistant, native or non-invasive plant material. No changes to existing restrictions on brush removal in the open space are necessary.

In order to more clearly document the setback between the proposed revisions to the south side of the structure, new **Special Condition #6** requires the applicants to submit revised final plans that clearly label the distance between the existing residence and proposed deck and stairways (approximately 3 feet at the closest point). **Special Condition #6** requires the applicants to submit revised final plans showing that only non-combustible materials (e.g. concrete and metal) shall be used for the construction of the exterior deck and stairway. Therefore, as conditioned to clarify the brush management plan, no impacts to biological resources will occur.

A small, three sq. ft. area of the existing residence that currently encroaches into the deed-restricted open space will be removed through this project (see Section E. Unpermitted Development). As discussed above, the area within 50 ft. of the existing

residence is mostly non-native vegetation, thus, it is unlikely that the minor encroachment resulted in any significant impacts to sensitive biological resources. None of the new development proposed will encroach into the open space area. **Special Condition #6** requires the applicants to submit revised final plans removing all encroachments located in the existing deed-restricted open space area as depicted on [Exhibit #3](#). Thus, as conditioned, the project is consistent with Sections 30250 and 30253(1) of the Coastal Act and, as designed, will not be inconsistent with the biological resources policies of the Coastal Act and County of San Diego certified LUP.

C. Erosion/Runoff/Water Quality

Section 30231 of the Coastal Act states:

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

The County of San Diego Certified LUP states:

Policy 4.1 Development projects shall be required to avoid impacts to the water quality in local reservoirs, groundwater resources, recharge areas, watersheds, and other local water sources.

Policy 4.14 Minimize water quality impacts during construction by minimizing erosion and sedimentation, minimizing the discharge of other pollutants resulting from construction activities, and minimizing land disturbance and soil compaction.

Policy 4.16 Source Control BMPs must be implemented for all development projects, where applicable and feasible. The Source Control BMPs may include, but is not limited to: (a) Prevention of illicit discharges into the stormwater conveyance system; (b) Stenciling and marking of all storm drains in accordance with the BMP Design Manual; (c) Protection of all outdoor material storage areas from rainfall, run-on, runoff; and wind dispersal; (d) Protection of materials stored in outdoor work areas from rainfall, run-on, runoff, and wind dispersal; (e) Protection of trash storage areas from rainfall, run-on, runoff, and wind dispersal; (f) Implementation of additional BMPs as the County determines necessary to minimize pollutant generation.

Policy 4.17 New development shall include construction phase erosion control and polluted runoff control plans. These plans shall specify BMPs that will be implemented to minimize erosion and sedimentation, provide adequate sanitary and waste disposal facilities and prevent contamination of runoff by sediment and construction chemicals and materials.

Policy 4.21 New development and redevelopment shall not result in the degradation of the water quality of groundwater basins or coastal surface waters including the ocean, coastal streams, or wetlands. Urban runoff pollutants shall not be discharged or deposited such that they adversely impact groundwater, the ocean, coastal streams, or wetlands, and shall meet or exceed the current RWQCB Municipal Stormwater Permit.

Policy 9.11 New development shall provide adequate drainage and erosion control facilities that convey site drainage in a non-erosive manner, in order to minimize hazards resulting from increased runoff, erosion, and other hydrologic impacts to water bodies.

Existing drainage patterns on the project site allow some stormwater runoff from the site to flow onto Rancho Viejo Drive and into an existing storm drain system; however, the majority of the runoff flows down the inland canyon located on the south portion of the site. Whether conveyed by the existing storm drain system along Rancho Viejo Drive or via the inland canyon, runoff from this site could potentially discharge into the San Dieguito Lagoon located to the south of the site. The project will slightly increase the existing building footprint through the addition of the exterior deck and stairway, thereby increasing the amount of impervious surface on-site. While the proposed development will be located on the north portion of the site that was previously graded, some minor grading may be required for construction of the exterior first-floor deck and stairway. The applicants must still comply with Special Condition #3 of CDP #6-84-496, which prohibits grading activities between October 1st and April 1st of any year. Runoff can mobilize pollutants and other debris that can accumulate on impervious surfaces from demolition and construction activities. Thus, new **Special Condition #7** requires the applicants to submit a Construction Pollution Prevention Plan, prepared by a licensed engineer, that incorporates BMPs designed to address contaminants associated with construction activity.

In addition, while small, the expansion of impervious surfaces on the project site could potentially increase upland erosion, resulting in erosion and instability of the canyon hillside. Thus, revised **Special Condition #2** requires the applicants to submit an updated drainage and runoff control plan for the site to ensure that any drainage or runoff associated with the proposed development will be collected and appropriately discharged to avoid erosion or instability of the canyon hillside located on the south portion of the site.

Therefore, as conditioned, the project is consistent with the water quality policies of the Coastal Act and the County of San Diego's certified LUP.

D. Visual Resources

Section 30251 of the Coastal Act states in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to

minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

The County of San Diego Certified LUP states:

Policy 6.1 Preserve the scenic and visual qualities of the County's Coastal Zone, including designated open space areas for conservation and recreation adjacent to the San Elijo Lagoon, San Dieguito Park, mature vegetation, and the rural residential neighborhoods of Stone Bridge, Sun Valley and Vicinity, and surrounding communities. Street trees and vegetation shall be chosen so as not to block views upon maturity.

Policy 6.5 Locations along public roads, railways, trails, parklands, and beaches that offer views of scenic resources are considered public viewing areas.

Development that may affect existing or potential public views shall be designed and sited in a manner that restores, preserves, or enhances designated view opportunities and visual qualities of the site.

[. . .]

Policy 6.6 Development within the County's Coastal Zone shall be subject to review based on the following design criteria, and in accordance with existing County regulations and ordinances. Development shall not obstruct public views within the Coastal Zone by: (a) Protecting site topography and steep slopes. (b) Minimizing or preventing substantial grading or reconfiguration of the project site. (c) Minimizing grading outside of the building footprint. . . . (f) Clustering structures to minimize site disturbance and to minimize development area. . . . (o) Ensuring building height, bulk, roof line, and scale will not obstruct, limit, or degrade the existing views. (p) Ensuring visual compatibility with the character of surrounding areas. . . . (r) Minimizing removal of native vegetation, and ensuring landscape compatibility with existing vegetation.

Section 30251 of the Coastal Act and the County's LUP protects the scenic and visual quality of the coastal zone as a resource of public importance. The subject site is located on a sloping parcel west of El Camino Real and north of Via De La Valle ([Exhibit #1](#)). The site is not visible from any scenic areas and no public views will be blocked by the development.

The development as proposed in this amendment is comparable to the existing surrounding residential developments such that it will be in character with the established neighborhood. The proposed development will be located on a portion of the site that is already either graded or disturbed such that alteration to the natural land forms and the existing topography would be minimized. Thus, as designed, the proposed project will not have significant adverse impacts on the scenic resources of the area and is consistent with Section 30251 of the Coastal Act and the County's certified LUP.

E. Unpermitted Development

Violations of the Coastal Act exist on the subject property including, but not limited to, non-compliance to Special Condition No. 1 of CDP No. 6-84-496 that prohibits erection of structures of any type in the open space area located on the southern portion of the site unless approved by the Commission. Currently, approximately three sq. ft. of the existing residence extends into the deed-restricted open space, inconsistent with the above condition ([Exhibit #4](#)). No permit was issued for this work and is therefore unpermitted in violation of the Coastal Act. The applicants are proposing through this application to remove all unpermitted development that persists at the site.

According to the applicants who recently acquired the subject site, the unpermitted development was constructed by a prior property owner. The applicants propose to remove the approximate three sq. ft. of the existing residence that currently extends into the deed-restricted open space. Approval of this application pursuant to the staff recommendation will require the applicants to remove the 3 ft. encroachment as required by **Special Condition #6(a)iii**.

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 Chapter 3 policies 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 violations, nor does it constitute an implied statement of the Commission's position regarding the legality of development, other than the development addressed herein, undertaken on the subject site without a coastal permit.

In order to ensure that the unpermitted development component of this application is resolved in a timely manner, **Special Condition #8** requires that the applicants satisfy all conditions of this permit within 180 days of Commission action, or within such additional time as the Executive Director may grant for good cause. Failure to comply with the terms and conditions of this permit may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act. Only as conditioned is the proposed development consistent with the Coastal Act. Approval of this application pursuant to the staff recommendation, issuance of the permit, and the applicants' subsequent compliance with all terms and conditions of the permit will result in resolution of the future impacts from the violation(s) noted above.

F. Local Coastal Planning

Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The Commission approved the County's LCP Land Use Plan (LUP) in May 2017 with suggested modifications that the County accepted. The County has submitted implementing ordinances that Commission staff is currently reviewing; however, an implementing plan has not yet been certified by the Commission. Thus, the County has

not been delegated authority to issue permits. The proposed development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act and the certified LUP. Therefore, the Commission finds that approval of the proposed development would not prejudice the ability of the County of San Diego to complete its LCP.

G. California Environmental Quality Act

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

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

APPENDIX A – CONDITIONS OF APPROVAL

Permit No. 6-84-496

II. STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgement. 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. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director of the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Deed Restriction. Prior to transmittal of the amendment to the coastal development permit, the applicant shall record a restriction against the subject property, free of prior liens and encumbrances, except for tax liens, and binding on the permittee's successors in interest and any subsequent purchasers of any portion of the real property. The restriction shall prohibit any alteration of landforms, removal of existing vegetation or erection of structures of any type unless approved by the California Coastal Commission or its successors in interest, on that area shown on Exhibit #3 attached to these findings. The

recording document shall include legal descriptions of both the applicant's entire parcel and the restricted area to protect the steep slopes and vegetation, and shall be in a form and content acceptable to the Executive Director.

2. Drainage Plan. Prior to transmittal of the permit, the applicant shall submit a drainage and runoff control plan documenting that runoff from the roof and any impervious surfaces will be collected and appropriately discharged. The runoff control plan shall be submitted to and determined adequate in writing by the Executive Director and shall provide that any runoff directed over the hillside shall be retained and discharged at a non-erosive velocity and elevation, to protect the scenic resources and habitat values of the hillsides from degradation by scouring or concentrated runoff.
3. Grading Season. All grading activity shall be prohibited within the period from November 15, 1984 to April 1, 1985 and within the period from October 1st to April 1st of any succeeding year. All exposed areas shall be landscaped prior to December 1st with either permanent or temporary landscape materials in order to reduce erosion potential. Said planting shall be maintained and replanted if necessary.

Permit No. 6-84-496-A1

4. Final Brush Management Plans. PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT AMENDMENT 6-84-496-A1, the applicant shall submit to the Executive Director for review and written approval, revised detailed brush management plans addressing the area within 100 feet of the basement-level, exempt residence additions. Said plans shall be approved by the Rancho Santa Fe Fire Department and shall include the following:
 - (a) Within the open space area of the subject property that lies between 0 and 50 ft. from the basement additions (Fuel Modification Zone 1) as shown on the plan by MOA, Inc. dated-stamped received by the Coastal Commission's San Diego office on November 29, 2005 and attached as Exhibit #2 to this staff report, the plans shall identify that only native, fire-resistant, irrigated vegetation may be present. No invasive species are permitted.
 - (b) Within the open space area of the subject property that lies between 50 and 100 ft. from the basement additions (Fuel Modification Zone 2) as shown on the plan by MOA, Inc. referenced in the prior paragraph, the plans shall note that only dead and dying plant material shall be removed or cut. No clear cut, grubbing (removal of roots below the soil surface) or trimming of living plants shall occur, and no irrigation is permitted.
 - (c) A licensed biologist shall be present during the brush management operation to assure that no work occurs if California Gnatcatchers are present, and that all work is in accordance with the approved plan. If it is determined that Gnatcatchers are present, brush management work shall be postponed until the biologist determines that no Gnatcatchers are present.

- (d) The property owner shall be responsible for at least annual maintenance within the designated 100 ft. brush management area to remove any introduced non-native or invasive plant species.
- (e) Any future brush clearance within the designated 100 ft. brush management area, other than removal of invasive and non-native plant species and removal of dead and dying plants shall require approval of a coastal development permit or amendment to the subject permit, unless the Executive Director determines no permit or amendment is legally required.

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

- 5. Prior Conditions of Approval. All other terms and conditions of the original approval of Coastal Development Permit #6-84-496 not specifically modified herein, shall remain in full force and effect.

Permit No. 6-84-496-A2

II. 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 applicant 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 applicant to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. [Special Condition #1 of CDP No. 6-84-496 remains unchanged and in effect]
2. **Updated Drainage Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT** ~~Prior to transmittal of the permit,~~ the applicants shall submit a drainage and runoff control plan documenting that runoff from the roof and any impervious surfaces will be collected and appropriately discharged. The runoff control plan shall be submitted to and determined adequate in writing by the Executive Director and shall provide that any runoff directed over the hillside shall be retained and discharged at a non-erosive velocity and elevation, to protect the scenic resources and habitat values of the hillsides from degradation by scouring or concentrated runoff.

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

3. [Special Condition #3 of CDP No. 6-84-496 remains unchanged and in effect]
4. **Updated Final Brush Management Plans. PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT AMENDMENT 6-84-496-A12**, the applicants shall submit to the Executive Director for review and written approval, revised detailed brush management plans addressing the area within 100 feet of the ~~basement level, exempt residence additions~~ residence. Said plans shall be approved by the Rancho Santa Fe Fire Department and shall include the following:
 - (a) Within the open space area of the subject property that lies between 0 and 50 ft. from the basement additions (Fuel Modification Zone 1) ~~as shown on the plan by MOA, Inc. dated stamped received by the Coastal Commission's San Diego office on November 29, 2005 and attached as Exhibit #23~~ to this staff report, the plans shall identify that only native, fire-resistant, irrigated vegetation may be present. No invasive species are permitted.
 - (b) Within the open space area of the subject property that lies between 50 and 100 ft. from the basement additions (Fuel Modification Zone 2) as shown on Exhibit #3 ~~the plan by MOA, Inc. referenced in the prior paragraph~~, the plans shall note that only dead and dying plant material shall be removed or cut. No clear cut, grubbing (removal of roots below the soil surface) or trimming of living plants shall occur, and no irrigation is permitted.
 - (c) A licensed biologist shall be present during the brush management to assure that no work occurs if California Gnatcatchers are present, and that all work is in accordance with the approved plan. If it is determined that Gnatcatchers are present, brush management work shall be postponed until the biologist determines that no Gnatcatchers are present.

- (d) The property owner shall be responsible for at least annual maintenance within the designated 100 ft. brush management open space area to remove any introduced non-native or invasive plant species; invasive plant species should be regularly removed from anywhere on the site.
- (e) ~~Any future brush clearance within the designated 100 ft. brush management area, other than removal of invasive and non-native plant species and removal of dead and dying plants shall require approval of a coastal development permit or amendment to the subject permit, unless the Executive Director determines no permit or amendment is legally required.~~ Only fire-resistant, drought-tolerant native or non-invasive plant materials may be planted on the portion of the project site located outside of the deed-restricted open space. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be planted.

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

5. [Special Condition #5 of CDP No. 6-84-496-A1 remains unchanged and in effect]

6. **Revised Final Plans.**

- (a) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicants shall submit for the review and written approval of the Executive Director, revised final project plans in substantial conformance with the plans prepared by JLC Architecture, dated 4/27/20, stamped approved by the County of San Diego, except that they shall be modified to reflect the following:
- i. The distance from the proposed deck and stairway and from the existing residence to the north perimeter of the open space boundary shall be labelled.
 - ii. Only non-combustible materials shall be used for the construction of the exterior deck and stairway.
 - iii. Removal of all encroachments located in the existing deed-restricted open space area depicted on Exhibit #3.

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

7. Construction Pollution Prevention Plan (CPPP).

- (a) **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the permittee shall submit for the review and approval of the Executive Director, two (2) sets of a CPPP prepared and signed by a licensed engineer that, at a minimum, includes the following:
- (b) Best Management Practices (BMPs) designed to prevent spillage and runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the on-set of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of project. Such measures shall include:
- i. No demolition or construction materials, equipment, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain or tidal erosion or dispersion;
 - ii. Any and all debris resulting from demolition or construction activities, and any remaining construction material, shall be removed from the project site within 24 hours of completion of the project;
 - iii. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters or storm drains;
 - iv. Erosion control/sedimentation BMPs shall be used to control dust and sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and
 - v. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
 - vi. The applicants shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction;
 - vii. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a Coastal Development Permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required;

- viii. All construction materials stockpiled on site shall be covered and enclosed on all sides to ensure that the materials are not discharged to a storm drain inlet or receiving waters;
 - ix. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. If thinners, petroleum products or solvents must be used on site, they shall be properly recycled or disposed after use and not be discharged into storm drains, sewers, receiving waters or onto the unpaved ground.
 - x. The discharge of any hazardous materials into any receiving waters shall be prohibited;
 - xi. Spill discharge and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction material. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The designated area shall be equipped with spill control materials and located to minimize the risk of spills reaching receiving waters, storm drains, sewers or unpaved ground.
- (c) The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
8. **Condition Compliance.** Within 180 days of Commission action on this coastal development permit, or within such additional time as the Executive Director may grant for good cause, the applicants shall satisfy all requirements specified in the conditions hereto. Failure to comply with this requirement may result in the institution of enforcement action under the provision of Chapter 9 of the Coastal Act.

APPENDIX B – SUBSTANTIVE FILE DOCUMENTS

- County of San Diego Certified Land Use Plan
- CDP #6-84-496
- CDP #6-84-496-A1
- 6-04-110-X
- 6-06-062-X