



**SIERRA
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San Diego Chapter

Serving the Environment in San Diego and Imperial Counties

Hon. Donna Frye, Chair
Committee on Government Efficiency and Openness
Attention: Kevin Smith
July 29, 2005

RE: CITY PROCESS FOR APPEALING PERMITS AND ENVIRONMENTAL DOCUMENTS

Dear Chairwoman Frye and Council Members:

The San Diego Sierra Club would appreciate the opportunity to bring to the GE&O committee for review the process currently being used by San Diego Development Services and Planning Departments for appeal of environmental documents to the City's highest elected officials, namely, the City Council. Our concern with the City process stems from the Sierra Club's experience in the appeal of a Hearing Officer decision to Planning Commission April 7, 2005 (Attachment 1, Item 10, Salk Institute Geotechnical Investigations- Project No. 54535).

Three business days after the April 7, 2005, Commission hearing, we discovered by chance that the City had already sent a Notice of Final Action (NOFA) on the project to the California Coastal Commission. This Notice was posted in the Coastal Commission office April 12, thus opening the Coastal Commission 14 day appeal period (Attachment 2). How can the appeal period on project permits terminate prior to review and final action on the environmental document by City Council?

Please note that it was not stated in Planning Commission documents, at the hearing itself, or in the NOFA posted at the Coastal Commission office what we were later told by Robert Manis from Planning, namely, that because the project's Coastal Development and Site Development permits were not appealable to Council, they became final the day the Planning Commission voted (April 7), even though there were 10 days remaining beyond the posting of the NOFA for public appeal of the MND. It was disturbing to be told that the City is "working on" this process, which has yet to go through any public review and/or certification process.

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City Environmental Appeal Process

Page 2

July 29, 2005

We raised these concerns to Planning Commission during Public Comment on June 30, 2005, with no response to date from staff or the Commission. Events to date have raised what we believe are likely errors in noticing and procedure, as well as improper project segmentation under CEQA. Substantively, there would have been no holdup for the applicant to await MND review by City Council, since, as submitted for the record by biologist Vincent Scheidt, no drilling could go forward between February-August without violating the federal Migratory Bird Treaty Act and the CA Fish and Game Code.

Thank you for any clarifications or help you can provide.

Sincerely,

Joanne H. Pearson

Chair, San Diego Sierra Club Coastal Committee

Sierra Club representative to San Diego Code Monitoring team

Cc: Barry Schulz, Chair, San Diego Planning Commission

Sherilyn Sarb, District Director, California Coastal Commission

Laurinda Owens, Coastal Planner, California Coastal Commission

Robert Manis, San Diego Planning Dept.

Karen Heumann, San Diego City Attorney's Office

Richard Miller, Chair, San Diego Sierra Club

Ellen Shively, Chair, San Diego Sierra Club Conservation Committee

Salk List



ITEM-9: *Appeal of the Hearing Officer Decision:*

***HEISEY RESIDENCES – PROJECT NO. 6574**

City Council District: 2; Plan Area: Uptown

Staff: Michelle Sokolowski

Appeal of the Hearing Officer's January 12, 2005 decision to approve a Site Development Permit to demolish two existing units and construct four apartment units with deviations to the Development Regulations. Negative Declaration No. 6574. Report No. PC-05-098.

TODAY'S ACTION IS:

Process 3. Grant the appeal and deny the project, or deny the appeal and approve the project.

DEPARTMENT RECOMMENDATION:

Deny the appeal and approve the project.

ITEM-10: *Appeal of Hearing Officer's Decision:*



***SALK INSTITUTE GEOTECHNICAL INVESTIGATIONS – PROJECT NO. 54535.**

City Council District: 1; Plan Area: University

Staff: Tim Daly

Appeal of Hearing Officer's decision to approve an application for a Site Development Permit/Coastal Development Permit to conduct geotechnical investigations, including two trenches and three borings, for geologic information regarding fault location and slope stability of the existing 26.34 acre site located at 10010 North Torrey Pines Road. Mitigated Negative Declaration No. 54535. Report No. PC-05-139.

TODAY'S ACTION IS:

Process 3. Grant the appeal and deny the project, or deny the appeal and approve the project.

DEPARTMENT RECOMMENDATION:

Deny the appeal and approve the project.

ATT. 1



CURRENTLY APPEALABLE PROJECTS REPORT

POST-CERTIFICATION CDP ACTIONS APPEALABLE AS OF APRIL 12, 2005

The coastal permit decisions listed below are currently appealable to the California Coastal Commission. For each of the following local government decisions, a brief description has been provided with Commission and local government reference numbers. This notification is provided pursuant to Title 14, Section 13110 of the California Code of Regulations.

SUMMARY OF APPEALABLE PROJECTS (TOTAL OF 4)

JURISDICTION	POST-CERT ID	RECEIVED	APPEAL PERIOD		
			STARTS	ENDS	TODAY IS DAY...
City of San Diego	6-LJS-05-083	4/1/05	4/4/05	4/15/05	7
City of San Diego	6-LJS-05-090	4/12/05	4/13/05	4/26/05	0
City of National City	6-NCC-05-082	4/1/05	4/4/05	4/15/05	7
City of San Diego	6-PENE-05-084	4/5/05	4/6/05	4/19/05	5

CITY OF SAN DIEGO (1 of 2)

Post-Cert ID: 6-LJS-05-083 (Local ID: 121991; Approved w/ Conditions)
 Applicant(s): G. Kellogg Crain

Project Location: 9582 La Jolla Farms Road, La Jolla (San Diego County)

Project Description: Construction of a 746 sq.ft. second-story addition to an existing 7,093 sq.ft. single family residence on a 62,291 sq.ft. lot.

DATES

Local Action:	3/16/05
FLAN Rec'd:	4/1/05
Appeal Period:	
Start Date:	4/4/05
End Date:	4/15/05
Appeal Period day...	7

CITY OF SAN DIEGO (2 of 2)

Post-Cert ID: 6-LJS-05-090 (Local ID: 190894; Approved w/ Conditions)
 Applicant(s): The Salk Institute Corporation

Project Location: 10010 North Torrey Pines Road, La Jolla (San Diego County)

Project Description: Performance of geotechnical investigation work consisting of three borings (approximately 36" diameter and 125 ft. deep) and two trenches (approximately 36" wide and 25 ft. deep) to obtain geologic information regarding fault location and slope stability on the 26.34 acre lot containing Salk Institute. The proposed geotechnical boring and trenching will be located in a flat portion of the site (avoiding steep slopes) in an area mapped as "Disturbed Coastal Sage" resulting in impacts to .09 acres in size including the access route to the boring.

DATES

Local Action:	4/7/05
FLAN Rec'd:	4/12/05
Appeal Period:	
Start Date:	4/13/05
End Date:	4/26/05
Appeal Period day...	0

ATT.2