



THE CITY OF SAN DIEGO

REPORT TO THE HEARING OFFICER

HEARING DATE: June 11, 2014 REPORT NO. HO 14-036

ATTENTION: Hearing Officer

SUBJECT: BIDDULPH RESIDENCE
PTS PROJECT NUMBER: 319815

LOCATION: 7106 Vista Del Mar and 7080 Neptune Place

APPLICANT: Kemp Biddulph/ Stephen Phillip Rutherford and Maxine Lynn Rutherford
(Attachment 11)

SUMMARY

Issue(s): Should the Hearing Officer approve Coastal Development Permits with a Lot Line Adjustment to demolish an existing single family residence and construct a new, two-story single family residence in the La Jolla Community Plan area?

Staff Recommendation(s) -

1. CERTIFY Mitigated Negative Declaration No. 319815 and Adopt the Mitigation, Monitoring and Reporting Program (MMRP); and
2. APPROVE Coastal Development Permit No. 1230967 & 1241972

Community Planning Group Recommendation – On November 12, 2013, the La Jolla Community Planning Association voted 11-0-3 to approve the project with no conditions (Attachment 10).

Environmental Review – A Mitigated Negative Declaration (No. 319815) has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines and a Mitigation, Monitoring and Reporting Program (MMRP) would be implemented to reduce the potential impacts to Paleontological Resources to a level below significance.

BACKGROUND

The proposed project site is located at 7106 Vista Del Mar Avenue (Attachment 1), east of the Pacific Ocean and north of Fern Glen (Attachment 2). The site is zoned RS-1-7, and is in the

Coastal (Appealable to Coastal Commission), Coastal Height Limitation, Parking Impact, Transit Area, and Residential Tandem Parking Overlay zones within the La Jolla Community Plan (LJCP) and Local Coastal Program Land Use Plan (LCP). The property is located between the sea and the first public roadway paralleling the sea. The zoning designation is for single family residential use and the LJCP designates the project site for Low Density Residential use at 5-9 dwelling units per acre. The 0.12-acre project site has been previously graded and developed with a 3,321 square foot, two-story, single dwelling unit constructed in 1983.

The proposed Lot Line Adjustment is with the lot to the northwest, 7080 Neptune Place, (Parcel 2 of Map No. 17680) which is a 0.24-acre lot developed with a 3,607 square foot, two-story residence. The site has a 40 foot wide public right-of-way access road easement along Fern Glen which was dedicated to the City of San Diego in 1953 (Resolution No. 113329). The access road easement must be at the minimum 16'-0" feet wide in order to reach and maintain Sewer Pump Station No. 21.

Properties to the north, south, east and west contain single-family residential development. The land use designation for the area is Low Density Residential (5-9 du/ac) and zoned RS-1-7.

DISCUSSION

Project Description:

The project site located at 7106 Vista Del Mar proposes to demolish an existing 3,321 square foot, two-story, single family residence and construct a 3,091 square foot, two-story, single family residence over a 2,327 square foot subterranean basement, and includes a proposed Lot Line Adjustment of 221 square feet granted from 7080 Neptune Place. The residence will consist of three bedrooms, five bathrooms and an attached two car garage. The proposed two-story, over basement residence will have a maximum building height of 24'-10", below the 30 foot height limit allowed by the Coastal Height Limitation Overlay zone.

The proposed Lot Line Adjustment is within an existing 40 foot access easement and a View Corridor as identified in the LJCP. A View Corridor is defined as an unobstructed framed view down a public right-of-way. The LJCP states that public views shall be retained and enhanced for public use. In addition, LDC Section 132.0403(b) requires a visual corridor be preserved as a deed restriction which has been included as a condition of approval of the permit. The visual corridors on-site will be the 3'-3" side yard to the north and the 10'-2" street side yard setback at the south property line. The proposed wall on the new west property line will not obstruct the 16'-0" required access path to Sewer Pump Station No. 21 and will not obstruct any public views to the Pacific Ocean. As proposed, the project will comply with all development regulations and the LJCP. Additionally, conditions have been added to the development permit to assure compliance with the regulations.

The project, construction of the new residence at 7106 Vista Del Mar, proposes no deviations or variances from the applicable regulations and development standards in effect for this site. Development of the proposed project requires the approval of a Coastal Development Permit

(CDP) for development within the Coastal Overlay Zone. Additionally, 7080 Neptune Place also requires a Coastal Development Permit as a Lot Line Adjustment constitutes development.

The project site located at located at 7080 Neptune Place is a .24-acre lot developed with a 3,607 square foot, two-story residence. The current lot size is 10,497 square feet and will be reduced to 10,276 square feet with the Lot Line Adjustment.

Staff has determined that the proposed residence and lot modifications to both lots meet the required development regulations and are consistent with the existing character of the surrounding neighborhood.

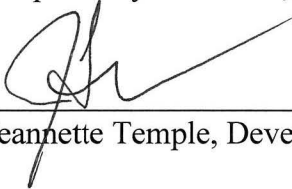
Conclusion:

The project meets all applicable regulations and policy documents, and staff finds the project consistent with the recommended land use, design guidelines, and development standards in effect for this site per the adopted Municipal Code, La Jolla Community Plan and Local Coastal Program Land Use Plan and the General Plan.

ALTERNATIVES

1. APPROVE Coastal Development Permit No. 1230967 and 1241972, with modifications.
2. DENY Coastal Development Permit No. 1230967 and 1241972, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



Jeannette Temple, Development Project Manager

Attachments:

1. Location Map
2. Aerial Photograph
3. Community Plan Land Use Map
4. Lot Line adjustment exhibit
5. Project Data Sheet
6. Draft Permit with Conditions- Biddulph Residence
7. Draft Permit Resolution with Findings-Biddulph Residence
8. Draft Permit with Conditions- Rutherford Residence
9. Draft Permit Resolution with Findings – Rutherford Residence
10. Environmental Resolution with MMRP
11. Project Site Plan

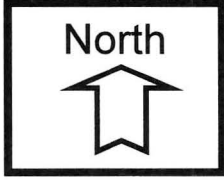
12. Project Plans
13. Community Planning Group Recommendation
14. Ownership Disclosure Statement
15. Resolution No. 113329, Access Road Resolution

Project Sites



Project Location Map

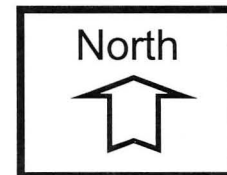
BIDDUPLH RESIDENCE- 7106 Vista Del Mar & 7080 Neptune
PROJECT NO. 319815

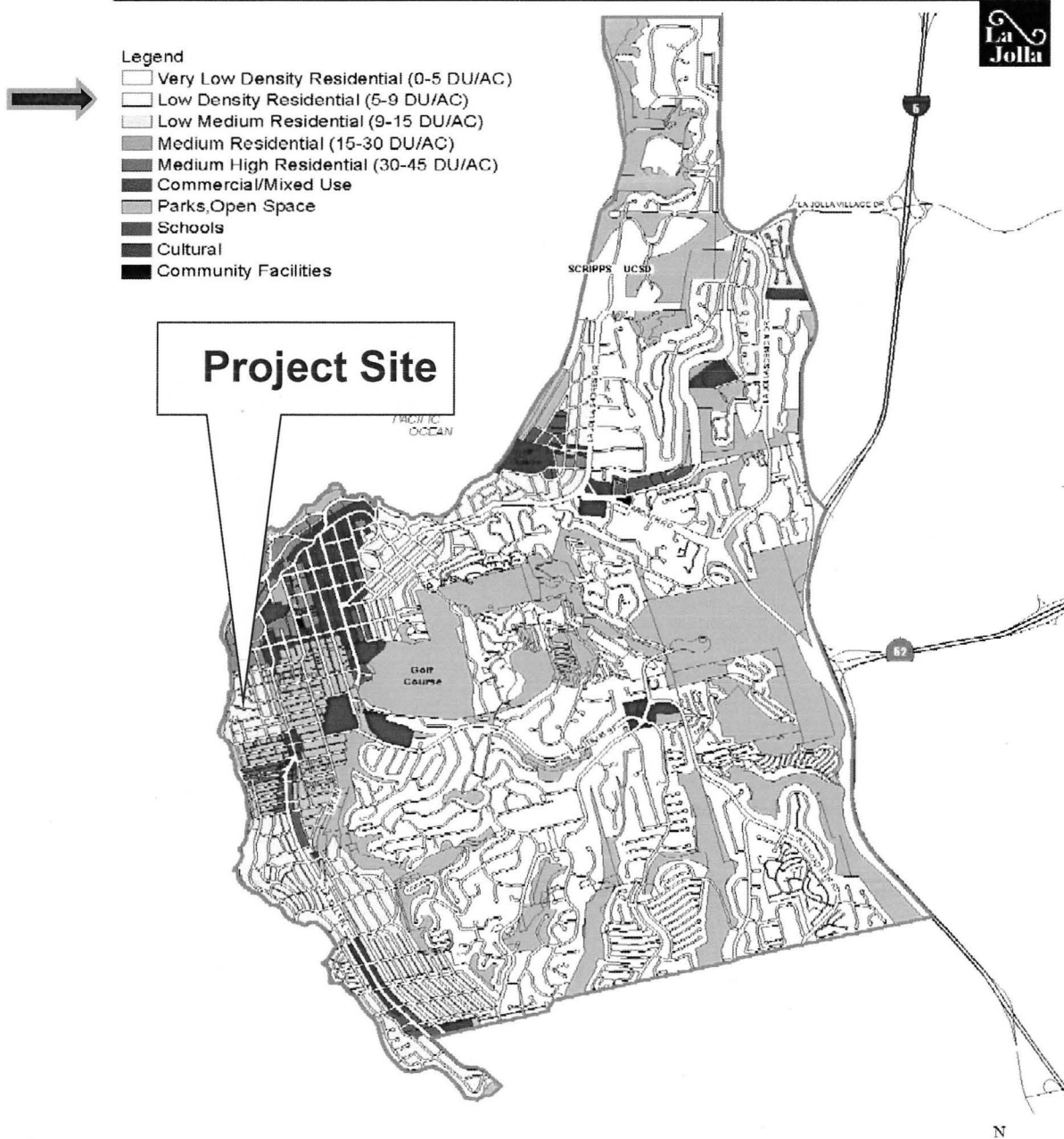




Aerial

BIDDULPH RESIDENCE- 7106 Vista Del Mar Ave & 7080 Neptune Place
PROJECT NO. 319815





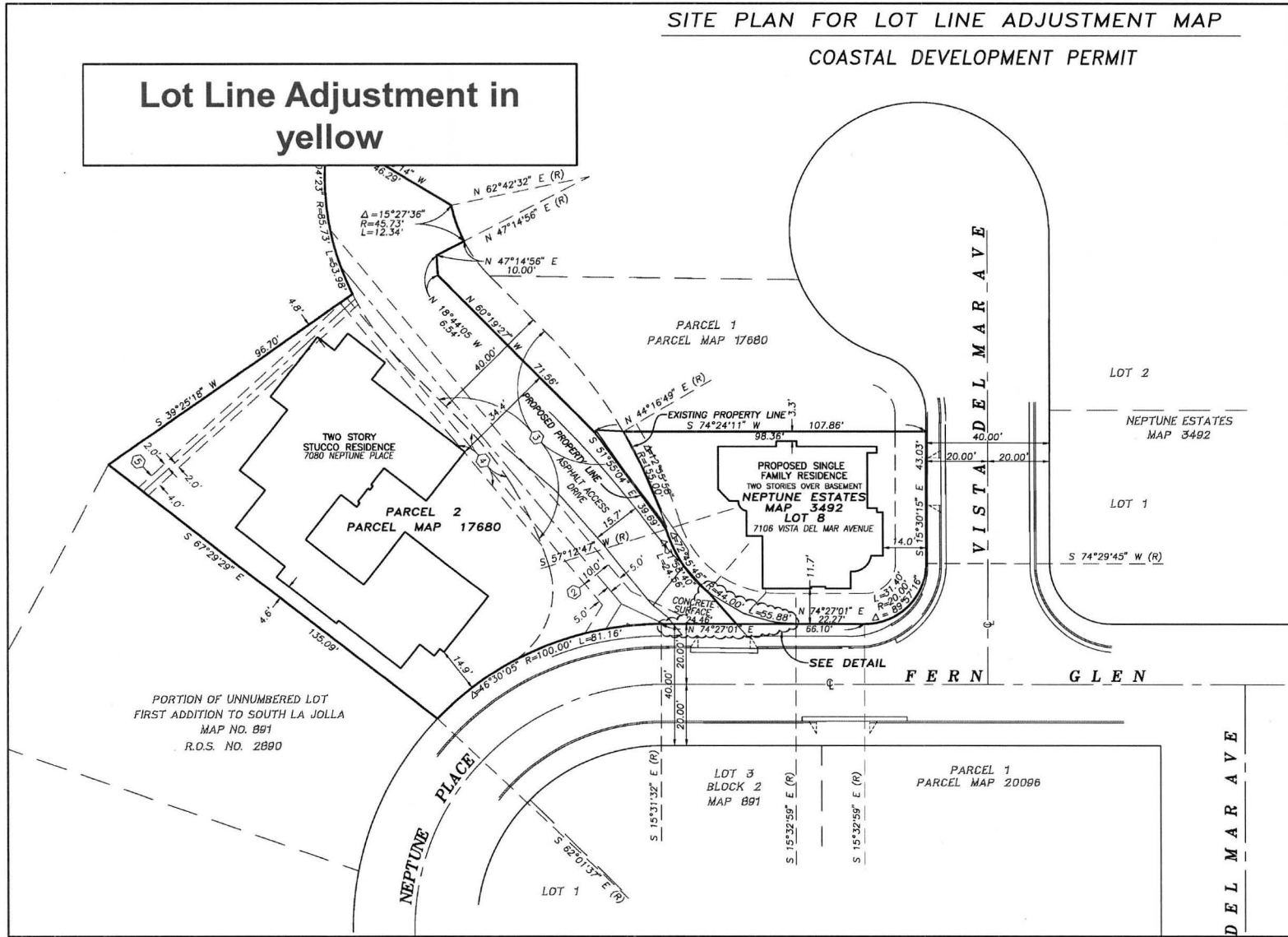
Land Use Map

BIDDUPLH RESIDENCE— 7106 Vista Del Mar and 7080 Neptune
PROJECT NO. 319815

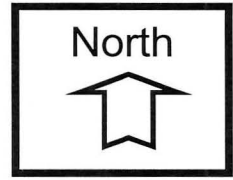


SITE PLAN FOR LOT LINE ADJUSTMENT MAP
COASTAL DEVELOPMENT PERMIT

Lot Line Adjustment in yellow



Location Aerial Photo
BIDDULPH RESIDENCE— 7106 Vista Del Mar Avenue & 7080 Neptune Place
PROJECT NO. 319815



PROJECT DATA SHEET

PROJECT NAME:	Biddulph Residence	
PROJECT DESCRIPTION:	Demolish existing single family residence, and construct a new 3,091 square foot, two-story over basement residence with a lot line adjustment	
COMMUNITY PLAN AREA:	La Jolla	
DISCRETIONARY ACTIONS:	Coastal Development Permit	
COMMUNITY PLAN LAND USE DESIGNATION:	Low Density Residential (5-9 du/acre)	
<u>ZONING INFORMATION:</u> ZONE: RS-1-7 (one unit per lot) HEIGHT LIMIT: 30 feet maximum/Proposed 24'-10" LOT SIZE: 5,000 square-foot minimum/Proposed 5,302 square feet FLOOR AREA RATIO: Maximum .59/ Proposed .58 FRONT SETBACK: Required 10 feet SIDE SETBACK: 5 feet required STREETSIDE SETBACK: 10 feet required REAR SETBACK: 5 feet required PARKING: 2 required/Proposed 2		
<u>ADJACENT PROPERTIES:</u>	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	Low Density Residential; RS-1-7	Single Family Residential
SOUTH:	Low Density Residential; RS-1-7	Single Family Residential
EAST:	Low Density Residential; RS-1-7	Single Family Residential
WEST:	Low Density Residential; RS-1-7 and Pacific Ocean	Single Family Residential and the Pacific Ocean
DEVIATIONS OR VARIANCES REQUESTED:	None	

COMMUNITY PLANNING GROUP RECOMMENDATION:	On November 12, 2013 the La Jolla Community Planning Association voted 11-0-3 to recommend approval of this project with no conditions.
---	---

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

PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24003693

COASTAL DEVELOPMENT PERMIT NO. 1230967
BIDDULPH RESIDENCE PROJECT NO. 319815 (MMRP)
 HEARING OFFICER

This Coastal Development Permit No. 1230967 is granted by the Hearing Officer of the City of San Diego to KEMP BIDDULPH, Trustee of the Kemp Biddulph Revocable Trust dated May 6, 1983, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0708. The 0.12-acre site is located at 7106 Vista Del Mar in the RS-1-7 zone, the Coastal Height Limitation Overlay Zone, Coastal Overlay Zone (Appealable), First Public Roadway, Parking Impact Overlay Zone, Transit Area Overlay Zone, and Residential Tandem Parking Overlay Zone within the La Jolla Community Plan and Local Coastal Program Land Use Plan. The project site is legally described as: Lot 8, of the Neptune Estates, in the City of San Diego, County of San Diego, State of California, according to map thereof No. 3492, filed in the Office of the County Recorder of San Diego County, August 23, 1956.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish an existing single family residence and construction of a new, two-story single family residence described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated June 11, 2014, on file in the Development Services Department.

The project shall include:

- a. Demolition of a 3,321 square foot, two-story , single family residence;
- b. Construction of a 3,091 square foot, two-story single family residence over a 2,327 square foot, subterranean basement;
- c. Lot Line Adjustment of 221 square feet granted from Parcel 2 of Map No. 17680. The original lot size was 5,081 square feet, new configuration is 5,302 square feet ;

- d. Landscaping (planting, irrigation and landscape related improvements);
- e. Off-street parking;
- f. Site improvement include retaining walls, hardscape and site walls;
- g. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by XXXXXXXX.
2. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action, or following all appeals.
3. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements

may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

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

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

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

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

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. Mitigation requirements in the Mitigation, Monitoring, and Reporting Program [MMRP] shall apply to this Permit. These MMRP conditions are hereby incorporated into this Permit by reference.

12. The mitigation measures specified in the MMRP and outlined in Mitigated Negative Declaration No. 319815, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL MITIGATION REQUIREMENTS.

13. The Owner/Permittee shall comply with the MMRP as specified in Mitigated Negative Declaration No. 319815, to the satisfaction of the Development Services Department and the City Engineer. Prior to issuance of any construction permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures described in the MMRP shall be implemented for the following issue areas: Paleontological Resources.

ENGINEERING REQUIREMENTS:

14. Prior to the issuance of any construction permit, the Owner/Permittee shall obtain a Public Right-of-Way permit for the proposed work in the City Road Access Easement adjacent to project site.

15. Prior to the issuance of any building permits, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal agreement from the City Engineer for the proposed private improvements locate in the City Road Access Easement adjacent to project site, satisfactory to the City Engineer.

16. Prior to issuance of any building permit, the Owner/Permittee shall assure by permit and bond the replacement of the existing driveways with a 12-foot wide standard driveway, on Vista Del Mar Ave, per city standard SDG-162, satisfactory to the City Engineer.

17. Prior to the issuance of any building permits, the Owner/Permittee shall assure by permit and bond the replacement of the existing curb ramp with a new city standard curb ramp with truncated domes, located at the northwest corner of Fern Glen and Vista Del Mar Avenue, per Standard Drawing SDG-134, satisfactory to the City Engineer.

18. This project proposes to export 565 cubic yards of material from the project site. All export material shall be discharged into a legal disposal site. The approval of this project does not allow the processing and sale of the export material. All such activities require a separate Conditional Use Permit.

19. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

20. Prior to the issuance of any construction permit the Owner/Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.

21. Prior to the issuance of any foundation inspection, the Owner/Permittee shall submit an building pad certification signed by a Registered Civil Engineer or a Licensed Land Surveyor,

certifying the pad elevation based on USGS datum is consistent with Exhibit 'A', satisfactory to the City Engineer.

PLANNING/DESIGN REQUIREMENTS:

22. Owner/Permittee shall maintain a minimum of two (2) off-street parking spaces on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the appropriate City decision maker in accordance with the SDMC.
23. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.
24. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations.
25. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this permit.
26. A topographical survey conforming to the provisions of the Municipal/Land Development Code may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this permit or a regulations of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.
27. Any future requested amendment to this permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.
28. Prior to the issuance of construction permits the Owner/Permittee shall record a Deed Restriction preserving a visual corridor 3'3" wide (north) and 10'2" wide (south) as shown on Exhibit "A" in accordance with SDMC, Section 132.0403.
29. Landscaping may be permitted within the view corridor along Fern Glen provided such improvements do not significantly obstruct public views of the ocean. Landscaping shall be planted and maintained at no higher than 3 feet to preserve public views.
30. All fences and retaining walls shall comply with the San Diego Municipal Code Section 142.0301.

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

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

32. Prior to the issuance of any Encroachment Maintenance & Removal Agreement (EMRA) within the Fern Glen access road easement, the Owner/Permittee shall demonstrate to the satisfaction of the City Engineer and Public Utilities Director that the encroachment will not be built or grown within a 32" radius of the outside edge of the access road's northern gate post or its protective bollard.

33. Prior to the issuance of any construction permit the Owner/Permittee shall assure, by permit and bond, the installation of an appropriate private above ground backflow prevention device (BFPD) for each water service (domestic, fire, and/or irrigation) serving the property. BFPDs are typically located on private property, in-line with the service, and immediately adjacent to the Right-of-Way. The Public Utilities Department will not permit the required BFPDs to be located below grade or within the structure.

34. Prior to the issuance of any construction permit, the Owner/Permittee shall ensure that all public water and sewer facilities necessary to serve the property (including all water services and sewer laterals) are connected and operational in a manner satisfactory to the City Engineer and the Public Utilities Director.

35. All proposed public water and sewer facilities are to be designed in accordance with the most current versions of the City of San Diego's Facility Design Guide, Standard Drawings and Specifications, Information Bulletins, and standards of practice.

36. All proposed private water and sewer facilities must be designed in accordance with the most current version of the California Uniform Plumbing Code.

37. No tree exceeding three (3) feet in height at maturity, or shrub exceeding eight (8) feet in height at maturity, is to be installed within five (5) feet of any public sewer facilities or within ten (10) feet of any public water facilities.

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of

the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.

- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Hearing Officer of the City of San Diego on June 11, 2014 and Resolution No XXX.

DRAFT

Coastal Development Permit No. 1230967/PTS 319815
Date of Approval: June 11, 2014

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Jeannette Temple
Development Project Manager

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

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

**Kemp Biddulph, Trustee of the Kemp
Biddulph Revocable Trust, May 6, 1982**
Owner/Permittee

By _____
Kemp Biddulph
Trustee

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

HEARING OFFICER
RESOLUTION NO.
COASTAL DEVELOPMENT PERMIT NO. 1230967
BIDDULPH RESIDENCE PROJECT NO. 319815- [MMRP]

WHEREAS, KEMP BIDDULPH, Trustee of the Kemp Biddulph Revocable Trust dated May 6, 1983, Owner/Permittee, filed an application with the City of San Diego for a permit to demolish an existing single family residence and construction of a new, two-story single family residence (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 1230967), on portions of a 0.12-acre site;

WHEREAS, the project site is located at 7106 Vista Del Mar in the RS-1-7 zone, the Coastal Height Limitation Overlay Zone, Coastal Overlay Zone (Appealable), First Public Roadway, Parking Impact Overlay Zone, Transit Area Overlay Zone, and Residential Tandem Parking Overlay Zone within the La Jolla Community Plan and Local Coastal Program Land Use Plan;

WHEREAS, the project site is legally described as Lot 8, of the Neptune Estates, in the City of San Diego, County of San Diego, State of California, according to map thereof No. 3492, filed in the Office of the County Recorder of San Diego County, August 23, 1956;

WHEREAS, on June 11, 2014, the Hearing Officer of the City of San Diego considered Coastal Development Permit No. 1230967 pursuant to the Land Development Code of the City of San Diego;

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

That the Hearing Officer adopts the following written Findings, dated June 11, 2014.

FINDINGS:

I. Coastal Development Permit - Section 126.0708(a)

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

The 0.12 acre site located at 7106 Vista Del Mar is a corner lot east of the Pacific Ocean, south of Fern Glen, west of Vista Del Mar and North of Neptune Place. It is approximately 100 feet from the Pacific Ocean. The property is located between the sea and the first public roadway paralleling the sea. Neptune Place, to the southwest, is designated as View Corridor and is defined as an unobstructed framed view down a public right-of-way in the adopted La Jolla Community Plan (LJCP) and Local Coastal Program Land Use Plan. The proposed residence will be constructed on the existing graded pad and has been designed to not obstruct the Pacific Ocean view. Additionally the site has been conditioned to maintain a Deed Restriction preserving the view corridor on both the south and west edges of the property line; 3'-3" wide on the west and 10'-2" wide on the south. The project therefore, meets the development regulations of the

underline zone and would not encroach upon any physical accessway and will protect public views to the Pacific Ocean.

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

The project proposes to demolish an existing 3,321 square foot, two-story, single family residence and construct a 3,091 square foot, two-story, single family residence over a 2,327 square foot, subterranean basement and a property Lot Line adjustment of 221 square feet granted from 7080 Neptune Place. The subject property is a corner lot, and is located approximately 100 feet from the Pacific Ocean. The site is approximately 39 feet above Mean Sea Level (MSL) and does not contain Environmentally Sensitive Lands (ESL). The proposed development lies within the previously graded building pad and no portions of the development shall extend beyond the existing building envelope. The project proposes no deviations or variances from the applicable regulations and development standards in effect for this site. Therefore, it has been determined that the development will not adversely affect environmentally sensitive lands.

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

The 0.12 acre site is located at 7106 Vista Del Mar is a corner lot located approximately 100 feet from the Pacific Ocean. The property is located between the sea and the first public roadway paralleling the sea. The site is adjacent to Neptune Place which is a View Corridor and is defined as an unobstructed framed view down a public right-of-way in the adopted La Jolla Community Plan (LJCP) and Local Coastal Program Land Use Plan. The proposed project has been designed as to not obstruct and views and has been conditioned to maintain a Deed Restriction preserving the view corridor on both the south and west edges of the property line; 3'-3" wide on the north and 10'-2" wide on the south. The project has been designed to meet the development regulations of the underlying zone and would not encroach upon any physical accessway and will protect public views to the Pacific Ocean.

The proposed 3,091 square foot, two-story, single family residence over a 2,327 square foot, subterranean basement will have a maximum building height of 24'-10". Therefore, the residence and any projections will not exceed the maximum 30 foot height limit allowed by the Coastal Height Limitation Overlay Zone (CHLOZ).

With the Deed Restriction, the project meets all applicable regulations and policy documents, and is consistent with the recommended land use designation, design guidelines, and development standards in effect for this site. Therefore, the development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

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

The 0.12 acre site is located at 7106 Vista Del Mar and is a corner lot located approximately 100 feet from the Pacific Ocean. The property is located between the sea and the first public roadway paralleling the sea. The site is adjacent to Neptune Place which is identified as a View Corridor and has an unobstructed framed view of the Pacific Ocean down the public right-of-way as identified in the adopted LJCP and Local Coastal Program Land Use Plan. The proposed project has been designed as to not obstruct any views and has been conditioned to maintain a Deed Restriction preserving the view corridor on both the south and west edges of the property line; 3'-3" wide on the north and 10'-2" wide on the south.

There is no access to the shoreline from this site, as the rear yard abuts another lot, rather than the beach. The nearest shoreline access point available to the public is located approximately 500 feet to the south at the Belvedere Street. At that location there are stairs leading to the beach.

The proposed project has been designed to meet the development regulations of the underlying zone and no public view, public access to the water, public recreation facilities, or public parking facilities would be adversely affected by the approval of this development. Therefore, the proposed development has demonstrated conformance with the public access and recreation policies of the California Coastal Act as required by this finding.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Coastal Development Permit No. 1230967 and 1241972 are hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1230967, a copy of which is attached hereto and made a part hereof.

Jeannette Temple
Development Project Manager
Development Services

Adopted on: June 11, 2014

Job Order No. 24003693

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

PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24003693

COASTAL DEVELOPMENT PERMIT NO. 1241972
RUTHERFOD RESIDENCE PROJECT NO. 319815
HEARING OFFICER

This Coastal Development Permit No. 1241972 is granted by the Hearing Officer of the City of San Diego to Stephen Phillip Rutherford and Maxine Lynn Rutherford, Trustees of the Stephen Phillip and Maxine Lynn Rutherford, Trust as amended and restated December 3rd, 2012, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0708. The 0.24-acre site is located at 7080 Neptune in the RS-1-7 zone, the Coastal Height Limitation Overlay Zone, Coastal Overlay Zone (Appealable), First Public Roadway, Parking Impact Overlay Zone, Transit Area Overlay Zone, and Residential Tandem Parking Overlay Zone of the La Jolla Community Plan and Local Coastal Program Land Use Plan. The project site is legally described as: Parcel 2 of Parcel Map No. 17680, in the City of San Diego, County of San Diego, State of California, according to map thereof filed in the Office of the County Recorder of San Diego County, April 12, 1996.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee for a Lot Line Adjustment described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated June 11, 2014, on file in the Development Services Department.

The project shall include:

- a. Lot Line Adjustment of 221 square feet granted to Lot 8 of Map 3492. The original lot size was 10,497 square feet. New lot configuration will be 10,276 square feet.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by XXXXXXXX.
2. Approval of the Lot Line Adjustment Parcel Map will constitute this permit as utilized.
3. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action, or following all appeals.
4. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
5. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Lot Line Adjustment Parcel Map shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.
8. All of the conditions contained in this Permit have been considered and were determined-necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

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

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

INFORMATION ONLY:

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

APPROVED by the Hearing Officer of the City of San Diego on June 11, 2014 and Resolution No XXX.

Coastal Development Permit No. 1241972/PTS 319815
Date of Approval: June 11, 2014

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Jeannette Temple
Development Project Manager

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

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

**Stephen Phillip Rutherford and Maxine
Lynne Rutherford Trust**
Owner/Permittee

By _____
Stephen Phillip Rutherford
Trustee

**Stephen Phillip Rutherford and Maxine
Lynne Rutherford Trust**
Owner/Permittee

By _____
Maxine Lynne Rutherford
Trustee

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

DRAFT