THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: September 25, 2008 **REPORT NO. PC-08-120**

ATTENTION: **Planning Commission, Agenda of October 2, 2008**

SUBJECT: KRETOWICZ RESIDENCE - PROJECT NO. 138513, PROCESS FOUR

REFERENCES: California Coastal Commission Permit No. F6760, dated June 2, 1978 (Attachment 7); State Coastal Commission Appeal No. 221-78 (Attachment 8); California Coastal Commission Permit No. A-133-79, dated September 20, 1979 (Attachment 9); California Coastal Commission Permit No. F60760-A, dated March 26, 1980 (Attachment 10); Site Development Permit No. 8967, dated January 26, 2005 (Attachment 11); and Amendment to the California Coastal Commission Permit No. A-133-79-A2/F60760-A3 (Attachment 12).

OWNER/ APPLICANT: DUK Trust/ Ure R. Kretowicz and Diane M. Kretowicz

SUMMARY

Issues: Should approve the previously constructed improvements and additions to an existing single-family residence, which includes a proposed guest quarters, a new trellis, and jacuzzi, on a 22,725 square foot site located at 7957 Princess Street in the La Jolla Community Plan Area?

Staff Recommendation:

1. **DO NOT CERTIFY** Negative Declaration No. 138513;

2. **DENY** Site Development Permit No. 482270; and

3. **DENY** Neighborhood Use Permit No. 581890.

Community Planning Group Recommendation: On September 4, 2008, the La Jolla Community Planning Association voted 11-0-2 to recommend approval of the proposed project with conditions (Attachment 23).

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meets the intent of the regulations for the sensitive coastal bluffs guidelines and provides the required 5 feet setback from the established coastal bluff edge.

Community Interest and Letters:

The proposed project has generated community interest and opposition in the form of petitions, letters, and public records request (Attachment 24). In accordance with Section 112.0302(b), all persons who provided an address and/or legible signatures on the petition sent emails and/or letters where sent a Notice of Public Hearing.

Conclusion:

The previously constructed improvements, modifications, and additions to the existing single-family residence are located within the existing foot print of the residence and are consistent with the development regulations. The proposed new jacuzzi and new trellis at the main second floor deck, would be located 5 feet from the established coastal bluff edge. Both structures would be located on top of existing retaining walls and columns that support the existing deck structure. The proposed structures are not adding additional load-bearing support structures that would impact geologic conditions of the sensitive coastal bluff; therefore, the proposed jacuzzi and trellis meets the intent of the regulations for the sensitive coastal bluffs guidelines and provides the required 5 feet setback from the established coastal bluff edge.

The addition to the existing detached accessory building is consistent with the development regulations on size, location, and setbacks; however, DSD shall not support the existing accessory building to be converted into a guest quarters. The approval of the NUP would grant habitable living space/use within the public right-of-way, which creates a life and safety issue for those living and sleeping in the structure, a liability for the City, and does not benefit a public purpose. DSD believes the finding that the proposed development will not be detrimental to the public health, safety, and welfare can not be substantiated. If the Planning Commission can not substantiate the findings for the NUP, then DSD would not oppose the granting of the SDP, which includes the other improvements within the public right-of-way.

ALTERNATIVES

1. **CERTIFY** Negative Declaration No. 138513, and **APPROVE** Site Development Permit No. 482270 **with modifications**, and **DENY** Neighborhood Use Permit No. 581890 **if the findings required to approve the Neighborhood Use Permit cannot be affirmed.** [A Draft Site Development Permit has been prepared (Attachment 22).]

2. **CERTIFY** Negative Declaration No. 138513, and **APPROVE** Site Development Permit No. 482270 and Neighborhood Use Permit No. 581890, **with modifications**

Environmental Review: A Negative Declaration No. 138513 has been prepared for the project in accordance with the State of the California Environmental Quality Act (CEQA) Guidelines.

Fiscal Impact Statement: None with this action. All costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

Code Enforcement Impact: A Neighborhood Code Compliance Case (No. NC40952) is currently active at this property for previously constructed improvements and additions to an existing single-family residence that were constructed without obtaining an amendment to the original Coastal Commission Permit and/or without obtaining building and public improvement permits.

Housing Impact Statement: None with this action.

BACKGROUND

The project site is located at 7957 Princess Street (Attachment 1), the northern terminus of Princess Street, west of Spindrift Drive (Attachment 2). The site contains three legal lots, two of the lots are at the nexus of a coastal bluff and coastal canyon, and are located in the RS-1-7 Zone. The third lot is approximately 436 square feet in size and is located at the terminus of Princess Street, and is located in the SF Zone of the La Jolla Shores Planned District (Attachment 3). The site is within the La Jolla Community Plan Area (Attachment 4), Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone, the Beach Impact Area of the Parking Impact Overlay Zone, Residential Tandem Parking Overlay Zone, and Transit Area Overlay Zone. The zoning designations allow for single family residential and the La Jolla Community Plan (LJCP) designates the proposed project site for single family use (5-9 dwelling units per acre). Princess Street is a public street and the cul-de-sac located at the terminus of the street is within the public right-of-way.

The property originally contained an existing two story single family residence constructed prior to 1915, and the prior owner of the property obtained three Coastal Development Permits (and one appeal) that were issued by the California Coastal Commission and the State Coastal Commission for several additions and modifications to the existing structure (Attachment 7-10). A brief history of the coastal actions, appeals, litigation, and permits are located in Attachment 6-Permit History.

The property was purchased by the current applicant in 1993, and is developed with a two-story, 7,249 square foot, single family residence with an attached two car garage, and detached accessory structures. The property has undergone several improvements, modifications, and additions by the current owner that were constructed without obtaining an amendment to the original Coastal Development Permits and/or without obtaining building and public improvement permits pursuant to Neighborhood Code Compliance Department (NCCD) Case No. NC40952. On December 6, 2007, NCCD issued a Notice of Civil Penalty Hearing which was scheduled for December 18, 2007 (Attachment 18). After the public hearing, a Civil Penalty Administrative Enforcement Order was issued by the Administrative Hearing Officer on

December 26, 2007 (Attachment 19). This order required the immediate cessation of all work at the property, payment of civil penalty and costs, and all violations to be added to the plans and included in Project No. 138513 (this project). A brief history of the current owner's coastal actions, appeals, litigation, permits, and Civil Penalty Hearing are located in Attachment 6- Permit History.

DISCUSSION

Project Description:

The proposed project includes improvements, modifications, and additions to the existing single-family residence, the project site, and the accessory structures that have been previously constructed. This includes the removal of an existing interior wall and portions of an exterior wall on the lower level (Attachment 13- Sheet A-1.2), for the addition of approximately 760 square feet (only 480 square feet is included in the floor area ratio) and a complete remodeling of the existing area (Attachment 13- Sheet A-2.0). All of the upper level interior walls and portions of the exterior walls were removed and or modified, and portions of the existing deck were removed (Attachment 13- Sheet A-1.3). The existing master bedroom area was remodeled into a new kitchen, pursuant to Building Permit No. C302021-98 approved on April 15, 1998. However, a portion of the new kitchen area does not match the approved plans and the permit did not include the remodeling of the old kitchen area (Attachment 13- Sheet A-1.3). The improvements and modifications to the upper level includes all new interior walls and portions of new exterior walls, new fireplace, reconstructed deck, new cantilevered balcony, new deck cover, and modifications to the garage and front entry walls (Attachment 13- Sheet A-2.1).

An existing detached accessory building is located at the terminus of Princess Street and was approved on January 28, 1969, pursuant to Building Permit No. E40921 (Attachment 13-Plans, Sheet A-1.0(e)). A portion or 1/3 of this structure is within the public right-of-way and the remaining 2/3 of this structure is within the small lot that is located in the La Jolla Shores Planned District. The building records for the detached accessory building indicate that the structure was a "Photo Lab," a non-habitable accessory use. A portion of the existing exterior walls were removed (Attachment 13- Sheet A-1.3), for a 52 square foot bathroom addition and the remaining existing exterior walls were modified (Attachment 13- Sheet A-2.1).

The existing retaining wall along the northern property line, in front of the existing detached accessory building, was raised approximately two to three feet to a height of seven-foot 6-inches (reduces to a height of five-feet six inches at the front property line), and a new seven-foot six-inch block wall (reduces to a height of five-feet six inches at the front property line) was constructed within the public right-of-way (Attachment 13- Sheet A-1.0 and Sheet A-5.0). A new seven-foot 6-inch trash enclosure and gate were installed, and a new gate was installed along the eastern side of the garage.

The applicant is proposing to use the remodeled detached accessory building as a guest quarters, and is requesting a trellis addition over the second floor deck and a new jacuzzi, which includes new retaining walls and a raised platform (Attachment 13- Sheet A-2.1). The addition to the existing detached accessory building is consistent with the development regulations on size,

location, and setbacks; however, the approval of the guest quarters would grant habitable living space/use within the public right-of-way, which creates a life and safety issue for those living and sleeping in the structure, a liability for the City, and does not benefit a public purpose.

The proposed new jacuzzi and new trellis at the main second floor deck, located on the western portion of the property, would be located 5 feet from the established coastal bluff edge. Both structures would be located on top of existing retaining walls and columns that support the existing deck structure. This deck was permitted in 1978 with the approval of the main addition to the existing single family residence. The intent of the environmentally sensitive lands (ESL) regulations, which includes the sensitive coastal bluffs, is to assure that development occurs in a manner that protects the overall quality of the resources and the natural and topographic character of an area, and encourages a sensitive form of development. Both of proposed structures are not adding additional load-bearing support structures that would impact geologic conditions of the sensitive coastal bluff; therefore, the proposed jacuzzi and trellis meets the intent of the regulations for the sensitive coastal bluffs guidelines and provides the required 5 feet setback from the established coastal bluff edge.

Development of the proposed project requires the approval of a Process 4 Site Development Permit (SDP) to amend SDP No. 108967 for development on a premise containing sensitive coastal bluffs, and for encroachments established and maintained in the public right-of-way when the applicant is not the record owner of the property on which the proposed encroachment will be located; and a Neighborhood Use Permit (NUP) for a proposed Guest Quarters in the existing structure within the public right-of-way. Because the project utilizes renewable technologies and qualifies as a Sustainable Building under Council Policies 900-14 and 600-27, the land use approvals have been processed through the Affordable/In-Fill Housing and Sustainable Buildings Expedite Program.

The Coastal Development Permit will be processed and issued by the California Coastal Commission (as an amendment to the original coastal development permit issued by the Commission) once all of the City's actions have been completed. The applicant did have a pending amendment application to their permit (California Coastal Commission Permit No. A-133-79-A2/F60760-A3), that application was withdrawn on July 3, 2008, by the applicant. A new application will be submitted to the Commission by the applicant once all of the City's actions have been completed; therefore, the Commission is exclusively responsible for the Coastal Development Permit and or amendments pursuant to Section 126.0717 of the LDC. A brief history of the current owner's coastal actions, appeals, and litigation are located in Attachment 6-Permit History.

La Jolla Shores Planned District Ordinance Analysis:

The site contains three legal lots, which of the lots are located in the RS-1-7 Zone. The third lot is approximately 436 square feet in size and is located at the terminus of Princess Street, and is located in the SF Zone of the La Jolla Shores Planned District. This lot contains the existing detached accessory building located at the terminus of Princess Street, which was approved on January 28, 1969, pursuant to Building Permit No. E40921. A portion or 1/3 of the structure is within the public right-of-way and the remaining 2/3 of the structure is within the small lot that is

located in the La Jolla Shores Planned District (LJSPD). The previously constructed 52 square foot bathroom addition, retaining wall, and fences would be considered minor in scope. Therefore, the proposed project would not require a SDP for development in the LJSPD or a recommendation from the LJSPD Advisory Board pursuant to Section 1510.0201(d) of the LDC.

Community Plan Analysis:

The project site is located at 7957 Princess Street, the northern terminus of Princess Street, west of Spindrift Drive within the La Jolla Community Plan Area (LJCP). The community plan designates the proposed project site for single family use (5-9 dwelling units per acre). This range is characterized by single dwelling unit residential homes on 5,000-7,000 square foot lots. Approximately 20 percent of the community planning area is developed through this category which is implemented through the RS-1-7 zone. The proposed project is consistent with the community plans with respect to density.

The project site is located in an identified scenic overlook in the LJCP Subarea D, which is described as a scenic view over private properties from a public right-of-way along Princess Street. Additionally, the community plan sites this lot within a major viewshed, an unobstructed panoramic view from a public vantage point from Spindrift Drive (Attachment 20). The proposed addition and remodel to the existing residence would not create any obstruction of these identified viewsheds as the residence is situated much lower than the level of the right-of-way from where the view is observed. The existing view from these identified public viewing locations toward the ocean would not result in any substantial changes.

As a condition of a permit for the single-family residence at 7957 Princess Street, the State Coastal Commission required the applicant to record both lateral (from the toe of the bluff to the mean high tide line) and vertical (five feet wide extending from the street down to the bluff along the southern property line) public access easements. A recent search of the records revealed that the easements were never offered and/or recorded. The Coastal Development Permit will be processed and issued by the California Coastal Commission (as an amendment to the original coastal development permit issued by the Commission) once all of the City's actions have been completed; therefore, the Commission is exclusively responsible for the Coastal Development Permit and/or amendments which include all requirements and or conditions for both the lateral and vertical public access easements.

Environmental Analysis:

The City of San Diego conducted an Initial Study and determined that the proposed project will not have a significant environmental effect and the preparation of an Environmental Impact Report will not be required. Therefore, a Negative Declaration No. 138513 has been prepared for the project in accordance with the State of the California Environmental Quality Act (CEQA) Guidelines. The analysis from the Initial Study documents the reasons to support the determination as follows:

Historical Resources (Archaeology)- The project site is located in a high sensitivity area for archaeological resources, and within close proximity to a recorded significant archaeological site

(Spindrift site). An archaeological report, prepared by Jones and Stokes Associates, dated February, 2008, was submitted which included a testing program and survey of the project site. The investigations consisted of four shovel test pits (STP's) which measured 50 centimeters by 30 centimeters and were excavated to a depth of 100 centimeters. The purpose of the investigation was to determine the presence or absence of cultural material that could be related to the Spindrift site. Following consultation with Red Tail Native American Monitoring, it was concluded that the two pieces of debitage discovered on the site were derived from highly disturbed deposits and do not constitute evidence of a prehistoric occupation of the project property. This is reinforced by the near absence of marine shell that is typical at prehistoric coastal sites. Based on the data from the extended testing program, the Spindrift site did not extend into the project boundaries. Therefore, no significant impacts to archaeological resources have occurred with the previous construction and no mitigation is required.

Visual Quality/Aesthetics- The project site is located in an identified scenic overlook in the La Jolla Community Plan, which is described as a scenic view over private properties from a public right-of-way. Additionally, the community plan sites this lot within a major viewshed, an unobstructed panoramic view from a public vantage point. The proposed addition and remodel to the existing residence as well as the trellis, retaining and site walls would not create any obstruction of these identified viewsheds as the residence is situated much lower than the level of the right-of-way from where the view is observed. The existing view from these identified public viewing locations toward the ocean would not result in any substantial changes. Therefore, no significant visual impacts would occur and no mitigation is required.

Geology/Soils- The project site is located in a seismically active region of California, and located within geologic hazard category 43 as shown on the San Diego Seismic Safety maps. Zone 43 encompasses generally unstable coastal bluffs characterized by locally high erosion rates. The applicant has submitted the following geologic reports: Michael Hart, Engineering Geologist, September 14, 2004, and updated reports dated January 2, 2008 and April 30, 2008. The consultant evaluated stability of the coastal bluff and bluff recession rates. The Geology Section has reviewed these reports and based on that review the geotechnical consultant has adequately addressed the soil and geologic condition potentially affecting the development. No geologic impacts are indicated and no mitigation is required.

Community Group Recommendation:

On September 4, 2008, the La Jolla Community Planning Association voted 11-0-2 to recommend approval of the proposed project with conditions to exclude the proposed jacuzzi and the trellis on the seaward side which does not conform to the environmental sensitive lands guidelines and forward the recommendation to the City.

> Staff Response: The proposed new jacuzzi and new trellis at the main second floor deck, located on the western portion of the property, would be located 5 feet from the established coastal bluff edge. Both structures would be located on top of existing retaining walls and columns that support the existing deck structure. The proposed structures are not adding additional load-bearing support structures that would result in geologic impacts to the sensitive coastal bluff; therefore, the proposed jacuzzi and trellis

Respectfully submitted,

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Jeffrey A. Peterson
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Development Services Department

WESTLAKE/JAP

Attachments:

1. Project Location Map
2. Aerial Photograph
3. Zoning Map
4. Community Plan Land Use Map
5. Project Data Sheet
6. Permit History
7. San Diego Coastal Regional Commission Permit No. F6760, June 2, 1978
8. State Coastal Commission Appeal No. 221-78, June 15, 1978
9. San Diego Coastal Regional Commission Permit No. A-133-79, September 20,1979
10. San Diego Coastal Regional Commission Permit No. F60760-A, March 26, 1980
11. Site Development Permit No. 8967, dated January 26, 2005
12. Pending Amendment to Permit No. A-133-79-A2/F60760-A3
13. Project Plans (Reduced)
14. Notice of Violation of the California Coastal Act, Violation File No. V-6-01-106
15. Letter of Intent regarding the NOV, January 4, 2002
16. Stipulated Judgment, April 14, 2004
17. Civil Penalty Notice & Order, November 14, 2007
18. Notice of Civil Penalty Hearing, December 6, 2007
19. Civil Penalty Administrative Enforcement Order, December 26, 2007
20. LJCP Subarea D- Visual Access
21. Draft Site Development Permit and Neighborhood Use Permit Resolution/Findings
22. Draft Site Development Permit with Conditions
23. Community Planning Group Recommendation
24. Community Letters and Petitions
25. Ownership Disclosure Statement
26. Project Chronology