



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: August 5, 2010

REPORT NO. PC-10-062

ATTENTION: Planning Commission, Agenda of August 12, 2010

REFERENCE: Hearing Officer Report No. 10-061 (Attachment 6).

SUBJECT: Cardenas Residence

OWNER/ El Paseo Grande, LLC

APPLICANT: Claude-Anthony Marengo

SUMMARY

Issue(s): Should the Planning Commission approve or deny two separate appeals of the Hearing Officer's decision to approve a Site Development Permit to construct an addition to an existing deck on a lot with a single family residence within the La Jolla Community Planning Area?

Staff Recommendation:

1. **Certify** Mitigated Negative Declaration No. 191344, and **Adopt** the Mitigation, Monitoring and Reporting Program; and
2. **Deny** the appeals and uphold the Hearing Officer decision to **Approve** Site Development Permit No. 676181 with the deletion of Condition No. 20.

Community Planning Group Recommendation: On January 7, 2010, the La Jolla Community Planning Association voted 9-1-1 to recommend denial of the project due to noncompliance with the La Jolla Shores Planned District Ordinance landscape regulations and not in character with surrounding community.

La Jolla Shores Planned District Ordinance Advisory Board: On May 18, 2010, the La Jolla Shores Planned District Ordinance Advisory Board voted 5-0-0 to recommend denial of the project due to noncompliance with the La Jolla Shores Planned District Ordinance landscape regulations and bulk and scale of deck not in character with surrounding community.



Environmental Review: Mitigated Negative Declaration No.191344 has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines, with mitigation measures for potential impacts to archaeological resources. A Mitigation, Monitoring and Reporting Program has been prepared and will be implemented which will reduce, to a level of insignificance, any potential impacts identified in the environmental review process.

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

Housing Impact Statement: The La Jolla Community Plan designates the 0.27 acre site as Very Low Density Residential (0-5 du/ac). Based on this land use designation the project will not adversely affect the land use density. The proposed project would result in the expansion of an existing deck. No additional residential units are proposed as part of this project.

BACKGROUND

This item includes two appeals of the Hearing Officer's decision to approve a Site Development Permit for the construction of an expanded deck on a lot with an existing residence located at 8466 El Paseo Grande. The property is developed with a 3,113-square-foot residence and outdoor deck area constructed in the 1950s.

The project proposes a 459-square-foot expansion to an existing 892-square-foot deck. The deck would consist of a 5'-6" high support wall (partially retaining) with storage area below, and a 3'-6" high solid wall around the perimeter with the exception of transparent materials along the north side of the perimeter wall. Stepping down from the deck to the west, the applicant also proposes to construct a 4'-6" high retaining wall with a 2'-0" high guard rail on top to support an outdoor planted area. The guard rail above the lower wall would have a painted or stained wood handrail with steel cables. (The Uniform Building Code requires a 42-inch high, solid or open guardrail above a deck that exceeds 30 inches).

Other accessory improvements include enhanced paving within the walkways and modifications to existing fences. Side yard gates would be modified to provide enhanced visibility to the ocean. The project complies with the development regulations of the SF zone, and the recommendations of the La Jolla Community Plan and the Local Coastal Program.

The site is zoned Single Family (SF) of the La Jolla Shores Planned District and designated as Very Low Density Residential in the La Jolla Community Plan (LJCP). The site is within the Appealable Area of the Coastal Overlay Zone, Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone "B", Residential Tandem Parking Overlay Zone and the Beach Parking Impact Overlay Zone.

The project site does not have a designated view corridor nor does it contain intermittent or partial vistas, view sheds, or scenic overlooks. The rear 50'-0" of the site is mapped as Coastal Beach and is currently encumbered by a public access easement. As conditioned by the permit,

the project requires a deed restriction to limit improvements within required side yard setback areas to protect functional view corridors pursuant to San Diego Municipal Code section 132.0403. The site is surrounded by single family developments to the north, south and east and the Pacific Ocean to the west.

A Site Development Permit is required pursuant to San Diego Municipal Code (SDMC) section 126.0502(a)(2)(a) as the project is a development on a premises containing coastal beaches.

The project does not require a Coastal Development Permit pursuant to San Diego Municipal Code (SDMC) section 126.0704 for attached improvements to a single-family residence.

Please reference the enclosed Hearing Officer Report for additional background information.

DISCUSSION

The Hearing Officer heard the project on June 10, 2010. Public testimony was presented in favor and in opposition to the project. Three individuals spoke in opposition: Mr. Whittemore who resides at 8470 El Paseo Grande next door of the site, Mr. Crisafi, an architect, and Ms. Heidelberg, Mr. Whittemore's attorney. Issues raised by the opposition included bulk and scale/community character, landscape area calculation discrepancies, inconclusive findings, and insensitive design to the community. After deliberation and upon close of public testimony the Hearing Officer approved the project with a condition that perimeter walls above both deck areas be modified to be constructed of 75 percent clear glass to allow for improved views and to be consistent with other walls in the immediate area. Subsequent to the approval, two appeals were filed, one from the applicant and one from an opponent.

In summary, the applicant is contesting the Hearing Officer's condition and request that the condition either be modified to allow for opaque glass for privacy purposes, or, that the condition be removed and the original design approved. The project opponent's appeal suggests that the project be denied or re-designed to step the upper deck down three feet to reduce the bulk and scale, and to provide clear glass around its perimeter.

Issues identified in both appeals are outlined below. Staff's recommendation of support of the project as originally designed remains unchanged.

Appeals

Project Applicant Appeal (Attachment 4):

On July 1, 2010, the applicant filed an appeal of the Hearing Officer's decision citing the Hearing Officer's requirement for clear glass perimeter material as the grounds for the appeal. Concerns outlined in the appeal identify insufficient findings/lack of evidence to warrant the requirement and potential inconsistencies with the Migratory Bird Treaty's Act/California Environmental Quality Act/Coastal Commission policy. The project appeal issues and staff's response are summarized below. Please reference the attached appeal application for additional information.

I. Insufficient Findings/Evidence:

Appellant Issues: The appeal application states that there was lack of sufficient findings/evidence identified by the Hearing Officer during deliberation to warrant the modification to the guard rail as the original design met all the code requirements. The applicant also notes that they did not have the opportunity to address the issue with the Hearing Officer and seek clarity about the scope of the rail. The appellant contends that the issue of modifying the design to clear glass was not raised during the processing of the application.

Staff Response: Staff concurs with the proceedings at the hearing. At the close of public testimony, the Hearing Officer approved the project with the condition that the guardrails be modified to provide 75 percent of clear glass material. In accordance with San Diego Municipal Code (SDMC) section 112.0505(a) the Hearing Officer may approve, conditionally approve, or deny the application at a public hearing.

Staff received one letter in opposition to the project from Evelyn F. Heidelberg, dated June 3, 2010, representing Mr. Whittemore the adjoining neighbor to the north. Issues identified in the letter included a suggestion that the guardrail above the deck be modified to present a clear glass material. (The letter is included as Attachment 6 of the Hearing Officer Report)

Additionally, the La Jolla Community Planning Association and the La Jolla Shores Advisory Board voted to recommend denial of the project. Both groups identified the solid wall above the deck as opposed to the placement of glass material, as one of the issues for the basis of their denials. Other issues identified by both groups included the bulk and scale of the deck and lack of sufficient landscaping. (Reference pages 3 and 4 of the Hearing Officer Report for full discussion of the group's recommendations).

II. Migratory Bird Treaty's Act/California Environmental Quality Act (CEQA)/Coastal Commission Policy:

Appellant Issues: The appeal application states that the Hearing Officer's requirement for clear glass above the deck potentially violates the Migratory Bird Treaty Act which discourages actions that may harm birds. Additionally, it was noted that the modification to the deck as originally designed, may violate CEQA as well as be in conflict with the California State Coastal Commission's policy.

Staff Response: The appeal application did not provide substantial evidence that the placement of clear glass would encourage bird strikes and/or create a violation of the Migratory Bird Treaty Act or CEQA. Staff is unaware of a Coastal Commission policy discouraging the use of clear glass rails in the City of San Diego.

Opponent Appeal (Attachment 5):

On July 9, 2010, Mr. James Whittemore filed an appeal of the Hearing Officer's decision to approve the project. Concerns cited in the appeal include insufficient findings, lack of compliance with the applicable codes, and CEQA issues. The opponent's concerns and staff responses are summarized below. Reference the appeal application for additional information provided by the opponent.

I. Insufficient Findings

Appellant Issues: The appellant's application indicates that the information provided to the decision maker does not support the findings.

Staff Response: Staff analyzed the project for consistency with all applicable regulations. The proposed deck expansion complies with all requirements and no deviations were requested. Staff provided factual information in the draft findings for consideration to the Hearing Officer. Staff has determined that the required findings can be made as the project meets the applicable San Diego Municipal Code regulations and implements the recommendations of the La Jolla Community Plan.

II. Lack of Compliance with Applicable Codes

Appellant Issues - The appeal application states that the decision to approve the Site Development Permit was in conflict with the La Jolla Community Plan, California Resources Code section 30251, and San Diego Municipal Section 1510.0304(h). Inaccurate information was provided to the Hearing Officer regarding design articulation, building material, beach sand as a natural resources, transparent wall, conformance with underlying zone, and compliance with State and Federal regulations.

Staff Response – The project was determined to be in conformance with the La Jolla Community Plan, and the underlying SF zone of the La Jolla Planned District (SDMC 1510.0304 (h) (landscape regulations)). The California Resources Code Section 30251 contains information regarding the protection of public views. The project site is not designated as a view corridor within the La Jolla Community Plan however the project incorporates a deed restriction to protect functional side yard view corridors as required by the Land Development Code. Proposed construction materials are consistent with existing on-site improvements which include stucco siding and limestone. The final project design will incorporate three off-sets as viewed from the beach. These offsets include the landscape area wall, the deck wall and the existing home with trellis. As identified on the project plans the original design includes an 18-inch transparent rail is proposed for the north facing deck wall.

Staff has determined that the sand area is better characterized as “native material” than an “unplanted recreational area.” The project complies with the landscape regulations.

III. CEQA Issues:

Appellant Issues: The appeal application indicates that CEQA design alternatives or mitigation should be applied to the project and that the use of glass instead of a seating wall would mitigate the negative effect of the current Cardenas plan providing a feasible alternative as provided by CEQA. It is further stated that stepping the terrace down three feet would reduce the bulk and mass.

Staff Response: A Mitigated Negative Declaration was prepared for the project and certified by the Hearing Officer on June 30, 2010. Mitigation measures were included for potential impacts to paleontological resources. No additional mitigation measures were identified and project alternatives are required only for the preparation of an Environmental Impact Report. The Hearing Officer approved the project with the requirement for a clear glass wall encompassing 75 percent of the surface of the guardrail.

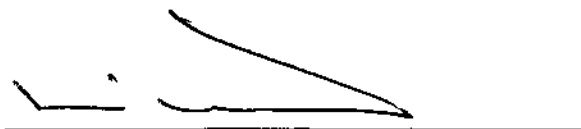
CONCLUSION:

In summary, staff recommends approval of the project as originally designed. Staff concludes the original design is consistent with the recommended land use, design guidelines, and development standards in effect for this site per the adopted Land Development Code, La Jolla Community Plan and Local Coastal Program Land Use Plan, and the City of San Diego General Plan.

ALTERNATIVE(S)

1. **Deny** the appeals and **Approve** Site Development Permit No. 676181, as approved by the Hearing Officer on June 10, 2010 (with the inclusion of condition no. 20); or
2. **Approve** the proponent's appeal and **Approve** Site Development Permit No. 67618 as recommended by staff (deleting condition no. 20); or
3. **Approve** the opponent's appeal and **Deny** Site Development Permit No. 676181, if the findings required to approve the project cannot be affirmed; or
4. **Approve** Site Development Permit No. 67618, with modifications.

Respectfully submitted,



Mike Westlake
Program Manager
Development Services Department



William Lounes
Project Manager
Development Services Department

MW/WZ

Attachments:

1. Draft Permit with new Condition added at 6/30/10 Hearing Officer Hearing
2. Draft Resolution with Findings
3. Photos of Adjacent Patio Decks/Backyards
4. Project Proponent (Applicant) Appeal
5. Project Opponent Appeal
6. Hearing Officer Report No. HO-10-061

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: 24000089

SITE DEVELOPMENT PERMIT NO. 676181
CARDENAS RESIDENCE PROJECT NO. 191344
HEARING OFFICER

This Site Development Permit No. 676181 is granted by the Hearing Officer of the City of San Diego to JOSEPH CARDENAS, Owner/ Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0502 and 1510.0201. The 0.27-acre site is located at 8466 El Paseo Grande in the SF zone within the La Jolla Shores Planned District of the La Jolla Community Plan. The project site is legally described as lot 2, of Ocean Terrance Map No. 2615;

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to expand an existing deck with supporting walls, add landscape area, storage area under the deck, enhanced paving, new gates and enhanced paving described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated June 30, 2010, on file in the Development Services Department.

The project shall include:

- a. The expansion of an existing deck consisting of 459 additional square feet with a 5.5-foot-high support wall for a total deck area of 1,351 square feet;
- b. 479-square-foot lawn area with five-foot support walls with two-foot open cable rail on top;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Accessory improvements to include enhanced paving, storage area under deck, and new gates and;

- d. 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.
2. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
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. 191344 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. 191344 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 Historical Resources.

ENGINEERING REQUIREMENTS:

14. This project proposes to export 23.9 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 onsite processing and sale of the export material unless the underlying zone allows a construction and demolition debris recycling facility with an approved Neighborhood Use Permit or Conditional Use Permit per LDC Section 141.0620(i).

15. Prior to the issuance of any construction permit, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement, for paving, landscaping and the private drainage outlet pipe within the public right-of-way, satisfactory to the City Engineer.

LANDSCAPE REQUIREMENTS:

16. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.

17. Prior to issuance of a construction permit, the Owner/Permittee shall submit a site/plot plan consistent with the plans submitted for a building permit showing the required 30% landscaped area in a crosshatch pattern and labeled 'Landscape Area Diagram.

18. Any modifications or changes to the 'Landscape Area Diagram' and existing or proposed plant material, as shown on the approved Exhibit "A" Landscape Concept Plan, are permitted provided the resulting landscape meets the minimum area requirements of the La Jolla Shores Planned District Ordinance.

PLANNING/DESIGN REQUIREMENTS:

19. Prior to the issuance of a construction permit A deed restricting required side yard setback areas (as shown on the site plan of Exhibit "A" dated June 30, 2010) to cumulatively form functional view corridors and preventing a walled effect from authorized development shall be submitted to the city for recordation.

20. All guard rails above the proposed retaining walls shall consist of 75-percent clear glass.

INFORMATION ONLY:

- 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 30, 2010.

Permit Type/PTS Approval No.: SDP No. 676181
Date of Approval: June 30, 2010

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

William Zounes
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.**

By _____

JOSEPH CARDENAS

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

HEARING OFFICER
RESOLUTION NO. HO-6328
SITE DEVELOPMENT PERMIT NO. 676181
CARDENAS RESIDENCE PROJECT NO. 191344

WHEREAS, EL PASEO GRANDE, LLC, Owner/Permittee, filed an application with the City of San Diego for a permit to construct a deck addition to an existing single family residence with support wall, lawn area, and under deck storage (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 676181), on portions of a 0.27-acre site;

WHEREAS, the project site is located at 8466 El Paseo Grande in the Single Family (SF) zone of the La Jolla Shores Planned District within the La Jolla Community Plan area;

WHEREAS, the project site is legally described as Lot 2 of Ocean Terrace Map no. 2645;

WHEREAS, on June 30, 2010, the Hearing Officer of the City of San Diego considered Site Development Permit No. 676181 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 30, 2010

Site Development Permit - Section 126.0504

1. The proposed development will not adversely affect the applicable land use plan;

The project proposes a Site Development Permit to allow a 459 square-foot deck area to be added to an existing 892-square-foot deck for a total of 1,351 square feet located at 8466 El Paseo Grande, zoned Single Family (SF) within the La Jolla Shores Planned District within the La Jolla Community Planning area within the Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone "B", Residential Tandem Parking Overlay Zone, Beach Parking Impact Overlay Zone.

The property is designated Very Low Density Residential (0-5 du/ac) in the La Jolla Community Plan (LJCP). The proposed project conforms to the identified land use. The project site is not designated as a view corridor within the LJCP and does not contain intermittent or partial vistas and the property does not contain a view sheds or scenic overlooks.

The La Jolla Community Plan recommends that community character be maintained through several measures reducing bulk and scale and requiring public physical and visual access measures. The plan also recommends that single family neighborhoods be preserved and coastal resources be protected. The proposed accessory improvement incorporates these recommendations as the rear and side yards are articulated by stepping back walls at three different levels to soften the bulk and scale. Building materials are consistent with existing on-site improvements which include stucco siding and earthtone colors. The existing seven-foot wide lateral public access easement will not be affected by this project,

maintaining public physical and visual access to the beach. The urban design guidelines of the community plan recommend that public view corridors be maintained utilizing side-yard-setbacks. Although the community plan does not identify a vertical public view corridor through this site, the project incorporates a deed restriction to protect functional side yard view corridors.

The project proposes no deviations or variances from the applicable regulations and is consistent with the goals and recommendations within the applicable policy documents. Therefore, the proposed development will not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare.

The project proposes a Site Development Permit to allow a 459 square-foot deck area to be added to an existing 892-square-foot deck for a total of 1,351 square feet located at 8466 El Paseo Grande, zoned Single Family (SF) within the La Jolla Shores Planned District within the La Jolla Community Planning area within the Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone "B", Residential Tandem Parking Overlay Zone, Beach Parking Impact Overlay Zone.

A Mitigated Negative Declaration was prepared from the project as it was determined that the proposed development could have a significant impact to Archaeological Resources.

Because mitigation measures are required to be applied to the project in accordance with Section V of the associated Mitigation, Monitoring, and Reporting Program (MMRP), the project now avoids or mitigates any potentially significant environmental impacts to archaeological resources in accordance with the California Environmental Quality Act.

The permit controlling this development contains conditions addressing compliance with the City's regulations and other regional, State and Federal regulations to prevent detrimental impacts to the health, safety, and welfare of persons residing in the area. These conditions address requirements relating to storm water runoff, runoff during construction, and landscaping. All Uniform Building, Fire, and Mechanical Codes governing the construction and continued operation of the development will apply to this site to prevent adverse affects to those persons or other properties in the vicinity. The project proposes catch basins and BMP filters to collect all run-off and avoid any potential drainage from happening on to the public areas from private improvements. Due to the nature of the existing site the project will not excavate over 33.6 cubic yards and requires 9.7 cubic yards of fill leaving 23.9 cubic yards to be removed from the site. The permit for the project will require A deed restricting required side yard setback areas to form functional view corridors and prevent future development from obstructing views to the ocean and creating a walled effect. Therefore, the proposed project conforms to the development regulations and will not be detrimental to the public health, safety, and welfare.

3. The proposed development will comply with the applicable regulations of the Land Development Code.

The project proposes a Site Development Permit to allow a 459 square-foot deck area to be added to an existing 892-square-foot deck for a total of 1,351 square feet located at 8466 El Paseo Grande, zoned Single Family (SF) within the La Jolla Shores Planned District within the La Jolla Community Planning area within the Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone,

Sensitive Coastal Overlay Zone "B", Residential Tandem Parking Overlay Zone, Beach Parking Impact Overlay Zone.

The proposed project is located entirely within private property. The zoning designation allows for a maximum of 60 percent building coverage. The La Jolla Shores Planned District Ordinance (LJSPDO) requires 30-percent of the total parcel area to be landscaped. Of the project's 30-percent requirement, 84-percent is the beach portion of the property. San Diego Municipal Code (SDMC) section 1510.0304[h][1] states that the required landscape area "*may include native materials.*"

The project's property line extends approximately 50 feet from an existing sea wall towards the ocean to include beach sand. This area holds a deed restriction preventing future development and allowing public access. City Staff acknowledges that SDMC section 1510.0304(h)(1) provides that "[a]ll landscaped material shall be permanently maintained in a growing and healthy condition including trimming as appropriate to the landscaping material." However, that reference to "landscaped material" refers specifically to landscaped material, rather than to landscaped area. Therefore, the beach sand is not precluded as a landscaped area even though it is not "in a growing condition."

Staff has determined that the sand area is better characterized as "native material" than an "unplanted recreational area." SDMC section 143.0101 sets forth the purpose of the City's Environmentally Sensitive Lands Regulations. Specifically, it provides that the purpose is to "assure that development, including, but not limited to coastal development in the Coastal Overlay Zone, occurs in a manner that protects the overall quality of the resources and the natural and topographic character of the area, encourages a sensitive form of development, retains biodiversity and interconnected habitats, maximizes physical and visual public access to and along the shoreline, and reduces hazards due to flooding in specific areas while minimizing the need for construction of *flood* control facilities." Thus, the beach sand, an environmentally sensitive land, rather than being an unplanted recreational area, is more appropriately categorized as natural resource of the area. Therefore, rather than being precluded from the calculation of landscaped area, it is more appropriately included within that calculation.

Similar to the adjacent parcels, the proposed development incorporate decks that facilitate "inside-outside" orientation as identified in the LJSPDO. However, the proposed deck will be articulated by the off-setting walls and trellis structure. The existing seven-foot wide lateral public access easement will not be affected by this project, maintaining public physical and visual access to the beach. The project proposes a transparent wall on the north side of the deck similar to existing walls in the area. The proposed improvements will maintain sideyard setbacks consistent with the existing home making it in conformance with sideyard setbacks to the surrounding neighborhood.

The project does not exceed the 30 foot height limit and conforms to the required zoning regulations to include setbacks, parking, wall and fence height, and landscaping. The project was designed in conformance with the underlying zone and land use plan and is not requesting deviations or variances to the Land Development Code. Therefore, the proposed development will comply with the applicable regulations of the Land Development Code.

Supplemental Findings--Environmentally Sensitive Lands

1. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands;

The project proposes a Site Development Permit to allow a 459 square-foot deck area to be added to an existing 892-square-foot deck for a total of 1,351 square feet located at 8466 El Paseo Grande, zoned Single Family (SF) within the La Jolla Shores Planned District within the La Jolla Community Planning area within the Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone "B", Residential Tandem Parking Overlay Zone, Beach Parking Impact Overlay Zone.

The project site contains Environmentally Sensitive Lands in the form of Coastal Beaches. The proposed deck and walls will be located outside of the coastal beach area and will not affect any establish view corridors. The permit controlling this development contains conditions addressing compliance with the City's regulations and other regional, State and Federal regulations to prevent detrimental impacts to the health, safety, and welfare of persons residing in the area. These conditions address requirements relating to storm water runoff, runoff during construction, and landscaping. All Uniform Building, Fire, and Mechanical Codes governing the construction and continued operation of the development will apply to this site to prevent adverse affects to those persons or other properties in the vicinity. The project is adding catch basins and BMP filters to collect all run-off and avoid any potential drainage from happening on to the public areas from private improvements. The project site is currently developed with an approximate 3,113-square-foot, one-story, single-family residence. The project site is located in an established urban neighborhood and is supplied with all utilities. The land supports no native vegetation and is not in or adjacent to the City's Multiple Habitat Planning Area. The deck expansion and retaining walls will be constructed entirely over existing ornamental landscape on a slope favorable to the existing home. Due to the nature of the slope already existing, the project will not be doing excavation over 33.6 cubic yards and will be doing 9.7 cubic yards of fill leaving 23.9 cubic yards to be removed from the site. The site currently maintains a public easement for public access and passive recreation along the beach preserving the coastal resource. Therefore, the site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.

2. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards;

The project proposes a Site Development Permit to allow a 459 square-foot deck area to be added to an existing 892-square-foot deck for a total of 1,351 square feet located at 8466 El Paseo Grande, zoned Single Family (SF) within the La Jolla Shores Planned District within the La Jolla Community Planning area within the Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone "B", Residential Tandem Parking Overlay Zone, Beach Parking Impact Overlay Zone.

On March 6, 2006 a Preliminary Geotechnical Investigation was reviewed and approved for the site. On November 2, 2009 an Updated Preliminary Geotechnical Recommendations reviewed and on December 16, 2009, Addendum 01 to Updated Preliminary Geotechnical Recommendations was reviewed and approved for the site. It was determined that existing and proposed development is not located on a fault.

The site was also determined to be outside the defined Sensitive Coastal Bluff Zone per the City of San Diego's Coastal Bluffs and Beaches & Steep Slopes Guidelines. The project is not within a flood overlay zone or a potentially sensitive area for fire hazards. Therefore, the proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands;

The project proposes a Site Development Permit to allow a 459 square-foot deck area to be added to an existing 892-square-foot deck for a total of 1,351 square feet located at 8466 El Paseo Grande, zoned Single Family (SF) within the La Jolla Shores Planned District within the La Jolla Community Planning area within the Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone "B", Residential Tandem Parking Overlay Zone, Beach Parking Impact Overlay Zone.

The project site contains Environmentally Sensitive Lands in the form of Coastal Beaches. The proposed development will take place entirely within private property and not encroach on to the coastal beach or any environmentally sensitive lands. The permit controlling this development contains conditions addressing compliance with the City's regulations and other regional, State and Federal regulations to prevent detrimental impacts to the health, safety, and welfare of persons residing in the area. These conditions address requirements relating to storm water runoff, runoff during construction, and landscaping. All Uniform Building, Fire, and Mechanical Codes governing the construction and continued operation of the development will apply to this site to prevent adverse affects to those persons or other properties in the vicinity. The project is adding catch basins and BMP filters to collect all run off and avoid any potential drainage from spilling on to the public areas from private improvements. The site currently maintains a public easement for public access and passive recreation along the beach preserving the coastal resource. Therefore, the proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.

4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan;

The project proposes a Site Development Permit to allow a 459 square-foot deck area to be added to an existing 892-square-foot deck for a total of 1,351 square feet located at 8466 El Paseo Grande, zoned Single Family (SF) within the La Jolla Shores Planned District within the La Jolla Community Planning area within the Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone "B", Residential Tandem Parking Overlay Zone, Beach Parking Impact Overlay Zone.

The site is not within or adjacent to the Multiple Species Conservation Program (MSCP) Multiple Habitat Planning Area (MHPA). Therefore the project is not inconsistent with the City's MSCP.

5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply; and

The project proposes a Site Development Permit to allow a 459 square-foot deck area to be added to an existing 892-square-foot deck for a total of 1,351 square feet located at 8466 El Paseo Grande, zoned Single Family (SF) within the La Jolla Shores Planned District within the La Jolla Community Planning area within the Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone "B", Residential Tandem Parking Overlay Zone, Beach Parking Impact Overlay Zone.

The proposed development takes place entirely within private property. The permit controlling this development contains conditions addressing compliance with the City's regulations and other regional, State and Federal regulations to prevent detrimental impacts to the health, safety, and welfare of persons residing in the area. These conditions address requirements relating to storm water runoff, runoff during construction, and landscaping. All Uniform Building, Fire, and Mechanical Codes governing the construction and continued operation of the development will apply to this site to prevent adverse affects to those persons or other properties in the vicinity. The project is adding catch basins and BMP filters to collect all runoff and avoid any potential drainage from happening on to the public areas from private improvements. Due to the nature of the existing site the project will not excavate over 33.6 cubic yards and requires 9.7 cubic yards of fill leaving 23.9 cubic yards to be removed from the site. Therefore, the proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply

6. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

The project proposes a Site Development Permit to allow a 459 square-foot deck area to be added to an existing 892-square-foot deck for a total of 1,351 square feet located at 8466 El Paseo Grande, zoned Single Family (SF) within the La Jolla Shores Planned District within the La Jolla Community Planning area within the Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone "B", Residential Tandem Parking Overlay Zone, Beach Parking Impact Overlay Zone.

A Mitigated Negative Declaration was prepared from the project as it was determined that the proposed development could have a significant impact to Archaeological Resources.

Because mitigation measures are required to be applied to the project in accordance with Section V of the associated Mitigation, Monitoring, and Reporting Program (MMRP), the project now avoids or mitigates any potentially significant environmental impacts to archaeological resources in accordance with the California Environmental Quality Act.

The permit controlling this development contains conditions addressing compliance with the City's regulations and other regional, State and Federal regulations to prevent detrimental impacts to the health, safety, and welfare of persons residing in the area. These conditions address requirements relating to storm water runoff, runoff during construction, and landscaping. All Uniform Building, Fire, and

Attachment 2
Draft Resolution with Findings

Mechanical Codes governing the construction and continued operation of the development will apply to this site to prevent adverse affects to those persons or other properties in the vicinity. The project proposes catch basins and BMP filters to collect all run-off and avoid any potential drainage from happening on to the public areas from private improvements. Due to the nature of the existing site the project will not excavate over 33.6 cubic yards and requires 9.7 cubic yards of fill leaving 23.9 cubic yards to be removed from the site. The permit for the project will require A deed restricting required side yard setback areas to form functional view corridors and prevent future development from obstructing views to the ocean and creating a walled effect. Therefore, the nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

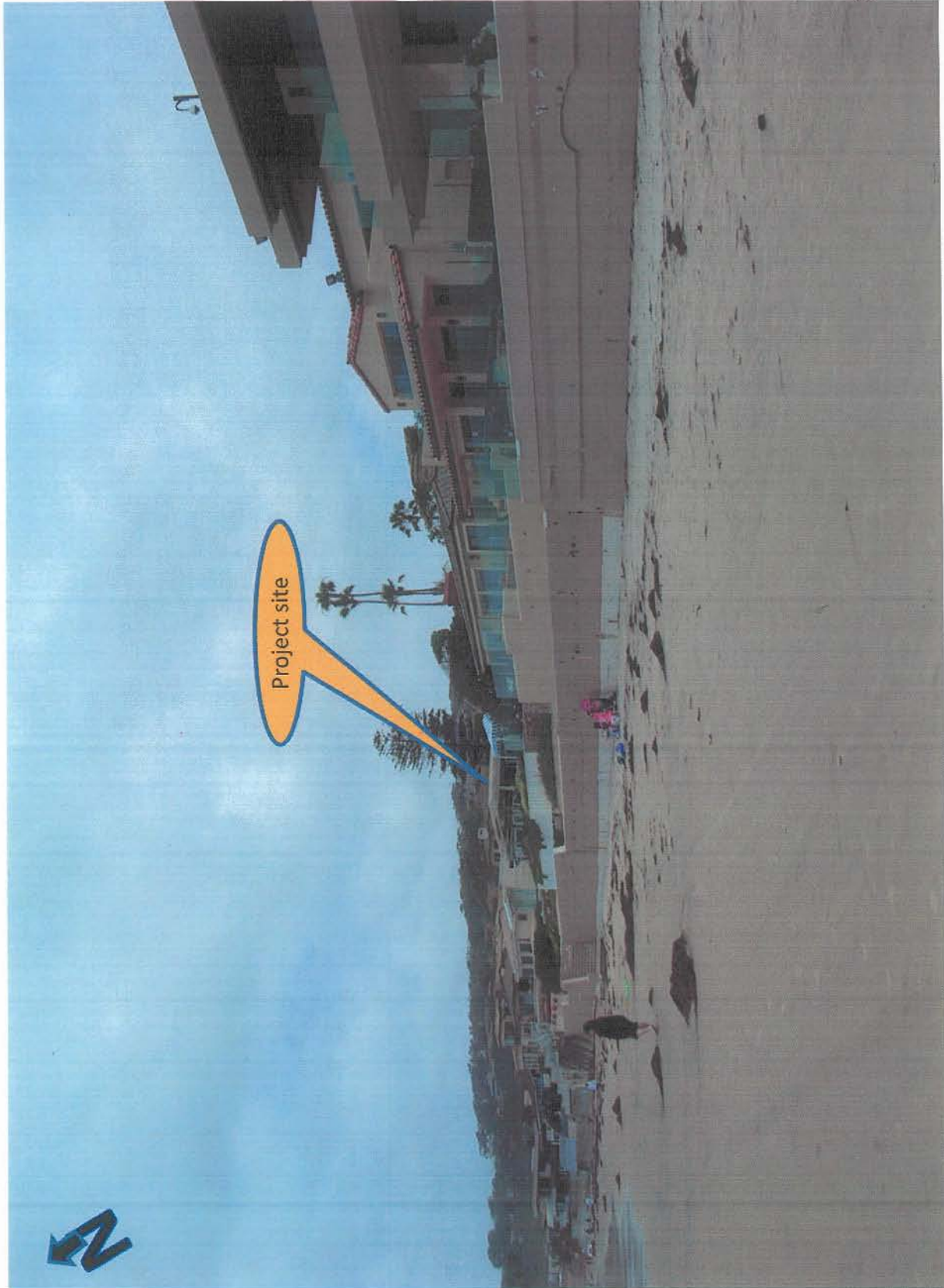
BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Site Development Permit No. 676181 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 676181, a copy of which is attached hereto and made a part hereof.

William Zounes
Development Project Manager
Development Services

Adopted on: June 30, 2010

Job Order No. 24000089

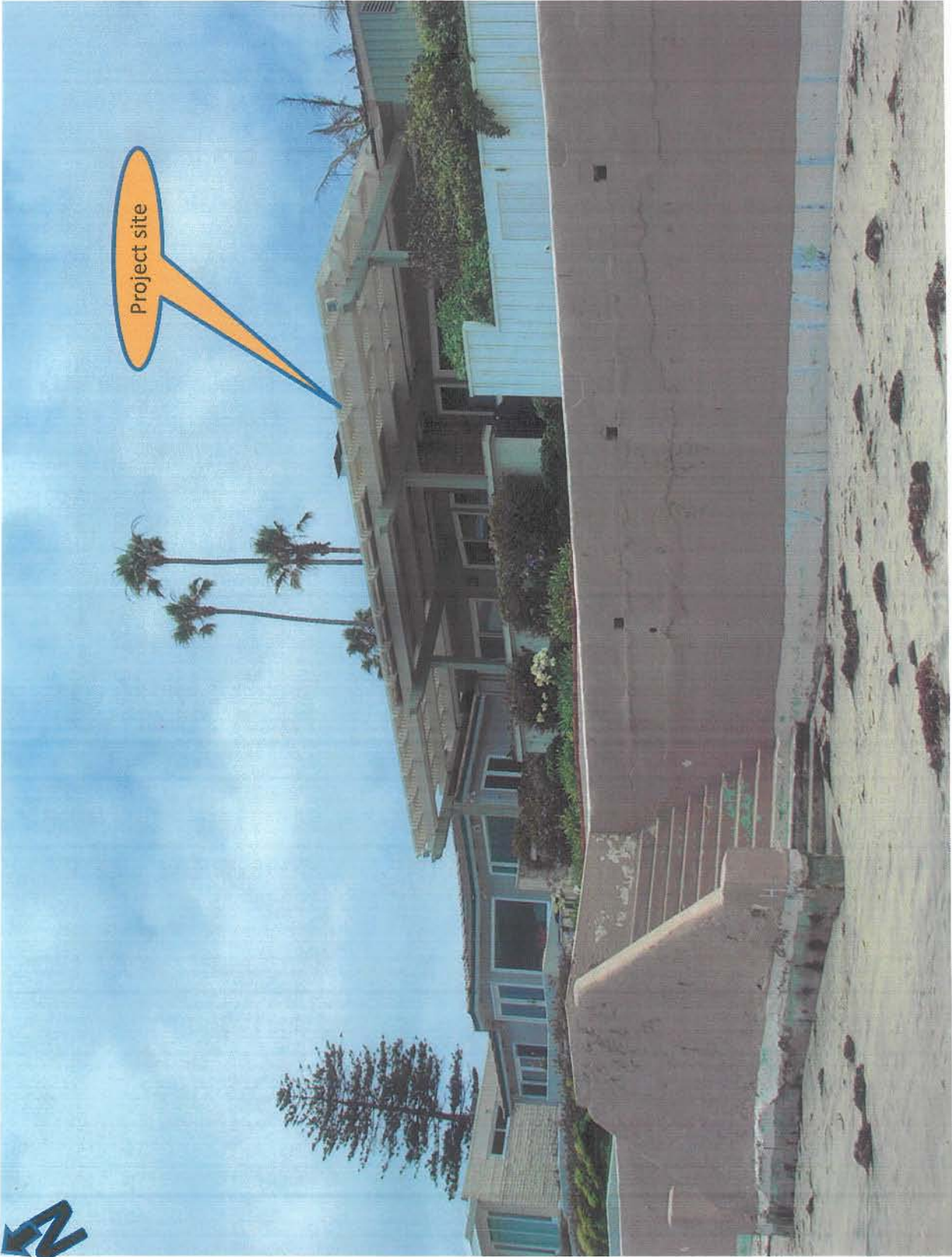
Attachment 3
Photos of Adjacent Patio Decks or back yards
Page 1 of 5

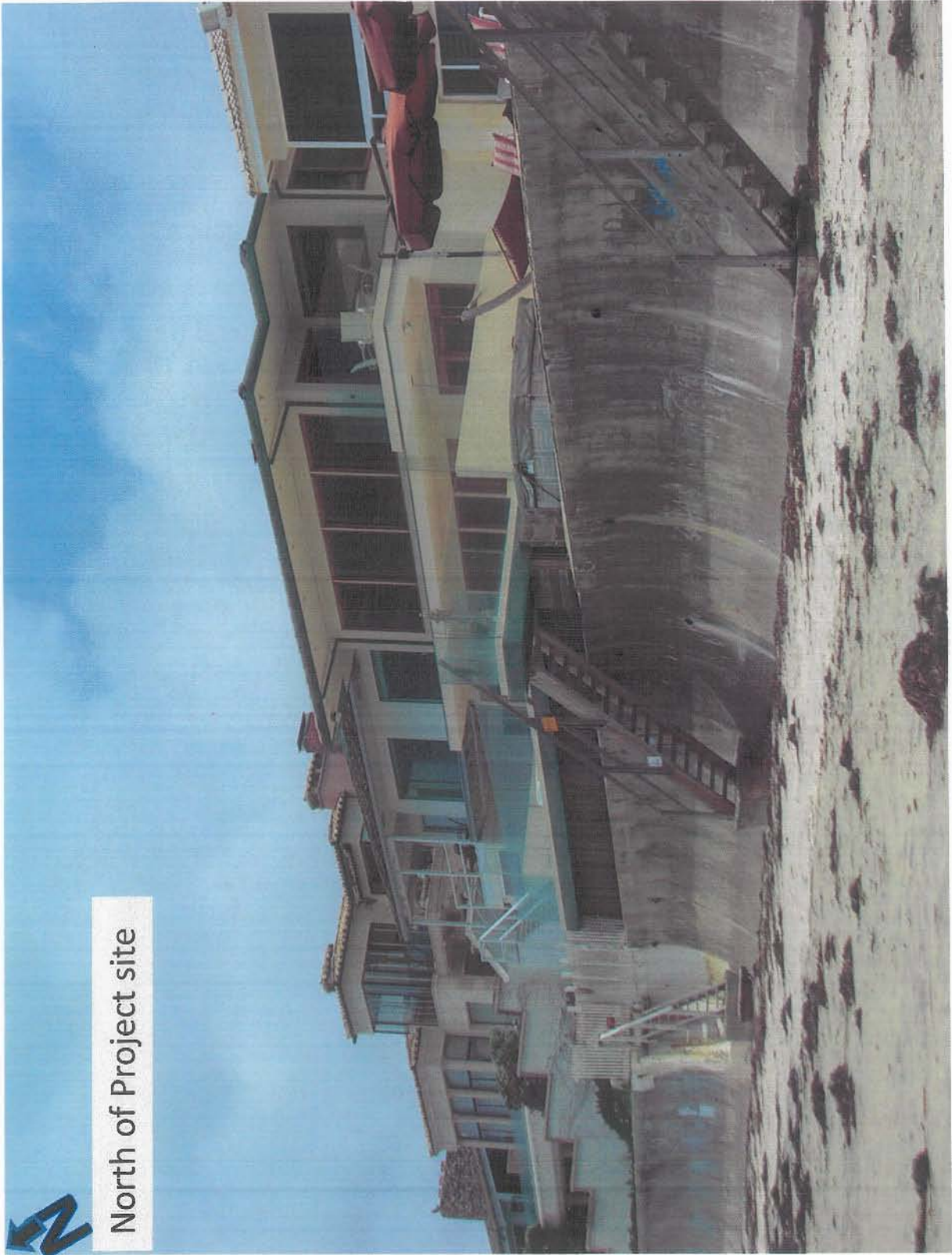


Attachment 3
Photos of Adjacent Patio Decks or back yards
Page 2 of 5

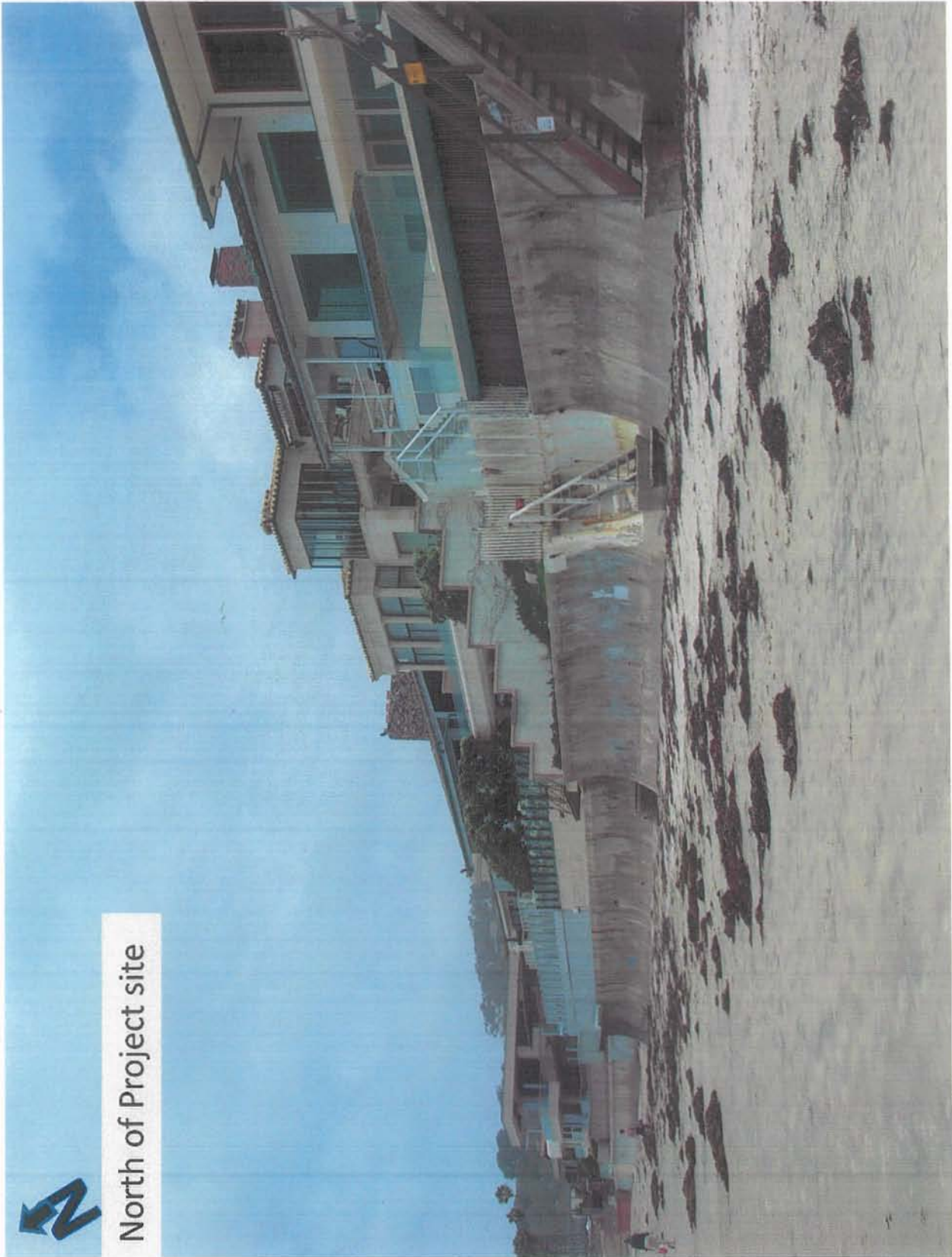


Attachment 3
Photos of Adjacent Patio Decks or back yards
Page 3 of 5





North of Project site





City of San Diego
 Development Services
 1222 First Ave. 3rd Floor
 San Diego, CA 92101
 (619) 446-5210

Development Environmental Determination Appeal Application

Attachment 4
 Project Applicant Appeal
 Page 1 of 3

MAY 2010

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

- Process Two Decision - Appeal to Planning Commission
- Process Three Decision - Appeal to Planning Commission
- Process Four Decision - Appeal to City Council
- Environmental Determination - Appeal to City Council
- Appeal of a Hearing Officer Decision to revoke a permit

2. Appellant Please check one Applicant Officially recognized Planning Committee "Interested Person" (Per M.C. Sec. 113.0103)

Name: Claude-Anthony Marengo, Marengo Morton Architects, Inc. E-mail Address: cmarengo@san.r.com
 Address: 7724 Girard AV, Second Floor City: La Jolla State: CA Zip Code: 92037 Telephone: (858) 459-3769

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

Same

4. Project Information
 Permit/Environmental Determination & Permit/Document No.: Site Development Permit #676181; Project #191344
 Date of Decision/Determination: June 30, 2010
 City Project Manager: William Zounes

Decision (describe the permit/approval decision):
 The hearing officer granted the application for a permit with one condition, which is stated as Item #20 in the Draft Permit as follows: "All guard rails above the proposed retaining walls shall consist of 75-percent clear glass".

5. Grounds for Appeal (Please check all that apply)

- Factual Error (Process Three and Four decisions only)
- Conflict with other matters (Process Three and Four decisions only)
- Findings Not Supported (Process Three and Four decisions only)
- New Information (Process Three and Four decisions only)
- City-wide Significance (Process Four decisions only)

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in Chapter 11, Article 2, Division 5 of the San Diego Municipal Code. Attach additional sheets if necessary.)

See attached sheets 1 and 2.

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DEVELOPMENT SERVICES

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature:  Date: July 1, 2010

Note: Faxed appeals are not accepted. Appeal fees are non-refundable.

Attached Sheets: Grounds for Appeal, Page 1 of 2

The grounds for the appeal are:

1. There is a lack of sufficient findings to support Item #20 of the Draft Permit, which states that "All guard rails above the proposed retaining walls shall consist of 75-percent clear glass" (herein the "Clear Glass Condition").
2. There was a lack of sufficient evidence to support the findings to the extent that the findings may be found to support said item #20 of the Draft Permit (the Clear Glass Condition).
3. The hearing officer abused his discretion by placing the Clear Glass Condition on the permit in that the proposed project met all applicable requirements without changing the railing design to clear glass, and in that there is no applicable Code requirement for the use of clear glass.
4. The Clear Glass Condition in Item #20 of the draft permit was not raised in the permit application, in the supporting or opposing arguments made at or before the hearing, or in the notice of hearing, and was not mentioned by the hearing officer until after he closed comments. Accordingly, the applicant did not have an opportunity to be heard on the Clear Glass Condition of the draft permit. The decision thus violated requirements for a hearing as to the Clear Glass Condition.
5. The draft resolution and draft permit do not clearly define "guard rails above the proposed retaining walls", so that both the applicant and the opposition were left uncertain about its scope. The applicant understands the provision to relate only to the guard rail area between the beach and the deck, and not to the sides of the deck. The applicant wishes to obtain clarification before proceeding with construction.
6. There was no environmental review as to the environmental impact of placing clear glass in the railing area above the retaining wall, which fronts directly on the ocean at a level of more than 10 feet above the beach. Coastal Commission policy, and sound environmental practice, are such that the area above the retaining wall should be opaque, preferably made of metal or another fully opaque substance, with secondary options being etched glass or other opaque glass, for protection against bird strikes. The applicant would have no objection to item #20 of the draft permit if amended to change "75% clear glass" to "75% stained glass, etched glass, or other opaque or semi-opaque glass". That change would enhance the project's beauty and render it environmentally safe.
7. Because the railing above the retaining wall is required by Code, and because the use of clear glass or clear plexiglass in that railing area is an environmental danger which may entail a violation of the Migratory Bird Treaty Act's prohibition on actions that will kill migratory birds, the hearing officer abused his discretion in placing the Clear Glass Condition on the permit without obtaining comments or making environmental findings of the impact of changing the design to clear glass.

Attached Sheets: Grounds for Appeal, Page 2 of 2

8. Millions of birds die each year due to the use of clear glass in ocean front deck walls and windows and other locations frequented by these birds. The Audubon Society and other environmental organizations now strongly oppose the use of clear glass in locations such as the Cardenas home. Moreover, the use of clear glass is potentially a violation of the Migratory Bird Treaty Act and other federal and state laws designed for the protection of migratory birds, including endangered and uncommon bird species along the California coast. The use of clear glass or clear plexiglass in an ocean front deck boundary is regularly prohibited by the Coastal Commission permit process due to scientifically demonstrated hazards of bird strikes where clear glass and plexiglass are used at that height and fronting on the ocean. Coastal Commission policy encourages, and sometimes requires as a condition of a Coastal Commission permit, the use of etched glass or other opaque materials for deck boundaries on ocean front property. Accordingly, the hearing officer's requirement of clear glass in the Clear Glass Condition poses an environmental hazard not considered in the applicant's environmental compliance and not considered in the public hearing prior to the hearing officer's decision. Accordingly, the decision should be revised to provide for etched glass, stained glass or other opaque or semi-opaque glass instead of clear glass.



City of San Diego
 Development Services
 1222 First Ave. 3rd Floor
 San Diego, CA 92101
 (619) 446-5210

**Development Services
 Environmental Determination
 Appeal Application**

DS-3031
 MAY 2010

See information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

- Process Two Decision - Appeal to Planning Commission
- Process Three Decision - Appeal to Planning Commission
- Process Four Decision - Appeal to City Council
- Environmental Determination - Appeal to City Council
- Appeal of a Hearing Officer Decision to revoke a permit

2. Appellant Please check one Applicant Officially recognized Planning Committee "Interested Person" (Per M.C. Sec. 113.0103)

Name: ROBERTSON WHITTEMORE E-mail Address: rwhitemore@san_rr.com
 Address: 8470 EL PASEO GRANDE City: LA JOLLA State: CA Zip Code: 92037 Telephone: (858) 456-7447

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

GRACE DAVILA/CARDENAS RESIDENCE (8466 EL PASEO GRANDE)

4. Project Information

Permit/Environmental Determination & Permit/Document No.:	Date of Decision/Determination:	City Project Manager:
Site Development Permit No. 676181 (Project No. 191344)	JUNE 30, 2010	WILL ZOUNES

Decision (describe the permit/approval decision):
 SITE DEVELOPMENT PERMIT FOR ENVIRONMENTALLY SENSITIVE LANDS FOR EXPANSION OF A SINGLE FAMILY RESIDENCE

5. Grounds for Appeal (Please check all that apply)

- Factual Error (Process Three and Four decisions only)
- Conflict with other matters (Process Three and Four decisions only)
- Findings Not Supported (Process Three and Four decisions only)
- New Information (Process Three and Four decisions only)
- City-wide Significance (Process Four decisions only)

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in Chapter 11, Article 2, Division 5 of the San Diego Municipal Code. Attach additional sheets if necessary.)

SEE ATTACHMENTS

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6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature: Date: July 9, 2010

Note: Faxed appeals are not accepted. Appeal fees are non-refundable.

DESCRIPTION OF GROUNDS FOR APPEAL OF THE HEARING OFFICER'S DECISION

- A. The following findings are not supported by the information provided to the decision maker (as further explained in the attachments):
- Finding #1. The proposed development will not adversely affect the applicable land use plan.
 - Finding #2. The proposed development will not be detrimental to the public health, safety and welfare.
 - Finding #3. The proposed development will comply with the applicable regulations of the Land Development Code.
 - Supplemental Finding #1. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.
 - Supplemental Finding #6. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.
- B. The decision to approve the Site Development Permit is in conflict with the following (as further explained in the attachments):
- La Jolla Community Plan and Local Coastal Program Land Use Plan (February 2004).
 - Public Resources Code section 30251.
 - San Diego Municipal Code section 1510.0304(h).
- C. The following statements or evidence relied upon by the Hearing Officer in approving the Site Development Permit were inaccurate (as further explained in the attachments):
- The proposed accessory improvement incorporates the recommendations of the La Jolla Community Plan, as the rear and side yards are articulated by stepping back walls at three different levels to soften the bulk and scale.
 - Building materials are consistent with existing on-site improvements.
 - Of the La Jolla Shores Planned District Ordinance's requirement that 30 percent of the total parcel area be landscaped, 84 percent is the beach portion of the property.
 - The beach sand, rather than being an unplanted recreational area, is more appropriately characterized as natural resource area. The beach sand is appropriately included as landscaped area.

- The project proposes a transparent wall on the north side of the deck similar to existing walls in the area.
- The project conforms to the required zoning regulations to include setbacks, parking, wall and fence height, and landscaping.
- The project was designed in conformance with the underlying zone and land use plan.
- The permit controlling this development contains conditions addressing compliance with the City's regulations and other regional, State and Federal regulations to prevent detrimental impacts to the health, safety, and welfare of persons residing in the area.

CASE AGAINST THE CARDENAS TERRACE PROJECT
8466 El Paseo Grande, La Jolla CA
May 22, 2010

A. Review of Applicable Land Use Plan, La Jolla Shores Planned District Ordinance, and CEQA Provisions

1. The Land Use Plan

Preserve bulk and scale with regard to surrounding structures as viewed from the public right-of-way and from parks and open space.

Limit the perceived bulk and scale differences relative to surrounding lots.

Avoid extreme and intrusive changes to the residential scale of La Jolla's neighborhoods and promote good design and harmony within the visual relationships and transitions between new and older structures.

2. La Jolla Shores Planned District Ordinance

Promote a low, rambling silhouette.

Do not approve a structure that is so different in ... form... and relationship as to disrupt the architectural unity of the area.

3. The California Environmental Quality Act (CEQA) and the State CEQA Guidelines

Require feasible alternatives or mitigation measures available that would substantially lessen any significant adverse effect on the environment.

Prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible.

Discussion

The character of five of the six adjacent cottages on the west side of El Paseo Grande was created and preserved by CC&Rs adopted in 1950. There is a sixth cottage to the north of these five that is similarly situated and with similar characteristics as viewed from the beach. This character has been preserved for 60 years. The CC&Rs were in large part designed to preserve and protect the existence of the all-important lateral and panoramic views toward La Jolla, the beach to the north and south and the ocean including whitewater views from each of the five cottages with their ocean-facing yards that slope downwards to the sand and shoreline. The proposed new project destroys lateral views and disregards the desirable cottage characteristics and their receding setbacks as viewed from the beach.

From the beach, the height of the proposed construction including dog run, fence and terrace seating wall appear enormous. Together they extend over 15-18 feet in height from the level of the beach (the beach level varies and can drop as many as ten feet during winter storms) and over 11 feet in height above the access walk in front of the cottages. In addition, the proposed terrace expansion extends toward the beach from the house. This abruptly changes the view of the cottages as seen by the public from the beach, creating a massive and block-like structure. In fact, these abrupt fortress-like walls and fences dramatically change the graceful nature of the existing public view of the homes.

The increased height of the retaining wall, a dog-run with protective fencing, and terraces with seating walls that step abruptly up from the seawall walkway to the Cardenas home partially obstruct the view of the beach and water by immediate neighbors and by the Cardenas' themselves - this includes whitewater views during high tides that can be spectacular especially during winter storms.

Use of glass instead of the seating wall would mitigate much of the negative effect of the current Cardenas plan providing a feasible alternative as required by CEQA. Similarly, stepping the new terrace down three feet would decrease the bulk and mass of the terrace as viewed from the public beach and public easement.

It should further be noted that when viewed from the mean high

tide line the terrace is so high that one cannot see the tops of the Cardenas house windows or doors. As noted by a member of the La Jolla Shores Advisory Board a viewer from the beach will no longer see a house, rather, a wall.

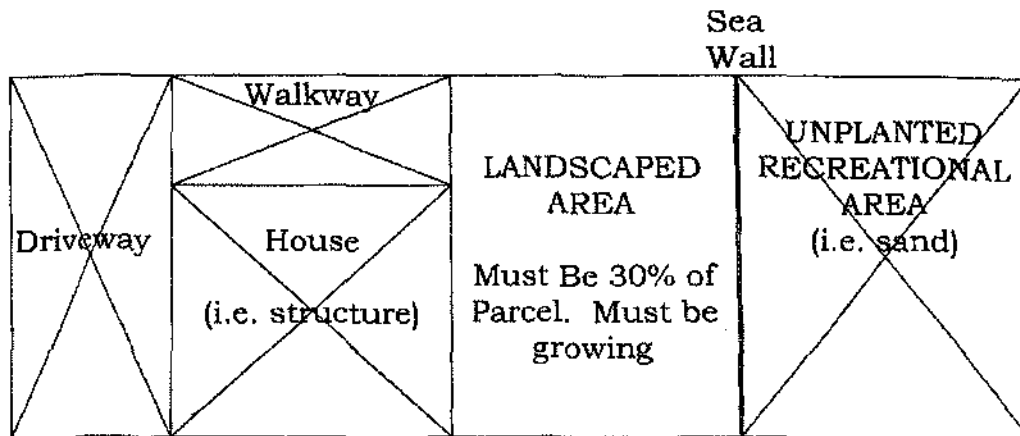
B. San Diego Municipal Code §1510.03304(h)

(1) In the Single-Family Zone, all of the property not used or occupied by structures, unplanted recreation areas, walks and driveways shall be landscaped and may include native materials, and in no case shall this landscaped area be less than 30 percent of the total parcel area”

(3) All landscaped material shall be permanently maintained in a growing and healthy condition”

Discussion: “This landscaped area” which “in no case shall . . . be less than 30 percent of the total parcel area” refers to “all of the property not used or occupied by structures, unplanted recreational areas, walks and driveways.” Thus, Section 1510.0304(h)(1) clearly excludes “unplanted recreation area” from the “landscaped area.”, this being the sand or public beach area west of the sea wall to the mean high tide line.

Depicted visually, though roughly, the requirements of Section 1510.0304(h)(1) are represented by the figure below, based on the approximate configuration of the Cardenas parcel with El Paseo Grande to the left (east) of the driveway and the mean high tide line (the western border of the Cardenas parcel) marking the right-hand (western boundary) of the unplanted recreational area:



Not to Scale

The term "unplanted recreational area" necessarily encompasses the part of the Cardenas parcel consisting of the sand beach from the sea wall to the mean high tide line. The sand beach is obviously unplanted, as there is nothing growing in the sand, and it is equally obviously a recreational area, as it is used for active and passive recreational uses. Indeed, much of the unplanted recreational area - a 25-foot strip inland from the mean high tide line - is dedicated to public recreational use.

Under no circumstances can any of the sand beach count toward the required 30 percent of the parcel that must be landscaped, since Section 1510.0304(h)(3) requires that "all landscape material . . . be permanently maintained in a growing and healthy condition . . ." Although sand may be a "native material" for purposes of Section 1510.0304(h)(1), it is indisputable that sand is not a material that may be kept in a "growing" condition, as required of all landscape material by Section 1510.03(h)(3).

Conclusion

As proposed, the Cardenas terrace project will present a massive and bulky structure, out-of-scale with the surrounding cottages as viewed from the public right-of-way along the beach. The project will create an intrusive change to the residential scale of the surrounding cottages on either side, and disrupt the harmony and transitions between new and older structures. The low rambling silhouette will be disturbed and the architectural unity of the area will be disrupted. Finally, the applicant needs to obtain a variance to satisfy the landscaping requirement.

For these reasons the proposed project violates the La Jolla Community Plan, the La Jolla Shores Planned District Ordinance and CEQA. Therefore, the Cardenas terrace project must be substantially redesigned and a variance must be obtained.

Respectfully Submitted,

Rob Whittemore



Evelyn F. Heidelberg
Direct Dial: (619) 525-3804
E-mail: evelyn.heidelberg@procopio.com
Personal Fax: (619) 398-0134

May 21, 2010

VIA E-MAIL [lwzounes@sandiego.gov] and U.S. Mail

Mr. Will Zounes
Project Manager
Development Services Department
City of San Diego
1222 First Avenue
San Diego, CA 92101

Re: CARDENAS RESIDENCE (8466 El Paseo Grande, La Jolla) PTS No. 191344

Dear Mr. Zounes:

On behalf of our client, Robertson Whittemore, I write to provide comments relevant to your review of the referenced project. As explained below, the proposed project does not conform to the applicable landscape regulation under the La Jolla Shores Planned Development District and, as such, the proposed project cannot be approved absent a variance. As the need for such a variance has apparently not been identified in DSD's review of the proposed project, we submit that it is necessary for DSD to subject the proposed project to another review cycle.

Land Development Code section 1510.0304(h) provides in relevant part as follows:

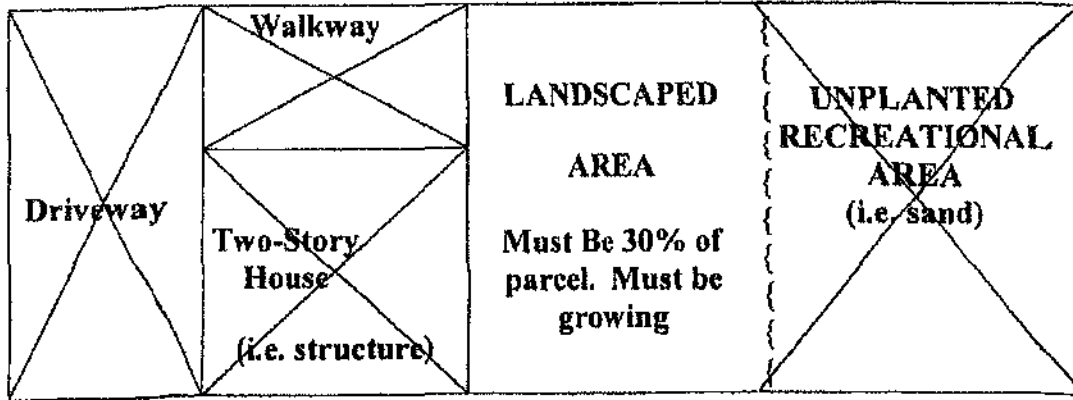
- (1) In the Single-Family Zone, all of the property not used or occupied by structures, unplanted recreation areas, walks and driveways shall be landscaped and may include native materials, and in no case shall this landscaped area be less than 30 percent of the total parcel area. . . .
- (3) All landscaped material shall be permanently maintained in a growing and healthy condition

"[T]his landscaped area" which "in no case shall . . . be less than 30 percent of the total parcel area" refers to "all of the property not used or occupied by structures, unplanted recreational areas, walks and driveways." *Thus, Section 1510.0304(h)(1) clearly excludes an "unplanted recreation area" from the "landscaped area."*

Roughly depicted visually, the requirements of Section 1510.0304(h)(1) & (3) are represented by the figure below, based on the approximate configuration of the Cardenas parcel, with El Paseo Grande to the left (east) of the driveway and the mean high tide line (the western



border of the Cardenas parcel) marking the right-hand (western boundary) of the unplanted recreational area:



The area that is not crossed out represents the part of the parcel that is "not used or occupied by structures, unplanted recreational areas, walks and driveways" and that "shall be landscaped" and "in no case shall [the landscaped area] be less than 30 percent of the total parcel area." If an area is "unplanted recreational area" it may not count toward the landscaped area of the parcel.

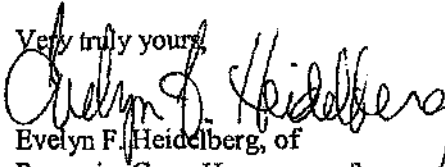
The term "unplanted recreational area" as used in Section 1510.0304(h)(1) necessarily encompasses the part of the Cardenas parcel consisting of sand beach from the sea wall to the mean high tide line. That sand beach is obviously unplanted, as there is nothing growing in the sand beach, and it is equally obviously a recreational area as it is used for active and passive recreational uses. Indeed, much of the unplanted recreational area a 25-foot strip inland from the mean high tide line - is dedicated to public recreational use. As set forth in the San Diego Regional Commission's Agreement Imposing Restrictions on Real Property entered into on December 29, 1978 by the Commission and the Cardenas' predecessor in interest ("Agreement"), the public has "the right to walk, sit, swim and otherwise use a 25-foot strip of beach as measured inland from the mean high tide line." (See Exh. A.) And while the 25-foot strip may sometimes not extend as far east as the seawall,¹ the seawall nevertheless marks the apparent boundary between the portion of the sandy beach accessible to the public and that which is private property, i.e. , all of the sand beach up to the seawall appears to the public to be a public recreational area. (See Exh. B.) The remainder of the unplanted recreational area that may not be within the 25-foot strip which the public has an indisputable right to use for recreational purposes is nevertheless clearly intended for private recreational use, whether active or passive. Accordingly, it is indisputable that area of the Cardenas parcel occupied by sandy beach is an "unplanted recreational area" for purposes of Section 1510.0304(h)(1). As such, no part of the sand beach may be counted toward the required minimum 30% of the parcel that must be landscaped.

¹ As set forth in the Agreement, the "mean high tide" line is ambulatory as will be the 25-foot strip."



Even if the plain meaning of Section 1510.0304(h)(1) did not mandate that "this landscaped area" which "in no case shall ... be less than 30 percent of the total parcel area" necessarily exclude unplanted recreational areas (as well as areas occupied by structures, walks and driveways), it is evident that under no circumstances could any of the sandy beach count toward the required 30 percent of the parcel that must be landscaped. This is the case because Section 1510.0304(h)(3) requires that "all landscape material . . . be permanently maintained in a growing and healthy condition . . ." Although sand may be a "native material" for purposes of Section 150.0304(h)(1), it is indisputable that sand is not a material that may be kept in a "growing" condition, as required of all landscape material by Section 1510.0304(h)(3).

For these reasons, it is clear that the proposed project does not comply with the requirements of Section 1510.0304(h). If DSD has determined otherwise, DSD has counted the sand in contravention of the plain meaning of Sections 1510.0304(h)(1) & (3). To comply with the requirements of Section 1510.0304(h), the proposed project must be substantially redesigned or a variance must be granted. As DSD's review of the project proposal to date has not identified the inconsistency with Section 1510.0304, it is apparent that another review cycle is necessary before this project may be heard by a Hearing Officer pursuant to Process Two.

Very truly yours,

Evelyn F. Heidelberg, of
Procopio, Cory, Hargreaves &
Savitch LLP

EFH/wsl

cc: Hon. Sherri Lightner
Jan Goldsmith, Esq.
Ms. Erin Demorest (via email only)

EXHIBIT "A"

RECORDING REQUESTED BY AND MAIL TO
NAME San Diego Coast Regional Commission
STREET 6134 Mission Gorge Rd., Suite 220
CITY San Diego, CA. 92120

1508

79-011271

FILE/PAGE NO.
BOOK 1879
RECORDED REQUEST OF

Don Edson, Architect
4M 9 3 10PM '79

SAN DIEGO COAST REGIONAL COMMISSION

AGREEMENT IMPOSING RESTRICTIONS ON
REAL PROPERTY

OFFICIAL RECORDS
RECORDED
SAN DIEGO COUNTY, CALIF.

\$4.00

This agreement is made this 29 day of December, 1978, by YOUNG FARMS AND CATTLE COMPANY acting by and through Sam D. Young, Partner, herein- after referred to as "Permittee," and the San Diego Coast Regional Commission; WHEREAS, Permittee is the owner of the following described real prop- erty in the County of San Diego:

LOT 2, Ocean Terrace, Map No. 2413;

WHEREAS, pursuant to the California coastal Act of 1976 (Public Resources Code 30000 et seq) Permittee has sought in Application No. 77606 a permit for the following described development:

Construction of approx. 700 sq. ft. terrace, a 243 sq. ft. porch enclosure, a 114 sq. ft. addition to house- keepers quarters, approx. 40 linear feet (6 ft. high) masonry walls and a revised parking area, including a carport and relocate driveway;

WHEREAS, the San Diego Coast Regional Commission has determined to issue a permit for this development subject to conditions which are imposed for the benefit of the public and surrounding landowners, and without agreement to which by Permittee no permit could be issued;

NOW THEREFORE, in consideration of the issuance of the development permit and of the benefit conferred thereby on the subject property, Permittee hereby covenants and agrees with the San Diego Coast Regional Commission to the following restriction upon the possession, use, and enjoyment of the subject property, which restriction shall be attached to and become a part of the deed to the property:

That the public shall have the right to walk, sit, swim and otherwise use a 25-foot wide strip of beach as measured inland from the mean high tide line. The "mean high tide" line is ambulatory as will be the 25-foot strip. In no case, however, shall the public be allowed to use the beach landward of the existing seawall on the subject property. This is a covenant running with the land which shall be prior to all encumbrances except for tax liens and shall bind the appli- cant and any successors in interest.

Permittee acknowledges that any violation of this deed restriction will consti- tute a violation of the California Coastal Act of 1976 and of Permit No. 77606, and will subject Permittee or any other person violating the deed restriction to suit as provided by the Coastal Act.

IT IS FURTHER RECOGNIZED that this agreement and deed restriction is a covenant running with the land and shall bind Permittee, and all successors and assigns of Permittee.

If any portion of the subject property should hereafter be conveyed, the convey- ance shall contain the restriction created by this agreement.


Executive Director
San Diego Coast Regional Commission

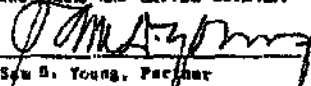
YOUNG FARMS AND CATTLE COMPANY
by 
Sam D. Young, Partner

EXHIBIT 2

EXHIBIT "B"





Procopio, Cory, Hargreaves and Savitch LLP

Evelyn F. Heidelberg
Direct Dial: (619) 525-3804
E-mail: evelyn.heidelberg@procopio.com
Personal Fax: (619) 398-0134

June 3, 2010

VIA E-MAIL [fwzounes@sandiego.gov] and U.S. Mail

Mr. Will Zounes
Project Manager
Development Services Department
City of San Diego
1222 First Avenue
San Diego, CA 92101

Re: CARDENAS RESIDENCE (8466 El Paseo Grande, La Jolla) PTS No. 191344

Dear Mr. Zounes:

On behalf of our client, Robertson Whittemore, I write to provide comments regarding the Mitigated Negative Declaration ("MND") prepared for the referenced project ("Project"). This letter supplements my letter to you dated May 21, 2010, which is attached hereto as Exhibit 1, as well as the "Case Against the Cardenas Terrace Project" dated May 22, 2010 and submitted by Mr. Whittemore along with two photographs, all of which is incorporated hereto by reference.

The MND is deficient and incorrect in that it concludes, based on the Initial Study ("IS") that was conducted, that the Project could have no significant environmental effect on aesthetics or neighborhood character, and that it could have no potential to cause land use impacts. As set forth below, and as evidenced by the above-referenced documents, the Project as proposed would indeed have a significant effect on the environment and accordingly an Environmental Impact Report should have been prepared.

Contrary to the conclusion in the IS, the Project would create a negative aesthetic site or project, and project bulk and style would be incompatible with surrounding development. As set forth in the "Case Against the Cardenas Terrace Project" and the accompanying photographs, from the public beach the height of the proposed construction – including dog run, fence and terrace seating wall – appears enormous. The proposed improvements extend more than 15 to 18 feet in height above the beach, and more than 11 feet above the access walk in front of the cottages. The terrace expansion, which extends toward the beach from the house, abruptly changes the view of the cottages as seen by the public from the beach, creating a massive and block-like structure. The abrupt fortress-like walls and fences of the Project dramatically alter the graceful nature of the existing public view of the cottages along this stretch of El Paseo Grande. The height of the retaining wall and the terraces with seating walls that step up abruptly from the seawall walkway to the Cardenas home partially obstruct the view of the beach and ocean by immediate neighbors. When viewed from the mean high tide line, the terrace is so high that the tops of the windows and doors of the Cardenas house cannot be seen. As a member of

Mr. Will Zournes
June 3, 2010
Page 2

LA JOLLA

the La Jolla Shores Advisory Board noted before that body voted unanimously to oppose the Project, a viewer from the beach would no longer see a house, but rather a wall.

Additionally, the IS was incorrect in concluding that the Project is consistent with applicable policies of the community plan. Here, the applicable community plan is the La Jolla Community Plan and Local Coastal Program Land Use Plan dated February 2004 ("the Land Use Plan"). The Land Use Plan provides, in relevant part, as follows:

2. Community Character

- a. In order to maintain and enhance the existing neighborhood character and ambience, and to promote good design and visual harmony in the transitions between new and existing structures, preserve the following elements:

1) Bulk and scale – with regard to surrounding structures of land form conditions as viewed from the public right-of-way and from parks and open space;

...

- b. For large lots in single dwelling unit areas, apply development regulations that will limit the perceived bulk and scale differences relative to surrounding lots.

...

Land Use Plan, at page 90.

And the policies of the residential land use element of the Land Use Plan provide in relevant part as follows:

2. Community Character

In order to promote development compatible with the existing residential scale:

- a. The city should apply the development recommendations that are contained in this plan to all properties in La Jolla in order avoid [sic] extreme and intrusive changes to the residential scale of La Jolla's neighborhoods and to promote good design and harmony within the visual relationships and transitions between new and older structures.

Land Use Plan, at page 84.

In addition, the Project is inconsistent with a policy of the Coastal Act. Specifically, Public Resources Code section 30251 provides as follows:



Mr. Will Zounes
June 3, 2010
Page 3

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 be visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan . . . and by local government shall be subordinate to the character of its setting.

For the same reasons as set forth above discussing how the Project would create a negative aesthetic and how its bulk and scale would be incompatible with surrounding development, the Project is inconsistent with the referenced policies of the Land Use Plan and with Public Resources Code section 30251.

Finally, although the IS concluded that the Project would have no land use impacts, because the Project violates various provisions of the La Jolla Shores Planned District Ordinance (the "Ordinance"), that conclusion is incorrect. First, the Ordinance describes the character of the area as primarily single-family with typical homes "characterized by extensive use of glass, shake or shingle overhanging roof, and a low, rambling silhouette." Ordinance, § 1510.0301(a). As discussed above, the fortress-like quality of the proposed Project's walls facing the beach and oceanfront is the antithesis of a "low, rambling silhouette." Second, the Ordinance states that "no structure will be approved that is so different in quality, form, materials, color and relationship as to disrupt the architectural unity of the area." Ordinance, §1510.0301(b). As discussed above and shown by the photographs previously submitted, the Project is very different in form and materials from the surrounding residential development. If glass were used instead of the seating wall, the Project would not be inconsistent with section 1510.0301(b). Third, and most importantly, the Project violates the provision of the Ordinance requiring that the landscaped area be at least thirty percent of the total parcel area. See Ordinance § 1510.0304(h)(1) and Exhibit 1 (letter to you dated May 21, 2010).

For all of the above-stated reasons, the Project should be disapproved by the Hearing Officer when it is considered on June 30, 2010 because, among other reasons, an EIR should have been prepared.

Very truly yours,

Evelyn F. Heidelberg, of
Procopio, Cory, Hargreaves &
Savitch LLP

EFH/wsl

Mr. Will Zounes
June 3, 2010
Page 4

cc: Hon. Sherri Lightner
Jan Goldsmith, Esq.
Ms. Erin Demorest (via email only)

EXHIBIT 1



Evelyn F. Heidelberg
Direct Dial: (619) 525-3804
E-mail: evelyn.heidelberg@procopio.com
Personal Fax: (619) 398-0134

May 21, 2010

VIA E-MAIL lwzounes@sandiego.gov and U.S. Mail

Mr. Will Zounes
Project Manager
Development Services Department
City of San Diego
1222 First Avenue
San Diego, CA 92101

Re: CARDENAS RESIDENCE (8466 El Paseo Grande, La Jolla) PTS No. 191344

Dear Mr. Zounes:

On behalf of our client, Robertson Whittmore, I write to provide comments relevant to your review of the referenced project. As explained below, the proposed project does not conform to the applicable landscape regulation under the La Jolla Shores Planned Development District and, as such, the proposed project cannot be approved absent a variance. As the need for such a variance has apparently not been identified in DSD's review of the proposed project, we submit that it is necessary for DSD to subject the proposed project to another review cycle.

Land Development Code section 1510.0304(h) provides in relevant part as follows:

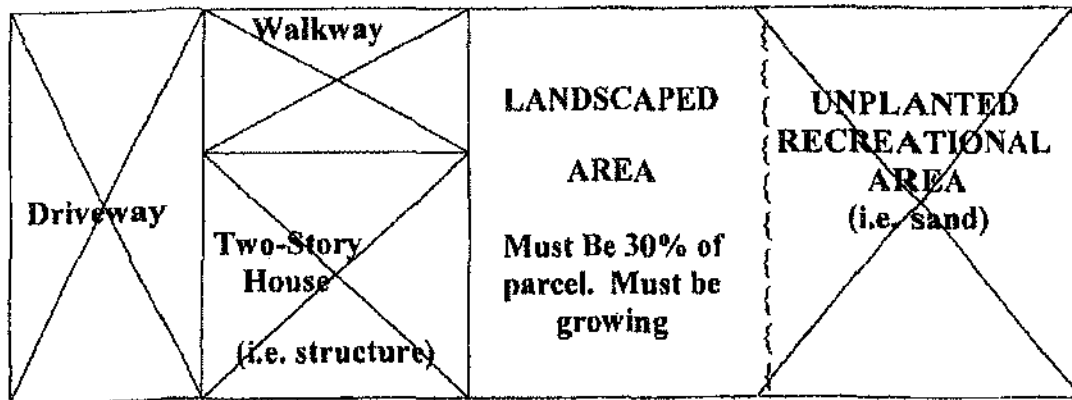
- (1) In the Single-Family Zone, all of the property not used or occupied by structures, unplanted recreation areas, walks and driveways shall be landscaped and may include native materials, and in no case shall this landscaped area be less than 30 percent of the total parcel area. . . .
- (3) All landscaped material shall be permanently maintained in a growing and healthy condition

"[T]his landscaped area" which "in no case shall . . . be less than 30 percent of the total parcel area" refers to "all of the property not used or occupied by structures, unplanted recreational areas, walks and driveways." *Thus, Section 1510.0304(h)(1) clearly excludes an "unplanted recreation area" from the "landscaped area."*

Roughly depicted visually, the requirements of Section 1510.0304(h)(1) & (3) are represented by the figure below, based on the approximate configuration of the Cardenas parcel, with El Paseo Grande to the left (east) of the driveway and the mean high tide line (the western



border of the Cardenas parcel) marking the right-hand (western boundary) of the unplanted recreational area:



The area that is not crossed out represents the part of the parcel that is "not used or occupied by structures, unplanted recreational areas, walks and driveways" and that "shall be landscaped" and "in no case shall [the landscaped area] be less than 30 percent of the total parcel area." If an area is "unplanted recreational area" it may not count toward the landscaped area of the parcel.

The term "unplanted recreational area" as used in Section 1510.0304(h)(1) necessarily encompasses the part of the Cardenas parcel consisting of sand beach from the sea wall to the mean high tide line. That sand beach is obviously unplanted, as there is nothing growing in the sand beach, and it is equally obviously a recreational area as it is used for active and passive recreational uses. Indeed, much of the unplanted recreational area a 25-foot strip inland from the mean high tide line - is dedicated to public recreational use. As set forth in the San Diego Regional Commission's Agreement Imposing Restrictions on Real Property entered into on December 29, 1978 by the Commission and the Cardenas' predecessor in interest ("Agreement"), the public has "the right to walk, sit, swim and otherwise use a 25-foot strip of beach as measured inland from the mean high tide line." (See Exh. A.) And while the 25-foot strip may sometimes not extend as far east as the seawall,¹ the seawall nevertheless marks the apparent boundary between the portion of the sandy beach accessible to the public and that which is private property, i.e. , all of the sand beach up to the seawall appears to the public to be a public recreational area. (See Exh. B.) The remainder of the unplanted recreational area that may not be within the 25-foot strip which the public has an indisputable right to use for recreational purposes is nevertheless clearly intended for private recreational use, whether active or passive. Accordingly, it is indisputable that area of the Cardenas parcel occupied by sandy beach is an "unplanted recreational area" for purposes of Section 1510.0304(h)(1). As such, no part of the sand beach may be counted toward the required minimum 30% of the parcel that must be landscaped.

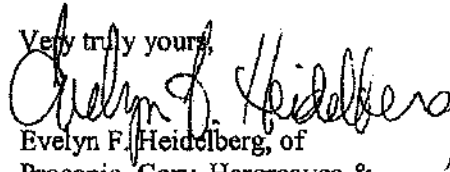
¹ As set forth in the Agreement, the "mean high tide" line is ambulatory as will be the 25-foot strip."

PROCOPPIO

Even if the plain meaning of Section 1510.0304(h)(1) did not mandate that "this landscaped area" which "in no case shall ... be less than 30 percent of the total parcel area" necessarily exclude unplanted recreational areas (as well as areas occupied by structures, walks and driveways), it is evident that under no circumstances could any of the sandy beach count toward the required 30 percent of the parcel that must be landscaped. This is the case because Section 1510.0304(h)(3) requires that "all landscape material . . . be permanently maintained in a growing and healthy condition . . ." Although sand may be a "native material" for purposes of Section 150.0304(h)(1), it is indisputable that sand is not a material that may be kept in a "growing" condition, as required of all landscape material by Section 1510.0304(h)(3).

For these reasons, it is clear that the proposed project does not comply with the requirements of Section 1510.0304(h). If DSD has determined otherwise, DSD has counted the sand in contravention of the plain meaning of Sections 1510.0304(h)(1) & (3). To comply with the requirements of Section 1510.0304(h), the proposed project must be substantially redesigned or a variance must be granted. As DSD's review of the project proposal to date has not identified the inconsistency with Section 1510.0304, it is apparent that another review cycle is necessary before this project may be heard by a Hearing Officer pursuant to Process Two.

Very truly yours,



Evelyn F. Heidelberg, of
Procopio, Cory, Hargreaves &
Savitch LLP

BFH/wsl

cc: Hon. Sherri Lightner
Jan Goldsmith, Esq.
Ms. Erin Demorest (via email only)

EXHIBIT "A"

RECORDING REQUESTED BY AND MAIL TO
NAME San Diego Coast Regional Commission
STREET 6154 Mission Gorge Rd., Suite 220
CITY San Diego, CA. 92120

1508

79-011271
FILE/PAGE NO.
3008 1978
RECORDED REQUEST OF

Don Edson, Architect
JUN 9 3 10 PM '79
OFFICIAL RECORDS
RECORDED
SAN DIEGO COUNTY, CALIF.

SAN DIEGO COAST REGIONAL COMMISSION

AGREEMENT IMPOSING RESTRICTIONS ON
REAL PROPERTY

\$4.00

This agreement is made this 27 day of December, 1978, by YOUNG FARMS AND CATTLE COMPANY acting by and through Sen D. Young, Partner, hereinafter referred to as "Permittee," and the San Diego Coast Regional Commission; WHEREAS, Permittee is the owner of the following described real property in the County of San Diego:

Lot 2, Ocean Terrace, Map No. 2615;

WHEREAS, pursuant to the California coastal Act of 1976 (Public Resources Code 30000 et seq) Permittee has sought in Application No. 77606 a permit for the following described development:

Construction of approx. 700 sq. ft. terrace, a 243 sq. ft. porch enclosure, a 114 sq. ft. addition to house-keepers quarters, approx. 40 linear feet (6 ft. high) masonry walls and a revised parking area, including a carport and relocate driveway;

WHEREAS, the San Diego Coast Regional Commission has determined to issue a permit for this development subject to conditions which are imposed for the benefit of the public and surrounding landowners, and without agreement to which by Permittee no permit could be issued;

NOW THEREFORE, in consideration of the issuance of the development permit and of the benefit conferred thereby on the subject property, Permittee hereby covenants and agrees with the San Diego Coast Regional Commission to the following restriction upon the possession, use, and enjoyment of the subject property, which restriction shall be attached to and become a part of the deed to the property:

That the public shall have the right to walk, sit, swim and otherwise use a 25-foot wide strip of beach as measured inland from the mean high tide line. The "mean high tide" line is ambulatory as will be the 25-foot strip. In no case, however, shall the public be allowed to use the beach landward of the existing seawall on the subject property. This is a covenant running with the land which shall be prior to all encumbrances except for tax liens and shall bind the applicant and any successors in interest.

Permittee acknowledges that any violation of this deed restriction will constitute a violation of the California Coastal Act of 1976 and of Permit No. F7606, and will subject Permittee or any other person violating the deed restriction to suit as provided by the Coastal Act.

IT IS FURTHER RECOGNIZED that this agreement and deed restriction is a covenant running with the land and shall bind Permittee, and all successors and assigns of Permittee.

If any portion of the subject property should hereafter be conveyed, the conveyance shall contain the restriction created by this agreement.


Executive Director
San Diego Coast Regional Commission

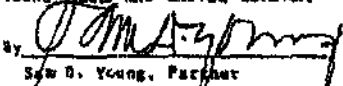
YOUNG FARMS AND CATTLE COMPANY
By 
Sen D. Young, Partner

EXHIBIT 2

EXHIBIT "B"



CARDENAS
12/23/09

Excerpts from La Jolla Community Plan & Local Coastal Program Land Use Plan

**I. Elements of the Community Plan / Residential Land Use / Plan
Recommendations**

2.) Community Character (p. 90)

In order to maintain and enhance the existing neighborhood character and ambiance and to promote good design and visual harmony between new & existing structures, preserve the following elements:

- 1) Bulk and scale with regard to surrounding structures or land form conditions as viewed from the public right-of-way and from parks and open space;
- 5) Site fixtures - with regard to height, type, material and location (fences, walls, retaining walls, curb cuts and driveways);

**II. Elements of the Community Plan / Natural Resources & Open Space System/
Policies**

3.) Shoreline Areas & Coastal Bluffs (p. 50)

- a. The City should preserve and protect the coastal bluffs, beaches and shoreline areas of La Jolla assuring that development occurs in a manner that protects these resources, encourages sensitive development, retains biodiversity and interconnected habitats and maximizes physical and visual public access to and along the shoreline.

**III. Elements of the Community Plan / Natural Resources & Open Space System /
Plan Recommendations**

3.) Shoreline Areas (p. 57 & 58)

- h. Maintain the established shoreline setback of structures along the beach such as the White Sands development opposite Marine Street Beach and La Jolla Shores Beach and Tennis Club adjacent to La Jolla Shores Beach to allow lateral access for public use along the shoreline.



THE CITY OF SAN DIEGO

REPORT TO THE HEARING OFFICER

HEARING DATE: June 30, 2010 REPORT NO. HO 10-061

ATTENTION: Hearing Officer

SUBJECT: CARDENAS RESIDENCE
PTS PROJECT NUMBER: 191344

LOCATION: 8466 El Paseo Grande

APPLICANT: Claude-Anthony Marengo

SUMMARY

Requested Action - Should the Hearing Officer approve a Site Development Permit to construct a 459 square-foot addition to an existing 892-square-foot on a lot with an existing single family residence within the La Jolla Community Planning Area?

Staff Recommendation:

1. **CERTIFY** Mitigated Negative Declaration No. 191344; and
2. **APPROVE** Site Development Permit No. 676181.

Community Planning Group Recommendation – On January 7, 2010, the La Jolla Community Planning Association voted 9-1-1 to recommend denial of the project (See discussion below).

La Jolla Shores Planned District Ordinance Advisory Board – On May 18, 2010, the La Jolla Shores Planned District Ordinance Advisory Board voted 5-0-0 to recommend denial of the project (See discussion below).

Environmental Review A Mitigated Negative Declaration No. 191344 has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines, with mitigation measures for potential impacts to archaeological resources. A Mitigation, Monitoring and Reporting Program has been prepared and will be implemented which will reduce, to a level of insignificance, any potential impacts identified in the environmental review process.

BACKGROUND

The project proposes to expand an existing 892-square-foot deck by adding 459 additional square feet. The deck consists of an 5'-6" high solid support wall with 3'-6" high seat wall on top and storage area below. The site contains an existing 3,113-square-foot single family dwelling originally constructed in the 1950's located at 8466 El Paseo Grande, zoned Single Family (SF) within the La Jolla Shores Planned District within the La Jolla Community Planning area. The site is within the Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone "B", Residential Tandem Parking Overlay Zone, Beach Parking Impact Overlay Zone. The property is designated Very Low Density Residential (0-5 du/ac) in the La Jolla Community Plan (LJCP).

The project site is not designated as a view corridor within the LJCP and does not contain intermittent or partial vistas, view sheds, or scenic overlooks. The rear 50'-0" of the site is mapped as Coastal Beach and is currently encumbered by a public access easement. The project requires a deed restricting required side yard setback areas (as shown on the site plan of Exhibit "A" dated June 30, 2010) to protect functional view corridors pursuant to SDMC section 132.0403. The site is surrounded by single family developments to the north, south and east and the Pacific Ocean to the west.

A Site Development Permit is required pursuant to San Diego Municipal Code (SDMC) section 126.0502(a)(2)(a) as the project is a development on a premises containing coastal beaches and as a La Jolla Shores Planned District Permit is required pursuant to SDMC section 1510.0201.

The project does not require a Coastal Development Permit pursuant to San Diego Municipal Code (SDMC) section 126.0704.

DISCUSSION

The project proposes a Site Development Permit to allow a 459 square-foot deck area to be added to an existing 892-square-foot deck for a total of 1,351 square feet. The expanded deck consists of a 5'-6" high support wall with a 3'-6" high solid parapet wall on top and pre-cast concrete with wall cap. This deck would have a storage area below. In addition, the application includes a new 4'-6" high retaining with 2'-0" high guard rail on top adjacent to the expanded deck area to support a 479 square-foot area planted with grass. This wall would have a stone finish with painted or stained wood handrail with steel cables. Other accessory improvements include enhanced paving within the walkways and modifications to existing fences. Side yard gates would be modified to provide enhanced visibility to the ocean. The project complies with the development regulations of the SF zone, recommendations of the La Jolla Community Plan and the Local Coastal Program.

La Jolla Community Planning Association Vote/ La Jolla Shores Planned District Ordinance
Advisory Board Vote

On January 7, 2010 the La Jolla Community Planning Association voted 9-1-1 to recommend denial of the project with the following reasons:

1. *The project does not meet the 30-percent landscape requirement.*
2. *The project is not making the proposed masonry wall a glass wall, the project is not in character with the surrounding community.*

On May 18, 2010 the La Jolla Shores Planned District Ordinance Advisory Board voted 5-0-0 to recommend denial of the project, for the following reasons:

1. *Reduction of landscape is below acceptable levels.*
2. *Bulk and Scale – proposed deck has solid mass, is closer to the ocean, and higher than similar decks at adjacent properties.*

Staff Response:

1. *Staff Response: In The La Jolla Shores Planned District (LJSPD), Single-Family Zone, all of the property not used or occupied by structures, unplanted recreational areas, walks and driveways shall be landscaped and may include native materials, and in no case shall this landscaped area be less than 30 percent of the total parcel area. The project proposes 32.9 percent of the total parcel area as landscape, of which 84 percent is the beach portion of the property. San Diego Municipal Code (SDMC) section 1510.0304[h][1] states that the required landscape area "may include native materials." The project's property line extends approximately 50 feet from an existing sea wall towards the ocean to include beach sand. This area was included in the landscape calculation.*
2. *Staff Response: The La Jolla Community Plan recommends that community character be maintained through several measures including bulk and scale and public physical and visual access measures. LJSPD design principal states no structure shall be approved which is substantially like any other structure located on an adjacent parcel. The adjacent properties to the north and south have exterior patio areas enclosed by free standing walls and fences. New structures should utilize articulation of the facades facing open space areas and facade materials that blend with the landscape.*

The implementation of the Community Plan policies and recommendations are accomplished by applying the Land Development Code regulations in effect for the site. The proposed accessory improvement implement these recommendations/regulations as the rear and side yards are articulated by stepping back walls at three different levels to soften the bulk and scale. Building materials are consistent with existing on-site improvements which include stucco siding and earthtone colors. Similar to the adjacent

parcels, the proposed development incorporate decks that facilitate "inside-outside" orientation as identified in the LJSPDO. However, the proposed deck will be articulated by the off-setting walls and trellis structure. The existing seven-foot wide lateral public access easement will not be affected by this project, maintaining public physical and visual access to the beach. The project proposes a transparent wall on the north side of the deck. The La Jolla Shores Planned District Ordinance does not require transparent walls. The proposed improvements will maintain sideyard setbacks consistent with the existing home making it in conformance with sideyard setbacks to the surrounding neighborhood.

Environmental Analysis

A Mitigated Negative Declaration was prepared from the project as it was determined that the proposed development could have a significant impact to Archaeological Resources. Because mitigation measures are required to be applied to the project in accordance with Section V of the associated Mitigation, Monitoring, and Reporting Program (MMRP), the project now avoids or mitigates any potentially significant environmental impacts to archaeological resources in accordance with the California Environmental Quality Act.

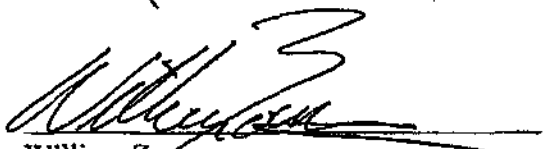
CONCLUSION

Staff has determined that the project complies with the development regulations of the La Jolla Shores Planned District Ordinance and all other applicable sections of the Land Development Code. Staff has determined that the required findings can be made as the project meets the applicable San Diego Municipal Code regulations and requirements. Staff recommends approval of the project as proposed.

ALTERNATIVES

1. Approve Site Development Permit No. 676181, with modifications or;
2. Deny Site Development Permit No. 676181 if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



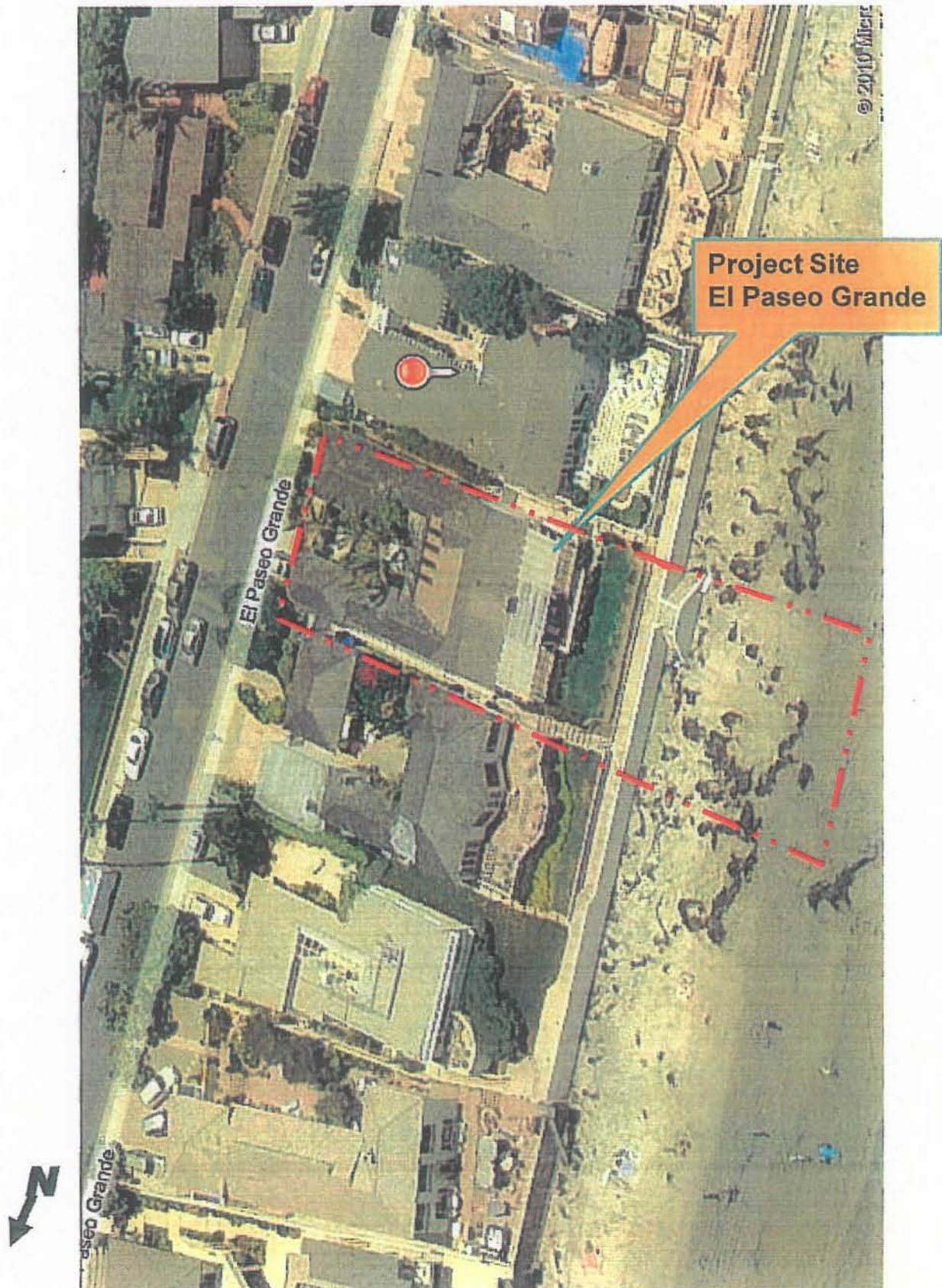
William Zounes,
Development Project Manager

Attachments:

1. Aerial Photograph

2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Project Plans
6. Draft Permit with Conditions
7. Draft Resolution with Findings
8. La Jolla Community Planning Association Recommendation
9. La Jolla Shores Planned District Ordinance Advisory Board Recommendation
10. Ownership Disclosure Statement
11. Project Chronology

Attachment 1 Aerial Photograph



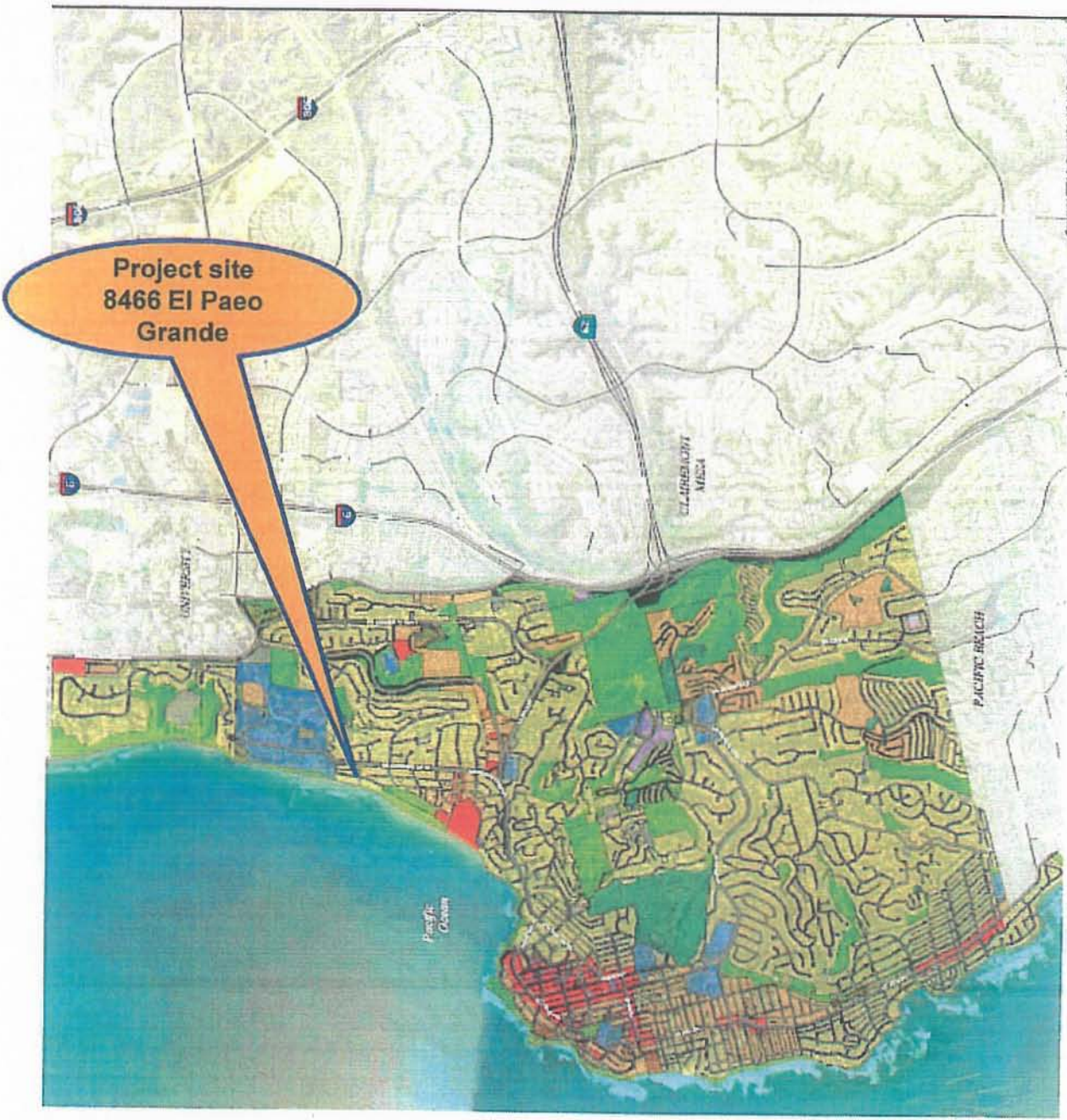
Attachment 2 Community Plan Land Use Map

Map ONE
La Jolla
Existing Conditions
Land Use

- Legend**
- Single-Family Residential
 - Medium-Density Residential
 - Low-Density Residential
 - Neighborhood Commercial
 - Community Commercial
 - Office/Professional
 - Public/Institutional/Community
 - Industrial/Manufacturing
 - Transportation/Utility
 - Open Space/Recreation
 - Highway
 - Water
 - Public Facilities
 - Unimproved

This map shows the existing land use conditions in the City of San Diego. The map is based on the City's existing zoning and land use designations. The map is intended to provide a visual representation of the existing land use conditions in the City of San Diego. The map is not intended to be used as a legal document. The map is based on the City's existing zoning and land use designations. The map is intended to provide a visual representation of the existing land use conditions in the City of San Diego. The map is not intended to be used as a legal document.

City of San Diego
Planning Department
April 1, 2004



Attachment 3 Project Location Map



PROJECT DATA SHEET		
PROJECT NAME:	Cardenas Residence – Project 147066	
PROJECT DESCRIPTION:	Expansion of an existing 892-square-foot deck by adding 459 square feet for an existing single family residence.	
COMMUNITY PLAN AREA:	La Jolla	
DISCRETIONARY ACTIONS:	Site Development Permit	
COMMUNITY PLAN LAND USE DESIGNATION:	Very Low Density Residential (0-5 du/ac)	
ZONING INFORMATION:		
ZONE: Single Family (SF) HEIGHT LIMIT: 30 feet LOT SIZE: 11,879 square feet FLOOR AREA RATIO: N/A (lot coverage = 60-percent) FRONT SETBACK: General Conformity with those in the Vicinity (8'-6" exist) SIDE SETBACK: General Conformity with those in the Vicinity (4'-11" exist) STREETSIDE SETBACK: General Conformity with those in the Vicinity REAR SETBACK: General Conformity with those in the Vicinity PARKING: 2 spaces required		
ADJACENT PROPERTIES:	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	Single Family/SF	Single Family Homes
SOUTH:	Single Family/SF	Single Family Homes
EAST:	Single Family/SF	Single Family Homes
WEST:	NA	Pacific Ocean
DEVIATIONS OR VARIANCES REQUESTED:	None	
COMMUNITY PLANNING GROUP RECOMMENDATION:	On January 7, 2010 the La Jolla Community Planning Association voted 9-1-1 to recommend denial of the project. On May 18, 2010 the La Jolla Shores Planned District Ordinance Advisory Board voted 5-0-0 to recommend denial of the project.	

CARDENAS RESIDENCE

8466 EL PASEO GRANDE, LA JOLLA, CA 92037
SITE DEVELOPMENT PERMIT REQUEST

Marengo Morton Architects

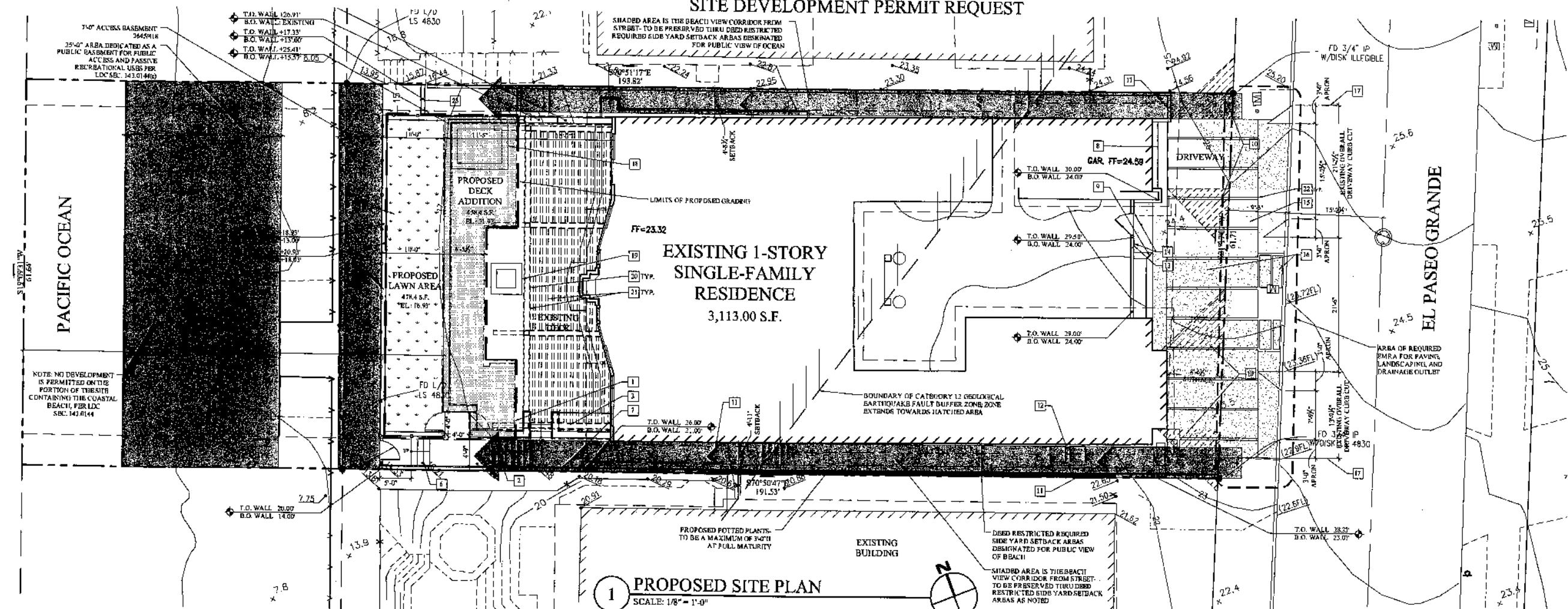
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CARDENAS RESIDENCE
8466 EL PASEO GRANDE
LA JOLLA, CA 92037



SITE NOTES

- The site plan is for general site reference only. Refer to other construction documents for complete scope of work.
- Before commencing any site foundation excavation the contractor shall verify locations of all site dimensions and conditions. These include but are not limited to property lines, setback location to all new or existing walls, easements (if any), existing site utilities, including water, sewer, gas and electrical lines and any other new or existing site items which could affect in any way the construction of the building. Flag or otherwise mark all locations of site property lines, easements (if any) underground utilities, and indicate utility type.
- All conditions or dimensions on these plans shall be verified in the field by the General Contractor with actual site conditions. Written dimensions shall take precedence over scaled dimensions and shall be verified on the job site. On-site verification of all dimensions and conditions shall be the sole responsibility of the General Contractor and Subcontractors.
- The Contractor or sub-contractor shall notify the Architect if any conflicts or discrepancy occurs between this information on this plan and actual field conditions. Do not proceed with work in conflict with these drawings until written or verbal instructions are issued by the Architect's office.
- Protect existing vegetation and mark perimeter of construction zone. Remove all trees and vegetation within 5' of proposed new structures, unless otherwise shown.
- Grade site to direct ground water away from building and new additions. Drainage swales are to be directed as shown, provide 2% slope.
- Locate refuse bin at approved onsite location. Contractor shall dispose of all site refuse at city-approved locations.
- Provide building address numbers, visible and legible from street or road fronting the property.
- The highest point of the roof, equipment, or any vent, pipe, antenna, or any other projection shall be located entirely on unsheltered/unobstructed soil.
- The structure(s) shall be located entirely on unsheltered/unobstructed soil.
- State Health & Safety Code Sec. 17921.0 items the use of chlorinated polyvinyl chloride (CPVC) for interior water supply piping.
- Permanent vacuum breakers shall be included with all new hose bibbs.
- Water closet shall have minimum clearances of 15" from centerline and 24" clear in front of water closet.
- All toilets to be ultra-low flow 1.6 gallons per flush maximum.
- All faucets to be ultra-low flow of 2.2 gallons per minute.
- All shower heads to be ultra-low flow of 2.5 gallons per minute.

ADDITIONAL NOTES:

- Prior to the issuance of any construction permit, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance.
- 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.
- 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.

GRADING DATA:

Topographic contours shown on plan are based City of San Diego BM -SBF, located at El Paseo Grande and Paseo del Ocaso. Record from City of San Diego, Elevation 31.722 M.S.L. Datum NAD 83. Survey from 4-5-2006 performed by K&S Engineering.

Area of site to be graded: 1084 s.f.
% of site area to be graded: 9.1 %
% of site area w/in Hillside Review: 0 %
Amount of cut: 33.6 cubic yards
Amount of fill: 9.7 cubic yards
Net amount of export: 23.9 cubic yards
Maximum depth of cut: 6'
Maximum depth of fill: 2.6'
Maximum wall height: 9.84' (at northern deck wall)
Maximum length of wall: 51.27' (wall at western side of landscaped area)
Total length of wall: 176.2'

SITE PLAN KEYNOTES

- EXTENT OF EXISTING DECK.
- PROPOSED 12" W PERIMETER SEAT WALL WITH PRE-CAST CONCRETE WALL CAP, 18" HIGH GLASS RAIL ON NORTHSIDE
- SAW-CUT EXISTING MASONRY PATIO WALL FOR NEW STEPS AND CAP WITH PRE-CAST CONCRETE WALL CAP
- PROPOSED 4" CMU RETAINING WALL, 3" CMU FENCE PER CITY STANDARD WITH STONE FINISH 2" OFF ADAPTED OR STAINED WOOD HANDRAIL FRAME WITH STBBL CABLES AT 4" OC MIN. ABOVE
- PROPOSED LANDSCAPED AREA
- PROPOSED COLORED CONCRETE WALK & STEPS FOR ACCESS TO LANDSCAPED AREA & DECK ABOVE
- PROPOSED PAINTED OR STAINED WOOD FENCE INSTALLED ON TOP OF 4" CMU WALL WITH 1/2" X 2" CO FINISH 1" HEIGHT VARIES, SEE ELEVATION "D" ON SHEET A-2
- REMOVE EXISTING STONE VENEER FROM COURTYARD WALLS AND APPLY NEW COLORED STUCCO FINISH, COLOR AND FINISH TBD
- NEW 16" H CMU SEAT WALL W/ BULLNOSE, PRE-CAST WALL CAP AND STUCCO FINISH
- VISIBILITY TRIANGLE NOTHING OVER 3' 0" IN THIS AREA
- PROPOSED FRONT FENCING & SPECIFIED GATES TO BE 55% OPEN FOR BEACH VISIBILITY
- EXISTING TRANSMURBYCYLING STORAGE AREA
- PROPOSED LOCATION OF ADDRESS NUMBERS
- PROPOSED LOCATION OF NEW SITE WALL LIGHTS-MOUNTED AT 4'-4 1/2" O.C. E.F.F
- PROPOSED COURTYARD ENTRY PAVING PANEL OF COLORED CONCRETE W/ ACID ETCHED FINISH AND SCORE LINES AS INDICATED
- PROPOSED MOTOR COURT AND BANDING PAVEMENT OF COLORED CONCRETE W/ BEDDED AGGREGATE FINISH AND SCORE LINES AS INDICATED
- DIMENSIONS OF EXISTING DRIVEWAYS ADJACENT TO THE SITE ON EL PASEO GRANDE
- PROPOSED SPA LOCATION
- PROPOSED FIRE PIT LOCATION
- LINE OF EXISTING TRELLIS STRUCTURE
- LINE OF PROPOSED TRELLIS STRUCTURE
- 4" SEPARATION BETWEEN CONCRETE PAVING, INFILL WITH "FIELD TURF" OR EQUIVALENT PERMISSIBLE ARTIFICIAL TURF SURFABLE
- CMU RETAINING WALL TO REPLACE EXISTING WALL AT SAME LOCATION, CLAD IN LIMES TONB TILES

VICINITY MAP



SCOPE OF WORK

EXPANSION OF EXISTING COVERED DECK AND ADDITION OF STORAGE AREA BELOW ADDING 458.4 S.F. TO CREATE 1,351.1 S.F. TOTAL DECK AREA. DECK SUPPORT PROVIDED BY 12" CMU WALL WITH STONE FINISH AND GLASS RAILING. PROPOSED WALKWAY W/ STAIRS. PROPOSED RETAINING WALL WITH CABLE RAILING ABOVE AT EDGE OF BEACH ACCESS WALKWAY. PROPOSED LANDSCAPE AREA- OCCUPYING 478.4 S.F. AT THE 1/2" EAST OF THE NEW RETAINING WALL. PROPOSED SIDE FENCE OVER CMU WALL AT SOUTHWEST YARD. PROPOSED ACCESS GATES AT WALKWAY & DOGRUN AT THE EAST END OF THE PROPERTY. PROPOSED RAISED LIGHT AT THE FRONT SITE WALL TO CREATE NEW ENTRY. PROPOSED ENHANCED PAVING & LANDSCAPE PLANTER AT ENTRY COURTYARD. PROPOSED ENHANCED PAVING AT BOTH DRIVEWAYS. REQUESTING A SITE DEVELOPMENT PERMIT FOR ENVIRONMENTALLY SENSITIVE LANDS.

PROJECT TEAM

OWNERS	ARCHITECT
Joseph and Marjorie Cardenas 8466 El Paseo Grande La Jolla, CA 92037	Marengo Morton Architects 7724 Girard Ave. La Jolla, CA 92037 Telephone: (858) 459-3769 Fax: (858) 459-3768 Contact: Claude Anthony Marengo cmarengo@mmar.com Cell: (619) 417-1111

PROJECT DATA

PROJECT INFORMATION	
PROJECT ADDRESS:	8466 El Paseo Grande La Jolla, CA 92037 943-850-0200
APPLICATOR'S PARCEL NUMBER:	444.24 Ocean Terrace, in the City of San Diego, County of San Diego, State of California, according to Map Sheet No. 2213, filed in the Office of the County Recorder of San Diego County, January 23, 2006, excepting therefrom that portion thereof as now lying within the Marine High Tide Line of the Pacific Ocean.
LEGAL DESCRIPTION:	
YEAR BUILT:	1991
FOUNDATION CODE:	1991 CALIFORNIA BUILDING CODE (CBC), 2001 EDITION CALIFORNIA ELECTRICAL CODE (CEC), 2001 EDITION CALIFORNIA MECHANICAL CODE (CMC), 2001 EDITION CALIFORNIA PLUMBING CODE (CPC), 2001 EDITION SAN DIEGO COUNTY MUNICIPAL CODE (SDCMC) 2004 EDITION
OCCUPANCY TYPE:	Single Family Residential: R-3 & U-1 Private Garage
CONTRACT TYPE:	TYPE I-Fixed Fee
LOT AREA:	12,788 S.F. 0.27 ACRES
WORKING AGREEMENT:	La Jolla County TCO 27-000 County Ordinance 20-107 High Elevation La Jolla Status Planned District, La Jolla Community Plan 1-Step Bidding Process
NUMBER OF STORIES:	1

FIRE NOTES

- Building address numbers, visible & legible from the street, shall be provided per FPPS Policy P-00-6 (UFC 901.4.4).
- An approved vehicle smoke detector system, with Knox Keyswitch override, satisfactory to the Fire Marshal, shall be provided on all vehicle main entry and emergency entry points to the project(s) per FPPS Policy K-00-2 (UFC 902.4).

SHEET INDEX

SHEET NAME	CONTENT	NO.
A-1.1	TITLE SHEET/PROPOSED SITE PLAN	1
A-1.2	DRAINAGE PLAN	2
L-1.1	LANDSCAPE DEVELOPMENT PLAN	3
L-1.2	LANDSCAPE AREA CALCULATIONS	4
A-5.1	PROPOSED ELEVATIONS	5
A-5.2	PROPOSED ELEVATIONS	6
A-6.1	PROPOSED SECTIONS	7

PREPARED BY:
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La Jolla, CA 92037
858-459-3769 (office)
858-459-3768 (fax)

PROJECT NAME:
CARDENAS RESIDENCE
8466 El Paseo Grande
San Diego, CA 92037

Revision 4: 1-12-2010
Revision 3: 11-2-2009
Revision 2: 9-10-2009
Revision 1: 9-9-2009
Original Date: 8-4-2009
DUP#

FINAL COASTAL

PROJECT NO. 2009-16

REVIEWED BY: CAM

DRAWN BY: KD, ND

DATE: 3-29-2010

REVISIONS:

TITLE SHEET/
PROPOSED SITE PLAN

A-1.1
SHEET 1 OF 7

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RESIDENCE**
8466 EL PASO GRANDE
LA JOLLA, CA 92037

REVISION	06-16-09 PROJECT START DATE
	08-11-09 1ST CITY SUBMITTAL
	09-14-09 2ND CITY SUBMITTAL
	10-31-09 3RD CITY SUBMITTAL
	03-12-10 4TH CITY SUBMITTAL



PHASE **COASTAL**

PROJECT NO. 2009-16

REVIEWED BY CAM

DRAWN BY RD, ND

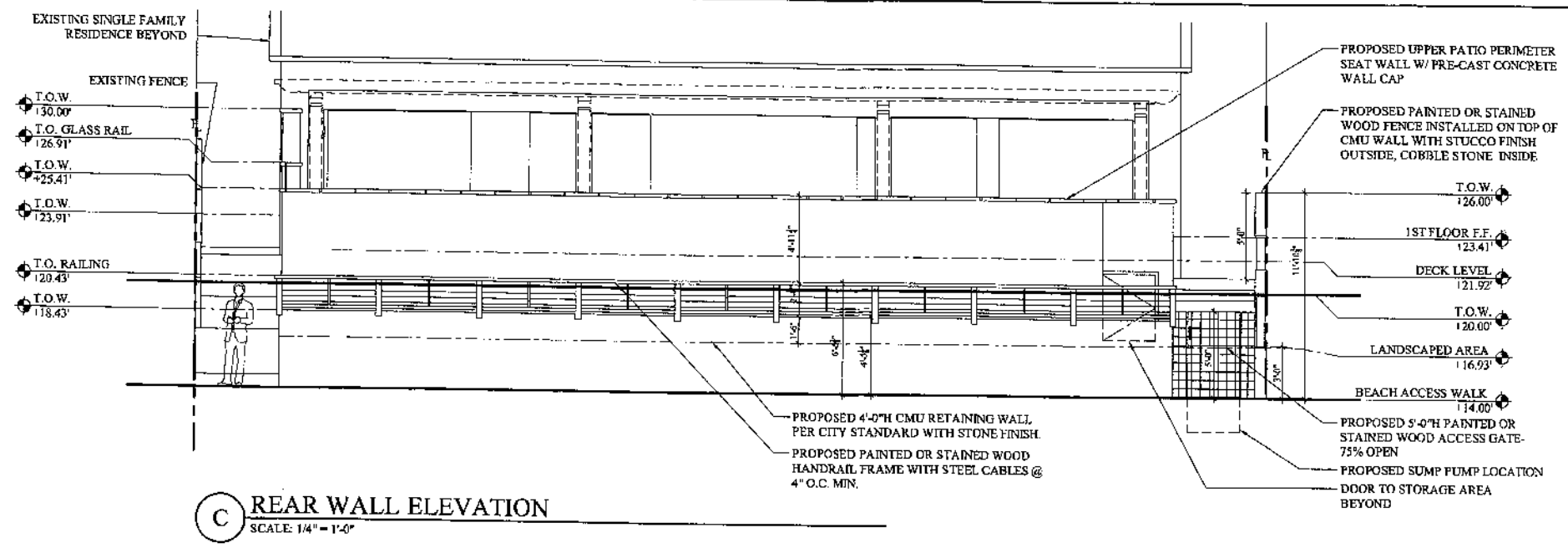
DATE 3-29-2010

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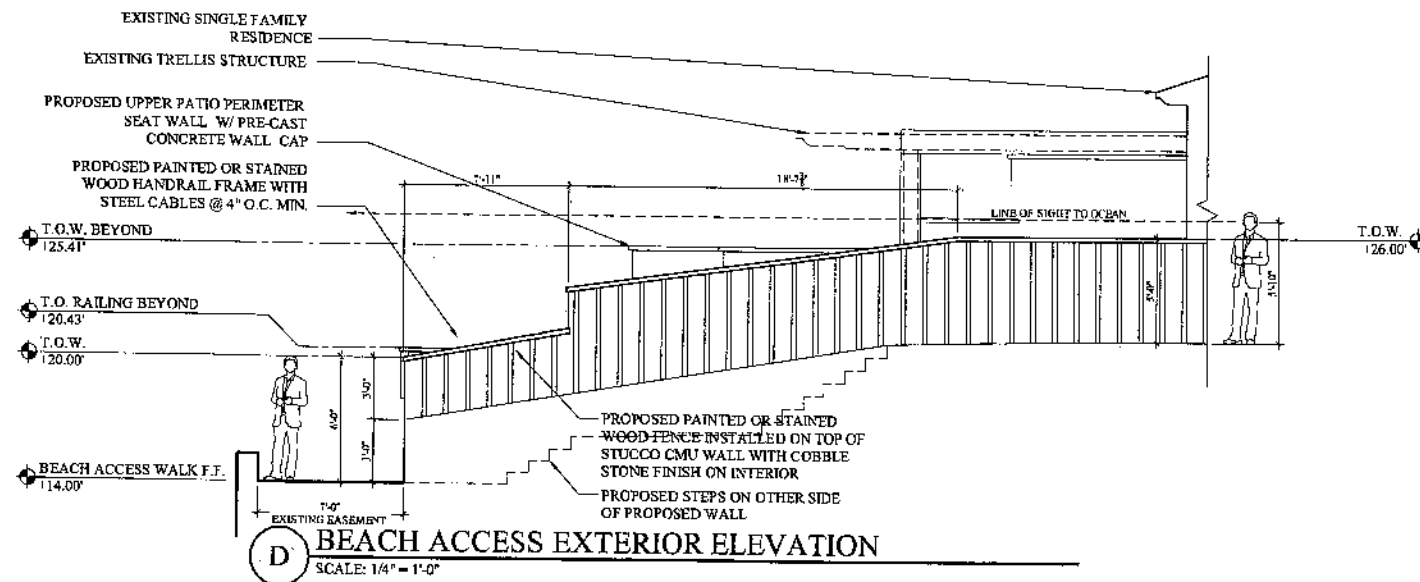
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San Diego, CA 92037

Revision 4:	1-12-2010
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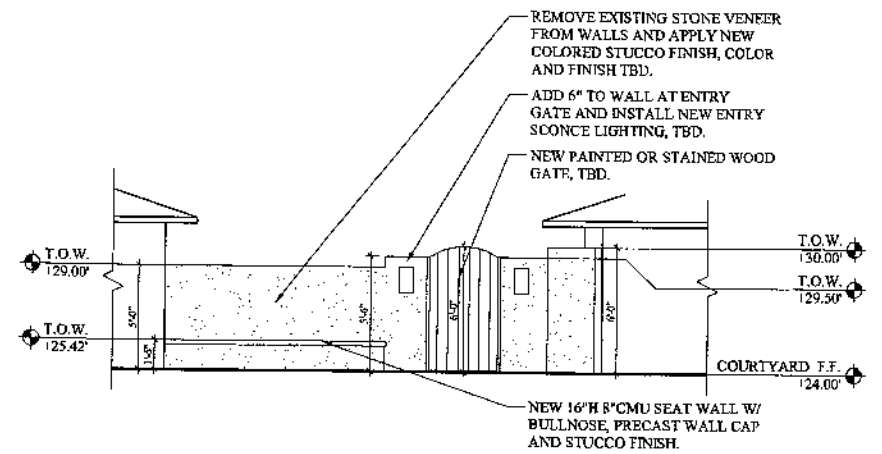
A-5.2
SHEET 6 OF 7



C REAR WALL ELEVATION
SCALE: 1/4" = 1'-0"

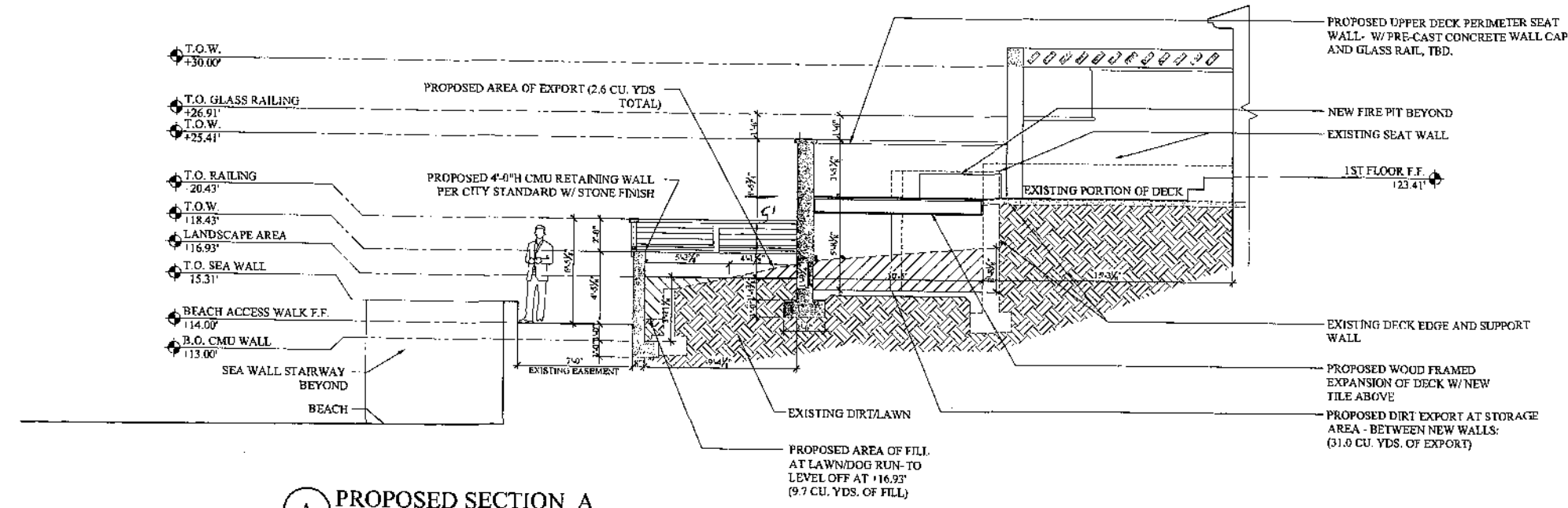


D BEACH ACCESS EXTERIOR ELEVATION
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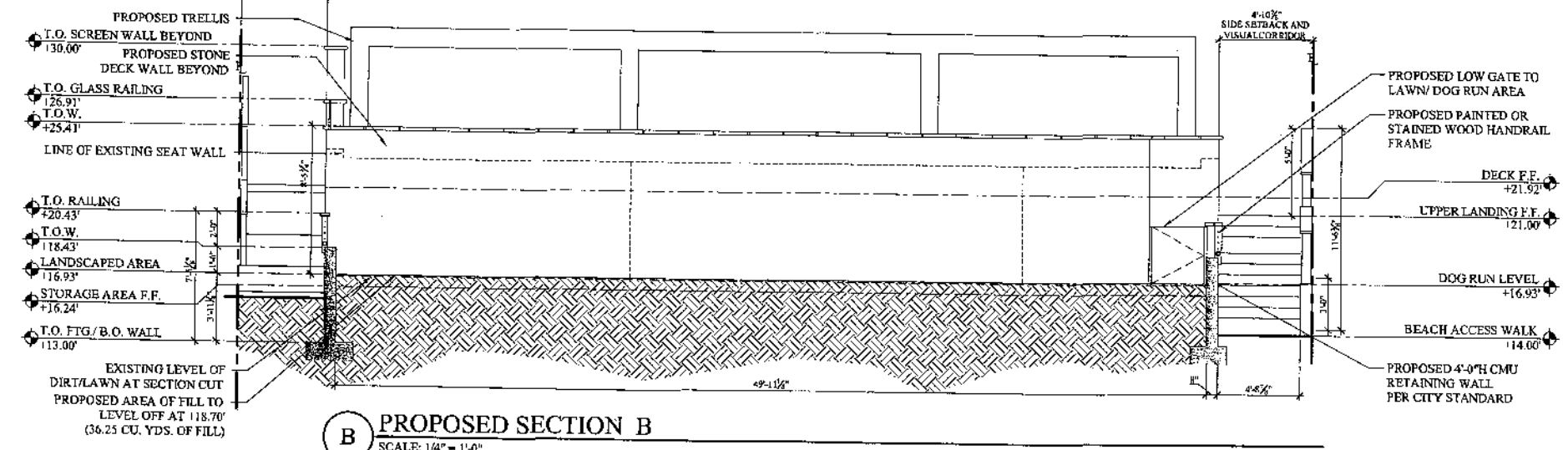


E FRONT ENTRY ELEVATION
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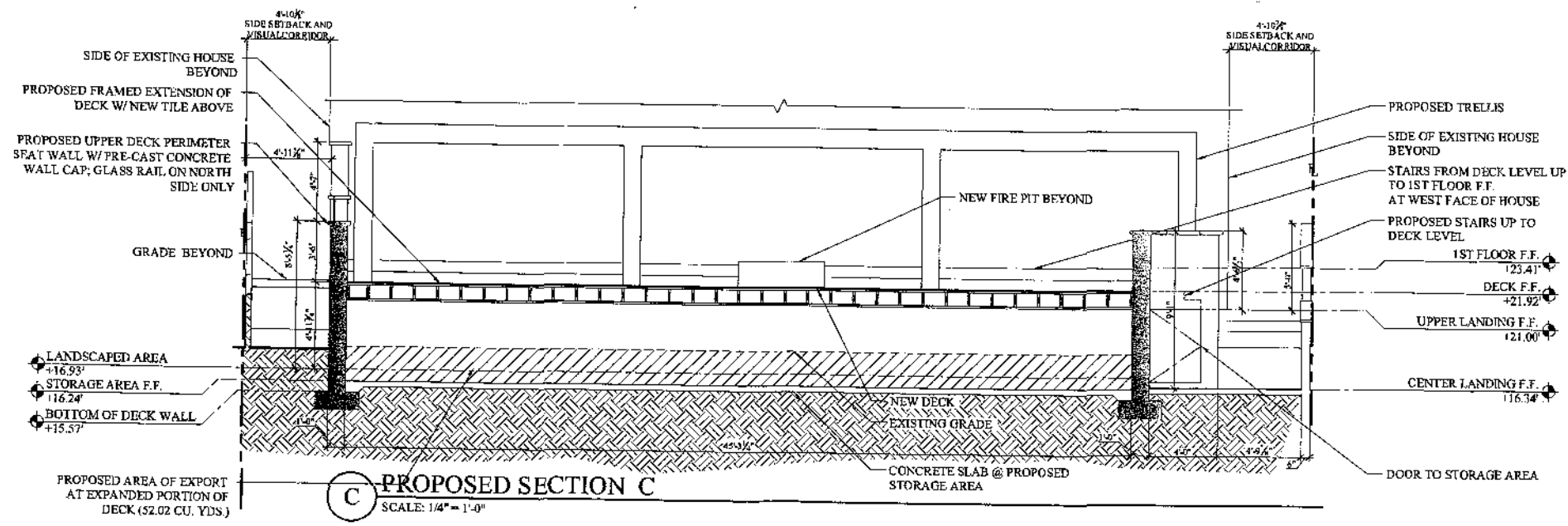
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A PROPOSED SECTION A
SCALE: 1/4" = 1'-0"



B PROPOSED SECTION B
SCALE: 1/4" = 1'-0"



C PROPOSED SECTION C
SCALE: 1/4" = 1'-0"

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03-12-10	4TH CITY SUBMITTAL

715486 COASTAL

PROJECT NO: 2009-16

REVIEWED BY: CAM

DRAWN BY: KD, ND

DATE: 3-29-2010

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A-6.1
SHEET 7 OF 7

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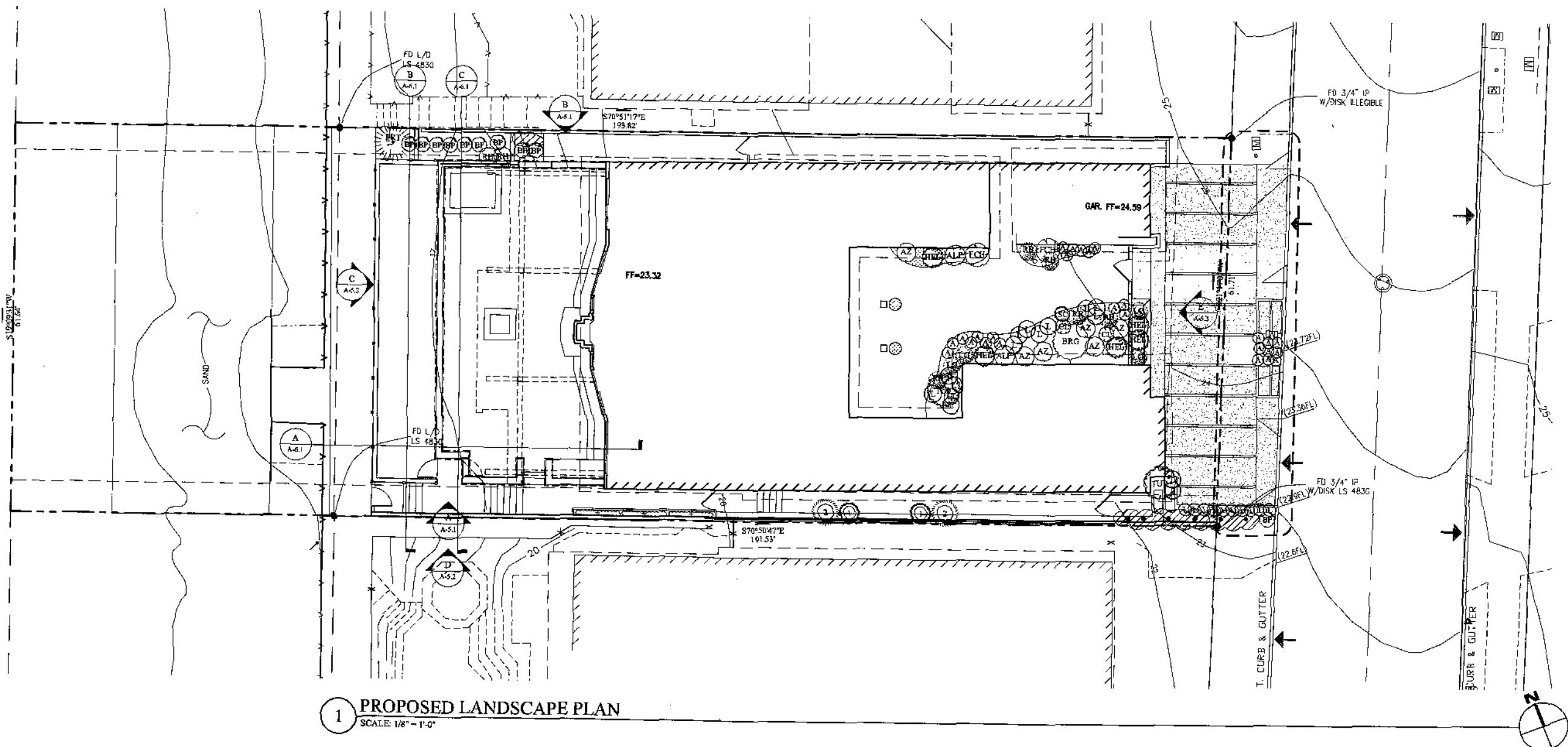
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8466 EL PASO GRANDE
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PHASE **COASTAL**
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DGP#



1 PROPOSED LANDSCAPE PLAN
SCALE: 1/8" = 1'-0"

SITE PLAN KEYNOTES

- 1 SAW-CUT EXISTING 5'-7" WALL FOR SIDEYARD ACCESS
- 2 WIDEN EXISTING 4'-6" PATIO PERIMETER SEAT WALL TO 12" W AND INSTALL PROPOSED DOUBLE BULLNOSE PRE-CAST CONCRETE WALL, CAP, T&D
- 3 SAW-CUT EXISTING 6'-6" MASONRY WALL AT STEPS AND CAP WITH DOUBLE BULLNOSE, PRE-CAST CONCRETE WALL, CAP, T&D
- 4 PROPOSED 5'-0" H 8" CMU RETAINING WALL PER CITY STANDARD WITH STUCCO FINISH
- 5 PROPOSED 3'-0" H GLASS RAILING ABOVE 4'-6" H STUCCO CMU WALL
- 6 PROPOSED COLORED CONCRETE WALK & STEPS
- 7 PROPOSED PAINTED OR STAINED WOOD FENCE INSTALLED ON TOP OF 8" CMU WALL WITH STUCCO FINISH. VARIES IN HEIGHT AS IT STEPS DOWN, SEE ELEVATION "C" ON SHEET L-1.2
- 8 REMOVE EXISTING STONE VENEER FROM COURTYARD WALLS AND APPLY NEW COLORED STUCCO FINISH, COLOR AND FINISH TBD
- 9 NEW 14" H 1" CMU SEAT WALL W/ BULLNOSE PRE-CAST WALL CAP AND STUCCO FINISH
- 10 VISIBILITY TRIANGLE: NOTTING OVER 3'-0" IN THIS AREA
- 11 PROPOSED FRONT FENCING & SPECIFIED GATES TO BE 75% OPEN FOR REAR VISIBILITY
- 12 EXISTING TRASH/RECYCLING STORAGE AREA
- 13 PROPOSED LOCATION OF ADDRESS NUMBERS
- 14 PROPOSED LOCATION OF NEW SITE WALL LIGHTS MOUNTED AT 4'-4" H O.C. A.F.F.

ADDITIONAL NOTES

SPECIFICATION NOTES:

REAR RETAINING WALL:
1. PROVIDE ALTERNATE BID WITH BLDGRADO STONE VENEER ON NEW REAR RETAINING WALL. ALL EXPOSED SIDES. SIERRA RIVER ROCK WITH BLDGRADO STONE RUSTIC WALL CAP.

REAR FOR C1 SEAT WALL:
1. DOUBLE BULLNOSE WALL CAP. REEFSTONE, DOUBLE BULLNOSE WASHED FINISH. COLOR TO BE DETERMINED. 18" X 12" X 2"

LANDSCAPE NOTES:

1. IN THE SINGLE-FAMILY ZONE, ALL OF THE PROPERTY NOT USED OR OCCUPIED BY STRUCTURES, UNPLANTED RECREATIONAL AREAS, WALKS AND DRIVEWAYS SHALL BE LANDSCAPED AND MAY INCLUDE NATIVE MATERIALS, AND IN NO CASE SHALL THIS LANDSCAPED AREA BE LESS THAN 30% OF THE TOTAL PARCEL AREA. ALL LANDSCAPING AND IRRIGATION SHALL BE DEVELOPED IN CONFORMANCE WITH THE LANDSCAPE GUIDELINES OF THE LAND DEVELOPMENT MANUAL.
2. ALL LANDSCAPING SHALL BE COMPLETED WITHIN 6 MONTHS OF OCCUPANCY OR WITHIN ONE YEAR OF THE NOTICE OF COMPLETION OF A RESIDENCE.
3. ALL LANDSCAPED MATERIAL SHALL BE PERMANENTLY MAINTAINED IN A GROWING AND HEALTHY CONDITION INCLUDING TRIMMING AS APPROPRIATE TO THE LANDSCAPING MATERIAL.

PLANT LEGEND

SYMBOL (TREES)	BOTANICAL NAME / COMMON NAME	SYMBOL (SHRUBS, PERENNIALS & GROUNDCOVERS CONT.)	BOTANICAL NAME / COMMON NAME	SYMBOL (SHRUBS, PERENNIALS & GROUNDCOVERS CONT.)	BOTANICAL NAME / COMMON NAME
(Circle with dot)	EXISTING TREES TO REMAIN	(AZ)	AZALEA 'ALASKA' / AZALEA	(SC)	SCAEVOLA BLUE WONDER / SCAEVOLA
(Circle with BRG)	BRUGMANSIA X CANDIDA / ANGEL'S TRUMPET	(BR)	BEGONIA RICHMONDENSIS / RICHMOND BEGONIA & BERGENTIA CORDIFOLIA / HEARTLEAF BERGENTIA	(BP)	STRELITZIA REGINAE / BIRD OF PARADISE
(Circle with PRT)	PHOENIX ROEBELIUM / DWARF DATE PALM (TRANSPLANT)	(ALP)	ALPINA SANDERAE / VARIEGATED GINGER	(CL)	ZANTEDESCHIA AETHIOPICA / COMMON CALLA
(Circle with TUP)	EXISTING TUPIDANTHUS CALYPTRATUS / NCN TO REMAIN	(FCH)	CALLIANDRA HAEMATOCYPHALA / PINK POWDER PUFF (ESPALET)	(X)	PERENNIAL PLANTINGS:
(Hatched circle)	EXISTING PLANTINGS TO REMAIN	(FCH)	FUCHSIA TRUPHYLLA 'GARTENMEISTER BONSTEDT' / FUCHSIA HYBRID	(IR)	-IRIS VARIETIES / IRIS BEARDED IRIS -IMPATIENS
(Circle with A)	AGAPANTHUS VARIETIES / LILY OF THE NILE (TRANSPLANTED)	(HEL)	HELICONIA SCHIEDEANA / NCN	(COR)	-COREOPSIS VARIETIES / COREOPSIS
		(LIG)	LIGULARIA JAPONICA GIGANTEAN / NCN	(LAV)	-LAVANDULA PEREZII / SEA LAVENDER
		(L)	LIRIOPE MUSCARI / BIG BLUE LILY TURF	(OST)	-OSTEOSPERMUM VARIETIES / AFRICAN DAISY
		(RH)	RHAPHIOLEPIS INDICA / INDIA HAWTHORN	(SCA)	-SCAEVOLA BLUE WONDER / SCAEVOLA
				(POT1)	24" DIA. GLAZED POT W/ CORDYLINE AUSTRALIS 'ATROPURPUREA' / BRONZE DRACAENA
				(POT2)	30" DIA. GLAZED POT W/ TIBOUCHINA URVILLEANA / PRINCESS FLOWER

V:\2009\Projects\2009-16\Cardenas\CD_Plan_Sheets\L-1_Landscape_Plan_MarengoMorton.dwg

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: 24000089

SITE DEVELOPMENT PERMIT NO. 676181
CARDENAS RESIDENT PROJECT NO. 191344
HEARING OFFICER

This Site Development Permit No. 676181 is granted by the Hearing Officer of the City of San Diego to JOSEPH CARDENAS, Owner/ Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0502 and 1510.0201. The 0.27-acre site is located at 8466 El Paseo Grande in the SF zone within the La Jolla Shores Planned District of the La Jolla Community Plan. The project site is legally described as lot 2, of Ocean Terrance Map No. 2615;

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to expand an existing deck with supporting walls, add landscape area, storage area under the deck, enhanced paving, new gates and enhanced paving described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated June 30, 2010, on file in the Development Services Department.

The project shall include:

- a. The expansion of an existing deck consisting of 459 additional square feet with a 5.5-foot-high support wall for a total deck area of 1,351 square feet;
- b. 479-square-foot lawn area with five-foot support walls with two-foot open cable rail on top;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Accessory improvements to include enhanced paving, storage area under deck, and new gates and;

- d. 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.
2. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
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. 191344 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. 191344 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 Historical Resources.

ENGINEERING REQUIREMENTS:

14. This project proposes to export 23.9 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 onsite processing and sale of the export material unless the underlying zone allows a construction and demolition debris recycling facility with an approved Neighborhood Use Permit or Conditional Use Permit per LDC Section 141.0620(i).

15. Prior to the issuance of any construction permit, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement, for paving, landscaping and the private drainage outlet pipe within the public right-of-way, satisfactory to the City Engineer.

LANDSCAPE REQUIREMENTS:

16. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.

17. Prior to issuance of a construction permit, the Owner/Permittee shall submit a site/plot plan consistent with the plans submitted for a building permit showing the required 30% landscaped area in a crosshatch pattern and labeled 'Landscape Area Diagram'.

18. Any modifications or changes to the 'Landscape Area Diagram' and existing or proposed plant material, as shown on the approved Exhibit 'A' Landscape Concept Plan, are permitted provided the resulting landscape meets the minimum area requirements of the La Jolla Shores Planned District Ordinance.

PLANNING/DESIGN REQUIREMENTS:

19. Prior to the issuance of a construction permit A deed restricting required side yard setback areas (as shown on the site plan of Exhibit "A" dated June 30, 2010) to cumulatively form functional view corridors and preventing a walled effect from authorized development shall be submitted to the city for recordation.

INFORMATION ONLY:

- 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.

**Attachment 6
Draft Permit with Conditions**

- 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 30, 2010.

Permit Type/PTS Approval No.: SDP No. 676181
Date of Approval: June 30, 2010

**AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT**

William Zounes
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.**

By _____

JOSEPH CARDENAS

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

HEARING OFFICER
RESOLUTION NO.
SITE DEVELOPMENT PERMIT NO. 676181
CARDENAS RESIDENCE PROJECT NO. 191344

WHEREAS, EL PASEO GRANDE, LLC, Owner/Permittee, filed an application with the City of San Diego for a permit to construct a deck addition to an existing single family residence with support wall, lawn area, and under deck storage (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 676181), on portions of a 0.27-acre site;

WHEREAS, the project site is located at 8466 El Paseo Grande in the Single Family (SF) zone of the La Jolla Shores Planned District within the La Jolla Community Plan area;

WHEREAS, the project site is legally described as Lot 2 of Ocean Terrace Map no. 2645;

WHEREAS, on June 30, 2010, the Hearing Officer of the City of San Diego considered Site Development Permit No. 676181 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 30, 2010

Site Development Permit - Section 126.0504

1. The proposed development will not adversely affect the applicable land use plan;

The project proposes a Site Development Permit to allow a 459 square-foot deck area to be added to an existing 892-square-foot deck for a total of 1,351 square feet located at 8466 El Paseo Grande, zoned Single Family (SF) within the La Jolla Shores Planned District within the La Jolla Community Planning area within the Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone "B", Residential Tandem Parking Overlay Zone, Beach Parking Impact Overlay Zone.

The property is designated Very Low Density Residential (0-5 du/ac) in the La Jolla Community Plan (LJCP). The proposed project conforms to the identified land use. The project site is not designated as a view corridor within the LJCP and does not contain intermittent or partial vistas and the property does not contain a view sheds or scenic overlooks..

The La Jolla Community Plan recommends that community character be maintained through several measures reducing bulk and scale and requiring public physical and visual access measures. The plan also recommends that single family neighborhoods be preserved and coastal resources be protected. The proposed accessory improvement incorporates these recommendations as the rear and side yards are articulated by stepping back walls at three different levels to soften the bulk and scale. Building materials are consistent with existing on-site improvements which include stucco siding and earthtone colors. The existing seven-foot wide lateral public access easement will not be affected by this project,

Attachment 7
Draft Resolution with Findings

maintaining public physical and visual access to the beach. The urban design guidelines of the community plan recommend that public view corridors be maintained utilizing side-yard-setbacks. Although the community plan does not identify a vertical public view corridor through this site, the project incorporates a deed restriction to protect functional side yard view corridors.

The project proposes no deviations or variances from the applicable regulations and is consistent with the goals and recommendations within the applicable policy documents. Therefore, the proposed development will not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare.

The project proposes a Site Development Permit to allow a 459 square-foot deck area to be added to an existing 892-square-foot deck for a total of 1,351 square feet located at 8466 El Paseo Grande, zoned Single Family (SF) within the La Jolla Shores Planned District within the La Jolla Community Planning area within the Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone "B", Residential Tandem Parking Overlay Zone, Beach Parking Impact Overlay Zone.

A Mitigated Negative Declaration was prepared from the project as it was determined that the proposed development could have a significant impact to Archaeological Resources.

Because mitigation measures are required to be applied to the project in accordance with Section V of the associated Mitigation, Monitoring, and Reporting Program (MMRP), the project now avoids or mitigates any potentially significant environmental impacts to archaeological resources in accordance with the California Environmental Quality Act.

The permit controlling this development contains conditions addressing compliance with the City's regulations and other regional, State and Federal regulations to prevent detrimental impacts to the health, safety, and welfare of persons residing in the area. These conditions address requirements relating to storm water runoff, runoff during construction, and landscaping. All Uniform Building, Fire, and Mechanical Codes governing the construction and continued operation of the development will apply to this site to prevent adverse affects to those persons or other properties in the vicinity. The project proposes catch basins and BMP filters to collect all run-off and avoid any potential drainage from happening on to the public areas from private improvements. Due to the nature of the existing site the project will not excavate over 33.6 cubic yards and requires 9.7 cubic yards of fill leaving 23.9 cubic yards to be removed from the site. The permit for the project will require A deed restricting required side yard setback areas to form functional view corridors and prevent future development from obstructing views to the ocean and creating a walled effect. Therefore, the proposed project conforms to the development regulations and will not be detrimental to the public health, safety, and welfare.

3. The proposed development will comply with the applicable regulations of the Land Development Code.

The project proposes a Site Development Permit to allow a 459 square-foot deck area to be added to an existing 892-square-foot deck for a total of 1,351 square feet located at 8466 El Paseo Grande, zoned Single Family (SF) within the La Jolla Shores Planned District within the La Jolla Community Planning area within the Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone,

Attachment 7
Draft Resolution with Findings

Sensitive Coastal Overlay Zone "B", Residential Tandem Parking Overlay Zone, Beach Parking Impact Overlay Zone.

The proposed project is located entirely within private property. The zoning designation allows for a maximum of 60 percent building coverage, which will not be affected by the proposed development. The La Jolla Shores Planned District Ordinance (LJSPDO) requires 30-percent of the total parcel area to be landscaped. Of the project's 30-percent requirement, 84-percent is the beach portion of the property. San Diego Municipal Code (SDMC) section 1510.0304[h][1] states that the required landscape area "*may include native materials.*"

The project's property line extends approximately 50 feet from an existing sea wall towards the ocean to include beach sand. This area holds a deed restriction preventing future development and allowing public access. City Staff acknowledges that SDMC section 1510.0304(h)(1) provides that "[a]ll *landscaped material* shall be permanently maintained in a growing and healthy condition including trimming as appropriate to the landscaping material." However, that reference to "landscaped material" refers specifically to landscaped material, rather than to landscaped area. Therefore, the beach sand is not precluded as a landscaped area even though it is not "in a growing condition."

Staff has determined that the sand area is better characterized as "native material" than an "unplanted recreational area." SDMC section 143.0101 sets forth the purpose of the City's Environmentally Sensitive Lands Regulations. Specifically, it provides that the purpose is to "assure that development, including, but not limited to coastal development in the Coastal Overlay Zone, occurs in a manner that protects the overall quality of the resources and the natural and topographic character of the area, encourages a sensitive form of development, retains biodiversity and interconnected habitats, maximizes physical and visual public access to and along the shoreline, and reduces hazards due to flooding in specific areas while minimizing the need for construction of *flood* control facilities." Thus, the beach sand, an environmentally sensitive land, rather than being an unplanted recreational area, is more appropriately categorized as natural resource of the area. Therefore, rather than being precluded from the calculation of landscaped area, it is more appropriately included within that calculation.

Similar to the adjacent parcels, the proposed development incorporate decks that facilitate "inside-outside" orientation as identified in the LJSPDO. However, the proposed deck will be articulated by the off-setting walls and trellis structure. The existing seven-foot wide lateral public access easement will not be affected by this project, maintaining public physical and visual access to the beach. The project proposes a transparent wall on the north side of the deck similar to existing walls in the area. The proposed improvements will maintain sideyard setbacks consistent with the existing home making it in conformance with sideyard setbacks to the surrounding neighborhood.

The project does not exceed the 30 foot height limit and conforms to the required zoning regulations to include setbacks, parking, wall and fence height, and landscaping. The project was designed in conformance with the underlying zone and land use plan and is not requesting deviations or variances to the Land Development Code. Therefore, the proposed development will comply with the applicable regulations of the Land Development Code.

Supplemental Findings--Environmentally Sensitive Lands

- 1. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands;**

The project proposes a Site Development Permit to allow a 459 square-foot deck area to be added to an existing 892-square-foot deck for a total of 1,351 square feet located at 8466 El Paseo Grande, zoned Single Family (SF) within the La Jolla Shores Planned District within the La Jolla Community Planning area within the Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone "B", Residential Tandem Parking Overlay Zone, Beach Parking Impact Overlay Zone.

The project site contains Environmentally Sensitive Lands in the form of Coastal Beaches. The proposed deck and walls will be located outside of the coastal beach area and will not affect any establish view corridors. The permit controlling this development contains conditions addressing compliance with the City's regulations and other regional, State and Federal regulations to prevent detrimental impacts to the health, safety, and welfare of persons residing in the area. These conditions address requirements relating to storm water runoff, runoff during construction, and landscaping. All Uniform Building, Fire, and Mechanical Codes governing the construction and continued operation of the development will apply to this site to prevent adverse affects to those persons or other properties in the vicinity. The project is adding catch basins and BMP filters to collect all run-off and avoid any potential drainage from happening on to the public areas from private improvements. The project site is currently developed with an approximate 3,113-square-foot, one-story, single-family residence. The project site is located in an established urban neighborhood and is supplied with all utilities. The land supports no native vegetation and is not in or adjacent to the City's Multiple Habitat Planning Area. The deck expansion and retaining walls will be constructed entirely over existing ornamental landscape on a slope favorable to the existing home. Due to the nature of the slope already existing, the project will not be doing excavation over 33.6 cubic yards and will be doing 9.7 cubic yards of fill leaving 23.9 cubic yards to be removed from the site. The site currently maintains a public easement for public access and passive recreation along the beach preserving the coastal resource. Therefore, the site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.

- 2. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards;**

The project proposes a Site Development Permit to allow a 459 square-foot deck area to be added to an existing 892-square-foot deck for a total of 1,351 square feet located at 8466 El Paseo Grande, zoned Single Family (SF) within the La Jolla Shores Planned District within the La Jolla Community Planning area within the Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone "B", Residential Tandem Parking Overlay Zone, Beach Parking Impact Overlay Zone.

On March 6, 2006 a Preliminary Geotechnical Investigation was reviewed and approved for the site. On November 2, 2009 an Updated Preliminary Geotechnical Recommendations reviewed and on December 16, 2009, Addendum 01 to Updated Preliminary Geotechnical Recommendations was reviewed and approved for the site. It was determined that existing and proposed development is not located on a fault.

Attachment 7
Draft Resolution with Findings

The site was also determined to be outside the defined Sensitive Coastal Bluff Zone per the City of San Diego's Coastal Bluffs and Beaches & Steep Slopes Guidelines. The project is not within a flood overlay zone or a potentially sensitive area for fire hazards. Therefore, the proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands;

The project proposes a Site Development Permit to allow a 459 square-foot deck area to be added to an existing 892-square-foot deck for a total of 1,351 square feet located at 8466 El Paseo Grande, zoned Single Family (SF) within the La Jolla Shores Planned District within the La Jolla Community Planning area within the Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone "B", Residential Tandem Parking Overlay Zone, Beach Parking Impact Overlay Zone.

The project site contains Environmentally Sensitive Lands in the form of Coastal Beaches. The proposed development will take place entirely within private property and not encroach on to the coastal beach or any environmentally sensitive lands. The permit controlling this development contains conditions addressing compliance with the City's regulations and other regional, State and Federal regulations to prevent detrimental impacts to the health, safety, and welfare of persons residing in the area. These conditions address requirements relating to storm water runoff, runoff during construction, and landscaping. All Uniform Building, Fire, and Mechanical Codes governing the construction and continued operation of the development will apply to this site to prevent adverse affects to those persons or other properties in the vicinity. The project is adding catch basins and BMP filters to collect all run off and avoid any potential drainage from spilling on to the public areas from private improvements. The site currently maintains a public easement for public access and passive recreation along the beach preserving the coastal resource. Therefore, the proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.

4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan;

The project proposes a Site Development Permit to allow a 459 square-foot deck area to be added to an existing 892-square-foot deck for a total of 1,351 square feet located at 8466 El Paseo Grande, zoned Single Family (SF) within the La Jolla Shores Planned District within the La Jolla Community Planning area within the Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone "B", Residential Tandem Parking Overlay Zone, Beach Parking Impact Overlay Zone.

The site is not within or adjacent to the Multiple Species Conservation Program (MSCP) Multiple Habitat Planning Area (MHPA). Therefore the project is not inconsistent with the City's MSCP.

5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply; and

The project proposes a Site Development Permit to allow a 459 square-foot deck area to be added to an existing 892-square-foot deck for a total of 1,351 square feet located at 8466 El Paseo Grande, zoned Single Family (SF) within the La Jolla Shores Planned District within the La Jolla Community Planning area within the Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone "B", Residential Tandem Parking Overlay Zone, Beach Parking Impact Overlay Zone.

The proposed development takes place entirely within private property. The permit controlling this development contains conditions addressing compliance with the City's regulations and other regional, State and Federal regulations to prevent detrimental impacts to the health, safety, and welfare of persons residing in the area. These conditions address requirements relating to storm water runoff, runoff during construction, and landscaping. All Uniform Building, Fire, and Mechanical Codes governing the construction and continued operation of the development will apply to this site to prevent adverse effects to those persons or other properties in the vicinity. The project is adding catch basins and BMP filters to collect all runoff and avoid any potential drainage from happening on to the public areas from private improvements. Due to the nature of the existing site the project will not excavate over 33.6 cubic yards and requires 9.7 cubic yards of fill leaving 23.9 cubic yards to be removed from the site. Therefore, the proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply

6. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

The project proposes a Site Development Permit to allow a 459 square-foot deck area to be added to an existing 892-square-foot deck for a total of 1,351 square feet located at 8466 El Paseo Grande, zoned Single Family (SF) within the La Jolla Shores Planned District within the La Jolla Community Planning area within the Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone "B", Residential Tandem Parking Overlay Zone, Beach Parking Impact Overlay Zone.

A Mitigated Negative Declaration was prepared from the project as it was determined that the proposed development could have a significant impact to Archaeological Resources.

Because mitigation measures are required to be applied to the project in accordance with Section V of the associated Mitigation, Monitoring, and Reporting Program (MMRP), the project now avoids or mitigates any potentially significant environmental impacts to archaeological resources in accordance with the California Environmental Quality Act.

The permit controlling this development contains conditions addressing compliance with the City's regulations and other regional, State and Federal regulations to prevent detrimental impacts to the health, safety, and welfare of persons residing in the area. These conditions address requirements relating to storm water runoff, runoff during construction, and landscaping. All Uniform Building, Fire, and

Attachment 7
Draft Resolution with Findings

Mechanical Codes governing the construction and continued operation of the development will apply to this site to prevent adverse affects to those persons or other properties in the vicinity. The project proposes catch basins and BMP filters to collect all run-off and avoid any potential drainage from happening on to the public areas from private improvements. Due to the nature of the existing site the project will not excavate over 33.6 cubic yards and requires 9.7 cubic yards of fill leaving 23.9 cubic yards to be removed from the site. The permit for the project will require A deed restricting required side yard setback areas to form functional view corridors and prevent future development from obstructing views to the ocean and creating a walled effect. Therefore, the nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Site Development Permit No. 676181 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 676181, a copy of which is attached hereto and made a part hereof.

William Zounes
Development Project Manager
Development Services

Adopted on: June 30, 2010

Job Order No. 24000089

**Attachment 8
La Jolla Shores Planning
Association Recommendation**



LA JOLLA COMMUNITY PLANNING ASSOCIATION

P.O. Box 889 La Jolla CA 92038 Ph 858.456.7900
<http://www.LaJollaCPA.org> Email: info@LaJollaCPA.org

Regular Meeting – 7 January 2010

Attention: Will Zounes, DPM, City of San Diego

Project: Cardenas Residence
8466 El Paseo Grande
PN 191344

Motion: Motion to deny the Cardenas Project because it does not meet the LJSPDO 30% landscape requirement and because without making the proposed masonry wall a glass wall, the project is not in character with the surrounding community. **Vote: 9-1-1**

Submitted by: *Joseph LaCava*
Joe LaCava, President
La Jolla CPA

7 January 2010

Date

LA JOLLA SHORES PLANNED DISTRICT

Applicant: Mr. Marengo

Item: #1 Cardenas Residence
Date: May 18, 2010

To: Planning Director
From: La Jolla Shores Planned District Advisory Board
Subject: Proposal Within La Jolla Shores Planned District

The La Jolla Shores Planned District Advisory Board has reviewed the applicant for:

MOVE TO DENY BASED ON BULK, HEIGHT + SCALE - PROPOSED DECK HAS
SOLID MASS IS LOWER TO THE OCEAN + HIGHER THAN
SIMILAR DECKS AT ADJACENT PROPERTIES ("STRUNG LINE")
AND REDUCTION OF LANDSCAPED AREA BELOW ACCEPTABLE
STANDARDS

located _____

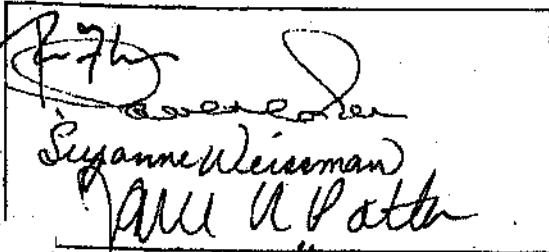
and recommends:

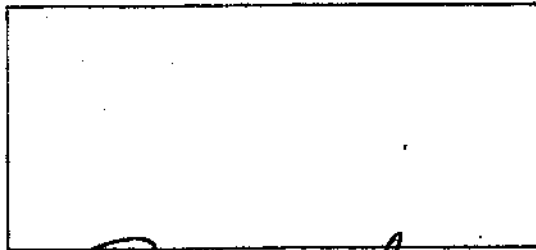
- A. Approval because of conformity to criteria and design standards adopted by the City Council
- B. Denial because of nonconformity to criteria and design standards adopted by the City Council. (Reasons for nonconformity on reverse side.)
- C. Approval subject to the following modifications to ensure conformity to criteria and design standards adopted by the City Council.
- _____
- _____
- D. Denial because of lack of four affirmative votes.

Board Signatures

Approving Item: 5

Disapproving Item: 0


Suzanne Weissman
Jim A. Patten
Dan Hoese



Absentees:


Chairman

**Attachment 10
Ownership Disclosure
Statement**

Object Title: Cardenas Residence

Pr

Part II - To be completed when property is held by a corporation or partnership

Legal Status (please check):

Corporation Limited Liability -or- General) What State? _____ Corporate Identification No. _____
 Partnership

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property with the intent to record an encumbrance against the property. Please list below the names, titles and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all corporate officers, and all partners in a partnership who own the property). A signature is required of at least one of the corporate officers or partners who own the property. Attach additional pages if needed. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process. Additional pages attached Yes No

Corporate/Partnership Name (type or print):
El Paseo Grande LLC

Owner Tenant/Lessee

Street Address:
3466 El Paseo Grande

City/State/Zip:
La Jolla CA 92037

Phone No: _____ Fax No: _____

Name of Corporate Officer/Partner (type or print):

Title (type or print):
Joseph Cardenas 7/30/09

Signature: Joseph Cardenas Date: _____

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: _____ Fax No: _____

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: _____ Date: _____

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: _____ Fax No: _____

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: _____ Date: _____

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: _____ Fax No: _____

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: _____ Date: _____

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: _____ Fax No: _____

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: _____ Date: _____

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: _____ Fax No: _____

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature: _____ Date: _____

**ATTACHMENT 11
Project Chronology**

**Project Chronology
Cardenas Residence
PROJECT NO. 191344**

Date	Action	Description	City Review Time	Applicant Response
8/11/09	First Submittal	Project Deemed Complete and distributed		
9/23/09	First Submittal Assessment Letter out		43 days	
11/5/09	Second submittal In	Normal Submittal		43 days from First Assessment Letter
12/15/09	Second Submittal Assessment Letter out		40 days	
1/19/10	Third submittal In			35 days from Second Assessment Letter
2/19/10	Third Submittal Assessment Letter out		31 days	
6/30/10	Hearing Officer Hearing		131 days	
TOTAL STAFF TIME**			8 month 5 days	
TOTAL APPLICANT TIME**				2 months 18 days
TOTAL PROJECT RUNNING TIME**		From Deemed Complete to HO Hearing	10 months 23 days	

**Based on 30 days equals to one month.