

(R-96-1540)

RESOLUTION NUMBER R-287330

ADOPTED ON MAY 14, 1996

WHEREAS, THE CASA DE LA PLAYA HOMEOWNERS ASSOCIATION, a California corporation, Owner/Permittee, filed an application for a Coastal Development and Sensitive Coastal Resource Permit No. 92-0318 to construct a structural shotcrete tied-back seawall and stone revetment as a coastal protection device for property located at 4878 Pescadero Avenue and extending north to Cable Street, described as Lots 8-12, Block 45, Ocean Beach Map No. 279, in the R-1500 Zone; and

WHEREAS, on May 14, 1996, the City Council of The City of San Diego considered Coastal Development and Sensitive Coastal Resource Permit No. 92-0318 pursuant to Sections 105.0202 and 101.0480 of the Municipal Code of The City of San Diego; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that this City Council hereby adopts the following with respect to Coastal Development and Sensitive Coastal Resource Permit No. 92-0318:

COASTAL DEVELOPMENT FINDINGS:

- A. THE PROPOSED DEVELOPMENT WILL NOT ENCROACH UPON ANY EXISTING PHYSICAL ACCESSWAY LEGALLY UTILIZED BY THE PUBLIC OR ANY PROPOSED PUBLIC ACCESSWAY IDENTIFIED IN AN ADOPTED LCP LAND USE PLAN; NOR WILL IT OBSTRUCT VIEWS TO AND ALONG THE OCEAN AND OTHER SCENIC COASTAL AREAS FROM PUBLIC VANTAGE POINTS.

The existing vehicular access ramp at the southerly end of Cable Street will be retained with this project. Pedestrian access will be retained by a walkway between

five and ten feet in width. This unimproved walkway will allow natural rock formations to be exposed, enhancing the aesthetics of the seawall. The walkway will be constructed to provide access between the two existing coves, at the base of the cliff. The seawall and rock revetment will be constructed so that views to and along the ocean and other scenic coastal areas from public vantage points will not be obstructed.

This construction technique utilizes a free-form shotcrete surface which is then carved or otherwise shaped to conform to the natural geologic structure. A chemical stain that reacts with the alkalinity in the shotcrete will be used to provide a mottled natural appearance similar in color to that of the adjacent rock. The shotcrete material will be secured to the formational material.

B. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT MARINE RESOURCES, ENVIRONMENTALLY SENSITIVE AREAS, OR ARCHAEOLOGICAL OR PALEONTOLOGICAL RESOURCES.

This project has been revised to avoid significant environmental effects. The Mitigation Monitoring and Reporting Program identified in the Mitigated Negative Declaration contains mitigation measures which have been incorporated into the project as conditions. These conditions, when implemented, will result in a project which does not adversely affect marine resources, environmentally sensitive areas, or archaeological or paleontological resources.

C. THE PROPOSED DEVELOPMENT WILL COMPLY WITH THE REQUIREMENTS RELATED TO BIOLOGICALLY SENSITIVE LANDS AND SIGNIFICANT PREHISTORIC AND HISTORIC RESOURCES AS SET FORTH IN THE RESOURCE PROTECTION ORDINANCE, CHAPTER X, SECTION 101.0462 OF THE SAN DIEGO MUNICIPAL CODE, UNLESS BY THE TERMS OF THE RESOURCE PROTECTION ORDINANCE, IT IS EXEMPTED THEREFROM.

Due to the location of this project within the Coastal Zone, it is exempted from the terms of the Resource Protection Ordinance.

D. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT RECREATIONAL OR VISITOR-SERVING FACILITIES OR COASTAL SCENIC RESOURCES.

The seawall and associated revetment have been designed, and will be constructed and maintained to avoid adverse affects on recreational, visitor-serving and coastal scenic resources. Access to and along existing cobble and sand beaches is being maintained via the existing vehicular access ramp from Cable Street and a proposed unimproved walkway along

the base of the bluff.

- E. THE PROPOSED DEVELOPMENT WILL BE SITED AND DESIGNED TO PREVENT ADVERSE IMPACTS TO ENVIRONMENTALLY SENSITIVE HABITATS AND SCENIC RESOURCES LOCATED IN ADJACENT PARKS AND RECREATION AREAS, AND WILL PROVIDE ADEQUATE BUFFER AREAS TO PROTECT SUCH RESOURCES.**

The surface of the seawall will be contoured and colored to match the existing bluff topography. It has been designed to protect the public access to the shoreline. A minimum five-foot setback is being required to be maintained between the proposed rock revetment and an established surfgrass area.

- F. THE PROPOSED DEVELOPMENT WILL MINIMIZE THE ALTERATIONS OF NATURAL LANDFORMS AND WILL NOT RESULT IN UNDUE RISKS FROM GEOLOGIC AND EROSIONAL FORCES AND/OR FLOOD AND FIRE HAZARDS.**

The erosion control devices designed by Group Delta have been reviewed and approved by the City of San Diego Engineering Department, as well as the Army Corp of Engineers. It has been determined that the structures will not result in undue risks from geologic and erosional forces and/or flood and fire hazards. The erosion control devices are being proposed as part of the City's Sunset Cliffs Shoreline and Upper Cliff Stabilization Project and will be constructed in order to prevent further erosional and geologic risks associated with the eroded coastal bluff and pedestrian path.

- G. THE PROPOSED DEVELOPMENT WILL BE VISUALLY COMPATIBLE WITH THE CHARACTER OF SURROUNDING AREAS, AND WHERE FEASIBLE, WILL RESTORE AND ENHANCE VISUAL QUALITY IN VISUALLY DEGRADED AREAS.**

The seawall and revetment, which will act as a coastal protection device have been designed and will be constructed to protect the existing 24-unit condominium complex and Pescadero Street public right-of-way. The existing bluff has experienced an accelerated rate of retreat since 1980, due to more severe wave action than had previously occurred. The development will use high-quality materials to achieve a quality design. The overall development will enhance the area by providing a seawall and revetment that are similar in appearance to the natural coastal bluffs in color and contour, as well as improve the public accessway. The proposed pedestrian walkway and landscaping will enhance the surrounding area, and minimize visual impacts.

- H. THE PROPOSED DEVELOPMENT WILL CONFORM WITH THE GENERAL**

PLAN, THE LOCAL COASTAL PROGRAM, AND ANY OTHER APPLICABLE ADOPTED PLANS AND PROGRAMS.

The Ocean Beach Precise Plan and LCP Addendum (p. 145) discourages the use of riprap or any permanent structures over identified pocket sand beaches. There is a small pocket sand beach at the end of Pescadero Avenue that is exposed primarily at low tide. According to the biological report, the riprap would cover 350 square feet of supratidal (above mean high tide) sandy beach and 2,125 square feet of intertidal (between mean high and low tide) sandy beach. However, the beach in question is currently partially covered by imbedded riprap rocks that apparently have migrated there from an adjacent riprap revetment.

Although any coverage of sandy beach with riprap conflicts with a specific recommendation of the Ocean Beach Precise Plan and LCP Addendum, the pocket beach at the Pescadero Street end is usually submerged except at low tide, and is partially covered by large rocks. The project would comply with the broader recommendations concerning shoreline protective works. In this context, significant land use impacts would not result from project implementation.

SENSITIVE COASTAL RESOURCE FINDINGS:

- A. THE PROPOSED DEVELOPMENT WILL BE SITED, DESIGNED AND CONSTRUCTED TO MINIMIZE, IF NOT PRECLUDE, ADVERSE IMPACTS UPON SENSITIVE COASTAL RESOURCES AND ENVIRONMENTALLY SENSITIVE AREAS.**

As outlined above in Sections A through E of the Coastal Findings, the overall project will be sited, designed and constructed to minimize impacts upon sensitive coastal resources and environmentally sensitive areas.

- B. THE PROPOSED DEVELOPMENT WILL NOT ENCROACH UPON ANY EXISTING PHYSICAL ACCESSWAY LEGALLY UTILIZED BY THE PUBLIC OR ANY PROPOSED PUBLIC ACCESSWAY IDENTIFIED IN AN ADOPTED COMMUNITY PLAN, NOR WILL IT OBSTRUCT VIEWS TO AND ALONG THE OCEAN AND OTHER SCENIC COASTAL AREAS FROM PUBLIC VANTAGE POINTS.**

As outlined in Finding A of the Coastal Findings, the project will not encroach upon any public accessways, nor will it obstruct views of scenic coastal resources from public vantage points.

The proposed project would incorporate lateral coastal access by enhancing an existing trail that lies at the base of the cliff. This path would be approximately five to ten feet in width, and would be maintained for

safety. Although there would be some repairs around the Cable Street and Pescadero Avenue street ends, perpendicular coastal access would still be maintained in those areas. Both lateral and perpendicular coastal access to the beach and coves in the vicinity of the project would be maintained and enhanced, and no significant impacts would occur.

C. THE PROPOSED DEVELOPMENT WILL MINIMIZE THE ALTERATION OF NATURAL LANDFORMS AND WILL NOT RESULT IN UNDUE RISKS FROM GEOLOGIC AND EROSIONAL FORCES AND/OR FLOOD AND FIRE HAZARDS.

The erosion control devices designed by Group Delta have been reviewed and approved by the City of San Diego Engineering Department, as well as the Army Corp of Engineers. It has been determined that the structures will not result in undue risks from geologic and erosional forces and/or flood and fire hazards. The erosion control devices are being proposed as part of the City's Sunset Cliffs Shoreline and Upper Cliff Stabilization Project and will be constructed in order to prevent further erosional and geologic risks associated with the eroded coastal bluff and pedestrian path.

D. THE PROPOSED DEVELOPMENT WILL NOT CONTRIBUTE TO THE EROSION OF PUBLIC BEACH OR ADVERSELY IMPACT LOCAL SHORELINE SAND SUPPLY.

Shoreline protection works will be designed to be the minimum necessary to adequately protect existing principal structures, to reduce beach consumption and to minimize shoreline encroachment.

The Ocean Beach Precise Plan and LCP Addendum (p. 145) discourages the use of riprap or any permanent structures over identified pocket sand beaches. There is a small pocket sand beach at the end of Pescadero Avenue that is exposed primarily at low tide. According to the biological report, the riprap would cover 350 square feet of supratidal (above mean high tide) sandy beach and 2,125 square feet of intertidal (between mean high and low tide) sandy beach. However, the beach in question is currently partially covered by imbedded riprap rocks that apparently have migrated there from an adjacent riprap revetment.

Although any coverage of sandy beach with riprap conflicts with a specific recommendation of the Ocean Beach Precise Plan and LCP Addendum, the pocket beach at the Pescadero Street end is usually submerged except at low tide, and is partially covered by large rocks. The project would comply with the broader recommendations concerning shoreline protective works.

In this context, significant land use impacts would not result from project implementation.


E. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE GENERAL PLAN, THE LOCAL COASTAL PROGRAM, OR ANY OTHER APPLICABLE ADOPTED PLANS AND PROGRAMS.

The project conforms with all applicable plans, programs and policies. (See Section H of Coastal Findings.)

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the City Council, Coastal Development and Sensitive Coastal Resource Permit No. 92-0318 is hereby granted to THE CASA DE LA PLAYA HOMEOWNERS ASSOCIATION, Owner/Permittee, in the form and with the terms and conditions as set forth in Coastal Development and Sensitive Coastal Resource Permit No. 92-0318, a copy of which is attached hereto and made a part hereof.

APPROVED: JOHN W. WITT, City Attorney

By


Harold O. Valderhaug
Head Deputy City Attorney

HOV:ps
06/11/96
Or.Dept:Clerk
R-96-1540
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RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT

AND WHEN RECORDED MAIL TO
PERMIT INTAKE
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT AND SENSITIVE COASTAL RESOURCE
PERMIT NO. 92-0318
CASA DE LA PLAYA SHORELINE STABILIZATION PROJECT
CITY COUNCIL

This Coastal Development and Sensitive Coastal Resource Permit No. 92-0318 is granted by the City Council of the City of San Diego to THE CASA DE LA PLAYA HOMEOWNERS ASSOCIATION, a California Corporation, Owner/Permittee, pursuant to Sections 105.0202 and 101.0480 of the Municipal Code of the City of San Diego.

1. Permission is hereby granted to Owner/Permittee to construct a Shoreline Protective Device as shown on Exhibit "A," dated May 14, 1996, for property located at 4878 Pescadero Avenue and extending north to Cable Street, described as Lots 8-12, Block 45, Ocean Beach, Map No. 279, in the R-1500 Zone.
2. The facility shall consist of the following:
 - a. A 190-foot-long, 23-foot-high structural shotcrete tied-back seawall and a 275-foot-long stone revetment with a maximum height of 16 feet, as a coastal shoreline protection device;
 - b. Landscaping;
 - c. Incidental accessory uses as may be determined incidental and approved by the City Manager.
3. No permit shall be granted nor shall any activity authorized by this permit be conducted on the premises until:
 - a. The Permittee signs and returns the permit to the Development Services Department; and
 - b. The Coastal Development and Sensitive Coastal Resource Permit is recorded in the office of the County Recorder.
4. Prior to the recordation of this permit this project shall be revised to include a concrete pedestrian stairway, leading from the end of Pescadero Avenue to the beach.

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5. Prior to the issuance of any permit(s) from the City of San Diego, additional discretionary actions/permits from any other responsible agency shall be obtained. Additional responsible agencies include, but are not limited to the U.S. Army Corps of Engineers, California State Coastal Commission, and the California Department of Fish and Game. Written evidence of approval shall be provided to the Development Services Manager, prior to approval of permits by the City.

6. The shotcrete wall shall be textured and colored to blend into the natural coastal bluffs. The surface shall be carved or otherwise shaped to conform to the natural geologic structure. A chemical stain that reacts with the alkalinity in the shotcrete shall be used to provide a mottled natural appearance similar in color to that of the adjacent rock. (This paragraph shall be included as a note on all plans, prior to issuance of any permits.)

7. Lateral coastal access shall be provided by a partially improved walkway (as indicated in the following paragraph), between five and ten feet in width, to be placed on top of the old abrasion surface (as shown on Exhibit "A", dated May 14, 1996), at approximately 16 feet above mean sea level (AMSL). This walkway shall provide access between the two coves, as stated in the Mitigated Negative Declaration.

PRIOR TO THE RECORDATION OF THIS PERMIT, THIS PROJECT SHALL BE REVISED TO INCLUDE A MINIMUM 42-INCH-HIGH SAFETY RAILING ALONG THE ENTIRE LENGTH OF THE PEDESTRIAN WALKWAY, WHICH PROVIDES LATERAL ACCESS AS NOTED IN EXHIBIT "A," DATED MAY 14, 1996.

8. Before issuance of any building permits, complete grading and working drawings shall be submitted to the Development Services Manager for approval. Plans shall be in substantial conformance to Exhibit "A," dated May 14, 1996, on file in the office of the Development Services Department. No change, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted.

9. Before issuance of any grading or building permits, a complete landscape plan, including a permanent irrigation system, shall be submitted to the Development Services Manager for approval. The Plans shall be in substantial conformance to Exhibit "A," dated May 14, 1996, on file in the office of the Development Services Department. Approved planting shall be installed before issuance any final inspection is granted. Such planting shall not be modified or altered unless this permit has been amended and is to be maintained in a disease, weed and litter free condition at all times.

All mature trees and shrubs on level land, along the bluff edges, shall be retained after construction. Low-growing planting shall be installed along the top of the wall and allowed to creep down and over the wall surface. This condition shall be noted on all

landscaping plans. Approved landscaping shall be consistent with this condition, and installed prior to final inspection.

10. The property included within this coastal development shall be used only for the purposes and under the terms and conditions set forth in this permit unless authorized by the Development Services Manager or the permit has been revoked by the City of San Diego.

11. This Coastal Development and Sensitive Coastal Resource Permit may be canceled or revoked if there is a material breach or default in any of the conditions of this permit. Cancellation or revocation may be instituted by the City of San Diego or Permittee.

12. This Coastal Development and Sensitive Coastal Resource Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.

13. If any existing hardscape or landscape indicated on the approved plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind per the approved plans.

14. Unless appealed, this Coastal Development and Sensitive Coastal Resource Permit shall become effective on the eleventh working day following receipt by the Coastal Commission of the Notice of Final Action.

15. This Coastal Development and Sensitive Coastal Resource Permit must be utilized within 36 months after the effective date. Failure to utilize the permit within 36 months will automatically void the permit unless an extension of time has been granted as set forth in Section 111.1122 of the Municipal Code.

16. The issuance of this permit by the City of San Diego does not authorize the applicant for said permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. Section 1531 et seq.).

17. All mitigation measures listed in the Mitigated Negative Declaration No. 92-0318 dated August 15, 1995, are incorporated as conditions within this permit as condition No. 18.

18. MITIGATION, MONITORING AND REPORTING PROGRAM:

Geology and Soils

The formational headland terrace shall be inspected once a year by a registered geotechnical engineer for the next 20 years to ensure that its erosion does not affect the integrity of the proposed coastal protection device. Any remedial measures shall be designed and implemented to the satisfaction of the City of San Diego, U.S. Army Corps of Engineers and National Marine Fisheries Service. An annual report shall be completed by January 11th of that year and sent to the City of San Diego, Development Services Manager for inclusion in the project file (DSD No. 92-0318).

Biological Resources

- a. The contractor shall be advised, in writing, of the adjacent biological resources and the need to protect these resources prior to being awarded the work to construct the improvements.
- b. Due to the proximity of surfgrass resources to be protected, all work shall be monitored throughout the riprap protection element of the project. Monitoring may be completed by the inspecting engineer provided the boundaries of concern are clearly identified in a field meeting with the engineer, contractor, and qualified biologist prior to initiating work. The biologist shall survey the site prior to construction and inspect the site for damage within thirty days following completion of construction. If any damage is noted, the Principal Planner of the Environmental Analysis Section shall be notified in writing within ten days of the biologist's site visit. The Environmental Analysis Section Principal Planner shall determine whether a remediation/repair program is necessary.
- c. No work shall be conducted from the lower formational terrace supporting algal turf or surfgrass resources.
- d. Access to the work area shall be from the foot of Cable Street across the high cobble beach. Alternative material access may come from the end of Pescadero onto the sandy beach. No staging areas or material storage areas shall be allowed below the Mean High Tide Line.
- e. Equipment shall be adequately maintained to prevent leakage of fluids at the site and no maintenance is to be completed at the work site below the Highest High Tide Line. If any leakage of fluids occurs, it shall be adequately cleaned up, and the Principal Planner of

the Environmental Analysis Section notified in writing immediately.

- f. In addition to the above mitigation measures, considerable opportunities exist in this project to salvage and place blocks of formational rock at the base of the riprap at the sandy beach, thus expanding the potential for surfgrass habitat development. In addition, due to the use of textured shotcrete in construction of the seawall element of the project, a low cost opportunity exists to experimentally fill gaps between some of the lower elevation riprap to create some artificial freeform tidepools. While the completion of these measures would not be considered necessary mitigation, it is believed that such measures could be completed at the project proponents initiative with no additional cost. If such efforts are attempted, these shall be monitored during construction to ensure that other resources are not damaged and potential for benefits are optimized.
- g. A final report summarizing the results of the biological Mitigation, Monitoring and Reporting Program shall be submitted to the Development Services Department, Environmental Analysis Section (EAS) prior to final inspection of the completed coastal protection device.

Paleontological Resources

The project site is underlain by the Point Loma and Bay Point formations, both of which are considered to have a high potential for fossil content. The applicant has agreed to implement a standard Mitigation, Monitoring and Reporting Program for paleontological resources. Material to be evaluated during construction would be anything excavated or drilled out of the formation before installation of the shotcrete wall and riprap. Implementation of this monitoring program will reduce the impact to paleontological resources to below a level of significance:

- a. Prior to issuance of a permit to grade, the permittee shall present a letter to the City of San Diego Development Services Department indicating that a qualified paleontologist has been retained to carry out the resource mitigation.
- b. A qualified paleontologist shall be present at a pregrading conference to consult with the grading and excavation contractors.
- c. A qualified paleontologist shall be retained to perform periodic inspections of excavations and, if necessary, salvage exposed fossils. A paleontological monitor

shall be on-site at all times during the original cutting of formations with a known potential to contain fossils, such as the Pleistocene period Bay Point Formation and Upper Cretaceous period Point Loma Formation. Periodic inspections of cuts in such formations shall also be made. The frequency of inspections will depend on the rate of excavation, the materials excavated, and the abundance of fossils.

- d. The paleontologist shall be allowed to temporarily direct, divert, or halt grading to allow evaluation and recovery of fossils in a timely manner. At the time of discovery, the paleontologist shall immediately notify EAS and the resident engineer regarding the procedures to be performed before construction activities are allowed to resume.
- e. Fossil remains collected during this salvage program shall be cleaned, sorted, and catalogued and then (with the owner's permission) deposited in a public, nonprofit institution with research interest in the materials, such as the San Diego Natural History Museum.
- f. The Mitigation, Monitoring and Reporting Program shall be submitted to EAS and the Natural History Museum three months after completion of the monitoring program, but no later than before Building Inspection's final inspection. The report shall summarize the results of the monitoring program, even if negative.

Prior to CDP/SCR approval, the City Development Services Department shall verify that the above mitigation measures are incorporated as conditions of the CDP/SCR. These measures shall be noted as conditions on grading plans.

19. The landscaping of the street right-of-way, as shown on Sheet 6 of Exhibit "A," dated May 14, 1996, shall delineate the property line. Irrigation details are required for this portion of the project to prevent any drainage from crossing the bluff face.

20. A geological report is required to provide clarification of the impact of the proposed and existing rip-rap on the adjacent properties.

21. As a condition of this permit, all drainage from the condominium project shall be collected and diverted toward the street. No drainage is allowed over, across, or through the sensitive bluffs.

22. A minimum 5'-0" setback shall be provided and maintained between the surfgrass resource as identified in the Mitigated

Negative Declaration, and the base of the proposed riprap. All construction activity shall avoid all surfgrass areas.

23. As a condition of this permit, an Encroachment Removal Agreement must be obtained for that portion of the project impacting the dedicated right-of-way identified as Cable Street and Pescadero Avenue. This condition does not constitute approval of the Encroachment Removal Agreement, which requires separate application.

24. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this discretionary permit. It is the intent of the City that the holder of this permit be required to comply with each and every condition in order to be afforded special rights which the holder of the Permit is obtaining as a result of this permit. It is the intent of the City that the owner of the property, which is the subject of this permit, either utilize the property for an use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the owner of the property be allowed the special and extraordinary rights conveyed by this permit, but only if the owner complies with all the conditions of this permit.

In the event that 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 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 back to the discretionary body as to whether all of the findings necessary for the issuance of the 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.

25. Assumption of Risk. Prior to Issuance of Building Permits or Grading Permits, the permittee shall execute and record a deed restriction, in a form and content acceptable to the Development Services Manager, or designated representative, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard; According to the City of San Diego Seismic Safety Study, the property is located in Geologic Hazard Category 43, which describes the site as generally unstable, susceptible to unfavorable jointing and local high erosion. This site has a relative risk considered to be MODERATE and the applicant assumes the liability from such hazards; and (b) that the applicant unconditionally waives any claim of liability on the part of the City of San Diego and agrees to indemnify and hold harmless the City of San Diego and

its advisors relative to the City of San Diego's approval of the project for any damage due to natural hazards.

The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens which the Development Services Manager, or designated representative determines may affect the interest being conveyed, and free of any other encumbrances which may affect said interest.

26. As a condition of this permit, the applicant acknowledges that:

- a. The wall shall be installed and maintained in a safe and sanitary condition at the sole cost, risk and responsibility of the owner and all successors in interest.
- b. At all times defend, indemnify and hold the City free and harmless from and pay in full, any and all claims, demands, losses, damages or expenses that the City may sustain or incur in any manner resulting from the construction, maintenance, state of use, repair or presence of the structure, including any loss, damage or expense arising out of loss of or damage to property.
- c. The applicant shall maintain a policy of liability insurance in an amount satisfactory to the City Engineer in order to protect the City from potential claims which may arise during the construction of this wall.

27. Prior to the commencement of any work or activity authorized by this permit, the applicant shall obtain approval from the Deputy Director, Coastline Parks and Golf Course Division. The Deputy Director can require the applicant to obtain a right-of-entry permit to access the site from public property for any work necessary to demolish and install improvements permitted by this permit. Said right-of-entry permit shall specify dates of demolition, safety issues for the contractor and the public, type of equipment to be used, access points for equipment, clean-up plans and schedule, proof of insurance with a hold harmless clause and any other issues determined by the Deputy Director to be necessary.

APPROVED by the Council of The City of San Diego on May 14, 1996, by Resolution No. R-287330.

AUTHENTICATED BY THE CITY MANAGER

By _____

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

ASSOCIATION

THE CASA DE LA PLAYA HOMEOWNERS

a California corporation
Owner/Permittee

By _____

By _____

NOTE: Notary acknowledgments
must be attached per Civil
Code Section 1180, et seq.
06/12/96