

RESOLUTION NUMBER R-293819

ADOPTED ON SEPTEMBER 12, 2000

WHEREAS, the San Diego Sierra Club, appealed the decision of the Planning Commission in granting Coastal Development/Sensitive Coastal Resource [CD/SCR} Permit No. 93-0628 and variance submitted by Melissa McGuire, Owner/Permittee, to remodel an existing single-family residence, to add a second-story addition, to maintain existing variances for side-yard and front-yard setbacks, to add additional variances for a new front-yard setback, side-yard setback variance for the second-story addition, a FAR variance, and a parking variance. The site is located at 5662 Dolphin Place, legally described as Lot 9, Block 1, Birdrock by the Sea, La Jolla Park, Map 1138, in the City of San Diego, County of San Diego, State of California in the La Jolla Community Plan area, in the R1-5000 zone; and

WHEREAS, on May 18, 2000, the Planning Commission of the City San Diego voted unanimously to approve the project, Planning Commission Resolution No. 2964-PC.

WHEREAS, the matter was set for public hearing on September 12, 2000, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that this Council adopts the following findings with respect to Coastal Development/Sensitive Coastal Resource Permit No. 93-0628:

COASTAL DEVELOPMENT PERMIT FINDINGS:

1. The proposed development will not encroach upon any existing physical access way legally utilized by the public or any proposed public access way identified in an adopted Local Coastal Program [LCP] land use plan; nor will it obstruct views to and along the ocean and other scenic coastal areas from public vantage points. The project site is privately owned and improved with a single-family residence, and will not encroach upon any existing access way utilized by the general public. The project is located adjacent to an unimproved dedicated easement known as Coral Lane off of Dolphin Place which is identified in the La Jolla Community Plan Land Use Plan as an unimproved public street. Coral Lane was identified in the certified LCP (1985 Addendum) Community Plan as potential visual access, but not a View Corridor with a recommendation that it be retained as reserve access in the event future needs warrant development of the site. The site is too steep for beach access.

The proposal for the remodel and addition does not include any new construction that will encroach within the unimproved public right of way. As such the project will not obstruct coastal or scenic views from any public vantage point. The proposed development also will not encroach upon any existing physical access way utilized by the general public or any proposed public access way 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. Although already authorized by an existing encroachment removal agreement recorded on January 8, 1992, the applicant has agreed to remove some of the existing vegetation, gate, and fencing that partially obstructs pedestrian views towards the ocean. A modified encroachment removal agreement for a gate, fence and deck and a portion of the existing house will be provided to reflect the changes to the fencing, gates and landscaping to open up public views to the ocean. The new fencing and gates within or adjacent to the Coral Lane paper street, would be restricted to a maximum height of six-feet (two-foot solid base and four-foot open seventy-five percent) in order to enhance pedestrian views toward the ocean.

2. The proposed development will not adversely affect marine resources, environmentally sensitive areas, or archaeological or paleontological resources. The proposed project is a remodel of an existing single family residence and is located on a bluff adjacent to the beach. The remodel will utilize the structure's existing footprint, therefore, no grading is proposed as part of this project. The entire project site is graded and padded as a result of the construction of the existing home and associated improvements on the property. No further grading of the site is required to implement the various improvement features proposed on the subject property. The remodel will utilize the existing footings and foundation. No natural slopes, sensitive coastal or marine resources or other environmentally sensitive areas will be adversely affected by the proposed project.

Furthermore, as concluded in the Negative Declaration (DEP 93-0628), no adverse impacts to marine, paleontological, or archaeological resources are anticipated to occur as a result of project implementation.

3. 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, San Diego Municipal Code [SDMC] section 101.0462, unless by the terms of the Resource Protection Ordinance, it is exempted therefrom. This project site is located within the City of San Diego's Coastal Zone, and is exempt from the City of San Diego's Resource Protection Ordinance per the San Diego Municipal Code.

This project is not located near any biologically sensitive resources nor significant prehistoric or historical resources and construction will not occur outside the existing pad area.

4. The proposed development will not adversely affect recreational or visitor-serving facilities or coastal scenic resources. No coastal scenic resources, recreational, parks, or visitor-serving facilities were identified on the project site. Therefore, no adverse impacts to such resources would occur as a result of project implementation.

The project is a proposed remodel to an existing single-family residence. The existing house is located on a bluff-top adjacent to a beach. The new addition will be located behind the required 25'-0" setback of the Sensitive Coastal Resource [SCR] Overlay Zone. Only the cantilevered balcony will encroach into the 25'-0" setback. The use of the site as a single-family residence will not adversely affect any coastal resources or visitor serving facilities.

5. 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. See Finding 4.

6. The proposed development will minimize the alterations of natural land forms and will not result in undue risks from geologic and erosional forces and/or flood and fire hazards. Natural land forms will not be altered. New construction will occur within the existing pad area. The project site is flat with the addition to be constructed 25'-0" from the edge of the bluff. All construction will be contained within the existing building pad area. The project site is not located within the Flood-way [FW] or Flood-Plain Fringe [FPF] zones. The existing drainage system designed for the project is consistent with the relevant requirements of the City Engineer and would minimize risks associated with runoff and erosion.

7. 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 scale, design and building materials incorporated into the existing structure are consistent with the varied design and character of existing single-family development in the surrounding area. The majority of the proposed remodeling activities would occur within the existing structure. Exterior remodeling activities would incorporate materials and colors consistent with recently remodeled homes in the vicinity and would be visually compatible with the architectural materials and varied design theme of existing single-family development along Dolphin Place. The removal of the landscaping and tall fence and gate and its replacement with a six-foot fence and gates (seventy-five percent open) will enhance the visual quality of the area.

Together, these improvements will enhance the visual quality of the site and surrounding area, and will enhance public views to the ocean.

The project will be visually compatible with the surrounding neighborhood. The La Jolla Community Plan has designated this site for single-family development. The remodel and second-story addition will be designed to blend with the community of one and two story homes and is compatible with the surrounding area. The project as designed, is in conformance with the community plan and the R1-5000 Zone.

8. The proposed development will conform with the General Plan, the Local Coastal Program, and any other applicable adopted plans and programs. The proposed project is consistent with the recommended land use, design guidelines, and development standards in effect for the subject property per the adopted La Jolla Community Plan, the SCR Ordinance, the City's LCP, and the City of San Diego's Progress Guide and General Plan, which recommend that the subject property be developed with single-family residential development in accordance with development regulations of the existing R-1-5000.

Although the proposed structure will maintain certain legally non-conforming rights (portions of the existing structure will remain closer than the current twenty-five foot setback from the bluff edge), the new additions will be set back twenty-five feet from the bluff edge and the remodel will result in a home more in keeping with the character of the surrounding neighborhood. The minimal repairs and alterations to the legal non-conforming portions of the home are allowed pursuant to SDMC section 101.0303.

The project as designed complies with the purpose and intent of the General Plan, the Local Coastal Program, and the Sensitive Coastal Resource Regulations. Variances have been requested for setbacks, parking, and floor area ratio. The proposed variance findings can be made for this project, since there are unique circumstances peculiar to the lot. (Also see variance findings.)

SENSITIVE COASTAL RESOURCE PERMIT FINDINGS:

9. The proposed development will be sited, designed, and constructed to minimize, if not preclude, adverse impacts upon sensitive coastal resources and environmentally sensitive areas. The proposed remodel and addition to the existing single-family residence will be located within the existing footprint of the house. The entire project site is graded and padded as a result of construction of the existing home and associated improvements on the subject property. No further grading of the site is required to implement the proposed interior and exterior remodeling, alterations, and improvement to the residence. The project will not result in any adverse impacts upon sensitive coastal resources or other environmentally sensitive areas. A Negative Declaration was prepared for this project. No significant (adverse) impacts are anticipated to occur as a result of project implementation (i.e., interior and exterior remodeling of the existing structure. As such, there will be no adverse impacts to environmentally sensitive areas or sensitive coastal resources. Except for the cantilevered balcony, the second story

addition will be set back 25'-0' from the top of bluff. The project will not impact any sensitive coastal resources or environmentally sensitive areas.

10. The proposed development will not encroach upon any existing physical access way legally utilized by the public or any proposed public access way, 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. The proposed development is not located adjacent to any proposed public access way, however the existing single-family residence is adjacent to an unimproved dedicated right-of-way identified in the La Jolla Community Plan as Coral Lane. The proposed addition does not encroach into Coral Lane and does not impact the existing visual quality from any public vantage points identified in the Community Plan. A small portion of the existing footprint of the house has minimally encroached into Coral Lane for approximately forty-five years. A review of the City records indicates that building permits were issued for the home that is partially sited within the paper street (Coral Lane). This minimal encroachment was acknowledged by the California Coastal Commission (see Permit No. 6-82-109 Staff Report). An encroachment removal agreement [ERA] issued originally in 1958 and then again in January 8, 1992 authorizes all existing improvements within the paper street. The recorded ERA is on file with the City.

11. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces and/or flood and fire hazards. As referenced in Coastal Development Finding 6 above, the proposed development will not result in any alteration of the natural land form and as such, will not result in undue risk from geologic and erosional forces. In April of 1982, the California Coastal Commission authorized by Permit No. 6-82-109, the placement of gunnite on a coastal bluff to the west of the site. This gunnite was placed not to stabilize the site but rather to prevent future bluff erosion. The purpose to which the gunnite has been installed has been fulfilled, as no further erosion is present.

12. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. Shoreline protective works will be designed to be the minimum necessary to adequately protect existing principal structures, to reduce beach consumption and minimize shoreline encroachment. The proposed development will not contribute to erosion nor is a shoreline protection device being proposed. The site currently has an existing gunnited bluff. All drainage will be collected and distributed to the street and all existing drain lines will be sealed.

The proposed project is a remodel to an existing structure. Therefore, there will not be any impacts to the shoreline sand supply. A series of geological studies of the coastal bluff, the site, and sea bluff stability calculations and analysis were performed (See Shepardson Engineering Associates, Inc. reports dated October 2, 1990 and August 2, 1993, March 30, 1994, April 15, 1994, February 4, 1998, and April 24, 2000.) the project site has a geologic hazard rating of 47(b) (generally stable, coastal bluffs) as defined by the City of San Diego Seismic Safety Study. Geological investigations were prepared for the site and it has been determined that the proposed project would not adversely impact the stability of the site or the coastal bluff, nor would the proposed remodel result in exacerbated coastal bluff retreat. SDMC section 101.0480(D)(1)(b)

indicates that a bluff edge setback may be less than forty-feet, but in no case less than twenty-five-feet, where the evidence is contained in the Geology Report indicates that (1) the site is stable enough to support the development with the proposed bluff edge setback, and (2) that the project can be redesigned so that it will neither contribute to, nor subject to, significant geologic instability throughout the anticipated life span of the principal structures. The geological and bluff stability studies and calculations conclude that the site is stable to support the development with the proposed twenty-five-foot bluff setback for new improvements and that the project has been designed so as not subject to, nor contribute to, significant geologic instability. As such, the twenty-five-foot setback is appropriate for the proposed new improvements. With regard to the existing structure portions of which are seaward of the twenty-five-foot setback, SDMC section 101.0480(D)(1)(c) authorizes proposed development which would lie "wholly or partially upon a coastal bluff." There are five criteria contained within that section and this project has been designed to meet all of those criteria. Further, as previously stated the retention of, and the repairs and alteration to, legal nonconforming structures are authorized pursuant to the Municipal Code so long as the repairs, alterations, and modifications do not increase the degree of nonconformity and so long as such repairs do not exceed fifty percent of the Fair Market Value of the structures. It has been determined by the City that the repairs, modifications, and alteration will not increase the degree of nonconformity and that such repairs and alterations represent less than fifty percent of the fair market value of the structure as authorized by SDMC section 101.0303.

13. The proposed development will not adversely affect the General Plan, the Local Coastal Program, or any other applicable adopted plans and programs. The General Plan, Local Coastal Program and Zoning ordinance has designated this site for single-family development. As designed, the proposed development meets all the recommendations of the General Plan and the Local Coastal Program.

VARIANCE FINDINGS:

14. There are special circumstances or conditions applying to the land or buildings for which the adjustment is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to the land or buildings in the neighborhood. Such conditions shall not have resulted from any act of the applicant subsequent to the adoption of the applicable zoning ordinance. The project is requesting variances from the standard front and side-yard setbacks, parking, and floor area ratio of the underlying R1-5000 zone to allow for the remodel and minor additions to the existing structure. There are special circumstances and conditions which are unique to this site that contribute to the need to deviate from the standard requirements. The project site consists of a substandard 2,052 square foot lot located in the R1-5000 zone where the minimum lot size is 5,000 square-feet. This lot was a remnant left over when the subdivision was created in the early 1950's. Currently there are existing variances on the site for front-yard and side-yard setbacks. The findings for the new variances and the maintenance of the existing variances can be made due to the unique nature of the site.

The property is constrained on the west by the vertical coastal bluff and Pacific Ocean and on the south, by an unimproved paper street (Coral Lane). Because of the 25'-0" coastal bluff setback, and the minimum front-and side-yard setback requirements of the underlying zone and the constraints imposed by coral Lane, which results in a "Street" side-yard setback; there are special circumstances and conditions applying to the land and building for which adjustment is sought. If all of the required setbacks were imposed, only a 320-square-foot development pad would exist out of this already-substandard lot. The resulting 320-square-foot building pad would not accommodate a standard two-car garage even if a one-car garage were allowed. The minimal habitable space left would be confined to a second-story addition of 320-square feet. A kitchen, bedroom, bathroom and access stairs could not be accommodated in such a limited space. These circumstances and conditions are peculiar to this property and the residence and do not generally apply to land or buildings in the neighborhood. These conditions have not resulted from any act of the applicant subsequent to the adoption of the applicable zoning ordinance.

15. The aforesaid circumstances or conditions are such that the strict application of the provisions of the ordinance would deprive the applicant of the reasonable use of the land or buildings and that the variance granted by the city is the minimum variance that will accomplish this purpose. The proposed remodel will provide variety, articulation, and new materials will significantly enhance the visual appearance of the neighborhood and provide the applicant with an opportunity to upgrade the home consistent with some of the more recent remodels within the immediate vicinity. These improvements will enhance the appearance to the neighborhood. Without the ability to remodel, the applicant would be deprived of the reasonable use of the property.

16. The granting of the variance will be in harmony with the general purpose and intent of the zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The project will comply with the requirements of the R1-5000 zone except for the granting of the variances for FAR, front-yard and side-yard setbacks, and parking.

The granting of the variances and the existing encroachment removal agreement as modified to accommodate the new "open" fencing and gates, would not be injurious to the neighborhood and will not be detrimental to the public welfare and would allow the owner reasonable use of their property. There are many other homes within the immediate neighborhood which have reduced or zero front and /or street and interior side yard setbacks. There are also other properties in the neighborhood which have only a one-car garage and have FAR variances. The variances would be in harmony with the purpose and intent of the zoning regulations because the owner would be able to remodel and add square footage to an existing structure creating a single family residence compatible to the surrounding neighborhood.

17. The granting of the variance will not adversely affect the Progress Guide and General Plan for the City of San Diego or the adopted community plan for the area. The proposed remodel and addition of a second story incorporates an FAR variance that will allow the owner to build a single family home compatible with the surrounding neighborhood. Due to

the minimal nature of the variance requests, no adverse impacts affect the General Plan, or the La Jolla Community Plan, or the LCP are anticipated.

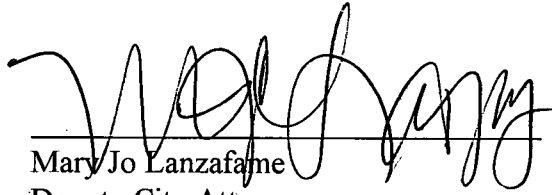
Therefore, the granting of the variance will not adversely affect the Progress Guide, and the General Plan for the City of San Diego or the adopted Community Plan for the area.

The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the appeal of the San Diego Sierra Club, is denied; the decision of the Planning Commission is sustained, and Coastal Development/Sensitive Coastal Resource Permit No. 93-0628 is hereby granted to Melissa McGuire, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By



Mary Jo Lanzafame
Deputy City Attorney

MJL:pev
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Or.Dept:Clerk
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RECORDING REQUESTED BY
CITY OF SAN DIEGO
PLANNING AND DEVELOPMENT REVIEW
PERMIT INTAKE, MAIL STATION 501

AND WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT/SENSITIVE COASTAL RESOURCE/VARIANCE
PERMIT NO. 93-0628
MCGUIRE RESIDENCE

CITY COUNCIL

This permit is granted by the City Council of the City of San Diego to Melissa McGuire, Owner/ Permittee pursuant to City of San Diego Municipal Code [SDMC] sections 105.0201, 101.0480, 101.0502, 101.0301, 101.0302, and 101.0303. The 2,052 square foot site is located at 5662 Dolphin Place, legally described as Lot 9, Block 1, Birdrock by the Sea, La Jolla Park, Map 1138, in the La Jolla Community Plan in the R1-5000 zone.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner/Permittee to remodel an existing single family residence and to construct a second story addition as identified on the approved Exhibit "A," dated September 12, 2000 on file in the and Development Services Department. The facility shall include:

- a. A 2,046 square-foot single-family residence consisting of an existing 1,225 square-foot house, a first story addition of 158 square-feet and a second story addition of 663 square-feet; and
- b. The following existing and new variances:

EXISTING:

1. Front-yard street setback of 10" to 1'-3" for the garage
2. Interior side-yard setback of 2'-9" to 3'-4" for the existing residence
3. Zero street side-yard setback adjacent to Coral Lane (a paper street) for the existing home

NEW:

4. Front-yard street setback of 10" to 1'-3" for the proposed second story deck where 15'-0" is required
5. Zero street side-yard setback for second story addition where 10'-0" is required

6. Front-yard setback of 3-10" for the second story addition where 15'-0" is required
 7. FAR variance of 1.00 where .60 is allowed
 8. Variance for a one parking space garage where two spaces are required; and
- c. To modify an existing recorded encroachment removal agreement for modifications to the gate, fence, and deck to open up public views and to retain a portion of the existing residence located in Coral Lane. This area will be maintained by the applicant; and
 - d. A twenty-five-foot bluff-top setback for the second story addition, including a structural cantilevered second floor roof deck as shown on the approved Exhibit "A," dated September 12, 2000 on file in the and Development Services Department; and
 - e. Removal of a portion of the existing deck from the City of San Diego property as shown in Exhibit "A," dated September 12, 2000 on file in the and Development Services Department, prior to the issuance of a building permit; and
 - f. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted Community Plan, California Environmental Quality Act guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this permit, and any other applicable regulations of the Municipal Code in effect for this site.
1. Construction must commence and be pursued in a diligent manner within 36 months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within 36 months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the Municipal Code 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 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. Unless this permit has been revoked by the City of San Diego the property included by reference within this permit shall be used only for the purposes and under the terms and conditions set forth in this permit unless otherwise authorized by the City Manager.
 4. This 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.

5. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.

6. The issuance of this permit by The City of San Diego does not authorize the applicant 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. § 1531 et seq.).

7. In accordance with authorization granted to The City of San Diego from the United States Fish and Wildlife Service (USFWS) pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game (CDFG) pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program (MSCP), The City of San Diego through the issuance of this permit hereby confers upon Permittee the status of Third Party Beneficiary as provided for in Section 17 of The City of San Diego Implementing Agreement (IA), executed on July 16, 1997, and on file in the Office of the City Clerk as Document No. OO-18394. Third Party Beneficiary status is conferred upon Permittee by the City: (1) to grant Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this permit and the IA, and (2) to assure Permittee that no existing mitigation obligation imposed by The City of San Diego pursuant to this permit shall be altered in the future by The City of San Diego, USFWS or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this permit and of full satisfaction by Permittee of mitigation obligations required by this permit, as described in accordance with Section 17.1D of the IA.

8. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and/or site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

9. Before issuance of any building permits, complete working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformance to Exhibit "A," dated September 12, 2000, on file in the Development Services Department. No changes, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted.

10. 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 any 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 the 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 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 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.

11. This coastal development permit shall become effective on the eleventh working day following receipt by the Coastal Commission of the Notice of Final Action, following all appeals.

12. Title Restrictions. Prior to the commencement of any work or activity authorized by this permit, the Owner/Permittee shall execute a Notice of Hazardous Condition-Indemnification and Hold Harmless Agreement, in a form and content acceptable to the Development Services Department Director, or designated representative which shall provide: a) that the applicant understands that no new accessory structures and landscape features customary and incidental to residential uses shall be developed within five feet of the Bluff Top (as illustrated on approved plan Exhibit "A," dated September 12, 2000, on file in the Development Services Department or on the face of the Bluff; and b) that the applicant understands that the site may be subject to extraordinary hazard from coastal bluff erosion and the applicant assumes the liability from such hazards; and c) the applicant unconditionally waives any claim of liability against the City of San Diego and agrees to defend, indemnify and hold harmless the City of San Diego and its advisors relative to the City of San Diego's approval of the project and for any damage due to natural hazards. This Notice of Hazardous Conditions-Indemnification and Hold Harmless Agreement shall be recorded against title to the property and shall run with the land, binding upon all successor and assigns.

ENGINEERING REQUIREMENTS:

13. Prior to the issuance of any building permits, the applicant shall assure by permit and bond, satisfactory to the City Engineer, the replacement of the damaged sidewalk adjacent to this site on Dolphin Place.

14. Prior to the issuance of any building permits, the applicant shall assure that all site drainage is directed away from the coastal bluff and directed into Dolphin Place or the public storm drain system, satisfactory to the City Engineer. All drain lines extending across or through the gunnite slope shall be sealed.

15. Prior to building occupancy, the applicant shall conform to SDMC section 62.0203, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

16. Prior to the issuance of any building permits, the applicant shall:

a. Ensure that building address numbers are visible and legible from the street (UFC 10.208).

b. Show the location of all fire hydrants on the plot plan (UFC 10.301)..

17. This development may be subject to a building permit park fee in accordance with SDMC section 96.0401 et seq.

18. This development may be subject to payment of school Impact Fees at the time of issuance of building permits, as provided by California government Code Section 5308 (b)(Statutes of 1986, Chapter 887), in accordance with procedures established by the director of building Inspection.

19. This development may be subject to impact fees, as established by the City Council, at the time of issuance of building permits.

PLANNING/DESIGN REQUIREMENTS:

20. No fewer than one off-street parking space shall be maintained on the property at all times in the approximate locations shown on the approved Exhibits "A," dated September 12, 2000 , on file in the Development Services Department.

21. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

22. The height of the building or structure shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this permit.

23. A topographical survey conforming to the provisions of SDMC section 101.0216 may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this permit or a regulations of the underlying zone. The cost of any such survey shall be borne by the Permittee.

24. Any future requested amendment to this permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

25. No building additions, including patio covers, shall be permitted unless approved by the Development Services Department.

26. Prior to the issuance of the certificate of occupancy, all deck improvements on city property must be removed as shown on Exhibit "A," dated September 12, 2000, on file in the Development Services Department.

27. With the exception of the fencing and gates (seventy-five percent open) and other improvements allowed by the SCR, no new encroachments will be allowed within the required 25'-0" setback, except for the structural cantilevered second floor balcony shown on Exhibit "A," dated September 12, 2000, on file in the Development Services Department.

28. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.

29. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

30. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

LANDSCAPE REQUIREMENTS:

31. All required landscape shall be maintained in a disease-, weed- and litter-free condition at all times and shall not be modified or altered unless this permit has been amended. Modifications such as severe pruning or "topping" of trees is not permitted unless specifically noted in this permit. The Permittee, or subsequent Owner shall be responsible to maintain all street trees and landscape improvements consistent with the standards of the Landscape Technical Manual.

32. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved plans is damaged or removed during demolition, it shall be repaired and/or replaced in kind and equivalent size per the approved plans within thirty days of completion of construction by the Permittee. The replacement size of plant material after three years shall be the equivalent size of that plant at the time of removal (the largest size commercially available and/or an increased number) to the satisfaction of the City Manager.

33. Final Landscape Plan/Deed Restriction

- a. **PRIOR TO THE RECORDATION OF THIS COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and written approval of the Development Services Department, a detailed landscape plan indicating the type, size, extent and location of all plant materials, the proposed irrigation system and other landscape features. Drought tolerant native or naturalizing plant materials shall be utilized to the maximum extent feasible. Special emphasis shall be placed on the installation and maintenance of the vegetation so as to assure that neither during growing stages nor upon reaching maturity that such vegetation will encroach into or to or otherwise obstruct pedestrian views through Coral lane and the existing interior side yard.
- b. **PRIOR TO THE ISSUANCE OF A BUILDING PERMIT**, the applicant shall record a deed restriction, in a form and content acceptable to the Development Services Department, to ensure that the intent of this condition continues to be applicable throughout the life of the project. The restriction shall provide that landscaping shall be implemented in accordance with paragraph (a) above and consistent with Exhibit "A," dated September 12, 2000, on file in the Development Services Department, approved with SCR/VAR/CDP 93-0628. the restriction shall be recorded, free of all prior liens and encumbrances except for tax liens, and binding on the Permittee's successors in interest and any subsequent purchasers of all or any portion of the real property.

INFORMATION ONLY

"Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit/tentative map, may protest the imposition

within ninety days of the approval of this development permit/tentative map by filing a written protest with the City Clerk pursuant to California Government Code section 66020."

APPROVED by the City Council of the City of San Diego on September 12, 2000.

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.

Melissa McGuire
Owner/Permittee

By _____

By _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1180 et seq.**

3/23/01

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