

RESOLUTION NUMBER R-294978

ADOPTED ON JUNE 5, 2001

WHEREAS, Ure R. and Dianne M. Kretowicz, as Trustees, Princess Trust dated May 13, 1993, Owner/Permittee, filed an application with the City of San Diego for a permit to remove bluff improvements (currently in violation) and install a pool with spa, concrete deck, barbeque counter, retaining walls, area drains, landscaping, and emergency access easement within portions of the coastal bluff and coastal canyon known as the Kretowicz Residence Rear Yard Improvements project, located at 7957 Princess Street, and legally described as Lots 10 and 11, Block 3, Amalfi Subdivision, Map No. 959 and a portion of Pueblo Lot 1285, Pueblo Lands of San Diego, Map No. 36, in the La Jolla Community Plan area, in the R1-5000 zone, the Sensitive Coastal Resources Overlay Zone, the Coastal Zone (appealable), the Beach Impact Area, the First Public Roadway, and the Proposition "D" 30'-0" Height Limit area; and

WHEREAS, on February 17, 2001, the Planning Commission of the City of San Diego considered and approved Sensitive Coastal Resource/Coastal Development Permit [SCR/CDP] No. 96-7148; and

WHEREAS, Joanne Pearson appealed the Planning Commission decision to the Council of the City of San Diego; and

WHEREAS, the matter was set for public hearing on June 5, 2001, 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 it adopts the following findings with respect to SCR/CDP Permit No. 96-7148:

SENSITIVE COASTAL RESOURCE FINDINGS:

1. 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 subject site is located at the nexus of a coastal bluff and coastal canyon in the La Jolla area. Portions of the 25'-0" and 40'-0" bluff edge setbacks are within the coastal canyon. Existing palm trees, flagstone stepping stones, wood timber steps, a concrete slab, and irrigation installed on the coastal bluff and within five feet of the bluff edge without valid permits will be removed as a condition of this permit, which will eliminate these adverse impacts upon the coastal bluffs. These removal areas will be revegetated with drought tolerant plant material appropriate for bluff face and blufftop areas. Existing shrubs and groundcover will remain within the bluff area without support from handwatering or automatic irrigation in an effort to reduce further adverse impacts to the bluff.

No changes are proposed to the existing single-family residence. The site is not located within the City's Multiple Habitat Planning Area [MHPA], and there will be no adverse impacts to this sensitive resource.

In addition to the removal of unpermitted improvements and required revegetation within the coastal bluff and five-foot-bluff-setback area, the proposed construction includes the installation of a pool with spa and surrounding concrete deck, barbeque counter, retaining walls, concrete steps, stepping stones, landscaping, and irrigation. The concrete deck, landscaping, and irrigation will be located within the 25'-0" bluff edge setback, as permitted by the Sensitive Coastal Resource regulations. The pool with spa will be located beyond the 25'-0" bluff edge setback. The barbeque counter, retaining walls, concrete steps, and stepping stones will be located beyond the 40'-0" bluff edge setback, toward the southerly edge of the site.

Landscape installation within the bluff face and within the bluff setbacks will be of drought tolerant species which require minimal irrigation. All new irrigation systems must be located away from the bluff area and beyond the five-foot-bluff-edge setback as a condition of permit approval.

The removal of unauthorized improvements and associated revegetation, new construction, and landscaping are designed to prevent future adverse impacts to the sensitive coastal resources and environmentally sensitive areas, as well as to protect the existing single-family residence.

2. The proposed development will not encroach upon any existing physical accessway legally utilized by the general public or any proposed public accessway identified in the adopted community plan; nor will it obstruct views to and along the ocean and other scenic

coastal areas from public vantage points. The project site is located at the nexus of a coastal bluff and coastal canyon above the Pacific Ocean. The site is adjacent to an identified major vista point within the current La Jolla-La Jolla Shores Community Plan and Local Coastal Program Land Use Plan. This vista point is located on Spindrift Drive, which is at an elevation several feet above the subject site. The existing public view crosses over the existing residence and provides limited view opportunities down the existing southerly side setback. Princess Street is also designated as a visual access corridor, as it projects northward and along the easterly side setback of the property. The proposed improvements will not be located within the easterly side setback, and will be generally at grade within the southerly side setback. All plant material is required to be maintained so as not to interfere with public views to the ocean. The proposed development will not obstruct views to and along the ocean and other scenic coastal areas from either the designated major vista point on Spindrift Drive, nor the visual access corridor along Princess Street.

The current La Jolla-La Jolla Shores Local Coastal Program Addendum describes the potential for a vertical access easement located along one side of a Princess Street property. Although not described specifically, the language suggests that this area is the subject site located at 7957 Princess Street, and its southerly property edge, based on past Coastal Commission permit language. Dedication of such a vertical access easement was never made. The current Local Coastal Program Addendum recommends the dedication of a vertical access easement for limited use, such as educational activities and lifeguard rescue. Based on the existing site conditions along the southerly property edge, which include natural canyon features leading to a steep drop to the ocean below, use of such an easement for educational activities is unrealistic and no such requests have been made. However, the City Lifeguards have indicated their preference for this easement for emergency access, and the applicant has agreed to provide such an easement for this purpose. Accordingly, the emergency access easement along the southerly property line will be required and will be prohibit retaining walls, fencing, or other structures to be placed within the easement area, with the exception of one gate leading to the rear yard of the property, at the discretion of the property owner. The gate may be a maximum of six feet in height and must be constructed of a material at least 75 percent open to light and air, in order to maintain the designated public view. Further, a lockbox containing the means for opening the gate and keyed according to City Lifeguard's specifications must be provided on the gate.

City staff, including Risk Management, did not feel that the City should require a public access easement at this location since it does not lead to a safe, open area. The existing site conditions along the southerly property edge include natural canyon features leading to a steep drop to the ocean below. The rocky area at the base of the canyon is not accessible at high tide, and traffic across the site would aggravate the existing erosion by destroying any stabilizing vegetation and by deepening and widening the existing natural erosion course. The vicinity of the Marine Room, less than 1/4-mile from the site, provides public access to the Pacific Ocean and additional on-street parking opportunities.

3. The proposed development will minimize the alteration of natural landforms and will not result in undue risk from geologic and erosional forces and/or flood and fire hazards on site. The project site is located in a seismically active region and the potential exists

for geologic hazards. In preparation for the proposed project, a geologic report was prepared by a licensed engineering geologist which concluded that the proposed improvements, including the pool with spa, deck, landscape, and other items, would not contribute to significant geologic instability. Based on the information identified in the geologic report, a coastal canyon and a sensitive coastal bluff, as defined in the Beaches and Bluffs Guidelines, coexist on the subject site. This geologic report also documented the location of the coastal bluff edge on the subject property, and concluded that the coastal canyon extends from the beach west of the residence to the vicinity of the west edge of Princess Street, and is shown on the 1963 topographic survey as the primary drainage for the northern terminus of Princess Street. The removal of the unauthorized bluff improvements and the required revegetation will minimize the risk from geologic and erosional forces onsite. Existing shrubs and groundcover within the bluff area will remain without support from handwatering or automatic irrigation in an effort to reduce further adverse impacts to the bluff. The above geologic report was submitted to and evaluated by the City Engineer. The proposed project complies with the recommendations and requirements of this report. Fire hazards are not anticipated from the proposed exterior improvements.

4. 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 to minimize shoreline encroachment. The proposed improvements will occur on the bluff above the Pacific Ocean. The bluff edge is approximately 50 feet above the mean high tide line. Other than the removal of unpermitted bluff face obstructions and the revegetation of those areas, all proposed improvements will be located at least five feet from the bluff edge, and will therefore not contribute to the erosion of public beaches or adversely impact local shoreline sand supply. No shoreline protective works are proposed with the subject project.

5. The proposed development will not adversely affect the city's progress guide and general plan, the local coastal program, or any other applicable adopted plans and programs in effect for this site. City staff, including Risk Management, has evaluated the project site and existing conditions in accordance with the Public Resources Code section 30212(a) and has determined that the provision of a physical public accessway across the site would be inconsistent with public safety, would not protect the fragile coastal canyon resources, and that adequate access exists nearby, as more fully described in Finding 2, above.

The proposed removal of unauthorized bluff improvements and associated revegetation, construction of pool with spa, concrete deck, barbeque counter, retaining walls, area drains, landscaping, and emergency access easement is consistent with the recommended land use, design guidelines, and development standards in effect for this site per the current La Jolla-La Jolla Shores Community Plan and Local Coastal Program Land Use Plan Addendum, the existing R1-5000 Zone, the Sensitive Coastal Resource Zone, and the City of San Diego Progress Guide and General Plan, and the Public Resources Code.

COASTAL DEVELOPMENT PERMIT FINDINGS:

6. The proposed development will not encroach upon any existing physical accessway legally utilized by the general 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 project site is located at the nexus of a coastal bluff and coastal canyon above the Pacific Ocean. The site is adjacent to an identified major vista point within the current La Jolla-La Jolla Shores Community Plan and Local Coastal Program Land Use Plan. This vista point is located on Spindrift Drive, which is at an elevation several feet above the subject site. The existing public view crosses over the existing residence and provides limited view opportunities down the existing southerly side setback. Princess Street is also designated as a visual access corridor, as it projects northward and along the easterly side setback of the property. The proposed improvements will not be located within the easterly side setback, and will be generally at grade within the southerly side setback. All plant material is required to be maintained so as not to interfere with public views to the ocean. The proposed development will not obstruct views to and along the ocean and other scenic coastal areas from either the designated major vista point on Spindrift Drive, nor the visual access corridor along Princess Street.

The current La Jolla-La Jolla Shores Local Coastal Program Addendum describes the potential for a vertical access easement located along one side of a Princess Street property. Although not described specifically, it is assumed the language refers to the subject site located at 7957 Princess Street, and its southerly property edge, based on past Coastal Commission permit language. Dedication of such a vertical access easement was never made. The current Local Coastal Program Addendum recommends the dedication of a vertical access easement for limited use, such as educational activities and lifeguard rescue. Based on the existing site conditions along the southerly property edge, which include natural canyon features leading to a steep drop to the ocean below, use of such an easement for educational activities is unrealistic and no requests have been made. However, the City Lifeguards have indicated their preference for this easement for emergency access, and the applicant has agreed to provide such an easement for this purpose. Accordingly, the emergency access easement along the southerly property line will be required and will be prohibit retaining walls, fencing, or other structures to be placed within the easement area, with the exception of one gate leading to the rear yard of the property, at the discretion of the property owner. The gate may be a maximum of six feet in height and must be constructed of a material at least 75 percent open to light and air, in order to maintain the designated public view. Further, a lockbox containing the means for opening the gate and keyed according to City Lifeguard's specifications must be provided on the gate.

City staff, including Risk Management, did not feel that the City should require a public access easement at this location since it does not lead to a safe, open area. The existing site conditions along the southerly property edge include natural canyon features leading to a steep drop to the ocean below. The rocky area at the base of the canyon is not accessible at high tide, and traffic across the site would aggravate the existing erosion by destroying any stabilizing vegetation and by deepening and widening the existing natural erosion course. The vicinity of the Marine Room, less than 1/4-mile from the site, provides public access to the Pacific Ocean and additional on-street parking opportunities.

7. The proposed development will not adversely affect identified marine resources, environmentally sensitive areas, or archaeological or paleontological resources. The proposed rear yard improvements would occur on a site improved with an existing single-family residence, which will remain. The project site is located in the coastal area of La Jolla, which has a high potential for archaeological resources. Cultural resources within this sensitive area are considered to be part of the Spindrift Site, as more specifically described in Negative Declaration No. 96-7148. Due to intensive grading for homes, street, and utilities over the past seventy years in this vicinity the specific boundaries of the Spindrift Site cannot be easily defined. As a result, a cultural resources survey was conducted at the project site in June 1997 by qualified Development Services Department staff to evaluate potential impacts that might result from project implementation. No cultural materials or evidence of the Spindrift Site were observed during the survey. Given the nature of previous grading for the existing residence, it was concluded that there is a low potential for undetected or buried deposits of any significance at this site, the implementation of the proposed project would not result in adverse impacts, and no mitigation measures are recommended.

8. 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. As discussed in Negative Declaration No. 96-7148, impacts to native and noninvasive landscaping along the coastal bluff edge and coastal canyon will be minor and no mitigation is required. Since no improvements are proposed to the existing residence no impacts to potentially historic resources are anticipated.

The concern relating to significant prehistoric resources has been analyzed in Negative Declaration No. 96-7148. As identified within that document given the nature of previous grading for the existing residence, it was concluded that there is a low potential for undetected or buried deposits of any significance at this site, the implementation of the proposed project would not result in adverse impacts, and no mitigation measures are recommended.

9. The proposed development will not adversely affect identified recreational or visitor-serving facilities or coastal scenic resources. The project site is located within the beach impact area of the coastal zone and is at the nexus of a coastal bluff and coastal canyon above the Pacific Ocean. The site is adjacent to an identified major vista point within the current La Jolla-La Jolla Shores Community Plan and Local Coastal Program Land Use Plan. The removal of unauthorized bluff improvements and associated restoration, as well as the construction of the proposed improvements will occur in the rear yard, and sufficient protections have been provided within the permit conditions to maintain view areas within the side yard setbacks. As discussed in Coastal Development Permit Finding "6" above, implementation of the proposed project will not obstruct public views from scenic coastal areas or public vantage points and will not adversely affect identified recreational or visitor-serving facilities or coastal scenic resources.

10. 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 project site is located on the bluff top above the Pacific Ocean and is not adjacent to any parks or recreation areas, therefore no adverse impacts to environmentally sensitive habitats and scenic resources in these areas will occur as a result of the implementation of the proposed project.

11. 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 project site is located in a seismically active region and the potential exists for geologic hazards. In preparation for the proposed project, a geologic report was prepared by a licensed engineering geologist which concluded that the proposed improvements, including the pool with spa, deck, landscape, and other items, would not contribute to significant geologic instability. Based on the information identified in the geologic report, a coastal canyon and a sensitive coastal bluff, as defined in the Beaches and Bluffs Guidelines, coexist on the subject site. This geologic report also documented the location of the coastal bluff edge on the subject property, and concluded that the coastal canyon extends from the beach west of the residence to the vicinity of the west edge of Princess Street, and is shown on the 1963 topographic survey as the primary drainage for the northern terminus of Princess Street. The removal of the unauthorized bluff improvements and the required revegetation will minimize the risk from geologic and erosional forces onsite. Existing shrubs and groundcover within the bluff area will remain without support from handwatering or automatic irrigation in an effort to reduce further adverse impacts to the bluff. The above geologic report was submitted to and evaluated by the City Engineer. The proposed project complies with the recommendations and requirements of this report. Fire hazards are not anticipated from the proposed exterior improvements.

12. The proposed development will be visually compatible with the character of the surrounding area, and where feasible, will restore and enhance visual quality in visually degraded areas. The proposed removal of unauthorized bluff improvements and associated revegetation, as well as the construction of the pool with spa, concrete deck, barbecue counter, retaining walls, area drains, landscaping, and emergency access easement within portions of the coastal bluff and coastal canyon will occur at the rear of the site and will not negatively impact the surrounding area. The pool has been designed to blend with the existing coastal canyon by the use of a ledgerstone veneer which will match the color range of the existing canyon face. In addition, landscape material will be located along the exterior face of the pool to further screen the pool from view from the Pacific Ocean and properties on the opposite side of the canyon. The installation of drought tolerant plant species will help restore the natural appearance of the bluff top and coastal canyon and will be visually compatible with the character of the surrounding area.

13. The proposed development will conform with the City's Progress Guide and General Plan, the Local Coastal Program, and any other applicable adopted plans and programs in effect for this site. City staff, including Risk Management, has evaluated the project site and existing conditions in accordance with the Public Resources Code section 30212(a) and has determined that the provision of a physical public accessway across the site would be inconsistent with public safety, would not protect the fragile coastal canyon resources, and that adequate access exists nearby, as more fully described in Finding 6, above.

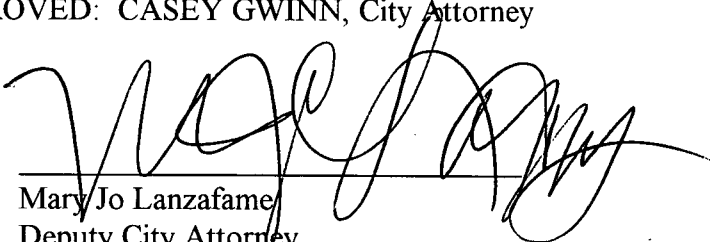
The proposed removal of unauthorized bluff improvements and associated revegetation, construction of pool with spa, concrete deck, barbeque counter, retaining walls, area drains, landscaping, and emergency access easement is consistent with the recommended land use, design guidelines, and development standards in effect for this site per the current La Jolla-La Jolla Shores Community Plan and Local Coastal Program Land Use Plan Addendum, the existing R1-5000 Zone, the Sensitive Coastal Resource Zone, and the City of San Diego Progress Guide and General Plan, and Public Resources Code.

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 Joanne Pearson is denied; the decision of the Planning Commission is sustained; and Sensitive Coastal Resource/Coastal Development Permit No. 96-7148 is granted to Ure R. and Dianne M. Kretowicz, as Trustees, Princess Trust dated May 13, 1993,, Owner/Permittee, 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

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12/04/02
Or.Dept:Clerk
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Reviewed by Michelle Sokolowski

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

AND WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

SENSITIVE COASTAL RESOURCE/COASTAL DEVELOPMENT PERMIT NO. 96-7148
KRETOWICZ RESIDENCE REAR YARD IMPROVEMENTS
CITY COUNCIL

This Permit is granted by the City Council of the City of San Diego to Ure R. and Dianne M. Kretowicz as Trustees, Princess Trust Dated May 13, 1993, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 101.0480 and 111.1202. The 1.31-acre site is located at 7957 Princess Street in the R1-5000 Zone, the Sensitive Coastal Resource Overlay Zone, the Coastal Zone (appealable), the Beach Impact Area, the First Public Roadway, and the Proposition "D" 30'-0" Height Limit area of the La Jolla Community Plan area. The project site is legally described as Lots 10 and 11, Block 3, Amalfi Subdivision, Map No. 959 and a portion of Pueblo Lot 1285, Pueblo Lands of San Diego, Map No. 36.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to remove bluff improvements (currently in violation) and install a pool with spa, concrete deck, barbeque counter, retaining walls, area drains, landscaping, and emergency access easement within portions of the coastal bluff and coastal canyon, described as, and identified by size, dimension, quantity, type and location on the approved Exhibit "A", dated June 5, 2001, on file in the Office of Development Services Department. The facility shall include:

- a. The removal of bluff improvements (currently in violation);
- b. The construction of a pool with spa, concrete deck, barbeque counter, retaining walls, area drains;
- c. A emergency access easement along the southern property edge;
- d. Landscaping (planting, irrigation and landscape related improvements); and

- e. 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 SDMC in effect for this site.
1. Application for construction permits to correct all unpermitted construction and bluff improvements shall be made within thirty days after the effective date of final approval, following all appeals. Said construction permits shall be obtained within ninety days after the effective date of final approval, following all appeals. All modifications to correct unpermitted construction and bluff improvements shall be accomplished within 180 days after the effective date of final approval, following all appeals.
 2. Construction and grading for the pool, concrete deck, retaining walls, and freestanding fencing must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
 3. 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.
 4. 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.
 5. 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.
 6. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agencies.
 7. 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 Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. section 1531 et seq.)

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 or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated June 5, 2001, on file in the Office of 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 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 the special rights which the holder of the Permit is entitled as a result of obtaining this Permit. It is the intent of the City that the Owner/Permittee 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/Permittee of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner/Permittee 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 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.

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 June 5, 2001, on file in the Office of 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 grant to the City an emergency access easement from Princess Street to the bluff area, in a manner satisfactory to the City Engineer. Gate access may be permitted, provided that all emergency and safety personnel can obtain access.

14. Prior to the issuance of any building permits, the applicant shall obtain an Encroachment Removal Agreement, from the City Engineer, for the existing trench drain in Princess Street.

15. Prior to the issuance of any building permits, the applicant shall obtain a bonded grading permit from the City Engineer (referred to as an "engineering permit") for the grading proposed for this project. All grading shall conform to the requirements of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer. Consideration shall be given to the use of a dissipater system at the terminus of the existing 10" pipe.

16. All drainage from the pool, spa, concrete deck, and other improvements authorized by this permit shall be directed away from the bluff, in a manner satisfactory to the City Engineer.

17. The applicant shall construct necessary modifications satisfactory to the Metropolitan Wastewater Department Director and the City Manager for the discharge of acid backwash and turbid water that occurs during pool cleaning.

PLANNING/DESIGN REQUIREMENTS:

18. 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.

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

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

21. 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.

22. The bluff face, including all the area between the toe of the existing bluff and the bluff edge shall be conserved through a deed restriction, open space easement or other suitable instrument acceptable to the City Manager.

23. The pool shall be designed to blend with the existing coastal canyon by the use of a ledgerstone veneer which will match the color range of the existing canyon face, to the satisfaction of the City Manager. In addition, landscape material will be located along the exterior face of the pool to further screen the pool from view from the Pacific Ocean and properties on the opposite side of the canyon.

24. Any handrail required on the deck surrounding the pool shall be constructed of an open material in order to blend with the existing canyon face, to the satisfaction of the City Manager.

25. An Emergency Access Easement, for ingress and egress of emergency personnel, shall be granted along the southerly property line, as shown on Exhibit "A," dated June 5, 2001, on file in the Office of Development Services. No retaining walls, fencing, or other structures may be placed within said easement area, with the exception of one gate leading to the rear yard of the property. Said gate may be installed by the Owner/Permittee, may be a maximum of six feet in height, and shall be constructed of a material at least 75 percent open to light and air. If the gate is installed, the Owner/Permittee must establish a lockbox within which is the means of opening the gate. The lockbox must be keyed according to City Lifeguard's specifications.

26. Prior to the issuance of construction permits, the applicant shall demonstrate that lateral access along the shoreline for passive recreational use has been offered for dedication as a public easement to the satisfaction of the City Manager. Access shall be at a minimum width of 25 feet

measured from the toe of the existing coastal bluff to the mean high tide line. If the beach or headland width is less than 25 feet, the lateral access shall include the entire beach or headland area.

LANDSCAPE REQUIREMENTS:

27. All plant material is required to be maintained so as not to interfere with public views to the ocean, to the satisfaction of the City Manager.

28. Prior to issuance of any construction permits, complete landscape and irrigation construction documents consistent with the Landscape Technical Manual (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated June 5, 2001, on file in the Office of Development Services.

29. Prior to issuance of any engineering permits for grading, construction documents for slope planting or revegetation and hydroseeding of all disturbed land including irrigation shall be submitted in accordance with the Landscape Technical Manual and to the satisfaction of the City Manager. All plans shall be in substantial conformance to Permit 96-7148 (including Environmental conditions) and Exhibit "A," dated June 5, 2001, on file in the Office of Development Services.

30. Prior to final inspection, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape.

31. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.

32. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within thirty days of damage or Certificate of Occupancy.

33. An automatic irrigation system exists along the bluff. This system and any irrigation equipment within five feet of the top of bluff shall be abandoned with valves being removed from the mainline to prevent any future reuse of this system.

34. No irrigation is permitted within five feet of the coastal bluff edge and on the coastal bluff.

35. All irrigation systems (existing and proposed) beyond the five-foot bluff setback and within forty feet of the coastal bluff edge shall incorporate the following items:

- a. Include and install a City-approved electrically controlled automatic rain shut-off device.
- b. Include and install a City approved moisture-sensing device for turf irrigation circuits.
- c. Include and install low precipitation rate nozzles. Heads shall be located to minimize overspray. Adjustment and timing of the heads shall be coordinated to reduce the potential for run-off.
- d. Include and install an irrigation electric controller. The controller shall be seasonally adjusted to operate the system with the least practical amount of water applied (minimum evapotranspiration rate).

36. The Permittee or subsequent Owner shall not be allowed to add or plant any plant materials, other than those represented on the approved Exhibit "A," Landscape Concept Plan SCR/CDP No. 96-7148, dated June 5, 2001, on file in the Office of Development Services, within 40 feet of the bluff edge without further review by the City Manager.

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.

Adopted by the Council of the City of San Diego by Resolution No. R-294978 on June 5, 2001.

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.

Ure R. Kretowicz
Owner/Permittee

By _____

Dianne m. Kretowicz.
Owner/Permittee

By _____

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

Office of
The City Attorney
City of San Diego

MEMORANDUM

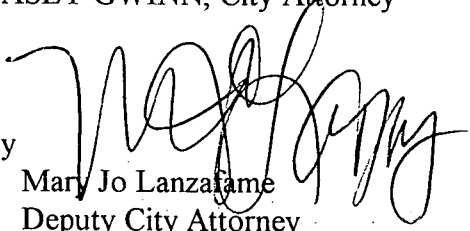
533-5800

DATE: December 16, 2002
TO: City Clerk
FROM: City Attorney
SUBJECT: Item-300a and 300b of Tuesday, June 5, 2001 (R-294978 and R-294979)

According to Development Services Department staff, the appeal of Joanne Pearson for the La Jolla Town Council of the decision by the Planning Commission in approving Sensitive Coastal Resource [SCR]/Coastal Development Permit [CDP] No. 96-7148, the Kretowicz Residence Rear Yard Improvements [Project], was heard by the Council on Tuesday, June 5, 2001. After Council denial of the appeal and approval of the permit, the Coastal Commission appealed the Project. While the permit was being considered by the Coastal Commission, Ure R. and Dianne M. Kretowicz, as Trustees, Princess Trust dated May 13, 1993, Owner/Permittee withdrew the permit request from the Coastal Commission and therefore also withdrew the permit request from the City as well.

CASEY GWINN, City Attorney

By


Mary Jo Lanzafame
Deputy City Attorney

MJL:pev
cc: Michelle Sokolowski