

RESOLUTION NUMBER R-303789

DATE OF FINAL PASSAGE MAY 27, 2008

A RESOLUTION DENYING THE APPEAL AND GRANTING  
COASTAL DEVELOPMENT PERMIT NO. 274486/ SITE  
DEVELOPMENT PERMIT NO. 277639/ PLANNED  
DEVELOPMENT PERMIT NO. 524160 RELATED TO THE  
PESCADERO HOUSE PROJECT.

WHEREAS, Daniel Smith, Owner/Permittee, filed an application with the City of San Diego for a coastal development permit/site development permit/planned development permit to demolish an existing multi-family residential structure and construct two new multi-family residential units, on portions of a 0.17-acre parcel, to be known as the Pescadero House project, located at 1466 Pescadero Drive, and legally described as Lot 7 and Lot 8, Block 44, Map of Ocean Beach being a subdivision of Pueblo Lots 195, 202 and 203, and that portion of Ocean Boulevard closed and vacated by resolution ordering work no. 103046, document 435927 on July 17, 1951, within the Ocean Beach Precise Plan, in the RM-2-4 zone, and includes the Coastal Overlay Zone (appealable), Sensitive Coastal Resource Overlay Zone, Coastal Height Limit Overlay Zone and Parking Impact Overlay Zone; and

WHEREAS, on February 7, 2008, the Planning Commission of the City of San Diego considered Coastal Development Permit [CDP] No. 274486/Site Development Permit No. 277639/Planned Development Permit No. 524160, and pursuant to Resolution No. 4376-PC voted to approve the Permit; and

WHEREAS, Robert Ames appealed the Planning Commission decision to the Council of the City of San Diego; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on May 27, 2008, 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 Coastal Development Permit No. 274486/Site Development Permit No. 277639/Planned Development Permit No. 524160:

**A. COASTAL DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE  
[SDMC] SECTION 126.0708**

**1. The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.** The proposed development is located at 1466 Pescadero Dr. within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 ft. above the Mean High Tide Line. The subject property is not identified in the City's adopted Local Coastal Program [LCP] Land Use Plan as a public accessway. The site is privately owned and already developed. As such, the Project will not encroach upon any existing physical accessway legally utilized by the public. The Project site is a bluff top lot over the Pacific Ocean and surrounded on the remaining three sides by single and multi-family residential development. A 6-unit apartment Project previously existed on the site. In 1992, after a series of storms, and as a result of bluff failure, the most westerly 2-story Duplex was undermined and rendered unsafe. That 2-story apartment was removed by the Owner in 1993. The partially eroded site was restored and the existing four units remain in place. All of the proposed development will be contained within the existing disturbed and previously developed and graded portions of the site. There is no existing physical access used legally or otherwise by the public, nor is there any public access identified in the Local Coastal Program. The Project is located in the appealable Coastal Overlay Zone requiring a Coastal Development Permit. The Project is within 100 feet of the bluff edge therefore within

the Sensitive Coastal Bluffs, requiring a Site Development Permit based on the Environmentally Sensitive Lands regulations. The Project site is developed with two existing duplex units with two residential units in each located near the Coastal Bluff above the Pacific Ocean along Sunset Cliffs. Adjacent land uses consist of residential to the north, east, and south, and a Coastal Bluff overlooking the Pacific Ocean to the west. Off-site, to the west of the bluff, the property descends down the approximately 35-foot high bluff to the ocean below. The City has a public right-of-way for Ocean Boulevard that encompasses the bluff area, between the western property boundary westward to the Mean High Tide Line. This right-of-way was dedicated for public use and allows limited public access along the lower bluff area and full access to the sandy beach area and rocky shoreline below the Project.

The Project proposes the demolition of the existing one story structures containing a total of four dwelling units and the construction of a new, 2-story over partially subterranean parking. A portion of the building is 30 ft. above grade however a majority of the proposed structure is 28.5 ft. The building conforms with the maximum 30 ft. Coastal Height Limit allowed by the zone. The Project proposes to construct a 2-story Duplex with subterranean parking garage. The design of the condominiums and materials utilized for the roof, walls, windows, and trim are compatible with the neighborhood and consistent within the Ocean Beach Precise Plan [The Precise Plan]. The Project will be compatible with the existing architectural character and scale of the neighborhood. The Project is surrounded by multi-family development that range from 25 ft. to 30 ft. tall. The Ocean Beach Community Planning Group [OBCPG] reviewed the Project and found that it conforms to the Precise Plan and has recommended approval.

The proposed development is located between the shoreline and the first public roadway; therefore views to the ocean must be preserved and where possible enhanced. The proposed development will adhere to the required yard area setbacks pursuant to the Land Development Code. A Deed Restriction is a condition of approval to preserve a visual corridor of not less than the side yard setbacks, in accordance with the requirements of San Diego Municipal Code section 132.0403(b) to create new public views toward the ocean. All new fencing and gates within or adjacent to Pescadero Dr. and within northerly side yard setback would be restricted to a maximum height of 6 ft. (3 ft. solid base and 3 ft. "open") in order to maintain and enhance pedestrian views toward the ocean.

The Duplex has also been designed to respect all required front, side, street and rear yard setbacks. This serves to enhance and preserve views to and along the ocean from Pescadero Dr. and other public vantage points.

Although not identified as a View Corridor, Pescadero Dr. can provide limited views toward the ocean. The proposed Duplex will not encroach into the existing view down Pescadero Dr. As designed, the Project will not obstruct coastal or scenic views from any public vantage point and will preserve and enhance public views towards the ocean. Further, the Project will not encroach upon any existing accessway legally utilized by the general public. There are no erosion control measures and no shoreline erosion control devices proposed as part of the Project.

The proposed development also will not encroach upon any existing physical accessway legally utilized by the general public or any proposed public accessway identified in the adopted

LCP Land Use Plan; nor will the Project obstruct views to and along the ocean and other scenic coastal areas from public vantage points.

The Project has been designed so that the cantilevered portion of the structure would respect a 25 ft. setback from the Coastal Bluff. This setback is consistent with the recommendations of the Christian Wheeler Engineering Geotechnical Investigation Report and Supplemental Report dated February 9, 2007 [collectively, Geologic Reports]. The foundation of the Duplex (hardened deep footing anchored 5 ft. into Point Loma Formation and cretaceous bedrock) will be set back an additional 15 ft. (respecting a 40 ft. setback) from the edge of the bluff. With this design the Duplex will be landward of the adjacent multi-family apartment and condominium projects. The proposed Project will also be well behind the "string line" of development along this stretch of Sunset Cliffs. Finally, the new Project will also be landward of the previous 4-unit Duplex Project (which is only 16 ft. from the bluff edge). As such, this Project will eliminate a bluff edge nonconforming structure.

No public access will be affected by this Project. A new visual corridor is feasible and will be implemented to preserve, enhance or restore public views of the ocean or shoreline from the public street.

Therefore, the proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a LCP Land Use Plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the LCP Land Use Plan (also see CDP findings 2-4 and SDP and PDP findings below).

**2. The proposed coastal development will not adversely affect environmentally Sensitive Lands.** The Project requires a Site Development Permit based on the presence of Environmentally Sensitive Lands. The Project proposes the demolition of an existing 2-story structure containing four dwelling units and the construction of a new, 2-story over basement, Duplex with subterranean level garages. No seawall or shoreline protective device exists on site and no shoreline protective device is requested. The City of San Diego conducted a complete environmental review of this site.

The proposed Project is located on a developed bluff top lot located south of the Sunset Cliffs Bluff Stabilization Project and Engineered Rip Rap Shoreline Protection [City/Army Corps Project] which is north of the subject site. The existing site will be excavated to accommodate the partially subterranean parking garage and the cantilevered Duplex above.

As concluded in the Mitigated Negative Declaration (DEP 99-1073), no adverse unmitigated impacts to marine, paleontological, or archaeological resources are anticipated to occur as a result of Project implementation.

The proposed development is located on a previously developed lot. Drainage from the developed portion of the site will be directed toward the street and away from the bluffs. This development does not propose to encroach into undisturbed areas. A Mitigated Negative Declaration was prepared for this Project in accordance with California Environmental Quality

Act [CEQA] Guidelines. The Mitigated Negative Declaration concluded that the proposed Project will not have a significant effect on the environment.

The existing 4-unit Duplex has also not been found to be historically or architecturally significant. As indicated in the Mitigated Negative Declaration:

The Project proposes to demolish structures that are 45 years in age or older. However, the structures do not possess integrity of design, architecture or workmanship. They are not representative examples of the small Craftsman style architecture that typifies the Ocean Beach Emerging Historic Cottage District. Additionally, the property is not listed in or determined to be eligible for listing in the California Register of Historical Resources. As such, the existing single-family homes are not historically significant. Therefore, project implementation would not result in a significant impact to a historical resource under CEQA and no mitigation is required.

There is no evidence in the record that the Duplex has any historical or architectural significance.

Mitigated Negative Declaration No. 86511 has been prepared for this Project in accordance with CEQA Guidelines, which preclude impact to these resources and Mitigation Monitoring and Reporting Program [MMRP] would be implemented to reduce potential historical resources (archaeology) and paleontological impacts to a level below significance. Mitigation in the form of on-site monitoring for archaeology and paleontology was required as the Project is located in an area with a high potential for subsurface resources. A geological report was prepared for the Project and determined the Project, as redesigned with a cantilevered floor to provide a 40 ft. setback from the bluff edge would not affect the Coastal Bluff. Additionally, Best Management Practices [BMP] to ensure site drainage and run-off is directed away from the bluff. The Project site is not located within or adjacent to the Multi-Habitat Planning Area [MHPA] of the City's Multiple Species Conservation Program [MSCP]. The Project site is located within an existing urbanized area. The proposed Project was found to not have a significant effect on the environment. The proposed coastal development will not adversely affect Environmentally Sensitive Lands.

Therefore, the proposed development will not adversely affect identified marine resources, environmentally sensitive areas, historic, archaeological, or paleontological resources (also see CDP finding 1 above, 3 and 4 below, and SDP and PDP permit findings below).

**3. The proposed coastal development is in conformity with the Certified Local Coastal Program Land Use Plan and complies with all regulations of the Certified Implementation Program.** The proposed development is located at 1466 Pescadero Dr. within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 ft. above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within two detached Duplex structures and the subsequent construction of two new attached multi-family residential units and

associated off-street parking. The proposed Project conforms to the Certified Local Coastal Land Use Plan. No public view to the water would be adversely affected by the approval of this Project. Granting the deviations via a Planned Development Permit would not increase the scale or height of the overall structure. The Project would not increase any public view impacts greater than a Project without the requested deviations. The proposed development is located between the shoreline and the first public roadway, therefore public views to the ocean must be preserved. A visual corridor of not less than the side yard setbacks will be created and preserved to eliminate the impact of development along this coastal view area. The Project meets the intent of the Guidelines for the Coastal Overlay and Coastal Height Limitation Overlay Zones. The proposed development would be consistent with the recommended residential density and multi-family land use prescribed by the Ocean Beach Precise Plan. The proposed development would also be consistent with the purpose and intent of the RM-2-4 zone and comply with the applicable development regulations of the Land Development Code including deviations permitted as a part of the discretionary entitlement process via a Planned Development Permit.

Therefore, the proposed development would be in conformity to the Certified LCP Land Use Plan and comply with all regulations of the Certified Implementation Program (also see CDP findings 1 and 2 above, 4 below, and SDP and PDP findings).

**4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.** The proposed development is located at 1466 Pescadero Dr. within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 ft. above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within two detached Duplex structures and the subsequent construction of two new attached multi-family residential units and associated off-street parking. The subject property is located between the nearest public road and the sea or the shoreline of any body of water, and within the Coastal Overlay and Coastal Height Limit Zones.

No adjacent public parks or public recreational areas presently exist, were identified, or are anticipated for the area adjacent to and immediately surrounding the subject site. There is a public accessway that was built as part of the City/Army Corps Seawall and Shoreline Stabilization Project that is north of the site within Ocean Blvd. (Paper Street). There is also Engineered Rip Rap that was installed by the City/Army Corps north of the site. Public access to the walkway is from the foot of Orchard Ave. and also from Santa Cruz Ave. Although not identified as a public park or recreation area, the 25 ft. bluff edge setback of the cantilevered portion of the Duplex will provide adequate buffer to protect such resources. Geotechnical Reports have been completed which analyzed stability of the site for the location of the existing and proposed improvements. Staff review and completion of a Mitigated Negative Declaration investigated the possible impacts to sensitive habitats and scenic resources and found that there are no adverse impacts associated with this proposed Project. Further, the Mitigated Negative Declaration did not identify any impacts to environmentally sensitive resources, sensitive habitat, or scenic resources. No impacts to these resources are anticipated to occur as a result of the residence. Dedicated public access to the beach and bluff area is available at the end of Orchard

Avenue two blocks north of the Project and Bermuda Avenue two block south of the Project site. These access points allow public access along the beach and lower Coastal Bluff below the Project. The City has a public right-of-way for Ocean Boulevard in the bluff area between the western property boundary and the Mean High Tide Line. This right-of-way was dedicated for public use and allows public access along the lower bluff and beach area below the Project.

Therefore, for every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act (also see CDP findings 1, 2 and 3 above and SDP and PDP findings below).

**B. SITE DEVELOPMENT PERMIT – SDMC 126.0504(a)**

**1. The proposed development will not adversely affect the applicable land use plan.** The proposed development is located at 1466 Pescadero Dr. within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 ft. above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within two detached Duplex structures and the subsequent construction of two new attached multi-family residential units and associated off-street parking. The Project is within 100 feet of the bluff edge therefore within the sensitive Coastal Bluffs, requiring a Site Development Permit based on the Environmentally Sensitive Lands regulations. The Project is located in the appealable Coastal Overlay Zone requiring a Coastal Development Permit. The proposed development is located between the shoreline and the first public roadway; therefore views to the ocean shall be preserved. This Project is located in the RM-2-4 zone. The RM-2-4 zone permits a maximum density of one dwelling unit for each 1,750 square feet of lot area. The Project is in conformance with the underlying zoning, and conforms to the required floor area ratio, parking and setbacks.

The height, scale, design and building materials incorporated into the Duplex are consistent with the varied architecture, design and character of existing single and multi-family development in the surrounding area. Exterior finishes incorporate materials and colors consistent with recently built and remodeled homes and multi-family buildings in the vicinity and would be visually compatible with the varied design theme and character of the existing single and multi-family homes and apartments of the surrounding area and the development along Sunset Cliffs. This Project 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. This site is designated for multi-family development. The Duplex has been designed to blend with the surrounding area which consists of 1-, 2- and 3-story homes and multi-family apartments and condominiums. The Project as designed is in conformance with the goals and objectives of the Community Plan, the Certified LCP, and the purpose and intent of the RM-2-4 zone. The formally recognized Community Planning Group has recommended approval of the Project finding that it is consistent with the Precise Plan. The proposed development will be visually compatible with the character of the surrounding area, and where feasible, restores and enhances visual quality in visually degraded areas.

Minor deviations requested to accommodate parking and access including reduced parking stall dimensions, aisle width and visibility area can be granted with a Planned Development Permit. The proposed development will adhere to the required yard area setbacks pursuant to the Land Development Code. A Deed Restriction is a condition of approval to preserve a visual corridor of not less than the side yard setbacks, in accordance with the requirements of San Diego Municipal Code section 132.0403(b). The building will be under the maximum 30 ft. Coastal Height Limit allowed by the zone. The proposed development would be consistent with the recommended residential density and multi-family land use prescribed by the Ocean Beach Precise Plan. The proposed development would also be consistent with the purpose and intent of the RM-2-4 zone and comply with the applicable development regulations of the Land Development Code including deviations permitted as a part of the discretionary entitlement process via a Planned Development Permit.

Therefore, the proposed development would not adversely affect the applicable land use plan (also see CDP and PDP findings and SDP findings 2 and 3 below).

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The Project requires a Site Development Permit based on the presence of Environmentally Sensitive Lands. The Project proposes the demolition of an existing 2-story structure containing three dwelling units and the construction of a new, 3- story over basement, Duplex with ground level garages. The City of San Diego conducted a complete environmental review of this site. Mitigated Negative Declaration No. 86511 has been prepared for this Project in accordance with CEQA Guidelines, which preclude impact to these resources and MMRP would be implemented to reduce potential historical resources (archaeology) and paleontological impacts to a level below significance. Mitigation in the form of on-site monitoring for archaeology and paleontology was required as the Project is located in an area with a high potential for subsurface resources. A geological report was prepared for the Project and determined the Project, as designed with a cantilevered floor to provide a 40 ft. setback from the bluff edge would not adversely affect the Coastal Bluff. Additionally, BMP to ensure site drainage and run-off is directed away from the bluff. The Project site is not located within or adjacent to the MHPA of the City's MSCP. The Project site is located within an existing urbanized area. The proposed Project was found to not have a significant effect on the environment. The Project would be designed and constructed pursuant to all applicable zoning and building codes and inspected for compliance with building standards.

Therefore, the proposed development would not be detrimental to public health, safety, and welfare (also see CDP and PDP findings and SDP findings 1 and 3).

**3. The proposed development will comply with the applicable regulations of the Land Development Code.** The proposed development is located at 1466 Pescadero Dr. within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 ft. above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within two detached Duplex structures and the subsequent construction of two new attached multi-family residential units and associated off-street parking. The proposed Project conforms to the Certified Local Coastal Land Use Plan. No public view to the water would be adversely affected by the approval of this Project. Granting the deviations via a Planned Development Permit would accommodate



parking and access, including reduced parking stall dimensions, aisle width and visibility area and would not increase the potential scale or height of the overall structure. The Project would not increase any public view impacts greater than a Project without the requested deviations. The proposed development is located between the shoreline and the first public roadway, therefore public views to the ocean must be preserved. A visual corridor of not less than the side yard setbacks will be created and preserved to eliminate the impact of development along this coastal view area. The Project meets the intent of the guidelines for the Coastal Overlay and Coastal Height Limitation Overlay Zones. The proposed development would be consistent with the recommended residential density and multi-family land use prescribed by the Ocean Beach Precise Plan. The proposed development would also be consistent with the purpose and intent of the RM-2-4 zone and comply with the applicable development regulations of the Land Development Code including deviations permitted as a part of the discretionary entitlement process via a Planned Development Permit.

Therefore, the proposed development would comply with all applicable regulations of the Land Development Code (also see CDP and PDP findings).

**C. SUPPLEMENTAL FINDINGS ENVIRONMENTALLY SENSITIVE LANDS FOR SITE DEVELOPMENT PERMIT APPROVAL – SDMC SECTION 126.0504(b)**

**1. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to Environmentally Sensitive Lands.** The proposed development is located at 1466 Pescadero Dr. within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 ft. above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within two detached Duplex structures and the subsequent construction of two new attached multi-family residential units and associated off-street parking. The Project requires a Site Development Permit based on the Environmentally Sensitive Lands regulations. The Project is in compliance with the Environmentally Sensitive Lands guidelines, and proposes no deviations from those guidelines. The Environmentally Sensitive Lands guidelines are intended to assure that development protects the overall quality of the resources by determining the impacts and providing mitigation, if necessary. The Project site is not located within or adjacent to the MHPA of the City's MSCP.

The proposed Duplex will be located on an existing site. The Project site has been previously graded. Since the entire site has been previously graded and padded and was previously developed with a 4-unit apartment Project with the exception of the Coastal Bluff, no Sensitive Coastal Resources remain on the site. The Project will not result in any adverse impacts upon sensitive coastal resources or other environmentally sensitive areas. A Mitigated Negative Declaration was prepared for this Project. No significant unmitigated (adverse) impacts are anticipated to occur as a result of Project implementation.

The Project has been designed so that the cantilevered portion of the structure would respect a 25 ft. setback from the Coastal Bluff edge. This setback is consistent with the recommendations of the Geologic Reports. The foundation of the Duplex (hardened deep footing anchored 5 ft. into Point Loma Formation and cretaceous bedrock) will be set back an additional 15 ft. (respecting a 40 ft. setback) from the edge of the bluff. With this design the

Duplex will be landward of the adjacent homes and the “string line” of development along this stretch of Sunset Cliffs. The Project will also be landward of the previous 4-unit apartment Project that was on the site. The existing nonconforming (Coastal Bluff Edge Setback) 4-unit Duplex project will be removed.

All drainage will be directed into a private storm drain system and directed back to the public right-of-way and public storm drain systems. As such, there will be no adverse impacts to environmentally sensitive areas or sensitive coastal resources. Since the proposed Project is a Duplex located on the top of a man-made bluff and the structural foundation system will respect a 40 ft. bluff edge setback, there will not be any impacts to the Coastal Bluff or the shoreline sand supply. A geologic study of the Coastal Bluff, the site, and Coastal Bluff stability calculations and analysis were performed (see the Geologic Reports). The Geologic Reports conclude that the proposed Project would not adversely impact the stability of the site or the Coastal Bluff, nor would the proposed Project result in exacerbated Coastal Bluff retreat. Municipal Code section 143.0143 indicates that a bluff edge setback may be less than 40 ft., but in no case less than 25 ft. 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 designed so that it will neither be subject to, nor contribute to, significant geologic instability throughout the anticipated life span of the principal structures. The site has been determined to be stable at the 25 ft. to 26 ft. setback and the Project has been determined not to contribute to or be subjected to geologic instability during the 75-year anticipated life of the structure.

The Project complies with all of the supplemental restrictions of Municipal Code section 143.0143 et. seq. The geological, bluff stability, erosion rate studies, and factor of safety calculations conclude that the site is stable to support the development with a 25 ft. to 26 ft. Coastal Bluff edge setback for new improvements. While the Project could be built at the 25 ft. to 26 ft. Coastal Bluff edge setback, the design places all structural foundations at the 40 ft. setback. This is much more conservative than what is recommended by the various studies.

Since the cantilevered portion of the Duplex has been sited to respect a 25 ft. bluff edge setback and the foundation systems will be set back 40 ft. from the bluff edge, the Project will not impact any sensitive coastal resources or environmentally sensitive areas.

The City of San Diego conducted a complete environmental and geotechnical review of this site. A Mitigated Negative Declaration has been prepared for this Project in accordance with CEQA Guidelines, which concludes that there will not be any impact to these resources. A geotechnical analysis was prepared to address the bluff stability, shoreline erosion, rising sea levels and factor of safety analysis. These studies concluded that the bluff will support the proposed improvements and is considered stable with regard to potential erosion and slope failure.

Therefore, the site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to Environmentally Sensitive Lands (also see CDP, SDP and PDP findings above and below).

**2. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.** The proposed development is located at 1466 Pescadero Dr. within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 ft. above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within two detached Duplex structures and the subsequent construction of two new attached multi-family residential units and associated off-street parking.

“Natural” landforms will not be altered. New construction will occur within the existing disturbed site. A geological study of the Coastal Bluff, the site, and Coastal Bluff stability calculations and factor of safety analysis were performed (see the Geologic Reports). The Geologic Reports conclude that the proposed Project would not adversely impact the stability of the site or the Coastal Bluff, nor would the proposed Project result in exacerbated Coastal Bluff retreat. Municipal Code section 143.0143 indicates that a bluff edge setback may be less than 40 ft., but in no case less than 25 ft., 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 designed so that it will neither contribute to, nor subject to, significant geologic instability throughout the anticipated life span of the principal structures. The Geologic Reports, coastal erosion rates (including an analysis of rising sea levels), bluff stability analysis, and factor of safety studies all conclude that the site is stable to support the proposed Project with a bluff edge setback of 25 ft. to 26 ft. for new improvements. However, the Project has been designed so that all of the foundation and load bearings for the Project will be set back 40 ft. from the Coastal Bluff edge. As such, a 25 ft. setback for the proposed cantilevered portion of the structure with a 40 ft. setback for the proposed structural foundation system is appropriate. All construction will be contained within the disturbed site. The Project site is not located within the FW (Floodway) or FPF (Floodplain Fringe) Zones and there is no apparent undue risk from fire hazards. The drainage system has been designed to be consistent with relevant requirements of the City Engineer and will minimize risks associated with runoff and erosion by collecting and directing all onsite drainage back to the street and into the public City storm drain system.

The Project site is adjacent to the Coastal Bluff edge, approximately 35 ft. above the beach below, so hazards from coastal flooding would be very remote. No construction will occur near the Coastal Bluff edge and all structure bearing support for the new development shall be at a minimum of 40 ft. back from the bluff edge and implement a cantilevered design. No coastal protective devices exist on the site and none are proposed for the Project. A geotechnical analysis was performed and the bluff was considered to be stable to support the proposed development without a shoreline protection or other erosion control measure. No geologic hazards were found that would be detrimental to the proposed Project. The proposed development area is flat and surrounded by existing residential development. On site grading would occur for excavation of the building foundation and partially subterranean parking. However, no substantial change in topography or ground surface would result.

The City has concluded that based upon the various Geotechnical Reports submitted that there is sufficient data and analysis to verify the location of the bluff edge. Further, the Geologic

Reports have adequately addressed the geologic hazards of the property by means of setbacks and deep foundations for the purpose of discretionary review. In the unlikely event that the existing bluff should experience exacerbated erosion and retreat beyond the anticipated 25 ft, the foundation system of the Project has been designed to support the proposed Duplex independent of the potential loss of the fill and terrace deposits. Conditions of the permit require that the structural foundation system be imbedded 5 ft. into the Point Loma Formation. The standard of construction created by the attention to and extent of the engineered foundation works for the proposed Project will provide a manifold stability of structure far beyond that of the surrounding preexisting single- and multi-family dwellings.

Therefore, the proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards (also see CDP, SDP and PDP findings).

**3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.** The proposed development is located at 1466 Pescadero Dr. within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 ft. above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within two detached Duplex structures and the subsequent construction of two new attached multi-family residential units and associated off-street parking. A cantilevered design shall be used so that no construction will occur near the sensitive Coastal Bluff edge. A complete environmental review for the Project area was completed. As outlined in Mitigated Negative Declaration No. 86511, the Project would require monitoring for sensitive historical and paleontological resources to mitigate potential impact to these resources. Best Management Practices have been made a condition of the permit to ensure run-off and drainage does not impact the coastal bluff.

Therefore, the proposed development will be sited and designed to prevent adverse impacts on any adjacent Environmentally Sensitive Lands (also see CDP, SDP and PDP findings).

**4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.** The Project is not located within or adjacent to the City's MHPA. Therefore, the Project does not need to show consistency with Multiple Species Conservation Program Subarea Plan.

**5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.** The proposed development is located at 1466 Pescadero Dr. within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 ft. above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within two detached Duplex structures and the subsequent construction of two new attached multi-family residential units and associated off-street parking. In order to assess the geologic conditions of the site, a Geotechnical Investigation dated February 9, 2007 for 1466-1472 Pescadero Dr. was prepared for the Project and is summarized below. The Project site is located within hazard category 43 which encompasses generally unstable Coastal Bluffs characterized by locally high erosion rates. The Project would be conditioned to construct all of the foundation

landward of the 40 ft. Coastal Bluff edge setback. The Project is proposing to cantilever the structure over the 40 ft. Coastal Bluff edge setback. The foundation would be properly embedded into the competent native materials. The foundation would not be subject to failure due to the anticipated coastal erosion forces. No work or grading is proposed on the bluff face. All Project construction will occur eastward of the required 40 ft. wide bluff edge setback. There is no seawall or other shoreline erosion control measure proposed as part of this Project. As such, wave impact erosion and shoreline sand supply will remain the same. The proposed development will not contribute to erosion. No shoreline protection or shoreline erosion control device is proposed. All onsite drainage will be collected and redirected away from the manufactured bluff and into the public street storm drain system.

Since the proposed Project is a Duplex located on the top of a man-made bluff, there will not be any impacts to the shoreline sand supply. A geological study of the Coastal Bluff, the site, and Coastal Bluff stability calculations and analysis were performed (see the Geologic Reports). The Geologic Reports conclude that the proposed Project would not adversely impact the stability of the site or the Coastal Bluff, nor would the proposed Project result in exacerbated Coastal Bluff retreat, failure or erosion. The geological and bluff stability studies and calculations conclude that the site is stable to support the development with the proposed 25 ft. bluff setback for new improvements and that the Project has been designed so as not to subject to, nor contribute to, significant geologic instability. As such, the 25 ft. setback is appropriate for the Duplex with a 40 ft. setback for the proposed foundation system.

All drainage on the site will be collected in a private storm drain system and redirected back to the public right-of-way. A Geologic Reconnaissance was conducted and a report prepared for the site to identify and assess the geologic conditions at the site. The report found that the proposed Project would not create a significant impact to the Coastal Bluff and no mitigation is required. The Project site is adjacent to the bluff, approximately 35 ft. above the beach below, so hazards from coastal or oceanic flooding would be very remote. 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.

Therefore, the proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply (also see CDP, SDP and PDP findings).

**6. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.** The proposed development is located at 1466 Pescadero Dr. within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 ft. above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within two detached Duplex structures and the subsequent construction of two new attached multi-family residential units and associated off-street parking. An environmental analysis was performed and Mitigated Negative Declaration No. 86511 was prepared with a MMRP, which would mitigate potentially significant archaeological and paleontological resource impacts to below a level of significance. The Project would be conditioned to construct all of the foundation landward of the 40 ft. Coastal Bluff edge setback. The Project is proposing to cantilever the structure over the 40ft. Coastal Bluff edge setback. The foundation would be properly embedded into the competent native

materials. Proper engineering controls and best management practices consisting of Site Design, Source Control, Priority Project Category and Structural Treatment Control in accordance with the Land Development Code would minimize water runoff and soil erosion during excavation/construction activities. Additionally, the applicant is conditioned to submit a Water Pollution Control Plan [WPCP] prior to any work being done on the site. The resultant discharge from the site would then be substantially free of pollutants and sediments to the maximum extent practicable. Permit issuance would preclude a significant impact to Water Quality/Hydrology. All Project construction will occur landward of the sensitive coastal bluff and coastal bluff edge setback.

Therefore, the nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development (also see CDP, SDP and PDP findings).

**D. PLANNED DEVELOPMENT PERMIT – SDMC SECTION 126.0604**

**1. The proposed development will not adversely affect the applicable land use plan.** The proposed development is located at 1466 Pescadero Dr. within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 ft. above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within two detached Duplex structures and the subsequent construction of two new attached multi-family residential units and associated off-street parking. The Project meets the intent of the guidelines for the Coastal Overlay and Coastal Height Limitation Overlay zones. The proposed development would be consistent with the recommended residential density and multi family land use prescribed by the Ocean Beach Precise Plan. The proposed development would also be consistent with the purpose and intent of the RM-2-4 zone and comply with the applicable development regulations of the Land Development Code including deviations permitted as a part of the discretionary entitlement process via a Planned Development Permit.

The General Plan, Local Coastal Program and Zoning Ordinances have all designated this site for multi family development. As designed, the proposed development meets all the recommendations of the General Plan, the Certified LCP – Land Use Plan, and the Precise Plan.

As referenced in the Coastal Development Findings above, the proposed Project will not adversely affect the City's General Plan, the LCP, the Ocean Beach Precise Plan or any other applicable adopted plan or programs in effect for this site.

Therefore, the proposed development would not adversely affect the applicable land use plan (also see CDP, SDP and PDP findings).

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed development is located at 1466 Pescadero Dr. within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 ft. above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within two detached Duplex structures and the subsequent construction of two new attached multi-family residential units and

associated off-street parking. The Project requires a Site Development Permit based on the presence of Environmentally Sensitive Lands. The Project proposes the demolition of an existing 2-story structure containing four dwelling units and the construction of a new, 2-story over partially subterranean basement Duplex with below grade level garages. The City of San Diego conducted a complete environmental review of this site. Mitigated Negative Declaration No. 86511 has been prepared for this Project in accordance with CEQA Guidelines, which preclude impact to these resources and MMRP would be implemented to reduce potential historical resources (archaeology) and paleontological impacts to a level below significance. Mitigation in the form of on-site monitoring for archaeology and paleontology was required as the Project is located in an area with a high potential for subsurface resources. A geological report was prepared for the Project and determined the Project, as redesigned with a cantilevered floor to provide the required 40 ft. setback from the bluff edge would not adversely affect the Coastal Bluff. Additionally, BMP to ensure site drainage and run-off is directed away from the bluff. The Project site is not located within or adjacent to the MHPA of the City's Multiple Species Conservation Program. The Project site is located within an existing urbanized area. The proposed Project was found to not have a significant effect on the environment. The Project would be designed and constructed pursuant to all applicable zoning and building codes and inspected for compliance with building standards.

Therefore, the proposed development would not be detrimental to public health, safety and welfare (also see CDP, SDP and PDP findings).

**3. The proposed development will comply with the regulations of the Land Development Code.** The proposed development is located at 1466 Pescadero Dr. within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 ft. above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within two detached Duplex structures and the subsequent construction of two new attached multi-family residential units and associated off-street parking. The proposed Project conforms to the certified Local Coastal Land Use Plan. No public view to the water would be adversely affected by the approval of this Project. Granting the deviations via a Planned Development Permit would accommodate parking and access, including reduced parking stall dimensions, aisle width and visibility area and would not increase the potential scale or height of the overall structure. The Project would not increase any public view impacts greater than a Project without the requested deviations. The proposed development is located between the shoreline and the first public roadway, therefore public views to the ocean must be preserved and where feasible enhanced. A visual corridor of not less than the side yard setbacks will be created and preserved to eliminate the impact of development along this coastal view area. The Project complies with the guidelines for the Coastal Overlay and Coastal Height Limitation Overlay zones. The proposed development would be consistent with the recommended residential density and multi family land use prescribed by the Ocean Beach Precise Plan. The proposed development would also be consistent with the purpose and intent of the RM-2-4 zone and comply with the applicable development regulations of the Land Development Code subject to deviations permitted as a part of the discretionary entitlement process via a Planned Development Permit.

Therefore, the proposed development would comply with all applicable regulations of the Land Development Code (also see CDP, SDP and PDP findings).

**4. The proposed development, when considered as a whole, will be beneficial to the community.** The proposed development is located at 1466 Pescadero Dr. within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 ft. above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within two detached Duplex structures and the subsequent construction of two new attached multi-family residential units and associated off-street parking. The two existing duplexes are small square clap board structures that have not been well maintained. The westerly structure is nonconforming as it relates to the required 25 ft. to 40 ft. Coastal Bluff edge setback. The four units share one legal parking space and the remainder parking utilizes the adjacent alley which is not wide enough to legally park. The proposed development would provide an articulated contemporary structure with five off-street parking spaces. The proposed development would be consistent with existing development in the area relative to the architectural style and the bulk and scale of the 2- and 3-story structures that are immediately adjacent to the proposed Project. The Project would visually enhance the surrounding area by removing the four existing nonconforming units and redeveloping the property in accordance with the current development regulations including parking, landscape, and setback requirements.

Therefore the proposed development, when considered as a whole, will be beneficial to the community (also see CDP, SDP and PDP findings).

**5. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable Project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.** The proposed development is located at 1466 Pescadero Dr. within the Ocean Beach Precise Plan Area. The 0.17-acre site is located adjacent to sensitive Coastal Bluffs approximately 35 ft. above the Mean High Tide Line. The proposed development includes the demolition of four multi-family units contained within two detached Duplex structures that are nonconforming as to bluff edge setback and side yard views toward the ocean and the subsequent construction of two new attached multi-family residential units and associated off-street parking. Granting the deviations via a Planned Development Permit would accommodate parking and access, including reduced parking stall dimensions, aisle width and visibility area. Where as most properties within the community enjoy standard street frontage and rear alley access, the property at 1466 Pescadero Dr. is located on what is essentially a named alley. Pescadero Dr. is the same 20-foot width as a standard alley and the deviations requested for the reduced parking stall dimensions and aisle width would permit the Project to be parked below grade and also respect the required 25 ft. to 40 ft. Coastal Bluff edge setbacks. The deviation for a reduced visibility area is also needed due to the narrow street configuration. The 11 foot visibility triangle is considered sufficient and safe based on the narrow right-of-way and anticipated slower speeds of vehicular traffic.

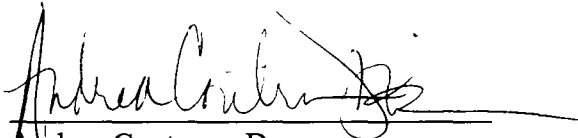
Therefore, the proposed deviations would be appropriate for this location and will result in a more desirable Project than would be achieved if designed in strict conformance with the development regulations of the applicable zone (also see CDP, SDP and PDP findings).



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

BE IT FURTHER RESOLVED, that the appeal of Robert Ames is denied; the decision of the Planning Commission is sustained; and Coastal Development Permit No. 274486/Site Development Permit No. 277639/Planned Development Permit No. 524160, with a deed restriction added to the seawall, is granted to Daniel Smith, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
Andrea Contreras Dixon  
Deputy City Attorney

ACD:pev

06/03/08

07/23/08 COR.COPY

Or.Dept:DSD

R-2008-1130

MMS #5988

L \Dixon, Andrea\Resos\2008\R-2008-1130 (R-303789) Cor Copy Pescadero Permit Reso doc

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

**WHEN RECORDED MAIL TO**  
**CITY CLERK**  
**MAIL STATION 2A**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER 425429

COASTAL DEVELOPMENT PERMIT NO. 274486/  
SITE DEVELOPMENT PERMIT NO. 277639/  
PLANNED DEVELOPMENT PERMIT NO.524160  
**PESCADERO HOUSE**

CITY COUNCIL

This Coastal Development Permit [CDP] No. 274486/Site Development Permit [SDP] No. 277639/ Planned Development Permit [PDP] No. 524160 is granted by the City Council of the City of San Diego Daniel Smith, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0708, 126.0504 and 126.0604. The 0.17-acre site is located at 1466 Pescadero Drive in the RM-2-4 zone and includes the Coastal Overlay Zone (appealable), Sensitive Coastal Resource Overlay Zone, Coastal Height Limit Overlay Zone and Parking Impact Overlay Zone, within the Ocean Beach Precise Plan. The project site is legally described as Lot 7 and Lot 8, Block 44, Map of Ocean Beach being a subdivision of Pueblo Lots 195, 202 and 203, and that portion of Ocean Boulevard closed and vacated by resolution ordering work no. 103046, document 435927 on July 17, 1951.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish two existing residential structures with two units each and construct two new residential units in a 5,566 square-foot, 2-story structure with underground parking, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated May 27, 2008, on file in the Development Services Department.

The project or facility shall include:

- a. The demolition of two existing duplex units and the construction of a new residential unit in a 5,566 square-foot, 2-story structure and associated underground and street level parking.
- b. PDP No. 524160 would allow the following deviations: (1) a deviation to allow a parking space width and length of 7.5' by 17' where 9.5' by 18' is

required, (2) a deviation to allow a visibility area of 11' where 20' is required, and (3) a deviation to allow a minimum driveway aisle width of 9'11' where 12' is required;

- c. Landscaping (planting, irrigation and landscape related improvements);
- d. Off-street parking; 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.

**STANDARD REQUIREMENTS:**

1. This Permit must be utilized within thirty-six months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this Permit as described in the SDMC 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 affect at the time the extension is considered by the appropriate decision maker.
2. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action, or following all appeals.
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 Owner/Permittee signs and returns the Permit to the Development Services Department; and
  - b. The Permit is recorded in the Office of the San Diego County Recorder.
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 Owner/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 continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

7. Issuance of this Permit by the City of San Diego does not authorize the Owner/ Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

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

9. Construction plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit 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.

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. 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 Director of the Development Services Department, or designated representative who 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 5 feet of the Bluff Top (as illustrated on approved plan Exhibit "A," 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.

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

12. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program [MMRP]. These MMRP conditions are incorporated into the permit by reference or authorization for the project.

13. The mitigation measures specified in the MMRP, and outlined in Mitigated Negative Declaration No. 86511 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

14. The Owner/Permittee shall comply with the MMRP as specified in Mitigated Negative Declaration No. 86511 satisfactory to the City Manager and City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

Historical (Archeological) Resources  
Paleontological Resources

15. Prior to issuance of any construction permit, the Owner/Permittee shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

**AFFORDABLE HOUSING REQUIREMENTS:**

16. Prior to the issuance of any building permits, the developer shall comply with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code).

**ENGINEERING REQUIREMENTS:**

17. Prior to the issuance of any construction permit, the applicant shall incorporate any construction Best Management Practices [BMP's] necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

18. Prior to the issuance of any construction permit the applicant shall submit a Water Pollution Control Plan [WPCP]. The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.

19. The drainage system proposed for this development is private and subject to approval by the City Engineer.

20. Prior to foundation inspection, the applicant shall submit a building pad certification signed by a Registered Civil Engineer or a Licensed Land Surveyor, certifying that the pad elevation based on USGS datum is in accordance with the approved plans.

21. The foundation shall be constructed landward of the 40-foot coastal bluff edge setback. The project shall utilize cantilever the structure over the 40-foot coastal bluff edge setback. The foundation shall be properly embedded into the competent native materials.

22. This project shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 297376, filed November 25, 2002) and the amendment to Council Policy 200-18 approved by City Council on February 26, 2002 (Resolution R-296141) satisfactory to the City Engineer. This may require (but not be limited to) installation of new street light(s), upgrading light from low pressure to high pressure sodium vapor and/or upgrading wattage.

23. The applicant shall provide and improve an 11 foot triangular area at the southwest corner of the two intersecting alleys, satisfactory to the City Engineer.

**PLANNING/DESIGN REQUIREMENTS:**

24. No fewer than five off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.

25. A topographical survey conforming to the provisions of the SDMC 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 regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

26. In accordance with the requirements of San Diego Municipal Code section 143.0142 the Owner/Permittee shall execute a covenant of easement recorded against title to the affected premises and executed in favor of the City.

27. The covenant of easement shall contain a description of the premises affected by the permit with a description of the development area and the environmentally sensitive lands that will be preserved.

28. The covenant of easement shall notice all persons to the extent afforded by the recording laws of the state regarding the restrictions affecting the use of the environmentally sensitive lands covered by the permit.

29. The covenant of easement shall insure that the burdens of the covenant of easement shall be binding upon, and the benefits of the covenant shall inure to, all successors in interest to the affected premises.

30. The covenant of easement shall ensure enforceability of the covenant of easement by the City.
31. Prior to the issuance of construction permits, the Owner/Permittee shall record a Deed Restriction, in a form acceptable to the City Attorney, to waive all rights to future shoreline protective devices to protect the development authorized by this permit.
32. Prior to the issuance of construction permits, the Owner/Permittee shall record a Deed Restriction preserving a visual corridor 5-foot wide running full length of property (North and South) in accordance with the requirements of the San Diego Municipal Code section 132.0403(b) and as described in Exhibit "A."
33. Open fencing and landscaping may be permitted within this visual corridor, provided such improvements do not significantly obstruct public views of the ocean. Landscape within this visual corridor shall be planted and maintained not exceed 3'-0" in height in order to preserve public views.
34. No development shall be permitted on the coastal bluff face.
35. At grade accessory structures and landscape features customary and incidental to residential uses shall not be closer than 5 feet to the coastal bluff edge, in accordance with the requirements of the Land Development Code.
36. All drainage from the improvements on the premises shall be directed away from any coastal bluff and either into an existing or improved public storm drain system or onto a street developed with a gutter system or public right-of-way designated to carry surface drainage run-off. All drainage from unimproved areas shall be appropriately collected and discharge in order to reduce, control, or mitigate erosion of the coastal bluff.
37. The Owner/Permittee acknowledges that the existing bluff top improvements, including the gunite wall, are not permitted as part of this project. All portions of these improvements which can be removed without damage to the coastal bluff shall be removed prior to final inspection by the City. Any existing unpermitted bluff top improvements which cannot be removed due to the potential for bluff damage shall not be maintained and shall be allowed to deteriorate in order for the bluff area to be naturally restored over a period of time.
38. It shall be the responsibility of the Owner/Permittee to properly remove and dispose of any and all debris resulting from the natural erosion of any existing blufftop improvements that cannot be removed as a part of this project.
39. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

**LANDSCAPE REQUIREMENTS:**

40. Prior to issuance of any construction permits for grading, the Permittee or Subsequent Owner shall submit landscape construction documents for the revegetation and hydroseeding of all disturbed land in accordance with the Land Development Manual Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit "A."

41. Prior to issuance of any grading permits for buildings, the Permittee or Subsequent Owner shall submit complete landscape and irrigation construction documents consistent with the Land Development Manual Landscape Standards to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan.

42. Prior to issuance of any construction permits for buildings, the Permittee or Subsequent Owner shall submit complete landscape and irrigation construction documents consistent with the Land Development Manual Landscape Standards to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan.

43. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or Subsequent Owner to install all required landscape and obtain all required landscape inspections.

44. The Permittee or Subsequent Owner shall maintain all landscape in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

45. 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, the Permittee or Subsequent Owner is responsible to repair and/or replace any landscape in kind and equivalent size per the approved documents to the satisfaction of the City Manager within thirty days of damage or prior to a Final Landscape Inspection.

46. The Permittee or Subsequent Owner shall ensure that all proposed landscaping, especially landscaping adjacent to native habitat, shall not include exotic plant species that may be invasive to native habitats. Plant species found within the California Invasive Plant Council's [Cal-IPC] Invasive Plant Inventory and the City of San Diego's Land Development Manual; Landscape Standards are prohibited.

**INFORMATION ONLY:**

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this



development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the City Council of the City of San Diego on May 27, 2008 by Resolution No. R-303789.

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.

Dennis Smith  
Owner/Permittee

By \_\_\_\_\_

By \_\_\_\_\_

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

PERMIT/OTHER – Permit Shell 11-01-04

2-303.00