

RESOLUTION NUMBER R-304528

DATE OF FINAL PASSAGE DECEMBER 2, 2008

A RESOLUTION DENYING THE APPEAL AND GRANTING SITE DEVELOPMENT PERMIT NO. 482270 AND DENYING NEIGHBORHOOD USE PERMIT NO. 581890 – KRETOWICZ RESIDENCE.

WHEREAS, DUK TRUST (Ure R. Kretowicz and Diane M. Kretowicz, Trustees), Owner/Permittee, filed an application with the City of San Diego for a site development permit/neighborhood use permit to maintain the previously constructed improvements, modifications, and additions to an existing single-family residence, and to convert an existing accessory building into a guest quarters, add a new trellis and jacuzzi, for the project to be known as the Kretowicz Residence project, located at 7957 Princess Street, and legally described as Lots 10 and 11, Block 3 of the Amalfi Subdivision, according to Map 959; and all of Pueblo Lands of San Diego, according to Map thereof made by James Pascoe in 1870, Miscellaneous Map No. 36, in the La Jolla Community Plan area, in the RS-1-7 zone and the SF zone of the La Jolla Shores Planned District, Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone, the Beach Impact Area of the Parking Impact Overlay Zone, Residential Tandem Parking Overlay Zone, and Transit Area Overlay Zone; and

WHEREAS, on October 9, 2008, the Planning Commission of the City of San Diego considered Site Development Permit [SDP] No. 482270/Neighborhood Use Permit [NUP] No. 581890, and pursuant to Resolution No. 4463-PC-1 voted to grant Site Development Permit No. 482270 and to deny Neighborhood Use Permit No. 581890; and

WHEREAS, George Krikorian 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 December 2, 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 Site Development Permit No. 482270/Neighborhood Use Permit No. 581890:

A. SITE DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 126.0504

1. Findings for all Site Development Permits – SDMC section 1260504(a):

a. The proposed development will not adversely affect the applicable land use plan. The project site is located at 7957 Princess Street, the northern terminus of Princess Street, which is a public street and the cul-de-sac located at the terminus of the street is within the public right-of-way. The site contains three legal lots, two of the lots are at the nexus of a coastal bluff and coastal canyon, and are located in the RS-1-7 zone. The third lot is approximately 436 square feet in size and is located at the terminus of Princess Street, and is located in the SF zone of the La Jolla Shores Planned District. This lot contains an existing detached accessory building located at the terminus of Princess Street which was approved on January 28, 1969, pursuant to Building Permit No. E40921. A portion or 1/3 of this existing accessory building is located within the public right-of-way and the remaining 2/3 of this structure is within the small lot. The project site is within the La Jolla Community Plan Area [LJCP], Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone, the Beach Impact Area of the Parking Impact Overlay Zone, Residential Tandem Parking Overlay Zone, and Transit Area Overlay Zone.

The project includes improvements, modifications, and additions to the existing single-family residence, the project site, and the accessory structures that have been previously constructed, and a new trellis addition over the deck and a new jacuzzi. The existing detached accessory building, located at the terminus of Princess Street, is proposed to be used as a guest quarters, and would be classified as an accessory use to a single-family residence. The zoning designations are for a single-family residential and the LJCP designates the proposed project site for single-family use (5-9 dwelling units per acre [du/ac]). Therefore, the proposed development will not adversely affect the applicable land use plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. The project includes improvements, modifications, and additions to the existing single-family residence, the project site, and the accessory structures that have been previously constructed, and a new trellis addition over the deck and a new jacuzzi. An existing detached accessory building located at the terminus of Princess Street was approved on January 28, 1969, pursuant to Building Permit No. E40921. This existing detached accessory building is proposed to be converted from a non-habitable accessory use into a guest quarters (habitable accessory use). A portion or 1/3 of this existing accessory building is located within the public right-of-way and the remaining 2/3 of this structure is within the property lines. The building records for the detached accessory building indicate that the structure was a "Photo Lab," a non-habitable accessory use.

The Planning Commission did not recommend approval of the neighborhood use permit, because the approval of the permit would grant habitable living space/use within the public right-of-way, which creates a life and safety issue for those living and sleeping in the structure, a liability for the City, and does not benefit a public purpose. Therefore, the Planning Commission determined that approval of the site development permit with the denial of the neighborhood use permit would not be detrimental to the public health, safety, and welfare.

c. The proposed development will comply with the applicable regulations of the Land Development Code. The project site is located at 7957 Princess Street, the northern terminus of Princess Street, in the RS-1-7 zone and the SF zone of the La Jolla Shores Planned District. The site is within the LJCP, Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone, the Beach Impact Area of the Parking Impact Overlay Zone, Residential Tandem Parking Overlay Zone, and Transit Area Overlay Zone. The zoning designations are for a single-family residential and the LJCP designates the proposed project site for single-family use (5-9 du/ac).

The project includes improvements, modifications, and additions to the existing single-family residence, the project site, and the accessory structures that have been previously constructed, and a new trellis addition over the deck and new jacuzzi. The existing and proposed development is consistent with the development regulations on size, location, and setbacks, and the intent of the regulations for the sensitive coastal bluffs guidelines. The accessory structures do not interfere with the free and unobstructed use of the public right-of way for public travel.

The Coastal Development Permit will be processed and issued by the California Coastal Commission (as an amendment to the original coastal development permit issued by the Commission) once all of the City's actions have been completed. The California Coastal

Commission is exclusively responsible for the Coastal Development Permit and/or amendments pursuant to Section 126.0717 of the Land Development Code [LDC]. Therefore, the proposed development will comply with the applicable regulations of the LDC.

2. Supplemental Findings – Environmentally Sensitive Lands – SDMC section 126.0504(b):

a. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands. The project site is located at 7957 Princess Street and contains three legal lots; two of the lots are at the nexus of a coastal bluff and coastal canyon, and the third lot at the terminus of Princess Street. The project includes improvements, modifications, and additions to the existing single-family residence, the project site, and the accessory structures that have been previously constructed, and a new trellis addition over the deck and new jacuzzi. The proposed new jacuzzi and new trellis would be located on top of existing retaining walls and columns that support the existing deck structure. No additional load-bearing support structures would be needed to support the proposed jacuzzi and trellis structures, consistent with the development regulations for sensitive coastal bluffs. The proposed jacuzzi and trellis provides the required 5 feet setback from the established coastal bluff edge. The existing and proposed development is consistent with the development regulations on size, location, and setbacks, and the intent of the regulations for the sensitive coastal bluffs guidelines. The accessory structures do not interfere with the free and unobstructed use of the public right-of-way for public travel. 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.

b. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards. The project site is located at 7957 Princess Street and contains three legal lots; two of the lots are at the nexus of a coastal bluff and coastal canyon, and the third lot at the terminus of Princess Street. The site is located in a seismically active region of California, in the geologic hazard category 43, and in a high sensitivity area for archaeological resources, and within close proximity to a recorded significant archaeological site (Spindrift site). A Negative Declaration has been prepared for the project in accordance with the State of California Environmental Quality Act [CEQA] Guidelines.

The previously constructed improvements, modifications, and additions to the existing single-family residence were within the footprint of the existing structure. The proposed new jacuzzi and new trellis would be located on top of existing retaining walls and columns that support the existing deck structure. No additional load-bearing support structures would be needed to support the proposed jacuzzi and trellis structures, consistent with the development regulations for sensitive coastal bluffs. The proposed jacuzzi and trellis provides the required 5 feet setback from the established coastal bluff edge. The project site is not located within the flood zone and would not contain any use that would create a fire hazard. 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.

c. **The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.** The project site is located at 7957 Princess Street and contains three legal lots; two of the lots are at the nexus of a coastal bluff and coastal canyon, and the third lot at the terminus of Princess Street. The site is located in a seismically active region of California, in the geologic hazard category 43, and in a high sensitivity area for archaeological resources, and within close proximity to a recorded significant archaeological site (Spindrift site). A Negative Declaration has been prepared for the project in accordance with State CEQA Guidelines.

The previously constructed improvements, modifications, and additions to the existing single-family residence were within the footprint of the existing structure. The proposed new jacuzzi and new trellis would be located on top of existing retaining walls and columns that support the existing deck structure. No additional load-bearing support structures would be needed to support the proposed jacuzzi and trellis structures, consistent with the development regulations for sensitive coastal bluffs. The proposed jacuzzi and trellis provides the required 5 feet setback from the established coastal bluff edge. The project site is not located within the flood zone and would not contain any use that would create a fire hazard. 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.

d. **The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.** The project site is located at 7957 Princess Street, the northern terminus of Princess Street, and is not located within or adjacent to the Multi-Habitat Planning Area [MHPA] of the City of San Diego's Multiple Species Conservation Program [MSCP] Subarea Plan.

e. **The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.** The project site is located at 7957 Princess Street and contains three legal lots, two of the lots are at the nexus of a coastal bluff and coastal canyon, and the third lot at the terminus of Princess Street. The previously constructed improvements, modifications, and additions to the existing single-family residence were within the footprint of the existing structure. The existing and proposed development is consistent with the development regulations on size, location, and setbacks, and the intent of the regulations for the sensitive coastal bluffs guidelines. The accessory structures do not interfere with the free and unobstructed use of the public right-of way for public travel. A Negative Declaration has been prepared for the project in accordance with State CEQA Guidelines. Therefore, the proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

f. **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 previously constructed improvements, modifications, and additions to the existing single-family residence were within the footprint of the existing structure. The proposed new jacuzzi and new trellis would be located on top of existing retaining walls and columns that support the existing deck structure. No additional load-bearing support structures would be needed to support the proposed jacuzzi and trellis structures, consistent with the development regulations for sensitive coastal bluffs. The proposed jacuzzi and trellis provide the

required 5 feet setback from the established coastal bluff edge. The existing and proposed development is consistent with the development regulations on size, location, and setbacks, and the intent of the regulations for the sensitive coastal bluffs guidelines. The accessory structures do not interfere with the free and unobstructed use of the public right-of-way for public travel. A Negative Declaration has been prepared for the project in accordance with State CEQA Guidelines.

3. Supplemental findings—Public Right-of-Way Encroachments – SDMC section 126.0504(o):

a. The proposed encroachment is reasonably related to public travel, or benefits a public purpose, or all record owners have given the applicant written permission to maintain the encroachment on their property. The project site is located at 7957 Princess Street, the northern terminus of Princess Street, which is a public street and the cul-de-sac located at the terminus of the street is within the public right-of-way. The site contains three legal lots; two of the lots are at the nexus of a coastal bluff and coastal canyon, and the third lot is approximately 436 square feet in size and is located at the terminus of Princess Street. This lot contains an existing detached accessory building located at the terminus of Princess Street which was approved on January 28, 1969, pursuant to Building Permit No. E40921. A portion or 1/3 of this existing accessory building is located within the public right-of-way and the remaining 2/3 of this structure is within the small lot. The previously constructed improvements and modifications (walls, fences, and gate) within the public right-of-way do not encroach further than the existing accessory building. Therefore, the proposed encroachment is reasonably related to public travel.

b. The proposed encroachment does not interfere with the free and unobstructed use of the public right-of-way for public travel. The northern side of the cul-de-sac, located at the terminus of Princess Street, is within the public right-of-way and does not contain public sidewalks. The previously constructed improvements and modifications (walls, fences, and gate) within the public right-of-way do not encroach further than the existing accessory building. Therefore, the accessory structures do not interfere with the free and unobstructed use of the public right-of-way for public travel.

c. The proposed encroachment will not adversely affect the aesthetic character of the community. The project site is located at 7957 Princess Street, the northern terminus of Princess Street, west of Spindrift Drive within the LJCP. The community plan designates the proposed project site for single-family use (5-9 du/ac). This range is characterized by single dwelling unit residential homes on 5,000 - 7,000 square foot lots. The surrounding residential development is a mixture of styles, color, and scale. The previously constructed improvements and modifications (walls, fences, and gate) within the public right-of-way do not encroach further than the existing accessory building and are designed to be integrated into the style and color of the existing single-family residence. Therefore, the proposed encroachment will not adversely affect the aesthetic character of the community.

d. The proposed encroachment does not violate any other Municipal Code provisions or other local, state, or federal law. The project site is located at 7957 Princess Street, the northern terminus of Princess Street, which is a public street and the cul-de-

sac located at the terminus of the street is within the public right-of-way. The site contains three legal lots; two of the lots are at the nexus of a coastal bluff and coastal canyon, and the third lot is approximately 436 square feet in size and is located at the terminus of Princess Street. This lot contains an existing detached accessory building located at the terminus of Princess Street which was approved on January 28, 1969, pursuant to Building Permit No. E40921. A portion or 1/3 of this existing accessory building is located within the public right-of-way and the remaining 2/3 of this structure is within the small lot.

The property has several improvements, modifications, and additions by the current owner that were constructed without obtaining an amendment to the original Coastal Development Permits and/or without obtaining building and public improvement permits pursuant to Neighborhood Code Compliance Case No. NC40952. A Civil Penalty Administrative Enforcement Order was issued by an Administrative Hearing Officer on December 26, 2007. This order required the immediate cessation of all work at the property, payment of civil penalty and costs, and all violations to be added to the plans and included in this project. The previously constructed improvements and modifications (walls, fences, and gate) within the public right-of-way do not encroach further than the existing accessory building.

The Coastal Development Permit will be processed and issued by the California Coastal Commission (as an amendment to the original coastal development permit issued by the Commission) once all of the City's actions have been completed. The California Coastal Commission is exclusively responsible for the Coastal Development Permit and/or amendments pursuant to Section 126.0717 of the LDC.

e. For coastal development in the coastal overlay zone, the encroachment is consistent with Section 132.0403 (Supplement Use Regulations of the Coastal Overlay Zone). The project site is located at 7957 Princess Street, the northern terminus of Princess Street, west of Spindrift Drive within the LJCP. The site is located in an identified scenic overlook in the LJCP Subarea D, which is described as a scenic view over private properties from a public right-of-way along Princess Street. Additionally, the community plan sites this lot within a major viewshed, an unobstructed panoramic view from a public vantage point from Spindrift Drive. The previously constructed improvements, modifications, and additions to the single-family residence would not create any obstruction of these identified viewsheds as the residence is situated much lower than the level of the right-of-way from where the view is observed. The existing view from these identified public viewing locations toward the ocean would not result in any substantial changes.

The Coastal Development Permit will be processed and issued by the California Coastal Commission (as an amendment to the original coastal development permit issued by the Commission) once all of the City's actions have been completed. The California Coastal Commission is exclusively responsible for the Coastal Development Permit and/or amendments pursuant to Section 126.0717 of the LDC. Therefore, the encroachments are consistent with Section 132.0403 of the LDC.

B. NEIGHBORHOOD USE PERMIT – SDMC SECTION 126.0205**1. Findings for all Neighborhood Use Permits**

a. The proposed development will not adversely affect the applicable land use plan. The project site is located at 7957 Princess Street, the northern terminus of Princess Street, which is a public street and the cul-de-sac located at the terminus of the street is within the public right-of-way. The site contains three legal lots; two of the lots are at the nexus of a coastal bluff and coastal canyon, and are located in the RS-1-7 zone. The third lot is approximately 436 square feet in size and is located at the terminus of Princess Street, and is located in the SF zone of the La Jolla Shores Planned District. This lot contains an existing detached accessory building located at the terminus of Princess Street which was approved on January 28, 1969, pursuant to Building Permit No. E40921. A portion or 1/3 of this existing accessory building is located within the public right-of-way and the remaining 2/3 of this structure is within the small lot. The project site is within the LJCP, Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone, the Beach Impact Area of the Parking Impact Overlay Zone, Residential Tandem Parking Overlay Zone, and Transit Area Overlay Zone.

The project includes improvements, modifications, and additions to the existing single-family residence, the project site, and the accessory structures that have been previously constructed, and a new trellis addition over the deck and a new jacuzzi. The existing detached accessory building, located at the terminus of Princess Street, is proposed to be used as a guest quarters, and would be classified as an accessory use to a single-family residence. The zoning designations are for a single-family residential and the LJCP designates the proposed project site for single-family use (5-9 du/ac). Therefore, the proposed development will not adversely affect the applicable land use plan.

b. The proposed development will not be detrimental to the public health, safety, and welfare. This Finding can not be made. The project includes improvements, modifications, and additions to the existing single-family residence, the project site, and the accessory structures that have been previously constructed, and a new trellis addition over the deck and a new jacuzzi. An existing detached accessory building located at the terminus of Princess Street was approved on January 28, 1969, pursuant to Building Permit No. E40921. This existing detached accessory building is proposed to be converted from a non-habitable accessory use into a guest quarters (habitable accessory use). A portion or 1/3 of this existing accessory building is located within the public right-of-way and the remaining 2/3 of this structure is within the property lines. The building records for the detached accessory building indicate that the structure was a "Photo Lab," a non-habitable accessory use.

The Planning Commission did not recommend approval of Neighborhood Use Permit, because the approval of the permit would grant habitable living space/use within the public right-of-way, which creates a life and safety issue for those living and sleeping in the structure, a liability for the City, and does not benefit a public purpose. Therefore, the Planning Commission determined that approval of the Neighborhood Use Permit would be detrimental to the public health, safety, and welfare; and determined that this Finding can not be made.

c. **The proposed development will comply with the applicable regulations of the Land Development Code.** The project site is located at 7957 Princess Street, the northern terminus of Princess Street, in the RS-1-7 zone and the SF zone of the La Jolla Shores Planned District. The site is within the LJCP, Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone, the Beach Impact Area of the Parking Impact Overlay Zone, Residential Tandem Parking Overlay Zone, and Transit Area Overlay Zone. The zoning designations are for a single-family residential and the LJCP designates the proposed project site for single-family use (5-9 du/ac).

The project includes improvements, modifications, and additions to the existing single-family residence, the project site, and the accessory structures that have been previously constructed, and a new trellis addition over the deck and new jacuzzi. The existing and proposed development is consistent with the development regulations on size, location, and setbacks, and the intent of the regulations for the sensitive coastal bluffs guidelines. The accessory structures do not interfere with the free and unobstructed use of the public right-of way for public travel.

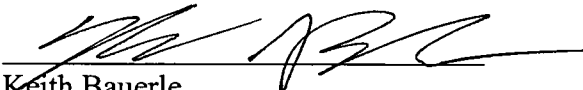
The Coastal Development Permit will be processed and issued by the California Coastal Commission (as an amendment to the original coastal development permit issued by the Commission) once all of the City's actions have been completed. The California Coastal Commission is exclusively responsible for the Coastal Development Permit and/or amendments pursuant to Section 126.0717 of the LDC. Therefore, the proposed development will comply with the applicable regulations of the LDC.

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 George Krikorian is denied; the decision of the Planning Commission is sustained; and Site Development Permit No. 482270 is granted to DUK TRUST (Ure R. Kretowicz and Diane M. Kretowicz, Trustees), Owner/ Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

BE IT FURTHER RESOLVED, that Neighborhood Use Permit No. 581890 is denied.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Keith Bauerle
Deputy City Attorney

KB:pev
12/12/08
Or.Dept:Clerks
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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 42-8447

SITE DEVELOPMENT PERMIT NO. 482270
KRETOWICZ RESIDENCE – PROJECT NO. 138513
AMENDMENT TO SITE DEVELOPMENT PERMIT NO. 108967
CITY COUNCIL

This Site Development Permit No. 482270, amendment to Site Development Permit No. 108967 is granted by the City Council of the City of San Diego to DUK TRUST (Ure. R. Kretowicz and Diane M. Kretowicz, Trustees), Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0504. The 0.52-acre site is located at 7957 Princess Street in the RS-1-7 zone and the SF zone of the La Jolla Shores Planned District, Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone, the Beach Impact Area of the Parking Overlay Zone, Residential Tandem Parking Overlay Zone, and the Transit Area Overlay Zone, of the La Jolla Community Plan area. The project site is legally described as all of Lots 10 and 11, Block 3 of the Amalfi Subdivision, according to Map 959; and all that portion of Pueblo Lot 1285 of Pueblo Lands of San Diego, according to Map thereof made by James Pascoe in 1870, Miscellaneous Map No. 36.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to maintain the previously constructed improvements, modifications, and additions to an existing single-family residence, and add a new trellis and jacuzzi, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated December 2, 2008, on file in the Development Services Department.

The project shall include:

- a. The improvements, modifications, and additions to the existing single-family residence, the project site, and the accessory structures that have been previously constructed (the upper level includes all new interior walls and portions of new exterior walls, new fireplace, reconstructed deck, new cantilevered balcony, new deck cover, modifications to the garage and front entry walls; the lower level addition of approximately

760 square feet and the complete remodeling of the existing area; the existing detached accessory building addition of an approximately 52 square feet for a bathroom and the remaining existing exterior walls (portions are within the public right-of-way) and windows modifications; modifications to the existing retaining walls at the front property; and the walls, fences, and trash enclosure gate within the public right-of-way). A proposed new trellis over the existing deck and a new jacuzzi/structure, which includes new retaining walls and a raised platform;

- b. The existing detached accessory building located at the front of the property and partially within the public right-of-way shall not be used for living or sleeping purposes;
- c. A roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the proposed project's projected energy consumption, as established by Council Policy 900-14;
- d. Landscaping (planting, irrigation and landscape related improvements);
- e. Off-street parking;
- f. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site;
- g. Correction of permit number for Site Development Permit No. 108967, which was recorded as Site Development Permit No. 8967 (correction of permit number only).

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 the 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. Prior to the issuance of any construction permits, the Owner/Permittee shall show evidence of a Coastal Development Permit (as an amendment to the original coastal development permit issued by the Commission) by the California Coastal Commission that includes the improvements, modifications, and additions to the existing single-family residence, the project site, and the accessory structures that have been previously constructed, and the new trellis over the existing deck and the new jacuzzi/structure.

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 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" conditions(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. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney’s fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney’s fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

SUSTAINABLE BUILDINGS REQUIREMENTS:

12. Prior to the issuance of any building permits, construction documents shall fully illustrate the incorporation of a roof-mounted photovoltaic system consisting of solar panels sufficient to generate at least 50 percent of the proposed project’s projected energy consumption, as established by Council Policy 900-14.

NEIGHBORHOOD CODE COMPLIANCE REQUIREMENTS:

13. The Owner/Permittee shall submit an application and plans for all necessary construction permits within ninety calendar days from the date of the Coastal Development Permit issued by the California Coastal Commission and shall provide the Neighborhood Code Compliance Department the application number within two calendar days from the date of the submittal.

14. The Owner/Permittee shall start construction within thirty calendar days from the start date of the construction and shall notify the Neighborhood Code Compliance Department within two calendar days prior to the starting date of the construction.

15. The Owner/Permittee shall obtain all final inspections and approvals within 120 calendar days from the date of the construction permits and shall provide evidence to the Neighborhood Code Compliance Department within two calendar days on the finalization of all construction permits.

ENGINEERING REQUIREMENTS:

16. The drainage system proposed for this development is private and subject to approval by the City Engineer.
17. Prior to the issuance of any construction permits, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement [EMRA] for the existing private structures that lie within the Princess Street right-of-way, which structures include walls, portion of an accessory building, and portions of a trash enclosure.
18. Prior to the issuance of any construction permits, the Owner/Permittee shall submit a Water Pollution Control Plan [WPCP]. The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.
19. Prior to the building occupancy, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP] maintenance.

GEOLOGY REQUIREMENTS:

20. Prior to the issuance of any building permits, an updated geotechnical report shall be submitted and approved by Building Development Review that demonstrates that the project does not require additional footings and/or foundation to support the development authorized by this permit.

LANDSCAPE REQUIREMENTS:

21. Prior to issuance of any construction documents, the Permittee or Subsequent Owner shall submit complete landscape and irrigation construction documents with the Land Development Manual, Landscape Standards and the Coastal Bluffs and Beaches Guidelines to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan.
22. Prior to issuance to a Final Inspection, it shall be the responsibility of the Permittee or Subsequent Owner to install all required landscape. All existing irrigation on the coastal bluff and within the 5-foot bluff setback, shall be capped and no new irrigation system(s) is permitted. All existing "flood lights" located on the Coastal Bluff and possibly within the 5-foot bluff setback shall be removed.
23. 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, including the existing "Torrey Pine" located in the front yard, is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.
24. The Permittee or Subsequent Owner shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Land Development Manual, Landscape Standards.

25. 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.
26. Prior to a Final Landscape Inspection, all existing turf and irrigation located west of the existing residence, shall be removed and replaced with a stone patio as indicated on Exhibit "A" and consistent with the Land Development Manual's Coastal Bluffs and Beaches Guidelines.
27. Prior to issuance of construction permits for grading, the Permittee or Subsequent Owner shall ensure that all proposed landscaping, especially landscaping adjacent to native habitat and/or sensitive coastal bluffs, 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 prohibited plant species list found in "Table 1" of the Landscape Standards shall not be permitted.

PLANNING/DESIGN REQUIREMENTS:

28. The subject property shall comply with all conditions and requirements in Site Development Permit No. 108967 and this amended Site Development Permit No. 482270.
29. Prior to the commencement of any work or activity authorized by this Permit, the Owner/Permittee shall record a Deed Restriction in a form and content acceptable to the Director of the Development Services Department to waive all rights to future shoreline protective devices associated with the property.
30. No fewer than two 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.
31. 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.
32. The detached accessory building located at the front of the property and partially within the public right-of-way shall not be used for living or sleeping purposes.
33. Prior to the issuance of any construction permits, the Permittee or Subsequent Owner shall execute and record in favor of the City a hold harmless and/or indemnification agreement for the approved development.

34. 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.

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 December 2, 2008, by Resolution No. R-304528.

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.

DUK TRUST
Owner/Permittee

By _____
Ure R. Kretowicz
Trustee

By _____
Diane M. Kretowicz
Trustee

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

PERMIT/OTHER – Permit Shell 11-01-04