

RESOLUTION NUMBER R- 310320

DATE OF FINAL PASSAGE MAR 22 2016

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO DENYING AN APPEAL AND APPROVING AN ENVIRONMENTAL DETERMINATION THAT A PROJECT AT THE INN AT SUNSET CLIFFS IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

WHEREAS, a representative of the owner of a property located at 1370 Sunset Cliffs Boulevard, the Inn at Sunset Cliffs, applied to the Development Services Department (DSD) of the City of San Diego (City) for permission to make emergency repairs to a deck that had been damaged by large waves and high tides on or about December 12, 2015; and

WHEREAS, DSD staff examined documentation and information provided by the owner's representative to verify the facts regarding the emergency and, on December 14, 2015, a Senior Engineering Geologist from the City visited the site to conduct independent observations to verify the facts regarding the emergency; and

WHEREAS, on December 18, 2015, staff from the Environmental Analysis Section of DSD determined that the deck repair project, which would be undertaken with an emergency Coastal Development Permit, was exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) pursuant to the exemption for emergency projects described within CEQA and the CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3, Section 15000 et seq.) – specifically, CEQA section 21080(b)(4) and CEQA Guidelines sections 15269(b) and 15269(c) – and on December 23, 2015 revised its determination to include a reference to an emergency Site Development Permit that would be required for the project; and

WHEREAS, the San Diego Municipal Code (SDMC) defines “emergency” as it relates to environmentally sensitive resources and defines “coastal emergency” as it relates to development within the coastal zone. The SDMC’s definition of coastal emergency and the provisions of the SDMC that describe the requirements and procedures for issuance of emergency Coastal Development Permits are part of the City’s adopted and California Coastal Commission-certified Local Coastal Program – the program that applies the California Coastal Act at the local level; and

WHEREAS, DSD staff, based on a review of the documentation and information provided by the owner’s representative and the City’s Senior Engineering Geologist’s independent observations, determined that a coastal emergency existed and that an emergency existed regarding environmentally sensitive resources; and

WHEREAS, DSD staff, pursuant to authority described in the SDMC, issued an emergency permit that allowed remedial repair to the deck, including “sealing cave entries under deck with high strength quick set concrete; filling the holes with a mix of concrete, rock, and sand; and repairing the deck surface in kind with concrete” (entitled “Agreement for an Emergency Coastal Development Permit/Site Development Permit December 22, 2015”) and made the following findings:

Emergency Coastal Development Permit Findings (SDMC section 126.1718)

1. A coastal emergency exists that requires action more quickly than would be permitted by the normal procedures for acquiring a CDP and the development can and will be completed within 30 days unless otherwise specified in the permit.
2. Public comment on the proposed coastal emergency action has been solicited and reviewed to the extent feasible.

3. The proposed emergency work is consistent with the Local Coastal Program.

Emergency Site Development Permit Findings (SDMC section 143.0126)

1. A [sic] emergency exists that requires action more quickly than would be permitted by the normal procedures for acquiring a Site Development Permit and the development can and will be completed within 30 days unless otherwise specified in the permit.

2. Public comment on the proposed coastal emergency action has been solicited and reviewed to the extent feasible; and

WHEREAS, the emergency permit described site conditions supporting the emergency determination: “[a] portion of the existing deck developed large holes due to waves and high tides on the weekend of the [sic] December 12, 2015. The large holes have induced erosion by waves to the west and escaping water from the east; together, these threaten the bluff face and the sixty-plus-year-old hotel as well as a nearby City roadway” and “[t]he City has determined the damaged deck and underlying erosion on the landward side of the seawall poses immediate danger to the health, welfare, or safety of both persons and property”; and

WHEREAS, two parties appealed DSD’s decision that CEQA’s emergency exemption applied to the project: the Coastal Environmental Rights Foundation (December 18, 2015) and Craig A. Sherman, Esq. (December 31, 2015) (together, the Appeal of the Environmental Determination); and

WHEREAS, the Appeal of the Environmental Determination was set for public hearing to be conducted by the City Council on March 22, 2016, and

WHEREAS, on January 21, 2016, DSD staff issued a stop work order due to the City’s Neighborhood Code Compliance Division staff having witnessed work in violation of the aforementioned emergency permit, including “the removal of the existing concrete deck, the

partial construction of a retaining wall, and the construction of a fire pit seating area.” The order required that construction not in compliance with the emergency permit be halted and described measures the owner would have to take in order to allow the City to consider approval of a revised scope of work; and

WHEREAS, DSD staff, including the City’s Senior Engineering Geologist, examined documentation and information provided by the owner’s representative to verify the facts regarding the emergency; and

WHEREAS, DSD staff issued an amended emergency permit that allowed remedial repair to the deck, including “sealing cave entries under the deck with high strength quick set concrete, filling the holes with a low strength concrete slurry, and replacing the entire deck surface with a six-inch thick concrete mix over coated rebar” (entitled “Agreement for an Emergency Coastal Development Permit/Site Development Permit February 3, 2016 (Amendment to Agreement for an Emergency Coastal Development Permit/Site Development Permit December 22, 2015)”) and made the findings required by the SDMC; and

WHEREAS, the amended emergency permit did not authorize other construction conducted in violation of the initial emergency permit, such as the retaining wall or fire pit seating area. The amended emergency permit stated, “[t]he retaining wall located against the upper bluff face and concrete work surrounding the fire pit area are outside of the scope of the emergency CDP/SDP issued December 22, 2015; further, those features are expressly not authorized by this amended emergency CDP/SDP. . . .”; and

WHEREAS, the matter of the Appeal of the Environmental Determination came before the City Council for a public hearing on March 22, 2016; and

WHEREAS, Environmental Analysis Section staff provided the City Council with a memorandum describing the environmental analysis that had been undertaken, responding to issues raised by the appellants, and recommending that the Appeal of the Environmental Determination be denied; and

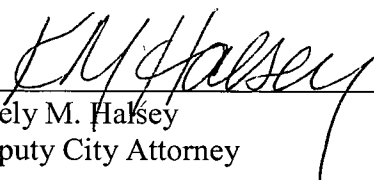
WHEREAS, the City Council considered information at the public hearing, including the written record, oral testimony from staff, and written materials and oral testimony provided by representatives of the applicant and appellants; and

WHEREAS, the City Council, exercising its independent judgment, determined that the project was exempt from CEQA pursuant CEQA section 21080(b)(4) and CEQA Guidelines sections 15269(b) and 15269(c), pursuant to a motion to: “deny the appeal and adopt the environmental determination, based on the information that staff provided and all the evidence that has been presented on record”; and

WHEREAS, this resolution is not subject to veto by the Mayor; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that the Appeal of the Environmental Determination is hereby denied and the environmental determination is approved.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Keely M. Halsey
Deputy City Attorney

KMH:als
3/22/2016
Or.Dept:DSD
Doc. No. 1252238

Passed by the Council of The City of San Diego on MAR 22 2016, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAR 22 2016.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By *Mary Fernandez*, Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 310320