



City of San Diego  
Development Services  
1222 First Ave. • 3rd Floor  
San Diego, CA 92101-4154  
(619) 446-5210  
www.sandiego.gov/development-services

RECEIVED  
CITY CLERK'S OFFICE

# Development Permit Appeal Application

07 MAR 14 PM 1:01

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

SAN DIEGO, CALIF.

1. Type of Appeal:

- Process Two Decision - Appeal to Planning Commission
- Process Three Decision - Appeal to Planning Commission
- Process Three Decision - Appeal to Board of Zoning Appeals
- Appeal of a Hearing Officer Decision to revoke a permit
- Process Four Decision - Appeal to City Council

2. Appellant Name Please check one  Applicant  Officially recognized Planning Committee  "Interested Person" (Per M.C. Sec. 113.0103)

- 1. Randy Berkman
- 2. Randy Watson

Address: Box 7098  
 City: San Diego State: CA Zip Code: 92167 Telephone: (619) 233 3928

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

David Stebbins "Stebbins Residence Project #51076"

4. Project Information

Permit/Approval Being Appealed & Permit/Approval No.:	Date of Decision:	City Project Manager:
↓	March 1, 2007	Laila Iskardon

Decision (describe the permit/approval decision):

- 1. Site Development Permit #389934
- 2. Coastal Development Permit #147134
- 3. Mitigated Negative Declaration #51076 approved by Planning Commission

5. Reason for Appeal

- Factual Error
- Conflict with other matters
- Findings Not Supported
- New Information
- City-wide Significance (Process Four decisions only)

Description of Reasons for Appeal (Please relate your description to the allowable reasons for appeal noted above. Attach additional sheets if necessary.)

See Attached

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

- Signature 1. Randy Berkman
- Signature 2. [Signature]

Date March 13, 2007  
MARCH 14, 2007

Note: Faxed appeals are not accepted.

This information is available in alternative formats for persons with disabilities.  
To request this information in alternative format, call (619) 446-5446 or (800) 735-2929 (TT)

14 MAR 07

RECEIVED  
CITY CLERK'S OFFICE

ATTACHMENT 13

APPEAL OF THE STEBBINS RESIDENCE PLANNING COMMISSION APPROVAL OF  
PERMITS AND MITIGATED NEGATIVE DECLARATION  
SAN DIEGO, CALIF.

This project should not be allowed a variance for underground parking in a flood plain due to:

- Conflict with City Council Policy 600 – 14
- FEMA “strictly prohibits” parking under residence in floodplains.
- Consequences of approving sub-surface parking under residence in a flood plain
- Inconsistent with the Ocean Beach Precise Plan
- Stebbins’ residence does not meet the FEMA Standards for granting of a variance for underground parking of residence in a floodplain
- Findings are not supported
- Major deficiencies in the Mitigated Negative Declaration
- Conflicts with Other Matters including Council member Faulconer’s signed pledge to Jim Bell to oppose flood plain development

**City Wide Significance:** The proposal would set a precedent for allowing parking beneath residential structures in flood plains. Mr. Stebbins has acknowledged this. (Attachment 4, P. 2) If San Diego were placed on NFIP Probation for this, the thousands of residents carrying flood insurance would have their annual premiums raised. This would create a public outcry as has occurred when FEMA has placed other communities on Probation for NFIP violations.

***CONFLICTS WITH CITY COUNCIL POLICY 600 - 14***

City Council Policy 600-14 states: “Development within areas of special flood hazard is unwise from a public health, safety and general welfare standpoint.” This Policy is not addressed in the Mitigated Negative Declaration (MND) or Permits. The proposed re-development would take place in the 100 year flood plain of the San Diego River as cited P. 13, proposed Permit and FEMA Zone A according to the MND, P. 1. The plan to excavate down into the flood plain (7 feet below the 100 year flood level) is not only unwise, it defies common sense.

**NEW INFORMATION: PRIOR CITY REJECTION OF UNDERGROUND PARKING NOT DISCLOSED IN MND OR TO PLANNING COMMISSION; PROJECT APPLICANT STEBBINS CALLED THIS A “PROJECT STOPPER”**

**Underground parking legal conflict:** The parking under a residence in a floodplain legal conflict was known both to Mr. Stebbins and staff at least as far back as October, 2005. Mr. Stebbins wrote to project manager Iskandar outlining the reasons he thought the deviation from FEMA standards should be granted. (See Attachment 4).

Project Manager Iskandar wrote that staff could not support a project with underground parking due to the FEMA and City codes which don't allow it: In a November 4, 2005 letter to Mr. Stebbins, Ms. Iskandar wrote:

“City staff cannot support the request for an underground parking for the project site. As the development is taking place within the 100 year flood plain zone, certain standards/regulation design must be applied, and the project as presented including the request for Variance or deviation is not in compliance with the City Ordinance which do not allow for construction below grade in these circumstances. As noted previously in our early assessment reports that <sup>in</sup> order for staff to support the project, applicant shall demonstrate conformance with the SDMC section 143.0146c(6) requirement in regard to development within a Special flood Hazard Area and having the lowest floor, including basement, elevated at least 2 feet above the base flood elevation.

City staff recommends the following:

- 1 Redesign the project to meet the above requirements...” (Attachment 5)

THIS PRIOR REJECTION OF UNDERGROUND PARKING WAS NOT DISCLOSED IN THE MND OR TO THE PLANNING COMMISSION! It is not known why staff changed their minds on this issue. Mr. Stebbins referred to it as a “project stopper” in his October 25, 2005 letter to Ms. Iskandar: “If there are any more ‘project stoppers’ other than the above, please bring them to my attention.” (Attachment 4). The other “project stopper issue” was the scale of the proposal. <sup>P. 2</sup>

**FEMA “STRICTLY PROHIBITS” PARKING UNDER RESIDENCE IN FLOOD PLAINS**

FEMA Technical Bulletin 6-93 BELOW GRADE PARKING REQUIREMENTS FOR BUILDINGS LOCATED IN SPECIAL FLOOD HAZARD AREAS IN ACCORDANCE WITH THE NATIONAL FLOOD INSURANCE PROGRAM (Attachment 1, PP.1,2) states: “Below-Grade Parking Garages in Residential Buildings in A Zones Section 60.3c(2) of the NFIP regulations states that a community shall:

Require that all new construction and substantial improvements of residential structures within Zones A1-A30, AE and AH on the community’s FIRM have the lowest floor (including basement) elevated to or above the base flood level...’

Under the NFIP, a below-grade parking garage is considered a basement if it is below grade on all sides. Therefore, the construction of below-grade parking garages is prohibited beneath residential buildings in Zones A1-A30, AE, and AH.”

FEMA has written (Attachment 2) that this is a strict prohibition.

Mr. Gregor Blackburn, Senior Natural Hazards Program Specialist for DHS-FEMA Region 9 (San Diego’s Region) noted in a March 2 email:

"The provisions of Technical Bulletin 6-93 are explicit. The National Flood Insurance Program regulations strictly prohibit the placement of below-grade parking garages under residential structures."

**POTENTIAL CONSEQUENCES OF APPROVING SUB-SURFACE PARKING UNDER RESIDENCE IN A FLOOD PLAIN**

Mr. Blackburn (FEMA, Region 9 said in a March 2 email (Attachment 2) :

"A community which has permitted construction in violation of their local flood damage prevention ordinance (which must meet the requirements of Vol. 44 of the Code of Federal Regulations) and having been found in violation of the NFIP would be required to remediate the violation to the maximum extent possible. If the community does not work to remediate the violation they could be put on probation or suspended from the program. If the community is in the Community Rating System—where discounts are given on flood insurance premiums—those discounts could be rescinded."

The above information is more than enough to deny the Permits for this project as proposed with underground parking.

**INCONSISTENT WITH OCEAN BEACH PRECISE PLAN**

**Allowable building on lot size:** Page 116 of the OB Precise Plan (Attachment 3) describes the Stebbins residence exact lot size: 25 feet by 100 feet. This page also shows "probable development" for this lot as either 1 story/1250 square feet or 2 story/1750 square feet. Neither has underground parking. This page directly contradicts staff and applicant claims that he could not build a 1750 square foot residence unless he was granted the variance for underground parking in a flood plain. See also attachment 10 in which applicant architect asks City whether they will need to redesign without underground parking.

**Visual impact:** Evidence of visual impacts not disclosed in the proposed MND or Permits is titled "Policy Review Committee," Planner: Kempton. It is dated 12-22-04. While these comments appear to have been made to a prior design, they are still applicable. (A reference to 2211 sq. ft. is crossed out and replaced with 1747 sq. ft.). City planner Kempton wrote: "The proposal would adversely affect the following policies in the Ocean Beach Precise Plan: 'That views available from elevated areas and those adjacent to the beaches and ocean be preserved and enhanced whenever possible.' Proposal would block views from elevated areas as well as those adjacent to the beaches as proposal is on the first public ROW from the ocean. Proposal would also adversely affect the following policy: 'That yards and coverage be adequate to insure provision of light and air to surrounding properties, and that those requirements be more stringent where necessary for buildings over two stories in height. ....Proposal would cast shadows over neighboring building/residence and impact air circulation. ....'" (Attachment 6)

**Affordable housing:** Page 24 of the OB Precise Plan (Summary of Recommendation; See: Attachment 7) states: "That lower income housing be encouraged to be maintained in Ocean Beach, especially through minor rehabilitation of existing sub-standard units." This proposal is

inconsistent with that recommendation as lower income residents would be displaced. In a letter to Ms. Iskandar, Mr. Stebbins states that he has spoken with 6 other neighboring landowners who will follow his lead if his project is approved (Attachment 4). This evidence of cumulative impacts to neighborhood character and loss of affordable housing/conflict with Ocean Beach Precise Plan is not in the MND.

## OTHER NEW INFORMATION

Ms. Iskandar replied in an email February 27, 2 days prior to the second hearing:

- A. Construction of the subterranean portions of the structure will require dewatering. The geotechnical consultant indicated that the dewatering might cause [Ms. Iskandar inserted the word "minor"] settlement of adjacent properties resulting in minor cosmetic distress that can be easily repaired. They recommended that the condition of structures and improvements adjacent to the subject property be documented before the dewatering operations begin and be monitored during the dewatering operation. In addition, the consultant recommends that the dewatering program be performed on a localized basis (as practical) in order to minimize possible impacts.

The exact quote from the Geo-Technical Report (Replies to City Questions, August 5, 2005, Page 2, Christian Wheeler Engineering) is:

"We are not indicating that the dewatering operation will cause settlement but rather that it might cause settlement on adjacent properties. If it does occur, we expect it will result in only minor cosmetic damage that can be easily repaired." (See Attachment 8).

It is troubling that this information "might cause minor settlement of adjacent properties resulting in minor cosmetic distress that can be easily repaired" regarding potential impacts to adjacent properties is not in the MND or Permits. This makes the MND and Permits fundamentally misleading and inadequate as informative documents. Also, the Planning Commission was not informed of this "inconvenient truth."

The MND (P. 4) includes the following misleading statement: "With regards to the de-watering plan, it is not enforced through the discretionary process; however, compliance with the procedures for de-watering as outlined above would preclude potential impacts resulting from ground failure." **In truth, it is clearly within the discretion of decision makers to reject this proposal based upon potential damage to adjacent properties.**

## CONFLICTS WITH OTHER MATTERS

***A FEMA VARIANCE IS UNWARRANTED FOR UNDERGROUND PARKING BENEATH  
A RESIDENCE IN A FLOOD PLAIN***

44 CFR 60.6 Variances and Exceptions authorizes communities to grant variances to the regulations set for in Section 60.3, 60.4, 60.5. The aforementioned sections refer to placing habitable structures in relation to the 100 year (base) flood. **Almost without exception, FEMA requires that habitable structures (including basements/underground parking) be one foot above the base flood.**

Section 60.6(a) (2) states: "Variances may be issued by a community for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structure constructed below the base flood level, in conformance with the procedures of paragraphs (a) (3), (4), (5) and (6) of this section"

- (3) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant,, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with local laws or ordinances. (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (4) A community shall notify the applicant in writing over the signature of a community official that (I) the issuance of a variation to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the flood level increase risks to life and property."

Section 60.6(b)(2) states: "The Administrator shall prepare a Special Environmental Clearance to determine whether the proposal for an exception under paragraph (b) (1) of this section will have significant impact on the human environment. The decision whether an Environmental Impact Statement or other environmental document will be prepared, will be made in accordance with the procedures set out in 44CFR part 10. Ninety or more days may be required for an environmental quality clearance if the proposed exception will have significant impact on the human environment thereby requiring an EIS."

60.6c states: "A community may propose flood plain management measures which adopt standards for flood proofed residential basements below the base flood level in zones A1-30, AH, AO, and AE which are not subject to tidal flooding. Notwithstanding the requirements of paragraph (b) of this section the Administrator may approve the proposal provided that:

- (1) The community has demonstrated that areas of special flood hazard in which basements will be permitted are subject to shallow and low velocity flooding and that there is adequate flood warning time to ensure that all residents are notified of impending floods. For the purposes of this paragraph flood characteristics must include: (I) Flood depths that are five feet or less for developable lots that are contiguous to land above the base flood level and three feet or less for other lots....."

*WHY THE STEBBINS RESIDENCE DOES NOT MEET THE FEMA STANDARDS FOR GRANTING OF A VARIANCE FOR UNDERGROUND PARKING OF RESIDENCE IN A FLOODPLAIN*

1. "Good and sufficient cause" has not been shown by the applicant. There are false claims by staff in Findings for Permit (and by the applicant) that he could not build a 1750 square foot residence unless this deviation is granted. However, Page 116 of the Ocean Beach Precise Plan (OBPB) conclusively shows that is not true. Staff claims in the Findings that the San Diego Municipal Code requires 25% of lot size to be devoted to parking in the multi-unit RM-2-4 zone. This would make sense IF parking were being planned for more than one unit. However, since he is proposing a single family residence, requiring 25% of lot size (600 square feet—enough for 4 cars!) is not a reasonable interpretation of this Code.
  
2. The "Failure to grant the variance would result in exceptional hardship to the applicant" FEMA standard (60.6(a)(3)(ii) has not been met. Ms. Iskandar's November 4, 2005 letter to Mr. Stebbins clearly states that such circumstances do not merit a Variance. She was correct then and it is puzzling why she and staff changed their formerly valid assessment. See also #1.
  
3. The proposal might cause "nuisances" as stated in Mr. Stebbins' engineers Report (Christian Wheeler Engineering, August 5, 2005):  
"We are not indicating that the de-watering operation will cause settlement but rather that it might cause settlement on adjacent properties. If it does occur, we expect it will result in only minor cosmetic distress that can be easily repaired." To grant a Variance, a proposal must not cause a nuisance as stated in 60.6(a)(3)(iii). This sub-section also states that a variance will not conflict with local laws or ordinances. The proposal does conflict with the OBPB as stated in that Section. Also, Ms. Iskandar's aforementioned letter demonstrates that the proposal does conflict with local ordinance.  
Evidence that the proposal would result in increased threats to public safety is in FEMA code which states:  
"A community shall notify the applicant in writing over the signature of a community official that (I) the issuance of variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property." Section 60.6(a)(5)
  
4. "Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flooding hazard, to afford relief." The applicant has not shown that any "relief" would be attained by the variance for underground parking. He can clearly redevelop his property with the same square footage without underground parking as stated in reason #1.
  
5. The applicant has not demonstrated that flood depths would be three feet or less (for his lot which is contiguous with lots below the base flood level; staff and applicant have acknowledged that adjacent lots are below the base flood level). The MND (p. 1) and Permits acknowledge that

the parking area/basement would be 7 feet below the base flood---thereby missing the Variance standard by 4 feet! See Section 60.6c(1)(i).

Another possible conflict (though this is not as clearly documented as the above reasons) with FEMA variance standards, is that such deviations must not be subject to tidal flooding. See: Section.60.6 c. The CA Coastal Commission has required wave run up studies for redevelopment of residences which are located on the final street before the beach as is the Stebbins residence.

## MORE CONFLICTS WITH OTHER MATTERS

Council member Faulconer signed a pledge to ecological designer Jim Bell in exchange for Mr. Bell's endorsement of Mr. Faulconer's candidacy for City Council. Part of this pledge was that, if elected, he would oppose flood plain development. Approving this proposal would be inconsistent with that pledge.

## FINDINGS NOT SUPPORTED

Page 8, Finding No. 2 of the proposed Permits inaccurately states: "The proposed coastal development will not adversely affect environmentally sensitive lands."

The proposed de-watering will interfere with the existing groundwater table as stated above—potentially damaging adjacent residences. Flood plains are natural resources as described in Executive Order 11988 "Flood plain Management." (See: <http://www.usace.army.mil/cw/cecwo/reg/eo11988.htm>) The City of San Diego, has agreed to act in conformance with this Order as stated in Grant Conditions for repair of the Point Loma Outfall (1992) and for construction of the North City Water Reclamation Plant. This Order states that those charged with following the Order shall only allow proposals in a flood plain if it is the least environmentally damaging practicable alternative. This Order is much like the language of the city's ESL regulations which require a proposal's impacts on ESL to be "minimized." This proposal is not the least damaging practicable alternative nor does it "minimize" impacts to the flood plain or adjacent properties.

Page 8, No. 3 states: "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."

Coastal Permits must be approved by the State. The State and City is required to deny permits to proposals that would violate federal regulations as stated in the section ***FEMA "STRICTLY PROHIBITS" PARKING UNDER RESIDENCE IN FLOODPLAINS***

**Retaining walls needed:** Also, 2 six foot high retaining walls are proposed at the east and west ends of the proposed underground parking garage/basement. Such walls might be considered "shoreline protection devices" and the Coastal Commission might deny a Permit for these. If the underground parking were eliminated, the need for these walls would also be eliminated—as no such walls currently exist on the site which has at-grade parking.

**Detrimental to public health, safety and welfare:** Page 10, No. 2 states: "The proposed development will not be detrimental to the public health, safety, and welfare." This Finding is contradicted by Council Policy 600-14 "Development in areas of special flood hazard is unwise from a public health, safety, and general welfare standpoint." This Finding is also contradicted by FEMA restrictions on sub-surface parking beneath residences. The 9 foot vertical deviation from City Code requiring the bottom floor (including basements) to be elevated to 2 feet above the 100 year flood and the 8 foot vertical violation of FEMA regulations requiring the basement/garage to be one foot above the 100 year flood—is clear evidence this Finding is not supported by facts.

Related, at the February 8 hearing, a nearby resident testified that in the floods of 1982-83, his residence was under 2-3 feet of water and he lost everything.

Page 10, No. 3 states: "The proposed development will comply with the regulations of the Land Development Code. However, the deviation requested conflicts with SDMC 143.0146.C(6) and the code requirement to be consistent with FEMA regulations. City Project Manager Iskandar confirms this in her rejection of the Stebbins request for Variance. (Attachment 5)

**Site suitability:** Page 11, No. 1 states: "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." Page 11, No. 2 states "The proposed development will minimize the alteration of land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards." Page 12, No.3 states: "The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands." However, in her February 27 email to Randy Berkman (Attachment 9), project manager Iskandar replied that the city had not done any alternatives review. How can the proposal result in "minimum disturbance" to the flood plain and/or adjacent residences if no alternatives review was done? A design with at-grade parking is feasible and currently exists and would lessen potential flooding impacts by building up, not down as well as eliminating damaging impacts to adjacent residences from the proposed de-watering—since the proposed sub-surface excavation would be eliminated. Stebbins' own consultant wrote of eliminating the underground parking as an option (Attachment 10).

Page 13 No. 1 states "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." However, the "mitigation/flood proofing" proposed is explicitly prohibited by FEMA regulations. The FEMA Technical Bulletin 3-93 used to justify approval of the project—is for NON-RESIDENTIAL STRUCTURES. REGRETABLY, THIS VITAL PIECE OF INFORMATION WAS OMITTED FROM BOTH THE PERMITS AND MND—MAKING BOTH FUNDAMENTALLY MISLEADING AND INADEQUATE.

Page 13 No. 1 states: "There are no feasible measures that can further minimize the potential adverse affect on environmentally lands." Page 14 No. 2 states "The proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making." This is not true. The redevelopment could include at grade parking with no

impacts to groundwater and the proposed de-watering. See Attachment 3: Ocean Beach Precise Plan showing a 1750 square foot option on site without underground parking.

The lot is 2500 square feet—a very small size. The owner knew this when he bought it..

Page 14, No. 1 “Supplemental Findings, Environmentally Sensitive Lands Deviation from FEMA Regulations states: “The City engineer has determined that the deviation would not result in additional threats to the public safety, extraordinary public expense, or create a public nuisance.”

However, the City Engineer does not have the authority to violate FEMA regulations as stated in section on why a FEMA Variance is not merited.

#### MAJOR DEFICIENCIES IN THE MITIGATED NEGATIVE DECLARATION

The omission of information contained in FEMA Technical Bulletin 6-93 as stated in the section ***FEMA STRICTLY PROHIBITS” PARKING UNDER RESIDENCE IN FLOODPLAINS***

1. This omission misinformed and misled the CEQA public review process.
2. The MND refers to FEMA Technical Bulletin 3-93 without listing its title: “NON-RESIDENTIAL FLOODPROOFING—Requirements and Certification for Buildings Located in Special Flood Hazard Areas.” They are citing a Bulletin for NON-Residential structures to justify approval of sub-surface parking for a Residential structure.
3. Omission of the potential damages to adjacent residences which the consultant’s report states could occur with de-watering. This is a serious omission. Would adjacent property owners have testified in support of the project (February 8) if they had known this project could damage their residences?
4. LACK OF CUMULATIVE ANALYSIS FROM 3 STORY RESIDENCES, UNDERGROUND PARKING AND RETAINING WALLS. Two nearby landowners testified that they would do something similar with their property IF this plan is approved. An October 25, 2005 letter from David Stebbins to Laila Iskandar states that he has spoken with 6 neighboring landowners who will build similar projects if his is approved. (Attachment 4) This is “reasonably foreseeable evidence” (under CEQA) of impacts far beyond this one project. The “walling off impacts” of 3 story residences (compared to existing one story) of this street closest to the beach—have not been assessed as CEQA requires. Also, if underground parking were allowed, retaining walls would occur all along this stretch of beach-adjacent properties. The above cumulative impacts (neighborhood character, retaining walls, underground parking/public safety) require a Mandatory Finding of Significance under CEQA. Therefore, an MND cannot be approved for this proposal. Such “walling off” appears to be inconsistent with the requirements of the CA Coastal Act. The CA Coastal Commission would look very closely at such issues. Also, they would not issue a Permit for any proposal in violation of FEMA or CEQA.

5. Deviations from local regulations are evidence of significant impacts under CEQA. See: *Protect the Historic Amador Waterways v. Amador Water Agency* (2004), Cal.App.4<sup>th</sup> [No. C042915. Third Dist. Mar. 12, 2004 which is quoted:

“Under the Guidelines, however, “[e]ach public agency is encouraged to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects. A threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant.” (Guidelines, {Slip Opn. Page 11} § 15064.7, subd. (a).) Such thresholds can be drawn from existing environmental standards, such as other statutes or regulations. “[A] lead agency’s use of existing environmental standards in determining the significance of a project’s environmental impacts is an effective means of promoting consistency in significance determinations and integrating CEQA environmental review activities with other environmental program planning and regulation.” (*Communities for a Better Environment v. California Resources Agency*, supra, 103 Cal.App.4<sup>th</sup> at p. 111.)”

6. The cumulative socio-economic impacts of eliminating “affordable” housing rentals on this block have not been reviewed in the MND.

## CONCLUSION

As stated in Ms. Iskandar’s November 4, 2005 letter to the applicant, the proposal should be redesigned without the underground parking. It is unclear why staff reversed itself on their initial rejection of underground parking of a residence in a flood plain. The current proposal does not meet the FEMA requirements for a variance as no “extreme hardship” has been shown and other standards for variance are not met. Elimination of underground parking would minimize impacts to adjacent residences from the dewatering required. Elimination of the underground parking would also eliminate the private retaining walls which are inappropriate (and apparently precedent setting) in a non-cliff area on the final street before the beach. A redesign should be compliant with the Ocean Beach Precise Plan which recommends the preservation of “affordable” housing. A revised proposal should not set a precedent of “walling off” the final street before the ocean. Also, as City Planner Kempton wrote, such a proposal is not compliant with the OBPB because “Views from elevated areas and those adjacent to the beaches should be preserved and enhanced whenever possible.” (P. 82,83 OBPB).

The current plan would violate various city flood plain and FEMA regulations and is also inconsistent with the CA Coastal Act and CEQA. An MND cannot be approved for such a proposal since there is clear evidence of significant visual, land use and public safety impacts.

## ATTACHMENTS

1. FEMA Technical Bulletin 6-93 BELOW GRADE PARKING REQUIREMENTS FOR BUILDINGS LOCATED IN SPECIAL FLOOD HAZARD AREAS IN ACCORDANCE WITH THE NATIONAL FLOOD INSURANCE PROGRAM, *PP. 1,2*
2. Email from FEMA Hazard Mitigation Senior Specialist Gregor Blackburn to Randy Berkman (March 2, 2007).
3. Ocean Beach Precise Plan, P. 116.
4. David Stebbins' letter to City Project Manager Laila Iskandar (October 26, 2005)
5. Ms. Iskandar reply to #4—rejecting his request for a flood plain Variance for underground parking
6. Policy Review of Planner Kempton describing Bulk and Scale inconsistencies with OBPP, *PA 1-3*
7. OBPP, P. 24: recommendation for preservation of affordable housing
8. Wheeler Engineering Reply to City requests for geo-technical information including dewatering impacts to adjacent residences (August 5, 2005), *PP 1,2*
9. Ms. Iskandar email to Randy Berkman (February 27, 2007) stating no alternatives review had been done *P 1,2,3*
10. Applicant architect, James Flemming letter to City: "If we decided to eliminate the basement garage" (January 17, 2006)
11. OBPP. PP. 82-83

## APPEAL ADDENDUM

## NEW INFORMATION

CD COASTAL SHORELINE DEVELOPMENT OVERLAY  
ZONE (Appendix B of Local Coastal Program) PROHIBITS  
STEBBINS' RESIDENCE PROPOSAL

## BACKGROUND:

"On November 25, 1980, the San Diego City Council adopted the Ocean Beach Precise Plan (OBPP) Local Coastal Program Addendum." (Page 129, Ocean Beach Precise Plan). Page 130 of the OBPP shows that the CD Coastal Shoreline Development Overlay Zone is Appendix B of the Local Coastal Program (See Appeal Addendum, Attachment 1, p. 1)

The OBPP (p. 181, OBPP: See Appeal Addendum, Attachment 1, p. 2) contains the first page of the LOCAL COASTAL PROGRAM/CD COASTAL SHORELINE DEVELOPMENT OVERLAY ZONE. This Overlay Zone is:

"intended to provide land use regulations along the coastline area including the beaches, bluffs, and the land immediately landward thereof. Such regulations are intended to be in addition and supplemental to the regulations of the underlying zone or zones, and where the regulations of the CD Zone and the underlying zone are inconsistent, THE REGULATIONS OF THE CD ZONE SHALL APPLY" [caps added]. This language proceeds Section 2. LAND USES:

"In a CD Zone the following uses are permitted: 1. Any use permitted in the underlying zone subject to the same conditions and restrictions applicable in such underlying zone AND TO ALL REQUIREMENTS AND REGULATIONS OF THIS ARTICLE." (Caps added) (P. 181, OBPP)

"All requirements and regulations of this Article" include:

Section 3. LIMITATIONS OR PERMITTED USES (P. 185, OBPP: See Appeal Addendum, Attachment 1, p. 4). states:

"Uses permitted in the CD Zone shall be subject to the following development criteria:

1. Development Criteria - Beach. For the purposes of this Article, beach shall be considered as that area lying seaward of the first contour line defining an elevation 15 feet above mean sea level (North American datum, 1929). No structures of any type shall be erected or placed on the beach except:

- a. Structures pursuant to a permitted use as specified in Section 2, subsections 2 and 3 of this Article." (P. 185, OBPB: See: Appeal Addendum Attachment 1, p. 4)  
 "Subsections 2 and 3 of this Article" are found on page 183 of the OBPB:

"(2) Permanent or temporary beach shelters provided that such shelters shall be at least 50 percent open on the seaward side and that permanent shelters are so placed and constructed that the floor thereof is at an elevation no lower than 15 feet above mean sea level (North American Datum, 1929).

(3) Sea walls or other structural devices where necessary to prevent erosion of the base of the bluff as the result of wave action provided that such sea wall or other structural device:

- (i) shall be constructed essentially parallel to the base of the bluff; (ii) shall not obstruct or interfere with the passage of people along the beach at any time (iii) is necessary to protect coastal-dependent uses or to protect existing principal structures or public beaches in danger from erosion...." (Appeal Addendum Attachment 1, P. 3)

Notice that the above regulations do not mention "sand" to define the beach, but rather define the "beach" as "that area lying seaward of the first contour line defining an elevation 15 feet above mean sea level." Page 2 of the MND states that the Stebbins' lot is at 8 feet above mean sea level—"beach" according to the Coastal Development Zone. Since the applicant is not proposing a "beach shelter" or sea wall as defined above (the only 2 permitted uses in the "beach" (area 15 feet above sea level or lower), but rather a permanent residence-- it is not allowed by this Overlay Zone—which takes precedence over the underlying residential zone as stated on page 181 of the OBPP/Local Coastal Program/CD Coastal Development Overlay Zone. (Appeal Addendum, Attachment 1, p. 2) It is understood that the City Code defines "coastal beach" as "the land between the edge of the sea and the first line of terrestrial vegetation or development or the toe of an adjacent sensitive coastal bluff or sea wall, whichever is most seaward." However, that definition does not apply to the Local Coastal Program.

San Diego Municipal Code states: "Any coastal development requiring a Coastal Development Permit [as does Stebbins' residence] must conform to the regulations in the certified Local Coastal Program." [such as quoted above] (Ch. 14, Art. 3, Div. 1, page 9, (8)).

Related to the severe development restrictions on such low lying, ocean adjacent land, a City document shows that the value of the Stebbins' land--with improvements, is less than \$100,000! (See Attachment 6, p. 3)

#### APPEAL ADDENDUM ATTACHMENTS

1. PP. 130 (Attach P.1), 181 (Attach. P.2), 183 (Attach. P.3), 185 (Attach. P. 4) Ocean Beach Precise Plan/Local Coastal Program Addendum

M. Hachmatt 1  
P. 1

RECEIVED  
CLERK'S OFFICE

ATTACHMENT 13

07 MAR 14 PM 1:01

SAN DIEGO, CALIF.  
TECHNICAL BULLETIN 6-93

**Below-Grade Parking Requirements  
for Buildings Located In Special Flood Hazard Areas  
in accordance with the  
National Flood Insurance Program**

**Introduction**

The purpose of this bulletin is to provide technical guidance on the National Flood Insurance Program (NFIP) floodplain management requirements for below-grade parking garages for non-residential buildings in Special Flood Hazard Areas (SFHAs) shown on Flood Insurance Rate Maps (FIRMs).

Below-grade parking garages are commonly found in large engineered commercial buildings and are used for parking and access to the above-grade floors of the building. Flooding of these enclosed areas may result in significant damage to the building and any mechanical, electrical, or other utility equipment located there, such as ventilation equipment, lighting, elevator equipment, and drainage pumps. The garage walls, which often are major structural components of the building's foundation, are also susceptible to flood damage. The potential for injury to anyone in the garage, the potential for damage to parked cars, and the safety issue of removing parked cars when flooding threatens are important design considerations.

Note: Users of this bulletin are advised that it provides guidance that must be used in conjunction with Technical Bulletin 3, "Non-Residential Floodproofing — Requirements and Certification." The conditions and requirements set forth in both bulletins must be met for any below-grade parking garage to be in compliance with the minimum requirements of the NFIP regulations. A Floodproofing Certificate for Non-Residential Structures must be completed for any building in an SFHA with below-grade parking.

**NFIP Regulations**

The NFIP regulations provide direction concerning whether or not below-grade parking is permitted in SFHAs, both coastal and riverine. For the purposes of the NFIP, below-grade parking is considered a basement. A basement is defined as any area of a building having its floor subgrade (below ground level) on all sides. The following subsections provide applicable excerpts from the NFIP regulations.

**Below-Grade Parking Garages in Residential Buildings in A Zones**

Section 60.3(c)(2) of the NFIP regulations states that a community shall:

*"Require that all new construction and substantial improvements of residential structures within Zones A1-A30, AE and AH on the community's FIRM have the lowest floor (including basement) elevated to or above the base flood level..."*

Under the NFIP, a below-grade parking garage is considered a basement if it is below grade on all sides. Therefore, the construction of below-grade parking garages is prohibited beneath residential buildings in Zones AI-A30, AE, and AH.

Section 60.3(c)(7) of the NFIP regulations deals with residential buildings in Zone AO (sheet flow with depths of 1 to 3 feet) requirements. Section 60.3(c)(7) states that a community shall:

*“Require within any AO zone on the community’s FIRM that all new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community’s FIRM (at least two feet if no depth number is specified).”*

Therefore, below-grade parking garages beneath residential buildings in Zone AO are prohibited.

#### Below-Grade Parking Garages in Non-Residential Buildings in A Zones

Section 60.3(c)(3) of the NFIP regulations states that a community shall:

*“Require that all new construction and substantial improvements of non-residential structures within Zones AI-A30, AE, and AH on the community’s FIRM (i) have the lowest floor (including basement) elevated to or above the base flood level, or (ii) together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. ”*

Below-grade parking garages are permitted beneath non-residential buildings in Zones AI-A30, AE, and AH provided the building (including the parking garage) is floodproofed to the base flood level in accordance with the design performance standards provided above in Section 60.3(c) (3)(ii). Only below-grade parking garages (in non-residential buildings) that are dry floodmoofed are permitted under the NFIP. Guidance on floodproofing is provided in the FEMA manual “Floodproofing Non-Residential Structures” and in Technical Bulletin 3, “Non-Residential Floodproofing — Requirements and Certification.”

Section 60.3(c)(8) of the NFIP regulations deals with non-residential buildings in Zone AO (sheet flow with depths of 1 to 3 feet) requirements. Section 60.3(c)(8) states that a community shall:

*“Require within any AO zone on the community’s FIRM that all new construction and substantial improvements of nonresidential structures (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community’s FIRM (at least two feet if no depth number is specified), or (ii) together with attendant utility and sanitary facilities be completely floodproofed to that (base flood) level to meet the floodproofing standard specified in Section 60.3(c)(3) (ii).”*

Therefore, below-grade parking garages are permitted beneath non-residential buildings in Zone AO provided the building (including the parking garage) is floodproofed to the base flood level in accordance with the design performance standards of Section 60.3 (c)(3) (ii). Because of the

Attachment 2

RECEIVED  
CITY CLERK'S OFFICE

P.L.  
ATTACHMENT 13

07 MAR 14 PM 1:01

SAN DIEGO, CALIF.

Dear Mr. Blackburn: I appreciate your straightforward reply. What consequences could there be to an NFIP community which knowingly approved parking under residence in a floodplain--despite being presented with the clear language of FEMA Technical Bulletin 6-93? Thank you, RB

---

Subject: RE: parking under residences in FEMA A zone/100 year floodplain  
Date: Fri, 2 Mar 2007 09:05:13 -0700  
From: gregor.blackburn@dhs.gov  
To: jrb223@hotmail.com  
CC: raymond.lenaburg@dhs.gov

Dear Mr. Berkman:

Mr. Ray Lenaburg forwarded your e-mail to me for a reply.

The provisions of Technical Bulletin 6-93 are explicit. The National Flood Insurance Program regulations strictly prohibit the placement of below-grade parking garages under residential structures. If I can be of further assistance or if you have more questions you may contact me by phone or e-mail.

---

Gregor P. Blackburn, CFM

Senior Natural Hazards Program Specialist

National Flood Insurance Program

DHS-FEMA, Region IX

1111 Broadway Street, Suite 1200

Oakland, CA 94607

(510) 627-7186 voice

9:10 AM 3/02/07

**Blackburn, Gregor** (gregor.blackburn@dhs.gov)

To: Randy Berkman (jrb223@hotmail.com)

Subject: RE: parking under residences in FEMA A zone/100 year floodplain

A community which has permitted construction in violation of their local flood damage prevention ordinance (which must meet the requirements of Vol. 44 of the Code of Federal Regulations) and having been found in violation of the NFIP would be required to remediate the violation to the maximum extent possible. If the community does not work to remediate the violation they could be put on probation or suspended from the program. If the community is in the Community Rating System--where discounts are given on flood insurance premiums--those discounts could be rescinded.

I can only assume that these inquires border on leaving the hypothetical. Know you of such a structure?

-----  
Gregor  
(510) 627-7186

-----  
**From:** Randy Berkman [mailto:jrb223@hotmail.com]  
**Sent:** Friday, March 02, 2007 8:48 AM  
**To:** Blackburn, Gregor  
**Subject:** RE: parking under residences in FEMA A zone/100 year floodplain

RECEIVED  
CITY CLERK'S OFFICE

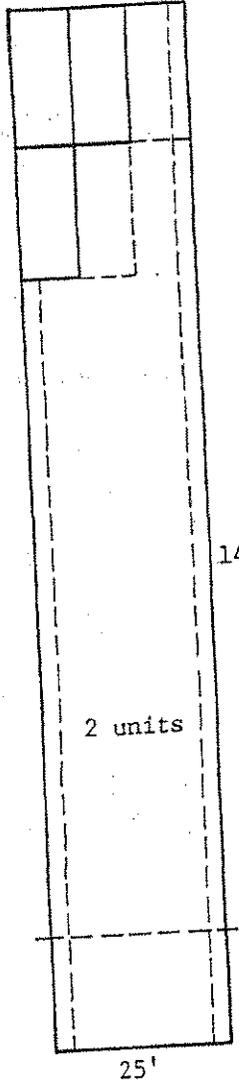
ATTACHMENT 13

07 MAR 14 PM 1:02

SAN DIEGO, CALIF.

OCEAN BEACH

Illustrative or typical density proposal  
25 dwelling units/acre. (one unit for every 1750 sq. ft. lot area)



140'

2 units

25'

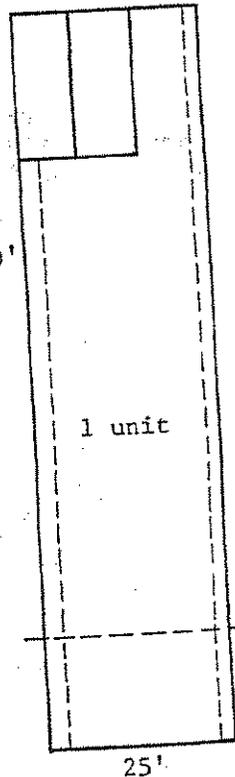
Probable development

A 2 story building,  
one unit per floor,  
1225 maximum sq. ft./  
unit,  
or  
2 units on one floor,  
having 825 sq. ft.  
each.

100'

Probable development

A 2 story unit,  
having 1750 sq. ft.  
maximum floor area,  
or  
A one story unit  
having a maximum  
of 1250 sq. ft.



1 unit

25'

FAR - .7

Parking - 2 spaces/unit, tandem acceptable but only w/alley access.

Yards - front - 15'  
interior side - 3'  
rear - 0' except as required for auto maneuverability

Height - 24' with a maximum of 2 stories

Landscaping - 20% of the total lot, 60% of the required front yard

Lot coverage - 50%

1164

THE LAW OFFICES OF DAVID STEBBINS

4948 Voltaire St., Ste 1-A  
San Diego, CA 92107

RECEIVED  
CLERK'S OFFICE

07 MAR 14 PM 1:02

Telephone 619-223-9440  
Facsimile 619-223-0174

ATTACHMENT 13

SAN DIEGO, CALIF.

*Attachment 4*  
*P. 1*

TO: Laila Iskandar  
FROM: David Stebbins  
RE: Stebbins Residence, 5166 W. Pt. Loma

10/26/05

Dear Ms. Iskandar,

Here is the document we discussed. As you can see, Fema clearly provides for discretion on the community's part in granting an exception to an underground "basement" in a flood zone. The attached regulation has specific direction on what is required. Please note the following factors which mitigate in my favor;

1. I am not proposing a "basement" in the commonly used sense. The area will be used only for parking and for storage. Fema distinguishes this use in their other regulations when it comes to flood proofing.
2. If my property was a commercial property with identical characteristics I would clearly be able to have under ground parking as Fema provides regulations for flood proofing such a property.
3. The flood zone I am in was created, I believe prior to the levee; this levee now protects my property from floods which, if you look at the map, come not from the ocean, but from the river. Flooding, if any would be low velocity and shallow due to the protection of the Levee.
4. Each year the city continues to build a berm on the beach during the winter months. During the last horrific winter, the parking lot in back of my property stayed as dry as a bone.

If you will review the attached document, you will see that my property would obviously meet all of the other Fema criterion for a variance quite. I am willing to spend the money to flood proof the basement according to your/an engineer's instructions.

#### SCALE

As we discussed, I am only building a 1750 sq. foot house. If I must park above ground, this would reduce an already modest house (by anyone's standards) to a tiny house. This type of house would almost certainly be esthetically limited as it would not make sense to spend as much money on such a project. The result would be just another boxy, drab house.

With all due respect, sooner or later the City must realize that this valuable land cannot be allowed to remain a sort of Beach Ghetto. The parking is currently all done in the setbacks. Half the tenants have constructed illegal ocean view decks. All of the properties on my block are eyesores; just painting them would make them "stick out".

0111. T  
P. 2

ATTACHMENT

13  
cumulative  
impacts  
not  
addressed  
in PWD

There are several large multi-story properties within one block of me. I have spoken to at least six of the other owners on my same block. They have all been supportive of my plans. They have all expressed doing the same thing if I can prove it is doable. They have all offered to send letters if it would help. Consequently, once the ball is rolling, there should be an incremental change in the block. Just because I am the first and will "stick out" does not mean that I do not conform to the specific plan. It just means I am the first!

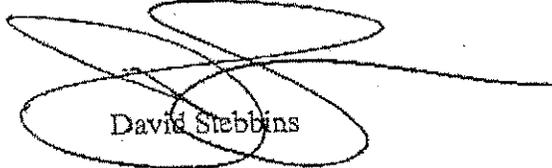
I would like you to note that there is one owner who successfully completed a two unit condo project on Brighton with underground parking last year. He is approx 20 feet out side the flood zone. I would be surprised if the flood map is truly accurate to within 20 feet. Actually, he is only about 30 feet from the sand. As we discussed, Quigs is a commercial project that was built with underground parking using flood proofing.

So, there are some close precedents from a practical standpoint for what I propose. I am asking for a little flexibility on the part of you and your staff. I live and work in Ocean Beach. It would be a great hardship for me to have to move somewhere else in order to live in a bigger house.

If there are any more "project stoppers" other than the above, please bring them to my attention. If you have any other ideas please feel free to bring them to my attention as well; I am flexible. It is my hope that my home will be the start of a very exciting and pleasing revitalization of the block.

I appreciate your kind attention and help.

Sincerely,



David Stebbins

From: Laila Iskandar  
To: Davidstebbins@cox.net  
Date: 11/4/2005 2:15:32 PM  
Subject: Re: Underground parking / PTS# 51076 / Stebbins residence

RECEIVED  
CITY CLERK'S OFFICE

*A Hook 5*  
ATTACHMENT 13

07 MAR 14 PM 1:02

SAN DIEGO, CALIF.

Hi David,

Please note the following information in response to your letter dated October 26, 2005. After receipt of your letter, I brought this project forward to Management for discussion. Management have reviewed the project and supports the staff's initial determination that City staff cannot support the request for an underground parking for the project site. As the development is taking place within the 100 Year Floodplain zone, certain standards/regulation design must be applied, and the project as presented including the request for Variance or deviation is not in compliance with City Ordinance which do not allow for construction below grade in these circumstances. As noted previously in our early assessment reports that in order for staff to support the project, applicant shall demonstrate conformance with the SDMC section §143.0146(c)(6) requirement in regard to development within a Special Flood Hazard Area and having the lowest floor, including basement, elevated at least 2 feet above the base flood elevation.

City staff recommends the following:

- 1) Redesign the project to meet the above requirements - Long Range Planning staff will consider supporting the project as long as the proposed structure utilizes fenestration, balconies, vertical and horizontal offsets, architectural detailing and articulation to break up the building facades and minimize bulk and scale.
- 2) Applicant may contact Fema to request a letter of Map Amendment or Map Revision. For additional information, please contact City staff person "Christy Villia" at 619-533-3455.
- 3) Applicant may consider consolidating lots to accommodate his needs.

Should you choose to continue processing, this application requires a Process 3 decision by a Hearing Officer. Under the present circumstances, staff would recommend denial of your request however; the Hearing Officer who will conduct the future hearing on this matter may approve, conditionally approve or deny the application at a noticed public hearing. The decision of the Hearing Officer may be appealed to the Planning Commission. A decision by the Planning Commission is the final decision by the City. Since the project lies within the Coastal Commission appealable area, the project may be appealed to the California Coastal Commission.

Please don't hesitate to call me if you have any questions.

Thanks-

Laila Iskandar  
Development Project Manager  
Development Services  
1222 First Ave., 5th Floor, MS 501  
San Diego, CA 92101-4506  
Phone: 619 446-5297; Fax 619 446-5499  
Email: liskandar@sandiego.gov  
Website: www.sandiego.gov

POLICY REVIEW COMMITTEE

# Track 6

ATTACHMENT 13

RECEIVED  
CITY CLERK'S OFFICE

DATE: 12-22-04

COMMUNITY PLAN: Ocean Beach

07 MAR 14 PM 1:02

PLANNER: Kempton

SAN DIEGO, CALIF.

PROJECT NAME: Stebbins residence

PTS/PROJECT NO.: 51076

PROJECT TYPE:

- CPA INITIATION
- DEVELOPMENT PROJECT WITH CPA (initiation date )
- DEVELOPMENT PROJECT WITHOUT CPA
- POLICY ISSUE

ASSOCIATED DISCRETIONARY PERMITS: CDP

DPM: L. Iskandar

1747

PROJECT DESCRIPTION: CDP to demolish an existing one-story duplex and construct a new 2,211 sq. ft. three-story single dwelling unit on a 2,500 sq. ft. lot located at 5166 W. Point Loma Blvd., designated for medium density residential (25 du/ac) in the RM-2-4 zone. Coastal Zone appealable, Coastal Height Limit Overlay Zone, Airport Environs Overlay Zone, Airport Approach Overlay Zone.

No Public View

ISSUES: Bulk & scale with neighboring development plus views, light & air. The northern section of W. Point Loma has been largely redeveloped with predominately three-story structures but this section of W. Point Loma, south of Voltaire, is an enclave of sixteen one-story structures that is typical of the "small scale/historic cottages" identified in the OB Precise Plan. Scraping one of these duplexes and building a three-story residence would adversely affect the above policies, as described below.

POLICY REVIEW COMMITTEE

H. Itach. 6  
P. 2

ATTACHMENT 13

The proposal would adversely affect the following policies in the Ocean Beach Precise Plan: "That views available from elevated areas and those adjacent to the beaches and ocean be preserved and enhanced wherever possible." Proposal would block views from elevated areas as well as those adjacent to the beaches as proposal is on the first public ROW from the ocean. Proposal would also adversely affect the following policy: "That yards and coverage be adequate to insure provision of light and air to surrounding properties, and that those requirements be more stringent where necessary for buildings over two stories in height and for lots greater than 40' in width. " Proposal would cast shadows over neighboring buildings/residences and impact air circulation. Because there can be no habitable space on the first floor in the flood plain the applicant is faced with building a much larger structure than the original or not receiving much benefit, in terms of FAR (from original) by building up only two stories, considering the 25% parking requirement in the RM-2-4 zone.

---

---

---

---

# Parcel Information Report



THE CITY OF SAN DIEGO  
Development Services  
1222 First Avenue, San Diego, CA 92101-4154

*A Hardie &  
P. B.*

1/11/05 17:04

Report Number 101

Page 1



North

100 feet

Scale is Approx

## Map Layers Included In Report

Description	Visible	Transparent	Has Intersecting Features
Roads	<input checked="" type="checkbox"/>		No
Freeways	<input checked="" type="checkbox"/>		No
Parcels	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Yes
Orthophotos (1999)	<input checked="" type="checkbox"/>		No

Every reasonable effort has been made to assure the accuracy of this map. However, neither the SanGIS participants nor San Diego Data Processing Corporation assume any liability arising from its use.

THIS MAP IS PROVIDED WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

PROPRIETARY INFORMATION: The use of this information is pursuant to sublicense agreement only. Any resale or relicensing of this information is prohibited, except in accordance with such sublicense agreements.

## Intersecting Features

Parcels			Valuation	Other
APN	Recordation	Owner Information		
531-400-1200	Record: 442650 Date: 12/4/03	FOX MARY LV	Land: \$60,273	Units: <input type="checkbox"/>
	Legal:	809 CORNISH DR*SAN DIEGO CA	Imp: \$37,032	Taxable: <input type="checkbox"/>
Address(es)	BLK L LOT 12	SAN DIEGO CA 92107	Total: \$97,305	Own Occ: <input type="checkbox"/>
945 SUNSET CLIFFS BL				

RECEIVED  
CITY CLERK'S OFFICE

07 MAR 14 PM 1:02

SAN DIEGO, CALIF.

- o That yards and coverage be adequate to insure provision of light and air to surrounding properties, and that those requirements be more stringent where necessary for buildings over two stories in height and for lots greater than 40-foot in width.
- o That floor area ratios of about .7 for a 25 du/ac density, 1.0 for a 38 du/ac density, and 1.3 for a 54 du/ac density be developed, and that consideration be given to increasing or decreasing them for purposes of providing positive or negative incentives for development, based upon detailed criteria.
- o That a height limit of 30 feet be established for all residential areas.
- o That two off-street parking spaces be provided for every residential unit and that tandem parking be permitted provided that access is from the rear of the lot and provided that at least one space per unit opens on to an alley.
- o That at least 20 percent of lots be landscaped, including all of the required front yard.
- o That lower income housing be encouraged to be maintained in Ocean Beach, especially through the minor rehabilitation of existing substandard units.
- o That an affirmative action program be established in order to inform persons of the choices of existing housing and to insure that builders and developers of housing are aware of all available housing programs.
- o That current assessment practices be evaluated in order to determine their impact upon the community with respect to goals of the Precise Plan.
- o That taxation programs be evaluated for purposes of providing tax relief and encouraging development compatible with the goals of the Precise Plan.

RECEIVED  
CITY CLERK'S OFFICE  
07 MAR 14 PM 1:02  
SAN DIEGO, CALIF.



CHRISTIAN WHEELER  
ENGINEERING

*A Hash. 8*  
*P. 1*  
ATTACHMENT 13

RESPONSE TO  
GEOTECHNICAL REVIEW OF DOCUMENTS

PROPOSED SINGLE-FAMILY RESIDENCE  
5166 WEST POINT LOMA BOULEVARD  
SAN DIEGO, CALIFORNIA

SUBMITTED TO:

DAVID STEBBINS  
4948 VOLTAIRE STREET, SUITE 1A  
SAN DIEGO, CALIFORNIA 92107

SUBMITTED BY:

CHRISTIAN WHEELER ENGINEERING  
4925 MERCURY STREET  
SAN DIEGO, CALIFORNIA 92111

CWE Response:

It is our opinion that construction of the proposed retaining walls will not destabilize adjacent property or result in settlement of the neighboring structures. No mitigation measures are necessary.

City Comment:

6) The geotechnical consultant indicates that construction dewatering may result in settlement of adjacent property. Provide mitigation measures. Indicate if adverse effects are unavoidable.

CWE Response:

As indicated in the geotechnical report, it is our opinion that the dewatering operation might cause some minor settlement of improvements on adjacent property. We are not indicating that the dewatering operation will cause settlement but rather that it might cause settlement on adjacent properties. If it does occur, we expect it will result in only minor cosmetic distress that can be easily repaired. In addition to monitoring of improvements on adjacent property both before and after the dewatering operation, we recommended that the dewatering operation be performed on a localized basis (as practical) in order to minimize possible impacts. Specific recommendations for both monitoring and dewatering operations should be provided by the appropriate contractor.

City Comment:

7) Address lateral spread and the potential for a flow slide.

CWE Response:

Based on the conditions at the site (relatively level terrain and Bay Point Formation materials at generally less than 15 feet below existing grades), it is our opinion that the potential for lateral spread and a flow slide is very low, even though there is a finite (yet undetermined) probability of such an event occurring.

City Comment:

8) Explain the significance of the site location for contributing to the low risk potential from tsunamis. Provide rationale for conclusions regarding tsunami hazard.

CWE Response:

Tsunamis are great sea waves produced by a submarine earthquake or volcanic eruption. Historically, the San Diego area has been free of tsunami-related hazards and tsunamis reaching San Diego have generally

Attachment 9

RECEIVED ATTACHMENT 13  
CITY CLERK'S OFFICE

3:18 PM 2/27/07

Laila Iskandar (LIskandar@sandiego.gov)

07 MAR 14 PM 1:02

SAN DIEGO, CALIF.

To: jrb223@hotmail.com

Cc: savewetlands@cox.net; jimbellob@hotmail.com; Mike Westlake (MWestlake@sandiego.gov); Sabrina Curtin (SCurtin@sandiego.gov); Stephen Lindsay (SLindsay@sandiego.gov)

Subject: Re: Stebbins residence questions after reading the MND

Mr. Berkman,  
Please see my responses below with regard to your inquiry.

Q. What is the purpose of the 6 ft. high retaining walls proposed on both sides of the underground garage/basement?

A. The retaining wall are on both sides of the driveway to retain the soil and support the structure.

Q. Would the base of these walls be at currently existing grade or at the excavated for parking lot grade?

A. The base of the walls will be at the same level as the basement grade.

Q. Would these walls be north, south, east, or west of proposed underground parking?

A. The proposed retaining walls will be on the east and west side of the driveway.

Q. The MND mentions foundation preparation for liquefaction mitigation. What exactly is proposed to mitigate liquefaction (sinking columns to bedrock, densification of underlying soil)? I don't see how a merely 6 ft. excavation for parking could mitigate liquefaction unless columns were sunk to bedrock). Is a 6 ft. excavation enough for underground parking?

A. The project's geotechnical consultant, has addressed the liquefaction potential of the site. They indicate that a surficial layer of beach deposits 11 to about 16-feet deep underlie the site. Below groundwater, these deposits are considered susceptible to earthquake induced liquefaction. Excavation for the proposed structure is expected to remove the upper 6-feet of these deposits. The consultant recommends that the proposed residence is founded on a rigid concrete mat foundation. In addition, the consultant recommends removing and compacting soil to a depth of 1 foot below the proposed mat foundation. The consultant indicates that the anticipated liquefaction induced settlement will be about 2.9 and 1.5-inches; total and differential, respectively.

Details of the design will be reviewed at the building permit phase of the proposed development.

Q. Has staff considered any alternatives to the proposed plan? If not, why not?

A. No. Staff only reviews and comments on projects proposed.

Q. What is the document which states that the source of 100 year flood would be storm drain overflow? Is that document available online?

A. This information is based on the master drainage plan for Ocean Beach, prepared in 1998, during a 100-year event, the peak discharge is higher than the capacity of the storm drain system, which would result in ponding within this low-lying area. I don't believe this information is on line.

Q. Has the site been assessed for ocean flooding? At the hearing, a neighboring resident testified that in '82-83, his residence had 2-3 ft. of water which caused substantial property loss. It is difficult to believe that was from only urban flooding with no ocean water contribution.

A. No. Ocean flooding is not considered an issue for properties in this area.

Q. Is the owner aware of the NFIP HIGH insurance rate issues I have documented due to the proposed sub-surface parking/basement?

A. Yes.

Q. Would the city be responsible for relocation expenses of any renter of the duplex and/or nearby duplexes if they redevelop?

A. No, because this area does not meet the Coastal Overlay Zone Affordable Housing Replacement Regulations requirement, as the demolition involves less than three units within one structure.

Q. The revised MND states: "With regards to the dewatering plan, it is not enforced through the discretionary process; however, compliance with the procedures for dewatering as outlined above would preclude potential impacts resulting from ground failure." What is the source of this statement? Couldn't dewatering this site create a subsurface water flow and rise to other nearby residences and undermine their foundations?

A. Construction of the subterranean portions of the structure will require dewatering. The geotechnical consultant indicated that the dewatering might cause minor settlement of adjacent properties resulting in minor cosmetic distress that can be easily repaired. They recommended that the condition of structures and improvements adjacent to the subject property be documented before the dewatering operations begin and be monitored during the dewatering operation. In addition, the consultant recommends

that the dewatering program be performed on a localized basis (as practical) in order to minimize possible impacts.

Thanks, Laila

>>> "Randy Berkman" <jrb223@hotmail.com> 2/9/2007 10:15 AM >>>  
Ms. Iskandar:

After more review of the MND, I have the following questions. If you wish, for your convenience, I could email directly to the project analyst/MND author--if you provide me his/her email.

1. What is the purpose of the 6 ft. high retaining walls proposed on both sides of the underground garage/basement?
2. Would the base of these walls be at currently existing grade or at the excavated for parking lot grade?
3. Would these walls be north, south, east, or west of proposed underground parking?
4. The MND mentions foundation preparation for liquefaction mitigation. What exactly is proposed to mitigate liquefaction (sinking columns to bedrock, densification of underlying soil)? I don't see how a merely 6 ft. excavation for parking could mitigate liquefaction unless columns were sunk to bedrock). Is a 6 ft. excavation enough for underground parking?
5. Has staff considered any alternatives to the proposed plan? If not, why not?
6. What is the document which states that the source of 100 year flood would be storm drain overflow? Is that document available online?
7. Has the site been assessed for ocean flooding? At the hearing, a neighboring resident testified that in '82-83, his residence had 2-3 ft. of water which caused substantial property loss. It is difficult to believe that was from only urban flooding with no ocean water contribution.
8. Is the owner aware of the NFIP HIGH insurance rate issues I have documented due to the proposed sub-surface parking/basement?
9. Would the city be responsible for relocation expenses of any renter of the duplex and/or nearby duplexes if they redevelop?
10. The revised MND states: "With regards to the dewatering plan, it is not enforced through the discretionary process; however, compliance with the procedures for dewatering as outlined above would preclude potential impacts resulting from ground failure." What is the source of this statement? Couldn't dewatering this site create a subsurface water flow and rise to other nearby residences and undermine their foundations?

A Hash. 10

RECEIVED  
CITY CLERK'S OFFICE ATTACHMENT 13

**JAMES SCOTT FLEMING**

STONEBROOK STUDIO, INC ARCHITECTURE AND PLANNING PM 1:02

SAN DIEGO, CALIF.  
COPY TO LAKE ISLANDAN

January 15, 2006

Mr. Stephen Lindsay  
Development Services  
City of San Diego  
1222 First Avenue, San Diego, CA 92101

Re: Stebbins Residence (PTS#51076)

Dear Steve:

Per our phone conversation last week, it is my understanding that we will not be held to the five(5) foot maximum depth below flood line level for the floor of the garage as indicated in the FEMA material I sent to you. This requirement appears not to be applicable to our single project request for the basement allowance in the floodplain. Our Garage floor will be approx. 6.5 feet below the flood level of 9.6. I would like to request a quick response acknowledging this information so that we can revise our plans accordingly for resubmittal.

VAR

I also understand that if we decided to eliminate the basement garage and provide a surface parked carport instead, that even though this surface would be below the 9.6, that it would be an acceptable alternative, as the parking surface is allowed at existing grade as long as the remaining living area is above the flood line level.

;) )

I look forward to your response.

Sincerely;

Scott Fleming  
Project Architect

cc: David Stebbins  
Laila Iskandar

IF No Problem then VAR will not be required

RECEIVED  
CITY CLERK'S OFFICE

OBPP

ATTACHMENT

Attach. 11

13

07 MAR 14 PM 1:02

GENERAL RECOMMENDATIONS  
SAN DIEGO, CALIF.

The coastline is a physical resource with distinct visual, psychological and functional qualities. For these reasons, the relationship of Ocean Beach to the coast should be considered carefully. The people of California have demonstrated their concern for coastal conservation by passing Proposition 20, the Coastal Zone Conservation Act, in 1972. The California Coastal Zone Conservation Commission has set as policy that the entire California coastal area should be recognized as a prime regional, state, and national resource. Virtually all of the Ocean Beach Precise Plan area falls within the 1,000' boundary of the coastal permit zone. The guidelines established by the Coastal Commission and the eventual plan, now being prepared, do and will contain important policies that should be considered in any future planning or development in Ocean Beach.

The views available from elevated areas and those adjacent to the beaches and ocean should be preserved and enhanced wherever possible. The City is presently drafting scenic hillside protection regulations that are specifically intended to aid in view preservation. The Comprehensive Planning Organization has a Coastal Vistas Map that defines such views. Development incentives should be considered to encourage removal of existing view-blocking structures and to encourage any new development or redevelopment from committing the same fault. Street trees, when planted, should be located so as to not block views upon maturity and to complement the surrounding area.

One of the primary methods of preserving and improving the physical appearance of Ocean Beach is to continue the desirable qualities which contribute to its character. One of the objectives of the residential element is that new residential construction be in the form of garden-type units, absent from excessive height and bulk and compatible with the overall existing character of the community. It is also important to preserve those existing structures that add to the charm of the area. A policy of the Coastal Commission is that new development shall be compatible with existing structures in terms of finished materials, colors and structured elements. Since most of the Ocean Beach Precise Plan area falls within the 1,000' coastal permit zone, this particular policy presently comes under their purview. Detailed development standards should be established in order to insure the preservation of the physical community.

The major goal of the Commercial Element is to maintain the distinct and compact nature of existing commercial centers. Newport Center should continue as the cultural heart of the community. Its pedestrian orientation should be strengthened. The design of existing and new buildings should reflect the scale and character of the existing center. Specific criteria should be developed to insure this occurrence.

Additional sign criteria should be developed that is specifically designed to enhance the character of the Ocean Beach community. Signs in the Newport commercial center, for example, should be of a small scale, giving information and direction to the pedestrian and slow-moving cars. Other criteria should detail the size of signs, materials, textures, lettering styles, and layout of the copy. Off premise advertising signs should be specifically prohibited.

Some major utilities have been undergrounded in Ocean Beach. Most of the community would benefit from an undergrounding program, specifically along heavily traversed streets. In some residential areas, however, the streets have been successfully landscaped to soften the look of poles and wires, or the lines have been located in alleys. In these instances, other environmental problems should receive a higher priority.

General landscaping recommendations exist within the individual elements of this plan. More specific criteria should be developed, including a list of vegetation types best suited to the beach community. Such criteria should be disseminated through Ocean Beach. These criteria should be coordinated with landscape guidelines of the San Diego Coast Regional Commission. Landscaping should be composed of vegetation and other natural features. All plant material should be maintained in a healthy, growing condition.

Elements such as beachfront promenades, bikeways, benches, signs, street lights, telephone booths, fountains, drinking fountains, mail boxes, trash cans, bike racks, railings, sidewalks, planter boxes, play equipment, fire hydrants, and paving material all act together to establish the visual quality of an area. Where they are located and designed haphazardly they add visual confusion and clutter to an area. All such elements should exist in a coordinated manner, and should be designed to relate to each other and to the community in order to enhance visual quality. Street furniture should relate physically and functionally to the user. These items, although small in size, can be the accent necessary to insure that the community projects a positive image.

### Summary of Plan Recommendation

- o That future planning and development preserve the integrity of the coastline the length of Ocean Beach.
- o That views available from elevated areas and those adjacent to the beaches and ocean be preserved and enhanced wherever possible.
- o That detailed development standards be established in order to insure the preservation of the character of the residential community.

Appeal Addendum  
Attach 1

OCEAN BEACH PRECISE PLAN  
LOCAL COASTAL PROGRAM ADDENDUM

RECEIVED ATTACHMENT 13

CITY CLERK'S OFFICE

07 MAR 14 PM 1:02

SAN DIEGO, CALIF.

<u>TABLE OF CONTENTS</u>		<u>Page</u>
I.	INTRODUCTION . . . . .	I-1
II.	SHORELINE PUBLIC ACCESS. . . . .	II-1
III.	RECREATION AND VISITOR-SERVING FACILITIES. . . . .	III-1
IV.	SHORELINE DEVELOPMENT. . . . .	IV-1
V.	LOCATING AND PLANNING NEW DEVELOPMENT. . . . .	V-1
VI.	COASTAL VISUAL RESOURCES . . . . .	VI-1

TABLE OF FIGURES

Figure 1	Coastal Zone . . . . .	I-2
Figure 2	Coastal-Oriented Facilities. . . . .	II-2
Figure 3	Public Coastal Access. . . . .	II-7
Figure 4	Visitor-Serving Commercial . . . . .	III-5
Figure 5	Shoreline Development. . . . .	IV-4
Figure 6	Sunset-Nimitz Triangle/Pueblo Lot 212. . . . .	V-2
Figure 7	Commercial Parking . . . . .	V-8
Figure 8	Height Limits. . . . .	VI-4
APPENDIX A	Ocean Beach Issue Identification (LCP Phase I) . . . . .	A-1
APPENDIX B	CD Coastal Shoreline Development Overlay Zone	B-1

Appeal No. 100-100-100  
Attach. 1  
P. 2

CD COASTAL SHORELINE DEVELOPMENT OVERLAY ZONE

ATTACHMENT 13

Section 1. **PURPOSE AND INTENT.** The CD Coastal Shoreline Development Overlay Zone is intended to provide land use regulations along the coastaline area including the beaches, bluffs, and the land area immediately landward thereof. Such regulations are intended to be in addition and supplemental to the regulations of the underlying zone or zones, and where the regulations of the CD Zone and the underlying zone are inconsistent, the regulations of the CD Zone shall apply. The purpose of the CD Coastal Shoreline Development Zone is to provide for control over development and land use along the coastline so that the public's interest in maintaining the shoreline as a unique recreational and scenic resource, promoting public safety, and in avoiding the adverse geologic and economic effect of bluff erosion, is adequately protected. New construction in the CD Coastal Shoreline Development Zone shall be designed and located so as to minimize risks to life and property and to assure stability and structural integrity and neither create or contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms in said Zone.

Section 2. **LAND USES.** In a CD Zone the following uses are permitted:

1. Any use permitted in the underlying zone subject to the same conditions and restrictions applicable in such underlying zone and to all requirements and regulations of this Article.
2. Beach facilities constructed, owned and maintained by the State of California, County of \_\_\_\_\_\* or such other public agency or district as may be authorized to construct, own and maintain such facilities for the use of the general public; including but not necessarily limited to:

\* City of San Diego

- (2) Permanent or temporary beach shelters provided that such shelters shall be at least 50 percent open on the seaward side and that permanent shelters are so placed and constructed that the floor thereof is at an elevation no lower than 15 feet above mean sea level (North American Datum, 1929).
- (3) Sea walls or other structural devices where necessary to prevent erosion of the base of the bluff as the result of wave action provided that such sea wall or other structural device:
  - (i) shall be constructed essentially parallel to the base of the bluff; (ii) shall not obstruct or interfere with the passage of people along the beach at any time; (iii) is necessary to protect coastal - dependent uses or to protect existing principal structures or public beaches in danger from erosion; (iv) is designed to eliminate or mitigate, to the maximum extent feasible, adverse impacts on local beaches, shoreline sand supply or transport; (v) shall assure stability and structural integrity for the economic life of the structures or uses it is to protect; (vi) shall neither create nor contribute significantly to erosion or instability of adjacent property; and (vii) shall mitigate or eliminate any alteration of natural landforms or adverse effects to the scenic qualities of the coast.
- (4) Upon the issuance of a special use permit, any use allowed in the underlying zone by special use permit; provided that the Board of Supervisors determines that such use is consistent with the intent and purpose of the CD Zone.
- (5) A record of Survey map shall be filed with the State Lands

\* City Council

4. Upon the issuance of a special use permit, any use allowed in the underlying zone by special use permit; provided that the Board of Supervisors determines that such use is consistent with the intent and purpose of the CD Zone.

Section 2. SPECIAL USE PERMIT REQUIRED. Notwithstanding any other provisions of this ordinance, no building permit may be issued or construction commenced on any building or structure in the CD Coastal Development Overlay Zone, except one-family dwellings and structures appurtenant thereto, unless a special use permit therefore has first been granted by the Board of Supervisors. Applications for such special use permit approval shall be submitted to the Director of \_\_\_\_\_ and shall be accompanied by such data and information as required by this Article for a site plan application.

Section 3. LIMITATIONS OR PERMITTED USES. Uses permitted in the CD Zone shall be subject to the following development criteria:

1. Development Criteria - Beach. For the purposes of this Article, beach shall be considered as that area lying seaward of the first contour line defining an elevation 15 feet above mean sea level (North American Datum, 1929). No structures of any type shall be erected or placed on the beach except: *only seawalls, bluffs, beach shelters*
  - a. Structures pursuant to a permitted use as specified in Section 2, subsections 2 and 3 of this Article.
2. Development Criteria - Bluff. For the purposes of this Article, a bluff is a scarp or steep face of rock, decomposed rock, sediment or soil resulting from erosion, faulting, folding, or excavation of the land mass. The bluff may be simple planar or curved surface or it may be steplike in section. For the purposes of this Article, bluff is limited to those features having vertical relief of ten feet or more, and whose toe is or may be subject to marine erosion. "Bluff edge" is the upper termination