THE CITY OF SAN DIEGO

MANAGER'S REPORT

DATE ISSUED: May 30, 2001 REPORT NO. 01-107

ATTENTION: Honorable Mayor and City Council
Docket of June 5, 2001

SUBJECT: Kretowicz Residence Rear Yard Improvements, Sensitive Coastal Resource (SCR)/Coastal Development Permit (CDP) No. 96-7148. Council District 1, Process Four

REFERENCE: Report to the Planning Commission No. P-01-032

OWNER/
APPLICANT: Ure R. and Dianne M. Kretowicz as Trustees, Princess Trust dated May 13, 1993

SUMMARY

Issue - Should the City Council deny the appeal of the Planning Commission's decision to approve a Sensitive Coastal Resource/ Coastal Development Permit for the removal of bluff improvements (currently in violation) and improvement of the site with a pool and spa, deck, retaining walls, area drains, landscaping, and provision of an emergency access easement on the site located at 7957 Princess Street?

Manager's Recommendation -

1. **DENY** the appeal of the Planning Commission's decision to approve the project with an additional condition, as described in the "Summary of Appeal and Staff Response, Item 3" in Attachment 13.

2. **CERTIFY** Negative Declaration No. 96-7148.

3. **APPROVE** SCR/CDP No. 96-7148, subject to conditions.

Planning Commission Action - The Planning Commission approved the project by a vote of 6-0 (with Commissioner Butler recusing as she was not present for the entire hearing) on February 17, 2001.

Community Planning Group Recommendation - The La Jolla Community Planning Association voted 7-0-1 to recommend approval of the project on February 1, 2001 (Attachment 11).

Environmental Impact - Negative Declaration No. 96-7148 has been prepared for this project in accordance with State CEQA guidelines.

Fiscal Impact - The cost of processing this project is paid for by the applicant.

Code Enforcement Impact - The proposed project would abate existing violations consisting of unpermitted landscape and hardscape improvements onto the coastal bluff. No action on this project would result in the continued presence of the violations and the referral of the open Neighborhood Code Compliance Department case to the City Attorney's Office for further action.

Housing Affordability Impact - None with this action. The proposed project is exempt from Council Policy 600-03.

BACKGROUND

Project Description:

The Kretowicz Residence Rear Yard Improvements project proposes the removal of all bluff improvements currently in violation (including wood timber stairs, retaining walls, and palm trees). The non-drought tolerant plant material on the bluff will be permitted to remain without irrigation, so that the removal of the landscape will not further impact the bluff. The project also includes a request to construct a pool with spa, concrete deck, barbeque counter, retaining walls, area drains, and landscaping. All such improvements, other than the on-grade concrete deck and landscaping, will be constructed at least 25'-0" from the bluff edge. Portions of the concrete deck and landscaping will be located within the 25'-0" bluff edge setback, but not closer than 5'-0" from the bluff edge, and is consistent with applicable regulations. The plant materials proposed for the landscaping have been evaluated by staff and the applicant's Registered Landscape Architect and have been confirmed to be appropriate for sensitive coastal blufftop placement. No changes would be made to the existing single-family residential structure.

This request was deemed complete prior to January 1, 2000 (the effective date of the Land Development Code), therefore the project is subject to the previously-existing regulations. The project site is located at 7957 Princess Street, within the La Jolla community (Attachment 1).

The site is within the R1-5000 Zone, the Sensitive Coastal Resource Overlay Zone, the Coastal Zone (appealable), the Beach Impact Area, the First Public Roadway, and the Proposition “D” 30'-0" Height Limit area. The site is currently developed with an existing single-family residence, and is located at the northern terminus of Princess Street. The property is at the nexus of a coastal bluff and coastal canyon. Portions of the 25'-0" and 40'-0" bluff edge setbacks are within the coastal canyon (Attachment 2).

The project application was originally submitted in early 1997 in response to a code enforcement complaint filed earlier for constructing unpermitted landscape and hardscape improvements onto the coastal bluff. The applicant submitted for appropriate permits to allow the improvements. During the course of review, the applicant has agreed to remove the illegal improvements and has since redesigned the project to comply with the coastal regulations of the San Diego Municipal Code.

PERMIT HISTORY

Prior Coastal Permits were issued by the State of California Coastal Commission on the property (Attachment Nos. 3, 4, and 5). All three permits were issued to a prior owner of the site. Permit No. F6760 was approved on June 2, 1978 when it was found that a proposed addition to the existing residence was compatible with existing development (Attachment 3). In reliance upon that permit, the applicant commenced development. A lawsuit was filed against the San Diego Coast Regional Commission by concerned citizens for having failed to make a public access and recreation finding on the project as required by the Coastal Act. The court ruled that such a finding must be made and the matter was remanded to the San Diego Coast Regional Commission to make specific findings on public access and recreation. It was made clear by the court that no other aspects of the approved project were to be reconsidered. After several hearings and much testimony, the Coast Regional Commission adopted findings which found the site inappropriate for vertical access and required no such access due to safety factors and lack of street parking among others. This decision was appealed to the State Coastal Commission, which on September 20, 1979, found that public access should be required and issued permit No. A-133-79 accordingly (Attachment 4). That permit required a five-foot-wide vertical access easement. A condition of Coastal Commission Permit No. F6760 required the applicant to submit a drainage plan to control runoff and that the plan be reviewed and determined adequate in writing by the staff engineer for the State Coastal Commission. Coastal Commission Permit No. F6760-A was approved March 26, 1980 to legitimize the drainage and runoff control measures which were implemented prior to the required Coastal Commission approval (Attachment 5). Permit F6760-A stated that the applicant had not yet granted the public access easement and the State Commission had turned the matter over to the Attorney General's Office for appropriate action. A recent search of Coastal Commission records and a title search of the subject property revealed that no vertical access easement was ever offered as required.

The current La Jolla-La Jolla Shores Local Coastal Program Addendum, adopted July 6, 1982, amended March 8, 1983, and reprinted in August 1985, suggests a reference to this site in the

Shoreline Access section, "Subarea D - Coast Walk" (Attachment 6). The language refers to a "single family house" on Princess Street. It provides no further description or reference to the particular site. However, it does further describe the litigation surrounding a vertical access easement and the Attorney General's involvement in enforcing such a condition. Moreover, the site at 7957 Princess Street is not identified in the La Jolla-La Jolla Shores Local Coastal Program Addendum, Figures 11 and 12, which describe physical shoreline access (Attachment 7) or Visual Access (Attachment 8).

DISCUSSION OF ISSUES

The project site is located at the nexus of a coastal bluff and coastal canyon above the Pacific Ocean. The site is adjacent to an identified major vista point within the current La Jolla-La Jolla Shores Community Plan and Local Coastal Program Land Use Plan (Attachment 8). This vista point is located on Spindrift Drive, which is at an elevation several feet above the subject site. The existing public view crosses over the existing residence and provides limited view opportunities down the existing southerly side setback. Princess Street is also designated as a visual access corridor, as it projects northward and along the easterly side setback of the property. The proposed improvements will not be located within the easterly side setback, and will be generally at grade within the southerly side setback. All plant material is required to be maintained so as not to interfere with public views to the ocean. The proposed development will not obstruct views to and along the ocean and other scenic coastal areas from either the designated major vista point on Spindrift Drive, nor the visual access corridor along Princess Street.

The current La Jolla-La Jolla Shores Local Coastal Program Addendum describes the potential for a vertical access easement located along one side of a Princess Street property (Attachment 6). Although not described specifically, the language suggests that this area is the subject site located at 7957 Princess Street, and its southerly property edge, based on past Coastal Commission permit language. Dedication of such a vertical access easement was never made. The current Local Coastal Program Addendum recommends the dedication of a vertical access easement for limited use, such as educational activities and lifeguard rescue. The sandstone shelves dropping to the rocky shoreline below are located at the rear of the property where lateral access is limited. Based on the existing site conditions along the southerly property edge, which include natural canyon features leading to a steep drop to the ocean below, use of such an easement for educational activities is unrealistic and no such requests have been made. After considerable review by City staff, including Risk Management, it was determined that the City should not require a public access easement at this location since it does not access a safe, open area, the natural canyon features lead to a steep drop to the ocean below, and traffic across the site would be destructive to the existing terrain. In addition, the vicinity of the Marine Room, less than 1/4-mile from the site, provides public access to the Pacific Ocean and additional on-street parking opportunities.

The City Lifeguards have indicated their preference for an emergency access easement, and the applicant has agreed to provide an easement for this purpose. Accordingly, the 3'-6" wide emergency access easement along the southerly property line is recommended and would prohibit all obstructions including retaining walls, fencing, or other structures from being placed within the easement area, with the exception of one gate leading to the rear yard of the property. The gate may be installed at the applicant's discretion, and by the applicant. Condition 24 of the draft permit contains specific language regulating the use of the easement, and the acceptable gate construction within this easement which must be accessible to the City Lifeguards. The gate may be a maximum of six feet in height and must be constructed of a material at least 75 percent open to light and air, which will also serve to provide an enhanced view corridor along that side yard. Further, a lockbox containing the means for opening the gate and keyed according to City Lifeguard's specifications must be provided on the gate.

The proposed project conforms with the underlying R1-5000 Zone, Sensitive Coastal Resource Overlay Zone, and Coastal Zone regulations. The project is consistent with the La Jolla-La Jolla Shores Community Plan and Local Coastal Program, and the General Plan for the City of San Diego. Therefore, the Planning and Development Review Department recommends approval of SCR/CDP No. 96-7148, subject to conditions (Attachment 9).

PLANNING COMMISSION HEARING

The project was heard by the Planning Commission on February 17, 2001. Testimony was given in favor by Ure Kretowicz, the applicant, and Sally Fall, a lifelong neighbor whose property overlooks the site. Ms. Fall supported the easement dedication for emergency access only and gave no testimony on the remainder of the project. She stated that the location of the emergency access easement, although a trail decades ago, is no longer viable for educational or other public use due to safety factors. She indicated approval of Condition 23 within the permit which would ensure future owners are aware of the easement. No other testimony in support of the project was heard.

Joanne Pearson, representing the La Jolla Town Council, spoke in opposition to the project. She expressed concern regarding public access, site stability, adequacy of the drainage plan, blufftop delineation, and stringline development.

Dorothea Rodiman, a neighbor on Princess Street, also spoke in opposition to the project. She acknowledged that the project site is not within her view area. She indicated an experience with the vulnerability of the cliffs, and stated that the drainage situation was a matter of great concern on the west side of Princess Street and that six to seven years ago the cliffs gave way under the weight of two small boys. She believed the pool would be questionable. No other testimony in opposition was heard.

Rob Hawk, the City's Senior Engineering Geologist clarified the geology of the site, including the coastal canyon and coastal bluff definitions. The Planning Commissioners discussed at

length: possible impacts to the proposed pool should an earthquake occur; potential drainage problems and remedies; the potential for physical public access across the site; the prior State of California Coastal Commission's permits and conditions of approval, including the original offer to dedicate access easement; the visual quality of the pool wall and whether a safety rail should be required; and the necessity of the Notice of Hazardous Condition--Indemnification and Hold Harmless Agreement.

The Planning Commission approved the proposed project by a vote of 6-0, with Commissioner Butler recusing as she was not present for the entire hearing. Two additional conditions to SCR/CDP 96-7148 were imposed by the Planning Commission to ensure their concerns were allayed. Namely, Condition 15 was modified to include a final sentence, "Consideration shall be given to the use of a dissipater system at the terminus of the existing 10" pipe." In addition, new Condition 24 was added, which states, "Any handrail required on the deck surrounding the pool shall be constructed of an open material in order to blend with the existing canyon face, to the satisfaction of the City Manager." The draft permit attached to this report contains the Planning Commission's modifications.

APPEAL TO THE CITY COUNCIL

On March 2, 2001, Joanne Pearson, representing the La Jolla Town Council, appealed the Planning Commission's unanimous approval of the Kretowicz Residence Rear Yard Improvements project (Attachment 12). The concerns raised by Ms. Pearson in her appeal are discussed in detail in Attachment 13. In summary, her concerns are related to:

- Public access
- Site development/stringline
- Drainage/pool backwash water
- Encroachment of the project onto existing physical accessway
- Visual compatibility of retaining walls, pool, and associated hardscape
- Geologic determination - coastal bluff/coastal canyon
- Coastal bluff edge location and definition
- Geologic setback and site stability
- Seacaves/geologic fault

Staff has analyzed and addressed Ms. Pearson's concerns in Attachment 13. Staff's analysis continues to support the findings for approval of the project.

It should be noted that the project can be appealed further to the California Coastal Commission.

ALTERNATIVES

1. APPROVE the appeal of the Planning Commission's decision to approve Sensitive Coastal Resource/Coastal Development Permit No. 96-7148 with modifications.

2. APPROVE the appeal and DENY Sensitive Coastal Resource/Coastal Development Permit No. 96-7148. Note that the proposed project would abate existing violations consisting of unpermitted landscape and hardscape improvements onto the coastal bluff. Denial of the proposed permit would result in the continued presence of the violations and the referral of the open Neighborhood Code Compliance Department case to the City Attorney's Office for further action. Therefore, staff recommends that a motion of denial include Council action approving the Sensitive Coastal Resource/Coastal Development Permit required for removal all unpermitted work and necessary restoration.

Respectfully submitted,

Tina P. Christiansen, A.I.A.
Development Services Director

Approved: George I. Loveland
Senior Deputy City Manager

CHRISTIANSEN:MS

Note: Only Attachment Nos. 9 and 13 were available in electronic format. A copy of Attachment Nos. 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, and 14 are available for review in the Office of the City Clerk.

Attachments:
1. Project Location Map
2. Project Plans
3. State of California Coastal Commission Permit No. F6760, dated June 2, 1978
4. State of California Coastal Commission Permit No. A-133-79, dated September 20, 1979
5. State of California Coastal Commission Permit No. F6760-A, dated March 26, 1980
6. La Jolla-La Jolla Shores Local Coastal Program Addendum; Shoreline Access section, "Subarea D - Coast Walk"
7. Physical Shoreline Access Map - La Jolla-La Jolla Shores LCP
8. Visual Shoreline Access Map - La Jolla-La Jolla Shores LCP
9. Draft Permit and Resolution
10. Ownership Disclosure
11. Community Planning Group Recommendation
12. Copy of Appeal
13. Summary of Appeal and Staff Response
14. Photos