

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST AREA OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060

27-4863

HEARING IMPAIRED: (415) 904-5200

W136  
2-19-97



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Hearing Date: 03/11-14/97  
Commission Action:

**STAFF REPORT:  
PERMIT AMENDMENT**

APPLICATION NUMBER: 3-83-200-A

APPLICANT: George Rossmann on behalf of all co-owners of AP# 028-233-21

PROJECT LOCATION: Seaward of 24th to 25th Avenue, Live Oak, Santa Cruz County (see Exhibits 1 - 3).

DESCRIPTION OF PREVIOUSLY-APPROVED PROJECT: Alteration and addition to existing rip-rap seawall.

PROJECT DESCRIPTION: Add additional rock rip rap to existing riprap seawall (see Exhibits 4 & 5).

LOCAL APPROVALS RECEIVED: none required.

SUBSTANTIVE FILE DOCUMENTS: *Santa Cruz County 1994 General Plan and Local Coastal Program*; Coastal Development Permit files: P-80-277; 3-83-200, A-3-SCO-88-55, 3-95-090-W

**PROCEDURAL NOTE**

The Commission's regulations provide for referral of permit amendment requests to the Commission if:

1. The Executive Director determines that the proposed amendment is a material change,
2. Objection is made to the Executive Director's determination of immateriality, or
3. The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends approval of the amendment request with standard and special conditions to address other agency approvals, geologic stability, construction access, and future maintenance.

**I. STAFF RECOMMENDATION**

Staff recommends that the Commission adopt the following resolution:

**Approval with Conditions**

The Commission hereby grants, subject to the conditions below, an amendment to the permit on the grounds that the proposed development with the proposed amendment, as conditioned, will be in

conformity with policies contained in Chapter 3 of the Coastal Act and (with respect to those portions inland of the mean high water mark) the certified local coastal program; is located between the nearest public road and the sea and will conform with public access and recreation policies of the Coastal Act; and will not have any significant adverse impacts on the environment with in the meaning of the California Environmental Quality Act.

## **II. STANDARD CONDITIONS**

1. **Notice of Receipt and Acknowledgment.** The permit amendment is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit amendment will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit amendment must be made prior to the expiration date.
3. **Compliance.** All development must occur in strict compliance with the proposal as set forth in the application for permit amendment, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. **Inspections.** The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

## **III. SPECIAL CONDITIONS**

### **1. Retention and Application of Original Permit Conditions**

Conditions # 1 through 5 of the previous coastal development permit (#3-83-200; Exhibit 7) and similar conditions #1 -7 of the earlier coastal permit for the site (P-80-277; Exhibit 6) remain in full force and effect and apply to this segment of the project as well as to the previous two segments.

a. Regarding public trust (Condition #2 of CDP #3-83-200), because this segment is in a different location and because the previous State Lands Commission determinations are 16 years old and non-definitive, an updated determination will be required as follows:

**PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the permittee shall submit to the Executive Director for review and approval**

- (1) Evidence that no State Lands are involved in the development; or

(2) State Lands are involved in the development and all permits, including dredging, required by the State Lands Commission have been obtained, or

(3) State Lands are involved in the development, but pending a final determination an agreement has been made with the State Lands Commission for the project to proceed without prejudice to that determination.

b. Regarding **Corps approval** (Condition #3 of CDP #3-83-200), because this segment is in a different location and because no previous Corps approval is in the permit file, updated evidence of approval shall be required as follows:

**PRIOR TO COMMENCEMENT OF CONSTRUCTION**, the permittee shall submit to the Executive Director for review a copy of the U. S. Army Corps of Engineers Permit, letter of permission, or evidence that no Corps permit is necessary.

c. Regarding **Assumption of Risk** (Condition #2 of P-80-277), because the original deed restriction was recorded on a residential parcel only (not the subject parcel), a supplementary deed restriction shall be required as follows:

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the landowners shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicants understand that the site may be subject to extraordinary hazard from waves during storms and from related erosion, and (b) the applicants unconditionally waive any claim of liability on the part of the Commission or its successors in interest for damage from such hazards and agrees to indemnify and hold harmless the Commission, its offices, agents, and employees relative to the Commission's approval of the project for any damage. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens.

## **2. Use of Existing Rock**

Any suitable rock on the beach currently seaward of the proposed seawall toe shall be incorporated back into the seawall, as proposed.

## **3. Staging and Construction Plan**

Project construction shall conform to the recommendations and plans contained in the Geotechnical Investigation prepared for the subject project by Rogers E. Johnson & Associates, dated December 27, 1996. At least one week **PRIOR TO COMMENCEMENT OF CONSTRUCTION**, the applicants shall submit for Executive Director review and approval: a revised construction schedule (showing a beginning date after permit issuance), a map showing the areas of staging and construction located out of any wetlands, and final plan revisions, permission from any affected property owners, and an encroachment permit from Santa Cruz County, if necessary.

#### **4. Maintenance Agreement**

In order to implement existing condition #4 of CDP #3-83-200, which requires maintenance of the seawall, **PRIOR TO COMMENCEMENT OF CONSTRUCTION**, the landowners shall record a maintenance plan in a form and content acceptable to the Executive Director that includes the following elements: limits of approved toe of seawall, permanent survey monuments, engineering inspection report at least once every five years, procedures for maintenance, and consent for the County to perform removal or repair if a public nuisance is determined.

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### **IV. FINDINGS AND DECLARATIONS**

#### **A. Proposed Amendment Description and Relationship to Previous Permits**

The proposed amendment is to add approximately 1,000 tons of rock riprap to an existing riprap wall, which predates the Coastal Act (see Exhibits 4 & 5). The wall is continuous along a stretch of beach between Corcoran Lagoon and Moran Lake in Santa Cruz County, including the entire length of the subject 390 foot long parcel (see Exhibits 1 - 3). This parcel (AP# 028-233-21) is seaward of the first tier of blufftop residences and is jointly owned by all owners of the six residential lots. The subject parcel also fronts the end of two County rights-of-way, but the County no longer has an ownership interest in the subject parcel. (The entire parcel was once a public street that was reclaimed by shoreline erosion processes.) None of the work is proposed to occur on the parcels with homes on them; it will all occur on the seaward joint-ownership parcel.

In 1980 one of the residential lot owners (Eddlemon) requested a permit to add 740 tons of riprap to the cliff fronting his home and the adjacent County right of way (25th Avenue). This 90 foot frontage had some broken concrete and rock, but not engineered riprap. That permit (P-80-277; see Exhibit 6) was approved with conditions for seaward encroachment of the wall to be minimized, a deed restriction, State Lands determination, no prejudice of public rights, and future maintenance responsibility.

In 1983 another one of the residential lot owners (Gibson) similarly requested a permit to add riprap to that part of the wall fronting his home and the other road right -way (24th Avenue). This 90 foot frontage required approximately 675 tons of rock. The permit (#3-83-200; see Exhibit 7) was, likewise, approved with conditions for public access, State Lands determination, Corps approval, future maintenance responsibility, and following geotechnical recommendations. Future maintenance required a waiver or permit amendment. In 1995, Gibson received such a waiver (#3-95-090-W) to place an additional 200 tons of rip rap on the seawall fronting his property and the adjacent road right-of-way. The companion Santa Cruz County permit (95-0161) required seaward encroachment of the wall to be minimized along with drainage and erosion control.

In 1988 another of the residential lot owners (Menzie) applied for a permit to construct a new home. The County granted a permit which was appealed to the Coastal Commission. The Commission in turn upheld the County decision by finding "no substantial issue" (A-3-SCO-88-55). No work on the seawall was requested as part of this permit.

This subject amendment request is for additional riprap to the northwest of the work approved in 1980 and southeast of the work approved in 1983 and 1995. This intervening 160 foot frontage (of

Rossmann, Silveira, and Menzies residences) will require approximately 1,000 tons of rock. Granting of this amendment will mean that the entire property's seawall will have been improved pursuant to coastal permits, except for the northeasternmost 50 foot section fronting AP# 028-234-22 (see Exhibit 3).

The project is necessary, according to the consulting engineering geologist, Rogers Johnson & Associates, because over time the rocks comprising the riprap protection have sunk into the sand.

### **B. Local Coastal Program /Standard of Review**

The Commission is acting on this permit amendment since the Commission retains jurisdiction over amendments to Commission-approved permits after certification of a local coastal program (LCP). Also, a portion of the proposed project is most likely within the Commission's retained original jurisdiction. The County of Santa Cruz has indicated that no separate County permit is required and has agreed to have the Commission process the entire permit amendment, to avoid duplication of effort. Along with the relevant Coastal Act policies, the applicable County policies are also cited.

### **C. Public Access Issues**

The following excerpts from the Coastal Act are relevant:

#### *Section 30210.*

*In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

#### *Section 30211.*

*Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

#### *Section 30212.*

*(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:*

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,*
- (2) adequate access exists nearby, or,*

*(3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

*(b) For purposes of this section, "new development" does not include:*

- (1) Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610.*

*(2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.*

(3) *Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.*

(4) *The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not seaward of the location of the former structure.*

(5) *Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the commission determines that the activity will have an adverse impact on lateral public access along the beach.*

*As used in this subdivision "bulk" means total interior cubic volume as measured from the exterior surface of the structure.*

(c) *Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.*

Additionally, the County *General Plan and Local Coastal Program* mandates the following (policy 6.2.16):

*limit structural shoreline protection measures to structures which protect existing structures...Require any application for shoreline protective measures to include a thorough analysis of all reasonable alternatives...permit structural protection measures only if non-structural measures...are infeasible...or not economically viable. The protection structure must not reduce or restrict public beach access, adversely affect shoreline processes and sand supply, increase erosion on adjacent properties, or cause harmful impacts on wildlife and fish habitats...The protection structure must be placed as close as possible to the development requiring protection and must be designed to minimize adverse impacts to recreation and to minimize visual intrusion. Shoreline protection structures shall be designed to meet approved engineering standards for the site...[and] should only be considered where a significant threat to an existing structure exists...Detailed technical studies will be required to accurately define the oceanographic conditions affecting the site. All shoreline protective structures shall incorporate permanent survey monuments for future use in establishing a survey monument network along the coast...no approval shall be given for shoreline protective structures that do not include permanent monitoring and maintenance programs. Such programs shall include a report to the County every five years or less, as determined by a qualified professional, after construction of the structure, detailing the condition of the structure and listing any recommended maintenance work. Maintenance programs shall be recorded and shall allow for County removal or repair of a shoreline protective structure, at the owner's expense, if its condition creates a public nuisance or if necessary to protect public health and safety.*

and (policy 7.7.4):

*Protect the coastal blufftop areas and beaches from intrusion by nonrecreational structures and incompatible uses to the extent legally possible without impairing the constitutional rights of the property owner, subject to policy 7.6.2 [which states in part]:*

*Obtain trail easements by encouraging private donation of land, by public purchase, or by dedication of trail easements, in full compliance with California Government Code Section 65909(a) for development permits...provided that state and federal constitutional rights of landowners are not violated....Notwithstanding the foregoing, it is the policy of Santa Cruz County to accept offers to dedicate coastal access, complete, open, and maintain or assist other public agencies or private non-profit groups to complete, open, and maintain coastal accessways between the first public road and the shoreline as soon as feasible. This policy is not intended and shall not be construed as authorizing the exercise of the County's regulatory power in a manner which will take or damage private property for public use without the payment of just compensation in violation of the Constitution of the State of California or of the United States.*

**a. Beach Encroachment Issues:**

This project will cover approximately 1,240 square feet of sandy beach, currently used by the public for general recreational activities. The proposed project will extend generally 10 feet seaward from the toe of the current seawall, thus narrowing the usable beach. The subject property's current seawall already occupies about 20 feet of beach width. The three previous permits issued for the subject parcel together covered approximately 1,800 square feet of sandy beach. Thus, the project, when analyzed in conjunction with previous projects on the site, as well as other area seawalls, poses a potentially significant cumulative impact on the ability to use the beach for recreational purposes. Live Oak beaches are heavily utilized by local residents and visitors alike for typical beach activities, such as jogging and sunbathing. The subject property is part of an identified complex between Corcoran Lagoon and Moran Lake. A four-day count in August 1976 resulted in an estimated average daily use of this beach by 848 persons, showing it to be the second highest beach use area in Live Oak after Twin Lakes State Beach (*Technical Appendix; Live Oak General Plan; Planning Analysis and EIR*, October 1977). Estimated annual visitor count is 195,393, according to the 1980 Public Access Working Paper for the County LCP. The beach fronting the cliffs and seawalls is fairly narrow; less than 100 feet wide in summer to completely disappearing during part of the winter. As the beach narrows, visitors traversing the coast (i.e., walking, jogging) face the prospect of more interference with those sunbathing. As the beach further disappears, due to the various seawalls that have been installed, lateral access along the beach becomes impossible. The Commission's Regional Cumulative Assessment Project (ReCAP) heightened awareness of the cumulative impact associated with loss of sandy beach; an impact often not mitigated through individual permits in the area in which the project is located:

Incremental impacts to beach areas, access and the general character of the shoreline have occurred from approval of permits for shoreline armoring. Over the ReCAP time period [1983 - 1993], there have been measurable losses in beach access through increases in the length and area extent of shoreline armoring, but many permits have been approved without any conditions directed at access impacts.

ReCAP estimated that most of the stretch of beach between Corcoran Lagoon and Moran Lake is covered by armoring; approximately 1,700 linear feet. Using a typical 20 feet of sand beach coverage, this translates to approximately 34,000 square feet of beach now covered by rock. Since seawalls fix the bluff location and prevent beach replenishment from eroding cliffs, the usable beach areas will continue to narrow due to ongoing shoreline erosion. Projects, such as the subject proposal, contribute to and accelerate the cumulative loss of usable beach area in Live Oak.

The proposed project may possibly encroach upon State Lands. The project plans show all work being performed above what is shown to be mean sea level (i.e., the inland extent of State Lands). The 1980 permit was conditioned to require a State Lands determination. However, that determination was inconclusive noting "the exact extent of the State's interest has not yet been determined. Since the question of State interest remains unresolved, a lease or permit will not be required at this time." Given that this letter was written 16 years ago, that the proposed encroachment area under the amendment is in a different location, and that the proposed project extends the seawall seaward, a revised State Lands determination is required, as conditioned. The required State Lands determination for the 1983 permit request was not in the permit file.

The proposed project can be found consistent with Coastal Act access policies. Under Section 30212 cited above, certain projects may trigger an access requirement. The proposed project,

being a seawall that encroaches farther out on the beach, falls under such a "new development" category (Section 30212(b)4). In determining whether public access must be provided, the Commission must thus determine whether the project poses an adverse impact on lateral public access (Section 30212(b)5). As detailed above, individual and cumulative impacts do result by reducing the area available for beach recreational activities and imperiling the ability of the public to move laterally along the shoreline. The original permit (#3-83-200 to Gibson, Exhibit 7) required an offer of dedication for public access running from the toe of the seawall to the mean high tide line. This condition remains in full force and effect. (The offer has not yet been not picked up by a public body; although it has another seven years to run.)

Impacts from further seaward encroachment onto the beach can be addressed through conditions requiring seawall maintenance and incorporation of any currently displaced rock back into the project. Any future seaward extensions would require further evaluation, such as a subsequent permit amendment.

Given Constitutional private property rights, avenues in addition to the permit process need to be pursued in order to address the continued incremental loss of sandy beach that this request illustrates. As a follow-up to the referenced ReCAP study, Coastal Commission staff is preparing a specific Live Oak strategy. Implementation of the strategy could include development of specific programs to secure public entitlement (e.g., fee or easement purchase) of the beach, to minimize beach encroachment through more uniform seawall design standards, and/or to enhance public access facilities.

#### **b. Vertical Access Issues:**

The proposed project will also add riprap to the bluff below the end of 25th Avenue. About the last 50 feet of the street right-of-way have been landscaped by the adjacent property owner. This is to some extent exemplary in illustrating how Live Oak street ends can become vista point, mini-park overlooks; the addition of benches and trash cans would help make this space more inviting and hence usable to the public. Another way to ensure public access is to not allow private parties to fence or post "No Parking" signs in the public right-of-way without official permission. Investigation of citizen complaints has shown this practice to occur on streets in Live Oak.

Seaward of the landscaped street right-of-way is the subject parcel and seawall. The 1980 permit addressed vertical access from the end of the street down to the beach as follows:

*The project includes a County right-of-way which represents a possible access route to the beach if a stairway was constructed. However, rather than require that applicant to construct such a stairway, it would be more appropriate to have the County address this need through their LCP. This approach is more viable due to concerns over liability and maintenance. Placement of the rip-rap will not preclude the later construction of a stairway. (P-80-277 findings)*

The County LCP has since been certified and shows accessways at 23rd and 26th Avenue, not specifically at the subject 25th Avenue. Since 1980 it appears that some of the riprap has dislodged. A path is evident down the bluff over the rock and bare cliff area. The County LCP also provides:

*Protect existing pedestrian...access to all beaches to which the public has a right of access, whether acquired by grant or through use, as established through judicial determination of prescriptive rights, and acquisition through appropriate legal proceedings. Protect such beach access through permit conditions such as easement dedications or continued maintenance as an accessway by a private group...(Policy 7.7.10)*



The County LCP also provides for more specific planning for the area, in the form of the forthcoming Live Oak Community Plan. That plan, in turn, along with another County undertaking-- planning for a marine sanctuary coastal trail -- envisions additional access planning for the area. Thus, there may be a future desire for the County to formalize and improve access at the end of 25th Avenue.

Although the original plans submitted with this application showed substantial rock being placed at the end of the Avenue, the latest project plans do not. Thus, this project will not significantly interfere with the informal trail. If public access were ever to be formalized, it would have to be with the consent of the subject property owners. If a stairway was desired, it could be incorporated into a future rip rap repair project fronting the street end.

### c. Temporary Encroachment Onto the Beach

The applicants' proposed access route to the seawall is across private beach property at Corcoran Lagoon. This is the route used under 3-95-90-W. In order to ensure that public access disruption is kept to a minimum and public safety is not compromised, as well as to ensure that the applicant has permission to cross others' property and that resources are not damaged (e.g., Corcoran wetland,), a construction staging area plan is required. To date the applicants have provided a narrative, but not an accompanying map. They have also provided a schedule for performing the work in early March, which will have to be revised to reflect a time period after this coastal permit is issued.

As originally conditioned, and as so conditioned for incorporation of displaced rock, future maintenance, updated State Lands Commission determination, and a construction staging area plan, the proposed project amendment is consistent with the cited public access and recreation policies.

### D. Geotechnical Issues

The following excerpts from the Coastal Act are relevant:

#### *Section 30235.*

*Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply...*

#### *Section 30253.*

*New development shall:*

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor 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 along bluffs and cliffs.*

Also, relevant is County Local Coastal Program Policy 6.2.16 cited in the previous finding.

The proposed project is necessary because the rock has slipped away and the bluff is more susceptible to erosion. Almost the entire shoreline in this area is armored and several similar repairs have occurred over the years. The main issue posed by the current situation and proposed project is long-term structural stability. There is the possibility that the wall, even with added rock, could continue to fail in the future, resulting in rocks strewn on the beach and/or cliff failure. Therefore, to mitigate against this potential impact and to satisfy County policy, on-going maintenance of the structure is necessary. The previous 1983 permit has been conditioned as follows:

*4. It shall be the permittee's responsibility to maintain the rock on the subject parcel. Any rock which is moved (i.e., by storm waves) shall be retrieved by the owner. In the event that the wall needs routine maintenance or emergency repair, a waiver from the Executive Director or an amendment to this permit shall be required.*

The earlier 1980 permit was similarly conditioned as follows:

*5. It is the responsibility of the permittee and successors in interest in the property to maintain the seawall including over the County right-of-way in order to prevent rocks from scattering and prevent future emergency situations.*

*6. This permit authorizes future maintenance work on the seawall without separate coastal permit but subject to the approval of the Assistant Executive Director and any conditions he deems appropriate.*

The subject permit can be considered as the necessary amendment request to maintain the wall, although the work is in somewhat a different location. By approving this amendment, condition #4 of the 1983 permit and similar condition #5 of the 1980 permit will be explicitly extended to apply to the additional area of work not covered in these earlier permits. In order to clarify future responsibilities and parameters of work along the entire parcel, an additional clarifying condition is needed to establish a monitoring and maintenance plan.

Repair and maintenance of seawalls generally require coastal permits; always, if they involve mechanized equipment on the beach. The Commission does have some procedures to expedite approval of projects, such as waivers and immaterial amendments. To the extent that any future repair activities fall within the parameters of this or the previous permits and the required maintenance plan, the Commission would be in a position to expedite processing.

The previous 1980 permit also contained a standard assumption of risk condition: (#2 of P-80-277):

*within 30 days of the effective date of this permit, the applicant shall submit to the Executive Director, a deed restriction for recording, that binds the applicants and nay successors in interest. The form and content of the deed restriction shall be subject to review and approval of the Assistant Executive Director. The deed restriction shall provide:*

*(a) that the applicants understand that the project and construction site is subject to extraordinary hazard from waves during storms and from related erosion, and the applicants assume the liability from those hazards;*

*(b) the applicants agree that they will unconditionally waive any claim of liability on the part of the Commission or any other public agency for any liability as a result of the completion of construction of the project related to the hazards as identified above; and*

*(c) the applicants agree that the construction in the face of these hazards may make them ineligible for public disaster funds or loans for repair or replacement of the project designated by the engineering plans attached to the application, in the event of future storms and related erosion.*

This condition was recorded against one of the residential parcels (AP# 028-234-21) rather than as a deed restriction to the subject parcel. Therefore, it will be necessary to record a supplemental deed

restriction for the subject parcel (AP# 028-233-21). Standard assumption of risk language has changed from 1980 and is reflected in the recommended conditions. As so conditioned, the project is consistent with the cited Coastal Act and related local coastal program policies.

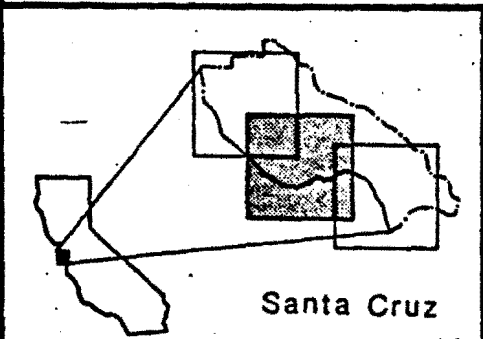
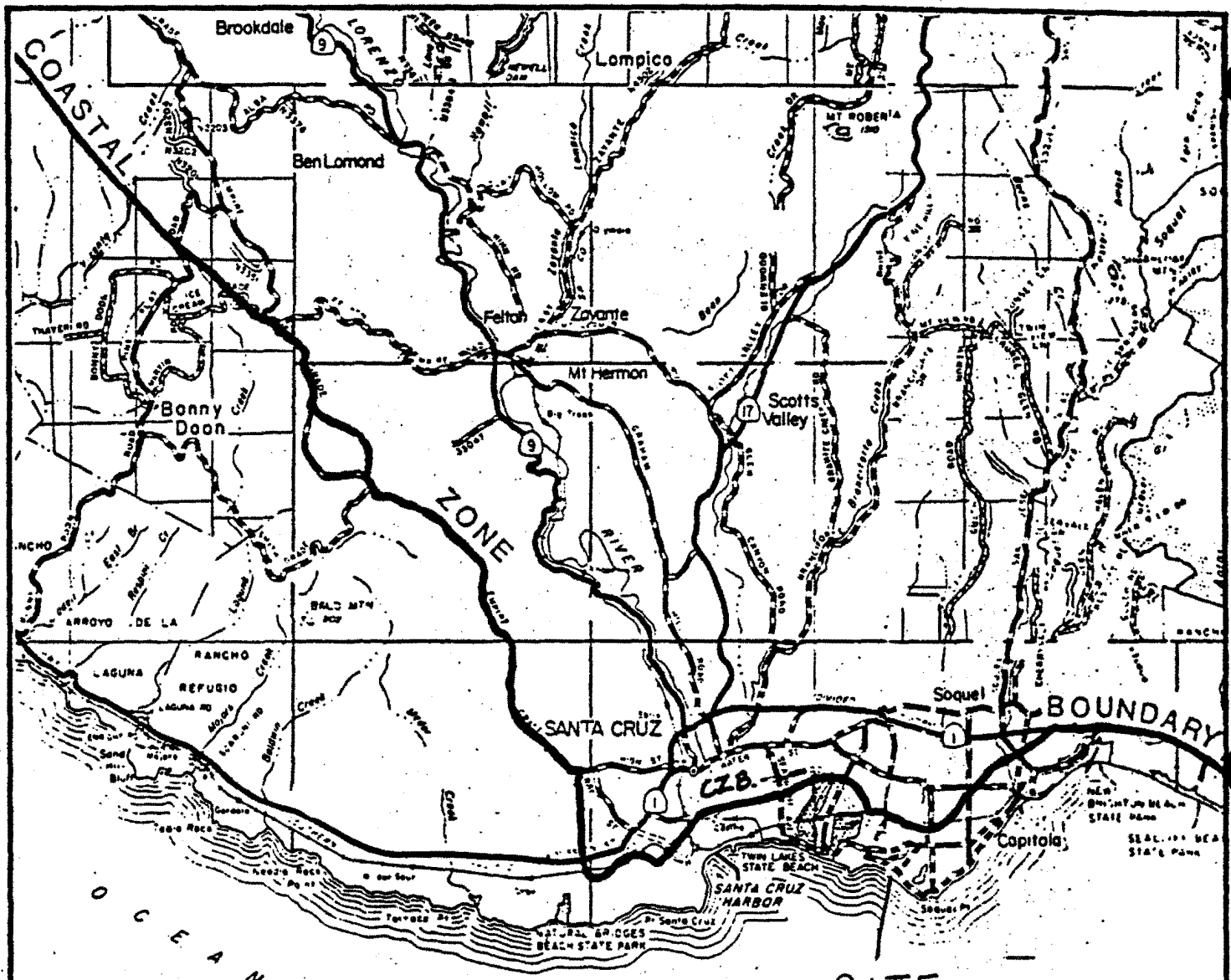
#### **E. California Environmental Quality Act**

Section 13096 of the California Code of Regulations governing the Coastal Commission requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5d(2)j of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

As discussed in these findings, the project has been mitigated to avoid significant geologic, habitat and public access impacts. As conditioned, the proposed development with the proposed amendment will not have a significant adverse effect on the environment, within the meaning of CEQA.

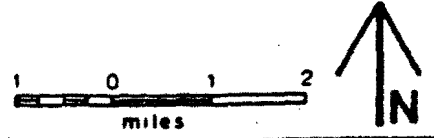
#### **EXHIBITS**

1. Regional Location
2. Area Location
3. Parcel and Project Location
4. Proposed Plan View
5. Proposed Cross-sections
6. Coastal Permit P-80-277
7. Coastal Permit 3-83-200



California Coastal Commission

LOCATION MAP



County of Santa Cruz

EXHIBIT 1  
 Sheet 2 of 3  
 3-83-200A  
 Rossmann et al.  
 Regional Location

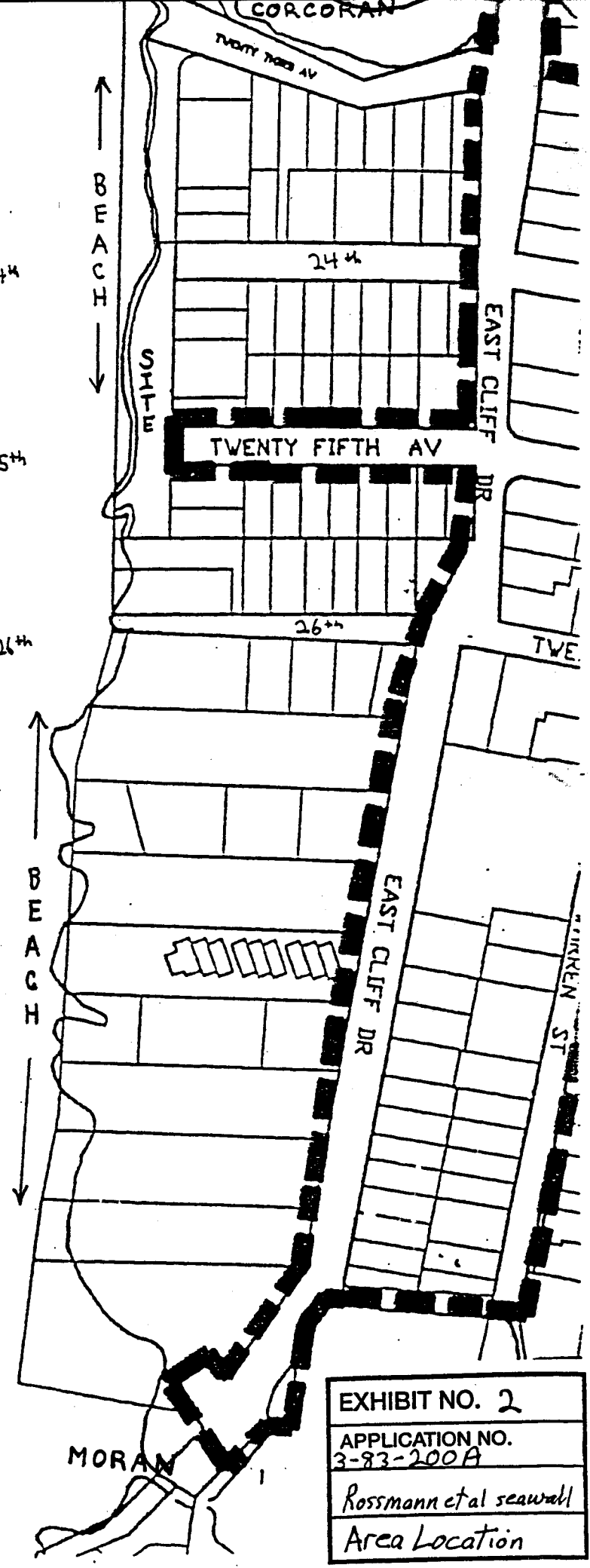
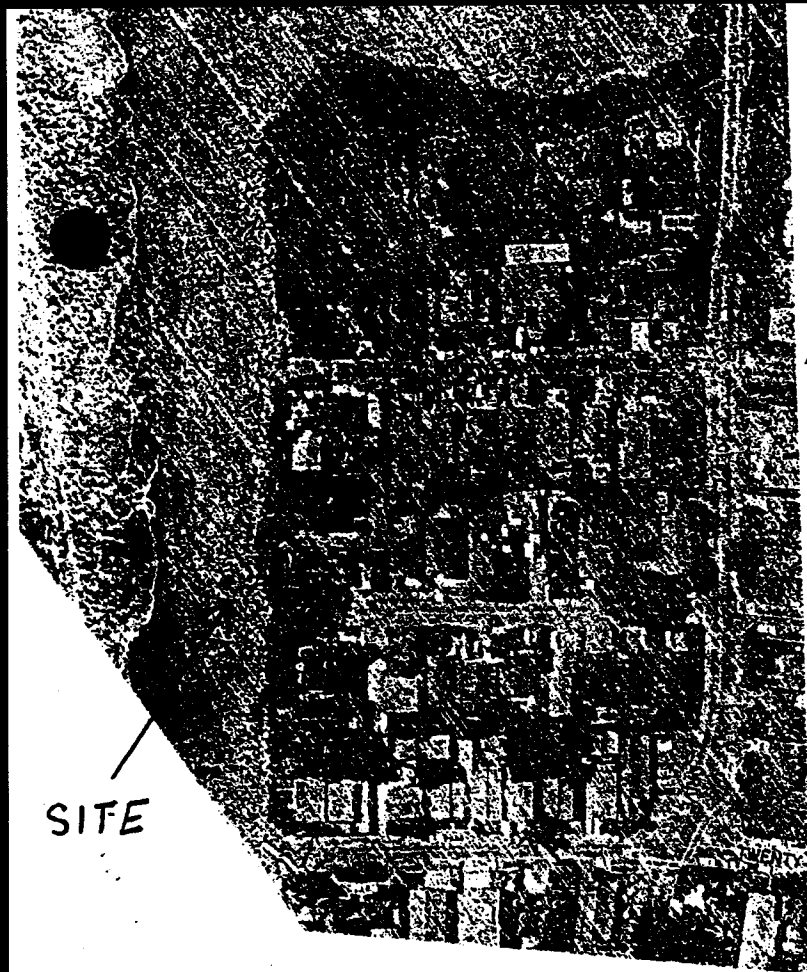


EXHIBIT NO. 2
APPLICATION NO. 3-83-200A
Rossmann et al seawall
Area Location

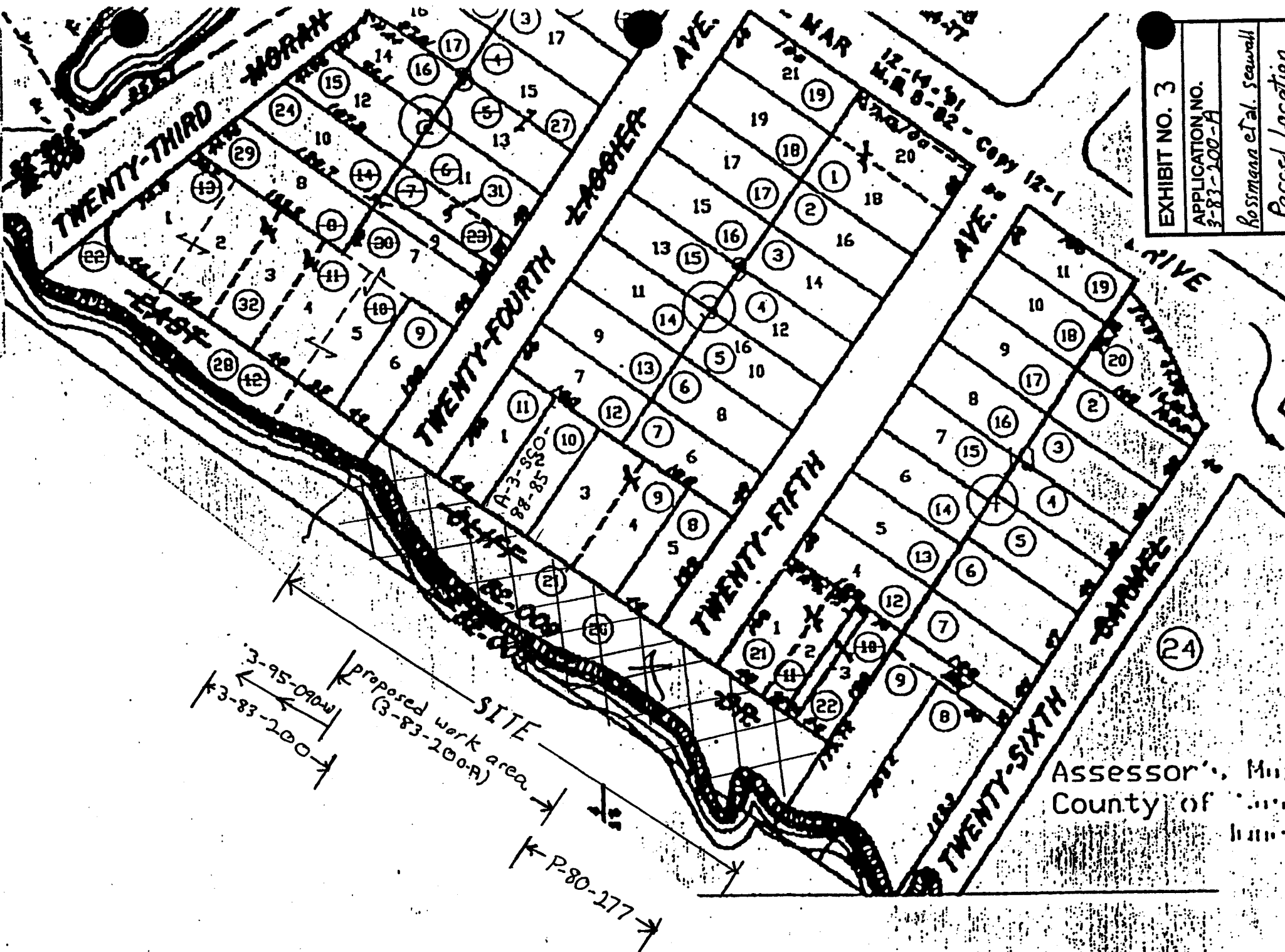
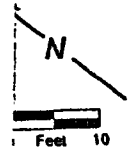


EXHIBIT NO. 3
APPLICATION NO. 3-83-200-A
Rossmann et al. Seawall
Parcel Location

← 3-95-090w  
 ← 3-83-200 →  
 ← P-80-277 →  
 ← Proposed work area (3-83-200-A) →  
 ← SITE →

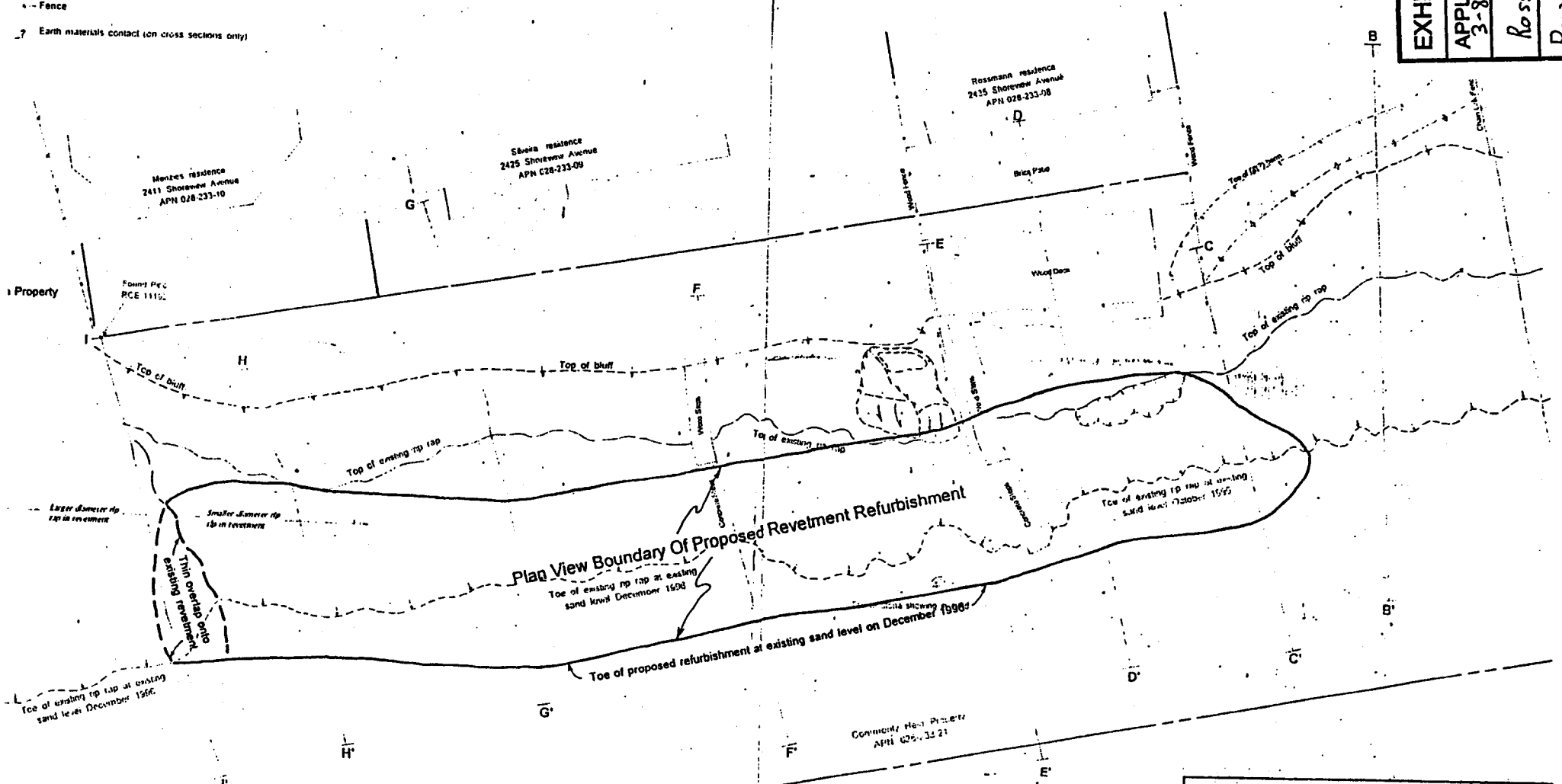
Assessor's Map  
 County of ...  
 ...

- ▲ Toe of existing rip rap
- Top of bluff
- ▲ Landslide
- Debris flow
- "Scalloped" area in existing rip rap
- - - Geologic cross section (see Plate 2)
- Property line
- Fence
- - - Earth materials contact (on cross sections only)
- c Colluvium and soil
- QmH Marine terrace deposits



- NOTES**
1. Recommended minimum stone sizes: 3 tons for facing stones and 1 ton for core
  2. Toe of rip rap refurbishment must be placed at 3 feet above mean sea level (MSL)
  3. This map was prepared using "tape and compass" techniques, and is accurate
  4. Property lines were taken from Santa Cruz County Assessor's Map No. 28-23, 1 were located in the field.

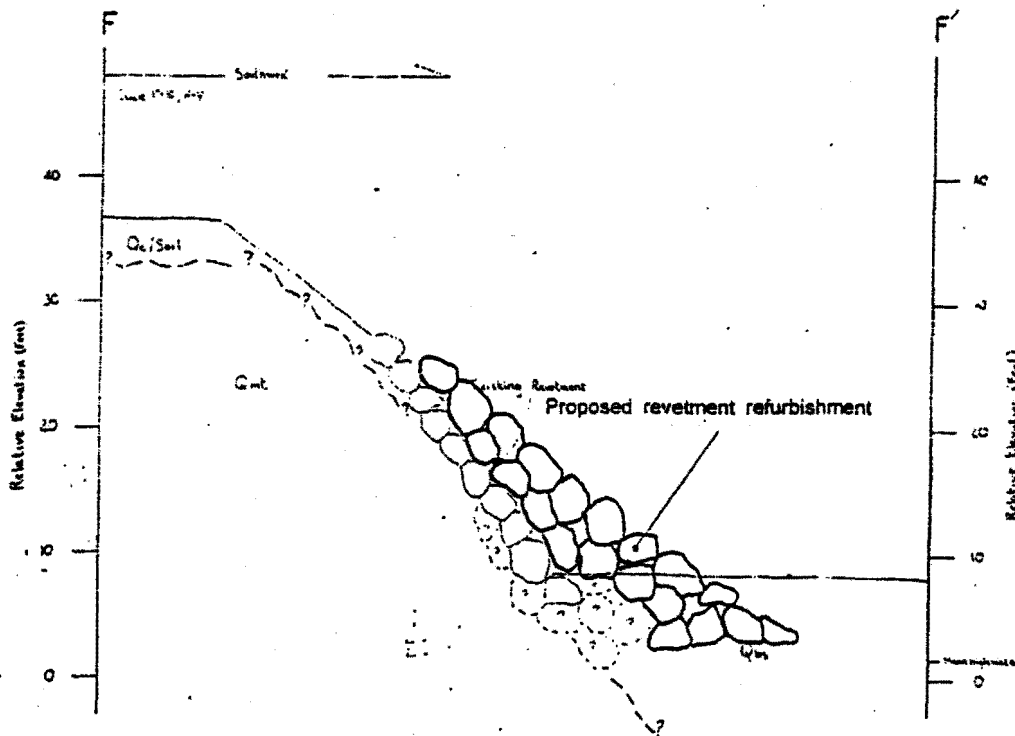
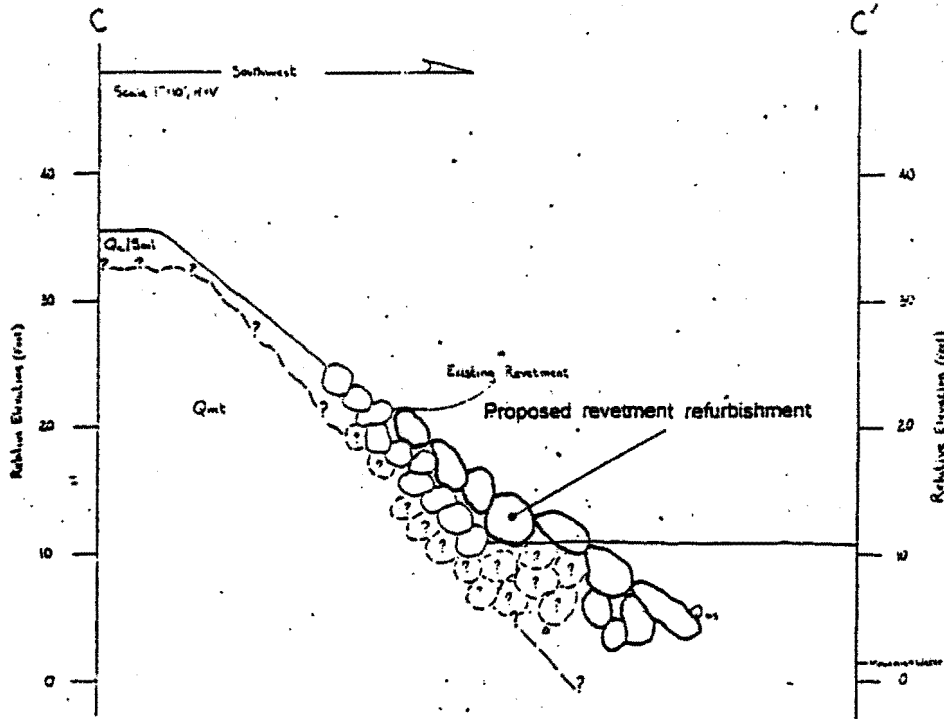
**EXHIBIT NO. 4**  
**APPLICATION NO.**  
**3-83-200-A**  
 Rossmann et al. seawall  
 Proposed Plan view



**PLANIMETRIC MAP SHOWING  
PROPOSED REVETMENT REFURBISHMENT  
ROSSMANN, SILVEIRA AND MENZIES RESIDENCES  
APN's 028-233-08, -09 & -10  
Santa Cruz County, California**

Scale: 1"=10'	Date: 12/16/98	Project #	Drawing Number
Drawn By: ENZRE/mnz	Revised:	Geozz	<b>PLATE 3</b>

**ROGERS E. JOHNSON & ASSOCIATES**  
 Consulting Engineering Geologists  
 1729 Scabright Avenue, Santa Cruz, California 95062  
 (408) 425-1288 FAX (408) 425-6539



**NOTES**

1. Elevations on cross sections are relative to mean sea level, and are keyed into elevations established on the property east of the Rossman property by Bowman and Williams (Seawall Plan For O.L. Eddleman, 1980).
2. Elevations on the cross sections were obtained using "tape and compass" techniques. The portrayed elevations are accurate to within +/- 2 feet.
3. See Site Plan (Plate 1) for an expansion of symbols and earth materials

<b>EXHIBIT NO. 5</b>
<b>APPLICATION NO.</b> 3-83-200-A
Rossmann et. al. seawall
Proposed cross-sections (Typ.)



STAFF REPORT (CONSENT AGENDA)

APP. NO. P-80-277

FILED: 7-28-80

49th DAY: 9-15-80

APPLICATION SUMMARY

Applicant: Don Eddlemon, 124 - 25th Avenue, Santa Cruz, CA 95062

Work Proposed: Install rock rip-rap seawall at base of bluff

Location of Project: In front of 124 - 25th Avenue and at end of 25th Avenue right-of-way

Approvals Received (type/date): CCR 15 (8-4-80) Encroachment Permit (9-23-80)

Project Data:	<u>Not given</u>	<u>2500 sq. ft.</u>	<u>12 - 15 feet</u>
	parcel size	proposed coverage	height of structure
	<u>RM-4-PD</u>	<u>N/A</u>	
	current zoning	proposed density	

Other: \_\_\_\_\_

Attachments: Location Map, Site Plan, \_\_\_\_\_

STAFF EVALUATION

Site Characteristics: The site is oceanfront land with an existing house and the end of 25th Avenue, a County road. The rip-rap is to be placed at the base of the bluff which is 18-20 feet in height. Seaward of the site is sandy beach and Monterey Bay.

Surrounding Land Use: SFD's on small lots, beach east and west of the seawall. Rip-rap seawalls exist on either side of the project site.

POLICY CONFORMANCE NOTES

Public Access (30210-30213): See other comments

Recreation (30220-30224): No applicable policies

Marine Environment (30230-30236): 30235 - rip-rap will protect existing structures

Land Resources (30240-30244): No applicable policies

Development (30250-30254): 30253 - project is consistent with policies on erosion, hazards

Industrial Development (30260-30264): N/A

CCR-21

FN: 35

EXHIBIT NO. 6

APPLICATION NO.  
3-83-200A

P- Rossmann et al seawall

Previous Permit in 1980

APP. NO. P-80-277APPLICANT: Don EddlemanENVIRONMENTAL IMPACT NOTES

Adverse Impacts/Significance: No significant adverse impacts noted.

Mitigation:

RELATIONSHIP OF PROPOSED DEVELOPMENT TO LOCAL COASTAL PROGRAM:

Due to existing rip-rap in area and lack of wave protection options, placement of this seawall will not prejudice the LCP.

OTHER COMMENTS:

Public Access - The seawall as conditioned will eliminate a small portion of usable sandy beach. It is noted that the project will clean up and utilize the unsightly pieces of broken concrete that are now scattered along the base of the bluff and beach. The project includes a County right-of-way which represent a possible access route to the beach if a stairway was constructed. However, rather than require the applicant to construct such a stairway, it would be more appropriate to have the County address this need through their LCP. This approach is more viable due to concerns over liability and maintenance. Placement of the rip-rap will not preclude the later construction of a stairway.

Design - The recommended change in design, Condition 1, is to minimize the seawall's encroachment onto sandy beach. This minor re-design will not adversely impact the integrity of the seawall.

RECOMMENDATIONApproval:

Find consistency with Chapter III, that the development will not prejudice an LCP, that the development has no significant adverse environmental effects as proposed or as conditioned:

(Between shoreline and first public road, note comments on front page under Public Access and Recreation.)

CONDITIONS:

- 1) Prior to commencement of construction, the permittee shall submit a revised plan for the seawall which shows the hinge point moved landward wherever possible to more closely follow the line of the existing bluff top.
- 2) Within 30 days of the effective date of this permit, the applicant shall submit to the Executive Director, a deed restriction for recording, that binds the applicants and any successors in interest. The form and content of the deed restriction shall be subject to review and approval of the Assistant Executive Director. The deed restriction shall provide:
  - (a) that the applicants understand that the project and construction site is subject to extraordinary hazard from waves during storms and from related erosion, and the applicants assume the liability from those hazards;
  - (b) the applicants agree that they will unconditionally waive any claim of liability on the part of the Commission or any other public agency for any liability as a result of the completion of construction of the project related to the hazards as identified above; and

Ex 6 cont

APP. NO. P-80-277

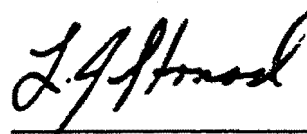
APPLICANT: Don Eddleman

CONDITIONS (Cont.)

- 2) (c) .the applicants agree that the construction in the face of these hazards may make them ineligible for public disaster funds or loans for repair or replacement of the project designated by the engineering plans attached to the application, in the event of future storms and related erosion.
- 3) State Lands Commission Review: Prior to commencement of construction, the applicant shall submit to the Assistant Executive Director a written determination from the State Lands Commission that:
  - (a) No State lands are involved in the development; or
  - (b) State Lands are involved in the development and all permits required by the State Lands Commission have been obtained; or
  - (c) State lands may be involved in the development, but pending a final determination an agreement has been made with the State Lands Commission for the project to proceed without prejudice to that determination.
- 4) Public Rights: The permittee shall, by accepting the terms and conditions of the permit, agree that issuance of the permit and completion of the authorized development shall not prejudice any subsequent assertion of public rights, e.g., prescriptive rights, public trust, etc.
- 5) It is the responsibility of the permittee and successors in interest in the property to maintain the seawall including over the County right-of-way in order to prevent rocks from scattering and prevent future emergency situations.
- 6) This permit authorizes future maintenance work on the seawall without a separate Coastal Permit but subject to the approval of the Assistant Executive Director and any conditions he deems appropriate.
- 7) Conditions 2 and 5 of this permit shall be recorded in the deed for the property in order to bind the permittee and any successor in interest to the property. The form and content of the deed recordation is subject to the review and approval of the Assistant Executive Director.

BA/cm  
Staff

9-5-80  
Date



Assistant Executive Director

Ex 6 cont

EXIS Rock

Hinge Point

County property

TWENTY FIFTH A

Applicant's property

D. L. EDDLEMON ET UX

2 STORY HOUSE

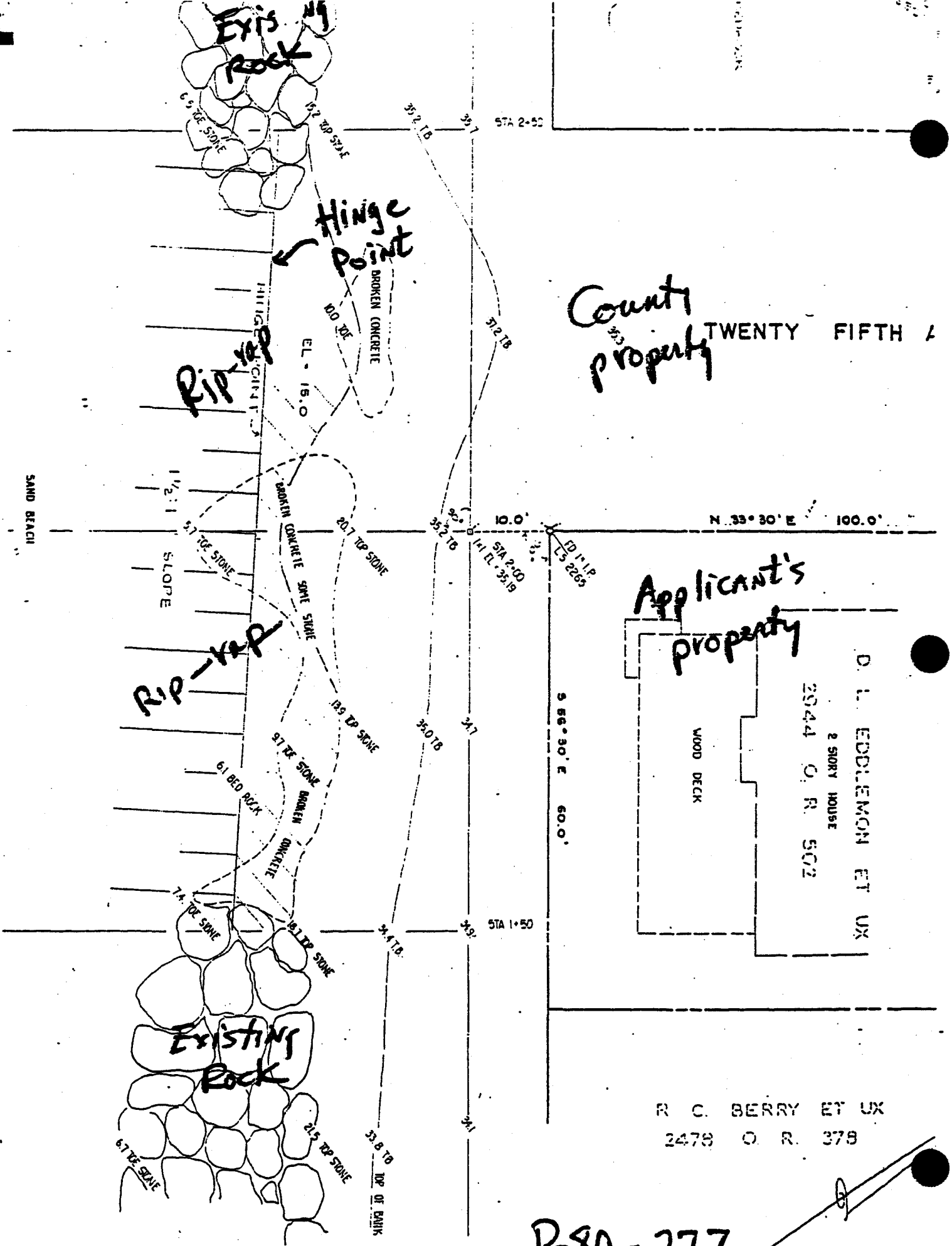
2044 O. R. 502

WOOD DECK

R. C. BERRY ET UX  
2478 O. R. 378

P-80-277

Exh 6 cont



CALIFORNIA COASTAL COMMISSION  
CENTRAL COAST DISTRICT  
701 OCEAN STREET, ROOM 310  
SANTA CRUZ, CA 95060  
(408) 426-7390 ATSS: 8-529-2304

8/15/83  
FIL : 9/30/83  
49th/180th DAY: 11/18/83; 3/30/84  
STAFF REPORT: 10/11/83  
HEARING DATE: 11/15/83  
STAFF: Maki-D/crm

STAFF REPORT: ADMINISTRATIVE ITEM

PROJECT DESCRIPTION

APPLICANT: G. DREW GIBSON

PERMIT NO: 3-83-200

PROJECT LOCATION: 102 24th Avenue, Santa Cruz

PROJECT DESCRIPTION: Alteration and addition to existing rip-rap  
seawall.

LOT AREA: 4200 sq. ft.

ZONING: R-1-4

BLDG. COVERAGE: N.A.

PLAN DESIGNATION: Residential

Certified LUP: Project Area in

PAVEMENT COVERAGE: N.A.

Original Jurisdiction

PROJECT DENSITY: N.A.

LANDSCAPE COVERAGE: N.A.

HEIGHT ABV. FIN. GRADE: Below Grade

LOCAL APPROVALS RECEIVED: Design, Variance, Geotechnical Substantial  
Documents: Recorded Liability Waiver for Geologic & Shoreline Hazards

PTI: N/A

EXHIBIT NO. 7

APPLICATION NO.  
3-83-200-A

Rossmann et. al. seawall

Previous Permit in 1983

Co

DECLARATION

The executive Director hereby grants a permit for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

Standard Conditions

See Exhibit "A"

Special Conditions

1. Within 30 days of permit issuance, December 15, 1983, permittee shall execute and record a document, in a form and content approved by the Executive Director of the Commission irrevocably offering to dedicate to a public agency or a private association approved by the Executive Director an easement for public access and recreation along the shoreline. Such easement shall be from the toe of the seawall to the mean high tide, along the 16.67% undivided interest of parcel #028-233-21. Such easement shall be free of prior liens or encumbrances except for tax liens.

The offer shall run with the land in favor of the people of the State of California, binding successors and assigns of the applicant or landowner. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

2. Within 30 days of permit issuance, December 15, 1983, permittee shall submit to the Executive Director a written determination from the State Lands Commission that:

- a) No State Lands are involved in the development; or
- b) State Lands are involved in the development and all permits required by the State Lands Commission have been obtained; or
- c) State Lands may be involved in the development, but pending a final determination an agreement has been made with the State Lands Commission for the project to proceed without prejudice to that determination.

3. Within 30 days of permit issuance, December 15, 1983, permittee shall submit written evidence of U.S. Army Corps of Engineers approval, to the Executive Director for his review and approval.
4. It shall be the permittee's responsibility to maintain the rock on the subject parcel. Any rock which is moved (i.e. by storm waves) shall be retrieved by the owner. In the event that the wall needs routine maintenance or emergency repair, a waiver from the Executive Director or an amendment to this permit shall be required.
5. All recommendations and construction design contained in the Geologic Report prepared by Rogers E. Johnson & Associates for the subject project are a condition of this permit.

#### FINDINGS & DECLARATIONS

The Commission finds and declares as follows:

- PROJECT  
DESCRIP-  
TION
1. The proposed project would place an additional ±714 cubic yards of rock rip-rap and extend the existing rip-rap seawall some ten feet seaward onto a sandy beach. A three foot deep key-way at the ten foot extension would be excavated to hold the additional rock in place. The rock will be placed on a seaward parcel (a former County right-of-way) which the applicant owns a 16.17% undivided interest in. The project is intended to provide additional protection to the applicants existing residence.
  2. A geotechnical investigation and engineered seawall design have been prepared by appropriate officials. The proposed seawall has been so designed to offer substantial protection beyond that which exists with the present rip-rap seawall. Santa Cruz County Certified LCP policy 3.3.3 contains the standards by which shoreline protection structures are allowed.
    - 3.3.3 Limit shoreline protection measures to structures which protect existing residences, and business or commercial structures, vacant lots which through lack of protection threaten adjacent developed lots, public works, public beaches, or coastal-dependent uses. Permit structural shoreline protection measures only if non-structural measures (i.e., building relocation or change in design) are infeasible from an engineering standpoint or not economically viable. The protection structure must not reduce or restrict public beach access, adversely affect shoreline processes and sand supply, increase erosion on adjacent properties, or cause harmful impacts on wildlife and fish habitats. The protection structure must be placed as close as possible to the development requiring protection and must be designed to minimize visual intrusion. Shoreline protection structures shall be designed to meet adequate engineering standards for the site conditions as determined through the environmental review process. Seawall construction should only be considered where a significant threat to an existing structure exists, where seawalls have been constructed on adjoining parcels, and where rip-rap would not adequately protect the structure. Detailed technical studies may be required to accurately define the oceanographic conditions affecting the site.

The proposed project, as conditioned to require the recommendations of the submitted geologic report is consistent with the Coastal Act and Santa Cruz County's Certified LCP.

3. The Santa Cruz County LCP contains the following policies relevant to the provisions of public access to and along the shoreline.

- 4.3.1 Protect access to all beaches where a high or medium likelihood of prescriptive rights has been identified (see shoreline access assessment charts); through permit conditions such as easement dedication or continued maintenance as an accessway by a private group.

The Park Dedication Ordinance in the Implementation Plan County Code Section 15.01.090(d) states:

Public Access Review. Dedication of an easement for public access shall be required if adverse environmental impacts and use conflicts can be mitigated, as determined by the decision-making body, and if one of the following situations exists:

... (ii) Dedication is required to protect established access which has been in long and continuous use by members of the public. Such use shall be determined by the decision-making body based upon public testimony.

4.3.3 Lateral Access. The following policies shall be applied as a condition of new development approval:

- a. No development shall be approved which would interfere with public lateral access along beaches in Live Oak and from New Brighton Beach to the Pajaro River. Where appropriate require dedication of lateral access along the beach to the first line of terrestrial vegetation to the base of the bluffs, where present, or to the base of any seawall. (Also see Policy 3.3.3)

In the Implementation Plan, the Park Dedication Ordinance states in Section 15.01.060:

- b. Trail and Beach Access Dedication. As a condition of approval for any permit for a residential, commercial, or industrial project, an owner shall be required to dedicate an easement for trail or beach access if necessary to implement the General Plan or the Local Coastal Program Land Use Plan.

More specifically, to carry out LUP Policy 4.3.3, Section 15.01.070 states:

- c. Lateral Access. Beach lateral access easements shall include the entire sandy beach area, and shall include the area up to the first line of terrestrial vegetation or up to the base of the bluffs or the base of the seawall, where present.

Further, Section 15.01.090 states:

- d. Public Access Review. Dedication of an easement for public access shall be required if adverse environmental impacts and use conflicts can be mitigated, as determined by the decision-making body, and if one of the following situations exists:

(vi) If the parcel is located on the shoreline, dedication of an easement for lateral beach or blufftop access shall also be required.



The project site is located beneath the first public road and the sea and is located on a parcel the applicant retains a 16.67% undivided interest. The parcel is bounded on the ocean side with an approximately 35' high bluff with existing rip-rap with the applicant's residence at the bluff edge. The beach located at the base of the bluff is accessible during summer months and is part of an approximately 3/4 mile long continuous sandy beach serving the urbanized area of Live Oak as well as being a highly popular visitor recreational area. In order to protect the public's right of lateral access along the shoreline and to protect any historic public access rights, it is necessary to require an offer of dedication of the 16.67% undivided interest in the East Cliff Drive parcel consistent with the Coastal Act and the certified LCP. See Exhibit "B" for additional findings on access. The Certified Santa Cruz LCP identifies vertical access locations in the Live Oak area (See Exhibit C). The project site, at the terminus of 24th Avenue is not identified as a vertical access point as nearby 20th and 26th Avenues are expected to provide maximum vertical access to the popular sandy beach.

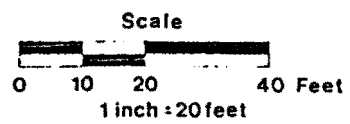
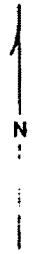
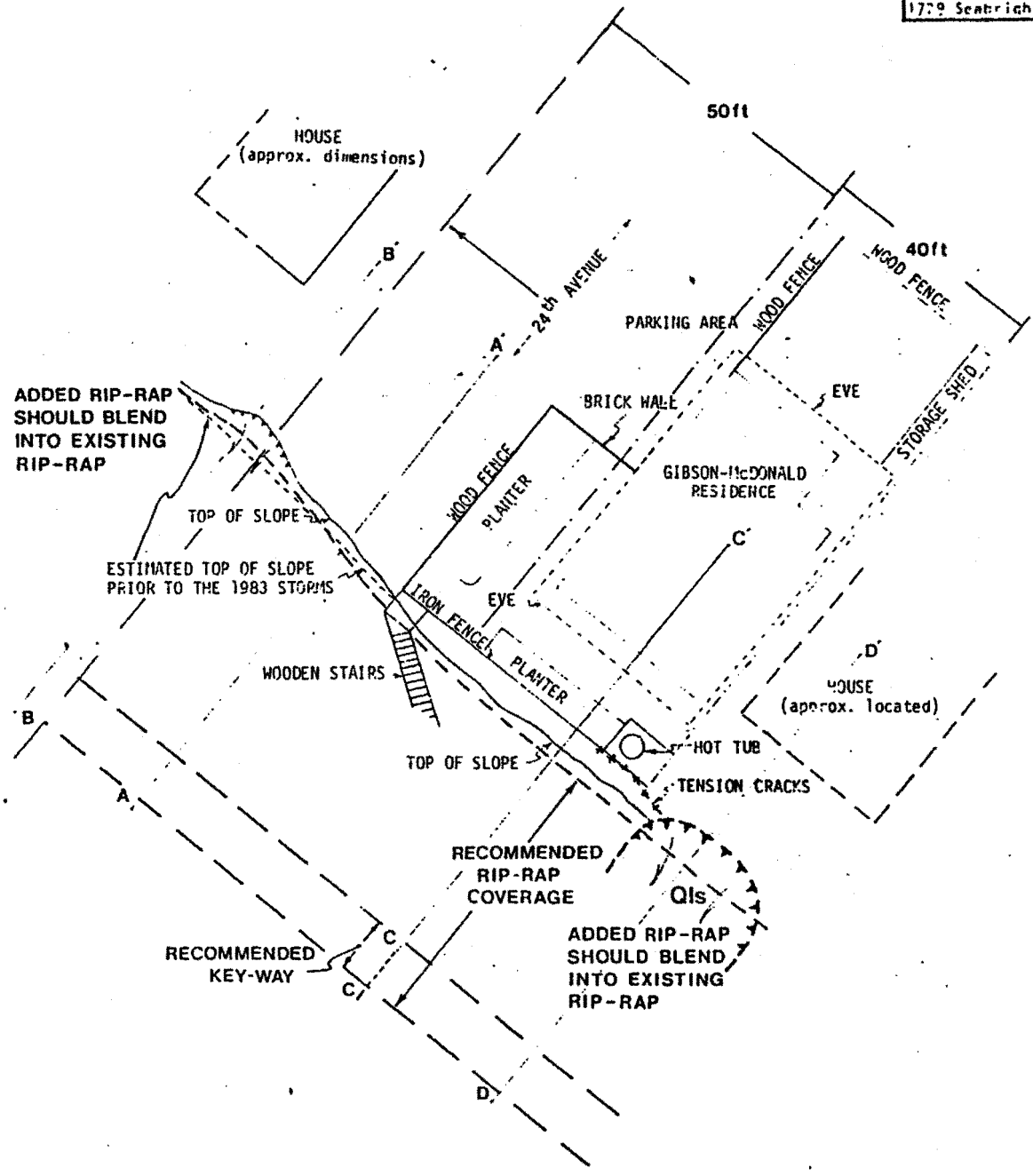
EQA/LCP

4. The proposed project will not create any significant adverse environmental impacts within the meaning of the California Environmental Quality Act.

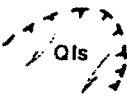


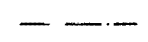
As conditioned, the proposed development conforms to the policies of Chapter 3 of the Coastal Act and approved LCP policies and will not prejudice the implementation of the Local Coastal Program of this area.

**RECOMMENDED RIP-RAP SEAWALL IMPROVEMENTS**

GIBSON-McDONALD PROPERTY  
 102 24<sup>th</sup> Avenue  
 Santa Cruz, California



**EXPLANATION**

-  EARTH SLUMP: Terrace Deposits have slumped down in a semi-coherent block
-  DEBRIS SLIDE: Terrace Deposits have slid out on the steep shore-face; all the debris has been removed by the surf
-  LOCATION OF CROSS SECTIONS
-  PROPERTY LINE

NOTE: see Cross Sections on Plates 1 & 2 for descriptions of earth materials

the dashed portion of Section C-C' represents the extension of Section C-C' from Plate 2 to Plate 3 (see plate 3 for further explanation)