

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

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REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-04-159

Applicant: William Scripps

Agent: Walter F. Crampton

Description: Construction of a 35 foot long, approximately 14 feet high, vertical seawall as a shoreline protection structure designed to protect one single-family residential structure and property from ocean flooding. The project fills the only gap in an existing seawall constructed in 1998 that fronts all nine other residences between 18th and 19th streets.

Site: 1838 Ocean Front, Del Mar, San Diego County. APN #299-147-04

Substantive File Documents: Certified City of Del Mar LCP; CDP #6-97-141

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff recommends approval of the seawall, with special conditions requiring its maintenance and assuming the risks of construction in a hazardous area. The project is an infill seawall to protect the only unprotected house within the 1800 Oceanfront city block. Its need is documented, and its design is the same as the seawalls it will connect. Staff does not recommend imposition of the sand mitigation fee, as the City has already applied the fee in its local review.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-04-159 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Monitoring Program. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit to the Executive Director for review and written approval, a monitoring program prepared by a licensed civil engineer or geotechnical engineer to monitor the performance of the seawall which requires the following:

- a. An annual evaluation of the condition and performance of the seawall addressing whether any significant weathering or damage has occurred that would adversely impact the future performance of the structure. This evaluation shall include an assessment of the color and texture of the seawall comparing the appearance of the structure to the adjoining seawalls.
- b. Provisions for submittal of a report to the Executive Director of the Coastal Commission by May 1 of each year (beginning the first year after construction of the project is completed) for a period of three years and then, each third year following the last annual report, for the life of the approved seawall. However, reports shall be submitted in the Spring immediately following either:

1. An "El Niño" storm event – comparable to or greater than a 20-year storm.

2. An earthquake of magnitude 5.5 or greater with an epicenter in San Diego County.

Thus reports may be submitted more frequently depending on the occurrence of the above events in any given year.

- c. Each report shall be prepared by a licensed civil, geotechnical engineer or geologist. The report shall contain the evaluation required in sections a, and b above. The report shall also summarize and analyze trends such as changes in sea level and the stability of the overall seawall, and the impact of the seawall on the adjoining seawalls to either side of the wall. In addition, each report shall contain recommendations, if any, for necessary maintenance, repair, changes or modifications to the project.
- d. An agreement that the permittee shall apply for a coastal development permit within 90 days of submission of the report required in subsection c. above for any necessary maintenance, repair, changes or modifications to the project recommended by the report that require a coastal development permit.

The permittee shall undertake monitoring in accordance with the approved monitoring program. Any proposed changes to the approved monitoring program shall be reported to the Executive Director. No changes to the monitoring program shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Storage and Staging Areas/Access Corridors. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and written approval, final plans indicating the location of access corridors to the construction site and staging areas. The final plans shall indicate that:

- a. No overnight storage of equipment or materials shall occur on sandy beach or public parking spaces. During the construction stages of the project, the permittee shall not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion. In addition, no machinery shall be placed, stored or otherwise located in the intertidal zone at any time, except for the minimum necessary to construct the seawall. Construction equipment shall not be washed on the beach.
- b. Access corridors shall be located in a manner that has the least impact on public access to and along the shoreline.
- c. No work shall occur on the beach on weekends, holidays or between Memorial Day weekend and Labor Day of any year.

The permittee shall undertake the development in accordance with the approved plans. The applicant shall submit evidence that the approved plans/notes have been incorporated into construction bid documents. The staging site shall be removed and/or restored immediately following completion of the development. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Certified As-Built Plans. **Within 60 days following construction**, the permittee shall submit certification by a registered civil engineer, acceptable to the Executive Director, verifying the seawall has been constructed in conformance with the approved plans for the project.

4. Future Maintenance. The permittee shall maintain the permitted seawall in its approved state. Maintenance of the seawall shall include maintaining the color, texture and integrity. Any change in the design of the project or future additions/reinforcement of the seawall beyond exempt maintenance as defined in Section 13252 of the California Code of Regulations to restore the structure to its original condition as approved herein, will require a coastal development permit. **However, in all cases, if after inspection, it is apparent that repair and maintenance is necessary, including maintenance of the color of the structures to ensure a continued match with the adjoining seawalls, the permittee shall contact the Executive Director to determine whether a coastal development permit or an amendment to this permit is legally required, and, if required, shall subsequently apply for a coastal development permit or permit amendment for the required maintenance.**

5. Other Permits. **PRIOR TO THE COMMENCEMENT OF CONSTRUCTION**, the permittee shall provide to the Executive Director copies of all other required local, state or federal discretionary permits for the development authorized by CDP #6-04-159. The applicant shall inform the Executive Director of any changes to the project required by other local, state or federal agencies. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this permit, unless the Executive Director determines that no amendment is legally required.

6. State Lands Commission Approval. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit to the Executive Director for review and written approval, 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 of state lands involvement, an agreement has been made by the

applicant with the State Lands Commission for the project to proceed without prejudice to the determination.

7. Assumption of Risk, Waiver of Liability and Indemnity Agreement. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

8. Deed Restriction. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. The applicant is proposing construction of a 35-foot-long vertical sheetpile seawall along one property on the Del Mar shoreline. It will close the only gap on an existing seawall protecting nine private properties between 18th and 19th Streets, that also extends across the 18th and 19th Street public streetends, with all-weather public access at the streetends as part of the design. The seawall will be 2-ft., 9-in. thick and will be located with its eastern face along the Shoreline Protection Area (SPA) line delineated in the fully certified City of Del Mar. The western face of the proposed seawall will encroach a maximum of 2-ft., 9-in. seaward of the SPA line. The sheetpile tip will extend down to elevation -24 feet mean sea level (msl). The visible portion of the seawall will vary according to the level of beach sand, but the elevation of the top of the seawall cap will be approximately 14 feet above msl. Special Condition #5

requires submittal of copies of all other local, state or federal permits issued for the proposed development. This will assure that all entities are approving the same project, and may require amendments to this permit if that is not the case.

During the winter of 1997-1998, severe storms resulted in the granting of two emergency permits for seawall construction in the 1800 block of Oceanfront in Del Mar. These were reported to the Commission as Emergency Permits #6-97-141-G and 6-97-153-G. They authorized construction of a continuous seawall from, and including, the 18th Street streetend north through the 19th Street streetend, with the only exception being the subject property. CDP #6-97-141 acted as the follow-up permit for both emergency actions, and the Commission approved permanent retention of the seawalls installed under the emergency permits in July, 1998.

The City of Del Mar has a fully certified LCP and issues its own coastal development permits (CDPs). West of the SPA line is the open beach and the Commission's original permit jurisdiction. In this area of Del Mar, the SPA line also delineates the boundary between public and private lands. Chapter 3 of the Coastal Act is the legal standard of review for permit applications for development within the Commission's original jurisdiction, and the certified LCP is used for guidance.

2. Geologic Conditions and Hazards. Section 30235 of the Coastal Act states, in part:

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.

In addition, Section 30253 of the Coastal Act states, in part:

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 ...

Coastal Act Section 30235 acknowledges that seawalls, revetments, cliff retaining walls, groins and other such structural or "hard" solutions alter natural shoreline processes. Thus, such devices are required to be approved only when necessary to protect existing structures. The Coastal Act does not require the Commission to approve shoreline altering devices to protect vacant land or in conjunction with construction of new development. A shoreline protective device proposed in those situations is likely to be

inconsistent with various Coastal Act policies. For example, Section 30253 addresses new development and requires that it be sited and designed to avoid the need for protective devices.

Additionally, the Commission has generally interpreted Section 30235 to require the Commission to approve shoreline protection for existing principal structures only. The Commission must always consider the specifics of each individual project but has found, in most instances, that accessory structures such as patios, decks and stairways are not required to be protected under Section 30235. In addition, such improvements can usually be found capable of withstanding periodic inundation, such as happens from time to time with any shoreline development. The subject property has an existing at-grade (i.e., close to beach level) accessory improvement in the form of a deck/patio located between the home and the western property line.

Pursuant to Section 30253 of the Coastal Act, new development in hazardous areas such as the Del Mar shoreline, must be setback a distance that is sufficient to avoid or minimize exposure to the hazard, which in this case is flooding during winter storms and damages from wave action. Although all the newer seawalls in Del Mar have been designed to withstand the forces of storms comparable to the 1982-1983 winter (approximately 20-year storms), they still do not prevent overtopping and some flooding during major storm events. The certified LCP for Del Mar identifies 15 feet from the Shoreline Protection Area (SPA) line, which is contiguous with the western property line in this area of Del Mar, as the residential setback that is sufficient to allow construction of a shoreline protective device (vertical seawall) that is entirely on private property (i.e., western face of the seawall is at the SPA line). However, nearly all the properties along the shoreline between Fifteenth Street and the San Dieguito River mouth were developed with residential or commercial uses prior to the Coastal Act and prior to the City's establishment of a 15-foot setback requirement. Thus, new construction primarily consists of redevelopment of previously-built sites and infill of the very few remaining vacant lots. When this occurs, the City requires compliance with the 15-foot setback.

Many existing principal structures, however, are not setback this distance from their western property lines; this is true for the subject residence. In these instances, the City's certified LCP allows a public beach encroachment of no more than five feet seaward of the SPA line, including any required toestone. To date, all seawalls permitted by the City since their LUP was first adopted locally have either their eastern or western face on the SPA line, have no toestone, and have no public beach encroachment beyond the 2 feet, nine inch width of the seawall structure itself.

The staff report for the prior permit (CDP 6-97-141) referenced a technical report submitted in 1998 verifying the necessity of providing shoreline protection for the existing residential structures between 18th and 19th Streets and the City's public streets. Similar determinations were also made in 1988 when the entire Del Mar shoreline was studied and the SPA line established. The technical report addressed the appropriateness of the selected seawall design, and concluded that the design minimized encroachment onto sandy beach while maximizing protection of the homes consistent with maintaining

private ocean views. The seawall was designed to withstand storms of the magnitude of the 1982-83 winter season. Most of the existing homes within the 1800 block of Ocean Front, including the subject property, do not observe a 15-foot setback from their western property lines, such that the proposed seawall cannot be constructed within the private property (due to high likelihood of structural damage to the home from construction activities). At the subject site, the existing house is setback less than eight feet; for this reason, some structural damage to the house is anticipated during the construction process, even with the allowed encroachment. Thus, the proposed wall will have its eastern face on the property line, and will encroach the width of the wall (2 ft., 9 in.) onto the public beach.

According to the current technical reports, the design scour depth is -4.0 feet msl; the seawall tip will extend twenty feet below that to -24 feet msl to provide sufficient embedment for seawall stability without the need for toestone seaward of the wall. The proposed design is fully consistent with that and with the earlier reports. The project engineer was the same on the 1998 permit as on the subject permit application, and has prepared updated comments verifying that the original report is still valid. In addition, the engineer's work has undergone a third-party review by the City's consultant, and the Commission's staff engineer has reviewed the project as well and found the need justified and the design appropriate.

The subject site is located on the beachfront in an area that has been subject to storm waves. Section 30235 cited above requires the approval of shoreline protective devices only when required to protect existing structures in danger from erosion and when designed to mitigate impacts on shoreline sand supply. The primary issue which has been identified and addressed in the review of proposals for shoreline protective works in this area of Del Mar has been their location and alignment more than the question of their necessity. It is acknowledged that all of the low-lying lots between Seagrove Park and the mouth of the San Dieguito River are threatened by storm waves during the more severe winter storms. They have in the past, and most likely will continue to be, subject to periodic flooding if not protected.

The vast majority of the beachfront residences in the area are, or have been, protected by some form of device, and with very few vacant lots in the vicinity, new seawalls represent infill development. The City's preferred vertical seawall design has been installed along several blocks of oceanfront parcels, and is the least environmentally damaging alternative when compared to other forms of shoreline protection. Thus, if properly designed, these seawalls can be found consistent with Section 30235 of the Act. It is understood that all designs of shoreline protection do affect the configuration of the shoreline and the beach profile and do have an adverse impact on the shoreline. These impacts were addressed by the City of Del Mar through a comprehensive approach several years ago, when it adopted its Beach Protection Initiative and shoreline protection regulations.

The applicant's consultants, the City of Del Mar, and the staff geologist all concur that shoreline protection is needed for the subject property. The proposed seawall conforms

to the preferred design and will fill the only gap in any existing block-long seawall approved by the Commission both under emergency actions and through a regular follow-up permit. Because the proposed seawall is consistent with the existing seawalls to the north and south, it represents the least environmentally damaging alternative for this infill proposal.

A number of adverse impacts to public resources (sandy beach and recreational access in this case) are generally associated with the construction of shoreline structures. In this particular case, the natural shoreline processes referenced in Section 30235 of the Coastal Act, such as the retention of sandy beaches, will be altered to some degree by construction of a seawall; in addition, the seawall will be located on public beach, usurping sandy area otherwise available for public recreation. A statewide comprehensive approach to impacts on sand supply and public access has been developed recently. The Beach Sand Mitigation Program has been implemented in several areas of San Diego County, and elsewhere in the state, to offset the adverse impacts of shoreline protection devices. The program includes a formula to calculate an in-lieu fee based on an individual project's quantifiable impacts to shoreline sand supply; the monies are then expended on beach nourishment projects in the general project area.

Within the City of Del Mar, however, a mitigation program was already in place prior to adoption of the Beach Sand Mitigation Program. In April, 1988 the Beach Preservation Initiative was adopted, and is included in the City's certified LUP and draft implementation program as the Beach Overlay Zone. It established designs and alignments for new shoreline protective works and required the removal of existing beach encroachments within the area identified as the Shoreline Protection Area (SPA). It included setbacks to establish a new stringline of development which would accommodate necessary shoreline protection while minimizing private encroachment onto sandy beach and required a user fee for any encroachments seaward of the SPA line. For the subject site, the SPA line and western property line are contiguous.

Based on review of the proposed seawall application, the Commission finds that the following impacts on beach sand supply would result from construction of the proposed seawall. The proposed seawall is approximately 35 ft. long and will encroach on public beach for its total length. Since the maximum encroachment is 2-ft., 9-in., permanent displacement of public beach area that is currently available for public use would be approximately 92 sq.ft. The City's approval of the seawall on the public beach included a requirement for the private property owners to pay an \$11,216 user fee to the City. This figure was calculated according to the Commission's methodology, and the amount is within the range of what was required of the adjacent property owners. However, in the past, the actual fee was waived in lieu of the property owners constructing seawalls and accessways at the public streetends. The proposed development is a mid-block, infill project, and the nearest streetends were already improved pursuant to CDP #6-97-141. Thus, the City will be collecting the fee for the subject proposal and holding it for use on a similar beach sand/public access improvement in the future. The City's LCP provides that either the City or the Commission may require the fee, but not both entities.

Therefore, the Commission's usual beach sand mitigation fee is not required in this instance.

In summary, the applicants have documented the need for shoreline protection through a current verification, and third party review, of the 1998 geotechnical report. The report still identifies the 1982-83 winter as the appropriate reference year for designing an adequate protective device. The proposed seawall is designed to withstand storms of the 1982-83 intensity, yet is also designed to minimize encroachment onto public beach. The Commission finds that construction of the proposed seawall is appropriate under Section 30235 of the Coastal Act, and that the associated impacts on sand supply and beach availability are adequately mitigated with the City's imposition of the "user fee." Special conditions are included addressing future maintenance activities and development in hazardous areas.

Although many repair and maintenance activities are exempt from coastal development permit requirements under Section 30610(d), such activities that enlarge or expand a structure are not exempt. In addition, certain methods of repair and maintenance of seawalls are not exempt (see California Code of Regulations Section 13252). Special Condition #1 requires the applicant to monitor the condition of the seawall, and Special Condition #4 addresses ongoing maintenance and repair activities which may be necessary in the future and advises these could require permits. The Coastal Commission should be contacted prior to undertaking any repairs to determine permit requirements. Moreover, the applicant is proposing to construct the development in an area subject to wave and storm hazards. Although the applicant's geotechnical report asserts that the proposed development can withstand such hazards and help protect existing development from such hazards, the risk of damage to the structure and the existing development cannot be eliminated entirely. The Commission finds that in order for the proposed development to be consistent with the Coastal Act, the applicant must assume the risks of damage from flooding and wave action. As such, Special Condition #7 requires the applicant to assume all risks of development, waiving any liability on the part of the Commission for approving the proposed development. In addition, these conditions require the applicants to indemnify the Commission in the event that third parties bring an action against the Commission as a result of, among other things, failure of the proposed development to withstand and protect against the hazards. As conditioned, the Commission finds the proposed (constructed) seawall consistent with Sections 30235 and 30253 of the Act.

3. Public Access and Recreation. The Coastal Act emphasizes the need to protect public recreational opportunities and to provide public access to and along the coast. The following Coastal Act policies, which address the protection of public access and recreational opportunities, are most applicable to the proposed development:

Section 30210

In carrying out the requirements 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....

Section 30213

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

The Del Mar beach is a popular visitor destination for local and regional beachgoers. Historically, there has been a wide, sandy, public beach in Del Mar, varying somewhat season to season, but typically wider than many other North County beaches. Public access is generally available at every streetend from Fifteenth Street to the San Dieguito River mouth.

In the past, private encroachments onto the public beach in the City of Del Mar, both shoreline protective works and deck/patio improvements, had restricted public access to some degree, usurping areas that would otherwise have been available to the public for beach play and sunbathing. For the most part, these encroachments have now been removed and the beach is open and available extending inland to the SPA line, which coincides with the western property lines of private properties in most locations. Maintaining the beach for public recreational pursuits and providing adequate access thereto is a prime concern of both the City and the Coastal Commission. The citizens of Del Mar created the Beach Overlay Zone pursuant to the initiative process, and the City enacted guidelines for its implementation, with the removal of private encroachments and

attendant enhancement of public access a key goal. The provisions of the zone, and the guidelines, are part of the City's certified LCP.

The proposed vertical concrete seawall design, utilizing no toestone or riprap component, has been approved by the City of Del Mar through the local permit process and endorsed by the Coastal Commission in several past permits, including CDPs #6-91-127, #6-88-542, and 6-97-141, all of which authorized seawalls which extended across entire city blocks plus intervening streetends. In addition, CDPs #6-89-305, #6-90-022, #6-91-230, #6-94-122 and #6-95-134 authorized the same seawall design on individual sites as infill development. The remainder of the Del Mar shoreline has a mix of older walls and riprap revetments, with a few unprotected sites intermingled with the rest. All of the recently approved seawalls have been constructed in one, or a combination of, three alignments: entirely on private property, centered on the SPA line, or encroaching a maximum of 2-ft., 9-in. (the thickness of the seawall) onto public beach. Most of the older protective devices are also roughly aligned on the SPA line, since Del Mar has abated prior private beach encroachments. An exception is the northernmost block in the City, where existing riprap extends a significant distance onto public beach; it is anticipated this revetment will be replaced with a vertical wall in the future. Minimal encroachments onto public beach have been allowed in those instances when existing residences are setback less than 15 feet from the SPA line; where existing homes are closer than 15 feet to the construction site, the actual construction of the seawall (which involves pile-driving) could cause damage to the homes.

Construction damage may occur to the subject property, as the residence is only setback from the SPA line approximately 7½ feet. It is for this reason that a public beach encroachment is permitted at all. However, for the subject site, the encroachment onto public beach is less than 3 feet in width, resulting in a total encroachment of only 96 sq.ft. In addition, the proposed seawall is aligned with the existing seawalls to the north and south, is of the approved minimal design, and requires no toestone. Moreover, the small public beach encroachment has been mitigated through application of the City's user fee.

Typically, the Commission, whenever it approves nearshore construction projects, includes special conditions addressing construction impacts and prohibiting use of public beaches, roads, parking areas, etc. as staging or storage areas during the summer beach season, and minimizing such use at other times of year. Special Condition #2 addresses this concern by prohibiting overnight storage of equipment and materials in public beach or parking areas, and also by prohibiting work on weekends and during the summer. In addition, Special Condition #6 requires notification from the State Lands Commission addressing their interests in the subject development.

In summary, the Commission finds that the project, which occurs on public beach, provides for minimal encroachment and mitigates for the loss of beach area through the required user fee. Therefore, the Coastal Commission finds the proposed development, as otherwise conditioned, consistent with the cited Coastal Act access policies. Moreover, since the proposed development is located between the sea and first public

road, the Commission, as required in Section 30604(c), finds the proposal consistent with all other public access and recreation policies as well.

4. Visual Resources. Section 30251 of the Coastal Act states, in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. ...

The proposed seawall will be located on and adjacent to the public beach of Del Mar. The amount of seawall visible above the sand will vary from season to season, as the sand supply diminishes and returns. During the summer season when sand levels are highest and the beach receives the greatest intensity of use, no more than about three or four feet of the seawall will generally be visible. More of the seawall will be visible during the winter, when beach sand levels typically drop.

The design of the seawall is virtually identical to other existing seawalls along the Del Mar coast which have been constructed in recent years and gives the general appearance of a garden wall enclosing private deck and patio improvements on the adjacent site. The seawall is designed to be identical to the existing seawalls to the north and south, making it visually compatible with the surrounding development. Therefore, the Coastal Commission finds the proposed seawall, as conditioned to address other concerns, consistent with Section 30251 of the Act.

5. Local Coastal Planning. In the late 1980's, the citizens of Del Mar passed an initiative establishing a Beach Overlay Zone, and delineating a Shoreline Protection Area (SPA). With very few exceptions, the SPA line coincides with the western property line of beachfront homes, and marks the boundary between public and private lands. In addition, the mean high tide line has been adjudicated for most of Del Mar, and is also delineated by the SPA line. The specific project site is located on the public beach, which is designated Public Parkland, and is adjacent to an area designated for medium density single-family residential use. The proposed seawall is consistent with those designations as a necessary accessory use to protect a private existing principal structure. The certified City of Del Mar LCP allows for shoreline protective devices subject to strict design and siting criteria; the subject proposal meets those requirements. Because the development occurs seaward of the SPA line, it is within the Coastal Commission's area of original jurisdiction, and, as conditioned, the proposed project is consistent with all applicable Chapter 3 policies of the Coastal Act. Thus, the proposed development will not prejudice the ability of the City of Del Mar to continue to implement its certified LCP.

6. Consistency with the California Environmental Quality Act (CEQA).

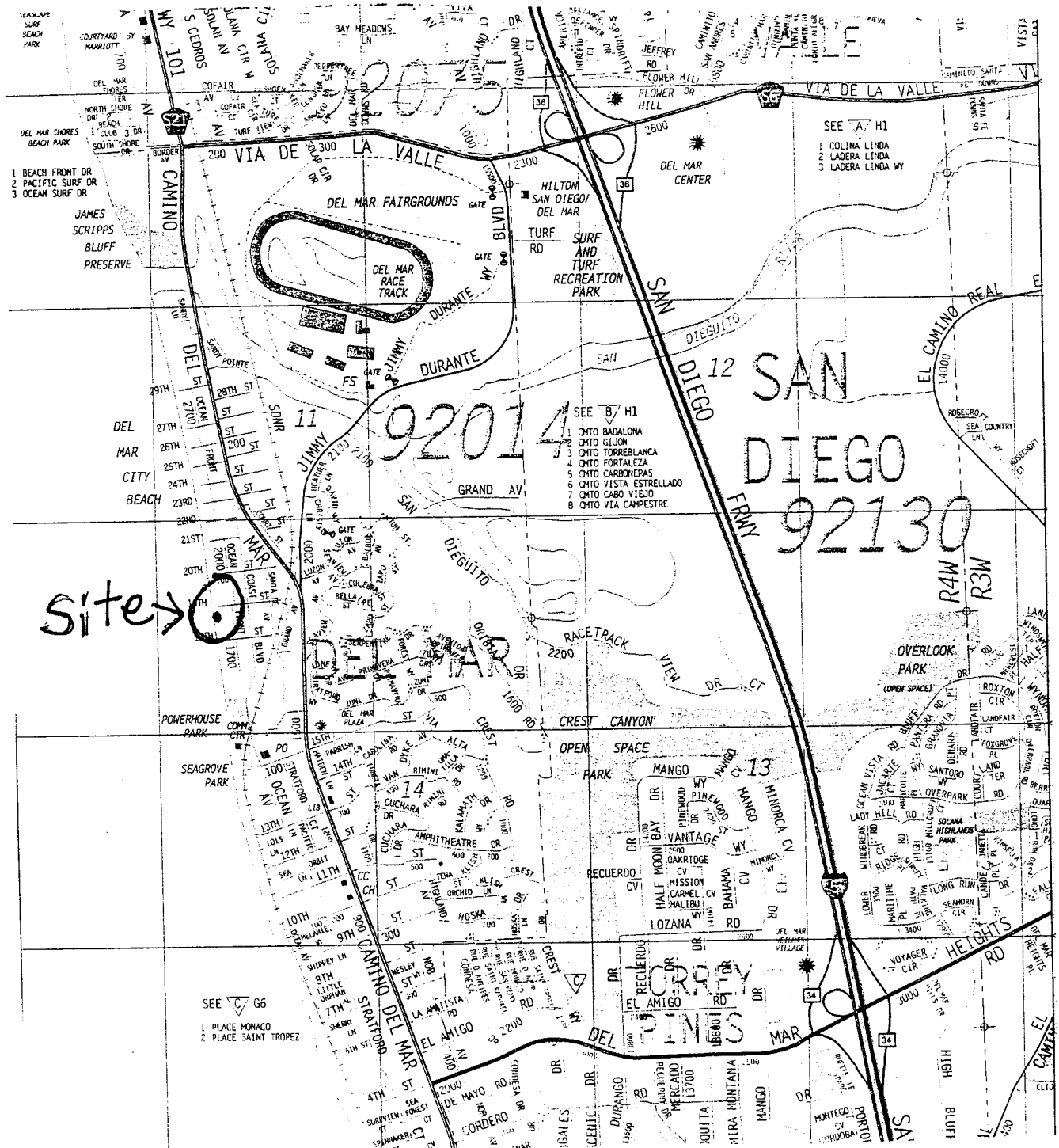
Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) 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 effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including ongoing monitoring and maintenance and recognition of hazardous conditions will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

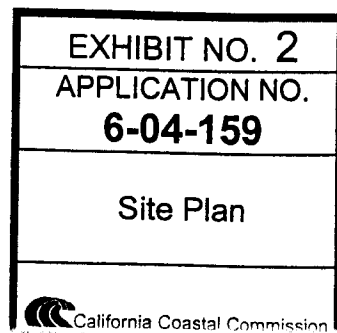
STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit 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 will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. 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.
5. 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.

6-04-159



Site



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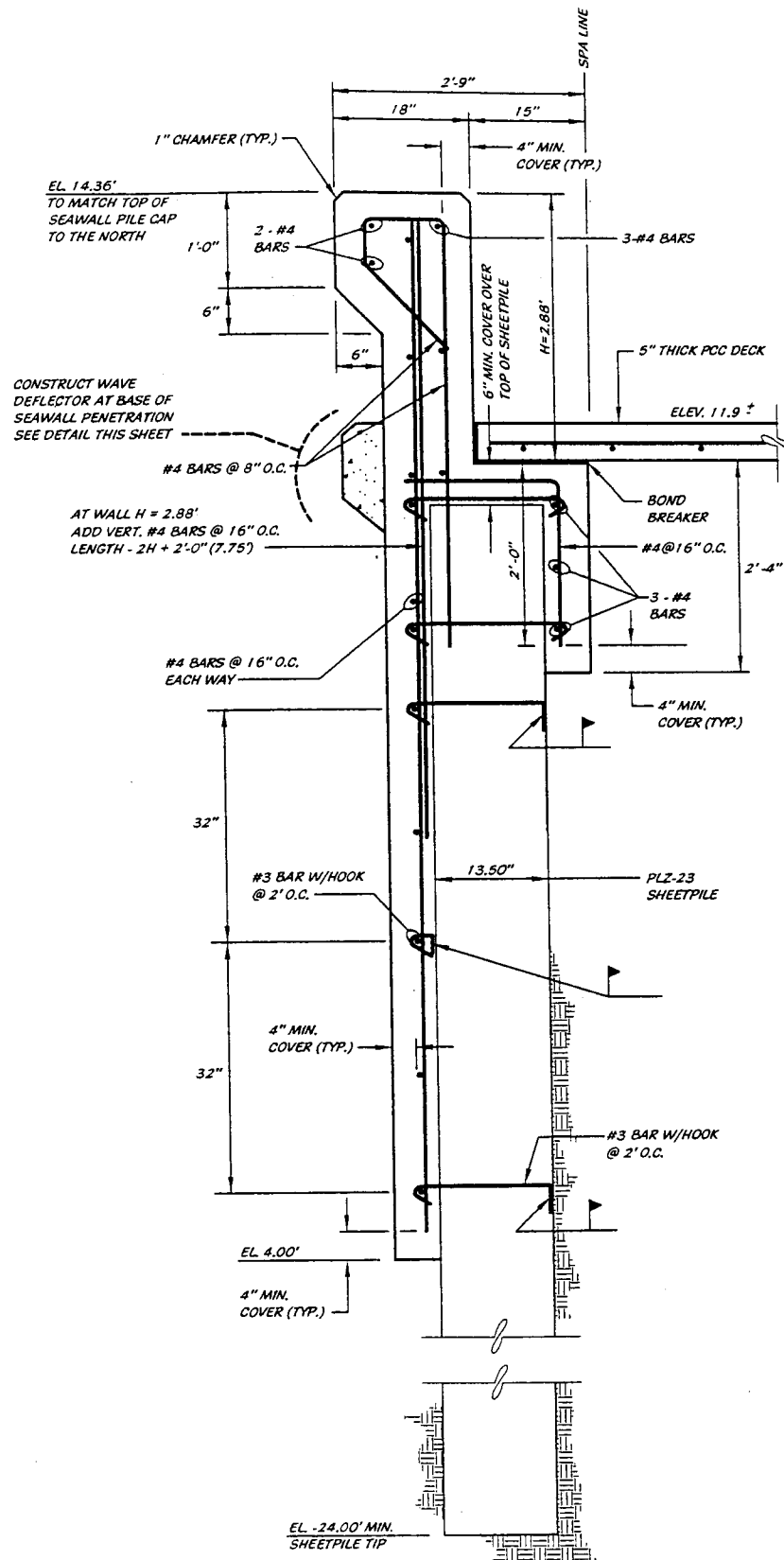


EXHIBIT NO. 3
APPLICATION NO.
6-04-159

Cross-Sections

6-04-159

1838



1838 OCEAN FRONT, DEL MAR, CALIFORNIA

EXHIBIT NO. 4
APPLICATION NO.
6-04-159

Photo of Existing
Residence and
Adjacent Seawalls