

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800

**W 17d****ADDENDUM**

June 10, 2008

TO: Commissioners and Interested Parties

FROM: South Central Coast District Staff

RE: Agenda Item W17d; Wednesday, June 11, 2008; **Coastal Development Permit Application No. 4-07-154 (Seacliff Homeowners Association)**

A letter from the applicant and two emails from the applicant's representatives have been received and attached as exhibits to this addendum. The letter submitted by the applicant, dated June 5, 2008 (attached) and prepared by Katherine Stone, Myers, Widders, Gibson, Jones & Schneider, LLP states that "the applicant is willing to accept the permit as conditioned with a few minor clarifications." However, the letter also asserts that the staff report raises several "legal concerns" which are discussed below:

Note: ~~Strikethrough~~ indicates text deleted from the staff report pursuant to this addendum and underline indicates text added to the staff report pursuant to this addendum.

1. *The first issue (#A.1) raised in the letter from Katherine Stone states that the project description should be clarified to indicate that the revetment is located seaward of 50 lots (49 homes).*

In response, staff notes that there is no disagreement by staff on this point as the project description throughout the report clearly states that the revetment is 2,040 ft. long (as shown on the proposed plans) and is located seaward of 50 lots and 49 existing residences. In order to address the applicant's concern, the first sentence of the "Project Description" on the first page of the report and in the first sentence of the first paragraph of the "Project Description" section on page 11 of the report is modified as follows:

Repair an existing 2,040 foot long rock revetment located seaward of 50 lots (~~developed with~~ 49 existing single family residences).

2. *The second issue (#B.1) raised in the letter from Katherine Stone asserts that the Commission should be a party to a specific agreement with the applicant allowing for a 25 year maintenance program as provided by Special Condition Three (3).*

In response, staff notes that the purpose of Special Condition Three "Revetment Maintenance and Repair Program" is to provide for a formal maintenance and repair program which the applicant, by acceptance of the permit, acknowledges and agrees to implement. By imposing this condition, the Commission is taking a final action on this matter and authorizing the maintenance and repair of the revetment, pursuant to the terms and provisions of this special condition, for a period of 25 years. Therefore, there is no need for the Commission to be a party signing an agreement which requires the applicant to implement the terms of a specific special condition of a coastal permit.

3. *The third issue (#B.2) raised in the letter from Katherine Stone asserts that the applicant does not have the authority to dictate the removal of development on Caltrans property" and that the last sentence of Special Condition Four (4) Part B should be deleted.*

As discussed in detail in the staff report, the unpermitted development located on Caltrans property consists of rocks, a concrete block wall and landscaping. This unpermitted development blocks public access from the existing vertical access trail located on the Caltrans parcel to the existing recorded public access trail which is located landward of the revetment on the subject site and which provides lateral public access along this portion of the coast. The unpermitted development was installed on public property by either the Homeowners Association or one or more of its members. However, staff notes that removal of the unpermitted development is not directly related to the development proposed as part of this application. Therefore, Special Condition Four (4), Part B was only required in order to implement the applicant's original proposal to remove this unpermitted development. If this violation is not resolved, then the Commission's Enforcement Division will evaluate further actions to address this matter. Since the applicant is objecting to the last sentence of this condition, Special Condition Four (4), Part B on page 8 of the report and any related references in the findings of the staff report, are modified as follows:

B. In addition, by acceptance of this permit, the permittee agrees to exercise its best effort to remove, or work with the owner of the residence on APN 060-044-055, to remove the unpermitted development on Caltrans property (including the block wall, rock, and landscaping) which is blocking the entrance to the public accessway located landward of the revetment on Parcel B. ~~Removal of the unpermitted development on Caltrans property shall be performed as quickly as possible and shall be consistent with any necessary authorization by Caltrans for the removal of the unpermitted development located on Caltrans property.~~

4. *The fourth issue (#B.3) raised in the letter from Katherine Stone raises issue with the wording of Special Condition Five (5) "Public Access Program" and requests that the term "any other public access areas on the site" be deleted to ensure clarity.*

In response, staff agrees with the applicant that the identified public access areas on site, as shown on Exhibits 11-13 of the staff report, include: the lateral public access way located landward of the revetment, the lateral public access way located seaward of the revetment (both recorded as a deed restriction pursuant to Coastal Permit No. 4-82-595), and the three designated public access stairways approved pursuant to this permit. In order to clarify this issue, Sentence Two of Special Condition Five (5), Part A, on page 8 of the report is revised as follows:

The homeowners association, as the permittee, individual homeowners, and any successors-in-interest to the homeowners or the association (as owners of the land on which the stairways lie or entities with any control over those stairways) shall not interfere with or block the public's ability to utilize the stairways, the lateral public access way located landward of the revetment, or the lateral public access way located seaward of the revetment ~~any other designated public access areas on site~~, as generally shown on Exhibits 11 - 13 (including the deed restricted public access areas located landward and seaward of the revetment).

5. *The fifth issue (#B.4) raised in the letter from Katherine Stone is that the applicant is not in agreement with all components of Special Condition Five (5) "Public Access Signage Program". Specifically, the applicant agrees to install signage at the top and bottom of the three designated public stairways indicating that the stairs themselves are available for public access; however, the applicant is not in agreement with the requirement to install two additional public access signs at each end of the previously recorded, existing public access trail located landward of the revetment. The applicant asserts that there is "no basis for the applicant to provide signs at the western and eastern ends of the path landward of the revetment" and that "[s]uch signs would mislead the public to believe that the public has the right to vertical access to that path and possibly elsewhere on private property." The applicant further asserts that they believe the "public never had vertical access to the path". The applicant is requesting that the component of Special Condition Six that references this signage requirement should be deleted from special condition 6 A. 1.*

In response, staff notes that this issue is already fully discussed in the findings of the staff report. As explained in the report, the purpose of the two signs to be installed at both ends of the existing recorded public access way landward of the revetment is to ensure that the public is aware of the availability of the access way for public use. This lateral public access way was previously required by the Commission in 1983 as a condition of approval of Coastal Permit 4-82-595 for the subdivision of one parcel into 10 lots. This previous permit required the applicant to

record a deed restriction providing for two lateral public accessways along both the landward and seaward extent of the rock revetment on site in order to provide a connection between the existing vertical access ways available at both ends of the Seacliff Colony. Existing vertical public access is available via an existing dirt trail on the parcel owned by Caltrans immediately upcoast of the subject site and on the parcel immediately downcoast of the subject site at Ventura County Hobson Beach Park and Campground. Due to the frequent inundation of the sandy beach seaward of the revetment on site and the presence of the rock revetment itself, pedestrian access along the sandy beach between these two public properties is only available during lower tides. Further, in its approval of Coastal Permit 4-82-595, the Commission specifically found that the provision of lateral public access across the subject site was of critical importance in providing a critical public access link between the existing vertical public access located on the Caltrans property upcoast and the County parks property located downcoast. The Commission found that "Vertical access is presently available at both ends of the Seacliff community but no formal public lateral access exists on the beach between these points. By providing lateral access across the entire shore of the community, the intensity of use at those vertical access points (i.e., Caltrans and County park land) would be lessened...".

Therefore, for the reasons discussed fully in the findings of the staff report, Special Condition Five is necessary to ensure that the public is aware of existing public access areas on site and in order to ensure that adverse impacts to public access and recreation that will result from the proposed project are minimized.

6. *The sixth issue (#B.5) raised in the letter from Katherine Stone (and in a separate email from the applicant's representative, Kim Garvey of Moffatt and Nichol) requests that Special Condition Ten (10) be revised to delete the requirement that the applicant prepare a survey of the seaward limit of the toe of the revetment because this would involve further excavation on the beach.*

In response, Special Condition Ten (10) is revised as follows in order to eliminate the requirement that excavation occur in order to survey the toe of the revetment. As revised below, this special condition will ensure that permanent survey benchmarks will be installed on site adequate to identify the location of the toe of the revetment, as shown on the approved plans. These surveyed markers will be necessary to identify the location of the approved toe of the revetment in relation to any future repair or improvements to the revetment in the future. Thus, the first paragraph of Special Condition Ten (10) is revised as follows:

Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, a site plan ~~with a surveyed line identifying the seaward toe of the existing rock revetment and confirming that the footprint of the existing revetment is in conformance with the approved plans. This survey line shall not be set~~

~~**based upon the location of any errant rocks that are proposed to be re-located further seaward onto the revetment. The survey line plan shall be completed by a State licensed surveyor and that includes identification of permanent reference benchmarks and measured survey positions to be installed at appropriate locations on an accurate site plan exhibit, utilizing regular and established intervals which are adequate to establish a local survey control line at the top of the revetment slope, and identify the distance to the location of the seaward limit of the toe of the revetment as shown on the project plans by Moffatt and Nichol dated 1-25-07 and 2-20-08 and approved pursuant to Coastal Development Permit No. 4-07-154.**~~

7. *The seventh issue (#B.5) raised in the letter from Katherine Stone requests that her previous letter dated December 12, 2007, with attachments, be included as a substantive file document.*

In response to this request, the letter from Katherine Stone dated December 12, 2007, is included as a substantive file document for this coastal development permit. The "Substantive File Documents" section on Page 3 of the staff report is modified accordingly.

8, 9, & 10. *The eighth, ninth, and tenth issues (#C.1, & C.2, & C.3) raised in the letter from Katherine Stone assert substantially the same issue. The applicant asserts that the Commission does not have jurisdiction to act on a coastal development permit for the project because they do not believe that the project is located on public tide lands and that, therefore, the County of Ventura is responsible for acting on the coastal development permit for the development pursuant to the requirements of the Local Coastal Program.*

This issue is already discussed fully in the staff report. As discussed in the report, the applicant's assertions are incorrect. Although the Commission has previously certified a Local Coastal Program (LCP) for Ventura County, portions of the proposed project will clearly be located, at times, seaward of the mean high tide line on state tidelands and is located within an area where the Commission has retained jurisdiction over the issuance of coastal development permits. Further, the project plans submitted by the applicant dated 1-25-07 (prepared by Moffatt & Nichol Engineering and included as Exhibits 5 & 6 of the staff report) indicate that portions of the existing revetment are located seaward of the mean high tideline (MHTL). In addition, the applicant proposes to remove dislodged armor stone located seaward of the base of the rock revetment, which is frequently inundated and clearly on State Tidelands.

Moreover, the State Lands Commission submitted a letter on June 9, 2008, updating their previous letter received April 5, 2006, confirming that "it appears a portion of the existing revetment is located waterward of the mean high tide line and

therefore, is subject to the leasing jurisdiction of the CSLC." Thus, in addition to a lease from the State Lands Commission, a coastal development permit from the California Coastal Commission is required. The standard of review for the Commission's action is the Chapter 3 policies of the Coastal Act. Exhibit 10, is replaced with this new letter from the State Lands Commission received June 9, 2008. If the applicant believes any portion of the project is located within the County's LCP jurisdiction, then the applicant should contact Ventura County for a determination of whether a separate coastal permit will also be required by the County for any portion of the project that may be located in the County's coastal permit jurisdiction. Any coastal permit approved by the County for development on the subject site is appealable to the California Coastal Commission. Lastly, the applicant has applied for a coastal development permit for the entire proposed revetment repair from the Coastal Commission and has requested a public hearing on this application.

11. The eleventh issue (#C.4) raised in the letter from Katherine Stone asserts that because the revetment was originally constructed by Caltrans pursuant to a settlement agreement with the landowners, the applicant believes that the Homeowners Association "has the right to maintain & repair the revetment without any conditions imposed by the Coastal Commission".

In response, staff notes that the assertion that the Commission does not have the ability to require conditions pursuant to a coastal permit for repair and maintenance of the revetment is incorrect. As fully discussed and explained in the staff report, the California Coastal Commission was not party to the settlement agreement between the landowners and Caltrans regarding construction of the revetment on site. Further, although the settlement agreement provided that the property owners, and not Caltrans, would be responsible for future maintenance and repair of the revetment, that agreement did not, in any manner, provide that future maintenance and repairs would be exempt from the coastal development permit requirements of the Coastal Act (nor would Caltrans have had the legal authority to make such an agreement).

12. The twelfth issue (#C.5) raised in the letter from Katherine Stone asserts that "the proposed conditions have no nexus to the repairs to the revetment". In addition, the letter raises additional issues regarding the Commission's ability to address public view impacts, prescriptive rights, and the repair of seawalls.

In response, these issues have been fully evaluated in the findings of the staff report. The findings of the staff report include adequate discussion of the specific adverse impacts that will result from the proposed project and the nexus between these impacts and each required special condition in relation to the policies of the California Coastal Act.

13. *The thirteenth issue (#C. 6) raised in the letter from Katherine Stone asserts that that because the proposed development "will be within the physical limits of the existing design" it is, therefore, not "likely to cause sand loss because the revetment is built on bedrock." The applicant also asserts that the development should be exempt from permit requirements because it involves repair and maintenance. The applicant further disputes the findings of the staff report and asserts that the impacts of revetments on sand loss and public access is not supported.*

In response, staff notes that all of these issues are already fully addressed and evaluated in the findings of the staff report. Further, any repair and maintenance to a revetment located on a sandy beach involves a risk of substantial adverse environmental impact due to the presence of mechanized construction equipment or construction materials on any sand area or within 20 feet of coastal waters, the placement or removal of rip-rap rocks within 20 feet of coastal waters. Thus, the proposed repair of the revetment in the subject location and manner of construction falls under the definition of development and requires a coastal development permit (Coastal Act / Public Resources Code Sections 30106, 30610 (d), and California Code of Regulation Section 13252).

14. *The fourteenth item (#C.7) raised in the letter from Katherine Stone does not include any clear assertion or conclusion but instead includes a statement that that the Commission declined to require a federal consistency determination for previous repair work to the revetment in 1996 and 1998.*

In response, staff notes that this statement is irrelevant to the action before the Commission. The federal consistency determination process is separate from the coastal development permit process, does not involve the same standards of review, and is irrelevant in regards to whether a coastal permit is required for development. Further, the Commission typically takes the position that a federal consistency determination is not necessary when the applicant the applicant submits an application for a coastal development permit.

15. *The fifteenth item (#C.8) raised in the letter from Katherine Stone does not assert any specific conclusion but instead includes a statement that the "landowners have already granted more than reasonable public access over their property" in reference to the recorded lateral access ways located seaward and landward of the revetment on site pursuant to Coastal Permit 4-82-595.*

In response, staff notes that this statement does not raise make any clear assertion or conclusion. It is not clear from this statement which special conditions of this permit the applicant is disputing; however, as stated in response to Item 12 (C.5) above the findings of the staff report include adequate discussion of the specific adverse impacts that will result from the proposed

project and the nexus between these impacts and each required special condition in relation to the policies of the California Coastal Act.

16. *The sixteenth item (#C.9) raised in the letter from Katherine Stone asserts that "there has never been any vertical easements or public access from Pacific Coast Highway and Hobson Park to the path landward of the existing revetment and there is no legal basis to require access."*

In response, staff notes that this incorrect assertion raises similar issues to Item 5 (#B.4) above and is already fully addressed and evaluated in the findings of the staff report.

17. *In addition, an email was received on June 6, 2008, from the applicant's representative, Kim Garvey of Moffatt & Nichol Engineering raising a concern that Special Condition One (1), Part B.5 was not feasible because it would require a survey of the proposed stairs which could not be completed as a "prior to issuance" condition and requested that this component of the condition be deleted.*

In response, staff informed the applicant's representatives that Special Condition One (1) does not, in any manner, require a survey of the three proposed stairways after completion of construction. Special Condition One actually requires that the "CC&R's or Bylaws shall include a formal legal description and graphic depiction, prepared by a licensed surveyor, of each of the three specific stairway areas, as identified on Exhibits 11 – 13" in order to identify the "area" (not the actual as-built stairs) where the three stairways that are proposed to be dedicated for public access will be located. Therefore, because this condition does not require actual construction of the stairs, it is feasible to satisfy this condition prior to the issuance of the permit. Further, this requirement is necessary in order to ensure that the recorded amendment to the CC&Rs or Bylaws will include a legally adequate description of the areas on site that will be dedicated for public access.

Attachments

CALIFORNIA STATE LANDS COMMISSION
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JUN 09 2008

File Ref. SD 2006-03-06.4

James Johnson
South Central Coast District
California Coastal Commission
89 South California Street, Suite 200
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RECEIVED
JUN - 9 2008

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Dear Mr. Johnson:

SUBJECT: Coastal Development Project Review for the Repair of the Existing Rock Revetment at Seacliff Beach Colony in Ventura County

This is in response to your request that staff of the California State Lands Commission (CSLC) reconsider its 2006 jurisdictional determination relating to the repair of the existing rock revetment at Seacliff Beach Colony (Colony) in Ventura County. Specifically, you requested that staff review the ownership of the beach area beneath the revetment located seaward of the ten eastern lots of the Colony north of Hobson Beach County Park in Ventura County.

The Seacliff Beach Colony Homeowners Association proposes to repair the existing rock revetment structure protecting 50 beachfront homes in the Colony in Ventura County. Armor stone dislodgement, seaward slope steepening and crest elevation loss necessitate repair of the revetment to protect the adjacent residences.

As you have noted, the revetment adjacent to the western 40 lots of the development was constructed by CalTrans in 1972 as a result of erosion caused by construction of Highway 101. The revetment adjacent to the southwestern ten lots was completed in 1983, as part of development plans. In connection with the issuance of the 1983 Coastal Development Permit 4-82-595, the property owners recorded a deed restriction, on August 26, 1983, Document #93922, Official Records of Ventura County, providing, in part, for the right of the public for lateral access and passive recreation, and requiring that property owners maintain the area in a clear and safe condition. It is staff's understanding the property owners, through the homeowners association, are responsible for the maintenance of the revetment adjacent to the development.

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Revised
Exhibit 10
Appl. No 4-07-154
State Lands
Commission Letter
June 9, 2008

James Johnson,
Coastal Commission
Project: Seacliff Beach Colony Revetment
Page 2 – May 2008 Inquiry

On April 5, 2006, CSLC staff prepared a jurisdictional letter of "undetermined interest" in the proposed project. The letter was sent to the Project Manager, Russell H. Boudreau, P.E., of the firm of Moffatt & Nichol, representing the Colony. At that time, the CSLC asserted no claims that the project intruded onto sovereign lands or would lie in an area subject to the public easement in navigable waters. That conclusion was without prejudice to any future assertion of state ownership should circumstances change or additional information become available.

On May 6, 2008, you provided to CSLC staff an electronic copy of the Shore Protection Repair Plan and General Notes, dated January 25, 2007, prepared by Moffatt & Nichol for the project. The Plan's notes state that:

THE MEAN HIGH TIDE LINE (MHTL) IS SHOWN WHERE THE SURVEYED MEAN HIGH TIDE ELEVATION (+2 FEET NGVD) INTERSECTS THE REVETMENT OR SANDY BEACH. THE SURVEY WAS CONDUCTED IN AUGUST OF 2006 AND REPRESENTS A TYPICAL SUMMER CONDITION. BY INSPECTION THE MHTL IS AT OR VERY NEAR THE REVETMENT. THE WINTER MHTL WOULD THEREFORE BE EXPECTED TO BE ON THE REVETMENT FOR ITS ENTIRE LENGTH.

As this information was not available at the time of CSLC staff's review of the project in 2006, it is reasonable that staff consider this new information relative to the project's intrusion into State owned sovereign land. Based on this new information, it appears that a portion of the existing revetment is located waterward of the mean high tide line and therefore, is subject to the leasing jurisdiction of the CSLC. Please be advised that the Seacliff Beach Colony Homeowners Association must submit an application to the CSLC for a lease of these sovereign lands.

Additionally, the issuance of any new lease for the use of State lands requires compliance with the California Environmental Quality Act (CEQA). The terms of CEQA may be found in the California Public Resources Code (PRC), Sections 21000 et. seq., and in the State CEQA Guidelines, California Code of Regulations, Title 14, Sections 15000 et seq. The Commission can consider no application until the requirements of CEQA are met.

Please contact Susan Young by phone at (916) 574-1879 or by email at youngs@slc.ca.gov if you have any questions regarding this matter.

Sincerely,

Signature On File

~~Barbara Dugal, Chief~~
Division of Land Management

cc: Kathy Stone, Seacliff Beach Colony Homeowners Association
Susan Young

page 2 of 2

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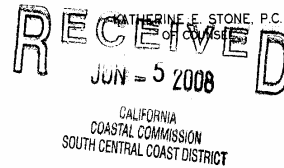
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June 5, 2008

Chair Patrick Kruer and Members of the
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Re: Seacliff Shore Protection Repair
CDP Application Nos. 4-06-049 and 4-07154

Dear Chair Kruer and Members of the Commission:

I represent the Seacliff Homeowner's Association ("Association"). Although I have serious legal concerns with the process and staff report for this project, the applicant is willing to accept the permit as conditioned with a few minor clarifications.

A. Project Description.

The revetment is located seaward of 50 lots (49 homes).

B. Comments on Special Conditions.

Condition No. 3: The California Coastal Commission should be a party to the agreement for a 25 year permit to repair the revetment. (at ¶ 1.)

Condition No. 4B: The Association does not have the authority to dictate the removal of development on CalTrans property. The last sentence of ¶4B should be deleted.

Condition No. 5: This permit only applies to Parcel B and its extension to Hobson Park. The term "any other designated public access areas on the site must be deleted. There are no other accessways except those granted by the deed restriction and the stairways to be granted pursuant to this permit.

Condition No. 6: There is no basis for the applicant to provide signs at the western and eastern ends of the path landward of the revetment. Such signs would mislead the public to believe that the public has a right to verticle access to that path, and possibly elsewhere on private

Chair Patrick Krueer and Members of the
California Coastal Commission
June 5, 2008
Page 2

property. The public has never had vertical access to the path. The second to the last paragraph at condition A.1 must be deleted.

Condition No. 10: As the applicant's engineers have repeatedly explained to staff, it is not possible to survey the "toe of the revetment." It is on bedrock far below the sand. CalTrans' original plans for the revetment should be available for reference. It is inconceivable that the Commission would like to dig up this beach to find the "toe of the revetment."

I note that the staff report fails to note my letter of December 12, 2007 with attachments as a substantive file document. Please include it.

C. Legal Issues.

For the record, there are several serious legal issues with the staff report for a permit to repair the existing revetment along Seacliff Beach Colony which are summarized below.

1. We believe that the Commission is violating the Coastal Act by requiring the Association to apply to the Commission in the first instance. The County of Ventura ("County") has a certified Local Coastal Program ("LCP"). It has jurisdiction to issue Coastal Development Permits ("CDP"). (Pub. Res. Code §§ 30600(d); 30519.) The County has twice issued CDPs for repairs to this revetment.

2. There is no basis for the Commission to assert original jurisdiction because the revetment is not located on tidelands or public trust lands. (See, Pub. Res. Code § 30519(b).) The State Lands Commission ("SLC"), the agency with jurisdiction over tide and submerged lands has three times declined to assert jurisdiction because the last official survey shows the mean high tideline is well beyond the revetment. There has been no official determination of the location of the current ordinary high water mark. To the extent the staff report suggests the revetment is on tidelands, it is wrong. The Commission does not have authority adjudicate to the location of the mean high tide line.

3. The Commission's appellate jurisdiction is "limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division." (Pub. Res. Code § 30603(b)(1) and (2).) The repairs conform to the LCP and the Coastal Act both of which recognize that revetments "shall be permitted when required... to protect existing structures...." (Pub. Res. Code § 20235; see also, LCP, pp. 18 and 39.) The LCP recognizes that public access is "considerable on the north coast." (LCP, p. 30.)

4. The revetment was built by the State Department of Transportation (“CalTrans”) in an attempt to mitigate the sudden and disastrous downstream impact of building Highway 101 over four Seacliff homes. The settlement agreement with CalTrans grants the landowners the right to maintain the revetment. The agreement states Landowners may “undertake such maintenance and repair as they deem appropriate.” There is a strong legal argument that this agreement with the State affords the Association the right to maintain repair to the revetment without any conditions imposed by the Coastal Commission.

5. The proposed conditions have no nexus to the repairs to the revetment. (See *Nollan v. California Coastal Commission* (1987) 483 U.S. 825 [“[U]nless the permit condition serves the same governmental purpose as the development ban, the building restriction is not a valid regulation of land use but ‘an out-and-out plan of extortion.’”]; *Schneider v. California Coastal Commission* (2006) 140 Cal.App.4th 1339, 1341 [“Legislature has not empowered the Coastal Commission to ‘add’ the factor of a boater’s ‘right to view’ of coastline as a factor to deny or restrict development in the coastal zone.”]; *LT-WR, LLC v. California Coastal Commission* (2007) 151 Cal.App.4th 427, 443-444 [“Commission is not vested with authority to adjudicate the existence of prescriptive rights for public use of privately owned property.”].) This application to repair an existing seawall is nothing like the project in *Ocean Harbor House v. California Coastal Commission*, 2008 DJ DAR 7603, ___ Cal.4th ___. In *Ocean House*, the permit was for a new seawall to protect a condominium complex. The environmental impact report showed the project would cause serious beach erosion. That is not the situation here. There is no evidence that the repairs will damage the beach. CalTrans damaged the beach and necessitated the revetment.

6. As with the prior repairs to the revetment, this repair will be within the physical limits of the existing design and is not likely to cause sand loss because the revetment is built on bedrock. The repairs should be exempt under Public Resources Code section 30610(d) [“Repair or maintenance activities that do not result in addition to, or enlargement or expansion of, the object of those repairs or maintenance activities...”]. Conclusionary statements about the impacts of revetments on sand loss and access in other areas are not supported by any site specific evidence.

7. In 1996 and 1998 the Commission declined to assert federal consistency jurisdiction for the prior repairs stating “due to the fact that: (1) this project has or will receive a locally issued development permit and is located within an area where such permits are appealable to the Coastal Commission and (2) the proposed project does not significantly affect coastal resources or raise coastal issues of greater than local concern.” Nothing has changed since then, except the need to shore up the revetment which has caused rocks to be strewn over the beach, impeding public access.

Chair Patrick Krueer and Members of the
California Coastal Commission
June 5, 2008
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8. The landowners have already granted more than reasonable public access over their property. The 1983 CDP was conditioned with deed restrictions that:

“(i) acknowledge the right of the public to lateral access and passive recreation (limited exclusively to the rights to walk, run, sunbathe, swim, surf, picnic, and fish) on the Parcel B (See Exhibit C) from the mean high tide line to the toe of the rock seawalls and/or revetments (ii) acknowledge the right of the public to lateral access (limited exclusively to the rights of the public to walk and run) on Parcel B (See Exhibit C) on the inland side of the revetment on the existing path....” (Emphasis added)

9. There has never been any vertical easements or public access from Pacific Coast Highway and Hobson Park to the path landward of the existing revetment and there is no legal basis to require such access.

Very truly yours,

MYERS, WIDDERS, GIBSON,
JONES & SCHNEIDER. L.L.P.

Signature On File

KATHERINE E. STONE
Attorney for Seacliff Homeowner's Association

KES:mer
Enclosure

cc: Peter Douglas, Executive Director, California Coastal Commission
Jack Ainsworth
James Johnson
Matt Rodriguez

James Johnson

From: Garvey, Kimberly [kgarvey@moffattnichol.com]
Sent: Friday, May 23, 2008 11:02 AM
To: James Johnson
Cc: Porkerlegg@aol.com; sfharbison@aol.com; djohnston@thatcher.org; binadel@yahoo.com; jeffsr@todaycleaners.com; rayhest@charter.net; Boudreau, Russ
Subject: RE: Staff Recommendation and Conditions

James,

We have two more additional conditions for which we need to request a change.

Condition 2.A – This prior-to-issuance condition basically says that the permittee (Association) must find a recipient of the \$60,000, and this must happen prior to obtaining an approved permit. The problem is what if BEACON is not able to take the money or cannot commit to taking the money within the next 90 days, for whatever reason, and the Association cannot find another taker within the next 90 days. Then, the permittee will be unable to complete the revetment repair. The condition should be changed such that the Association pays into a CCC fund and then the CCC works with the recipient on the implementation. The Association cannot feasibly take responsibility for this.

Condition 3.A.2 – states "The permittee, or its successor, expressly waive any rights to such activity that may exist under Public Resources Code Section 30235." What does this code say that applies and that must be waived.?

Thanks,
Kim

From: Boudreau, Russ
Sent: Thursday, May 22, 2008 9:27 PM
To: James Johnson
Cc: Garvey, Kimberly; Porkerlegg@aol.com; sfharbison@aol.com; djohnston@thatcher.org; binadel@yahoo.com; jeffsr@todaycleaners.com; rayhest@charter.net
Subject: RE: Staff Recommendation and Conditions

James,

Thanks for sending ahead the proposed conditions. We had a chance to review them with homeowners association representatives. The attachment provides a compilation of M&N and the association comments. Please call with any questions.

Russ

Russell H. Boudreau, PE
MOFFATT & NICHOL
3780 Kilroy Airport Way, Suite 600
Long Beach, CA 90806
Office: (562) 426-9551 ext 25314
Cell: (562) 805-3054
rboudreau@moffattnichol.com

From: James Johnson [mailto:jjohnson@coastal.ca.gov]
Sent: Thursday, May 22, 2008 9:53 AM
To: Garvey, Kimberly; Boudreau, Russ
Subject: Staff Recommendation and Conditions

6/9/2008

Here are the Conditions for your review.

james johnson
california coastal commission
805.585.1800

6/9/2008

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800

W 17d

Filed: 12/10/07
240th Day: 8/5/2008
Staff: J. Johnson
Staff Report: 5/28/08
Hearing Date: 6/11/08
Commission Action:



STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-07-154

APPLICANT: Seacliff Homeowners Association

AGENTS: Russell Boudreau,
Kim Garvey, Moffat & Nichol

PROJECT LOCATION: Seacliff Beach Colony, 5310 - 5518 Rincon Beach Park Drive, Ventura County

PROJECT DESCRIPTION: Repair an existing 2,040 foot long rock revetment located seaward of 49 existing single family residences. The repair will involve the retrieval of dislodged rocks (approximately 190 stones) from the sandy beach, depositing the dislodged rocks on the revetment, and the addition of approximately 5,000 tons of new armor stone ranging from 3-5 tons in size/weight in order to restore the revetment to its original design height of +11 ft. above MSL (mean sea level) along a 1,600 linear ft. section (western section) and its original +14 ft. in height above MSL along a 440 linear ft. section (eastern section). No rock will be placed seaward of the existing toe of the revetment. In addition, the project includes removal of 19 existing unpermitted private beach access stairways between the public trail and the sandy beach, improvement of two existing beach access stairways for public use, and the demolition and reconstruction of one additional beach access stairway for public use. The project also includes removal of unpermitted landscaping, rock, and debris within the public trail on Parcel B and an offer to exercise the applicant's best effort to remove an unpermitted privacy wall and landscaping (located on an adjacent parcel owned by Caltrans) which blocks access to the public trail on the subject site.

| | |
|--|-----------------------|
| Revetment Length: | 2,040 ft. |
| Existing Max. Height Above Mean Sea Level: | +9.5 - +14 ft. |
| Proposed and Approved Max. Height Above Mean Sea Level: | +11 - +14 ft. |

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission **approve with conditions** the proposed repair of an existing 2,040 foot long rock revetment involving the retrieval of dislodged stones from the sandy beach and the addition of approximately 5,000 tons of new armor stone (a 14 % addition to the existing rock revetment involving the placement of approximately 190 new stones ranging from 3-5 tons in size/weight). The proposed project will restore the revetment to its original approved +11 feet MSL height along a length of 1,600 feet (western section) and its original approved +14 feet MSL height along a length of 440 feet (eastern section) protecting 49 existing residences on separate lots.

The proposed placement of new and errant rock will be located landward of the previously approved toe of the rock revetment.

The purpose of the proposed project is to repair and maintain the existing rock revetment on site. The project will also serve to extend the expected lifespan of the existing revetment. The primary issues raised by this application include potential adverse impacts to public access and shoreline sand supply that will result from extending the life of the existing revetment on site. Therefore, in order to address these impacts, staff recommends approval of the project with the following special conditions: 1) recordation of the permit conditions; 2) Mitigation for impacts to Public Access and Sand Supply requiring the applicant to fund access off-site public access improvement; 3) revetment maintenance and repair program, 4) removal of unpermitted development and improvement of three approved stairways; 5) public access program; 6) public access signage program; 7) assumption of risk; 8) plans conforming to engineers recommendations; 9) construction responsibilities and debris removal; 10) engineer survey of revetment toe; 11) required approvals, and 12) condition compliance. Staff recommends that the Commission find that the project, as conditioned, will be consistent with the applicable public access and resource protection provisions of the Coastal Act.

Although the Commission has previously certified a Local Coastal Program for Ventura County, portions of the proposed project will be located, at times, on state tidelands and is located within an area where the Commission has retained jurisdiction over the issuance of coastal development permits. Thus, the standard of review for this project is the Chapter 3 policies of the Coastal Act. The proposed project, only as conditioned, will be consistent with the applicable public access and resource protection provisions of the Coastal Act.

STAFF NOTE

This project was originally submitted as Coastal Development Permit (CDP) Application 4-06-049, which was filed on April 16, 2007. Due to several unresolved issues regarding the impacts of the proposed project on public access and shoreline sand supply, at the request of Staff, the applicant withdrew Application No. 4-06-049 and resubmitted the same application, which was filed as 4-07-154, at the end of 2007, in order for the applicant and Staff to be able to work together to develop an appropriate mitigation program to reduce, avoid, or offset/compensate for the adverse impacts to public access and shoreline sand supply that would result from extending the life of the existing revetment on site. This new application (CDP 4-07-154) was filed on December 7, 2007, and would have had to have been acted on by the Commission at its May 2008 meeting in order to comply with the Permit Streamlining Act. However, in order to allow for additional time to continue working with staff to resolve the issues raised by the project, the applicant has further extended the Commission's review time by 60 days. Since this application has now been extended to the 240th day for Commission action (August 5, 2008) the Commission must act on this application by the July 9-11, 2008 Commission meeting.

LOCAL APPROVALS RECEIVED: None required.

SUBSTANTIVE FILE DOCUMENTS: Coastal Permit No. 4-06-049, Seacliff Homeowners Association; Coastal Permit Application No. 4-95-241, Seacliff Land Company; Coastal Permit No. 4-04-071, Holmgren; Wave Uprush Study, by Moffatt & Nichol, Engineers, dated February, 2006; Letter received March 5, 2008 from Russell Boudreau, Moffett & Nichols; Email received May 1, 2008 from Kim Garvey, Moffett & Nichols; Letter received May 21, 2008 from Pat McDonald, President, Seacliff Beach Colony Association..

STAFF RECOMMENDATION:

MOTION: I move that the Commission approve Coastal Development Permit No. 4-07-154 pursuant to the staff recommendation.

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution:

I. Resolution for Approval with Conditions

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 and 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. 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

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.

III. Special Conditions

1. Recordation of Permit Conditions

Prior to issuance of the coastal development permit, the applicant homeowners association (HOA) shall do one of the following:

- A. Submit to the Executive Director, for review and approval, documentation demonstrating that the applicant has executed and recorded a deed restriction in a manner that will cause said deed restriction to appear on the title of each of the 49 residential lots on the project site, Parcel B, and all other land owned/controlled by the Seacliff Homeowners Association, 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 subject property. The deed restriction shall include a legal description of the entire parcel or parcels against which it is recorded. 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, or;
- B. Modify the Declaration of Covenants, Conditions and Restrictions (or CC&R's) of the Seacliff Beach Colony or the Bylaws of the HOA in a form and content acceptable to the Executive Director, to reflect the obligations imposed on the HOA and the restrictions that apply to all members of the community pursuant to Special Conditions 3 (Revetment Maintenance and Repair Program), 5 (Public Access Program), 6 (Public Access Signage Program), 7 (Assumption of Risk), and 11 (Engineer Survey of Revetment Toe) of this permit. In order to satisfy this condition, a proposed version of an amendment to the CC&R's or Bylaws shall be submitted to the Executive Director for review and approval prior to its adoption. The Executive Director's review shall be for the purpose of insuring that the additions to the CC&R's or Bylaws reflect the above-referenced Special Conditions and the requirements of this condition. The permittee shall demonstrate that the recorded CC&R's or Bylaws for the 49 residential lots on the project site, Parcel B, and all other land owned/controlled by the Seacliff Homeowners Association have been amended, as approved by the Executive Director, in a manner that would put any prospective purchaser of a lot within the Seacliff Beach Colony on notice of such amendment. Within 30 days after recordation of the amended CC&R's or amending the Bylaws,

the applicant shall distribute the amended CC&Rs or Bylaws to each member of the Seacliff Homeowners Association. The amendment must satisfy the following requirements:

1. The CC&R's or Bylaws shall state that the terms and conditions of the CC&Rs or Bylaws that are specifically related to any term or condition of Coastal Development Permit 4-07-154 may not be removed or modified without a Coastal Commission-approved amendment to this coastal development permit.
2. If the Bylaws are amended, rather than the CC&Rs, the amendment shall include an amendment to Article I, section 3, to make clear that the additions required by this condition expand the scope of the Bylaws to apply to the management of some common areas as well to the residential lots.
3. The CC&R's or Bylaws shall indicate that the public shall have the right to use the three stairways approved in Coastal Permit No. 4-07-154 to pass and repass between the existing lateral public accessway located landward of the revetment and the existing lateral public accessway on the sandy beach seaward of the revetment, each of which was deed restricted to protect public access on August 26, 1983 (Instrument No. 93922), as required pursuant to Coastal Permit No. 4-82-595. The CC&R's or Bylaws shall indicate that the homeowners may not interfere with or block the public's ability to utilize the stairways or any other designated public access areas on site.
4. The CC&R's or Bylaws shall designate responsibility for the maintenance of the three (3) stairways approved by CDP 4-07-154 of this permit to the Homeowner's Association.
5. The CC&R's or Bylaws shall include a formal legal description and graphic depiction, prepared by a licensed surveyor, of each of the three specific stairway areas, as identified on Exhibits 11 - 13.

2. Mitigation for Impacts to Public Access and Sand Supply

A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit to the Executive Director, for review and written approval, a plan to establish a Shoreline Sand Supply and Public Access Fund Account to be managed by the Beach Erosion Authority for Clean Oceans and Nourishment (BEACON), or other entity if approved by the Executive Director. Subsequent to Executive Director approval of the plan, the Permittee shall establish such fund as an interest bearing account and deposit a sum of \$60,000 (Sixty Thousand) United States Dollars into that fund in order to mitigate for impacts to shoreline sand supply and the loss of public recreational use over 25 years resulting from effects associated with extending the life of the structure on the sandy beach. The required in-lieu fee mitigation covers impacts only through the expected 25-year life of the revetment. The permittee shall deposit the entire mitigation fee in the Shoreline Sand Supply and Public Access Fund account within 60 days after approval of the plan by the Executive Director, unless additional time is granted by the Executive Director for good cause. After 25 years, a new coastal development permit may be required for future maintenance.

The purpose of the account shall be to construct a new public access stairway to the beach and/or public parking improvements at Oil Piers Beach or to establish a new or improved public access or recreation project at another appropriate location within the

Coastal Zone in Ventura County, as authorized by the Executive Director. The account shall be structured to ensure that the entire fee and any accrued interest shall be used for the above-stated purpose, in consultation with the Executive Director, within ten years of the fee being deposited into the account. Any portion of the fee that remains after ten years shall be donated to an organization acceptable to the Executive Director, for the purpose of providing new or improved public access or recreation projects at another appropriate location in coastal Ventura County, or to implement beach nourishment projects which provide sand to the region's beaches within the Coastal Zone in Ventura County.

B. The fund shall also be structured to ensure that, **PRIOR TO EXPENDITURE OF ANY FUNDS CONTAINED IN THIS ACCOUNT**, the Executive Director shall review and approve, in writing, the proposed use of the funds as being consistent with the intent and purpose of this condition. In addition, the entity accepting the in-lieu fee funds required by this condition shall enter into a memorandum of understanding (MOU) with the Commission, which shall include, but not be limited to, the following: (1) a description of how the funds will be used to create or enhance public access to the beach or provide for beach nourishment activities in the Coastal Zone; (2) a requirement that the entity accepting the funds must preserve any newly created public access to the beach or recreational facilities in perpetuity; and (3) an agreement that the entity accepting the funds will obtain all necessary regulatory permits and approvals, including, but not limited to, a coastal development permit for development of the public access to the beach or recreational facilities required by this condition.

3. Revetment Maintenance and Repair Program

By acceptance of this permit, the permittee acknowledges and agrees to the following:

A. Future maintenance and repair of the rock revetment located seaward of the 50 existing lots in the Seacliff Beach Community (as shown on Exhibits 5-7) may be completed without a new coastal development permit for a period of 25 years commencing from the date of Commission action on this permit (until June 11, 2033) consistent with the following limitations (any other proposed maintenance or repair, and any maintenance or repair of the rock revetment after June 13, 2033, may require the issuance of a new coastal development permit from the California Coastal Commission):

- 1 Prior to the commencement of any such repair or maintenance work, the permittee must obtain written authorization from the Executive Director of the California Coastal Commission. The permittee shall submit a written report prepared by a professional engineer, for the review and approval of the Executive Director, identifying the proposed maintenance and repair work, method for performing work, analysis of the necessity for the work, and a quantification of any additional rock to be added to the revetment. The maintenance and repair report shall be submitted at least 60 days in advance of the proposed work to allow time for review by the Executive Director. The Executive Director's review will be for the purpose of ensuring that the nature of the work, the method proposed for the work, and all other aspects of the

proposed work is consistent with the provisions of this condition, including Subparts A2, A3, A4, and A5 of this condition listed below.

2. No future repair or maintenance, enhancement, reinforcement, or any other activity affecting the rock revetment shall be undertaken if such activity extends the seaward footprint of the subject shoreline protective device. No rock shall be placed seaward of the approved toe of the revetment and no increase in the approved height of the revetment shall occur as specifically identified in the drawings by Moffatt and Nichol dated 1-25-07 and 2-20-08 and approved by Coastal Permit No. 4-07-154. Any debris, rock, or other materials which become dislodged after completion through weathering, wave action or settlement shall be removed from the beach or deposited on the revetment on an as-needed basis as soon as feasible after discovery. In no event shall more than 5,000 tons of new armor stone (approximately 15% of the approved volume of the revetment) be imported for any individual repair project. The addition of more than 5,000 tons of new armor stone for any individual repair project shall require a new coastal development permit and is not exempt pursuant to this condition.
 3. Maintenance or repair work shall only occur during the late fall or winter season from October 1 to March 15. Any repair or maintenance of the shoreline protective device between March 16 and September 30 shall require a new coastal development permit and is not exempt pursuant to this condition, with the exception that removal of any debris, rock or other material from the sandy beach that becomes displaced from the revetment and will be deposited on the revetment or exported to an offsite disposal area shall occur on an as-needed basis, regardless of the time of the year and without the requirement for submitting a written report 60 days in advance of the work or for prior written authorization from the Executive Director.
 4. Maintenance or repair work shall be completed incorporating all feasible Best Management practices. No machinery shall be allowed in the active surf zone at any time. The permittee shall remove from the beach any and all debris that results from the construction/repair work period.
 5. The applicant shall, by accepting the written authorization from the Executive Director, shall agree and ensure that the project contractor shall comply with the following construction-related requirements:
 - (a) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave erosion and dispersion;
 - (b) Any and all debris resulting from construction activities shall be removed from the beach prior to the end of each work day;
 - (c) No machinery or mechanized equipment shall be allowed at any time within the active surf zone, except for that necessary to remove the errant rocks from the beach seaward of the revetment;
 - (d) All excavated beach sand shall be redeposited on the beach.
- B.** The permittee shall be responsible for maintenance, repair, and replacement of the three public stairways approved pursuant to Coastal Permit No. 4-07-154 that traverse vertically across the top of the rock revetment connecting the existing lateral

public accessway landward of the revetment to the lateral public accessway on the sandy beach seaward of the revetment, each of which was deed restricted to protect public access on August 26, 1983, via Instrument No. 93922, as required by Coastal Permit No. 4-82-595. Such maintenance shall occur on as needed basis, in perpetuity for the life of the rock revetment, in order to ensure the public's ability to use the stairways.

4. Removal of Unpermitted Development and Improvement of Three Approved Stairways

- A. The permittee shall: (1) remove the 19 unpermitted beach access stairways, (2) remove any landscaping, rock, and debris which is encroaching onto the identified public accessway located landward of the rock revetment on Parcel B, and (3) improve, repair, or replace the three stairways designated for public access (as shown on Exhibits 11-16) pursuant to the approved plans within 180 days after issuance of this permit. The Executive Director may grant additional time for good cause.
- B. In addition, by acceptance of this permit, the permittee agrees to exercise its best effort to remove, or work with the owner of the residence on APN 060-044-055, to remove the unpermitted development on Caltrans property (including the block wall, rock, and landscaping) which is blocking the entrance to the public accessway located landward of the revetment on Parcel B. Removal of the unpermitted development on Caltrans property shall be performed as quickly as possible and shall be consistent with any necessary authorization by Caltrans for the removal of the unpermitted development located on Caltrans property.

5. Public Access Program

By acceptance of this permit, the permittee, or its successor in interest, agrees to the following:

- A. **Public Access:** The public shall have the right to use the three stairways approved by this permit to pass and repass between (1) the existing lateral public accessway located landward of the revetment and (2) the existing lateral public accessway sandy beach seaward of the revetment, each of which is privately owned but deed restricted to protect public access, pursuant to a requirement in Coastal Permit No. 4-82-595. The homeowners association, as the permittee, individual homeowners, and any successors-in-interest to the homeowners or the association (as owners of the land on which the stairways lie or entities with any control over those stairways) shall not interfere with or block the public's ability to utilize the stairways or any other designated public access areas on site, as generally shown on Exhibits 11 - 13 (including the deed restricted public access areas located landward and seaward of the revetment). The homeowners association shall also take all reasonable steps to ensure that its members abide to the same prohibition, including, but not necessarily limited to, (1) amending the CC&Rs as required by Special Condition 1 and (2) distributing notice to its members of this prohibition.

- B.** The permittee, or its successor in interest, shall maintain the three stairways that traverse the rock revetment in good condition for the life of the revetment and replace when necessary in order to ensure the public's ability to utilize the stairs.

6. Public Access Signage Program

A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval by the Executive Director a Public Access Signage Program showing the location, size, design, and content of all signs to be installed on the subject site consistent with the following provisions:

1. Signage shall be adequate to inform the public of their right to utilize all public access areas on site (including the recorded lateral public access trail immediately landward of the revetment, the portion of the sandy beach between the mean high tide line and the toe of the revetment, and the three public access stairways approved pursuant to this permit). At a minimum, the Program shall provide for the installation of signs to be installed at both the western (upcoast) end and eastern (downcoast) end of the public trail located landward of the revetment. The plan shall also provide for the installation of signs at the seaward and landward ends of each of the three approved stairways.
2. The language shall inform the public of the right to access the landward lateral and seaward lateral accessways and the connecting three stairways. The applicant acknowledges and agrees that no signs shall be posted on the sandy beach, the rock revetment, or along the identified public access areas unless specifically authorized by the approved signage plan, a separate coastal development permit, or an amendment to this coastal permit. The signs may indicate that the residential lots located landward of the public access areas are private property. No signs that restrict public access to State tidelands, public vertical or lateral access easement areas, or which purport to identify the boundary between State tidelands and private property shall be permitted.

B. The permittee shall install all signs in accordance with the approved plans within 180 days after issuance of this permit. The Executive Director may grant additional time for good cause. The permittee, or its successor in interest, shall maintain the approved signs in good condition for the life of the project and replace when necessary.

7. Assumption of Risk

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from tsunami, storm waves, surges, erosion, and 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. Plans Conforming to Engineers' Recommendations

By acceptance of this permit, the applicant agrees to comply with the recommendations contained in the Wave Uprush Study dated February 2006 by Moffatt & Nichol. These recommendations, including recommendations concerning the shore protection repair design, shall be incorporated into all final design and construction plans, which must be reviewed and approved by the consultant prior to commencement of development.

The final plans approved by the consulting engineer shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial changes in the proposed development approved by the Commission that may be required by the consultant shall require an amendment(s) to the permit(s) or new coastal development permit(s).

9. Construction Responsibilities and Debris Removal

The applicant shall, by accepting this permit, agree and ensure that the project contractor shall comply with the following construction-related requirements:

- (a) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave erosion and dispersion;
- (b) Any and all debris resulting from construction activities shall be removed from the beach prior to the end of each work day;
- (c) No machinery or mechanized equipment shall be allowed at any time within the active surf zone, except for that necessary to remove the errant rocks from the beach seaward of the revetment;
- (d) All excavated beach sand shall be redeposited on the beach.

10. Engineer Survey of Revetment Toe

Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, a site plan with a surveyed line identifying the seaward toe of the existing rock revetment and confirming that the footprint of the existing revetment is in conformance with the approved plans. This survey line shall not be set based upon the location of any errant rocks that are proposed to be re-located further seaward onto the revetment. The survey line shall be completed by a State licensed surveyor and include identification of reference benchmarks and measured survey positions at appropriate locations on an accurate site plan exhibit.

Within 60 days of the completion of the revetment repairs, the applicant shall submit, for the review and approval of the Executive Director, an as-built or post construction survey of the revetment, prepared by a qualified coastal engineer. The plans shall quantify the amount of rock placed on the revetment in terms of tonnage, the actual number of rocks placed on the revetment, state on stamped plans that no rock is located seaward of the toe and that the completed work was done in compliance with approved plans.

11. Required Approvals

By acceptance of this permit, the applicant agrees to obtain all other necessary State or Federal permits that may be necessary for all aspects of the proposed project (including the California State Lands Commission, Caltrans, and the U.S. Army Corps of Engineers) or evidence that no such approvals are required.

12. Condition Compliance

Within 90 days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background/History:

1. Project Description

The applicant proposes to repair an existing 2,040 foot long rock revetment located seaward of 49 existing single family residences. The repair will involve the retrieval of dislodged rocks (approximately 190 stones) from the sandy beach, depositing the dislodged rocks on the revetment, and the addition of approximately 5,000 tons of new armor stone ranging from 3-5 tons in size/weight in order to restore the revetment to its original design height of +11 ft. above MSL (mean sea level) along a 1,600 linear ft. section (western section) and its original +14 ft. in height above MSL along a 440 linear ft. section (eastern section). No rock will be placed seaward of the existing toe of the revetment. In addition, the project includes removal of 19 existing unpermitted private beach access stairways between the public trail and the sandy beach, improvement of two existing beach access stairways for public use, and the demolition and reconstruction of one additional beach access stairway for public use. The project also includes removal of unpermitted landscaping, rock, and debris within the public trail on Parcel B (owned by the Seacliff Homeowners Association) and an offer to exercise the applicant's best effort to remove an unpermitted privacy wall and landscaping (located on an adjacent parcel owned by Caltrans) which blocks access to the public trail on the subject site.

The Seacliff Beach Colony consists of 49 existing residences and one vacant lot seaward of Pacific Coast Highway. The revetment is located on a separate lineal parcel known as "Parcel B" located immediately seaward of the western (upcoast) 40 residential lots and on an "unparceled" lot located seaward of the 10 downcoast (eastern) lots. The project area is characterized by a relatively narrow beach that is

frequently entirely inundated to the toe of the rock revetment. Due to the narrowness of the beach and frequency of total inundation of the sandy beach, the project site is not expected to support any potential grunion spawning habitat.

The proposed repair project is intended to restore the existing revetment on site to its original design condition and footprint by: 1) restoring a durable 1.5:1 (horizontal:vertical) slope along the entire length of the revetment; 2) restoring the pre-existing crest elevation of +11 feet MSL for the section of revetment along the western 40 lots; and 3) restoring the pre-existing crest elevation of +14 feet MSL for the section of revetment along the eastern 10 lots. The repair will be completed by importing an additional estimated 5,000 tons of 3 to 5 ton armor stone. The addition of new rock represents approximately 14% of the total revetment design volume. Existing dislodged armor stone (approximately 192 stones) will be salvaged/retrieved and re-stacked on the revetment.. Any waste concrete or other debris found seaward of the revetment will be disposed offsite outside the Coastal Zone.

To complete the construction of the revetment repairs, common tire and/or tractor-mounted earth moving equipment will be used from the seaward side of the revetment during low tide hours. Staging of construction equipment and material will be on a vacant lot (owned by the Seacliff Beach Colony Homeowners Association) at the east end of the project property, on the landward side of the shore protection and at the east terminus of Rincon Beach Park Drive (a private road). Construction access to the beach will be provided via a temporary ramp constructed of beach-quality sand, or small (up to 6-inch stone) over the far eastern end of the revetment, as done in the past. The ramp will be removed by spreading the beach-quality sand on the fronting beach and/or removing and trucking the small stone to an appropriate off-site disposal location.

In addition, 22 existing concrete stairways have been constructed across the revetment without the required coastal development permits in order to provide for private access from several of the residences to the beach area. The stairways descend to the sandy beach from a trail which extends parallel to the beach along the landward edge (and along the top) of the entire length of the revetment (between the 49 existing residences and the revetment itself). A deed restriction has been previously recorded on the subject site acknowledging and protecting the public's right to use this trail and all portions of the sandy beach seaward of the toe of the existing revetment for public access by beachgoers, pursuant to Coastal Permit No. 4-82-595. The unpermitted stairs/walkways are of various widths, lengths, and shapes, and are constructed primarily of concrete. The proposed project includes demolishing 19 of these existing stairways. In addition, the project also specifically includes the repair and improvement of two of the remaining stairways and replacement/reconstruction of the third remaining stairway, with the specific provision that all three of the improved/repared stairways will be made available for public access.

This application (CDP 4-07-154) was filed on December 7, 2007, and would have had to have been acted on by the Commission at its May 2008 meeting in order to comply with the Permit Streamlining Act. However, in order to be able to continue working with staff to resolve several outstanding issues regarding the impacts of the proposed project on public access and shoreline supply, the applicant extended the Commission's review time by 60 days. Since the deadline for Commission action on this application has now

been extended to the 240th day (August 5, 2008), the Commission must act on this application by the July 9-11, 2008 Commission meeting. The applicant's representatives have since worked with Commission staff to significantly revise the originally proposed project to include the following: (1) remove all unpermitted private access stairways on site, (2) ensure that the three approved stairways will be available for public access, and (3) remove unpermitted development on the upcoast end of the recorded public lateral accessway and beyond the boundaries of the western most lot in order to restore public access. In addition, the applicant has agreed to pay \$60,000 to fund additional offsite public access improvements in the nearby area.

2. Background and Permit History

Seacliff Beach Colony residences were constructed on the western 40 lots during the 1950's. In 1970, the California Department of Transportation improved and relocated a 7,000 foot section of Highway 101 as a six lane freeway with one large "cloverleaf" offramp onto the beach and extending out into what had been open ocean, creating an artificial "headland" upcoast and adjacent to the Seacliff Beach Colony. The existing revetment was originally constructed in two phases: first (prior to effective date of the Coastal Act or its predecessor) seaward of the western 40 lots in 1972, and second, in 1976, seaward of what are now the eastern 10 lots (Coastal Permit No. 88-8 approved July 1976) by the California Department of Transportation (Caltrans).

In addition, there have been previous legal actions involving development on site including a law suit brought by the Homeowner Association against Caltrans immediately after the construction of the above referenced highway improvements. The legal actions claimed that the plaintiff's oceanfront property was damaged and a portion thereof was taken by erosion as a direct result of Caltrans construction of Highway 101 near the plaintiff's property. To resolve the legal challenge, Caltrans agreed to construct the revetment, and upon completion, the plaintiffs released Caltrans from all liability for damage to their respective properties as a result of construction of the Highway 101 improvement, and the plaintiffs dismissed the complaint. The 1977 General Release Agreement released Caltrans and the State from any requirements to maintain the revetment in the future and provided that the homeowners would be entirely responsible for the future maintenance of the revetment.

The Commission approved a 10 lot subdivision of the parcel to the east of the easternmost house in the 40-lot Seacliff Beach Colony subdivision on March 23, 1983 (CDP No. 4-82-595, Coast Ranch Family/Seacliff Land Company). The subdivision of that parcel resulted in what are now the eastern 10 lots in the Seacliff Beach Colony. The permittee at that time held fee title to the entire Seacliff Beach Colony site, including the sandy beach, with the 40 existing homeowners leasing their sites from the permittee. The Commission approved this 10 lot subdivision (Exhibits 3 & 4) with a special condition that required the permittee to record a deed restriction providing for two lateral public accessways (recorded as Instrument No. 93922 on August 26, 1983) seaward of all 50 residential lots in the community. One lateral public accessway is located on the sandy beach between the Mean High Tide Line and the toe of the rock revetment within the Seacliff Beach Colony and includes all areas of the sandy beach between those two lines. The second lateral public accessway is located between the landward edge of the revetment and the seaward lot boundary of the residential lots and

follows an existing dirt path which runs the entire length of the revetment. The purpose of this second lateral public access path located between the homes and the revetment was to ensure that the public would still have access to and along this stretch of beach even during higher tidal events when all areas of the sandy beach seaward of the toe of the rock revetment become inundated. In addition, the deed restriction acknowledged that the applicant was solely responsible for reasonably maintaining these two accessways in a clear and safe manner. Nine residences were subsequently approved by Ventura County and constructed on these eastern lots in 1984 and 1985.

In 1996, minor repairs to the revetment were completed with approximately 120 stones (300 cubic yards), as approved pursuant to a coastal permit issued by Ventura County on April 11, 1996 (PD-1662). In 1998, further repairs were completed with approximately 1,780 tons of 3 to 4 ton stone also as approved pursuant to a coastal permit issued by Ventura County, on March 3, 1998 (Site Plan Adjustment to PD-1662).

3. Existing Beach Access Within Project Vicinity

The adjoining parcel immediately northwest (upcoast) of the subject site is owned by the Department of Transportation (Caltrans). Hobson County Beach Park and Campground is located immediately adjacent and to the southeast (downcoast) end of the project site, and an adjoining rock revetment is located on that parcel as well. Highway 1 (Pacific Coast Highway) is located to the north (inland) side of subject site. Highway 101 is located immediately landward and parallel to Highway 1 along this stretch of coast. Rincon Beach Park Drive, a private street, lies between the homes and Pacific Coast Highway and provides access to the Seacliff Colony residences from Pacific Coast Highway. Public vertical access from Pacific Coast Highway to the beach is available on both of these adjacent parcels (Hobson County Beach Park and the Caltrans site) but not via Rincon Beach Park Drive.

The existing trail on the Caltrans parcel extends from Pacific Coast Highway to the beach adjacent to a small unimproved drainage channel. Although not formally designated as a public access route, this existing trail is located on public land owned by the State and provides important public vertical access for beachgoers from Pacific Coast Highway to the beach. Further, the two recorded lateral public accessways on the subject site (located immediately seaward and landward of the Seacliff Colony rock revetment), both abut this existing vertical access trail which provide a critical link between the available existing public vertical access at either end of the community. In 1982, in its approval of CDP No. 4-82-595 for the previous subdivision of the subject site, the Commission specifically found that:

Vertical access is presently available at both ends of the Seacliff community but no formal public lateral access exists on the beach between these points. By providing lateral access across the entire shore of the community, the intensity of use at those vertical access points (i.e., Caltrans and County park land) would be lessened consistent with PRC Sections 30210, 30212(a), 30212.5 and 30214(a).

However, unpermitted development (including a concrete block wall, landscaping and loose rock) has been constructed within the upcoast portion of the existing landwardmost public access trail located between the residences and the rock revetment. Although the unpermitted development was constructed partially on

Caltrans property and partially on Parcel B (owned by the Homeowners Association) the permittee has informed staff that this development was not constructed by the Homeowners Association but was actually constructed by the northernmost (upcoast) property owner of Seacliff Colony. Further, the unpermitted concrete wall and landscaping is blocking all public access from the existing vertical public trail on the Caltrans parcel to the recorded lateral public access trail along the landward edge of the revetment. In response to a request by Commission staff, the applicant has revised the original project description in order to propose the removal of unpermitted landscaping, rock, and debris within the public trail on Parcel B and offer to exercise the applicant's best effort to remove an unpermitted privacy wall and landscaping (located on an adjacent parcel owned by Caltrans) which blocks access to the public trail on the subject site.

4. Ventura County Local Coastal Program

Although the Commission has previously certified a Local Coastal Program for Ventura County, portions of the proposed project will be located, at times, on state tidelands and is located within an area where the Commission has retained jurisdiction over the issuance of coastal development permits. Thus, the standard of review for this project is the Chapter 3 policies of the Coastal Act. The proposed project, only as conditioned, will be consistent with the applicable public access and resource protection provisions of the Coastal Act.

B. Public Access and Recreation

The Coastal Act mandates the provision of maximum public access and recreational opportunities along the coast. The Coastal Act contains several policies that address the issues of public access and recreation along the coast.

Coastal Act Section **30210** states that:

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.

Coastal Act Section **30212(a)** states:

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 access 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.*

Section **30220** of the Coastal Act states that:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such use.

Section 30221 of the Coastal Act states that:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30251 of the Coastal Act states that:

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. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Coastal Act Section 30210 mandates that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. Likewise, Section 30212 of the Coastal Act requires that public access to the sea be provided through new development projects. Section 30251 of the Coastal Act requires that the scenic and visual qualities of coastal areas be protected as a resource of public importance and that development be designed to protect views to and along the ocean and scenic coastal areas.

1. Proposed Project and Site Shoreline Characteristics

The beachfront project site is located along a portion of the northern Ventura County coast line that is primarily characterized by narrow beaches. Northwest (upcoast) of the subject site (The Seacliff Beach Colony) is a southbound offramp for Highway 101. This offramp was constructed in the late 1960's on filled land in open coastal waters and forms an artificial headland protected by a rock revetment that juts prominently into the ocean. To the southeast (downcoast) of the subject site is Hobson County Park, a public beachfront campground. The subject site is accessed from Rincon Beach Park Drive, a private road with one gated entrance from Pacific Coast Highway (Highway 1) located along the northeast boundary of the Colony.

The applicant requests approval to repair and maintain a 2,040 lineal foot long rock revetment located along the existing 50 lot residential development of Seacliff Beach Colony (49 of these lots have existing residential development and one lot located at the southeast end is vacant and held by the Homeowners Association as a common area). The repair consists of adding up to 5,000 tons of additional new armor stone and retrieved dislodged armor stone to the existing 2,040 foot long rock revetment in order to restore the revetment to its original +11 feet MSL height along a length of 1,600 feet (western section) and its original +14 feet MSL height along a length of 440 feet (eastern section). The crest elevation of the existing revetment ranges from + 9.5 to

+14 feet above mean sea level (MSL). The revetment is constructed of 1 to 4 ton armor stone over an underlayer of smaller stone and fabric.

The repair will restore the revetment to its original design condition and will be within the original design footprint by: 1) restoring a durable 1.5:1 (horizontal:vertical) slope along the entire length of the revetment; 2) restoring the pre-existing crest elevation of +11 feet MSL for the section of revetment along the western (upcoast) 40 lots; and 3) restoring the pre-existing crest elevation of +14 feet MSL for the section of revetment along the eastern (downcoast) 10 lots. The repair will be completed with an estimated 5,000 tons of 3 to 5 ton armor stone. The addition of new rock represents approximately 14% of the total revetment design volume. Existing dislodged armor stone (approximately 192 stones) will be salvaged/retrieved and re-stacked on the revetment if feasible. Any waste concrete or other debris found seaward of the revetment will be disposed offsite.

To complete the construction of the revetment repairs, common tire and/or tractor-mounted earth moving equipment will be used from the seaward side of the revetment during low tide hours. Staging of construction equipment and material will be on a vacant lot (owned by the Seacliff Beach Colony Homeowners Association) at the far east end of the project property, on the landward side of the shore protection and at the east terminus of Rincon Beach Park Drive (a private road). Construction access to the beach will be provided via a temporary ramp constructed of beach-quality sand, or small (up to 6-inch stone) over the far eastern end of the revetment, as was done in the past. The ramp will be removed by spreading the beach-quality sand on the fronting beach and/or removing and trucking the small stone to an appropriate off-site disposal location.

The applicant's engineer has indicated that the proposed repair of the revetment is necessary to protect the existing 49 residences along Seacliff Beach Colony from periodic storm damage as noted in the report titled "Wave Uprush Study, Shore Protection at Seacliff Beach Colony Ventura, California, Moffatt & Nichol" dated February 2006.

The location of the seawardmost portion of the existing rock revetment ranges from approximately 40 to 50 feet seaward of each of the individually owned lot's southern property line, and approximately 80 to 140 feet seaward of each existing residence. Between the rock revetment and the existing residences is an unpaved path (designated as a public access trail pursuant to a deed restriction required by the Commission as a condition of approval for the subdivision of one parcel into 10 lots, Coastal Permit No. 4-82-595), landward of the revetment, estimated to be between 6 to 18 feet wide with some residences at the western end exhibiting a greater setback. Many residences have splash walls of low height separating their property from this path and the revetment. These secondary walls are not seawalls designed to withstand wave forces, but they reduce flooding from water that overtops the revetment according to the applicant's engineer. The path is drained by a series of drain pipes which discharge near the toe of the revetment.

2. Public Access Considerations for Beachfront Projects

All beachfront projects requiring a coastal development permit must be reviewed for compliance with the public access provisions of Chapter 3 of the Coastal Act. In past permit actions, the Commission has often required that public access to and along the shoreline be provided in conjunction with beachfront development projects and has required design changes in other projects to reduce interference with access to and along the shoreline. The principal access impacts associated with such projects that have provided the nexus for these requirements in permits involving shoreline protection are the occupation of sand area by a structure and/or the potential for adverse effects from a shoreline protective device on shoreline sand supply and public access and recreation, in contradiction of Coastal Act policies 30210, 30212, 30220, and 30221.

Past Commission review of shoreline residential projects in Ventura County has shown that individual and cumulative adverse effects to public access from such projects can include encroachment on lands subject to the public trust (or, in a case such as this, otherwise subject to public access rights), thus physically excluding the public; interference with the natural shoreline processes necessary to maintain publicly-owned tidelands and other public beach areas; overcrowding or congestion of such tideland or beach areas; and visual or psychological interference with the public's access to and the ability to use public tideland areas. Similarly, the substantial repair of an existing shoreline protective device serves to extend the life of the device and in doing so extends the period of time that the shoreline protective device will result in adverse impacts to shoreline sand supply and public access.

The proposed project must be judged against the public access and recreation policies of the State Constitution and Sections 30210 and 30212 of the Coastal Act. Although the Commission does not know the exact boundary between private and public land on this site because the landward boundary of State Lands' public trust lands is "a shifting boundary, going landward with erosion and waterward with accretion"¹, it appears that at least part of the project site that would be covered by rock is public land located, at times, seaward of the ambulatory mean high tide line. In addition, as indicated above, even if the entire area to be covered by rock were private land, the rock will nevertheless have impacts on the adjacent public sandy beach that may affect the maintenance of that beach area, and thus, public access. Finally, even if it were all private property, this gives rise to issues involving implied dedication and the protection of public rights acquired through use, rather than ownership². Coastal Act Section 30211, as incorporated into the LCP, requires the Commission to ensure that development not interfere with such rights.

In this case, the applicant submitted a Wave Uprush Study by Moffatt and Nichol dated February, 2006, which indicates that the Mean High Tide Line (MHTL) is located, at times, at the seaward edge of the existing rock revetment. In addition, during winter storm and high tide events, additional portions of the revetment appear to be located, at times, seaward of the MHTL. The State Lands Commission, in a letter dated April 5, 2006 (Exhibit 10), reviewed the proposed project and its location and decided to decline to assert a claim, at this time, that the project intrudes onto sovereign lands or that it would lie in an area that is subject to the public easement in navigable waters (Exhibits

¹ Lechuza Villas West v. California Coastal Comm'n (1997) 60 Cal. App. 4th 218, 238-39, quoting City of Oakland v. Buteau (1919) 180 Cal. 83.

² Gion v. City of Santa Cruz (1970) 2 Cal. 3d 29, 39.

5 & 6). Nevertheless, given that the applicant proposes to remove dislodged armor stone located seaward of the base of the rock revetment, which, at times, is located below the MHTL, it appears that portions of the proposed development will, at times, be located below the mean high tide line on State Tidelands.

Regardless, the Commission has also routinely found in past permit actions that shoreline protective devices, even when located above the mean high tide line, may still involve adverse effects on shoreline processes as wave energy reflected by those structures contributes to erosion and steepening of the shore profile, and ultimately, to the extent and availability of tidelands. For these reasons, the Commission must also consider whether a project will have indirect effects on public use of these shorelands.

The interference by a shoreline protective device, such as a rock revetment, has a number of adverse effects on the dynamic shoreline system and the public's beach ownership interests. First, changes in the shoreline profile, particularly changes in the slope of the profile, which result from reduced beach width, alter the usable area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the actual area of public property available for public use. The second effect on access is through a progressive loss of sand, as shore material is no longer available to nourish the bar. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore where it is no longer available to nourish the beach. The effect that this has on the public is a loss of area between the mean high water line and the actual water. Third, shoreline protective devices such as revetments and bulkheads cumulatively affect public access by causing accelerated and increased erosion on adjacent public beaches. This effect may not become clear until such devices are constructed individually along a shoreline, eventually affecting the profile of a public beach. Fourth, if not sited as far landward as possible, in a location that ensures that the revetment is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate wave energy. Finally, revetments and bulkheads interfere directly with public access by their occupation of beach area that will not only be unavailable during high tide and severe storm events but also potentially throughout the winter season.

In past permit actions, the Commission has found that rock revetments require relatively frequent repair and maintenance due to: (1) the natural settling or subsidence of the rock structure into the sand over time and (2) the inadvertent loss of rock material due to errant rock becoming dislodged from the structure and settling on the sandy beach seaward of the structure. In this case, the existing revetment is considered necessary to protect the 49 existing residences on site. The proposed repair work will serve to maintain the original footprint, location, design height and shape of the previously approved revetment. Specifically, the proposed addition of new rock will be located landward of the previously approved toe of the existing rock revetment and will not encroach further seaward into the previously recorded lateral public access area located seaward of the revetment. In addition, existing dislodged rock now located on the sandy beach will be retrieved and relocated back to the revetment. However, the proposed repair, maintenance and addition of rock will extend the life of the rock

revetment structure and in doing so extends the period of time that the revetment will result in adverse impacts to shoreline sand supply and public access.

In order to address these impacts, Commission staff worked with the applicant's representatives to identify potential public access improvement projects within the nearby area of Ventura County that could be used to offset the unavoidable adverse impacts resulting from the proposed project, including new improvements at nearby Oil Piers Beach, located approximately 1/2 mile upcoast of the subject site (Exhibit 2). Oil Piers Beach was historically developed by Oil Companies with multiple piers which have since been removed. The beach is now owned by the State Lands Commission. Currently, public parking is available at Oil Piers at an unimproved dirt parking area and the public is able to access the beach by descending a low bluff via a relatively steep dirt trail leading from the parking area to the sandy beach below. In consultation with staff, the applicant's engineering consultants prepared a cost estimate for the construction of a new public access stairway at this location. The applicant's engineer has estimated the total engineering, permitting and construction cost to be \$60,000. Therefore, in order to mitigate the potential adverse impacts to public access resulting from the extension of the life of the revetment, **Special Condition Two (2)** requires that prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, a plan to establish a Shoreline Sand Supply and Public Access Fund Account to be managed by the Beach Erosion Authority for Clean Oceans and Nourishment (BEACON), or other entity if approved by the Executive Director. Subsequent to Executive Director approval of the plan, the Permittee shall establish such fund as an interest bearing account and deposit a sum of \$60,000 (Sixty Thousand) United States Dollars into that fund in order to mitigate for impacts to shoreline sand supply and the loss of public recreational use over 25 years resulting from effects associated with extending the life of the structure on the sandy beach.

In addition, **Special Condition Two (2)** provides that the \$60,000 deposited by the applicant into the account shall be used to construct a new public access stairway to the beach and/or public parking improvements at Oil Piers Beach or to establish new or improved public access or recreation project at another appropriate location within the Coastal Zone in Ventura County, as authorized by the Executive Director. The account shall be structured to ensure that the entire fee and any accrued interest shall be used for the above-stated purpose, in consultation with the Executive Director, within ten years of the fee being deposited into the account. Any portion of the fee that remains after ten years shall be donated to an organization acceptable to the Executive Director, for the purpose of providing new or improved public access or recreation projects at another appropriate location in Coastal Ventura County or to implement beach nourishment projects which provide sand to the region's beaches within the Coastal Zone in Ventura County.

Further, the beaches of Ventura County are extensively used by visitors of both local and regional origin, and most planning studies indicated that attendance of recreational sites will continue to significantly increase over the coming years. Presently, this shoreline remains open and can be used by the public for access and general recreational activities. Vertical access is available at both ends of the Seacliff Colony community across the parcel owned by Caltrans immediately upcoast of the subject site

and the Ventura County Hobson Beach Park and Campground located immediately downcoast (Exhibits 17 & 18). Seacliff Beach area includes a surfing area on the upcoast known locally as “Stanley’s” along the east end of the Highway 101 southbound offramp. This north side of the Seacliff Colony community is accessed along a Caltrans vertical accessway from Pacific Coast Highway (former Highway 101) to the beach. This Caltrans accessway also provides access to an existing public access path located landward of the Seacliff Colony’s rock revetment, which traverses laterally along the entire length of the Seacliff Colony Residential Community to the Hobson Beach Park and Campground located downcoast. In addition, the area of the sandy beach between the toe of the revetment and the mean high tide line is also designated for public access.

In addition, Hobson Beach Park, located downcoast and south of Seacliff Colony’s rock revetment is developed with a public camping ground and a stairway which provides vertical public access across the Park’s rock revetment to the sandy beach below. The Hobson Park stairway is located approximately 180 feet southeast (downcoast) of the Seacliff Colony revetment. Due to the presence of the rock revetment and a small natural headland between the subject site and the Park property, pedestrian access along the sandy beach between these two properties is only available during lower tides.

The Commission approved CDP No. 4-82-595 for the subdivision of one parcel into 10 lots in 1983 with a special condition that required the applicant to record a deed restriction providing for two lateral public accessways (recorded as Instrument No. 93922 on August 26, 1983) seaward of all 50 residential lots in the community. Further, the two recorded lateral public accessways on the subject site (located immediately seaward and landward of the Seacliff Colony rock revetment), provide a critical link between the available existing public vertical access at either end of the community. In 1982, in it’s approval of CDP No. 4-82-595 for the previous subdivision of the subject site, the Commission specifically found that the provision of lateral public access across the subject site was of critical importance in providing a critical public access link between the existing vertical public access located on the Caltrans property upcoast and the County parks property located downcoast. The Commission found that:

Vertical access is presently available at both ends of the Seacliff community but no formal public lateral access exists on the beach between these points. By providing lateral access across the entire shore of the community, the intensity of use at those vertical access points (i.e., Caltrans and County park land) would be lessened consistent with PRC Sections 30210, 30212(a), 30212.5 and 30214(a).

The first lateral public accessway includes all areas of the sandy beach between the Mean High Tide Line and the toe of the rock revetment within the Seacliff Beach Colony. The second lateral public accessway is located between the landward edge of the revetment and the residences and follows an existing dirt trail which is more than 2,000 ft. in length along the entire length of the revetment. The purpose of this second lateral public access path located between the homes and the revetment was to ensure that the public would still have access to and along this stretch of beach even during higher tidal events when all areas of the sandy beach seaward of the toe of the rock revetment become inundated. The two existing recorded lateral public access ways on site provide the only connection available to the public along the shoreline between the

parcel owned by the state (Caltrans) immediately upcoast of the subject site and Hobson Beach County Park and Campground located downcoast. Although beachgoers are expected to typically prefer walking on the sandy beach, the purpose of the second lateral public access path located between the homes and the revetment was to ensure that the public would still have access to and along this stretch of beach even during higher tidal events when all areas of the sandy beach seaward of the toe of the rock revetment become inundated.

As noted above there is a vertical accessway located to the north adjacent to Seacliff Homeowners Association property. This vertical accessway is owned by Caltrans and is located between the subject site and the southbound Seacliff offramp from Highway 101. This vertical accessway leads from Pacific Coast Highway to the beach. The southeast end of the Seacliff offramp is known as "Stanley's" surf break. From the south the public accesses the beach from an existing stairway located on Hobson County Beach property across the Hobson Beach rock revetment. From there, the public can reach the seaward lateral by walking along the sandy beach during low tide or paddling a surfboard or water craft during other tidal conditions. Prior to 1987, the public would walk from Hobson Beach County Park and campground northwest (upcoast) to the landward path on Seacliff property established as a lateral accessway in Coastal Permit No. 4-82-595, as approved by the Commission in 1983. However, a chainlink fence located on Hobson Beach County Park was constructed without the required coastal development permit between the Park and the Seacliff Colony community extending seaward over the existing rock revetment sometime between 1987 and 1989 blocking direct public access from Hobson Beach County Park to the landward lateral access path. The Commission's Enforcement Division will evaluate alternatives to address this matter.

Staff contacted the Ventura County General Services Agency, Parks Department regarding the opportunity to resolve this issue and re-open public access to Hobson County Park from the southeast (downcoast) end of the public access trail on the Seacliff Beach Homeowners Association property. Staff conducted a site visit with the Deputy Director of the County's Parks Department to examine the feasibility of extending public access from the public lateral access trail on the Seacliff property onto Parks property. However, the Parks Department staff indicated that this was not feasible because the trail, as it is currently aligned, would open into an established and narrow campground creating conflicts between campers and the public accessing through the campground (Exhibit 13). County Parks staff proposed an alternative location for an opening between the two properties at an existing fire access gate approximately 150 ft. landward. This location would require the Seacliff Homeowners Association property to dedicate a new public access connection between the trail along the revetment to the new pedestrian access gate on Parks property. The Seacliff Homeowners Association representatives have informed Commission staff that they will not agree to offer such a connecting easement; however, as an alternative, the Homeowner Association is proposing to allow public access over the three proposed stairways in order to provide public access between the sandy beach and the public trail located along the top of the revetment and provide funds to construct a new public access stairway at Oil Piers Beach located north of the subject site (Exhibit 2). This alternative will still allow beachgoers to access Hobson County Beach from the subject

site (and vice-versa) during lower tides when there is dry sandy beach available for pedestrian use and will provide improved public access at Oil Piers Beach.

Moreover, pursuant to the previously recorded deed restriction, although public lateral access was provided along the trail landward of the revetment and along the sandy beach seaward of the revetment, CDP No. 4-82-595 did not specifically indicate that access was available over the revetment to connect these two lateral access areas. Although such a connection was likely intended at the time the Commission approved CDP No. 4-82-595, the proposal by the applicant to formally provide public access over the revetment via the three proposed stairways will clarify this matter and will serve enhance and protect public access on site.

During the processing of this permit application, it was discovered by staff that 22 as-built concrete stairways have been constructed across the previously approved revetment on site without the required coastal development permits. These stairways appear to provide for private access from several of the residences to the beach area. The stairways descend to the sandy beach from the public access trail which extends parallel to the beach along the landward edge of the entire length of the revetment (between the 49 existing residences and the revetment itself). The unpermitted stairs/walkways are of various widths, lengths, and shapes, and are constructed primarily of concrete. Construction of multiple concrete private access stairways over a rock revetment can result in additional adverse impacts to shoreline sand supply and visual impacts. The addition of concrete stairs on a rock revetment can function in a similar manner to the use of concrete grout to fill the empty voids within the revetment. The addition of solid surfaces on the otherwise, partially permeable and porous revetment, may result in increased wave reflection energy and would not serve to minimize impacts to shoreline sand supply, public access, or public views.

The applicant has worked with staff to resolve this issue and has revised the originally proposed project to specifically include the demolition of 19 of these existing stairways. Further, as discussed above, the applicant has revised the proposed project to include the repair and improvement of two of the remaining stairways and replacement/reconstruction of the third remaining stairway with the specific provision that all three of the improved/repared stairways will be made available for public access.

Therefore, in order to ensure that the applicant's proposal to remove the 19 unpermitted stairs is effectively implemented, **Special Condition Four (4)** requires the applicant to remove the 19 unpermitted beach access stairways within 180 days of the issuance of this coastal development permit amendment. In addition, the permittee shall improve, repair, or replace the three stairways designated for public access (as shown on Exhibits 11- 6) pursuant to the approved plans also within 180 days after issuance of this permit. The Executive Director may grant additional time for good cause.

In addition, during the processing of this permit application, staff also discovered that unpermitted development (including a concrete block wall, landscaping and loose rock) had been installed between the upcoast Caltrans property and the northernmost (upcoast) residential lot within the public access trail along the top of the rock revetment. The unpermitted development is completely blocking the public from gaining

access from the vertical public trail on the Caltrans parcel to the recorded lateral public access trail along the top of the revetment. In response to discussions with staff, the applicant has revised the original project description to include the removal of any unpermitted encroachments on Parcel B (the parcel owned by the Homeowners Association) and the proposal to exercise its best effort to remove, or work with the owner of the residence on APN 060-044-055, to remove the unpermitted development on Caltrans property (including the block wall, rock, and landscaping) which is blocking the entrance to the public accessway located landward of the revetment on Parcel B, consistent with any necessary authorization by Caltrans for the removal of the unpermitted development located on Caltrans property. Therefore, in order to ensure that the applicant's proposal is adequately implemented, **Special Condition Four (4)** requires that the permittee shall remove any landscaping, rock, and debris which is encroaching onto the identified public accessway located landward of the rock revetment on Parcel B, pursuant to the approved plans, within 180 days after issuance of this permit. In addition, **Special Condition Four (4)** also provides that by acceptance of this permit, the permittee agrees to exercise its best effort to remove, or work with the owner of the residence on APN 060-044-055, to remove the unpermitted development on Caltrans property (including the block wall, rock, and landscaping) which is blocking the entrance to the public accessway located landward of the revetment on Parcel B. Removal of the unpermitted development on Caltrans property shall be performed as quickly as possible and shall be consistent with any necessary authorization by Caltrans for the removal of the unpermitted development located on Caltrans property.

Further, to ensure that the applicant's proposal to allow public access over the three approved beach access stairways, **Special Condition Five (5)** requires that the applicant agree, by acceptance of this permit, that the public shall have the right to use the three stairways approved by this permit to pass and repass between the existing recorded lateral public access way located landward of the revetment and the existing recorded lateral public access way located on the sandy beach seaward of the revetment (previously required and recorded as a deed restriction pursuant to Coastal Permit No. 4-82-595). **Special Condition Five (5)** further specifies that the homeowners shall not interfere or block the public's ability to utilize the stairways or any other designated public access areas on site, as generally shown on Exhibits 11-16 (including the deed restricted public access ways located landward and seaward of the revetment) and that the permittee, or its successor in interest, shall maintain the three stairways that traverse the rock revetment in good condition for the life of the project and replace when necessary in order to ensure the public's ability to utilize the stairs.

Moreover, in order to ensure that the provisions of Special Condition Five (5) are implemented and that current and future members of the Seacliff Homeowner Association are notified of these provisions, **Special Condition No. One (5)** requires the Homeowner Association to provide notice of the requirements to its members, and **Special Condition No. One (1)** requires that prior to issuance of the coastal development permit, the Homeowner Association shall either: (1) execute and record a deed restriction in a manner that will cause said deed restriction to appear on the title of each of the 49 residential lots on the project site, Parcel B, and all other land owned/controlled by the Seacliff Homeowners Association, in a form and content acceptable to the Executive Director, imposing the Special Conditions of this permit as

covenants, conditions and restrictions on the use and enjoyment of the subject property **or** (2) amend the current Covenants, Conditions and Restrictions (CC&R's) for the Seacliff Homeowner Association or its Bylaws to specifically incorporate Special Condition 3 (Revetment Maintenance and Repair Program), Special Condition 5 (Public Access Program), Special Condition 6 (Public Access Signage Program), Special Condition 7 (Assumption of Risk), and Special Condition 11 (Engineer Survey of Revetment Toe) of this permit. Prior to recordation of the amended CC&R's associated with the development approved by this permit, a proposed version of said amendment shall be submitted to the Executive Director for review and approval. The amended CC&R's or Bylaws shall specifically provide that the public shall have the right to use the three stairways approved in Coastal Permit No. 4-07-154 to pass and repass between the existing lateral public accessway located landward (and along the top) of the revetment and the sandy beach seaward of the revetment, each of which is reflected in a deed restriction previously required pursuant to Coastal Permit No. 4-82-595 and recorded as Instrument No. 93922, on August 26, 1983. The homeowners shall not interfere or block the public's ability to utilize the stairways or any other designated public access areas on site. The purpose of Special Condition One (1) is to impose the terms and conditions of this permit as a restriction on the use and enjoyment of the property and to provide not only current owners, but also any prospective purchaser of any of the 49 residential lots, with recorded notice of the restrictions imposed on the subject property.

The applicant proposes to remove the errant rocks from the sandy beach which have migrated seaward of the previously approved toe of the revetment over time and replace the same rock on top of the revetment again landward of the toe. **Special Condition No. Ten (10)** requires the applicant to submit an engineered survey identifying the existing toe of the revetment as a baseline for any future revetment related development or maintenance to ensure any future revetment related development or maintenance does not extend further seaward. No development is proposed to extend seaward of the existing rock revetment and, thus, the proposed project has no potential to exceed the applicable stringline setback.

Further, as noted above, beachgoers who access the beach from the public accessways from Pacific Coast Highway and from Hobson County Park walk along the shore past the applicant's proposed project or along the public accessway located landward of the existing rock revetment. In addition, potential conflicts and confusion between the beach users and private property owners regarding which portions of Seacliff Beach Colony are private and which are public would result in adverse impacts to public access. The placement of signs on residential beachfront property which state "*PRIVATE BEACH*" or "*PRIVATE PROPERTY*" or contain similar such message prohibiting public use of the beach have routinely caused members of the public to believe that they do not have the right to use the shoreline along the beaches of Ventura County. In effect, these signs have served to contradict the public's rights to use the shoreline pursuant to the California Constitution and California common law.

Therefore, in order to ensure that the general public is not precluded from using the shoreline, the two lateral accessways and the three connecting stairways, the Commission finds it necessary to impose **Special Condition No. Six (6)**, which would prohibit the landowners from placing any signs on the project site (including the sandy

beach and the rock revetment) unless specifically authorized by a new coastal development permit or an amendment to this permit. No signs which restrict public access to State tidelands, public vertical or lateral access easement areas, or which purport to identify the boundary between State tidelands and private property shall be permitted. **Special Condition No. Six (6)** also provides that the applicant shall submit, subject to the review and approval of the Executive Director, a Public Access Signage Program showing the location, size, design, and content of all signs to be installed on the subject site. Specifically, this condition requires that signage shall be adequate to inform the public of their right to utilize all public access areas on site (including the recorded lateral public access trail immediately landward of the revetment, the portion of the sandy beach between the mean high tide line and the toe of the revetment, and the three public access stairways approved pursuant to this permit. At a minimum, the Program shall provide for the installation of signs to be installed at both the western (upcoast) end and eastern (downcoast) end of the public trail located landward of the revetment. The plan shall also provide for the installation of signs at the seaward and landward ends of each of the three approved stairways. The signs may indicate that the residential lots located landward of the public access areas are private property. **Special Condition Six (6)** further provides that the permittee shall install all signs in accordance with the approved plans within 180 days after issuance of this permit. The Executive Director may grant additional time for good cause. The permittee, or its successor in interest, shall maintain the approved signs in good condition for the life of the project and replace when necessary.

In addition, the applicants have also requested a long term maintenance and repair program to allow for occasional maintenance and repair including the addition of limited quantities of rock over an extended period of time without the requirement to obtain a coastal development permit. **Special Condition No. Three (3)** clarifies that this permit approval does include authorization for such future work, but with strict limits on the nature of projects covered by that authorization. It also specifically limits this work to work identified in a written report prepared by a professional engineer reviewed and approved by the Executive Director identifying the proposed maintenance and repair and any additional rock to be added to the revetment. The maintenance and repair report must be submitted at least 60 days in advance of the proposed work to allow time for review by the Executive Director. The maintenance or repair is limited to within the approved footprint and design height of the revetment as identified on the drawings by Moffet and Nichol dated 1-25-2007 and 2-20-08 and approved in Coastal Permit No. 4-07-154. Errant rock located seaward of the revetment shall be retrieved and either placed on the revetment or exported to an approved disposal site. The maintenance or repair may be completed during the late fall or winter season from October 15 to March 15 without obtaining a new coastal development permit for during next 25 years until June 13, 2033. The proposed maintenance or repair shall be completed incorporating Best Management practices and heavy equipment or rock is not located within the intertidal area or beyond 20 feet of the seaward footprint of the revetment. Further, it is the property owner's responsibility to maintain the revetment in a structurally sound manner. Removing or re-depositing any debris, rock or material that becomes dislodged after completion of the approved revetment repair authorized by Coastal Permit No. 4-07-154 shall occur on an as-needed basis after such displacement occurs, regardless of the time of the year.

Additionally, any future improvements to the proposed revetment that might result in the seaward extension of the shoreline protection device would result in increased adverse effects to shoreline sand supply and public access. Therefore, to ensure that the proposed project does not result in new future adverse effects on shoreline sand supply and public access and that future impacts are reduced or eliminated, **Special Condition No. Three** further prohibits any future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protective device approved pursuant to this permit, if such activity extends the seaward footprint of the subject shoreline protective device.

Therefore, the Commission notes that the proposed project, only as conditioned, will serve to maximize public access and recreational opportunities consistent with the Coastal Act sections cited above.

3. Public Views

And lastly, pursuant to Section 30251 of the Coastal Act, the Commission reviews the publicly accessible locations along adjacent public roads and the sandy beach where the proposed development is visible to assess visual impacts to the public. The Commission examines the proposed construction site and the size of the proposed project.

The existing 49 residences and vegetation along Seacliff Colony Beach currently block public views of the coast from Pacific Coast Highway. The proposed addition of up to 5,000 tons of additional new armor stone and the retrieval of dislodged armor stone will be visible from the sandy beach area and its lateral accessway, the lateral public accessway along the landward side of the revetment, the Caltrans vertical accessway adjacent to the northwest end of Seacliff Beach Colony, and from Hobson Beach County Park. Although the proposed addition of new rock to the existing rock revetment will be visible from the locations noted above, the new rock will not result in a substantially larger revetment or result in any significant changes to the visibility of the proposed project. Further, in past Commission actions, the Commission has limited the seaward encroachment of new development on sandy beaches in order to minimize adverse impacts to public views along the beach. In this case, the proposed placement of new rock on the existing revetment will be located landward of the approved toe of the revetment and will not result in any further seaward encroachment by new development. Thus, the proposed repair/maintenance of the rock revetment will not adversely affect existing public views.

During the processing of this permit application, it was discovered by staff that 22 as-built concrete stairways have been constructed across the previously approved revetment on site without the required coastal development permits. These stairways are of various widths, lengths, and shapes and are constructed primarily of concrete (Exhibits 11-16). Clearly for a residential beach community with 49 residences, a total of 22 private stairways, one stairway for nearly every two residences, is not necessary. The applicant has worked cooperatively with staff to resolve this issue and has revised the originally proposed project to specifically include the demolition of 19 of these existing stairways. The Commission finds that consolidating these existing stairways to

three common stairways and removing the remaining 19 stairways would reduce the visual impacts from the public locations noted above. Therefore, in order to ensure that the applicant's proposal to remove the 19 unpermitted stairs is effectively implemented, **Special Condition Four (4)** requires the applicant to remove the 19 unpermitted beach access stairways within 180 days of the issuance of this coastal development permit amendment. In addition, the permittee shall improve, repair, or replace the three stairways designated for public access (as shown on Exhibits 11-16) pursuant to the approved plans also within 180 days after issuance of this permit. The Executive Director may grant additional time for good cause.

Therefore, for all the reasons discussed above, the Commission finds that the proposed project, as conditioned, will serve to maximize public access and recreational opportunities and protect and visual resources. Therefore, the Commission finds that the project, as conditioned, is consistent with Coastal Act Sections 30210, 30211, 30212, and 30251.

C. Shoreline Development and Geologic Stability

Section **30253** of the Coastal Act states in pertinent part that 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.

Section **30235** of the Coastal Act states:

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. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

Section 30253 of the Coastal Act mandates that new development provide for geologic stability and integrity and minimize risks to life and property in areas of high geologic, flood, and fire hazard.

1. Storm, Wave and Flood Hazard

The Ventura coastal area has been subject to substantial damage as a result of storm and flood occurrences and geological failures. Therefore, it is necessary to review the proposed project and project site with respect to the area's known hazards.

The applicant requests approval to repair and maintain an existing 2,040 lineal foot long rock revetment protecting 49 existing residences. The repair consists of retrieving displaced stone from the sandy beach and restacking the rock on the revetment. In addition, in order to restore the revetment to its original design height, the applicant is proposing to add up to 5,000 tons of new armor stone. This will restore the revetment to its original +11 feet MSL height along the western section, a length of 1,600 feet, and its original +14 feet MSL height along the eastern section, a length of 440 feet. The crest elevation of the existing revetment ranges from + 9.5 to +14 feet above mean sea level (MSL). The revetment is constructed of 1 to 4 ton armor stone over an underlayer of smaller stone and fabric. No new rock is proposed to be placed seaward of the toe of the existing revetment and the repairs will not result in any expansion of the footprint of the existing revetment.

The site is susceptible to flooding and/or wave damage from storm waves and storm surge conditions. Past occurrences have resulted in public costs for public service (including low-interest loans) in the millions of dollars in the Ventura County area. Along the Ventura coast, significant damage has occurred to coastal areas from high waves, storm surge and high tides in past years.

Shoreline protective devices individually and cumulatively affect coastal processes, shoreline sand supply, and public access by causing accelerated and increased erosion on the adjacent public beach. Adverse impacts resulting from shoreline protective devices may not become clear until such devices are constructed individually along a shoreline and they eventually affect the profile of an entire beach. Changes in the shoreline profile, particularly changes in the slope of the profile, caused by increased beach scour, erosion, and a reduced beach width, alter usable beach area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the physical area of public property available for public beach use. Additionally, through the progressive loss of sand caused by increased scour and erosion, shore material is no longer available to nourish the beach and seasonal beach accretion occurs at a much slower rate. The Commission notes that if a seasonal eroded beach condition occurs with greater frequency due to the placement of a shoreline protective device on the subject site, then the subject beach would also accrete at a slower rate. As the natural process of beach accretion slows the beach fails to establish a sufficient beach width, which normally functions as a buffer area absorbing wave energy. The lack of an effective beach width can allow such high wave energy on the shoreline that beach material may be further eroded by wave action and lost far offshore where it is no longer available to nourish the beach. The effect of this on public access along the beach is again a loss of beach area between the mean high water line and the actual water.

Shoreline protection devices also directly interfere with public access to tidelands by impeding the ambulatory nature of the mean high tide line (the boundary between public and private lands) during high tide and severe storm events, and potentially throughout the entire winter season. The impact of a shoreline protective device on public access is most evident on a beach where wave run-up and the mean high tide line are frequently observed in an extreme landward position during storm events and the winter season. As the shoreline retreats landward due to the natural process of erosion, the boundary

between public and private land also retreats landward. Construction of rock revetments and seawalls to protect private property fixes a boundary on the beach and prevents any current or future migration of the shoreline and mean high tide line landward, thus eliminating the distance between the high water mark and low water mark. As the distance between the high water mark and low water mark becomes obsolete the seawall effectively eliminates lateral access opportunities along the beach as the entire area below the fixed high tideline is inundated. The ultimate result of a fixed tideline boundary which would normally migrate and retreat landward, while maintaining a passable distance between the high water mark and low water mark overtime, is a reallocation of tideland ownership from the public to the private property owner.

Furthermore, if not sited landward in a location that ensures that the seawall is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate wave energy. The adverse effects of shoreline protective devices are greater the more frequently that they are subject to wave action. In order to minimize adverse effects from shoreline protective devices, when such devices are found to be necessary to protect existing development, the Commission has required applicants to locate such structures as far landward as is feasible.

2. Sea Level Rise

In addition, sea level has been rising slightly for many years. As an example, in the Santa Monica Bay area, the historic rate of sea level rise has been 1.8 mm/yr. or about 7 inches per century³. Sea level rise is expected to increase by 8 to 12 inches in the 21st century.⁴ There is a growing body of evidence that there has been a slight increase in global temperature and that an accelerated rate of sea level rise can be expected to accompany this increase in temperature. Mean water level affects shoreline erosion in several ways and an increase in the average sea level will exacerbate all these conditions.

On the California coast the effect of a rise in sea level will be the landward migration of the intersection of the ocean with the shore. On a relatively flat beach, with a slope of 40:1, every inch of sea level rise will result in a 40-inch landward movement of the ocean/beach interface. For fixed structures on the shoreline, such as a single family residence, pilings, or seawalls, an increase in sea level will increase the inundation of the structure. More of the structure will be inundated or underwater than are inundated now and the portions of the structure that are now underwater part of the time will be underwater more frequently.

Accompanying this rise in sea level will be increased wave heights and wave energy. Along much of the California coast, the bottom depth controls the nearshore wave heights, with bigger waves occurring in deeper water. Since wave energy increases with the square of the wave height, a small increase in wave height can cause a significant increase in wave energy and wave damage. Combined with the physical

³ Lyles, S.D., L.E. Hickman and H.A. Debaugh (1988) Sea Level Variations for the United States 1855 – 1986. Rockville, MD: National Ocean Service.

⁴ Field et. al., Union of Concerned Scientists and the Ecological Society of America (November 1999) Confronting Climate Change in California, www.ucsusa.org.

increase in water elevation, a small rise in sea level can expose previously protected back shore development to both inundation and wave attack, and those areas that are already exposed to wave attack will be exposed to more frequent wave attack with higher wave forces. Structures that are adequate for current storm conditions may not provide as much protection in the future.

A second concern with global warming and sea level rise is that the climatic changes could cause changes to the storm patterns and wave climate for the entire coast. As water elevations change, the transformation of waves from deep water will be altered and points of energy convergence and divergence could shift. The new locations of energy convergence would become the new erosion "hot spots" while the divergence points may experience accretion or stability. It is highly likely that portions of the coast will experience more frequent storms and the historic "100-year storm" may occur every 10 to 25 years. For most of California the 1982/83 El Niño event has been considered the "100-year storm." Certain areas may be exposed to storms comparable to the 1982/83 El Niño storms every few decades. In an attempt to ensure stability under such conditions, the Commission has required that all new shoreline structures be designed to withstand either a 100-year storm event, or a storm event comparable to the 1982/83 El Niño. Also, since it is possible that storm conditions may worsen in the future, the Commission has required that structures be inspected and maintained on a regular basis. The coast can be altered significantly during a major storm and coastal structures need to be inspected on a regular basis to make sure they continue to function as designed. If storm conditions worsen in future years, the structures may require changes or modifications to remain effective. In some rare situations, storm conditions may change so dramatically that existing protective structures may no longer be able to provide any significant protection, even with routine maintenance.

In the case of the propose project, the applicant has submitted plans prepared by Russ Boudreau, Moffatt & Nichol, dated 1-25-07 illustrating the subject lots and surrounding area in addition to the existing rock revetment where the proposed addition of imported rock will be installed and where the proposed relocation of the dislodged rock will also be located. The plan show that all proposed rock will be located landward of the previously approved toe of the existing revetment.

3. Engineer's Recommendations

In addition, the applicant has submitted a Wave Uprush Study, by Moffatt & Nichol, Engineers, dated February, 2006. This Wave Uprush Study discusses the history of the subject revetment as summarized in Section IV. A. 2. above. This report includes a discussion of beach scour level, wave runup, overtopping, and end effects. The report concludes that the revetment was built on bedrock at an elevation of -1.3 MSL which constitutes the maximum scour level. The wave runup is predicted to be 19.6 feet MSL which is higher than the proposed repair and addition of rock at +11 feet MSL for the 40 western lots and +14 feet MSL for the eastern 10 lots, indicating that wave overtopping will occur during extreme wave and water level events. This overtopping has been mitigated over the years by the setback distance between the revetment crest and the residences and by the existence of low splash walls fronting the residences located landward of the public access path located along the top and landward of the revetment. The setback and splash walls provide a buffer and protection from flooding due to wave

overtopping. The report concludes that the 30 year old revetment has experienced several significant storm events and overtopping with little or no damage to the residences reported since the existence of the revetment. Lastly, the report concludes that the proposed repair will not change the character of the structure nor how it interacts with the adjacent properties as the northern terminus ties into the revetment fronting Highway 101 Seacliff offramp and the southern terminus ties into the revetment fronting Hobson Park.

The recommendations in the Study states that:

Repair Description

This proposed project will restore the existing rock revetment shore protection to current design standards, using both imported and salvaged materials. The repairs will be constructed within the physical limits of the existing design.

The proposed repair is to: 1) restore a durable 1.5:1 (horizontal:vertical) slope along the entire length of revetment and 2) restore the pre-existing crest elevation of +11 feet MSL for the section of revetment along the western 40 lots. This will be done using 3 to 5 ton armor stone. Total quantity of stone is estimated to be 3,800 tons. (Staff note: the application proposes 3,800 to 5,000 tons of stone, the higher quantity is the maximum quantity proposed in this application) Existing armor stone that has been dislodged seaward will be salvaged and re-used as accessibility permits. ...

Construction Staging and Access

Staging of construction equipment and material will be on a vacant lot at the east end of the project property, on the landward side of the shore protection, at the east terminus of Rincon Beach Park Drive (a private road). Construction access at the beach will be provided via a temporary ramp constructed over the far eastern end of the revetment, as has been done in the past.

Construction of the revetment repairs will be conducted using common tire and/or tractor mounted earth moving equipment. Repairs will be constructed from the seaward side of the revetment during low tide hours. The contractor will be required to implement all relevant Best Management Practices (BMPs) and conform to all permit conditions related to protection of air quality, water quality, and public safety.

The applicant's consulting engineer has concluded that repair proposed for the rock revetment will provide the necessary level of shore protection for the 49 existing residences in accordance with original design parameters.

The consulting engineer further submitted the following information regarding the existing design life of the Seacliff Revetment and requested approval for periodic revetment maintenance:

“Rock is a common revetment construction material in the marine environment due to its durability and resistance to abrasion. As long as the rock is properly sized and placed in a design section developed in accordance with the current standard of care in coastal engineering, and the material quality meets design

standards, then there is no need to artificially place a limit on the design longevity as long as it is properly maintained. Maintenance is a key element of any revetment design, since some movement and loss of material during extreme events is expected. With proper maintenance, the design life of a revetment can be indefinite.

At Seacliff, the revetment fronting the western 40 lots has been in place for over 35 years, the eastern 10 lots over 25 years, each with periodic maintenance commensurate with typical performance in Southern California. Given the general stability of the shoreline position, there is no expectation of increasing rate of damage over time, assuming proper maintenance. A remaining design life of on the order of 50 years plus is considered appropriate. It should be noted that future performance may be affected by accelerating sea level rise, and the impact of sea level rise on shore protective device design throughout the State should be closely monitored.

Periodic maintenance must be incorporated into the Coastal Development Permit. Maintenance implies restoring the existing design cross section, i.e. maintaining the same footprint and crest elevation. It is very difficult to predict the frequency and extent of future maintenance since the need will be determined to a great extent by the frequency and severity of future coastal storm events, and the joint probability of these occurring during extreme tide conditions. Given these uncertainties, an allowance of up to 15 percent of the total outer armor volume should be considered to be either salvaged from the beach or imported and used for maintenance. A typical maintenance interval for planning purposes is every 5 to 10 years. In summary, we suggest the permit acknowledge that on the order of 5,000 tons of armor stone (approximately 15% of outer armor volume) to be imported / salvaged every 5 to 10 years. Note this is for general planning guidance only; the property owners should be permitted to maintain the revetment in proper condition as determined by their engineer. It should also be noted that in some cases maintenance may include simply salvaging and re-placing dislodged stone from the revetment without additional import. This action is in the spirit of the Coastal Act since it restores the available lateral access along the shoreline.

The appropriate season for revetment repair should avoid months of peak recreational use and key environmental windows. Limiting maintenance operations to the period between October through February is typical. However, repairs outside this period should not be prohibited in the rare case of imminent threat to property occurring outside this construction window.”

4. Alternatives

The applicant's consulting engineer in the Wave Uprush Study reviewed three alternatives to the proposed project, including no project, use of beach nourishment/sand importation, and removal of the revetment and construction of a vertical seawall in a further landward location. First, the no project alternative was rejected due to the inherent risk of allowing the structure to continue to deteriorate, further reducing the capacity of the revetment to protect Seacliff Colony properties. Second, the applicant analyzed the use of beach nourishment/sand replenishment. The cost for an initial beach nourishment project was estimated by the consulting engineer at \$3,170,000 with significant continuing costs (in perpetuity) to provide regular re-nourishment. The beach nourishment alternative was rejected not only due to its cost but because the consultant does not believe that sand replenishment alone would serve to protect the existing residences on site due to the expectation that any imported sandy would be continually lost due to active littoral sand transport on a relatively narrow sand starved beach during the winter. Third, the alternative of removing the existing rock revetment and constructing a new vertical seawall in a further landward location at the dripline of the existing residences on site would require removal of all rock on site, backyard/landscape improvements on each of the existing 49 residential properties and the removal of the existing public trail landward of the revetment. The applicant's engineer indicates that this alternative would be infeasible based on the estimated cost by the consulting engineer of \$10,084,000 to carry out this alternative (significantly more than the proposed addition of 5,000 tons of stone with a repair cost estimated at \$ 385,500). The infeasibility of the two alternatives, beach nourishment and removing the existing rock revetment and constructing a new vertical seawall in a further landward location are the assertions of the applicant's consulting engineer and not the findings of the Commission. Therefore, the Commission finds that, in this specific case, there are no feasible, less environmentally damaging alternatives to the proposed project .

5. Shoreline Processes and Sand Supply

Although construction of a seawall is required to protect the 49 existing principle structures on the site, Section 30235 of the Coastal Act requires that the shoreline protection be designed to eliminate or mitigate adverse impacts on local shoreline sand supply. There are a number of adverse impacts to public resources associated with the construction of shoreline protection. The natural shoreline processes referenced in Section 30235, such as the formation and retention of sandy beaches, can be significantly altered by construction of a shoreline protective device. Some of the effects of a shoreline protective structure on the beach such as scour, end effects and modification to the beach profile are temporary or difficult to distinguish from all the other actions which modify the shoreline. Seawalls also have non-quantifiable effects to the character of the shoreline and visual quality. However, some of the effects that a structure may have on natural shoreline processes can be quantified. Three of the effects from a shoreline protective device which can be quantified are: 1) loss of the beach area on which the structure is located; 2) the long-term loss of beach which will result when the back beach location is fixed on an eroding shoreline; and 3) the amount of material which would have been supplied to the beach if the back beach or bluff were to erode naturally.

In addition, if the natural shoreline were to be allowed to erode, the beach would retreat inland and a narrow sandy beach would persist. However, when the back shoreline location is fixed (as a result of the construction of a shoreline protective device, such as the rock revetment on the subject site) the inland migration of the beach is halted. This will result in a long-term loss of recreational opportunity as the development of new inland beach land fails to keep pace with the loss of or inundation of the seaward portion of the beach.

In past permit actions, the Commission has found that rock revetments require relatively frequent repair and maintenance due to: (1) the natural settling or subsidence of the rock structure into the sand over time and (2) the inadvertent loss of rock material due to errant rock becoming dislodged from the structure and settling on the sandy beach seaward of the structure. In this case, the existing revetment is considered necessary to protect the 49 existing residences on site. The proposed repair work will serve to maintain the original footprint, location, design height and shape of the previously approved revetment; however, it also constitutes a significant repair of the existing revetment and will serve to extend the life of the rock revetment.

Thus, although the proposed project is for the repair of an existing 2,040 ft. long rock revetment and does not involve the construction of any new shoreline protective devices, this development constitutes a significant repair of the existing revetment and will serve to extend the life of the rock revetment. Moreover, extending the life of the existing revetment will also serve to extend the period of time that the revetment will result in adverse impacts to shoreline sand supply and public access.

In order to address these impacts, Commission staff worked with the applicant's representatives to identify potential public access improvement projects within the nearby area of Ventura County which could be used to offset the unavoidable adverse impacts resulting from the proposed project, including new improvements at nearby Oil Piers Beach, located approximately 1/2 mile upcoast of the subject site (Exhibit 2). Oil Piers Beach was historically developed by Oil Companies with multiple piers which have since been removed. The beach is owned by the State Lands Commission. Currently, public parking is available at Oil Piers at an unimproved dirt parking area and the public is able to access the beach by descending a low bluff via a relatively steep dirt trail leading from the parking area to the sandy beach below. In consultation with staff, the applicant's engineering consultants prepared a cost estimate for the construction of a new public access stairway at this location. The applicant's engineer has estimated the total engineering, permitting and construction cost to be \$60,000. Therefore, in order to mitigate the potential adverse impacts to public access resulting from the extension of the life of the revetment, **Special Condition Two (2)** requires that prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, a plan to establish a Shoreline Sand Supply and Public Access Fund Account to be managed by the Beach Erosion Authority for Clean Oceans and Nourishment (BEACON), or other entity if approved by the Executive Director. Subsequent to Executive Director approval of the plan, the Permittee shall establish such fund as an interest bearing account and deposit a sum of \$60,000 (Sixty Thousand) United States Dollars into that fund in order to mitigate for impacts to shoreline sand supply and the loss of public recreational use over 25 years resulting from effects associated with extending the life of the structure on the sandy beach.

In addition, **Special Condition Two (2)** provides that the \$60,000 deposited by the applicant into the account shall be used to construct a new public access stairway to the beach and/or public parking improvements at Oil Piers Beach or to establish new or improved public access or recreation project at another appropriate location within the Coastal Zone in Ventura County, as authorized by the Executive Director. The account shall be structured to ensure that the entire fee and any accrued interest shall be used for the above-stated purpose, in consultation with the Executive Director, within ten years of the fee being deposited into the account. Any portion of the fee that remains after ten years shall be donated to an organization acceptable to the Executive Director, for the purpose of providing new or improved public access or recreation projects at another appropriate location in Coastal Ventura County or to implement beach nourishment projects which provide sand to the region's beaches within the Coastal Zone in Ventura County.

6. Storm and Flood Hazard

However, the Commission further notes that the proposed development is located on a beachfront property in Ventura County. The Ventura County coast has historically been subject to substantial damage as the result of storm and flood occurrences--most recently, and perhaps most dramatically, during the past 1998 El Nino severe winter storm season.

The subject site is clearly susceptible to flooding and/or wave damage from storm waves, storm surges and high tides. The El Nino storms recorded in 1982-1983 caused high tides of over 7 feet, which were combined with storm waves of up to 15 feet. These storms caused substantial damage to structures in Ventura County. The severity of the 1982-1983 El Nino storm events are often used to illustrate the extreme storm event potential of the California, and in particular, Ventura County's coast.

Thus, ample evidence exists that all beachfront development in the Ventura County area is subject to an unusually high degree of risk due to storm waves and surges, high surf conditions, erosion, and flooding. The residential development on site, even after the completion of the repair/maintenance work, will continue to be subject to the high degree of risk posed by the hazards of oceanfront development in the future, as will the residence that the revetment helps to protect. The Coastal Act recognizes that development, such as the proposed maintenance of the rock revetment, even as designed and constructed to incorporate the recommendations of the consulting coastal engineer, may still involve the taking of some risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use the subject property.

The Commission finds that due to the possibility of liquefaction, storm waves, surges, erosion, and flooding, the applicant shall assume these risks as conditions of approval. Because this risk of harm cannot be completely eliminated, the Commission requires the applicant to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's Assumption of Risk, Waiver of Liability and Indemnity, as required by **Special**

Condition No. Seven (7), will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and that may adversely affect the stability or safety of the development it protects, and will effectuate the necessary assumption of those risks by the applicant.

To ensure that the potential for construction activities to adversely effect the marine environment are minimized, **Special Condition No. Nine (9)** requires the applicants to ensure that no construction materials, debris or waste shall be placed or stored where it may be subject to wave erosion and dispersion, that all debris resulting from construction activities shall be removed from the beach prior to the end of each work day; no machinery or mechanized equipment shall be allowed in the intertidal zone, except for that necessary to remove the errant rocks from the beach seaward of the revetment; and all excavated beach sand shall be redeposited on the beach.

The applicant's consulting engineer has determined that the existing revetment has a remaining design life of on the order of 50 plus years, assuming proper maintenance. In order to complete this maintenance, the applicants have requested a long term maintenance and repair program to allow for occasional maintenance and repair including the addition of limited quantities of rock over an extended period of time without the requirement to obtain a coastal development permit. **Special Condition No. Three (3)** clarifies that this permit approval does include authorization for such future work, but with strict limits on the nature of projects covered by that authorization. It also specifically limits this work to work identified in a written report prepared by a professional engineer reviewed and approved by the Executive Director identifying the proposed maintenance and repair and any additional rock to be added to the revetment. The maintenance and repair report must be submitted at least 60 days in advance of the proposed work to allow time for review by the Executive Director. The maintenance or repair is limited to within the approved footprint and design height of the revetment as identified on the drawings by Moffet and Nichol dated 1-25-2007 and 2-20-08 and approved in Coastal Permit No. 4-07-154. In no event shall more than 5,000 tons of new armor stone (approximately 15% of the approved volume of the revetment) be imported for any individual repair project. Errant rock located seaward of the revetment shall be retrieved and either placed on the revetment or exported to an approved disposal site. The maintenance or repair may be completed during the late fall or winter season from October 15 to March 15 without obtaining a new coastal development permit for during next 25 years until June 13, 2033. Repair of the rock revetment after this 25 year period may require a new coastal permit.

In addition, Special Condition Three (3) requires that the proposed maintenance or repair shall be completed incorporating Best Management practices and heavy equipment or rock is not located within the intertidal area or beyond 20 feet of the seaward footprint of the revetment. Further, it is the property owner's responsibility to maintain the revetment in a structurally sound manner. Removing or re-depositing any debris, rock or material that becomes dislodged after completion of the approved revetment repair authorized by Coastal Permit No. 4-07-154 shall occur on an as-needed basis after such displacement occurs, regardless of the time of the year. In addition, **Special Condition No. Three (3)** requires that the maintenance, repair, and replacement of the three public stairways approved in Coastal Permit No. 4-07-154 that traverse vertically across the rock revetment connecting the two lateral accessways

approved in Coastal Permit No. 4-82-595 and recorded as a deed restriction in Instrument No. 93922 recorded by the Ventura County Recorder on August 26, 1983 shall be completed on an annual basis, if needed, to assure continued public use.

Further, **Special Condition No. Three (3)** also requires that any future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protective device that is proposed to be completed between March 16 and September 30 shall require a coastal development permit and is not exempt as such time includes higher public use of this beach area during the spring, summer and fall months. Public use of these two lateral accessways is expected to be limited during the late fall and winter months. Additionally, any future improvements to the proposed revetment that might result in the seaward extension of the shoreline protection device would result in increased adverse effects to shoreline sand supply and public access. Therefore, to ensure that the proposed project does not result in new future adverse effects on shoreline sand supply and public access and that future impacts are reduced or eliminated, **Special Condition No. Three** further prohibits any future repair or maintenance, enhancement, reinforcement, or any other activity affecting the shoreline protective device approved pursuant to this permit, if such activity extends the seaward footprint of the subject shoreline protective device. Approval with this condition ensures maintenance and repair activities will not interfere with public access opportunities, so that the project maximizes public lateral access in a manner consistent with Public Resources Code Sections 30210 and 30211.

Further, to ensure geologic stability and ensure that the recommendations of the engineering consultant have been incorporated into all proposed development, the Commission, as specified in **Special Condition No. Eight (8)**, requires the applicant to incorporate the recommendations cited in the Wave Uprush Study, by Moffatt & Nichol, Engineers, dated February, 2006 into all final design and construction plans. The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission. Any substantial changes to the proposed development approved by the Commission which may be recommended by the consultants shall require an amendment to the permit or a new coastal permit.

Therefore, the Commission finds for the reasons set forth above, that the proposed development, as conditioned, is consistent with the requirements of Coastal Act Sections 30235 and 30253.

D. Violation

Development has occurred on the subject site without the required coastal development permits including, but not limited to, the construction of 22 private access stairways across the 2,040 ft. long rock revetment. In addition, other unpermitted development (including a concrete block wall, landscaping and loose rock) has been installed on and between the Caltrans owned parcel upcoast of the project site and the furthest upcoast residence. This development has been installed in the existing public access trail located between the residences and the rock revetment and is completely blocking the public from gaining access from the vertical public trail on the Caltrans parcel to the recorded lateral public access trail along the top of the revetment.

In response to discussions with staff, the applicant has revised the original project description to include the removal of 19 of the unpermitted stairways (with the remaining three stairways to be upgraded or replaced and made available for public access) and the removal of unpermitted rock and landscaping within the lateral public accessway on Parcel B (the parcel owned by the Homeowners Association). In addition, the applicant has included the proposal to exercise its best effort to remove, or work with the owner of the residence on APN 060-044-055, to remove the unpermitted development on Caltrans property (including the block wall, rock, and landscaping) which is blocking the entrance to the public accessway located landward of the revetment on Parcel B, consistent with any necessary authorization by Caltrans for the removal of the unpermitted development located on Caltrans property. Therefore, in order to ensure that the applicant's proposal is adequately implemented, **Special Condition Four (4)** requires that the applicant shall remove any landscaping, rock, and debris which is encroaching onto the identified public accessway located landward of the rock revetment on Parcel B, pursuant to the approved plans, within 180 days after issuance of this permit. The Executive Director may grant additional time for good cause. In addition, **Special Condition Four (4)** also provides that by acceptance of this permit, the applicant agrees to exercise its best effort to remove, or work with the owner of the residence on APN 060-044-055, to remove the unpermitted development on Caltrans property (including the block wall, rock, and landscaping) which is blocking the entrance to the public accessway located landward of the revetment on Parcel B. Removal of the unpermitted development on Caltrans property shall be performed as quickly as possible and shall be consistent with any necessary authorization by Caltrans for the removal of the unpermitted development located on Caltrans property.

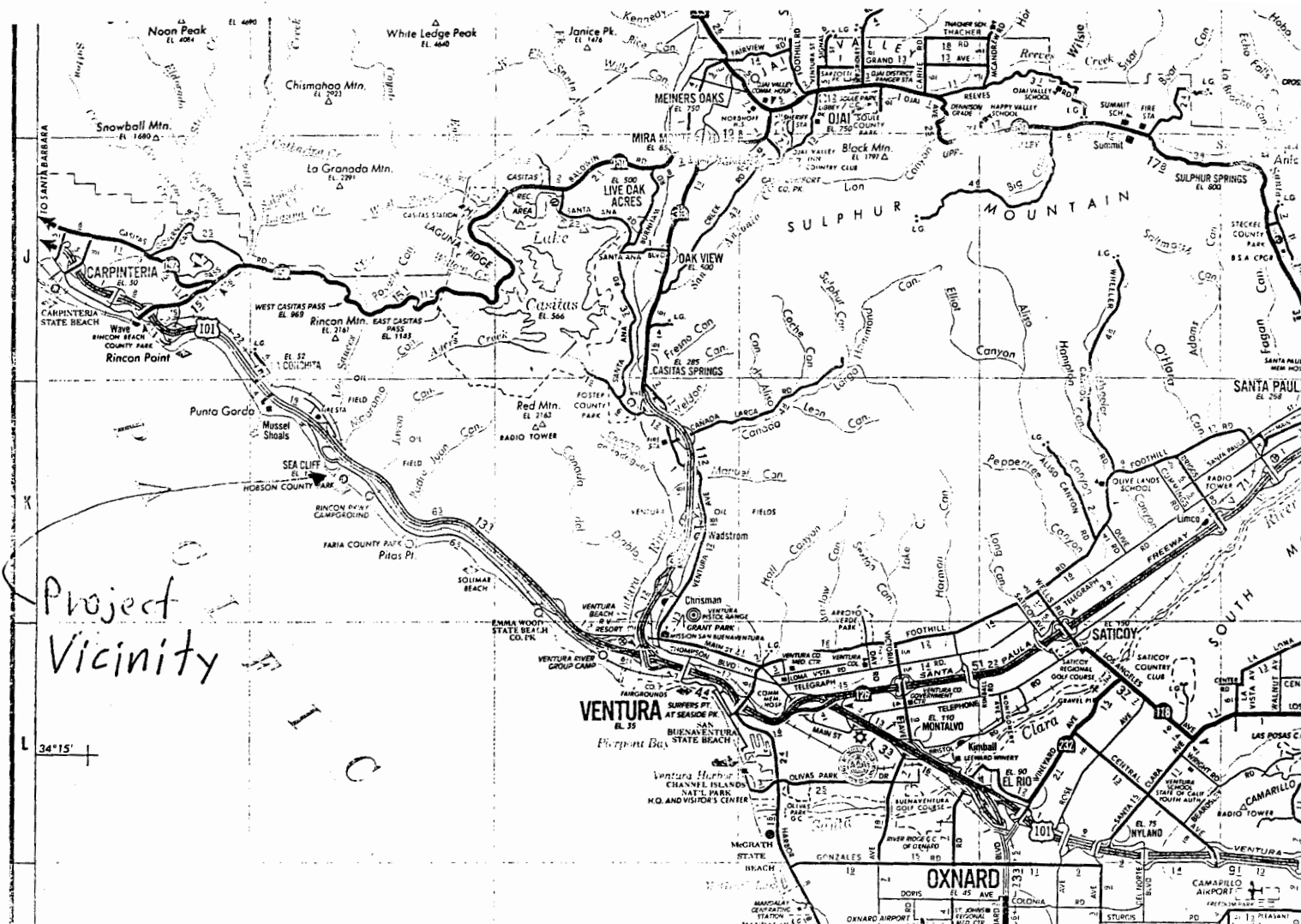
In order to ensure that the violation aspect of this project is resolved in a timely manner, **Special Condition No. Twelve (12)** requires that the applicant satisfy all conditions of this permit which are prerequisite to the issuance of this permit within 90 days of Commission action or within such additional time as the Executive Director may grant for good cause.

Although development has taken place prior to the submission of this permit amendment application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to any alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit. Only as conditioned is the proposed development consistent with the Coastal Act.

D. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, 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 that the activity may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the proposed development, as conditioned, is consistent with the policies of the Coastal Act. Feasible mitigation measures which will minimize all adverse environmental effects have been required as special conditions. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

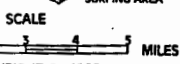


Project Vicinity →

VENTURA COUNTY

LEGEND

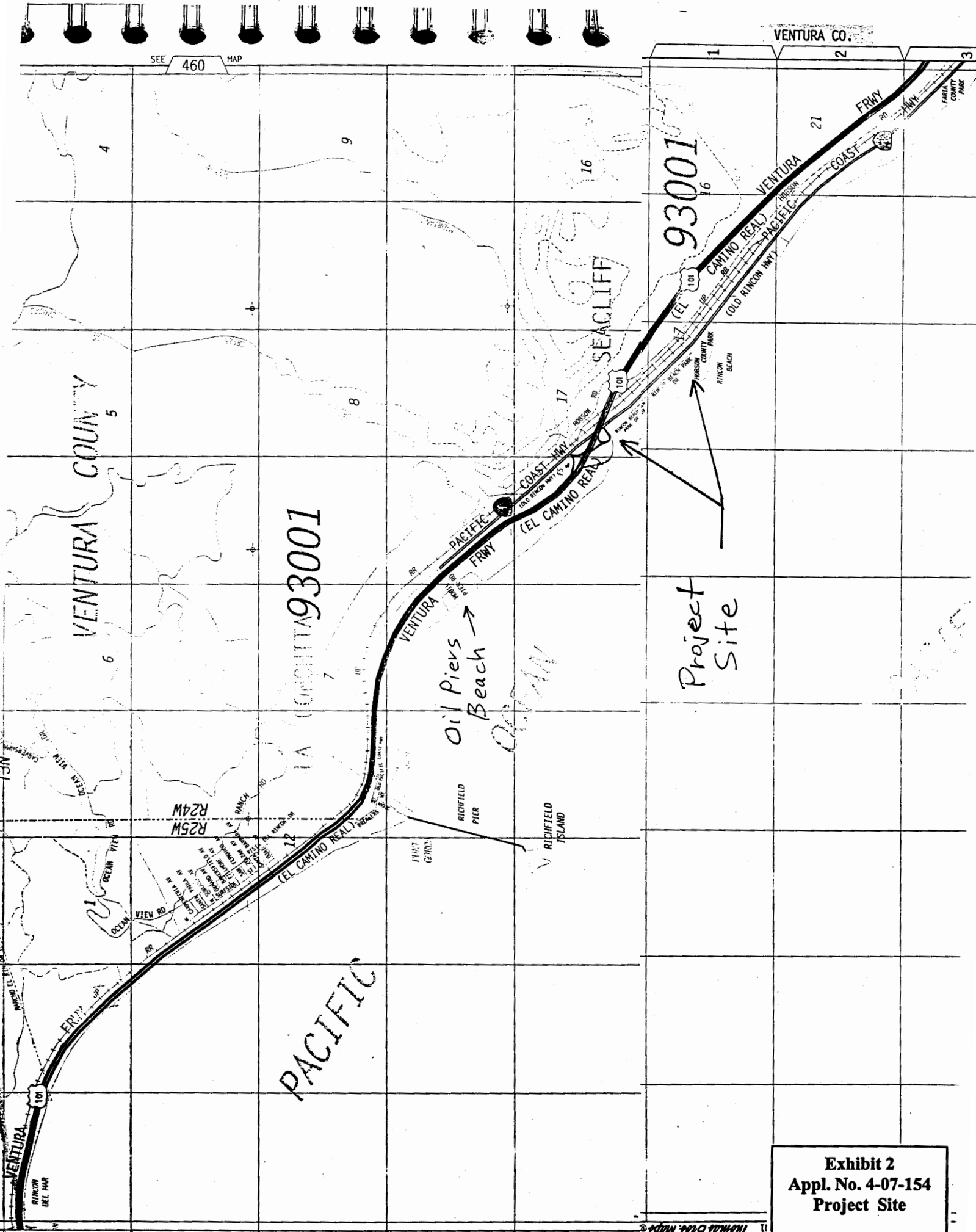
- | | | | |
|--|----------------------------|--|---|
| | FREEWAY | | INTERSTATE HIGHWAY |
| | FREEWAY UNDER CONSTRUCTION | | U.S. HIGHWAY |
| | DIVIDED HIGHWAY (MAJOR) | | CALIFORNIA STATE HIGHWAY |
| | PAVED ROAD | | COUNTY HIGHWAY |
| | LOCAL ROAD (PAVED) | | OTHER STATE HIGHWAY |
| | GRAVEL ROAD | | STATE SCENIC HIGHWAY |
| | GRADED DIRT ROAD | | ROADSIDE REST |
| | DIRT ROAD | | MILEAGE BETWEEN TOWNS & JUNCTIONS |
| | POOR ROAD | | MILEAGE DART |
| | LOCKED GATE | | MILEAGE BETWEEN DARTS |
| | RAILROAD SIDING | | CALIFORNIA HIGHWAY PATROL OFFICE |
| | MINE | | AUTOMOBILE CLUB OF SOUTHERN CALIFORNIA OFFICE |
-
- ### RECREATION
- | | | | |
|--|----------------------------------|--|--------------------------------|
| | PARK | | IMPROVED CAMPGROUND |
| | PUBLIC GOLF COURSE | | UNIMPROVED CAMPGROUND |
| | PRIVATE/SEMI-PRIVATE GOLF COURSE | | PRIVATELY OPERATED CAMPGROUND |
| | WINTER SPORTS AREA | | BOAT RENTAL AND LAUNCHING |
| | AUTO RACETRACK/ DRAG STRIP | | BOAT RENTAL ONLY |
| | PUBLIC SHOOTING RANGE | | BOAT LAUNCHING ONLY |
| | OFF-HIGHWAY VEHICLE AREA | | COMMERCIAL FISHING POND |
| | | | DEEP SEA SPORT FISHING LANDING |
| | | | SURFING AREA |



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 AUTOMOBILE CLUB OF SOUTHERN CALIFORNIA
 TRAVEL PUBLICATIONS DEPARTMENT
 2601 SOUTH FIGUEROA STREET LOS ANGELES 90007

Exhibit 1
Appl. No. 4-07-154
Project Vicinity

Reproduction of this map or



Project Site

93001

Oil Piers Beach

SEACLIFF

RICHFIELD PIER

RICHFIELD ISLAND

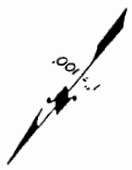
PACIFIC

Exhibit 2
Appl. No. 4-07-154
Project Site

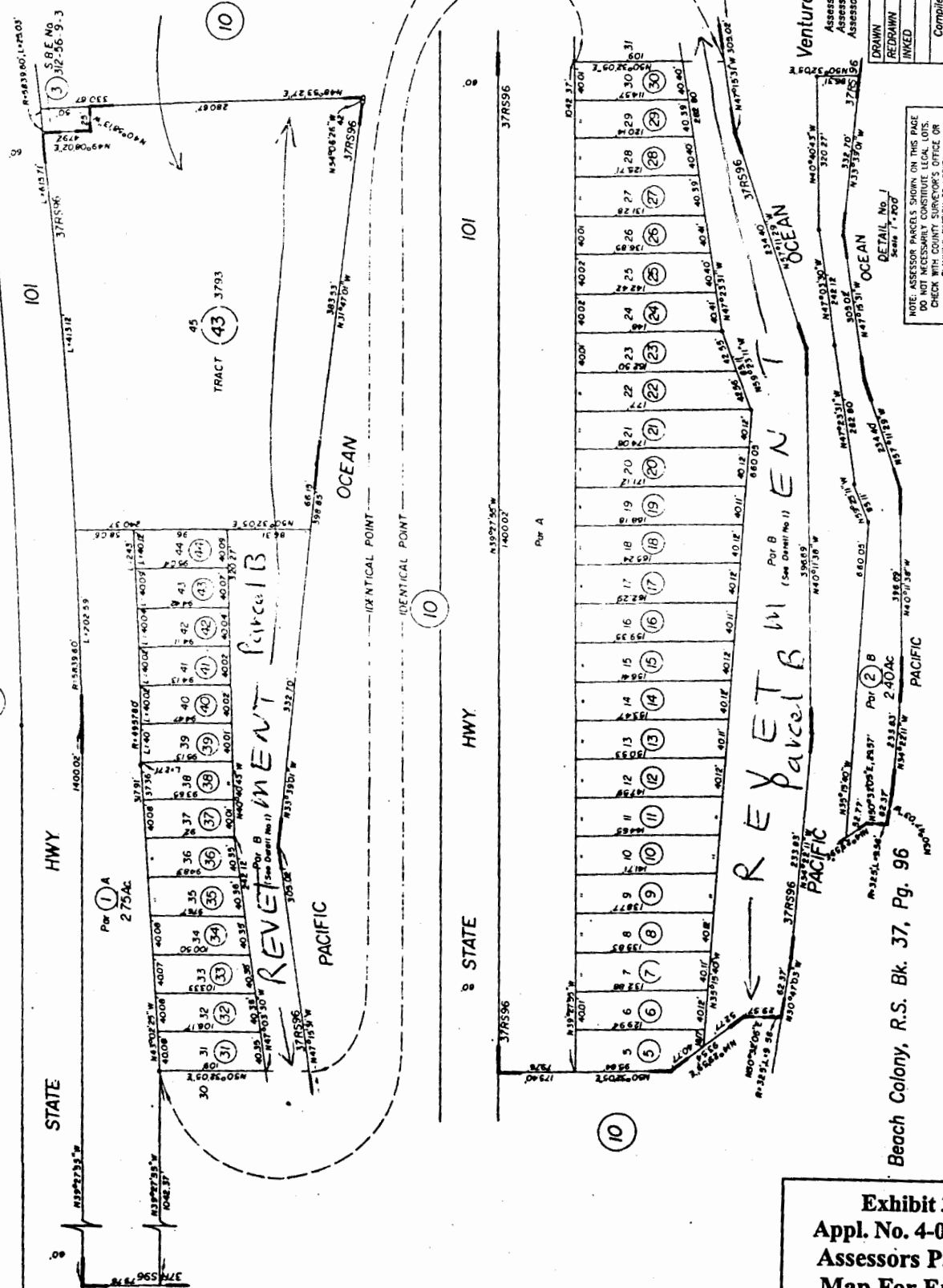
SECTION 17, T.3N., R.24W., S.B.B. & M.

Tax Rate Area
91006

60-44



Subdivided
Parcel
(COP 4-82-595)



Ventura County Assessor's Map.

Assessor's Block Numbers Shown in Ellipses.
Assessor's Parcel Numbers Shown in Circles.
Assessor's Mineral Numbers Shown in Squares.

| | | | |
|--|---------|-------------------|------------|
| DRAWN | B.W. | CREATED | 2-7-2002 |
| INKED | REDRAWN | PLOTTED EFFECTIVE | 87-88 ROLL |
| PREVIOUS Bk. 60, Portion Pg. 10 | | | |
| Compiled By Ventura County Assessor's Office | | | |

NOTE: ASSESSOR PARCELS SHOWN ON THIS PAGE
DO NOT NECESSARILY CONSTITUTE LEGAL LOTS.
CHECK WITH COUNTY SURVEYOR'S OFFICE OR
PLANNING DIRECTOR TO VERIFY.

Beach Colony, R.S. Bk. 37, Pg. 96

Exhibit 3
Appl. No. 4-07-154
Assessors Parcel
Map For Entire
Revetment

POR. SEC. 17, T.3N., R.24W. S.B.B. & M.

Tax Rate Area
91123

60-43



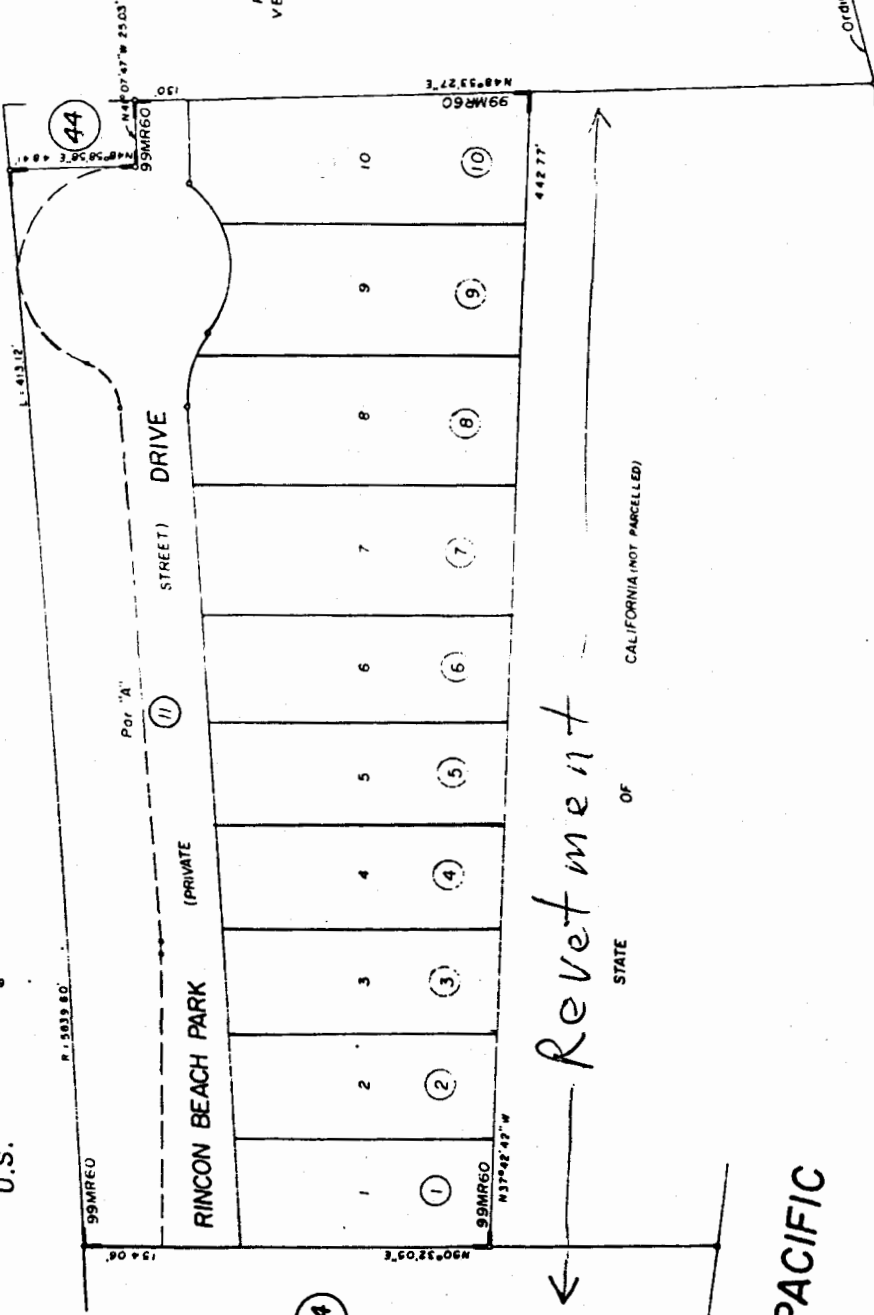
(10)

101

HWY.

U.S.

8



PARK NO 4
VENTURA CO

(10)

Ordinary High Water Line

Revetment

STATE OF CALIFORNIA (NOT PARCELLED)

PACIFIC

Ventura County Assessor's Map.

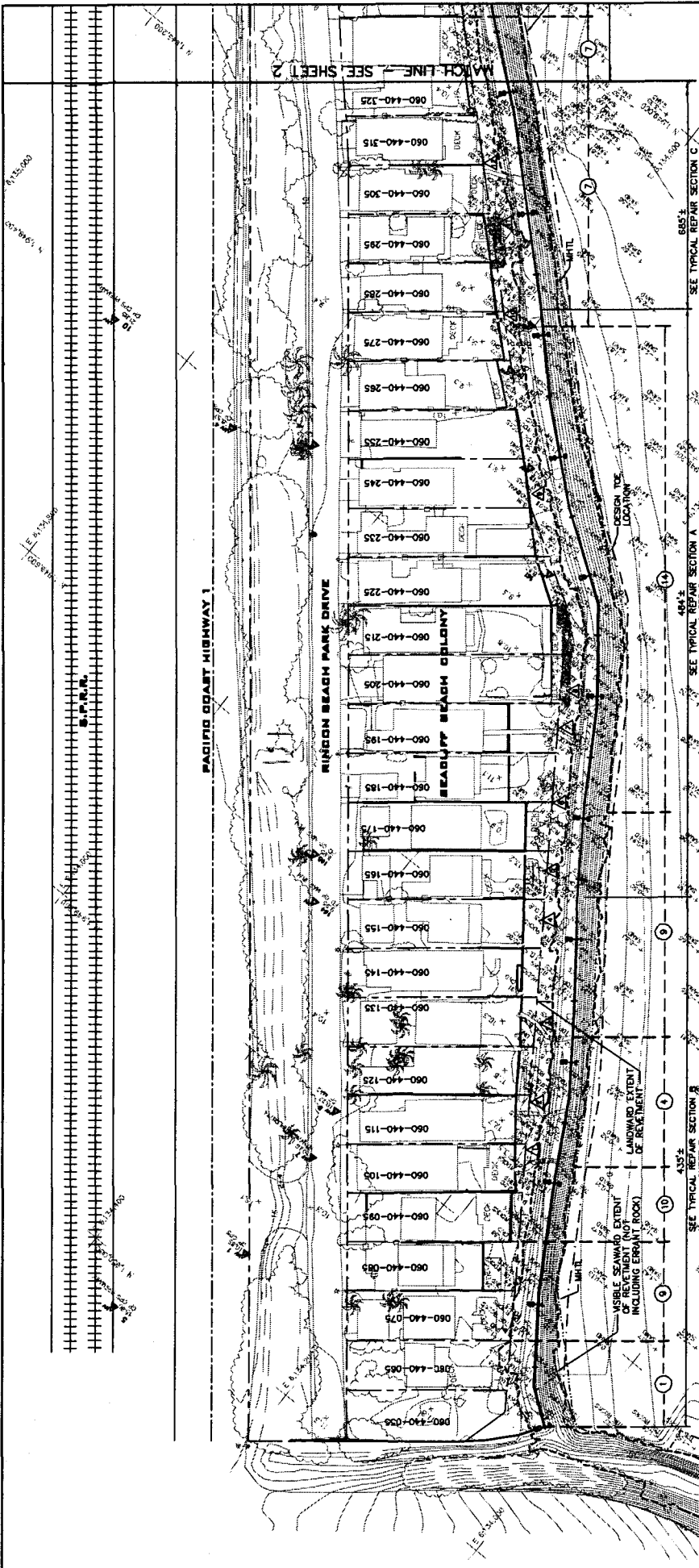
Assessor's Block Numbers Shown in Ellipses.
Assessor's Parcel Numbers Shown in Circles.
Assessor's Mineral Numbers Shown in Squares.

| | | | |
|--|------|---------------------------------|------------|
| DRAWN | R.S. | REVISED | 2-7-2002 |
| REDRAWN | | CREATED | |
| INKED | | PLOTTED EFFECTIVE | 85-86 ROLL |
| | | PREVIOUS Bk. 60, Partion Pg. 10 | |
| Compiled By Ventura County Assessor's Office | | | |

NOTE: ASSESSOR PARCELS SHOWN ON THIS PAGE
DO NOT NECESSARILY CONSTITUTE LEGAL LOTS.
CHECK WITH COUNTY SURVEYOR'S OFFICE OR
PLANNING DIVISION TO VERIFY.

3793, M.R. Bk. 99, Pg. 60

Exhibit 4
Appl. No. 4-07-154
Assessors Parcel
Map For Eastern
10 Lots



BENCHMARK

NATIONAL GEODETIC SURVEY (NGS) 0-1048 CHARACTER OF MARK: B.M. DISK ELEVATION (ADJUSTED) = 20.008 FEET
 CHARACTER OF MARK: B.M. DISK AND WOODEN BRIDGE ABUTMENT OF STEEL AND WOODEN BRIDGE IN OPPOSITE END OF THE NEW CONCRETE DRIVE ON THE WESTERN OIL AND GAS TRAIL, WESTERN OIL AND GAS TRAIL, LEADING TO CALIFORNIA STREET CROSSING AT VENTURA. THE BENCHMARK IS LOCATED ABOUT 172 FEET LOWER THAN THE TRACK SURVEY CONTROL.
 HORIZ. DATUM = MAD 83 CA STATE PLANE. VERT. DATUM = MGD 1926 FEET
 ALL UNITS IN FEET.

NOTES

- 1) FROM STATION 0400 TO 1600, THE DESIGN TOE LOCATION IS APPROXIMATELY 24 FT SEAWARD OF THE TOP OF SLOPE BASED ON ORIGINAL DESIGN DOCUMENTATION. NO DRAWINGS EXIST. THIS LOCATION IS CONSISTENT WITH PAST OBSERVATIONS DURING SCOUR CONDITIONS. APPROXIMATELY 5 FT SEAWARD OF THE TOP OF SLOPE, BASED ON AVAILABLE DESIGN DRAWINGS.
- 2) THE MEAN HIGH TIDE LINE (MHTL) IS SHOWN WHERE THE SURVEYED ELEVATION OF THE SEAWARD SIDE OF THE REVETMENT IS EQUAL TO THE MEAN HIGH TIDE LINE. THE WINTER MHTL LINE WOULD BE EXPECTED TO BE ON THE REVETMENT FOR ITS ENTIRE LENGTH.
- 3) WAVE UPRUSH LIMIT LINE: THE WAVE UPRUSH LIMIT EXTENDS TO THE LOCATION OF THE SECONDARY SEAWALL/SPLASH WALL FOR PARCELS THAT DO NOT EXTEND BEYOND THE SEAWARD SIDE OF THE UPRUSH LIMIT. APPROXIMATE EVIDENCE, HISTORICALLY NO WAVE UPRUSH HAS IMPACTED ANY RESIDENTIAL STRUCTURES.
- 4) APPROXIMATE NUMBERS OF STONES DISLOOSED FROM REVETMENT TO BE RE-PLACED STONE COUNT BASED ON FIELD OBSERVATIONS DURING LOW TIDE HOURS ON JANUARY 19, 2007. AVERAGE SIZE: APPROXIMATELY 4 TONS.
- 5) DISLOOSED STONE IN THIS AREA TO BE RE-PLACED ONLY WITHIN THIS SECTION OF REVETMENT.

LEGEND

- STATION LINE: ROCK REVETMENT FOOTPRINT (VISIBLE LIMITS ON 8-12-08)
- SPOT ELEVATION: DESIGN TOE LOCATION (SEE NOTE 1)
- MEAN HIGH TIDE LINE (SEE NOTE 2)
- ASSESSOR PARCEL NUMBER (SANTA BARBARA COUNTY)
- 080-440-290

SURVEY MONUMENT (SEE SURVEY CONTROL TABLE)
 PROPERTY LINE
 EXISTING STAIRS WITH REFERENCE NUMBER
 SECONDARY SEAWALL/SPLASH WALL
 APPROXIMATE NUMBER OF DISLOOSED AND RECOVERABLE STONES IN THIS AREA (SEE NOTE 4)

| | | |
|--|---|--|
| <p>MOFFATT & NICHOL</p> <p>REGISTERED PROFESSIONAL ENGINEERS No. 52720 CIVIL State of California</p> | | <p>DATE: 1-25-07 SHEET 1 OF 3</p> |
| <p>Seabuff Beach Colony Homeowners Association</p> <p>Shore Protection Repair</p> <p>Repair Plan 1</p> <p>and General Notes</p> | | |
| <p>PROJECT NO. 5165</p> <p>DATE: 1-25-07</p> <p>BY: [Signature]</p> | <p>PROJECT NO. 5165</p> <p>DATE: 1-25-07</p> <p>BY: [Signature]</p> | <p>APPROVED BY: [Signature]</p> <p>DATE: 1-25-07</p> |

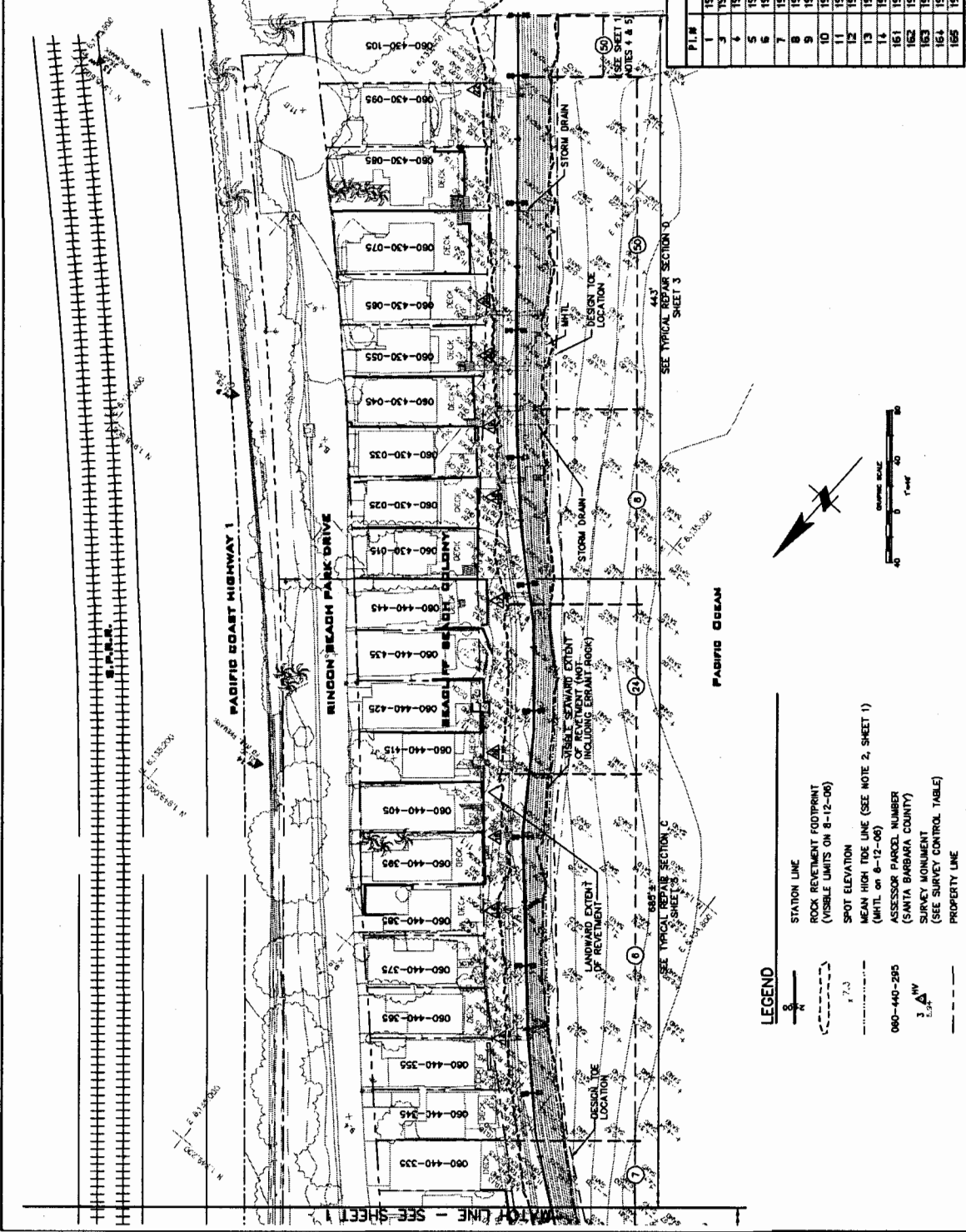
Exhibit 5
 Appl. No. 4-07-154
 Repair Plan 1

SURVEYOR'S NOTES

TOPOGRAPHIC SURVEY PERFORMED BY MW HOLDINGS, INC., VENTURA, CA. (805) 877-4850
 AERIAL PHOTOGRAPHY FLOWN BY TERRON AERIAL SURVEYS, INC. (805) 477-0900
 DATE FLOWN: AUG 12, 2008
 MEAN HIGH TIDE (MHT) LINE = 2.0 FEET
 100% RINGON ISLAND TIDE STATION ID #411270 Tidal Epoch 1982-2001
 SURVEY CONTROL:
 HORIZ. DATUM = NAD 83, CA STATE PLANE, ZONE 5, FEET
 VERT. DATUM = NAVD 1928, FEET

SURVEY STATEMENT

The base reference for the Sea Cliff Beach County was performed on August 12, 2008 by conventional and aerial photogrammetry methods. The horizontal datum and base elevations were based on the California Coordinate System, Zone 5, and the 7.25 survey feet using the to the contemporary primary Reference Station, and USGS National Bench Mark 1048 and VIGOR Ventura College (Ventura). The vertical datum was based on the County of Ventura Bench Mark 0-1028 with an elevation of 20.638 feet. The boundary lines shown were based on the means recorded in Book 37, Pages 56 & 57 of Records of Survey and in Book 59, Pages 60 & 61 of Miscellaneous Records of Survey, in the Office of the County Recorder, County of Ventura, State of California.



| P.I.# | Stationing | Area (Sq. Ft.) | Description |
|-------|------------|----------------|-----------------------------|
| 1 | 19+662.28 | 6134.256.1 | Conrad Park - settable nail |
| 2 | 19+662.72 | 6134.256.2 | Conrad Park - settable nail |
| 3 | 19+663.16 | 6134.256.3 | Conrad Park - settable nail |
| 4 | 19+663.60 | 6134.256.4 | Conrad Park - settable nail |
| 5 | 19+664.04 | 6134.256.5 | Conrad Park - settable nail |
| 6 | 19+664.48 | 6134.256.6 | Conrad Park - settable nail |
| 7 | 19+664.92 | 6134.256.7 | Conrad Park - settable nail |
| 8 | 19+665.36 | 6134.256.8 | Conrad Park - settable nail |
| 9 | 19+665.80 | 6134.256.9 | Conrad Park - settable nail |
| 10 | 19+666.24 | 6134.257.0 | Conrad Park - settable nail |
| 11 | 19+666.68 | 6134.257.1 | Conrad Park - settable nail |
| 12 | 19+667.12 | 6134.257.2 | Conrad Park - settable nail |
| 13 | 19+667.56 | 6134.257.3 | Conrad Park - settable nail |
| 14 | 19+668.00 | 6134.257.4 | Conrad Park - settable nail |
| 15 | 19+668.44 | 6134.257.5 | Conrad Park - settable nail |
| 16 | 19+668.88 | 6134.257.6 | Conrad Park - settable nail |
| 17 | 19+669.32 | 6134.257.7 | Conrad Park - settable nail |
| 18 | 19+669.76 | 6134.257.8 | Conrad Park - settable nail |
| 19 | 19+670.20 | 6134.257.9 | Conrad Park - settable nail |
| 20 | 19+670.64 | 6134.258.0 | Conrad Park - settable nail |

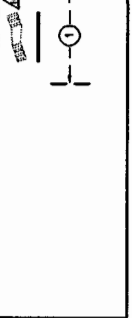
MOFFATT & NICHOL
 PROFESSIONAL ENGINEERS & SURVEYORS
 1000 N. BROADWAY
 SANTA BARBARA, CA 93101
 TEL: 805.964.1111
 FAX: 805.964.1112
 LICENSE NO. 57655
 Russell Boudreau, Principal Engineer

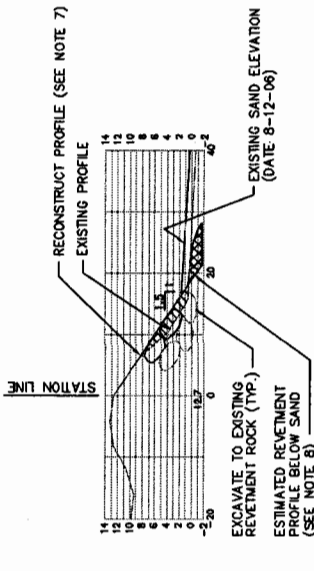
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|----------|-------------|----|------|
| | | | |
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DATE: 11-25-07
 SHEET 2 OF 3

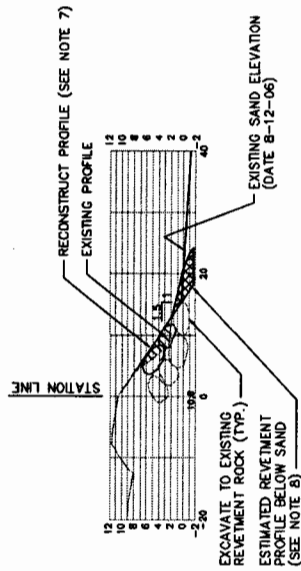
Shore Protection Repair
 Repair Plan 2
 and General Notes
 Exhibit 6
 Appl. No. 4-07-154
 Repair Plan 2

- LEGEND**
- STATION LINE
 - ROCK REVELMENT FOOTPRINT (VISIBLE LIMITS ON 8-12-06)
 - SPOT ELEVATION
 - MEAN HIGH TIDE LINE (SEE NOTE 2, SHEET 1) (MHTL on 8-12-06)
 - ASSESSOR PARCEL NUMBER (SANTA BARBARA COUNTY)
 - SURVEY MONUMENT (SEE SURVEY CONTROL TABLE)
 - PROPERTY LINE
 - DESIGN TOE LOCATION (SEE NOTE 1, SHEET 1)
 - EXISTING STAIRS WITH REFERENCE NUMBER
 - SECONDARY SEAWALL/SPLASH WALL
 - APPROXIMATE NUMBER OF DISLODGED AND RETRIEVABLE STONES IN THIS AREA (SEE NOTE 4, SHEET 1)

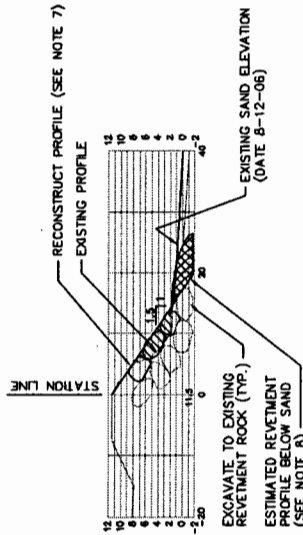




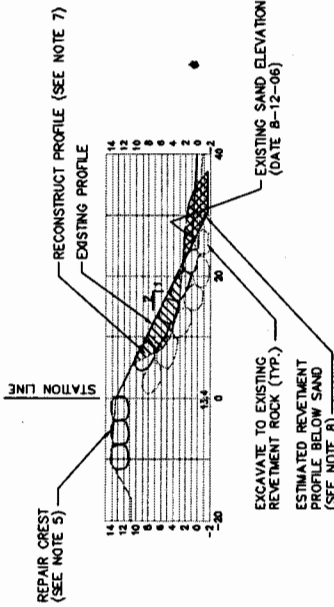
TYPICAL REPAIR SECTION A



TYPICAL REPAIR SECTION B



TYPICAL REPAIR SECTION C



TYPICAL REPAIR SECTION D

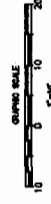
NOTES

- SECTION LOCATIONS WERE SELECTED TO REPRESENT TYPICAL CONDITIONS WITHIN A SEGMENT OF THE ROCK REVETMENT STRUCTURE. ACTUAL CONDITIONS WILL VARY OVER REACH REPRESENTED BY EACH SECTION.
- NEW REVETMENT ROCK TO CONSIST OF 3 TO 5 TON STONE.
- SOME EXISTING INNER AND OUTER LAYER OF REVETMENT ROCK WITHIN A SECTION MAY BE RECONSTRUCTED TO BETTER KEY INTO ADJACENT STONE MATRIX.
- EXISTING REVETMENT PROFILE BELOW SAND IS AN APPROXIMATION.
- CREST ELEVATION SHALL BE RESTORED TO +14 FEET. CONTRACTOR SHALL FIELD VERIFY THE AMOUNT OF CREST RECONSTRUCTION REQUIRED IN COORDINATION WITH THE ENGINEER.
- CONTRACTOR SHALL FIELD VERIFY EXISTING REVETMENT DIMENSIONS AND CONDITIONS.
- SLOPE SHALL BE RESTORED TO A MINIMUM REVETMENT THICKNESS OF TWO 3-5 TON ROCK.
- REMOVE AND REPLACE ALL STONE APPROXIMATELY 3.5 FEET IN DIAMETER (MINIMUM) AND SEAWARD OF THE TOE OF THE REVETMENT AND LOCATED AT LEAST 3 TO 4 FEET DEEP BENEATH THE SAND LEVEL (AT THE TIME OF CONSTRUCTION). REMOVE AND REPLACE ONLY DOWN TO THE TOE ELEVATION, AS DIRECTED BY THE ENGINEER.

LEGEND

- RECONSTRUCT AREA
- ADD NEW AND/OR SALVAGED REVETMENT ROCK
- APPROXIMATE LOCATION OF DISPLACED REVETMENT ROCK TO BE SALVAGED AND RE-PLACED BACK WITHIN REPAIR PROFILE. DEPTH AND EXTENT OF SALVAGED ROCK TO BE COORDINATED WITH ENGINEER.

Exhibit 7
Appl. No. 4-07-154
Cross Sections



Shoreline Beach Colony Homeowners Association
Shore Protection Repair
EXISTING AND TYPICAL
REPAIR CROSS SECTIONS

DATE: 1-25-07
 SHEET 3 OF 3

MOFFATT & NICHOL
 PROFESSIONAL ENGINEERS & ARCHITECTS
 5765
 Russell H. Garbarza, Principal Engineer



| REVISION | DESCRIPTION | BY | DATE |
|----------|-------------|----|------|
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| | | | |

MATCH LINE - SEE SHEET 2

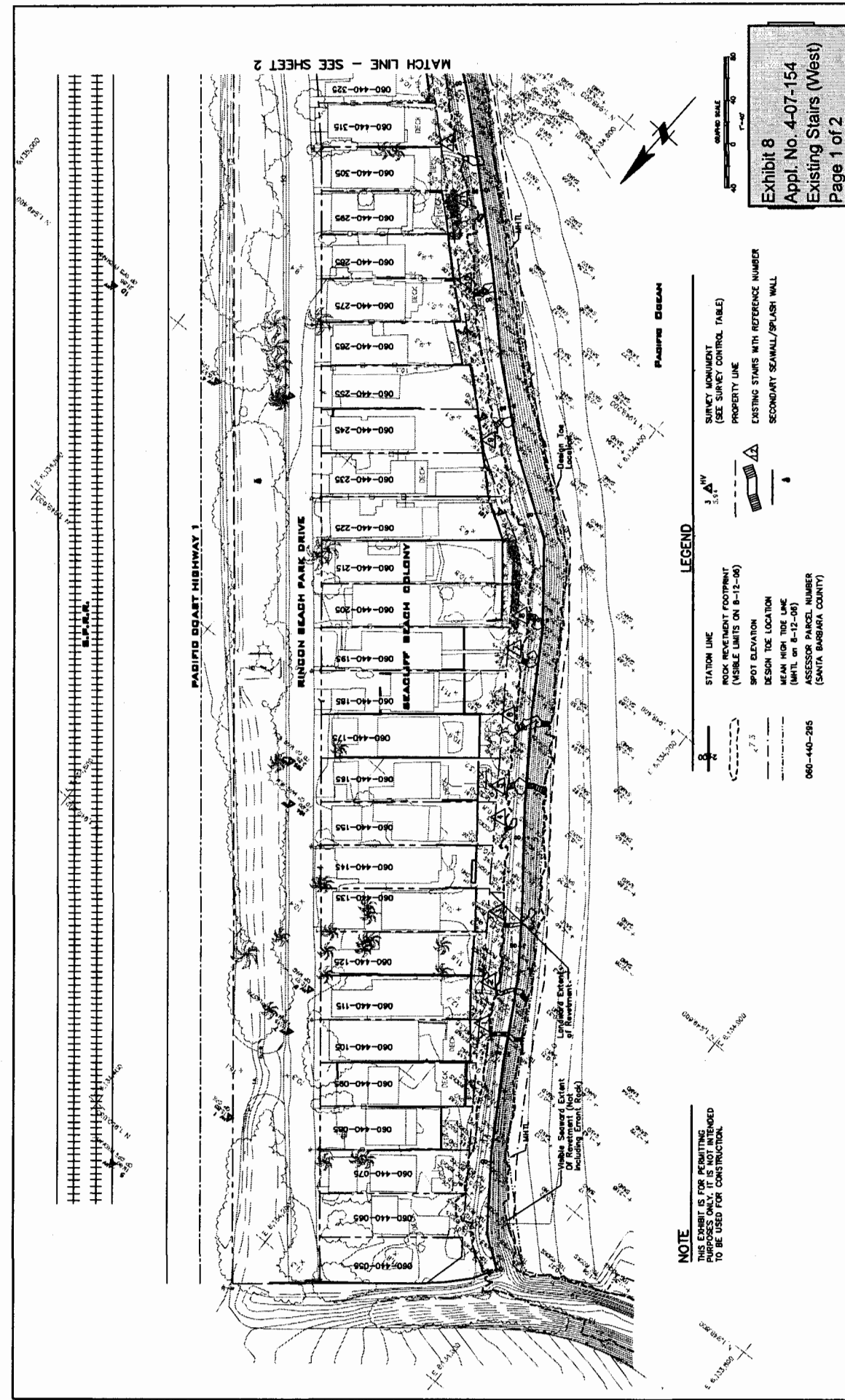


Exhibit 8
Appl. No. 4-07-154
Existing Stairs (West)
Page 1 of 2

LEGEND

- STATION LINE
- ROCK REVETMENT FOOTPRINT (VISIBLE LIMITS ON 8-12-06)
- SPOT ELEVATION
- DESIGN TOE LOCATION
- MEAN HIGH TIDE LINE (MHTL ON 8-12-06)
- ASSESSOR PARCEL NUMBER (SANTA BARBARA COUNTY)
- 060-440-205

NOTE
 THIS EXHIBIT IS FOR PERMITTING PURPOSES ONLY AND IS NOT TO BE USED FOR CONSTRUCTION.

LEGEND

- 3.4' MHTL
- PROPERTY LINE
- EXISTING STAIRS WITH REFERENCE NUMBER
- SECONDARY SEAWALL/SPASH WALL

NOTE
 THIS EXHIBIT IS FOR PERMITTING PURPOSES ONLY AND IS NOT TO BE USED FOR CONSTRUCTION.

DATE 1-25-07
 SHEET 1 OF 2

Seaciff Beach Colony Homeowners Association
Shore Protection Repair Existing Stairs

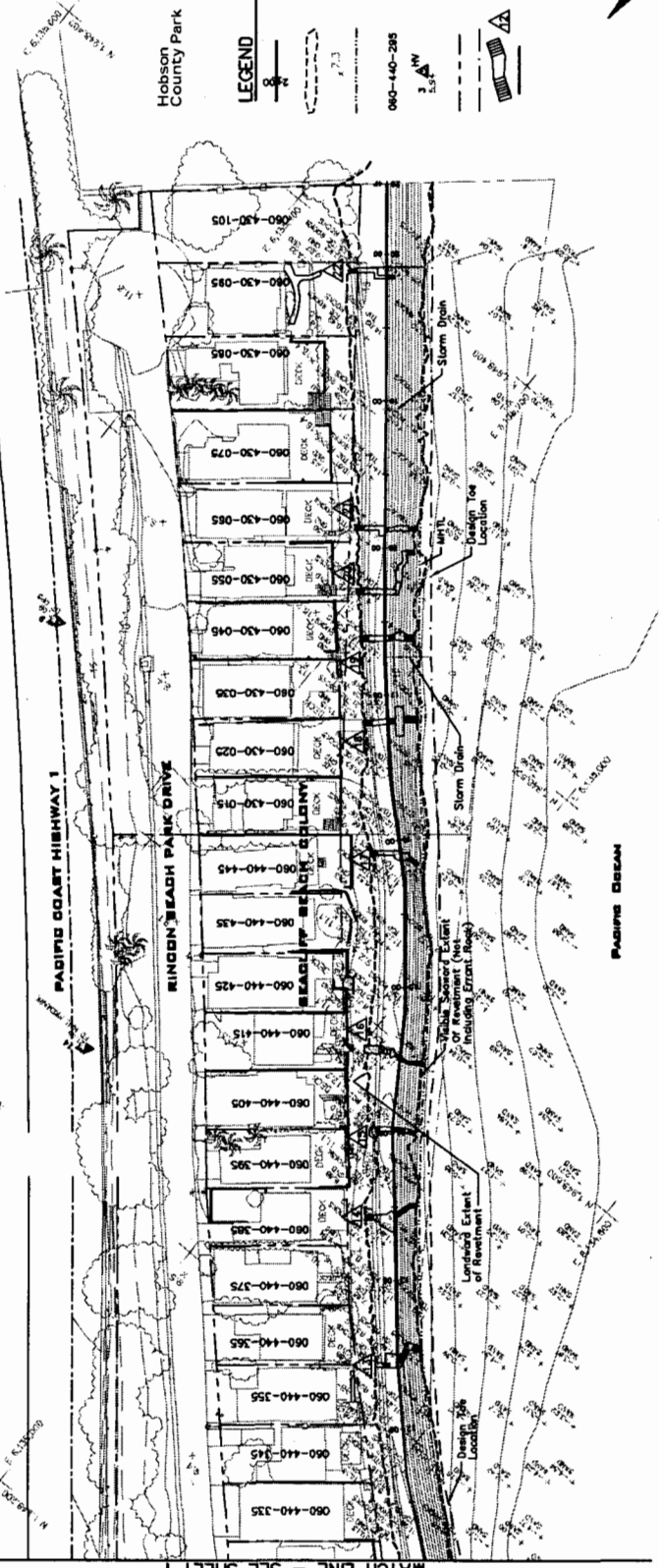
MORTATT & NICHOL
 PROFESSIONAL ENGINEER
 No. 2765
 CIVIL
 Exp. 3/31/08
 RICHARD H. BOULDER, Principal Engineer



| REVISION | DESCRIPTION | BY | DATE |
|----------|-------------|----|------|
| | | | |
| | | | |
| | | | |

NOTE

THIS EXHIBIT IS FOR PERMITTING PURPOSES ONLY. IT IS NOT INTENDED TO BE USED FOR CONSTRUCTION.



Hobson County Park

LEGEND

- STATION LINE
- ROCK REVELMENT FOOTPRINT (VISIBLE LIMITS ON 8-12-06)
- SPOT ELEVATION
- MEAN HIGH TIDE LINE (MHTL ON 8-12-06)
- ASSESSOR PARCEL NUMBER (SANTA BARBARA COUNTY)
- SURVEY MONUMENT (SEE SURVEY CONTROL TABLE)
- PROPERTY LINE
- DESIGN TIDE LOCATION
- EXISTING STAIRS WITH REFERENCE NUMBER
- SECONDARY SEAWALL/SPLASH WALL



Exhibit 9
 Appl. No. 4-07-154
 Existing Stairs (East)
 Page 2 of 2

DATE: 1-25-07
 SHEET 2 OF 2

Seaciff Beach Colony Homeowners Association
Shore Protection Repair Existing Stairs

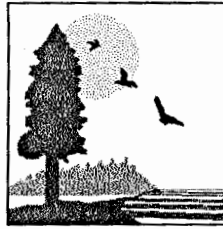


| REVISION | DESCRIPTION | BY | DATE |
|----------|-------------|----|------|
| | | | |
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| | | | |

MOTTATT & NICHOL
 5765
 5/16/05
 Richard R. Mottatt, Supervisory Engineer

MATCH LINE - SEE SHEET 1

CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202



PAUL D. THAYER, Executive Officer
(916) 574-1800 FAX (916) 574-1810
California Relay Service From TDD Phone 1-800-735-2922
from Voice Phone 1-800-735-2929

Contact Phone: (916) 574-1879
Contact FAX: (916) 574-1925

April 5, 2006

File Ref: SD 2006-03-06.4

Russell H. Boudreau, P.E.
Project Manager
Moffatt & Nichol
3780 Kilroy Airport Way, Suite 600
Long Beach, CA 90806

Dear Mr. Boudreau:

SUBJECT: Coastal Development Project Review for the Repair of the Existing Rock Revetment at Seacliff Beach Colony in Ventura County

This is in response to your request on behalf of your client, Seacliff Homeowners Association, for a determination by the California State Lands Commission (CSLC) whether it asserts a sovereign title interest in the property that the subject project will occupy and whether it asserts that the project will intrude into an area that is subject to the public easement in navigable waters.

The facts pertaining to your client's project, as we understand them, are these:

Your client proposes to repair the existing rock revetment structure protecting the 50 beachfront homes identified as the Seacliff Beach Colony in Ventura County. You have stated that recent inspection of the revetment indicates armor stone dislodgement, seaward slope steepening and crest elevation loss that necessitates repair of the revetment to protect the adjacent residences. You have indicated that proposed repair will "restore the revetment to its original design condition and will be within the original design footprint."

As noted in your letter of February 2006, the revetment adjacent to the western 40 lots of the development was constructed by CalTrans in 1972 as a result of erosion caused by construction of Highway 101. The revetment adjacent to the southwestern 10 lots was completed in 1983, as part of development plans. In connection with the issuance of the 1983 Coastal Development Permit 4-82-595, the property owners recorded a deed restriction, on August 26, 1983, Document #93922, Official Records of Ventura County, providing, in part, for the right of the public for lateral access and passive recreation, and requiring that property owners maintain the area in a clear and safe condition.

page 1 of 2

**Exhibit 10
Appl. No. 4-07-154
State Lands
Commission Letter
April 5, 2006**

As you are aware, CSLC staff issued a letter in 1996 to your firm in regards to a similar repair at this site. It was staff's understanding, at that time, that the revetment repairs would not extend any further seaward than original design footprint.

We do not at this time have sufficient information to determine whether this project will intrude upon State sovereign lands. Development of information sufficient to make such a determination would be expensive and time-consuming. We do not think such an expenditure of time, effort and money is warranted in this situation, given the limited resources of this agency and the circumstances set forth above. This conclusion is based on the location of the property, the character and history of the adjacent development, and the minimal potential benefit to the public, even if such an inquiry were to reveal the basis for the assertion of public claims and those claims were to be pursued to an ultimate resolution in the State's favor through litigation or otherwise.

Accordingly, the CSLC presently asserts no claims that the project intrudes onto sovereign lands or that it would lie in an area that is subject to the public easement in navigable waters. This conclusion is without prejudice to any future assertion of state ownership or public rights, should circumstances change, or should additional information come to our attention.

This letter is not intended, nor shall it be construed as, a waiver or limitation of any right, title, or interest of the State in any lands under the jurisdiction of the California State Lands Commission. If you have any questions, please contact, Susan Young, Public Land Management Specialist, at (916) 574-1879.

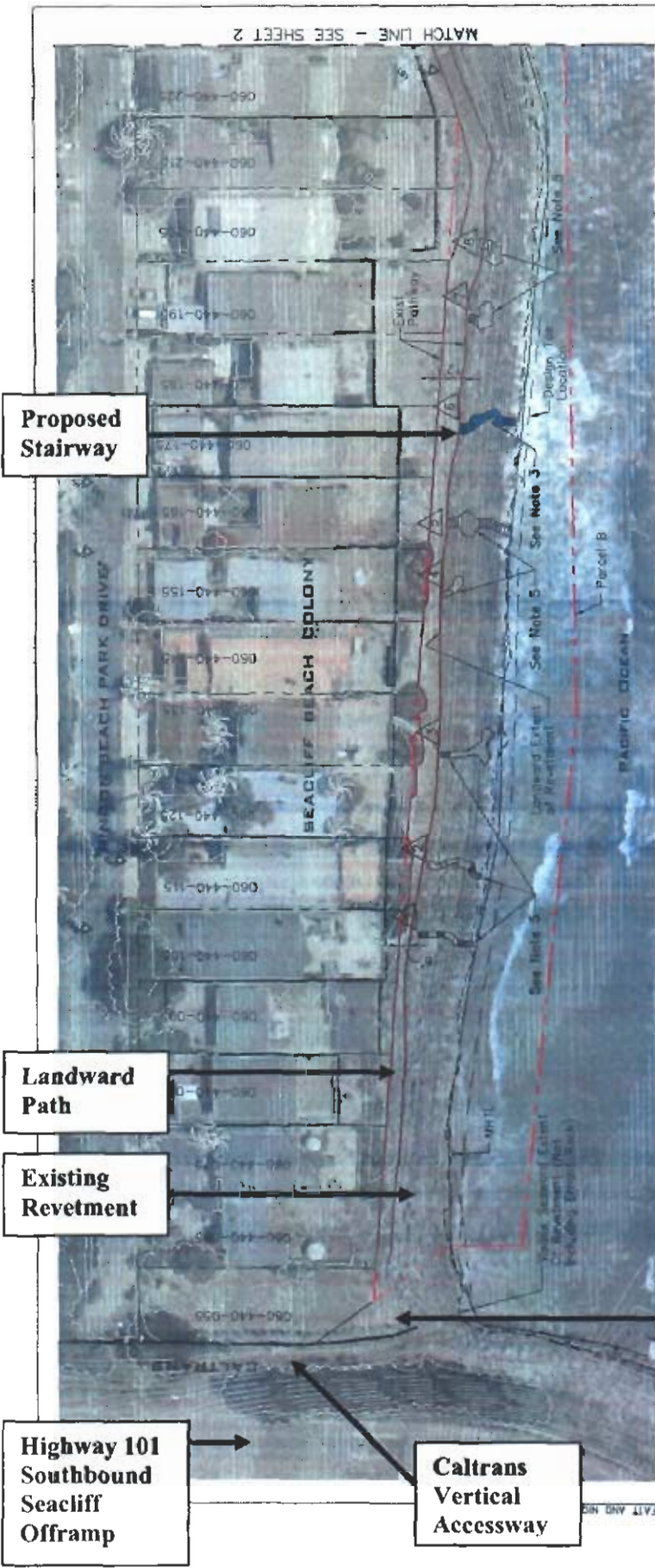
Sincerely,

Signature on File

Michael R. Valentine, Chief
Division of Land Management

Enclosure

cc: James Johnson – Coastal Commission
Susan Young - CSLC



MATCH LINE - SEE SHEET 2

Proposed Stairway

Landward Path

Existing Revetment

Highway 101 Southbound Seacliff Offramp

Caltrans Vertical Accessway

Unpermitted Development on Caltrans Property

LEGEND:

- ROCK REVETMENT FOOTPRINT (VISIBLE LIMITS ON B-12-06)
- SPOT ELEVATION
- DESIGN TOE LOCATION
- MEAN HIGH TIDE LINE (MHTL ON 8-12-06)
- ASSESSOR'S PARCEL NUMBER (SANTA BARBARA COUNTY)
- 060-440-295
- 3 Δ^{SW} SURVEY MONUMENT (SEE SURVEY CONTROL TABLE)
- PROPERTY LINE
- EXISTING STAIRS WITH REFERENCE NUMBER
- SECONDARY SEAWALL/SPLASH WALL
- PARCEL B
- EXISTING PATHWAY

NOTES:

1. DEED RESTRICTION DOCUMENT #93922, DATED AUGUST 26, 1983, ACKNOWLEDGES "THE RIGHT OF THE PUBLIC TO LATERAL ACCESS (LIMITED EXCLUSIVELY TO THE RIGHTS OF THE PUBLIC TO WALK AND RUN) ON PARCEL B ON THE INLAND SIDE OF THE REVETMENT ON "THE EXISTING PATH".
2. THIS EXHIBIT IS FOR PERMITTING PURPOSES ONLY. IT IS NOT INTENDED TO BE USED FOR CONSTRUCTION.
3. NEW STAIRS (2 TOTAL) TO BE IMPROVED BY ADDITION OF HANDRAILS. PHOTO OF EXISTING CONDITION SHOWN ON SHEET 4.
4. STAIRS (1 TOTAL) TO BE REPLACED WITH NEW DESIGN SHOWN ON SHEET 5. PHOTO OF EXISTING CONDITION SHOWN ON SHEET 5.
5. STAIRS (19 TOTAL) TO BE DEMOLISHED.



MOFFATT & NICHOL

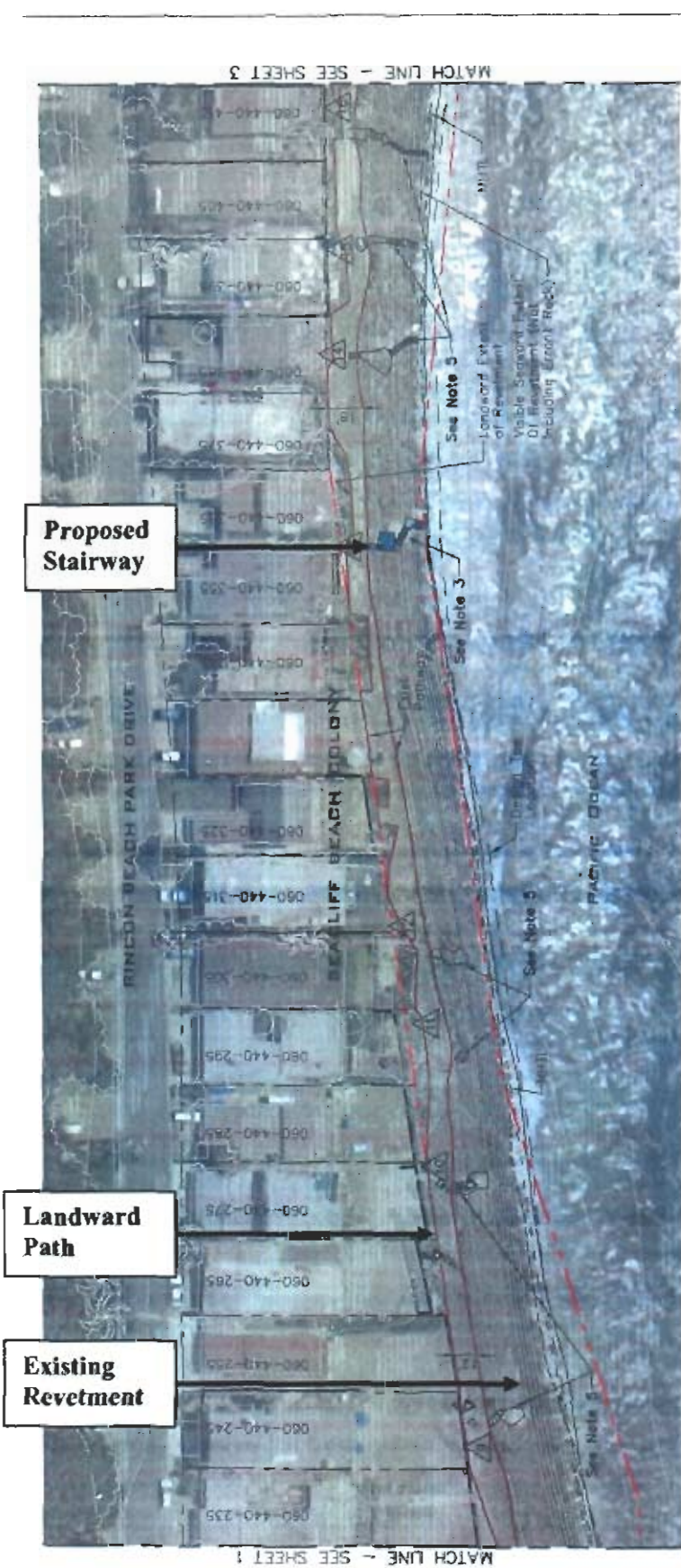
Seacliff Beach Colony Homeowners Association
Shore Protection Repair
-Existing Path
& Proposed Stairs

DATE 2-20-08

SHEET 1 OF 5



Exhibit 11
Appl. No. 4-07-154
Existing Landward Path and Proposed Stairs (West)



LEGEND:

- ROCK REVETMENT FOOTPRINT (VISIBLE LIMITS ON 8-12-06)
- SPOT ELEVATION
- DESIGN TIDE LOCATION
- MEAN HIGH TIDE LINE (MHTL ON 8-12-06)
- ASSESSOR PARCEL NUMBER (SANTA BARBARA COUNTY)
- SURVEY MONUMENT (SEE SURVEY CONTROL TABLE)
- PROPERTY LINE
- EXISTING STAIRS WITH REFERENCE NUMBER
- SECONDARY SEAWALL/SPLASH WALL
- PARCEL #
- EXISTING PATHWAY

NOTES:

1. DEED RESTRICTION DOCUMENT #93922, DATED AUGUST 26, 1983, ACKNOWLEDGES THE RIGHT OF THE PUBLIC TO LATERAL ACCESS (LIMITED EXCLUSIVELY TO THE RIGHTS OF THE PUBLIC TO WALK AND RUN) ON PARCEL 8 ON THE INLAND SIDE OF THE REVETMENT ON THE EXISTING PATH.
2. THIS EXHIBIT IS FOR PERMITTING PURPOSES ONLY. IT IS NOT INTENDED TO BE USED FOR CONSTRUCTION.
3. NEW STAIRS (2 TOTAL) TO BE IMPROVED BY ADDITION OF HANDRAILS. PHOTO OF EXISTING CONDITION SHOWN ON SHEET 4.
4. STAIRS (1 TOTAL) TO BE REPLACED WITH NEW DESIGN SHOWN ON SHEET 6. PHOTO OF EXISTING CONDITION SHOWN ON SHEET 5.
5. STAIRS (19 TOTAL) TO BE DEMOLISHED.



MOFFATT & NICHOL

| | | | |
|--|------|-----|----|
| DR | SS | CHK | RB |
| SUBMITTED BY | | | |
| Russell H. Boudreau Principal Engineer | | | |
| JOB NO. | 5765 | | |

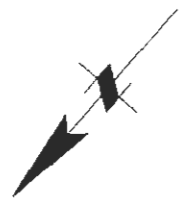
Seaclyff Beach Colony Homeowners Association

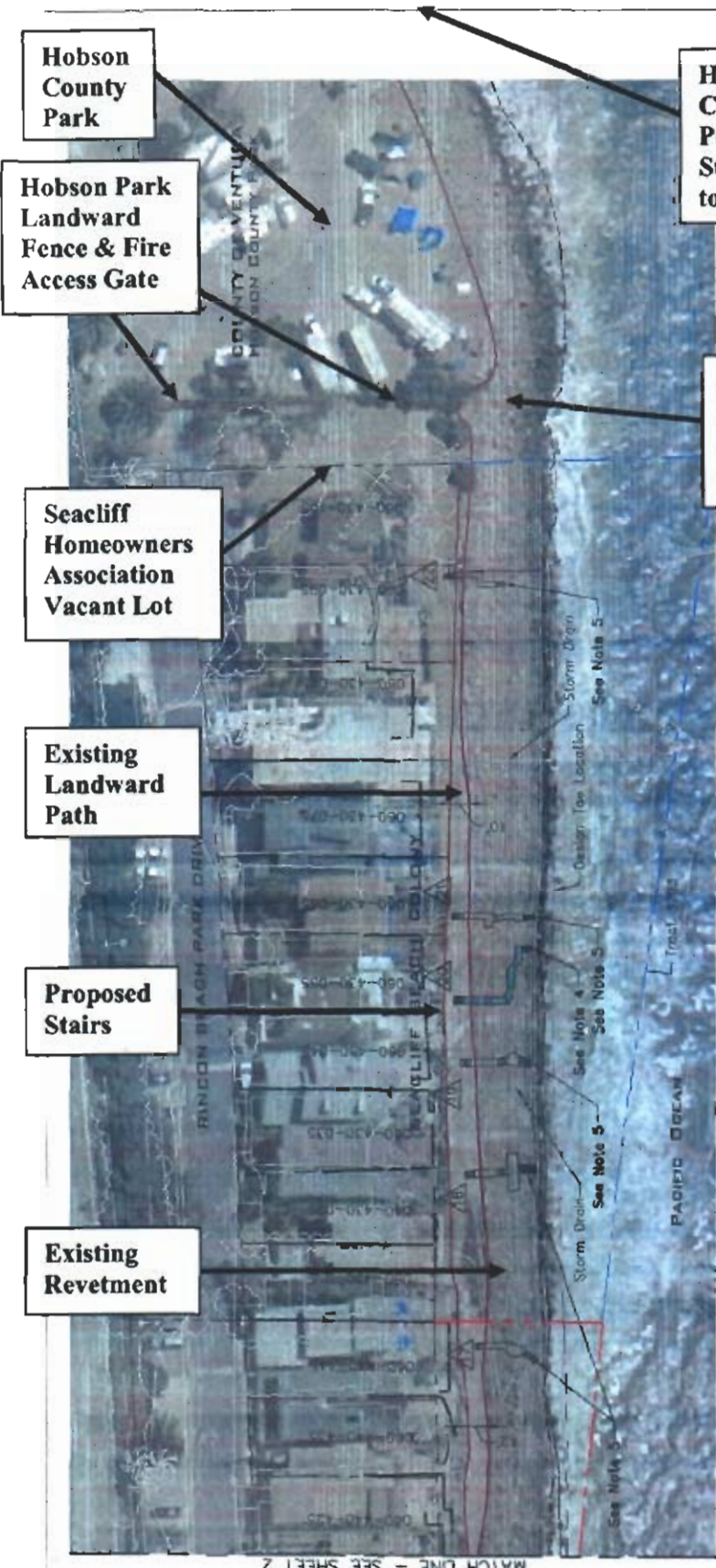
DATE 2-20-08

SHEET 2 OF 6

**Shore Protection Repair
- Existing Path
& Proposed Stairs**

**Exhibit 12
Appl. No. 4-07-154
Existing Landward
Path and Proposed
Stairs (Center)**





- LEGEND:**
- ROCK REVETMENT FOOTPRINT (VISIBLE LIMITS ON 8-12-06)
 - SPOT ELEVATION
 - DESIGN TOE LOCATION
 - MEAN HIGH TIDE LINE (MHTL ON 8-12-06)
 - ASSESSOR PARCEL NUMBER (SANTA BARBARA COUNTY)
 - 060-440-295
 - PROPERTY LINE
 - EXISTING STAIRS WITH REFERENCE NUMBER
 - SECONDARY SEAWALL/SPLASH WALL
 - PARCEL B
 - TRACT 379.3 - NOT PARCELLED
 - EXISTING PATHWAY

- NOTES:**
1. DEED RESTRICTION DOCUMENT #93922, DATED AUGUST 26, 1983, ACKNOWLEDGES "THE RIGHT OF THE PUBLIC TO LATERAL ACCESS (LIMITED EXCLUSIVELY TO THE RIGHTS OF THE PUBLIC TO WALK AND RUN) ON PARCEL B ON THE INLAND SIDE OF THE REVETMENT ON THE EXISTING PATH"
 2. THIS EXHIBIT IS FOR PERMITTING PURPOSES ONLY. IT IS NOT INTENDED TO BE USED FOR CONSTRUCTION.
 3. NEW STAIRS (2 TOTAL) TO BE IMPROVED BY ADDITION OF HANDRAILS. PHOTO OF EXISTING CONDITION SHOWN ON SHEET 4.
 4. STAIRS (1 TOTAL) TO BE REPLACED WITH NEW DESIGN SHOWN ON SHEET 6. PHOTO OF EXISTING CONDITION SHOWN ON SHEET 5.
 5. STAIRS (19 TOTAL) TO BE DEMOLISHED.

DATE 2-20-08
SHEET 3 OF 5

Seacliff Beach Colony Homeowners Association
Shore Protection Repair
-Existing Path
& Proposed Stairs

MOFFATT & NICHOL

| | | | |
|--|----|---------|------|
| DR | SS | CHK | RB |
| SUBMITTED BY TITLE | | | |
| Russell H. Boudreau Principal Engineer | | | |
| DESIGN | RB | JOB NO. | 5765 |

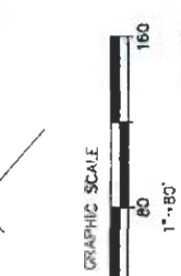


Exhibit 13
Appl. No. 4-07-154
Existing Landward
Path and Proposed
Stairs (East)



STAIR #6 - LANDWARD SIDE



STAIR #13 - LANDWARD SIDE



STAIR #5 - SEAWARD SIDE



STAIR #13 - SEAWARD SIDE

Exhibit 14
Appl. No. 4-07-154
Existing
Unpermitted Stairs
Proposed to be
Improved



MOFFATT & NICHOL

| | | | | | |
|---------------------|----|----|--------------------|-----|----|
| DISC# | RB | DR | SS | TRK | RB |
| SUBMITTED BY | | | TITLE | | |
| Russell H. Boudreau | | | Principal Engineer | | |
| JOB NO. 5765 | | | | | |

Seacliff Beach Colony Homeowners Association
Shore Protection Repair
-Existing Stairs
To Be Improved

DATE 2-20-08
 SHEET 4 OF 6



STAIR #20 - LANDWARD SIDE



STAIR #20 - SEAWARD SIDE

Exhibit 15
Appl. No. 4-07-154
Existing Unpermitted
Stairs Proposed to be
Improved

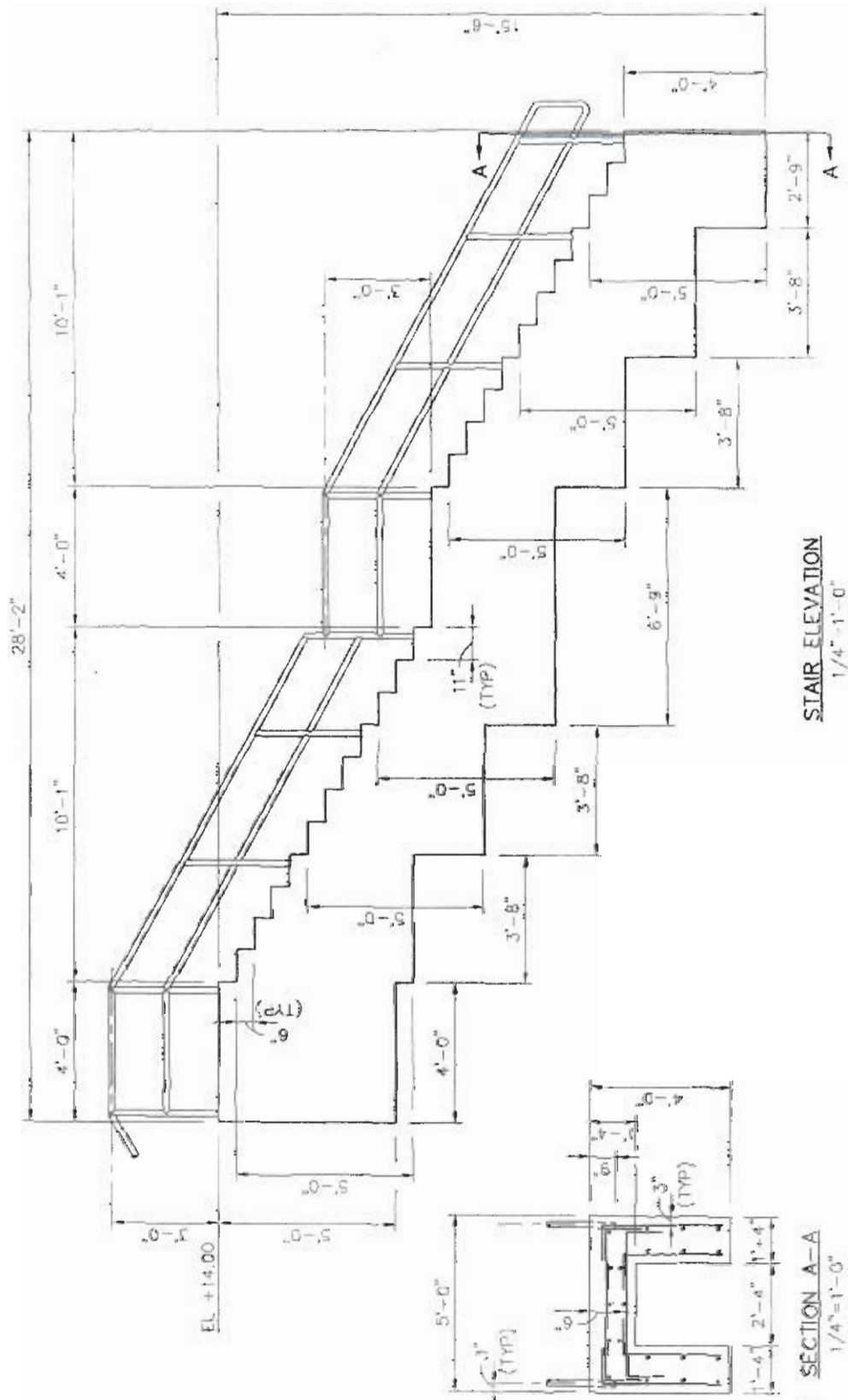


MOFFATT & NICHOL

| | | | | |
|--------------|---------------------|----|--------------------|----|
| TRUCK | DR | SS | CHK | RB |
| JOB NO. 5765 | SUBMITTED BY | | TITLE | |
| | Russell N. Boudrebi | | Principal Engineer | |

Seacliff Beach Colony Homeowners Association
Shore Protection Repair
--Existing Stairs
To Be Replaced

DATE 2--20--08
 SHEET 5 OF 6
EXHIBIT 2



STAIR ELEVATION
1/4" = 1'-0"

SECTION A-A
1/4" = 1'-0"

Seacliff Beach Colony Homeowners Association
DATE 2-20-08
SHEET 6 OF 6
EXHIBIT 2

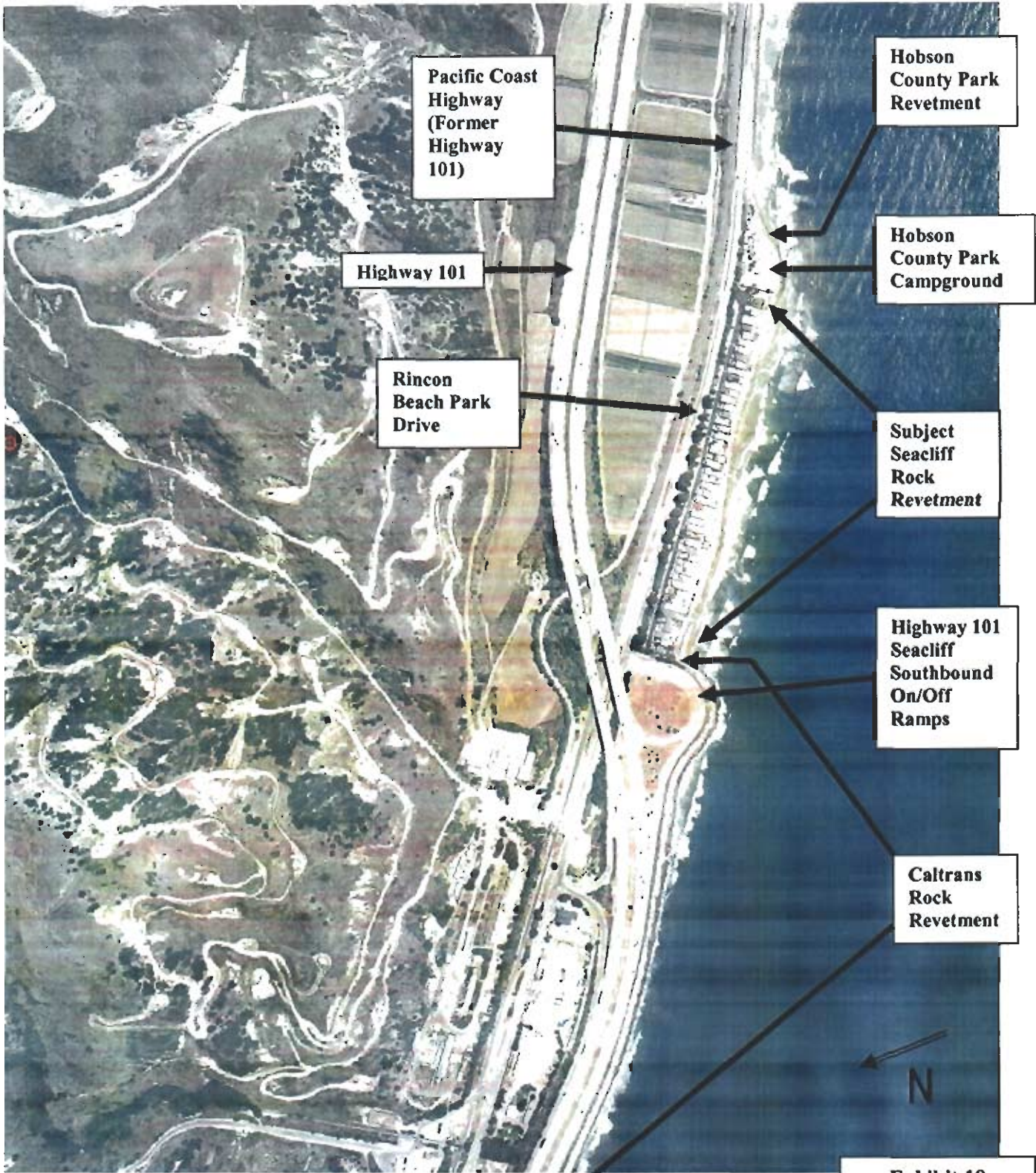
Shore Protection Repair
Proposed Stairs Details

MOFFATT & NICHOL
 PROFESSIONAL ENGINEER
 Russell H. Beaton, P.E.
 Principal Engineer
 JOB NO. 5765
 DR. RB
 SS
 SUBMITTED BY: Russell H. Beaton
 TITLE: Principal Engineer
 CHK: RB
 DATE: 2/21/08

Exhibit 16
 Appl. No. 4-07-154
 Proposed Stairs Details



Exhibit 17
Application No.
4-07-154
Seacliff Public
Beach
Accessways



Pacific Coast Highway
(Former Highway 101)

Highway 101

Rincon Beach Park Drive

Hobson County Park Revetment

Hobson County Park Campground

Subject Seacliff Rock Revetment

Highway 101 Seacliff Southbound On/Off Ramps

Caltrans Rock Revetment

N

Exhibit 18
Application No. 4-07-154
2001 Aerial Photo

RECEIVED
MAY 21 2008

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

May 20, 2008

California Coastal Commission
South Central Coast Area
89 South California Street, Suite 200
Ventura, CA 93001

Attn: James Johnson

Subj: CDP Application for Repair of Revetment at Seacliff Beach Colony
CCC File No: 4-07-154;

Dear Mr. Johnson:

Per your request, this letter is to accompany the Coastal Development Permit application for the repair of the revetment at Seacliff Beach Colony (CCC File No: 4-07-154). Upon Coastal Commission's approval of the application, as well as acknowledgement and confirmation of the applicant's obtaining a long-term maintenance permit (25 years), and no additional conditions that we do not agree with, the association will agree to:

1. Provide for improved public access at Seacliff Beach Colony by repair or construction of three stairways spaced along the length of the revetment.
2. Remove 19 unpermitted stairways on the revetment.
3. Remove physical impedances (landscaping, rock, and debris) within the Parcel B path at the far northwestern end of the Colony. The Seacliff Beach Colony Association Board will exercise its best effort to work with the homeowner to eliminate any encroachment on Cal Trans property within its legal power to do so.
4. Contribute \$60,000 to provide improved public access at Oil Piers Beach or at another site in Ventura County. This consists of: a) construction of stairs -- \$45,000, b) engineering -- \$10,000, and c) CCC fees -- \$5,000.

If you have any questions, you can contact our attorney, Katherine Stone, at 805-647-2756, or our Moffatt & Nichol engineering consultants (agents), Russ Boudreau or Kim Garvey, at 562-426-9551.

Sincerely,

Signature On File

President

Seacliff Beach Colony Association Board of Directors

Pat McDonald
David Johnston
Diane Hester

| |
|------------------------------|
| EXHIBIT 19 |
| Appl. No. 4-07-154 |
| Letter from Applicant |