

**CALIFORNIA COASTAL COMMISSION**

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# Th7a

Filed: 4/18/12  
180th Day: 10/15/12  
Staff: J. Del Arroz-LB  
Staff Report: 9/19/12  
Hearing Date: 10/11/12

## STAFF REPORT: CONSENT CALENDAR

**Application No.:** 5-11-297

**Applicant:** Carol Ann Walker

**Location:** 1203 Buena Vista, San Clemente (Orange County)

**Project Description:** Request for permanent authorization of development undertaken under an emergency coastal development permit to repair damage to a shotcrete retaining wall by installation of 66 ft. long by 21 ft. high shotcrete retaining wall, soil nails, and concrete drainage swale. The permit application also includes installation of native landscaping for erosion control.

**Staff Recommendation:** Approval with conditions.

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### SUMMARY OF STAFF RECOMMENDATION:

The applicant is proposing the permanent authorization of work carried out under emergency permit 5-10-257-G consisting of installation of a 66' x 21' shotcrete retaining wall, soil nails, and drainage swale, and additional development not part of the emergency permit consisting of installation of native landscaping. The major issue of this staff report concerns geologic stability and visual resources.

Staff is recommending APPROVAL of the proposed project with FIVE (5) SPECIAL CONDITIONS regarding: 1) Assumption of risk for the development; 2) a requirement for a Coastal Development Permit for future development on the site; 3) conformance with the submitted landscaping plan; 4) future shotcrete wall, soil nails, or drainage swale exposure; and 5) a deed restriction, referencing the above special conditions.

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program. The City of San Clemente only has a certified Land Use Plan and has not exercised the options provided in 30600(b) or 30600.5 to issue its own permits. Therefore, the Coastal Commission is the permit issuing entity and the standard of review is Chapter 3 of the Coastal Act. The certified San Clemente Land Use Plan may be used for guidance.

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### APPENDICES

Appendix A - Substantive File Documents

### EXHIBITS

Exhibit 1 – Vicinity Map

Exhibit 2 – Site Plan

Exhibit 3 – Photographs of site

Exhibit 4 – Emergency Permit

## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all of the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

### Resolution:

*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 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

## II. STANDARD CONDITIONS

This permit is granted subject to the following 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

This permit is granted subject to the following special conditions:

1. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from geologic instability, flooding, sea level rise, erosion and wave uprush; (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.
2. **Future Development.** This permit is only for the development described in Coastal Development Permit No. 5-11-297. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to the development governed by Coastal Development Permit No. 5-11-297. Accordingly, any future improvements to the structures authorized by this permit, including but not limited to, repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-11-297 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
3. **Conformance With Landscaping Plan.** The applicant shall conform to the landscape plan which was received in the Commission's office on March 16, 2012 showing the installation of native landscaping suitable to the Coastal Sage Scrub community. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: <http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf>). Existing vegetation that does not conform to the above requirements shall be removed.

4. **Future Shotcrete Wall, Soil Nails, or Drainage Swale Exposure.** In the event the shotcrete wall, soil nails, and/or concrete drainage swale authorized by this coastal development permit and/or any components thereof become partly or wholly damaged, the permittee shall, through the coastal development permit process, seek to remedy the visual impact resulting from the failure of the damaged structures through, among other possible means, removal of all debris that is feasibly and safely recoverable, aesthetic treatment of any exposed or damaged structures to match the appearance of surrounding terrain, and replacement of native landscaping, to minimize the visual impact of the exposed or damaged structures.
5. **Deed Restriction.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT (5-11-297), the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit, as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit, shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

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

##### **A. PROJECT LOCATION & DESCRIPTION**

The project site is located at 1203 Buena Vista, a near vertical coastal bluff top lot between the first public road and the sea in the City of San Clemente, Orange County (Exhibits 1 and 2). The subject site is currently developed with a one-story single-family residence built in the 1950s. The site is surrounded to the north and south by residential development, to the east by the frontage street (Buena Vista) and to the west by an approximately 90 foot high coastal bluff. The bluff slope descends to the San Clemente Coastal Trail, the Orange County Transportation Authority (OCTA) railroad and sandy beach below.

The coastal bluffs in San Clemente are not subject to direct wave attack because they are separated from the beach by the railroad tracks and right-of-way. The railroad tracks have a rip-rap revetment which protects the tracks from erosion and wave overtopping. Though not subject to direct wave attack, the bluffs are subject to weathering caused by wind, rain, soils conducive to erosion, and rodent burrowing, and human induced erosion caused by irrigation, improper site drainage and grading.

The nearest vertical coastal access is available approximately 100 feet downcast of the subject site via a stairway at the El Portal public access point (Exhibit 3). Lateral public access is located

seaward of the railroad right-of-way at the beach below the subject site, and along the inland side of the railroad track via the newly constructed San Clemente Coastal Trail.

#### Prior Permit History

In 1997, the Commission approved CDP 5-97-107(Spurill) as a follow-up to an emergency permit for a bluff stabilization project consisting of drilling thirty-two (32) 30” diameter caissons forty-two (42) feet deep through the concrete slab patio along the property’s bluff edge. A 36” steel reinforced concrete haunch foundation system was installed to underpin the ocean-fronting portion of the residence’s foundation. In addition, the project description of CDP 5-97-107 included work conducted without benefit of a coastal development permit in May 1996 consisting of the drilling of eleven (11) 3” holes and injection of 136.5 cubic feet of grout beneath the residence. However, not all of the special conditions were fulfilled and the permit was never issued.

In 2002, the Commission approved CDP 5-01-420(Khaloghli) for ‘after-the-fact’ improvements to the bluff stabilization system, waterproofing, drainage improvements and landscaping. The previous 1997 un-permitted emergency bluff stabilization project was also included in the project description for CDP 5-01-420(Khaloghli). All special conditions were met and the permit was issued.

In November 2008, the Commission approved CDP 5-06-325 as a followup to an emergency permit for a bluff stabilization project consisting of installation of three 30” diameter caissons, five 36” diameter caissons, a grade beam system, concrete retaining wall, and reconstruction of a concrete patio and glass railing. All special conditions were met and the permit was issued.

#### Emergency Permit Project Description

This Coastal Development Permit Application is the follow-up permit for emergency work conducted under Emergency CDP 5-10-257-G (Walker) issued on November 30, 2010. The cause of the emergency work was the sudden failure of a portion of the shotcrete wall on the seaward side of the residence and the erosion of soil from behind the wall. Without action, this erosion had the potential to result in loss of structural support for the residence at the site. The approved emergency project description is as follows:

*Installation of 66 ft. long by 21 ft. high shotcrete retaining wall, on the seaward side of a bluff top home, from the edge of the existing 1950’s era caissons to the northwest corner of the deck, and continuing to the northeast for 11 feet, as shown on attached plans submitted 11/23/10. All work shall occur on the applicant’s property. Soil nails embedded beneath the house will be installed across the face of the proposed wall, in accordance with the plans and the soil nail analysis submitted 11/19/10. A 4 foot wide concrete drainage swale will be installed at the toe of the proposed wall. Installation of the components of the visual treatment which are structurally integral to the proposed shotcrete façade on the seaward face of the property is also proposed.*

As Built Project

The applicant is proposing the authorization of a 66 ft. long by 21 ft. high, 6 to 12 inch thick, shotcrete retaining wall to replace the failed shotcrete wall. Four rows of 15 foot long soil nails were installed along the bottom 11 feet of the wall, at intervals of 5 horizontal feet and 3.5 vertical feet, to stabilize the bluff and secure the retaining wall. A new miradrain system located behind the wall and a new drainage swale located at the toe of the wall will carry excess moisture away from the shotcrete wall and over to an existing drainage pipe located near the existing 1950's era caissons which carries runoff down to the base of the slope. The shotcrete wall has been colored, textured, and sculpted to more closely resemble a natural bluff setting (Exhibit 3). As part of the followup permit application, the applicant is also proposing to install native landscaping consisting of lemonade berry, black sage, coastal sunflower, and coastal sagebrush to prevent erosion of the bluff face and reduce visual impacts.

Coastal Act Section 30253 requires that new development minimize risks to life and property and assure stability and structural integrity and not result in adverse impacts to geologic stability. The applicant has submitted a geotechnical report and supplemental letters by Lotus Consulting Engineers, Inc. which states "The completed work is geotechnically acceptable and hence suitable for its intended uses. Where required, the bluff should be landscaped per approved plans/specifications to ensure continuous stability, as required by Coastal Development Permit." Although the applicant's geotechnical engineer has found that the proposed development is geotechnically acceptable, development adjacent to the ocean and the edges of coastal bluffs and hillsides is inherently hazardous. Therefore, the Commission imposes Special Condition 1 and 2 to require the applicant to assume the risk for the development, and to require a Coastal Development Permit or amendment to this Coastal Development Permit for future development on the site. To ensure that the applicant complies with the recommendation of the geotechnical engineer for installation of native species on the bluff, the Commission imposes Special Condition 3, requiring the applicant to conform with the submitted landscaping plan. Therefore, as conditioned, the proposed project can be found consistent with Coastal Act Section 30253.

Coastal Act Section 30235 limits the construction of cliff retaining walls to those required to serve coastal-dependant uses, or to protect existing structures or public beaches, provided they are designed to eliminate or mitigate adverse impacts on shoreline sand supply. The project is necessary to protect an existing principal structure. Furthermore, the project would not result in impacts to the shoreline sand supply because the bluff is separated from the ocean by the OCTA rail line. Therefore the project is consistent with Coastal Act Section 30235.

Coastal Act Section 30251 states that permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. The proposed shotcrete retaining wall has been colored, textured, and sculpted to resemble a natural bluff. The applicant also proposes the installation of native landscaping, which will help to screen the proposed retaining wall when viewed from the trail at the base of the bluff. Although the applicant's geotechnical consultant has stated that the proposed development is geotechnically acceptable, as past experience at this site has proven, there remains the possibility that the proposed shotcrete wall, soil nails, or drainage swale could fail and result in the damage to or exposure of structures or landscaping on the

site. Such damage may result in visual impacts which are inconsistent with Coastal Act Section 30251. Therefore, the Commission imposes Special Condition 4 requiring the applicant to apply for a Coastal Development Permit to address any impacts to visual resources resulting from failure of the proposed structures. As conditioned, any future failure of the proposed structures will therefore not result in visual impacts. Therefore, the project would not result in significant impacts to scenic resources, and the proposed project is consistent with Coastal Act Section 30251.

## **B. DEVELOPMENT**

The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. Development adjacent to the edges of hillsides and bluffs is inherently hazardous. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access and visual resources. To minimize risks to life and property and to minimize the adverse effects of development on hillsides and bluffs, the development has been conditioned to require adherence to the geotechnical recommendations regarding installation of native landscaping, to require that the landowner or any successor-in-interest assume the risk of undertaking the development, and to require future development on the site to require an amendment to this Coastal Development Permit or a new Coastal Development Permit. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235, 30251, and 30253 of the Coastal Act regarding visual impacts and the siting of development in hazardous locations.

## **C. PUBLIC ACCESS**

The proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, as proposed the development, as conditioned, conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

## **D. DEED RESTRICTION**

To ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes one additional condition requiring that the property owner record a deed restriction against the property, referencing all of the above Special Conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, this permit ensures that any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development, including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.



**E. LOCAL COASTAL PROGRAM**

Section 30604 of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified local coastal program. The permit may only be issued if the Commission finds that the proposed development will not prejudice the ability of the local government to prepare a Local Coastal Program, which conforms with the Chapter 3 policies of the Coastal Act.

The Land Use Plan for the City of San Clemente was effectively certified on May 11, 1988, and certified an amendment approved in October 1995. On April 10, 1998, the Commission certified with suggested modifications the Implementation Plan portion of the Local Coastal Program. The suggested modifications expired on October 10, 1998. The City re-submitted on June 3, 1999, but withdrew the submittal on October 5, 2000. The proposed development is consistent with the Chapter Three policies of the Coastal Act. Therefore, the Commission finds that the proposed development would not prejudice the ability of the City to prepare a certified coastal program consistent with the Chapter 3 policies of the Coastal Act.

**F. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

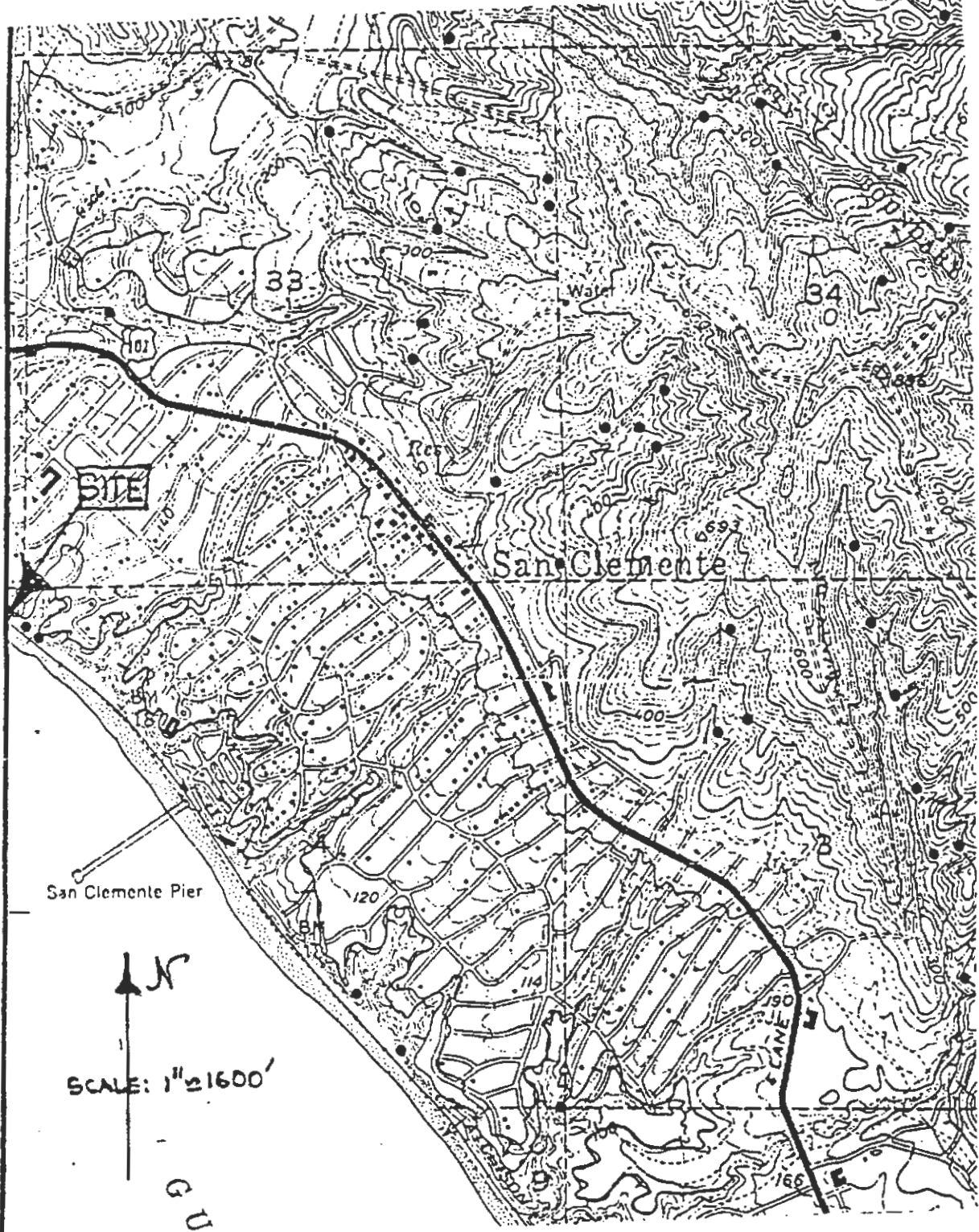
**APPENDIX A SUBSTANTIVE FILE DOCUMENTS**


City of San Clemente Certified Land Use Plan  
Analysis of Soil Nail and Reconstruction of Failed Shotcrete Wall dated November 16 2010 by Lotus Consulting Engineers and supplemental letters dated September 12, 2011 and April 18, 2012.

LAGUNA BEACH 13 MI.  
CAPISTRANO BEACH 3.3 MI.

T. 8 S.  
T. 9 S.

25'



  
 SCALE: 1" = 1600'  
 G U

# GEOLOGIC VICINITY MAP

REF: CDMG, SR 98, 1968

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APPLIED EARTH SCIENCES  
 FOUNDATION ENGINEERING  
 ENGINEERING GEOLOGY  
 CIVIL ENGINEERING

LIMITED GT EVALUA  
 EXISTING SPRUILL RE  
 1203 BUENA VISTA SANC

EXHIBIT # 1  
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138360

22112 ALCALDE DRIVE, SUITE C, LAGUNA HILLS, CA 92653 (714) 788-4488

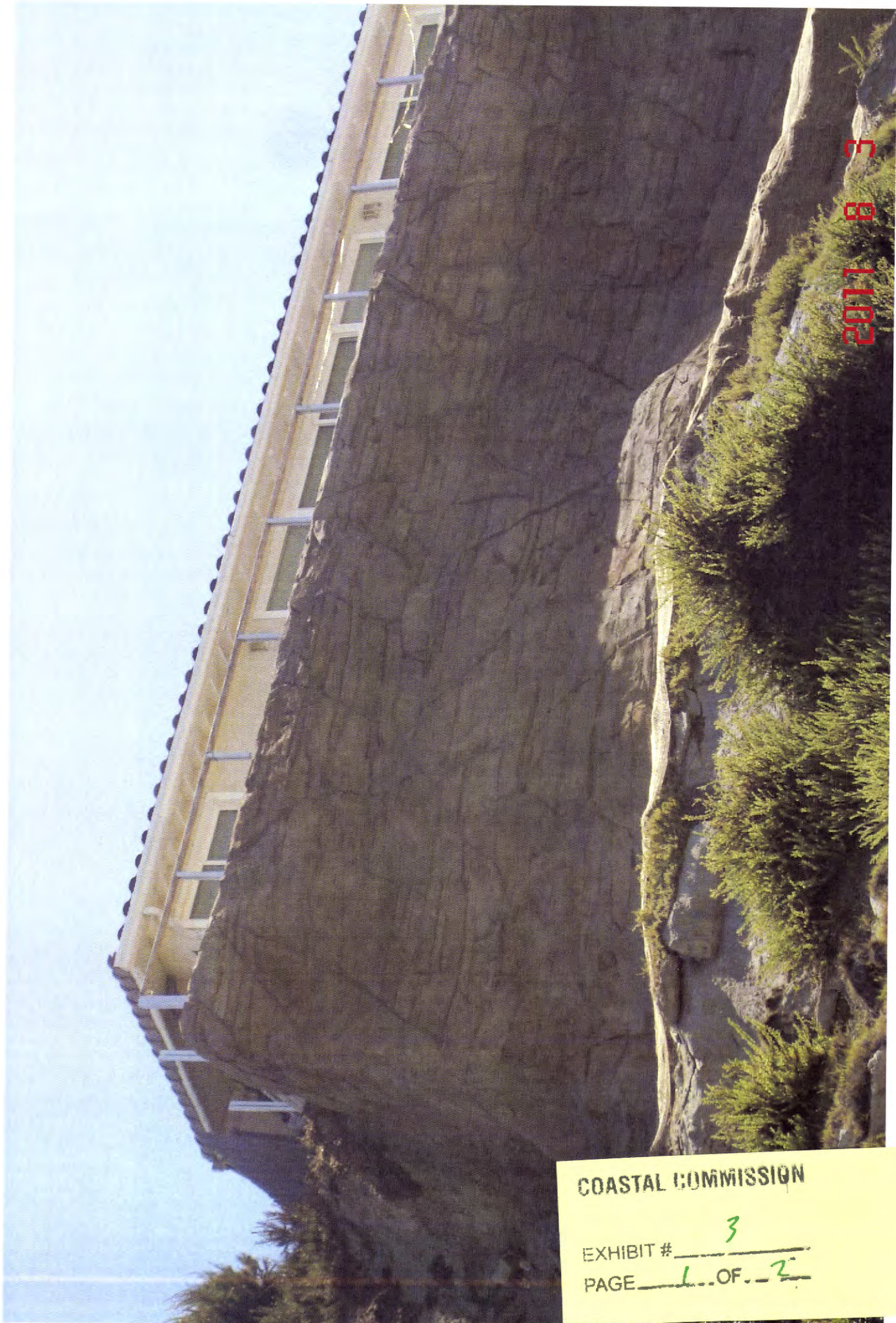


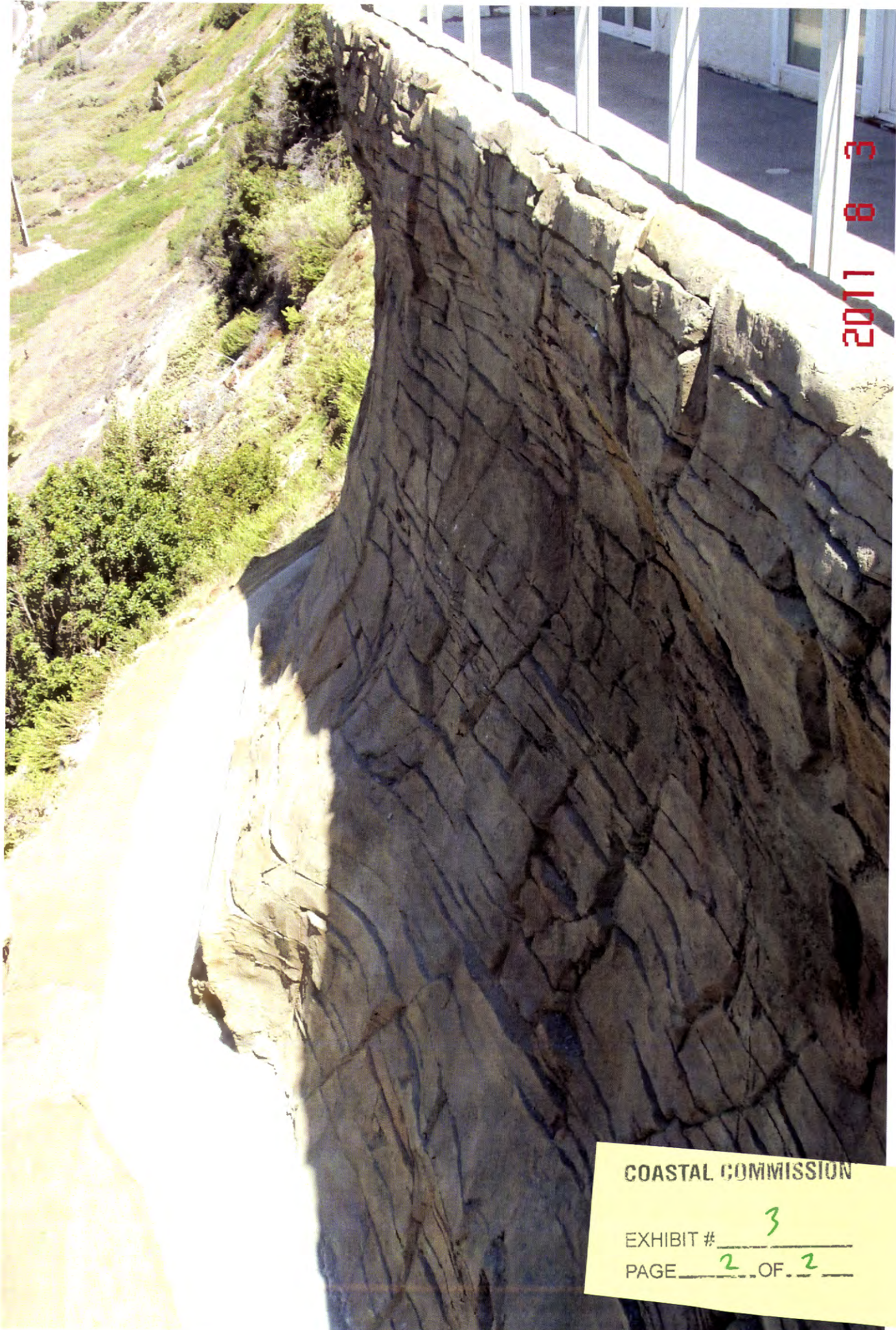
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EXHIBIT # 3

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**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
 200 Oceangate, Suite 1000  
 Long Beach, CA 90802-4302  
 (562) 590-5071

**REVISED EMERGENCY PERMIT**

**DATE:** NOVEMBER 30, 2010

**EMERGENCY PERMIT:** 5-10-257-G

**APPLICANT:** Carol Ann Walker

**LOCATION:** 1203 Buena Vista, San Clemente (Orange County)

**EMERGENCY WORK PROPOSED:**

Installation of 66 ft. long by 21 ft. high shotcrete retaining wall, on the seaward side of a bluff top home, from the edge of the existing 1950's era caissons to the northwest corner of the deck, and continuing to the northeast for 11 feet, as shown on attached plans submitted 11/23/10. All work shall occur on the applicant's property. Soil nails embedded beneath the house will be installed across the face of the proposed wall, in accordance with the plans and the soil nail analysis submitted 11/19/10. A 4 foot wide concrete drainage swale will be installed at the toe of the proposed wall. Installation of the components of the visual treatment which are structurally integral to the proposed shotcrete façade on the seaward face of the property is also proposed.

This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from your information that an unexpected occurrence in the form of erosion undermining the foundation of a bluff top home caused by the collapse of a portion of a shotcrete retaining wall requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. 14 Cal. Admin. Code Section 13009. The Executive Director hereby finds that:

- (a) An emergency exists which requires action more quickly than permitted by the procedures for administrative or ordinary permits and the development can and will be completed within 30 days unless otherwise specified by the terms of the permit;
- (b) Public comment on the proposed emergency action has been reviewed if time allows; and
- (c) As conditioned the work proposed would be consistent with the requirements of the California Coastal Act of 1976.

The work is hereby approved, subject to the attached conditions.

Very Truly Yours,

Peter M. Douglas  
 Executive Director

By: \_\_\_\_\_ **COASTAL COMMISSION**

Title: District Manager *J*

EXHIBIT # 4

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**CONDITIONS OF APPROVAL:**

1. The enclosed form must be signed by the permittee and returned to our office within 15 days.
2. Only that work specifically described above and for the specific property listed above is authorized. Any additional work requires separate authorization from the Executive Director.
3. The work authorized by this permit must be completed within 45 days of the date of this permit. This time limit may be extended, with good cause, upon written approval of the executive director.
4. Within 60 days of the date of this permit, the permittee shall apply for a regular Coastal Development Permit to have the emergency work be considered permanent. If no such application is received, the emergency work shall be removed in its entirety within 150 days of the date of this permit unless waived by the Director
5. In exercising this permit the permittee agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.
6. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies.
7. All necessary best management practices to control runoff and erosion during construction shall be implemented.
8. No construction for the visual treatment required by the City or for the visual treatment for the proposed shotcrete façade is authorized by this emergency permit, except for those portions of the treatment that are structurally integral and related to the proposed shotcrete wall and must be installed concurrent with its construction. Approval of all supplementary visual treatment including for the existing caissons and proposed retaining wall must be sought through the follow-up permit, and implemented as approved by the Commission.
9. In conjunction with the application for a follow-up permit, the permittee shall provide the following:
  - (a) A plan detailing the additional steps required to reduce visual impacts of the proposed shotcrete wall and the steps required to comply with all applicable City requirements for visual treatment. The plan should demonstrate that all exposed surfaces of the retaining structure approved by this emergency permit are faced with a sculpted concrete surface that mimics natural undulating bluff landforms in the vicinity in terms of integral mottled color, texture, and undulation. Any protruding concrete elements (e.g., corners, edges, etc.) should be contoured in a non-linear manner designed to evoke natural bluff undulations. The plan should include a visual simulation of the proposed visual treatment.
  - (b) Drainage plan prepared by an appropriately licensed professional. The plan should evaluate opportunities to correct any current deficiencies in the existing drainage system. Drainage shall be directed to the street, instead of toward the bluff, to the maximum extent feasible.

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EXHIBIT # 4  
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- (c) Plan for hand removal and appropriate disposal of construction debris and failed portions of the shotcrete wall.
- (d) A slope stability analysis analyzing the support provided by the soil nails and the upper cement wall, and a determination of whether additional support measures will be required.

Condition number four (4) indicates that the emergency work is considered to be temporary work done in an emergency situation. If the property owner wishes to have the emergency work become a permanent development, a Coastal Development Permit must be obtained. A regular permit would be subject to all of the provisions of the California Coastal Act and may be conditioned accordingly.

If you have any questions about the provisions of this emergency permit, please call the Commission office in Long Beach at (562) 590-5071.

Enclosure: Acceptance Form

cc: Local Planning Department, File

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