

CALIFORNIA COASTAL COMMISSION

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Th17c

Addendum

August 5, 2016

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item Th17c**, Coastal Commission Permit Application No. **6-16-0561 (City of Carlsbad Safety Railing)**, for the Commission Meeting of August 11, 2016

The purpose of this addendum is to add a special condition that requires post-construction water quality BMPs. Staff recommends the following changes be made to the above-referenced staff report dated July 22, 2016. Deletions shall be marked by a ~~strike through~~ and additions shall be underlined, as shown below:

1. On Page 2 of the staff report, the third paragraph shall be revised as follows:

This project raises concerns related to adverse impacts to visual resources, public access and recreation, and water quality. To address these potential adverse impacts Commission staff is recommending ~~three~~four special conditions. **Special Condition 1** requires the applicant to submit final plans to ensure their consistency with preliminary plans. **Special Condition 2** requires the City to remove the fencing or the slats on the east side of the bridge within 180 days of the demolition of the Encina Power Station. **Special Condition 3** requires the applicant to submit a Construction and Pollution Prevention Plan to ensure that potential impacts to public access and water quality are avoided during construction. Finally, **Special Condition 4** requires the applicant to implement best management practices to minimize adverse impacts to water quality following construction by treating runoff from Carlsbad Boulevard.

2. On Page 10 of the staff report, add Special Condition 4 as follows:

4. **Post-Development Runoff Treatment BMPs. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and written approval of the Executive Director a map, drawn to scale, showing the property boundaries, pavement footprint, runoff flow directions, and permanent water quality Treatment Best Management Practices**

(TBMP) locations. The applicant shall provide written documentation that demonstrates that the project protects or restores water quality to the maximum feasible extent by:

- a. Treating the maximum feasible area of impervious project surfaces, including the bridge deck and bridge approach pavements.
- b. Using applicable contemporary technology and methodologies to maximize the efficiency of the removal of trash, sediment, metals, nutrients and petroleum products from runoff.
- c. Sizing flow-based TBMPs to treat, at a minimum, twice the 85th percentile one-hour storm event runoff volume applicable to the project location, as feasible.
- d. Supplying product documentation showing treatment capacity for proprietary TBMP filtration systems.
- e. Maintaining the TBMPs to operate effectively and including a description of the maintenance that will be performed.

3. On Page 16 of the staff report, the first two paragraphs shall be revised as follows:

bridge will be widened, cantilevering 10 inches over the discharge basin to accommodate the concrete railing and to comply with the Caltrans minimum 6 foot wide sidewalk requirement. Since the railing improvements will be limited to existing developed area with a minor expansion of the east side deck over the water only, there would be no significant increase in impervious surfaces and the project would not result in any temporary or permanent impacts to water quality. Runoff from Carlsbad Boulevard will continue to be directed from the street gutters to storm drain inlets on either side of the highway and will be discharged into coastal waters in the discharge channel below the bridge. Existing trash screens in the storm drain inlets prevent trash from entering the ocean. However, due to the project site's close proximity to the Encina Power Station discharge channel, Agua Hedionda Lagoon, and the Pacific Ocean, the Commission recommends **Special Condition 3** requiring the applicant to prepare a Construction and Pollution Prevention Plan to ensure that potential impacts to water quality are avoided during construction. In addition, the Commission recommends **Special Condition 4** requiring the City to implement water quality Treatment Best Management Practices to treat runoff from the bridge and road before it is discharged into coastal waters below the bridge.

As conditioned, the proposed development will not result in erosion or adverse impacts to water quality, as adequate temporary erosion controls, ~~and~~ construction BMPs, and post-construction runoff treatment BMPs will be provided. Therefore, the Commissions finds that the development, as conditioned, conforms to Section 30231 of the Coastal Act.

CALIFORNIA COASTAL COMMISSION

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Th17c

Filed: 6/17/16
180th Day: 12/14/16
Staff: E. Prahl-SD
Staff Report: 7/22/16
Hearing Date: 8/10-12/16

STAFF REPORT: REGULAR CALENDAR

Application No.: 6-16-0561

Applicant: City of Carlsbad

Agent: Brandon Miles

Location: Carlsbad Boulevard, north of Cannon Road at bridge over Encina Power Station discharge channel, Agua Hedionda, Carlsbad, San Diego County.

Project Description: Install concrete safety railings on bridge over Encina Power Station discharge channel and replace approximately 612 linear feet of chain link fencing along east and west sides of Carlsbad Boulevard.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The proposed project is for the installation of vehicle safety improvements on either side of the bridge over the Encina Power Station discharge channel along Carlsbad Boulevard. Construction would be contained within the parameters of the City of Carlsbad's right-of-way, approximately half a mile north of its intersection with Cannon Road.

6-16-0561 (City of Carlsbad)

On the west side of Carlsbad Boulevard, the City proposes to install an approximately 211 linear foot, 21-inch wide and 32-inch high concrete safety railing over the bridge within the sidewalk area and replace 249 linear feet of existing 6-foot high chain link fencing and gates with barbed wire. The existing chain link fence protects pedestrians and bicyclists from falling into the water below and was originally installed prior to the Coastal Act for security purposes.

On the east side of Carlsbad Boulevard, the City proposes to widen the sidewalk to install an approximately 122 linear foot, 12-inch wide and 27-inch high concrete safety railing over the bridge. The City also proposes to install approximately 50 linear feet of metal guardrail south of the bridge and replace approximately 363 linear feet of existing 8-foot high chain link fencing with barbed wire. Like the chain link fence on the west side, the fencing on the east side of Carlsbad Boulevard predates the Coastal Act and was installed for security purposes. The fencing on the east side of Carlsbad Boulevard is slated to block views into the Encina Power Station property. Finally, the City proposes to replace an existing 12-inch water main suspended on the east side of the bridge over the Encina discharge basin.

This project raises concerns related to adverse impacts to visual resources, public access and recreation, and water quality. To address these potential adverse impacts Commission staff is recommending three special conditions. **Special Condition 1** requires the applicant to submit final plans to ensure their consistency with preliminary plans. **Special Condition 2** requires the City to remove the fencing or the slats on the east side of the bridge within 180 days of the demolition of the Encina Power Station. **Special Condition 3** requires the applicant to submit a Construction and Pollution Prevention Plan to ensure that potential impacts to public access and water quality are avoided during construction.

Commission staff recommends **approval** of Coastal Development Permit Application No. 6-16-0561 as conditioned.

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EXHIBITS

[Exhibit 1 – Vicinity Map](#)

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[Exhibit 3 – Existing Views](#)

[Exhibit 4 – Project Plans](#)

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I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. 6-16-0561 subject to the conditions set forth in the staff recommendation.*

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

Resolution:

The Commission hereby approves coastal development permit 6-16-0561 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

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 of 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. **Final Plans.**
 - a. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final construction plans for the development. Said plans shall first be approved by the City of Carlsbad and be in substantial conformance with the preliminary construction plans received in the Coastal Commission office on May 25, 2016.
 - b. The applicant shall undertake development in accordance with the approved final plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.
2. **Fence Removal.** WITHIN 180 DAYS OF COMPLETION OF DEMOLITION OF THE ENCINA POWER STATION, the applicant shall either remove the fence or the slats in the fence that extends across the east side of the bridge over the Encina Discharge Channel, in order to open views to Agua Hedionda Lagoon. Retention of the fence with slats shall require an amendment to this permit, unless the Executive Director determines an amendment is not legally required. Such application to retain the fencing or fence slats shall be submitted within 180 days of completion of demolition of the Encina Power Station.
3. **Construction and Pollution Prevention Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT the applicant shall submit, for the review and written approval of the Executive Director, a final Construction and Pollution Prevention Plan that substantially conforms with the plan submitted to the Commission titled Construction Plans for Encina Discharge Channel Bridge Railing Improvements received in the Commission office on May 25, 2016. The final Plan shall demonstrate that all construction, including, but not limited to, clearing, grading, staging, storage of equipment and materials, or other activities that involve ground disturbance; building, reconstructing, or demolishing a structure; and creation or replacement of impervious surfaces, complies with the following requirements:

- a. **Protect Public Access.** Construction shall protect and maximize public access, including by:
 - i. Construction shall not occur from Memorial Day weekend to Labor Day, unless, due to extenuating circumstances (such as tidal issues, extensive delays due to severe weather, or other environmental concerns) the Executive Director authorizes such work.
 - ii. Staging and storage of construction equipment and materials (including debris) shall not take place within native vegetation areas or public parking spaces. Staging and storage of construction equipment and materials shall occur in inland areas at least 50 feet from coastal waters, drainage courses, and storm drain inlets, if feasible. Construction is prohibited outside of the defined construction, staging, and storage areas.
 - iii. All construction methods to be used, including all methods to keep the construction areas separated from public recreational use areas (e.g., using unobtrusive fencing or equivalent measures to delineate construction areas), shall be clearly identified on the construction site map and described in the narrative description (see subsection (h) of this Special Condition).
 - iv. All beaches, beach access points, and other recreational use areas impacted by construction activities shall be restored to their pre-construction condition or better within three days of completion of construction. Any beach sand impacted shall be filtered as necessary to remove all construction debris from the beach.
 - v. Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material.
- b. **Property Owner Consent.** The Construction and Pollution Prevention Plan shall be submitted with evidence indicating that the owners of any properties on which construction activities are to take place, including properties to be crossed in accessing the site, consent to use of their properties.
- c. **Minimize Erosion and Sediment Discharge.** During construction, erosion and the discharge of sediment off-site or to coastal waters shall be minimized through the use of appropriate Best Management Practices (BMPs), including:
 - i. Land disturbance during construction (e.g., clearing, grading, and cut-and-fill) shall be minimized, and grading activities shall be phased, to avoid increased erosion and sedimentation.

- ii. Erosion control BMPs (such as mulch, soil binders, geotextile blankets or mats, or temporary seeding) shall be installed as needed to prevent soil from being transported by water or wind. Temporary BMPs shall be implemented to stabilize soil on graded or disturbed areas as soon as feasible during construction, where there is a potential for soil erosion to lead to discharge of sediment off-site or to coastal waters.
 - iii. Sediment control BMPs (such as silt fences, fiber rolls, sediment basins, inlet protection, sand bag barriers, or straw bale barriers) shall be installed as needed to trap and remove eroded sediment from runoff, to prevent sedimentation of coastal waters.
 - iv. Tracking control BMPs (such as a stabilized construction entrance/exit, and street sweeping) shall be installed or implemented as needed to prevent tracking sediment off-site by vehicles leaving the construction area.
 - v. Runoff control BMPs (such as a concrete washout facility, dewatering tank, or dedicated vehicle wash area) that will be implemented during construction to retain, infiltrate, or treat stormwater and non-stormwater runoff.
 - vi. Grading shall be avoided during the rainy season, from November 1 to March 31.
- d. **Minimize Discharge of Construction Pollutants.** The discharge of other pollutants resulting from construction activities (such as chemicals, paints, vehicle fluids, petroleum products, asphalt and cement compounds, debris, and trash) into runoff or coastal waters shall be minimized through the use of appropriate BMPs, including:
- a. Materials management and waste management BMPs (such as stockpile management, spill prevention, and good housekeeping practices) shall be installed or implemented as needed to minimize pollutant discharge and polluted runoff resulting from staging, storage, and disposal of construction chemicals and materials. BMPs shall include, at a minimum:
 - A. Covering stockpiled construction materials, soil, and other excavated materials to prevent contact with rain, and protecting all stockpiles from stormwater runoff using temporary perimeter barriers.
 - B. Cleaning up all leaks, drips, and spills immediately; having a written plan for the clean-up of spills and leaks; and maintaining an inventory of products and chemicals used on site.

- C. Proper disposal of all wastes; providing trash receptacles on site; and covering open trash receptacles during wet weather.
 - D. Prompt removal of all construction debris from the beach.
 - E. Detaining, infiltrating, or treating runoff, if needed, prior to conveyance off-site during construction.
- b. Fueling and maintenance of construction equipment and vehicles shall be conducted off site if feasible. Any fueling and maintenance of mobile equipment conducted on site shall not take place on the beach, and shall take place at a designated area located at least 50 feet from coastal waters, drainage courses, and storm drain inlets, if feasible (unless those inlets are blocked to protect against fuel spills). The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other contaminants. Equipment that cannot be feasibly relocated to a designated fueling and maintenance area (such as cranes) may be fueled and maintained in other areas of the site, provided that procedures are implemented to fully contain any potential spills.
- e. **Minimize Other Impacts of Construction Activities.** Other impacts of construction activities shall be minimized through the use of appropriate BMPs, including:
- i. The damage or removal of non-invasive vegetation (including trees, native vegetation, and root structures) during construction shall be minimized, to achieve water quality benefits such as transpiration, vegetative interception, pollutant uptake, shading of waterways, and erosion control.
 - ii. Soil compaction due to construction activities shall be minimized, to retain the natural stormwater infiltration capacity of the soil.
 - iii. The use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate plastic netting (such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers) shall be avoided, to minimize wildlife entanglement and plastic debris pollution.
- f. **Construction In, Over, or Adjacent to Coastal Waters and Habitat.** Construction taking place in, over, or adjacent to coastal waters and habitat shall protect the coastal waters and habitat by implementing additional BMPs, including:
- i. Construction activity shall not be conducted below the mean high tide line, unless tidal waters have receded and the area is part of the authorized work area.

- ii. All work shall take place during daylight hours, and lighting of the beach and ocean area is prohibited.
 - iii. Tarps or other devices shall be used to capture debris, dust, oil, grease, rust, dirt, fine particles, and spills to protect the quality of coastal waters.
 - iv. All erosion and sediment controls shall be in place prior to the commencement of construction, as well as at the end of each workday. At a minimum, if grading is taking place, sediment control BMPs shall be installed at the perimeter of the construction site to prevent construction-related sediment and debris from entering the ocean, waterways, natural drainage swales, and the storm drain system, or from being deposited on the beach.
- g. **Manage Construction-Phase BMPs.** Appropriate protocols shall be implemented to manage all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training), to protect coastal water quality.
- h. **Construction Site Map and Narrative Description.** The Construction and Pollution Prevention Plan shall include a construction site map and a narrative description addressing, at a minimum, the following required components:
- i. A map delineating the construction site, construction phasing boundaries, and the location of all temporary construction-phase BMPs (such as silt fences, inlet protection, and sediment basins).
 - ii. A description of the BMPs that will be implemented to minimize land disturbance activities, minimize the project footprint, minimize soil compaction, and minimize damage or removal of non-invasive vegetation. Include a construction phasing schedule, if applicable to the project, with a description and timeline of significant land disturbance activities.
 - iii. A description of the BMPs that will be implemented to minimize erosion and sedimentation, control runoff and minimize the discharge of other pollutants resulting from construction activities. Include calculations that demonstrate proper sizing of BMPs.
 - iv. A description and schedule for the management of all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training). Identify any temporary BMPs that will be converted to permanent post-development BMPs.

The permittee shall undertake development in accordance with the approved Construction-Phase Pollution Prevention Plan, unless the Commission amends

this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

The City of Carlsbad proposes to install concrete safety barriers on both sides of Carlsbad Boulevard north of Cannon Road across the bridge over the Encina Discharge Channel to improve vehicle safety (Exhibit 1). The Power Station discharges its heated once-through-cooling water into the discharge basin located on the east side of Carlsbad Boulevard. The neighboring Poseidon Desalination Plant also discharges into the basin. As a result, approximately 300 million gallons of water per day flows through the channel under the bridge into the ocean west of Carlsbad Boulevard. The project area includes chain link fencing on both sides of Carlsbad Boulevard associated with the Encina Power Station. The existing fencing protects pedestrians and bicyclists from falling into the water below and was installed prior to the Coastal Act for security purposes (Exhibit 2). On the east side of Carlsbad Boulevard, the fence is slatted to obstruct views into the Power Station property. On the west side of Carlsbad Boulevard, the fence is not slatted, allowing views of the ocean through the chain link (Exhibit 3). Construction would be contained within the parameters of the City of Carlsbad's right-of-way, approximately half a mile north of its intersection with Cannon Road (Exhibit 1).

On the west side of Carlsbad Boulevard, the City will install a 211 foot long, 21-inch wide and 32-inch high Type 80SW concrete barrier and replace 219 linear feet of 6-foot high chain link fence and 30 linear feet of chain link gates with approximately 1-foot high barbed wire (Exhibit 4). Where the fencing crosses the bridge, it will be installed behind the concrete barrier. The new fencing will be the same height as the existing fencing and will be coated with black vinyl to improve visibility to the ocean beyond.

On the east side of Carlsbad Boulevard, the City will install a 122 foot long, 12-inch wide and 27-inch high Type 26 concrete barrier and will replace a total of 363 linear feet of 8-foot high chain link fence with approximately 1-foot high barbed wire (Exhibit 4). Where the fencing crosses the bridge, it will be installed on top of the new concrete barrier, however the total height of concrete barrier, chain link fence and barbed wire will not exceed the current height of the existing chain link fence and barbed wire. The new fencing, like the existing fencing, will be slatted to obstruct views into the Encina Power Station property.

To accommodate the new concrete barrier and a 6-foot wide sidewalk, the new barrier will cantilever 10 inches over the discharge basin. Finally, the City will replace an existing 12-inch water main suspended on the east side of the bridge over the Encina discharge basin.

The proposed project is located within the City of Carlsbad; however it is not part of the City's certified Local Coastal Program (LCP) because it is located within an area of deferred certification. Therefore, the Coastal Commission retains permit jurisdiction in this area and Chapter 3 of the Coastal Act remains the legal standard of review.

B. PROJECT HISTORY

On June 12, 2013, the Commission approved Coastal Development Permit No. 6-13-007 for installation of an approximately 150-foot long Type 80SW concrete safety railing on the west side of the bridge over the Encina Power Station discharge channel. No fence replacement was approved as part of that permit. The applicant did not fulfill the required special conditions, so the permit was never issued; however, the permit expiration date was extended (6-13-007-E1) in 2015.

In May 2015 the City submitted an amendment request (6-13-007-A1) for improvements to the east side of the bridge. The underlying permit expired on June 12, 2016 before the amendment request was scheduled for hearing, requiring the applicant to resubmit the entire project for Commission approval. Therefore the proposed project that is the subject of this staff report includes improvements to both the east and west sides of Carlsbad Boulevard.

C. VISUAL RESOURCES

Section 30251 of the Coastal Act states, in part:

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

Partial views of the water within the Encina Power Station discharge channel and the ocean are available from Carlsbad Boulevard; however, existing chain link fences on both sides of Carlsbad Boulevard partially obstruct views of the water. As evidenced by historic aerials from 1972 and 1977 (Exhibit 2), the subject fences were installed prior to the effective date of the Coastal Act. The chain link fence on the east side of Carlsbad Boulevard is slatted to prevent views east into the Encina Power Station property and discharge basin which has high velocity flows (averaging 300 mgd). On the west side, the fencing encloses the area around the discharge channel outlet (Exhibit 3). Gates provide vehicle access for maintenance and the channel is used by life guards and other public safety officials for rough water training. The chain link fence is located on private property, currently owned by NRG Energy, Inc (operators of the Encina Power Station). According to the applicant, NRG requires the fence on both sides of Carlsbad Boulevard to remain in its current configuration, design, and height to prohibit public access into the Encina Power Station and the discharge channel for security and liability purposes.

On the west side of Carlsbad Boulevard, the proposed 32-inch high bridge railing would not be readily visible from the beach and would not block views from people walking on the sidewalk along the proposed project site. The bridge railing would partially block water views from vehicles traveling on Carlsbad Boulevard, however the applicant has redesigned the project in such a manner to minimize view impacts. Vehicles traveling on Carlsbad Boulevard enjoy only passing views of the water due to the narrowness of the channel and the relatively high speed at which they are traveling (posted speed limit of 35 miles per hour). Despite the brevity of these views, they are still a significant coastal resource protected by Section 30251 of the Coastal Act. To ensure that impacts to visual resources are minimized, the applicant worked collaboratively with Commission and Caltrans staff to choose a railing type that is the most visually permeable. The applicant used "Bridge Rails and Barriers: A Reference Guide for Transportation Projects in the Coastal Zone" to identify and modify the project to use the most visually permeable railing - concrete barrier type 80SW modified to delete any handrail or rods (Exhibit 5).

Associated with the installation of the concrete railing, approximately 249 linear feet of chain link fencing and access gates will be replaced on the west side. The new fencing will be 6-feet high with another 1-foot of barbed wire; the same height as currently exists. As a result, the replacement fencing will not result in any new, adverse impacts to views of the ocean. The applicant proposes to use black vinyl covered chain link which will make the chain link less noticeable.

On the east side of Carlsbad Boulevard, the City proposes to install a 27-inch high Type 26 concrete barrier (Exhibit 5). Although not listed in "Bridge Rails and Barriers: A Reference Guide for Transportation Projects in the Coastal Zone," the Type 26 barrier has a narrower and shorter profile than other concrete barriers included in the Reference Guide, allowing the City to install it on the east side and maintain a 6-foot wide sidewalk to accommodate pedestrian access. Approximately 363 linear feet of fencing is proposed to be replaced on the east side of Carlsbad Boulevard. The new fencing will be replaced in kind – the new chain link will be slatted to obstruct views and will be 8-feet tall with approximately 1-foot of barbed wire atop, for a total height of 9 feet. Where the fencing crosses the bridge, it will be installed on top of the concrete barrier, however the total height of the barrier, chain link, and barbed wire will not exceed 9 feet. Because the existing fencing on this side is slatted to completely obstruct views into the Power Station property, the addition of the solid concrete barrier and new, slatted fencing will have no adverse impact on existing views.

Although not currently visible from this section of Carlsbad Boulevard because of the slatted fencing, views of Agua Hedionda Lagoon are a significant coastal resource protected under Section 30251 of the Coastal Act. These views have been blocked for at least 44 years due to security and liability needs of the Encina Power Station. Section 30251 calls for restoration and enhancement of visual quality where feasible. The Power Station is scheduled to be decommissioned and demolished and the property owner and the City anticipate that the site will eventually be redeveloped. NRG states that the fencing on the east side of Carlsbad Boulevard could potentially be removed or relocated inland in association with redevelopment of that parcel, opening views to Agua Hedionda

Lagoon in the future. However, there is no redevelopment plan currently in place. Further, the Commission recently rejected a City request to modify the land use designation and zoning on the site to facilitate future redevelopment of the parcel for visitor serving and open space uses until the City undertakes an assessment of its current stock of land designated for visitor serving uses. As a result, the parcel could remain vacant indefinitely following decommission of the power plant, continuing to obstruct views of the Lagoon from Carlsbad Boulevard. To ensure that views of the Lagoon are opened up as soon as possible, **Special Condition 2** requires the applicant to remove either the fencing across the east side of the bridge or the slats in that portion of the fence following demolition of the power plant. If the fencing or slats cannot be removed within 180 days of demolition of the power plant, the applicant must submit an application to amend this permit requesting authorization to retain the fence with slats. Any such application must clearly demonstrate why restoring views of the water is not feasible at that time.

In addition, **Special Condition 1** requires the applicant to submit final plans to ensure their consistency with preliminary plans and clarifying that there will be no change in overall height of fencing on either side of Carlsbad Boulevard. Therefore, the Commission finds that the development, as conditioned, conforms to Section 30251 of the Coastal Act.

D. PUBLIC ACCESS & RECREATION

Section 30210 of the Coastal Act states:

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

Section 30212(a) of the Coastal Act 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 accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Section 30213 of the Coastal Act states, in part:

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

Section 30214 of the Coastal Act states, in part:

- (a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:*
 - (1) Topographic and geologic site characteristics.*
 - (2) The capacity of the site to sustain use and at what level of intensity.*
 - (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.*
 - (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.*
- (b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.*

The project site is previously disturbed and developed with existing concrete sidewalks. Installation of the railing on the west side of Carlsbad Boulevard would not encroach beyond the parameter of the existing sidewalk area. This portion of the west side of Carlsbad Boulevard has a relatively wide sidewalk that is approximately 11 feet-4 inches wide. The proposed concrete barrier would be installed at the seaward edge of the existing bridge deck. The chain link fence would be replaced and attached to the seaward face of the barrier over the bridge, resulting in a 10-foot wide sidewalk for approximately 211 linear feet. Considering the size of the existing sidewalk, this would be a minor encroachment. The resulting sidewalk would still be ADA accessible and wide enough to accommodate public access and recreation opportunities by pedestrians. In addition, there is another sidewalk on the east side of Carlsbad Boulevard to accommodate pedestrian traffic. The applicant considered siting the railing within the road right-of-way; however, this design would have resulted in the loss of several coastal access parking spaces, whereas the proposed project would not result in the loss of any coastal access parking.

On the east side of Carlsbad Boulevard, the new concrete barrier will cantilever approximately 10 inches over the discharge basin. The existing sidewalk over the bridge is 5-feet wide and is approximately 5-feet wide to the north and south of the bridge. The City proposes to extend the sidewalk with a barrier railing over the discharge basin in order to accommodate the 12-inch wide concrete railing and provide a 6-foot wide

sidewalk as required by Caltrans standards. North and south of the bridge, the sidewalk will transition to the more narrow existing 5 foot width.

Access points from the sidewalk to the sandy beach would be maintained on both the north and south sides of the discharge channel. As proposed, there will be continued bicycle access on both sides of Carlsbad Boulevard during construction. Uninterrupted pedestrian access will also continue to be available on the west side of Carlsbad Boulevard during construction. During construction on the east side, pedestrians on the east side of Carlsbad Boulevard would be redirected across the road to the west side. Due to the popularity of the adjacent South Carlsbad State Beach, the Commission recommends **Special Condition 3** requiring the preparation, submission, and approval of a Construction and Pollution Prevention Plan to minimize any adverse impacts to public access during construction. Special Condition 3 also prohibits construction from Memorial Day weekend to Labor Day to ensure that there are no access impacts during the summer season. As conditioned, the proposed development will not have an adverse impact on public access to the coast or to nearby recreational facilities. Therefore, the Commission finds that the development, as conditioned, conforms to Sections 30210, 30212, 30213, and 30214 of the Coastal Act.

E. WATER QUALITY

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface waterflow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The proposed project site is located on the bridge above the Encina Power Station discharge channel, which connects Agua Hedionda Lagoon to the Pacific Ocean. Since 1952, when the Encina Power Station was commissioned, the operators of the power plant have regularly maintained the lagoon and dredged the opening to the ocean to sustain a source of seawater to cool the power plant's generators. As a result, today the 388-acre Agua Hedionda Lagoon supports a wide variety of marine-related uses, including sub- and inter-tidal marine habitat, public access and recreation, power production, aquaculture, fish hatchery, and marine research.¹

The project site is previously disturbed and developed with existing, concrete sidewalks. On the west side of the bridge, installation of the railing would not encroach beyond the parameter of the existing sidewalk area. On the east side, the existing sidewalk over the

¹ *Desalination Plant*. (n.d) retrieved July 19, 2016, from The Carlsbad Desalination Project Web Site: <http://carlsbaddesal.com/desalination-plant>.

bridge will be widened, cantilevering 10 inches over the discharge basin to accommodate the concrete railing and to comply with the Caltrans minimum 6 foot wide sidewalk requirement. Since the railing improvements will be limited to existing developed area with a minor expansion of the east side deck over the water only, there would be no significant increase in impervious surfaces and the project would not result in any temporary or permanent impacts to water quality. Runoff from Carlsbad Boulevard will continue to be directed from the street gutters to storm drain inlets on either side of the highway and will be discharged into coastal waters in the discharge channel below the bridge. Existing trash screens in the storm drain inlets prevent trash from entering the ocean. However, due to the project site's close proximity to the Encina Power Station discharge channel, Agua Hedionda Lagoon, and the Pacific Ocean, the Commission recommends **Special Condition 3** requiring the applicant to prepare a Construction and Pollution Prevention Plan to ensure that potential impacts to water quality are avoided during construction.

As conditioned, the proposed development will not result in erosion or adverse impacts to water quality, as adequate temporary erosion controls and construction BMPs will be provided. Therefore, the Commissions finds that the development, as conditioned, conforms to Section 30231 of the Coastal Act.

F. LOCAL COASTAL PLANNING

The proposed project is located within the City of Carlsbad; however it is not part of the City's certified Local Coastal Program (LCP) because it is located within an area of deferred certification. Therefore, the Coastal Commission retains permit jurisdiction in this area and Chapter 3 of the Coastal Act remains the legal standard of review. As conditioned, the proposed project is consistent with all applicable Chapter 3 policies of the Coastal Act. Approval of the project, as conditioned, will not prejudice the ability of the City of Carlsbad to prepare a Local Coastal Program in conformity with the provisions of Chapter 3 of the Coastal Act.

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Upon review, the City of Carlsbad determined that the proposed development was categorically exempt under CEQA pursuant to Section 15301(d).

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Special Conditions addressing the timing of construction and best management practices during construction and staging will

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

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- Barrier Design Report for Encina Discharge Channel Bridge Railing Improvements, prepared by Kleinfelder, Inc., dated October 28, 2015
- Bridge Rails and Barriers: A Reference Guide for Transportation Projects in the Coastal Zone
- Coastal Development Permit 6-13-007

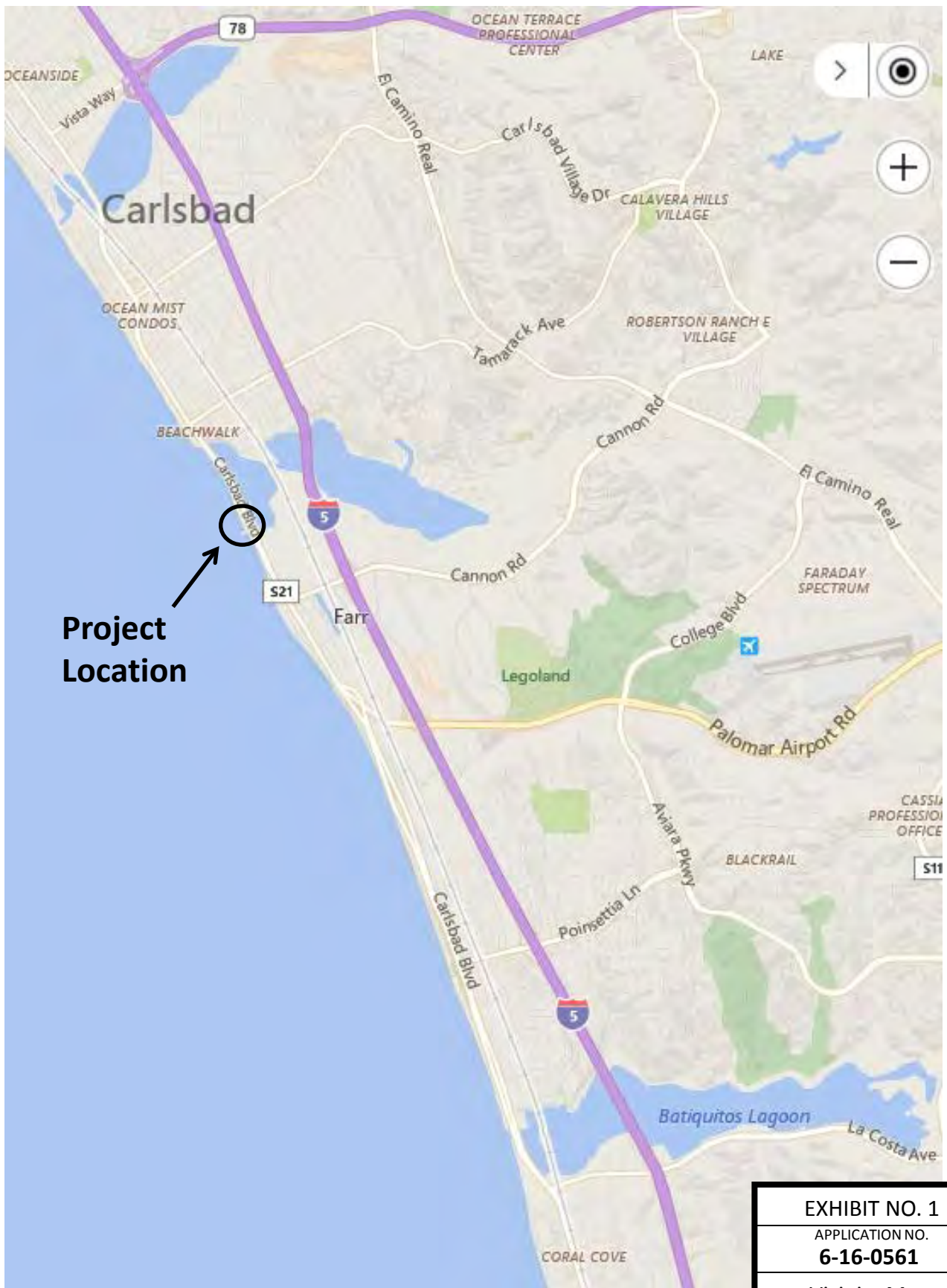


EXHIBIT NO. 1

APPLICATION NO.
6-16-0561

Vicinity Map

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California Coastal Commission



Google Street View of the project site, looking north from Carlsbad Boulevard



1972 Aerial from California Coastal Records Project



1977 Aerial from California Coastal Records Project

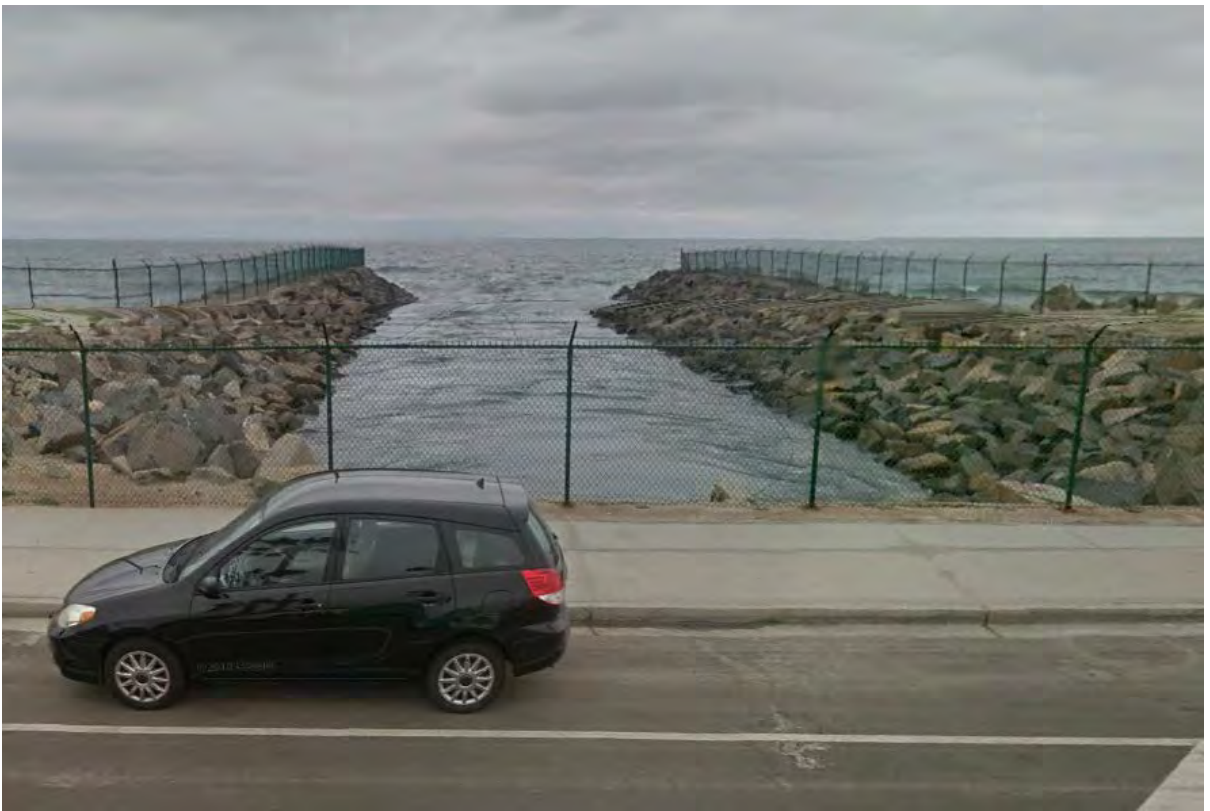
EXHIBIT NO. 2

APPLICATION NO.
6-16-0561

Historic Aerials



California Coastal Commission



Google Street View of the project site, looking west from Carlsbad Boulevard



Google Street View of the project site, looking east from Carlsbad Boulevard

EXHIBIT NO. 3

APPLICATION NO.

6-16-0561

Existing Views



California Coastal Commission

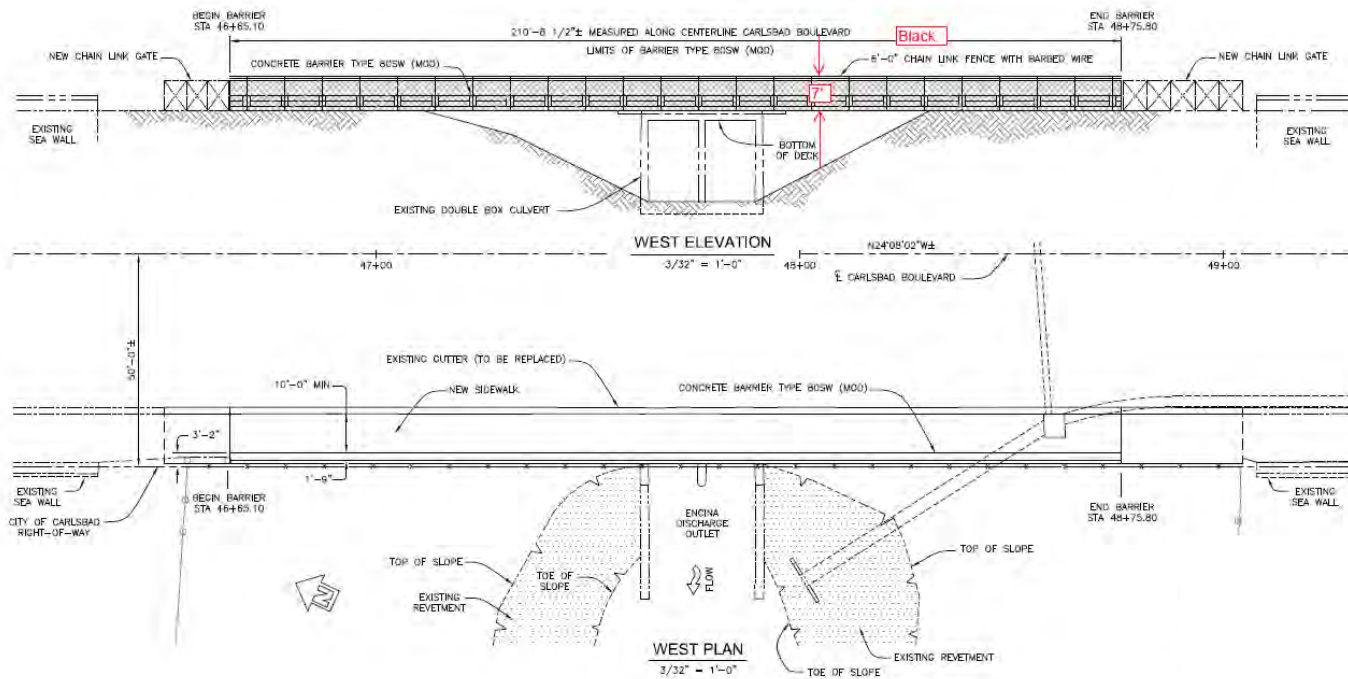
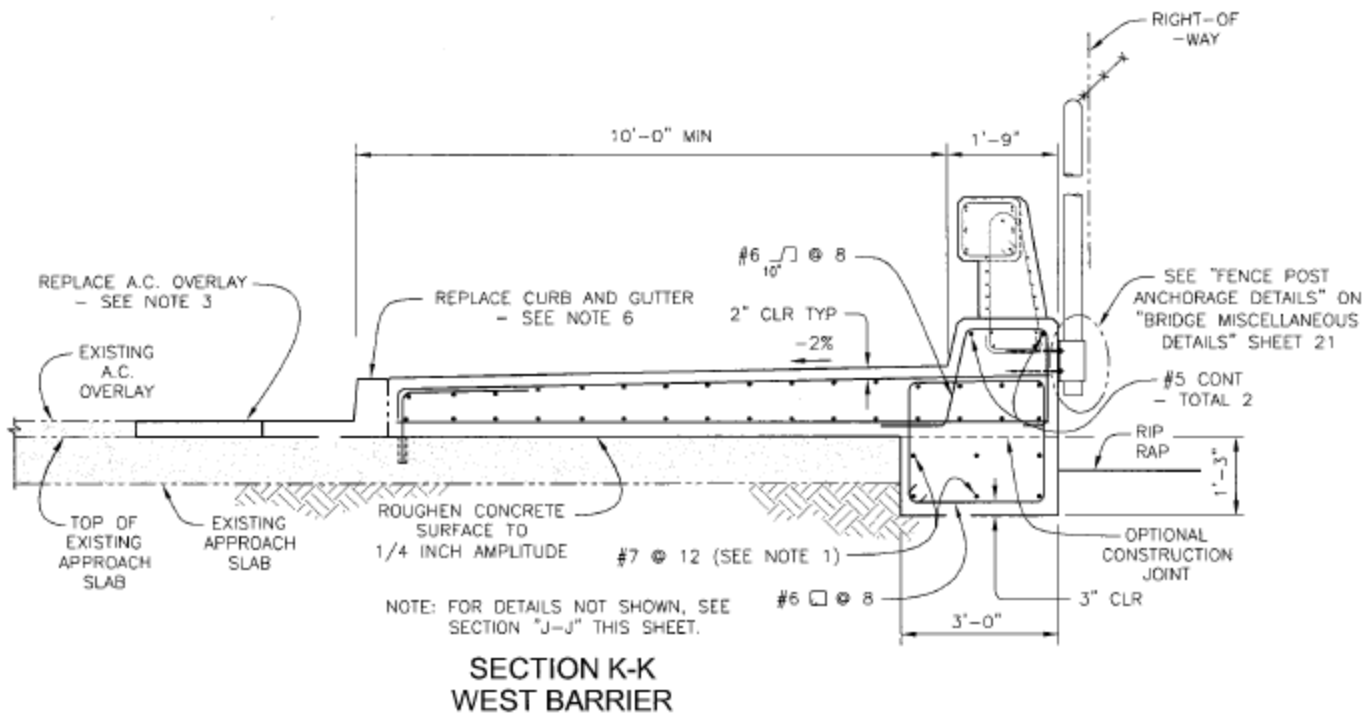


EXHIBIT NO. 4

APPLICATION NO.

6-16-0561

Project Plans

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California Coastal Commission

Visual Rendering of Type 80SW barrier on west side

Option #2 – Type 80 SW

32-inches high

Discrete appearance

Low profile

Color match Sea Wall

Fence behind barrier at same height

EXHIBIT NO. 5

APPLICATION NO.

6-16-0561

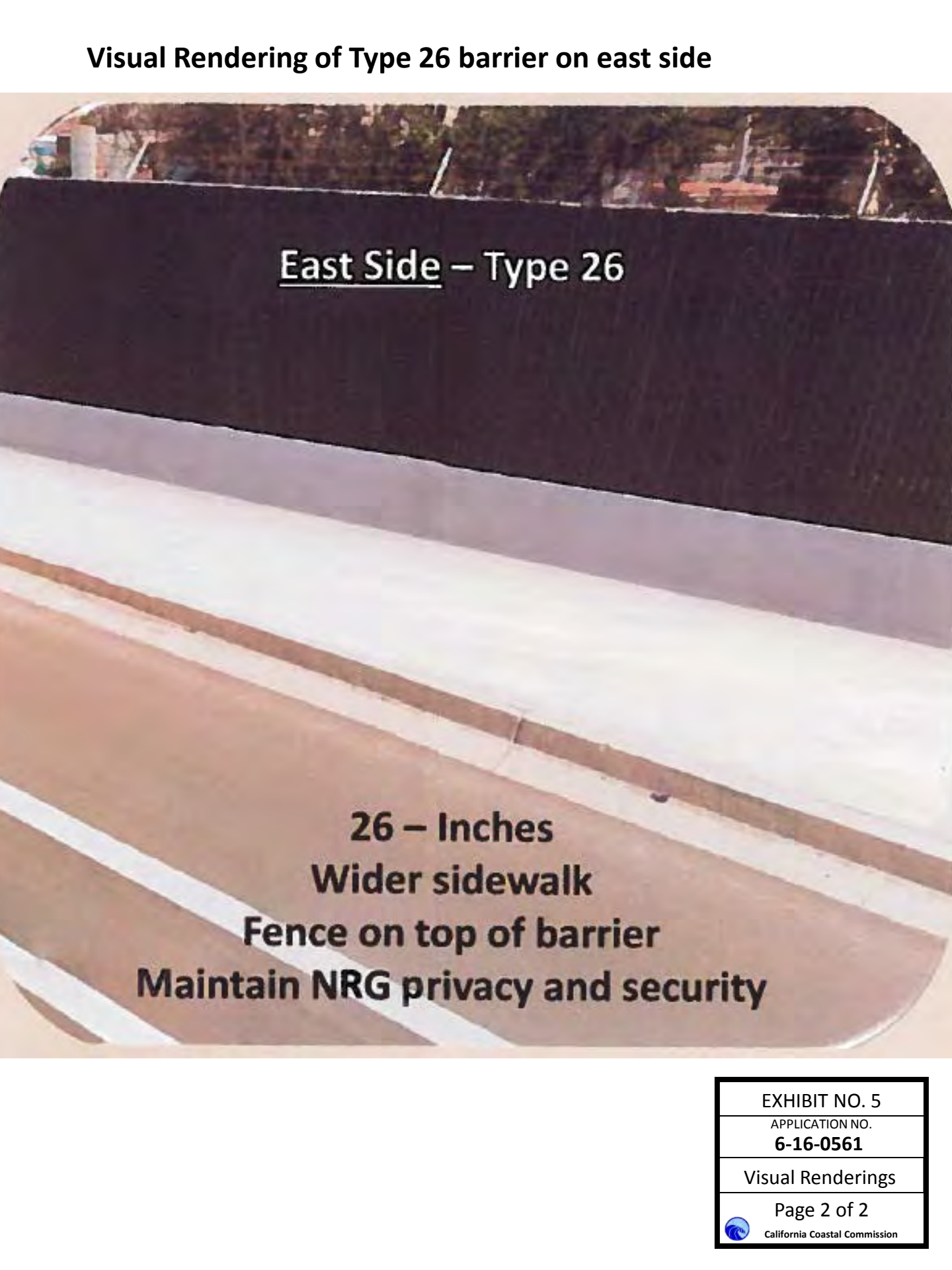
Visual Renderings

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California Coastal Commission

Visual Rendering of Type 26 barrier on east side

An aerial photograph showing a coastal area. A dark, solid-colored barrier runs along the shoreline. To the left of the barrier is a wide, light-colored sidewalk. To the right of the barrier is a road with a white line. The background shows some buildings and trees.

East Side – Type 26

26 – Inches
Wider sidewalk
Fence on top of barrier
Maintain NRG privacy and security

EXHIBIT NO. 5

APPLICATION NO.

6-16-0561

Visual Renderings

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California Coastal Commission