

CALIFORNIA COASTAL COMMISSION
South Central Coast
89 S. California Street Ste 200
Ventura, CA 93001-2801
(805) 641-0142

W22b

Filed: 11/28/95
49th Day: 1/16/96
180th Day: 5/26/96
Staff: MKH-V
Staff Report: 11/28/95
Hearing Date: 12/13/95
Commission Action:

RECORD PACKET COPY

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 4-STB-84-58-A

APPLICANT: Sandyland Cove Homeowners Association

PROJECT LOCATION: Across oceanfronting residential properties seaward of Del Mar Avenue, Sandyland Cove, Carpinteria, County of Santa Barbara.

DESCRIPTION PREVIOUSLY APPROVED DEVELOPMENT: Addition of 37,400 tons of rock over and seaward of an existing rock revetment. Project was originally constructed under an emergency Coastal Development Permit issued by Santa Barbara County. Revetment extends along approximately 1/2 mile of beach, seaward of 38 single family residences.

SUMMARY OF STAFF RECOMMENDATION: Staff recommends approval of the following amendment request if modified by minor changes to the applicant's request that would require the applicant to delineate the height and base dimensions of the existing rock revetment and preclude significant increases in these dimensions (new development) unless the applicant obtained either a further amendment to this permit or a new coastal development permit.

DESCRIPTION OF AMENDMENT: The proposed amendment addresses public access issues and the existing revetment. Specifically, the amendment modifies the project description to read as follows:

1. The now-existing rock revetment running the length of the seaward side of Sandyland Cove, from Ash Avenue on the east to and around Sand Point on the west and along the south bank of the inlet to Carpinteria Marsh, together with integral steps down the face of the revetment to the beach.
2. The donation of a mitigation fund of \$500,000, including interest accrued from November 1, 1995, forward, to be earmarked for acquisition of fee title to the Cadwell "beachfront" parcel (APN 03-470-13) for purposes of public beach access, salt marsh habitat protection and education, with any funds remaining after said acquisition to be applied to acquisition costs of additional, contiguous Cadwell lands within the Carpinteria Marsh Restoration Project area, and second, if there are still funds remaining, to Carpinteria Salt Marsh restoration projects pursuant to the Carpinteria Marsh Restoration Plan.

The amendment would also amend the special conditions and various particulars including:

1. Deletion of existing Special Condition 1 (Replacement of Public Access) in its entirety and substitution of a new Special Condition 1 regarding the Boundary Line Agreement (BLA) approved by the State Lands Commission on October 17, 1995, which agreement will fix the state/private boundary at the toe of the revetment and confer on the public a lateral access easement on those portions of the face of the revetment that are covered with sand;
2. Deletion of existing Special Condition 4 (State Lands Commission Review) and addition of a new Special Condition 4 to distinguish between various kinds of repair and maintenance activities that may, or may not, require a new or amended coastal development permit and;
3. Upon recordation of the Boundary Line Agreement, establish a mitigation fund in the amount of \$500,000 for the stated uses. The amended special conditions would also provide remedies for non-performance.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit 4-STB-84-58 Sandyland Cove Homeowners Association; Coastal Development Permit 4-1-MAR-87-235-A Seadrift Association; Sandyland Cove Settlement and Boundary Line Agreement approved by the State Lands Commission on October 17, 1995; Memorandum in Support of the Proposition that the Revetment at Sandyland Cove is Landward of any Sovereign Tidelands, by Nossaman, Guthner, Knox & Elliott, dated October 18, 1993; Carpinteria Salt Marsh Restoration Plan, Phase I, Final Report, dated July 15, 1991.

1. **PROCEDURAL AND BACKGROUND NOTE:** Pursuant to Section 13166 of the California Code of Regulations, the Executive Director has determined that this amendment is material and therefore is bringing it to the Commission for its review. If the applicants or objector so request, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Code Reg. 13166.

Section 13166 of the Regulations also states that the Executive Director shall reject an amendment request if it lessens or avoids the intent of the approved permit unless the applicant presents newly discovered material information, which he or she could not, with reasonable diligence, have discovered and produced before the permit was granted.

Coastal Permit No. 4-STB-84-58, with revised findings, was adopted by the State Coastal Commission on January 9, 1985. CDP 4-STB-84-58 arose as an appeal of a Coastal Development Permit issued by Santa Barbara County. The amendment seeks to formalize the resolution of long-standing litigation due to the placement of the subject rock revetment and related impacts upon coastal access. Since this amendment request would resolve these matters in accordance with a settlement of Antoine et al v. California Coastal Commission, this amendment request would not result in a lessening or avoidance of the intent of the approved permit. Therefore, the Executive Director has accepted the amendment request for processing.

2. STANDARD OF REVIEW: Because the existing permit, CDP 4-STB-84-58 arose as an appeal of an Emergency CDP issued by Santa Barbara County, the appeal became a CDP issued by the Coastal Commission, not a CDP issued by the County. For this reason, the standard of review for this subsequent amendment is consistency with the Coastal Act, not consistency with the certified Santa Barbara County Local Coastal Program.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions:

The Commission hereby approves the amendment to the coastal development permit, subject to the conditions below, on the grounds that, as conditioned, the development with the proposed amendment is consistent with the requirements of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of Santa Barbara County to prepare or modify a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

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 this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions.

For comparison and clarity, the special conditions approved as CDP 4-STB-84-58 are attached in Exhibit 1. The proposed amended special condition submitted by the applicant are attached as Exhibit 2. The following conditions entirely replace the special conditions set forth in Exhibit 1:

1. Boundary Line Agreement.

Within one year of Commission approval of this coastal development permit amendment, and prior to issuance of this amended coastal development permit, the applicant shall submit evidence that the Boundary Line Agreement approved by the State Lands Commission on October 17, 1995 has been executed and recorded. This permit shall not be valid as to, or inure to the benefit of, any Sandyland Cove homeowner who is not a party to the Boundary Line Agreement.

2. Assumption of Risk and Maintenance.

Prior to the issuance of the amended coastal development permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from storm waves, erosion or flooding and the applicant assumes the liability from such hazards; and (b) that the applicant unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission and its advisors relative to the Commission's approval of the project for any damage due to natural hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens which the Executive Director determines may affect the interest being conveyed, and free of any other encumbrances which may affect said interest.

3. Storm Design and Debris Removal.

Prior to the issuance of the amended coastal development permit, the applicant shall submit certification by a registered civil engineer that the proposed revetment/seawall is designed to withstand storms comparable to the winter storms of 1982-83. The applicant shall, in accepting this permit, agree to remove from the beach any portion of the revetment that is deposited on the beach as a result of construction, revetment failure, or any other cause.

At all times the use of sand from the beach and littoral regime to cover the revetment is prohibited.

4. Requirements for Future Maintenance.

By accepting this amended permit, the applicant agrees to be responsible for future maintenance of the rock revetment within and seaward of the individual respective parcels that comprise the total lands making up the Sandyland Cove Homeowners Association, contingent upon obtaining any applicable authorizations. Such future maintenance shall include both "ordinary maintenance" for which no coastal development permit shall be required and "extraordinary maintenance" for which a coastal development permit may be required. By accepting this permit applicant also agrees that operation of mechanized equipment on the sandy beach seaward of the revetment which is required for any reason shall require a coastal development permit and shall be prohibited between Memorial Day and Labor Day of every year unless the Executive Director determines that use of such equipment to replace materials dislodged from the seaward face of the revetment is necessary to remove materials that would otherwise interfere significantly with public use of the beach.

"Ordinary maintenance" shall be defined to include the following activities: removal from the beach of any rocks or other material which become dislodged from the revetment or moved seaward from the identified footprint, in compliance with Condition 3, above; replacement of same materials on the revetment; minor placement of sand which is suitable for beach nourishment over the revetment from a source other than the sandy beach seaward of the revetment or elsewhere within the littoral cell; maintenance of individual stairways down the face of the revetment to the beach; planting of locally native dune grass on the revetment; and similar activities.

"Extraordinary maintenance" shall be defined to include placement of any material on or adjacent to the seaward face of the revetment (other than replacement of dislodged material as described above) and/or which expands the height or length of the revetment.

5. Prejudice to Public Rights.

The applicant shall, by accepting the terms and conditions of the permit, agree that the issuance of this permit and completion or the authorized development shall not prejudice any subsequent assertion of a public right, e.g., prescriptive rights.

6. Evidence of Establishment of Mitigation Fund.

In accordance with the applicants' proposal, within 30 days of Commission approval and prior to issuance of this amended coastal development permit, the applicants shall submit for the review and approval of the Executive Director, evidence of establishment of a mitigation fund within the State Coastal Conservancy, unless applicant establishes good cause for an extension of time, to be approved by the Executive Director of the Coastal Commission. The amount of the endowment shall be \$500,000.00, plus interest accrued from November 1, 1995, forward. The principal and proceeds of the mitigation fund shall be earmarked for acquisition of fee title to the Cadwell "beachfront" parcel (APN 03-470-13) for purposes of public beach access, salt marsh habitat

protection and education. Should any funds remain after said acquisition, such funds shall be applied first to the acquisition costs of additional, contiguous Cadwell lands within the Carpinteria Marsh Restoration Project area for the same purposes as the Cadwell "beachfront" parcel, and second, if there are still funds remaining after the completion of said acquisitions, to Carpinteria Salt Marsh restoration projects pursuant to the Carpinteria Marsh Restoration Plan. Such projects would be subject to review and approval pursuant to the Coastal Act.

7. Evidence of Acquisition of Cadwell Property.

In accordance with the applicant's proposal, within one year from Commission approval, and prior to issuance of this amended coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, evidence of acquisition of the adjacent Cadwell "beachfront" property (APN 03-470-13) for public beach access and habitat protection/interpretation uses and documentation ensuring that it will be used for such purposes. The grantee of the property and the exceptions in the grantee's policy of title insurance shall be subject to the review and approval of the Executive Director.

8. Dismissal of Superior Court Actions.

The applicant shall, by accepting the terms and conditions of the amended permit, agree to the dismissal, with prejudice, of the Superior Court action entitled Antoine, et al v. California Coastal Commission.

9. Enforcement.

In the event the applicant fails to perform its obligations under any condition of this amended permit, or any provision of the amended description of the project, or in the event the Commission fails to honor commitments inherent within its approval of this amended permit, the Commission reserves, and the applicant retains, appropriate enforcement remedies.

10. Revetment Delineation.

Within 30 days of Commission approval of this coastal development permit amendment, and prior to issuance of this amended coastal development permit, the applicant shall submit plans of the rock revetment prepared by a registered professional engineer for the review and approval of the Executive Director. Such plans shall indicate the dimensions of the revetment and its footprint in relation to at least two monuments, one to be placed near each end of the rock revetment, for future maintenance and monitoring, as well as in relation to the property boundaries of the individual respective parcels that comprise the total lands making up the Sandyland Cove Homeowners Association adjacent to Del Mar Avenue. The relationship of the monuments to the standard of MSL (Mean Sea Level) or NGVD (National Geodetic Vertical Datum) shall be indicated on the plans. Within three months following issuance of the amended coastal development permit, the applicant shall establish the monuments as indicated on the plans, and shall provide photographic evidence of such establishment subject to the review and approval of the Executive Director.

IV. Findings and Declarations.

The Commission finds and declares the following:

1. Project Description and Background.

The Sandyland Cove revetment was constructed in 1983 under the terms of an emergency coastal development permit issued by Santa Barbara County. The rock revetment, comprised of approximately 37,400 tons of rock over and seaward of an existing rock revetment, was placed seaward of 38 single family residences along approximately 1/2 mile of beach at Sandyland Cove. The subject area is a private residential strip of oceanfronting homes on Del Mar Avenue, located northwest of Carpinteria State Beach and south of the University of California's Carpinteria Salt Marsh Reserve (See Exhibits 3--6).

The County's subsequent coastal development permit approval was appealed to the Coastal Commission which, in turn, approved a permit for the development subject to conditions (primarily for public coastal access) that were unacceptable to the applicants. During the course of the resultant litigation (Antoine, et al v. California Coastal Commission), the Antoine court directed that the applicant for a coastal development permit bears the burden of proving that a proposed oceanfront development is situated on its private land and sent the case back to the Commission for its review of evidence demonstrating ownership of lands underlying the development.

Resolution of the matter subsequently proceeded through negotiations amongst representatives of the University of California, the Sandyland Cove Homeowners Association, the State Coastal Conservancy, the State Lands Commission, Santa Barbara County, the City of Carpinteria, The Land Trust for Santa Barbara County, and the Coastal Commission. As the result, a settlement was derived which provided for a Boundary Line Agreement which generally provided that the toe of the existing revetment is the public/private boundary and that the Sandyland Cove Homeowners Association would establish a mitigation fund of \$500,000 to be used to acquire lands in and adjacent to the Carpinteria Marsh Restoration Project, commencing with the acquisition of the Cadwell "beachfront" parcel (APN 403-470-13). The remainder of the fund, if any, is to be used first to acquire three other contiguous Cadwell-owned properties, and second, if there is a remainder after acquisition of these parcels, for Carpinteria Salt Marsh restoration projects pursuant to the Carpinteria Marsh Restoration Plan. Such projects would be subject to Local Coastal Program incorporation and subsequent permit actions. Under no circumstances do any of these monies revert to the Sandyland Cove Homeowners Association.

Because the settlement addresses the revetment as it now exists, and because the applicant has agreed to establish the \$500,000 mitigation fund, the project description is amended pursuant to this proposal to include:

1. The now-existing rock revetment running the length of the seaward side of Sandyland Cove, from Ash Avenue on the east to and around Sand Point on the west and along the south bank of the inlet to Carpinteria Marsh, together with integral steps down the face of the revetment to the beach.

2. The donation of a \$500,000 endowment, including interest accrued from November 1, 1995, forward, to be earmarked for acquisition of fee title to the Cadwell "beachfront" parcel (APN 03-470-13) for purposes of public beach access, salt marsh habitat protection and educational purposes, with any funds remaining after said acquisition to be applied to acquisition costs of additional, contiguous Cadwell lands within the Carpinteria Marsh Restoration Project area and, after all acquisition objectives have been achieved, remaining funds may be used for Carpinteria Salt Marsh restoration projects pursuant to the Carpinteria Marsh Restoration Plan. Such projects would be subject to review and approval pursuant to the Coastal Act.

The City of Carpinteria has finalized a purchase agreement for the acquisition of the Cadwell property identified as APN 03-470-13, at the west end of Sandyland Cove (see Exhibits 3 -- 6). This property will be dedicated to public access and habitat protection, and may be the site of a modestly-scaled interpretive facility which has been the subject of recent conceptual design review by the Marsh Park Restoration Steering Committee.

B. Coastal Public Access.

Coastal Act Sections 30210 and 30212(a) require the Coastal Commission to provide maximum public access for every project. The proposed amendment would formalize the settlement of a long-standing dispute over public access along the sandy beach in the Sandyland Cove area by means of the adoption of a Boundary Line Agreement. This agreement ensures a floating public access easement for all sandy beach areas seaward of the toe of the existing rock revetment. Further, though use of mechanized equipment on a beach requires a coastal development permit at any time pursuant to Section 13252 of the Coastal Commission's administrative regulations, Special Condition 4 ensures that such mechanized equipment will not be used for revetment maintenance during peak public beach use periods between Memorial Day and Labor Day each year unless the proposed use of such equipment would be for the purpose of alleviating interference with public access to the beach that might be caused by materials dislodged from the revetment during that time.

The \$500,000 mitigation fund provided by the applicant will provide for the purchase and preservation of an undeveloped beachfront parcel (see Exhibits 3--6) immediately east of the Sandyland Cove revetment. Acquisition of this parcel ensures permanent public access to this site immediately adjacent to the Carpinteria State Beach.

For all of these reasons, the Coastal Commission finds that the proposed project, as amended, is consistent with the applicable public access policies of the California Coastal Act.

C. Environmentally Sensitive Habitat Areas.

Coastal Act Section 30231 provides for the protection and enhancement of coastal wetlands, and where feasible, restoration. Coastal Act Section 30240 ensures the protection of environmentally sensitive habitat areas by limited

land uses in such areas to those compatible with ESHA preservation. The applicant proposes the establishment of a \$500,000 mitigation fund as part of the amended project description. The fund would be used exclusively for acquisition of an environmentally-sensitive beachfront parcel (APN 03-470-13) sought for over a decade for such preservation as part of the Carpinteria Salt Marsh Restoration Plan. The City of Carpinteria has facilitated the purchase of this property, pending Coastal Commission approval of the subject amendment proposal. Any remaining funds would be used first to purchase other contiguous properties adjacent to the Carpinteria Salt Marsh, and should any balance remain after all acquisition-related objectives have been met, would be used to fund Carpinteria Salt Marsh restoration projects. Such projects may include a modestly-scaled interpretive facility, which has been the subject of recent conceptual design review by the Marsh Park Restoration Steering Committee. The main objective of the interpretive facility would be public education focused on increasing awareness and understanding of the sensitive habitats (coastal dunes and wetlands) in the immediate area.

The proposed amendment would not lessen any existing protective measures contained in the special conditions applicable to coastal permit 4-STB-84-58 (Antoine, et al). Proposed amended Special Condition 4 distinguishes repair and maintenance activities for the subject revetment that would be exempt from coastal permits and establishes that any such activity that would increase the size of the revetment would require a new permit from the Coastal Commission. Special Condition 10 would require a baseline delineation of the present revetment, thereby ensuring that new construction would be measurable and that any violations of the amended permit could be readily determined. Special Conditions 4 and 10 would, together, ensure that significant new development in association with the revetment would be reviewed for potential impacts on environmentally sensitive habitat areas, thus preventing significant, adverse impacts on sensitive species or habitats.

For these reasons, the Commission finds that the proposed project, as amended, is consistent with the Coastal Act policies protective of coastal waters and environmentally sensitive habitat areas.

D. Visual Resources.

Coastal Act Section 30251 states that the scenic and visual qualities of coastal areas shall be protected and that development shall be designed to protect views to and along the ocean and scenic coastal areas. In addition, Coastal Act Section 30240(b) states that development in areas adjacent to parks and recreation areas shall be sited and designed to prevent impacts that would significantly degrade such areas.

The subject revetment extends along an approximately 1/2 mile stretch of sandy beach at Sandyland Cove, adjacent to the heavily used Carpinteria State Beach. The proposed amendment includes adoption of a Boundary Line Agreement establishing a floating public access easement on all sandy beach located seaward of the toe of the revetment. Therefore, any construction on or additions to the existing revetment could affect public coastal views. The existing revetment, though reaching heights of 17.58 feet at one end, is only approximately 13 feet high in some locations. The applicant had proposed 17.58 feet as a maximum height limit overall for the revetment (see Exhibit

2). The Commission, however, through Special Condition 10, requires the applicant to submit a delineation of the dimensions of the existing revetment to establish a formal baseline which shall define allowable limits of development of the revetment. Any proposed additions to these dimensions would require a new coastal development permit. Further, Special Condition 4 restricts repair and maintenance operations which would require the use of mechanized equipment on the beach (other than to remove rocks from the revetment that may be interfering with public access) during peak-use months (May--September). Mechanized equipment on the beach significantly impairs the natural qualities of public coastal views. Thus, as conditioned to restrict future additions to the revetment without Commission review, and to prevent maintenance activities from impairing public views during peak use times, the Commission finds that the proposed project is consistent with the visual resource policies of the Coastal Act.

E. Local Coastal Program.

Section 30604 of the Coastal Act states that:

- a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the amended project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the County's ability to provide for future refinement of its certified Local Coastal Program for the unincorporated County area of the Santa Barbara which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

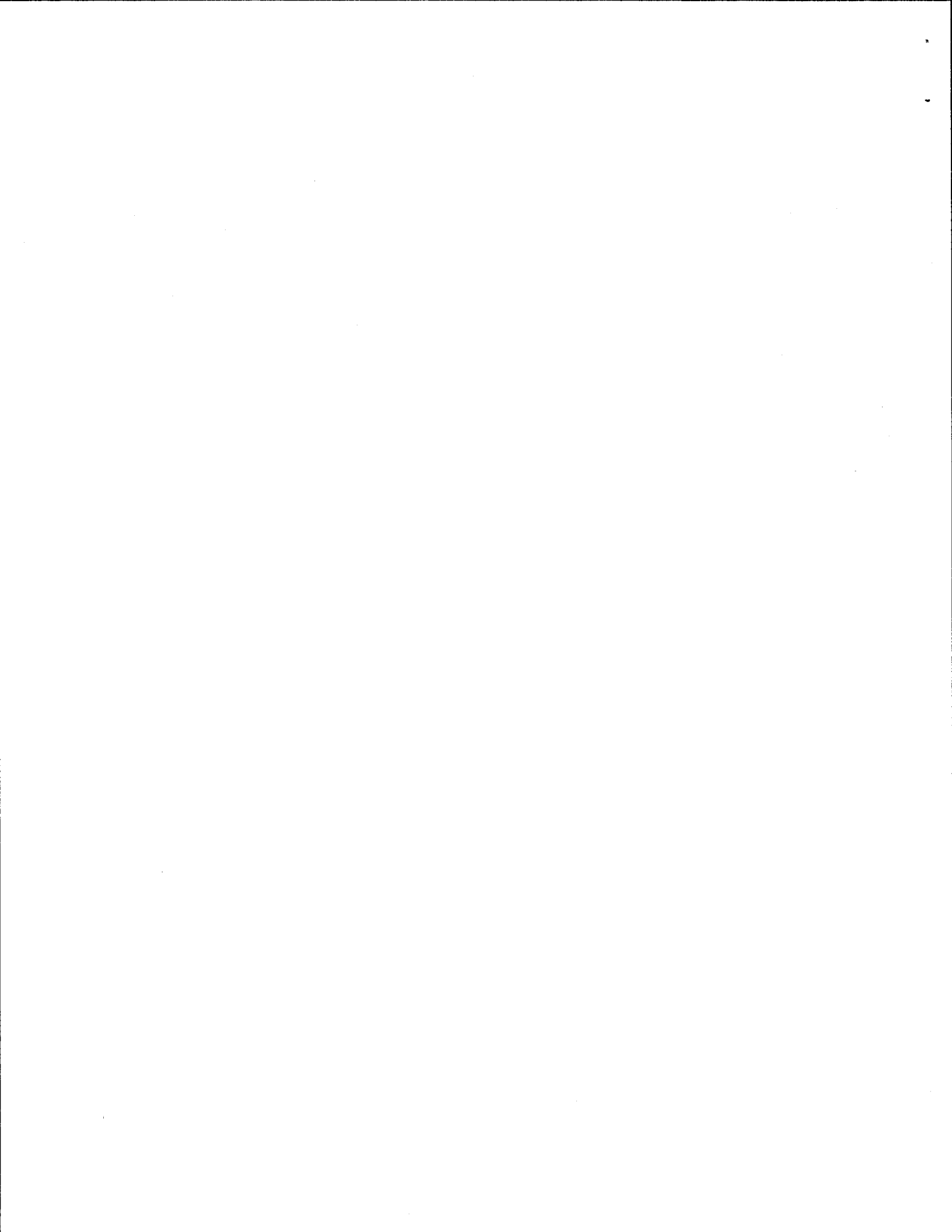
F. Violation

Although development has taken place prior to submission of this amended permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this amended permit does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred.

G. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of 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)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. The proposed project, as conditioned will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

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State of California ~~State of California~~
George Doukmejian, Governor

California Coastal Commission
SOUTH CENTRAL COAST DISTRICT
735 State Street, (805) 963-6871
Balboa Building, Suite 612
Santa Barbara, CA 93101

APPEAL NO.: 4-STB-84-58
FILED: 09-10-84
STAFF: DAN RAY
STAFF REPORT: 12-14-84
HEARING DATE: 01/8-11/85

Adopted by State Commission
on 1/9/85

REVISED FINDINGS
STAFF REPORT ON APPEAL

Permit granted by the County of Santa Barbara

DECISION OF LOCAL GOVERNMENT: Permit granted for the enlargement of rock
revetment.

PERMIT APPLICANT: Sandyland Cove Homeowners Association, Ronald White President

PROPERTY OWNERS: Member of the Sandyland Cove Homeowners Association

DEVELOPMENT LOCATION: Across oceanfronting residential properties shoreward of
Del Mar Avenue, Sandyland Cove, Carpinteria, Santa Barbara County.

DEVELOPMENT DESCRIPTION: On 38 single family residential properties, add 37,400
tons of rock over and seaward of an existing rock revetment. Project extends
along approximately 1/4 mile of beach.

- APPELLANTS:
1. South Central Coastwatch
 2. Chairman and Vice Chairman of the California Coastal
Commission

STAFF RECOMMENDATION:

Staff recommends that the Commission determine that a substantial issue exists as
to the conformity of the development with the certified Local Coastal Program and
with regard to the public access and public recreation policies of Chapter 3 of
the Coastal Act of 1976, and approve the project with conditions regarding public
access and seawall location.

SUBSTANTIVE FILE DOCUMENTS:

Santa Barbara County File 83-CP-47-CZ
Beach Erosion and Pier Study for the City of Carpinteria (1982 Bailard/Jenkins
Consultants)

COMMISSIONERS VOTING:

- YES: Franco, Hisserich, Bellerue, McNeil, Wornum, Nutter
NO: MacElvaine, McInns, McMurray, Shipp, Wright

EXHIBIT NO.	1
APPLICATION NO.	(14 pages)
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Sandyland Cove	



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STAFF RECOMMENDATION ON THE COASTAL PERMIT

The staff recommends that the Commission adopt the following resolution:

I. APPROVAL WITH CONDITIONS

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that, as conditioned, the proposed development conforms with the Santa Barbara County Local Coastal Program and conforms with the public access and recreational policies of Chapter 3 of the Coastal Act, and the development will not have any adverse effect on the environment within the meaning of the California Environmental Quality Act.

II. CONDITIONS

Prior to the transmittal of the coastal development permit, the applicant shall submit to the Executive Director, for his review and approval:

1. Replacement of public access.

(a) Accessway on top of revetment. Prior to transmittal of the permit, submit revised plans subject to the review and approval of the Executive Director showing a pedestrian accessway at least 10 feet in width on or behind the crown of the revetment, including addition of suitable surfacing material to permit access along the revetment, and addition of concrete staircases from the crown of the revetment to the beach. Existing signs prohibiting public access along the revetment shall be removed. The revised plans shall be accompanied by a letter of commitment to commence the construction within the month of May, 1985 and complete the construction by July 15, 1985. The letter shall commit the applicant to providing the Executive Director with a signed contract for the above work by January 1, 1985; and

(b) Deed restriction. Prior to the transmittal of the permit and the commencement of construction, the applicant shall execute and record a deed restriction, in a form and content approved by the Executive Director, restricting the applicant from interfering with public access on the revetment crown as described above and requiring the applicant to maintain the surfacing material and staircase in a condition suitable for public use. Such restriction shall be recorded free of prior liens except for tax liens, and free of prior encumbrances which the Executive Director determines may affect the restriction, and shall run with the land, binding successors and assigns of the applicant or landowner. The restriction may include reasonable provisions for limiting or prohibiting public access during high seas when access would be inconsistent with public safety; and

(c) Offer of dedication. Prior to the transmittal of the coastal development permit, the applicant shall execute and record a document, in a form and content approved by the Executive Director of the Commission, irrevocably offering to dedicate an easement for lateral public access and passive recreational use to a public agency or a private association approved by the Executive Director. The document shall include legal descriptions of both the applicant's entire parcel and the easement area; and such easement shall

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be for the entire width of the property extending seaward from the toe of the revetment to the mean high tide line.

Such easement shall be recorded free of prior liens except for tax liens and free of prior encumbrances which the Executive Director determines may affect the interest being conveyed.

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

2. Assumption of Risk and Maintenance

Prior to transmittal of the permit, the applicant shall submit to the Executive Director a deed restriction for recording free of prior liens except tax liens, that binds the applicant and any successors in interest. The form and content of the deed restriction shall be subject to the review and approval of the Executive Director. The deed restriction shall provide (a) that the applicants understand that the site is subject to extraordinary hazard from erosion and flooding, and the applicants assume the liability from these hazards; (b) the applicants unconditionally waive any claim of liability on the part of the Commission or any other public agency for any damage from such hazards; (c) the applicants understand that construction in the face of these known hazards may make them ineligible for public disaster funds or loans for repair, replacement, or rehabilitation of the property in the event of erosion or flooding;

3. Storm Design and Debris Removal

The applicant shall submit certification by a registered civil engineer that the proposed revetment/seawall is designed to withstand storms comparable to the winter storms of 1982-83. The applicant shall, in accepting this permit, agree to remove from the beach any portion of the revetment that is deposited on the beach as a result of construction or revetment failure.

At all times the use of sand from the beach and littoral regime to cover the revetment is prohibited.

4. State Lands Commission Review

Prior to the transmittal of the permit, the applicant shall obtain a written determination from the State Lands Commission that:

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

Sandyland Cove Homeowner's Assoc.
Appeal No. 4-STB-84-58

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5. Prejudice Public Rights

The applicant shall, by accepting the terms and conditions of the permit, agree that the issuance of this permit and completion of the authorized development shall not prejudice any subsequent assertion of a public right, e.g. prescriptive rights, public trust, etc.

III. FINDINGS AND DECLARATIONS

1. PROJECT AND SITE DESCRIPTION

a. The project is the enlargement of an existing rubblemound seawall. It is located at Sandyland Cove, a 38 unit locked-gate beachfront subdivision seaward of Del Mar Avenue, just west of the City of Carpinteria. (Exhibit 1) The project includes a 12 to 16 foot seaward extension of the existing revetment and a 3-4 foot extension in seawall height as the result of addition of 37,400 tons of 4 to 6 ton rock. (Exhibit IV) The project includes addition of approximately 9300 quarry rocks with typical diameters of 4 to 6 feet along the entire 2550 foot length of Sandyland Cove beach. (Exhibit III) The resulting revetment has a 50 foot base rising in a 2:1 slope to a maximum height of +16 feet (MSL).

Sandyland Cove is the sandy oceanfront beach of the eastern sandpit separating El Estero, the Carpinteria marsh, from the Pacific. The beach varies from a typical width of 40 feet in summer months to as narrow as 5 feet during high winter tides.

An existing rubblemound seawall separates the beach from the 38 unit Sandyland Cove subdivision developed on the sandspit. This existing revetment, located on the average 40 feet seaward of the subdivision's residences, is composed of 1 to 3 ton rock. It has an approximately 18 foot base and rises on a 2:1 slope to a height of 10 feet (MSL). This seawall was constructed in the 1950's replacing the most seaward portion of the sand dunes that once lined the inland extent of the Sandyland Cove beach.

The Sandyland Cove beach is the western extension of the 1.2 miles of beach which stretches from Sand Point at the inlet of El Estero to Asphaltum, a headland located downcoast of Carpinteria State Beach (Exhibit II). The beach includes Carpinteria's City beach, a 1600 foot long municipal beach located just east of Sandyland Cove, and 3000 linear feet of beachfront at Carpinteria State beach.

b. The project site is an important public recreation area. Sandyland Cove and the adjacent City and State beachfronts are intensively used as a visitor destination point and as a major recreational resource for local innkeepers. In 1983, over 425,000 recreational visits were recorded at the beach. Thousands more visited the City beach. These visitors were both local residents and vacationers. Visitors enjoy swimming, sunbathing, and active beach sports (volley ball) on the broad downcoast beaches. In contrast, the Sandyland Cove beach provides an opportunity to sit, jog, or stroll along a quiet shoreline away from the more intense beach activity occurring at the adjacent public parks. According to Santa Barbara County's negative declaration on the beach "when it is exposed, is used by joggers and strollers."
of dedication for public access along the beach seaward of the

pre-existing revetment have been recorded on four of the parcels along Sandyland Cove.

Recreational use of the beach area is supported by public accessways at Ash Street, Linden Avenue, and through the State beach. Tent and recreational vehicle camping at Carpinteria State Beach provides opportunities for low-cost overnight visits to the area. The City of Carpinteria's Local Coastal Program proposes additional access improvements at Ash Street, which terminates at the downcoast end of Sandyland Cove beach. These are the only fully accessible beaches (with road access, public parking, and commercial support facilities) in the 6 mile stretch from Summerland on the west to Rincon on the east.

According to the Department of Parks & Recreation's PARIS projections demand for recreational beach use in the project area is projected to increase 20% between 1980 and 2000.

2. SANTA BARBARA COUNTY'S LAND USE PLAN REQUIRES CAREFUL PROTECTION OF PUBLIC ACCESS AND RECREATION ON COASTAL BEACHES.

The County's land use plan's policies in Sections 3-1, 3-2, 7-1, and 7-2 (See Exhibit 5) require that: shoreline protective devices be permitted only when principal structures are endangered; that those permitted be the least environmentally damaging alternative; and that adequate provision be made for lateral beach access (3-1); that lateral beach access not be blocked (3-2); that the County take all necessary steps to protect and defend the public's constitutionally guaranteed rights of access to and along the shoreline (7-1); and that for all new development between the first public road and the ocean, granting of lateral easements to allow for public access along the shoreline shall be mandatory (7-3). These policies are discussed in detail below.

3. THE PROJECT IS INCONSISTENT WITH THE COUNTY'S LAND USE PLAN

a. Public Access The project will reduce and block existing lateral beach access. Because the project has already been constructed, its initial effects on public access and recreation are evident. The proposed revetment will extend across 12 to 16 feet of sandy beach seaward of the pre-existing seawall. During fall, winter and spring months this extension will completely block public access along the Sandyland Cove beach during much of the day eliminating access to 40 percent of the Carpinteria area shoreline. For example, at 12 noon on October 17, 1984, 3 hours before high tide, the revetment was already awash by incoming waves and lateral movement along the beach was not possible. In summer months, the project will displace approximately 1 acre of sandy beach previously used for recreation. The City of Carpinteria has testified that the project has effectively reduced the amount of time the Sandyland Cove beach is available for public access. Carpinteria beach users report that even during summer months, the revetment blocks access to the western third of Sandyland Cove beach under most tidal conditions. Since the beach is often narrow, the area displaced is that portion of beach at the toe of the old revetment which was most heavily used by the public. These adverse effects of the project on public access have been confirmed by testimony of Mr. Don Risdon and Mr. Dan Baker, Carpinteria residents. The revetment will cover areas previously offered to the public for access and recreation.

There is substantial evidence at the site and in the project file that the revetment may have been constructed at least partially on state tidelands. The County's review of the project relied in part upon the applicant's submittal of plans showing a 1964 MHT line considerably seaward of where the actual beach condition over recent years would indicate that line to be. Reliance on the submittal led to an inaccurate conclusion that public access along the beach would not be adversely affected (83-ND-62) even though the applicant's engineer, in a letter of June 24, 1983 acknowledged that the accuracy of the 1964 line was unknown, a note on the plans indicated that the contractor could eliminate a design element of the project in areas where beach access was not available because of high water, and the applicant's plans showed the toe of the preexisting seawall located at - 1.59 feet to +3.5 feet MSL, elevations at which much of the beach seaward of the revetment would be covered by water under higher tide conditions. In addition, the project as described by the County's negative declaration is one which would extend only 5 feet seaward of the old revetment (page 2) rather than the 12 to 16 feet seaward extension shown on the approved project plans. This erroneous description of the revetment's seaward extension plus the reliance upon the outdated MHT survey line have resulted in a failure to recognize that the revetment may have actually encroached upon state tidelands. The construction of developments which block access across state tidelands is inconsistent with PRC 30210 and 30211.

Article X, Section 4 of the California Constitution reads as follows:

No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people.

Section 3-2 of the County's LUP provides, in part, that:

"Revetments, groins, cliff retaining walls, pipelines and out-falls, and other such construction that may alter natural shoreline processes shall be permitted when designed to... so as not to block lateral beach access. (emphasis added).

In addition, Section 3-1 requires in part:

Adequate provision for access shall be made [in seawalls].

Section 7-1 of the County's LUP provides:

The County shall take all necessary steps to protect and defend the public's constitutionally guaranteed rights of access to and along the shoreline. At a minimum, County actions shall include:

a) Initiating legal action to acquire easements to beaches and access corridors for which prescriptive rights exist consistent with the

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b) Accepting offers of dedication which will increase opportunities for public access and recreation consistent with the County's ability to assume liability and maintenance costs.

c) Actively seeking other public or private agencies to accept offers of dedications, having them assume liability and maintenance responsibilities, and allowing such agencies to initiate legal action to pursue beach access.

Finally, Coastal Act Sections 30210 and 30211 provide:

Section 30210.

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

(Amended by Ch. 1075, Stats. 1978.)

Section 30211.

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

The project as proposed is inconsistent with these policies.

As described above, the project will block and reduce public access along the Sandyland Cove beach, reducing opportunities for public recreation on the increasingly popular Carpinteria oceanfront. Because of these effects, the project is inconsistent with the requirements of the land use plan that revetments not block lateral beach access and that seawalls include adequate provision for access. The project will also eliminate access to State tidelands and areas historically used by the public, including areas offered for dedication for public access. For these reasons, the project is inconsistent with Coastal Act Sections 30210 and 30211.

The conditions of approval require the applicant to provide a trail along the revetment and staircases to the beach. The trail and staircase would replace existing beachfront access blocked by the revetment and permit continuous public access along the shoreline and to the beach and State tidelands. The conditions also require coordination with the State Lands Division to ensure that the project does not illegally encroach on State tidelands. With these conditions, the project conforms to the public access policies of the LCP and Chapter 3 of the Coastal Act.

b. The project may adversely affect sand supplies to adjacent public beaches. As described above, the Sandyland Cove shoreline is part of a larger beach extending from Sand Point on the west to the headlands at Asphaltum on the east. According to the City of Carpinteria Beach Erosion and Pier Study (Ballard

and Jenkins, 1982), sand transport along this beach system is from west (the project site) to east (the City and State beaches). The City's report found that the municipal beach is subject to the same tide and wave influences as the project site and the State beach but, due to angles of wave refraction and nearshore bottom conditions, the City beach maintains a higher beach profile and erodes less than beaches to the west and east.

The proposed project may alter the shoreline processes identified in the City's beach study. That shoreline structures, including rock revetments, have adverse impacts on the shoreline is accepted among experts in the field of coastal engineering and geology. In Saving the American Beach: A Position Paper by Concerned Coastal Geologists (March 1981) which was signed by 94 experts in the field of coastal geology, it is stated....

These structures are fixed in space and represent considerable effort and expense to construct and maintain. They are designed for as long a life as possible and hence are not easily moved or replaced. They become permanent fixtures in our coastal scenery but their performance is poor in protecting community and municipalities from beach retreat and destruction. Even more damaging is the fact that these shoreline defense structures frequently enhance erosion by reducing beach width, steepening offshore gradients, and increasing wave heights. As a result, they seriously degrade the environment and eventually help to destroy the areas they were designed to protect.

Structures such as the one proposed will have an impact on the site and the adjoining area. As stated in a publication by the State Department of Boating and Waterways (formerly called Navigation and Ocean Development), Shore Protection in California (1976),

While seawalls may protect the upland, they do not hold or protect the beach which is the greatest asset of shorefront property. In some cases, the seawall may be detrimental to the beach in that the downward forces of water, created by the waves striking the wall, rapidly remove sand from the beach.

This impact is reiterated in the paper, "Economic Profiling of Beach Fills" by Herman Christiansen which is contained in the proceedings of Coastal Sediments '77 (November 1977). It states:

Observations at some of the investigated beaches have shown that an optimal profile becomes instable, if structures, such as rocks, groins, revetments, piles, stairs, etc., are placed within the wave action zone of a beach. Steady erosions, caused by complex high turbulent surf currents, lead to heavy sand losses.

Although they do not have as great an impact as smooth, vertical seawalls, rock revetments have effects on the beach sand in front of and around the structure. A rock seawall operates on the principal that the wave's energy is dissipated within the voids of the wall, therefore producing less reflected wave energy. However, the rock seawall will still reflect enough

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energy to change the beach profile, steepen the beach, and cause accelerated erosion of the downcoast area. One mechanism that accounts for rock walls' impact on beaches is stated in "The Role of Wave Reflection in Coastal Processes" in Coastal Sediments '77 by Richard Silvester:

Rubble-mound structures can reflect long period wave components with little dissipation and hence short-crested phenomena in front of and downcoast from them should be considered in design and maintenance.

Moreover, the literature on coastal engineering repeatedly warns that unprotected properties adjacent to the seawall may experience increased erosion. A rock wall invariably protrudes seaward from development which exacerbates this situation. Actual field observations have verified this concern. (See for example the 1981 paper by Gerald G. Kuhn of the Scripps Institution of Oceanography entitled "Coastal Erosion along Oceanside Littoral Call, San Diego County, California". In this paper, it is written and pictorially illustrated that erosion on properties adjacent to rock seawall is intensified when wave run-up is high.)

These impacts can be expected at the project site. The existing Sandyland Cove beach is already narrow and more transient than adjacent public beaches, due in part to adverse effects of the pre-existing revetment along the beach. Such changes in shoreline processes could adversely effect Carpinteria's City beach and Carpinteria state beach, reducing the area available for coastal access and recreation at these public facilities.

The project may also interfere directly with shoreline sand supply to these downcoast beaches. This impact is highly probable if past erosion trends along Sandyland Cove persist. According to the City of Carpinteria Beach Erosion and Pier Study, the shoreline at the project site has retreated by up to 500 feet at Sand Point, the western end of the project site, since 1938 and by 90 feet at the City beach since the 1970's. As described above, the project's effects can be expected to maintain or increase this shoreline erosion.

Based on these historic erosion rates whatever beach normally exists in the winter and spring seaward of the proposed revetment can be expected to be eliminated. In this event, the proposed seawall will extend into the surf zone beginning in late summer and extending through spring. Under these circumstances, the proposed revetment would act as a groin which retards downcoast sand accretion on the City and State beaches. The result may be that the average profile of those beaches even in summer is reduced with a related increase in beach erosion during winter.

Neither the County's hearing record nor the applicant's submittal includes information assessing these potential project effects on adjacent beaches. The present shoreline conditions at Carpinteria, however, provide indications of the project's adverse effects. Beach erosion is particularly evident immediately downcoast of the revetment. During a site visit on November 8th, for example, the public beach immediately downcoast of the project at Ash Street was only about half the width of the beach at Holly and Elm Streets further downcoast from the site. Historic maps indicate a relatively uniform width of beach had existed throughout this area. In

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addition, exposed cobble rock, an indicator of sand erosion, was much more prevalent on the beach at Ash Street than at Holly and Elm Streets. The City of Carpinteria has expressed concern that the revetment may have increased shoreline erosion at Ash Street.

Policy 3-2 of the County's Land Use Plan provides, in part:

"Revetments..and other such construction that may alter natural shoreline processes shall be permitted when designed to eliminate or mitigate adverse effects on local shoreline sand supply..."

As described above, the project will have adverse effects on shoreline sand supply at both the project site and at adjacent City and State beaches. The project includes no measures such as contributions to a sand replenishment program, to eliminate or mitigate these adverse impacts.

c. Feasible alternatives are available to reduce the project's effects on public access, but not its effects on shoreline sand supply. While the presence of the existing revetment limits some design options, it is possible to augment the existing wall in a manner which reduces the project effects on public access and shoreline sand supply. These alternatives include:

i. Move the enlarged revetment landward so that its toe encroaches no further seaward than the toe of the old revetment. This would require realignment of portions of the old wall and a reduction of rear yard space for the residences. There is sufficient room on most parcels to move the wall landward as can be seen by the large splash feature on the project plans (Exhibits III and IV) and the substantial rear yards behind the old wall on each parcel.

ii. Augment the old wall only where necessary with 4 to 6 ton rock. This is the typical method of re-fitting existing rock revetments. It requires a greater degree of maintenance activity over time but "spot additions" to these revetments combined with "re-keying" rocks when necessary would eliminate the need for significant seaward encroachments which permanently block access and alter littoral processes.

iii. Augment the old revetment as in ii above but add a splash feature behind as shown on the project plans. Splash protection could also be afforded by placing larger rocks atop of or behind the wall to break-up overtopping waves. This has been done to the west along Fadero Lane.

iv. Restore beaches seaward of the revetment with sand bypassed from the Santa Barbara harbor or from sediment basins tributary to the coast. Such beach restoration has been suggested as a component of regional erosion hazard reduction by the City of Carpinteria's Beach Erosion Need Assessment (1984), but no such program is presently operating.

Retain the present seawall location and provide for public access along it to the beach.

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The County's LCP requires consideration and selection of alternatives which prevent or minimize impacts on coastal access, shoreline sand supplies, and natural landforms. Section 3-1 of the LCP requires:

Seawalls shall not be permitted unless the County has determined that there are no other less environmentally damaging alternatives reasonably available for protection of existing principal structures. The County prefers and encourages non-structural solutions to shoreline erosion problems, including beach replenishment, removal of endangered structures and prevention of land divisions on shoreline property subject to erosion; and, will seek solutions to shoreline hazards on a larger geographic basis than a single lot circumstance. Where permitted, seawall design and construction shall respect to the degree possible natural landforms.

As noted above, the alternative of siting the new revetment so that its toe is not located seaward of the existing seawall is an alternative that would eliminate the project's adverse effects on public access, the beach natural landform and shoreline processes. Because the new revetment's seaward toe would be coterminous with the existing seawall, it would not block existing access along the beach. Impacts on shoreline processes would be no greater than those caused by the existing revetment. The natural landform of the El Estero sandspit's beachfront would be maintained in its present condition.

Relocation of the seawall, which has already been constructed under an emergency permit, is not feasible. The Coastal Act defines feasible as:

"Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

On five downcoast parcels adjacent to Ash Street, there is insufficient area to relocate the wall consistent with protection of the residences. The existing seawall location on these parcels would need to be retained even if the seawall could be moved inland on other upcoast parcels. Because the seawall's potential adverse effects on the City beach at Ash Street are largely determined by the wall's configuration on these adjacent parcels, relocating other portions of the wall would not reduce the project's effects on shoreline sand supplies. In addition, it is estimated that the relocation of the seawall will cost approximately \$300,500 (Frank Serena Sandyland Cove Homeowner), an average cost of \$7,900 per homeowner. While such expenditures may be feasible, in this case the project's adverse effects on public access can be mitigated at less cost and with less disruption of existing development by providing access along the seawall and to the beach as required by the conditions of approval.

The conditions require the applicant's assumption of liability for hazards associated with the revetment and for the structure's maintenance. They also prohibit borrow of shoreline sand for seawall construction or landscaping, an activity annually carried out at the site in the past which reduces the sand available for beach maintenance. The conditions permit deferral of

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accessway construction until May, 1985 to protect against damage by potential winter storms.

As conditioned, the project will conform to Santa Barbara County's LCP by selecting an alternative which provides public access to and along the coast. The prohibition of using shoreline sand supply to cosmetically cover the revetment will allow more sand to remain in the sand budget. Further mitigation of impacts on sand supplies is not feasible because of the location of existing development at Sandyland Cove. As conditioned, the project is the least damaging feasible alternative and has been designed to eliminate or minimize effects on shoreline sand supplies, in conformance with the County's LCP.

4. Public Access

The project is located between the ocean and Carpinteria Avenue, the first public road paralleling the sea in this portion of Santa Barbara County.

Section 7-3 of the County's LUP requires:

For all new development* between the first public road and the ocean, granting of lateral easements to allow for public access along the shoreline shall be mandatory. In coastal areas, where the bluffs exceed five feet in height, all beach seaward of the base of the bluff shall be dedicated. In coastal areas where the bluffs are less than five feet, the area to be dedicated shall be determined by County, based on findings reflecting historic use, existing and future public recreational needs, and coastal resource protection. At a minimum, the dedicated easement shall be adequate to allow for lateral access during periods of high tide. In no case shall the dedicated easement be required to be closer than 10 feet to a residential structure. In addition, all fences, no trespassing signs, and other obstructions that may limit public lateral access shall be removed as a condition of development approval. (emphasis added)

*Policies 7-2 and 7-3 shall not apply to developments excluded from the public access requirements of the Coastal Act by PRC 30212 or to development incidental to an existing use on the site.

In addition, Coastal Act Section 30604(c) requires that every coastal development permit for a project located between the sea and the first parallel public highway be consistent with the Act's policies on public access and recreation. Section 30212 of these policies, which is referenced in the County LUP, provides, in part:

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

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

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(2) adequate access exists nearby, or

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

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

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

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

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

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

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

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

As proposed and constructed, the project is not a development excluded from the access dedication requirements of this Coastal Act section nor is it an incidental use as defined in the County LCP. The project is not the simple reconstruction or repair of a seawall as described in Subsection 30212(b4), but rather a significant enlargement of the existing revetment. The project would be located seaward of the existing seawall and would result in substantial enlargement of the structure's size. The proposed revetment is more than 50 percent larger in bulk, 100 percent wider and 30 percent higher than the pre-existing seawall. Such significant enlargement is not reconstruction or repair as defined by Subsection 30212(b4). During local hearings on the plan, the County Counsel expressed a similar opinion that the project was not repair, but construction of a new seawall. Similarly, the project is not a repair and maintenance activity as described by Subsection 30212(b5). Because the project proposed will result in an increase in bulk of more than 10% over the pre-existing revetment it is not excluded from access dedication requirements by Subsection 30212(b3). The

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provisions of subsection 30212(b1) do not apply because the pre-existing structure was not destroyed by natural disaster.

Because the project is not excluded from the access requirements of Coastal Act Section 30212, an offer of dedication of public access would be required pursuant to the access and recreation policies of the County's LCP and Chapter 3 of the Coastal Act. In its approval of the project the County did not require the provision of an access easement.

Because the revetment will encroach seaward of the toe of the old revetment, it is not excluded from the Coastal Act's access dedication requirement. For this reason, the conditions of permit approval require an offer of dedication for public access along the beach seaward of the new revetment.

Dedication of this easement is necessary to balance the project's adverse effects on public access with the benefits provided to the applicant. The project's adverse effects on public access have been described above. In addition, the Commission notes that on all beachfront property the boundary between publicly-owned tidelands and privately-owned land is dynamic, varying during each year and over the years. In many sections of the coast, the natural processes would involve expansion of publicly-owned tidelands as erosion progresses inland. In any case where permission to construct a seawall is sought, the applicant seeks to halt the natural processes and fix the boundary between the land and the sea. Implicit, however, in fixing the boundary between the land and the sea is some resolution of the boundary between the publicly-owned land the privately-owned land. If the boundary between the sea and the land is established at the toe of a revetment, the boundary between the publicly-owned land the privately-owned land should also be established at the toe of the revetment.

The Commission finds that requiring access to the toe of the revetment is not unreasonable generally in case of seawalls and is particularly reasonable in the subject applications. Seawalls adversely affect shoreline processes and public access. Requiring access in exchange for these adverse effects is a reasonable balancing of public and private rights. As conditioned, the project conforms to Coastal Act Section 30214 and the County's LCP.

DR/ms/rt

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agreement links acquisition of all Cadwell-owned properties. Construction of the interpretative center is assured through other funding commitments. We believe the City's plans are consistent with the spirit of our previous agreement since the enhancement of public access opportunities is the goal of the City's program.

This brings me to the main purpose of this letter, namely to transmit documentation of private ownership of lands underlying the revetment project and to request an amendment to the coastal development permit for the revetment.

REQUEST FOR AMENDMENT

The Sandyland Cove homeowners and Sandyland Cove Homes Association request that coastal development permit no. 4-STB-84-58 be amended as follows:

A. *Modified Project Description*

The description of the project shall be modified to consist of two components:

1. The now-existing rock revetment running the length of the seaward side of Sandyland Cove, from Ash Avenue on the east to and around Sand Point on the west and along the south bank of the inlet to Carpinteria Marsh, together with integral steps down the face of the revetment to the beach.
2. The donation of a \$500,000 endowment, including interest accrued from November 1, 1995, forward, to the City of Carpinteria to be earmarked for acquisition of fee title to the 0.57-acre Cadwell property for purposes of public beach access, salt marsh habitat protection and educational purposes, with any funds remaining after said acquisition to be applied to acquisition costs of additional, contiguous Cadwell lands within the Carpinteria Marsh Restoration Project area and/or construction of the planned marsh interpretative center.

To pull in the remaining relevant points of our March 3rd discussion, we are proposing modifications to the original special conditions, along with new special conditions. This modified special condition package accomplishes the following: (1) Accounts for all relevant provisions of the BLA; (2) Defines maintenance and repair activities which are exempt from, or which may require, a coastal development permit; (3) Limits repair activities requiring beach

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mechanized equipment to the period of off-peak beach use; (4) Memorializes the creation of the endowment fund and the parameters for its use; and (5) Provides for both dismissal of the Superior Court case, with prejudice, and remedies for non-performance. Much of the proposed condition language regarding future maintenance is taken directly from the Commission's previous approval of the Seadrift revetment.

B. Modified Special Conditions

The special conditions of coastal development permit no. 4-STB-84-58 shall be modified as follows (changes from the original are shown in ~~strikeout~~/underline format):

~~Prior to the transmittal of the coastal development permit, the applicant shall submit to the Executive Director, for his review and approval:~~

~~1. Replacement of public access.~~

~~(a) Accessway on top of revetment. Prior to transmittal of the permit, submit revised plans subject to the review and approval of the Executive Director showing a pedestrian accessway at least 10 feet in width on or behind the crown of the revetment, including addition of suitable surfacing material to permit access along the revetment, and addition of concrete staircases from the crown of the revetment to the beach. Existing signs prohibiting public access along the revetment shall be removed. The revised plans shall be accompanied by a letter of commitment to commence the construction within the month of May, 1985 and complete the construction by July 15, 1985. The letter shall commit the applicant to providing the Executive Director with a signed contract for the above work by January 1, 1985; and~~

~~(b) Deed restriction. Prior to the transmittal of the permit and the commencement of construction, the applicant shall execute and record a deed restriction, in a form and content approved by the Executive Director, restricting the applicant from interfering with public access on the revetment crown as described above and requiring the applicant to maintain the surfacing material and staircase in a condition suitable for public use. Such restriction shall be recorded free of prior liens except for tax liens, and free of prior encumbrances which the Executive Director determines may affect the restriction, and shall run with the land, binding successors and assigns of the applicant or landowner. The restriction may include reasonable provisions for limiting or prohibiting public access during high seas when access would be inconsistent with public safety; and~~

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~~(e) Offer of dedication. Prior to the transmittal of the coastal development permit, the applicant shall execute and record a document, in a form and content approved by the Executive Director of the Commission, irrevocably offering to dedicate an easement for lateral public access and passive recreational use to a public agency or a private association approved by the Executive Director. The document shall include legal descriptions of both the applicant's entire parcel and the easement area; and such easement shall be for the entire width of the property extending seaward from the toe of the revetment to the mean high tide line.~~

~~Such easement shall be recorded free of prior liens except for tax liens and free of prior encumbrances which the Executive Director determines may affect the interest being conveyed.~~

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

1. Boundary Line Agreement.

Within one year of Commission approval of this coastal development permit amendment, and prior to issuance of this amended coastal development permit, the applicant shall submit evidence that the Boundary Line Agreement approved by the State Lands Commission on October 17, 1995 has been recorded. This permit shall not be valid as to, or inure to the benefit of, any Sandyland Cove homeowner who is not a party to the Boundary Line Agreement.

2. Assumption of Risk and Maintenance

Prior to transmittal of the amended permit, the applicant shall submit to the Executive Director a deed restriction for recording free of prior liens except tax liens, that binds the applicant and any successors in interest. The form and content of the deed restriction shall be subject to the review and approval of the Executive Director. The deed restriction shall provide (a) that the applicants understand that the site is subject to extraordinary hazard from erosion and flooding, and the applicants assume the liability from these hazards; (b) the applicants unconditionally waive any claim of liability on the part of the Commission or any other public agency for any damage from such hazards; (c) the applicants understand that construction in the face of these known hazards may make them ineligible for public disaster funds or loans for repair, replacement, or rehabilitation of the property in the event of erosion or flooding;

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3. Storm Design and Debris Removal

Prior to issuance of the amended coastal development permit, the applicant shall submit certification by a registered civil engineer that the proposed revetment/seawall is designed to withstand storms comparable to the winter storms of 1982-83. The applicant shall, in accepting this permit, agree to remove from the beach any portion of the revetment that is deposited on the beach as a result of construction or revetment failure.

At all times the use of sand from the beach and littoral regime to cover the revetment is prohibited.

4. ~~State Lands Commission Review~~

~~Prior to the transmittal of the permit, the applicant shall obtain a written determination from the State Lands Commission that:~~

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

4. Requirements for Future Maintenance.

By accepting this amended permit, the individual applicants agree to be responsible for future maintenance of the rock revetment within and seaward of their respective ownerships contingent upon obtaining any applicable authorizations. Such future maintenance shall include both "ordinary maintenance" for which no coastal development permit shall be required and "extraordinary maintenance" for which a coastal development permit may be required.

"Ordinary maintenance" shall be defined, by way of example and not as a limitation, to include the following activities: removal from the beach of any rocks or other material which become dislodged from the revetment or moved seaward from the existing footprint, in compliance with condition 3., above; replacement of such materials on the revetment; placement of sand over the revetment from a source other than the sandy beach

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seaward of the revetment or elsewhere within the littoral cell; placement of similarly-sized rock, clean, broken concrete or on-site manufactured rock within or upon the revetment, provided that such activity does not result in a seaward extension of the toe of the revetment or an increase in the elevation of the top of the revetment above 17.58 feet above Mean Sea Level (17.58 NGVD) (hereafter the "Height Limitation"); an increase in the height of the rock revetment, provided the Height Limitation is not exceeded and the same or similar materials are used; maintenance of individual stairways down the face of the revetment to the beach; planting of dune grass on the revetment; and similar activities including other forms of restorative work to the "as-built" condition. Operation of mechanized equipment on the sandy beach seaward of the revetment which is required for the performance of such ordinary maintenance shall be prohibited between Memorial Day and Labor Day of every year, except for replacement of dislodged rock which interferes with public use of the sandy beach.

"Extraordinary maintenance" shall be defined to include the placement of any material on or adjacent to the seaward face of the revetment (other than as described with respect to ordinary maintenance) which results in any seaward extension of the toe of the revetment, which increases the length of the revetment or which results in any increase in the elevation of the top of the revetment above the Height Limitation. Plans for such extraordinary maintenance shall be submitted in advance to the Executive Director for a determination regarding the necessity of an amendment to this permit or approval of a new coastal development permit. The use of mechanized equipment on the sandy beach seaward of the revetment which is required for the performance of such extraordinary maintenance shall be prohibited between Memorial Day and Labor Day of every year.

5. Prejudice Public Rights

The applicant shall, by accepting the terms and conditions of the permit, agree that the issuance of this permit and completion of the authorized development shall not prejudice any subsequent assertion of a public right, e.g., prescriptive rights, ~~public trust,~~ etc.

6. Evidence of Establishment of Endowment Fund.

In accordance with the applicants' proposal, within 120 days of Commission approval and prior to issuance of this amended coastal development permit, the applicants shall submit, for the review and approval of the Executive Director, evidence of establishment of an endowment fund within the State Coastal Conservancy, the University of California Land and Water Reserve System, the City of Carpinteria, or other public or private entity acceptable to the Executive Director, the principal and proceeds of which shall be used for

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the acquisition of lands within the boundaries of the Carpinteria Marsh Restoration Project area for the purposes of implementing the State Coastal Conservancy's Carpinteria Marsh Restoration Project and/or for the development therein of a salt marsh interpretative facility. The amount of the endowment shall be \$500,000, plus interest accrued from November 1, 1995, forward.

7. Evidence of Acquisition of Cadwell Property.

In accordance with the applicant's proposal, within one year from Commission approval and prior to issuance of this amended coastal development permit, the applicants shall submit, for the review and approval of the Executive Director, evidence of acquisition of the adjacent 0.57-acre Cadwell property (APN 03-470-13) for public beach access and habitat protection uses and documentation that it will be used for such purposes. The grantee of the property and the exceptions in the grantee's policy of title insurance shall be subject to the review and approval of the Executive Director.

8. Dismissal of Superior Court Actions

The applicant shall, by accepting the terms and conditions of the amended permit, agree to the dismissal, with prejudice, of the Superior Court action entitled *Antoine, et al v. California Coastal Commission*.

9. Enforcement.

In the event the applicant fails to perform its obligations under any condition of this amended permit, or any provision of the amended description of the project, or in the event the Commission fails to honor commitments inherent within its approval of this amended permit, the Commission reserves, and the applicant retains, appropriate enforcement remedies.

The fully executed BLA will be held in escrow in accordance with its terms, and the donated funds for acquisition of the Cadwell property, *et cetera*, are in a trust account, pending Coastal Commission approval of the project as herein modified. Needless to say, the applicants and the City of Carpinteria, who have been earnestly working to satisfy both the mandate of the *Antoine* decision and the concerns of the Commission, are hopeful that the Commission will act on this amendment request at its December, 1995 meeting. The need for immediate action is accentuated by the imminence of the City's condemnation proceedings on the first of the Cadwell properties,

Figure 1 - Regional Map for Ash Avenue Wetland

Source: *Carpinteria Salt Marsh*, by Wayne Ferren,
University of California, Santa Barbara, 1985

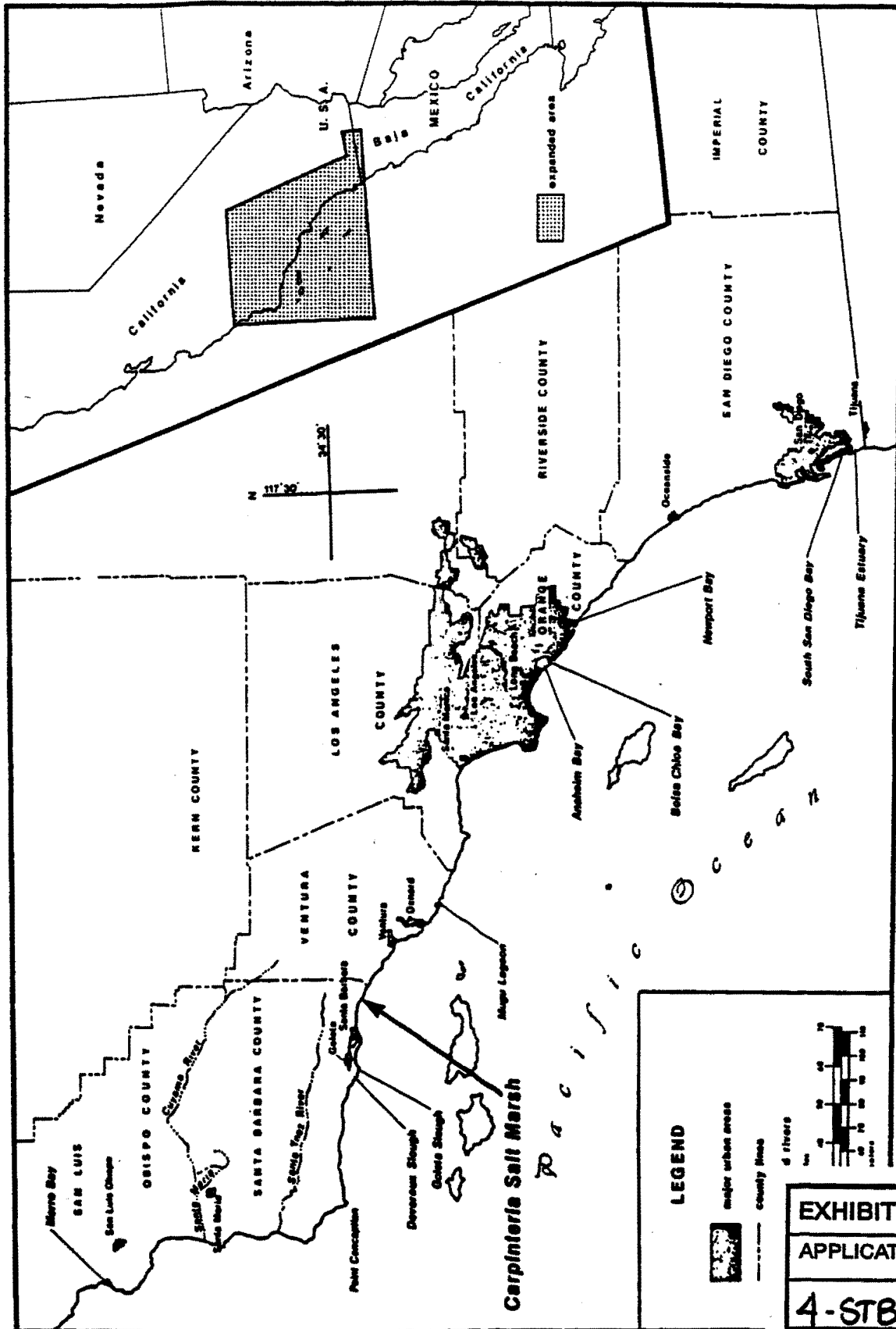


EXHIBIT NO. 3
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SandylandGve

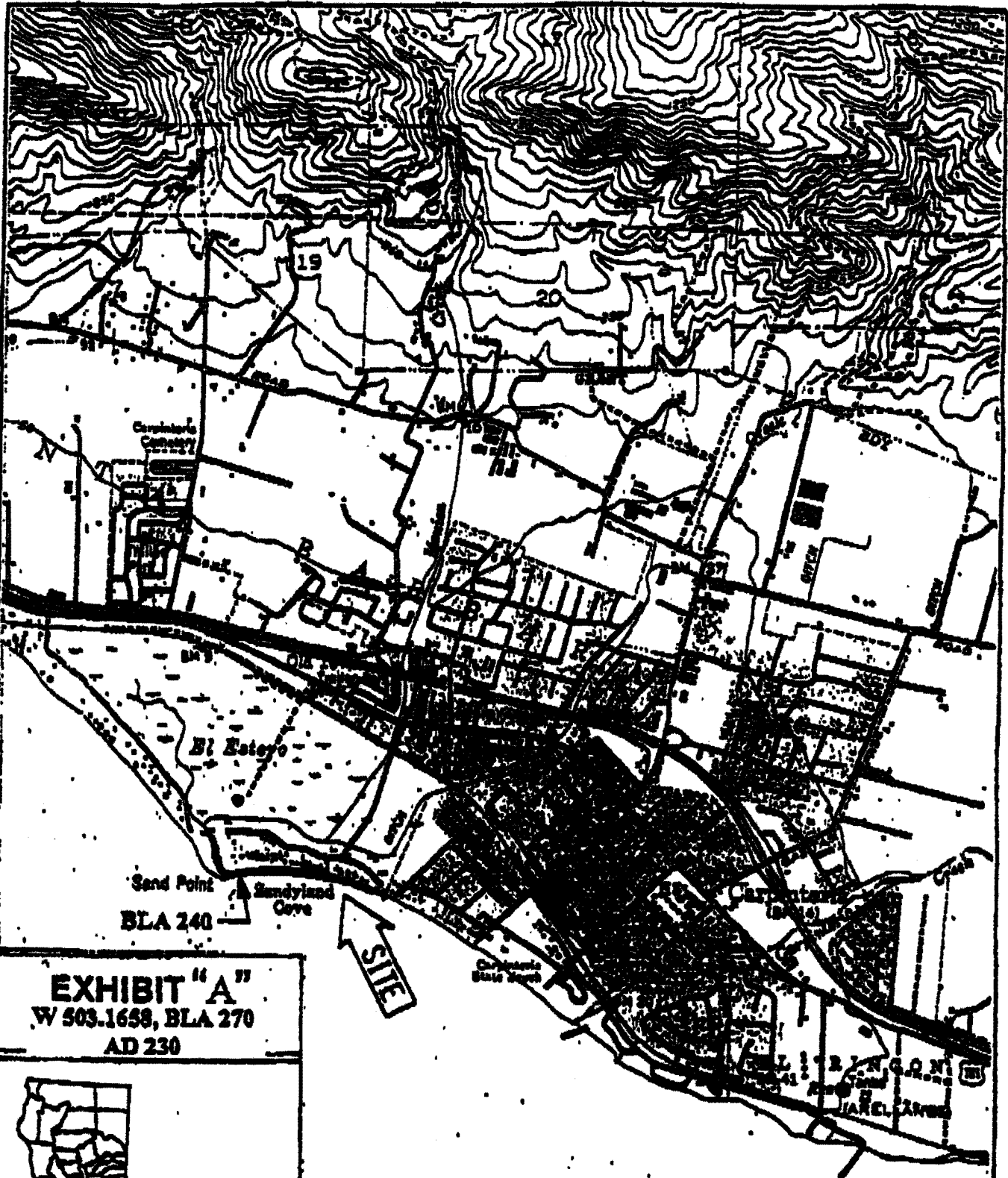


EXHIBIT "A"
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 AD 230

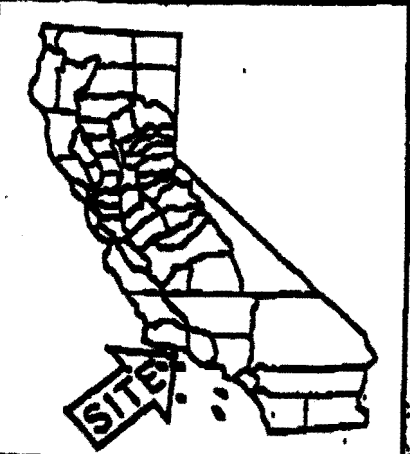


EXHIBIT NO. 4
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378.4

LOCATION MAP

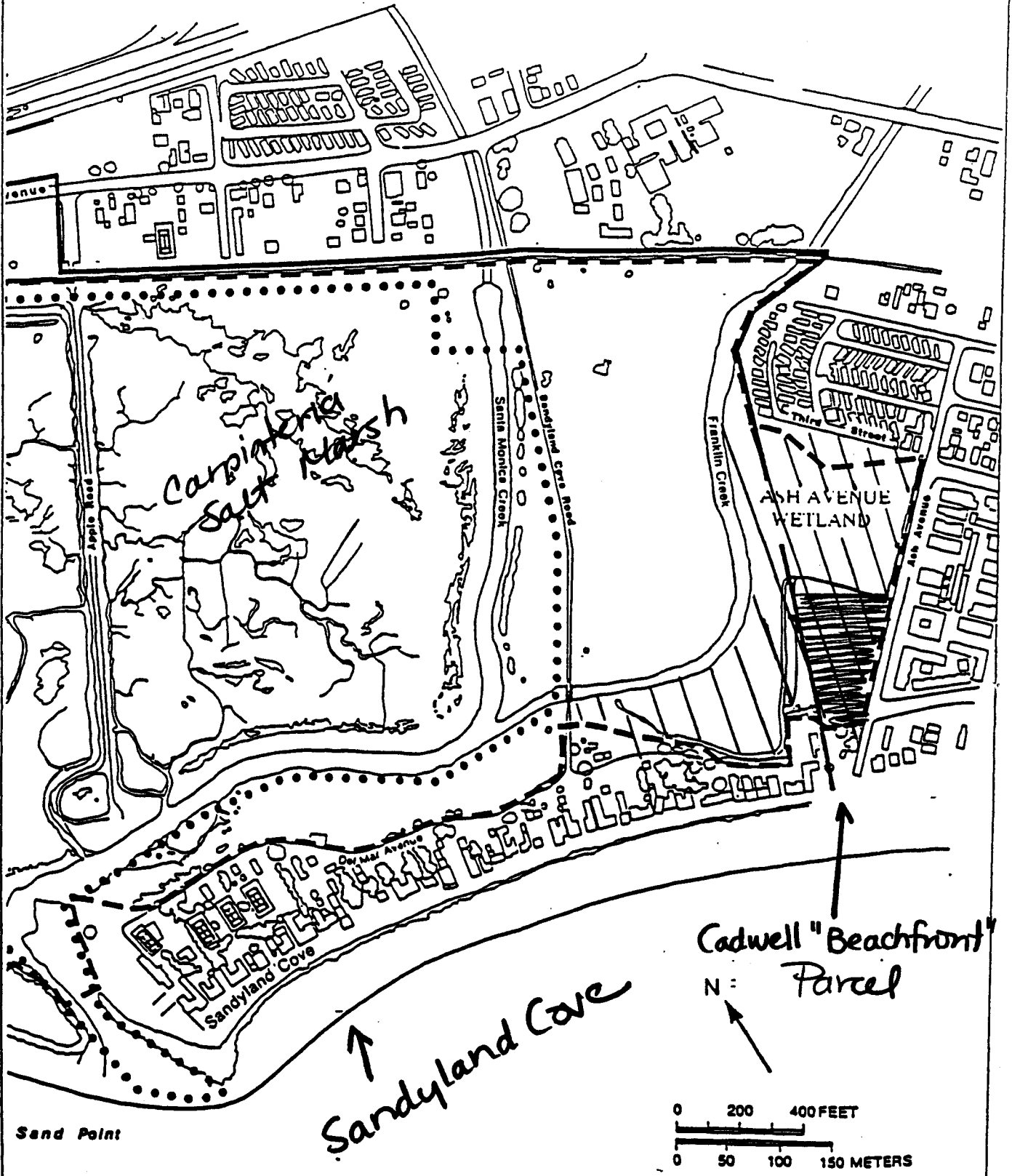


Figure 2

Source: *Carpinteria Salt Marsh*, by Wayne Ferren, University of California, Santa Barbara, 1985

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Figure 5 - Coastal Commission Jurisdiction

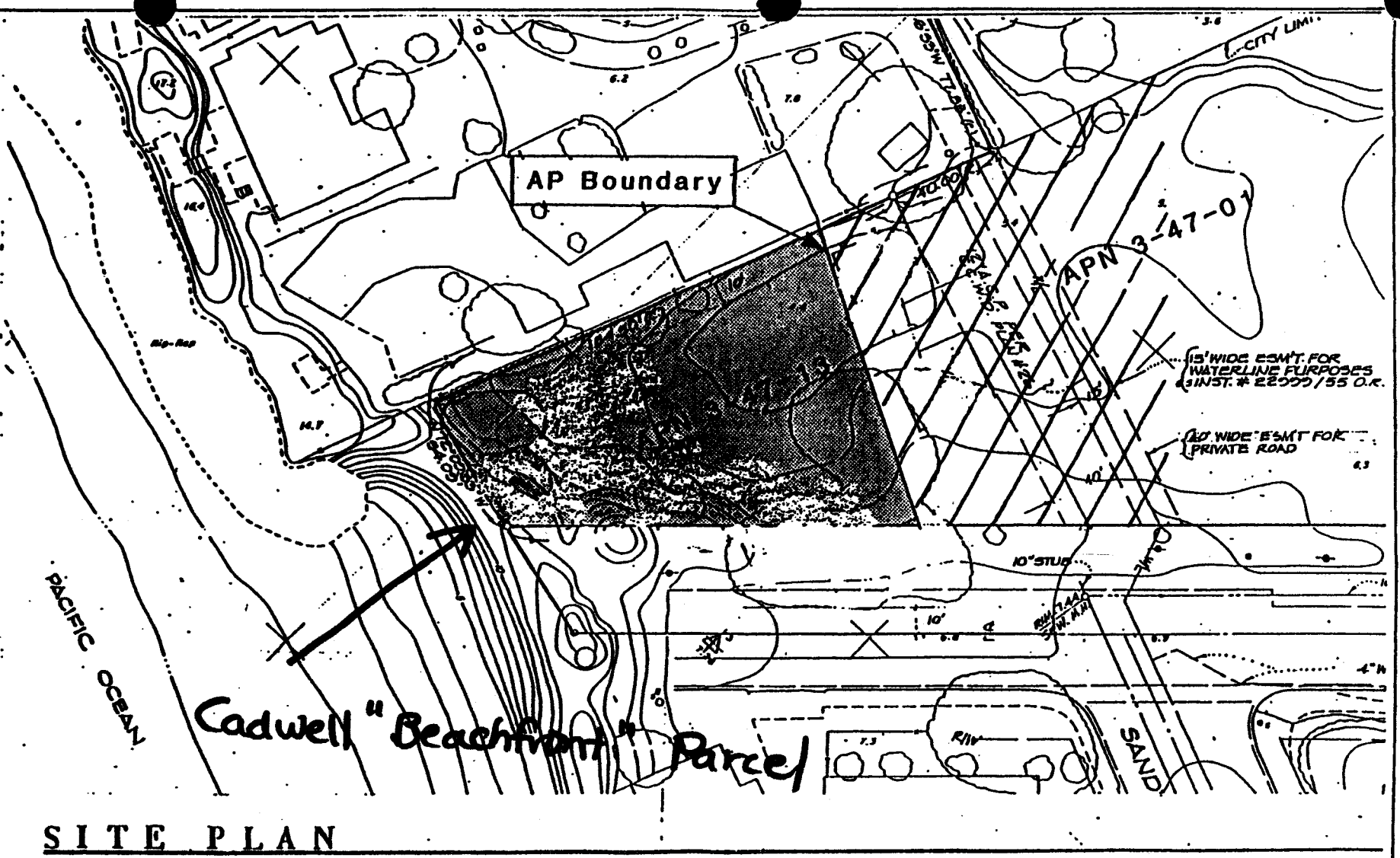




EXHIBIT NO.	6
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 Permit Jurisdiction
 Appeal Jurisdiction