

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST AREA
 CAMINO DEL RIO NORTH, SUITE 200
 DIEGO, CA 92108-1725
 (619) 521-8036

Filed: September 30, 1996
 49th Day: November 18, 1996
 180th Day: March 29, 1997
 Staff: EL-SD
 Staff Report: October 10, 1996
 Hearing Date: November 12-15, 1996



AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-94-142-A

Applicant: Crystal Pier Hotel Agent: Willis Allen Jr.

Original Description: Demolition of two existing, detached retail structures, and construction of improvements to the south building of an existing 30-unit hotel, resulting in an overall increase of 1,410 sq.ft. (1,200 sq.ft. in hotel use and 210 sq.ft. in retail use); no change in the number of units is proposed.

Lot Area	41,255 sq. ft.
Building Coverage	10,495 sq. ft. (25%)
Pavement Coverage	16,020 sq. ft. (39%)
Landscape Coverage	1,060 sq. ft. (3%)
Sandy Beach	13,680 sq. ft. (33%)
Parking Spaces	44
Zoning	C
Plan Designation	CV (Commercial-Visitor)
Ht abv fin grade	30 feet

Proposed Amendment Construction of an additional accessway to the second floor units, realignment of the walkway and construction of decking for the first-floor handicapped unit; also, repair of blufftop erosion by backfilling of the eroded area and replacement of an existing section of timber seawall with a section of concrete sheetpile seawall. Portions of the amended development are already under construction in apparent violation of the Coastal Act.

Site: 4500 Ocean Boulevard, Pacific Beach, San Diego, San Diego County. APN 423-021-10

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff recommends approval of the proposed amendment with special conditions requiring the recordation of an assumption of risk, plans identifying construction corridors and staging areas such that public access to the pier and existing public parking areas are maintained during the

construction period, and an acknowledgement from the applicant that future development will require a coastal development permit.

Substantive File Documents: Certified Pacific Beach Land Use Plan and City of San Diego LCP Implementing Ordinances
Letters of July 31, 1996 and September 27, 1996
from Hetherington Engineering, Inc.

PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit amendment for the proposed development, subject to the conditions below, on the grounds that the development, as amended, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Assumption of Risk: Prior to the issuance of the coastal development permit amendment, the applicant [and 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 bluff retreat, storms and wave action; and (b) the applicant hereby waives any future claims of liability against the Commission or its successors in interest for damage from such hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens.

2. Staging Areas/Access Corridors. Prior to the issuance of the coastal development permit amendment, the applicant shall submit to the Executive Director for review and written approval, detailed plans for the location of access corridors to the construction site and staging areas, or written verification that only those areas identified and approved in the original permit action are herein proposed. Access corridors and staging areas shall be located in a manner that has the least impact on public access via the maintenance of existing public parking areas and traffic flow on coastal

access routes (Mission Boulevard and Garnet Avenue, in this instance). Use of public parking areas for staging/storage areas shall not be permitted. In addition, the plans shall document that full public access to the public portions of Crystal Pier is maintained throughout the construction of the approved development.

3. Future Development. This permit amendment is for construction of an additional stairway, walkway and decking improvements, and blufftop/seawall repair and realignment. All other development proposals for the site, including, but not limited to, conversion of the retail use to restaurant or relocation/modification of the entry gate on the pier, shall require review and approval by the Coastal Commission, or its successor in interest, under a separate coastal development permit or an amendment to this permit.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History. The applicant, in the original application for the subject permit, proposed to construct improvements to one portion (the blufftop improvements south of the Crystal Pier arch) of an existing hotel complex. That existing southern portion of the complex included a two-story structure containing the hotel office/lobby, a manager's unit, four small hotel units and two detached, one-story retail structures. As approved with conditions, the detached retail structures were demolished, and the renovation/expansion of the south building is nearly complete. The final project, as originally approved, will include smaller lobby, office and manager's areas, four larger hotel units and twice the retail area, which is being incorporated into the remodelled ground floor of the existing south building. Overall, the construction of improvements to the south building results in an increase of 1,410 sq.ft., with 1,200 sq.ft. in hotel use and 210 sq.ft. in retail use. The approved structure is two-stories across its entire width, and occupies all the area previously occupied by the three separate buildings south of the Crystal Pier arch.

The subject property also includes a blufftop building on the north side of the Crystal Pier arch with retail sales and two hotel units, 24 hotel cottages on the pier itself, a lift station (sewer facility) underneath the pier, and portions of the pier structure and the sandy beach. None of these improvements are being modified at this time.

As stated, most of the approved construction is now complete. However, during the processing of City building permits, corrections were made to the plans to incorporate an additional stairway to the second floor units to meet fire safety standards. This resulted in other modifications to allow ground floor access to the handicapped unit. In addition, during the period of construction, an apparently unrelated, relatively minor failure occurred on the blufftop near the construction site, resulting in the partial collapse of the approximately 10-12-foot-high bluff close to the bluff/pier interface.

2. Amendment Description. To address these concerns, the applicant has proposed several changes to the approved project. These include incorporation

of a second stairway to the upper floor, located immediately adjacent to the approved stairway on the west side of the subject building. Also proposed is realignment of the walkway leading to the first floor handicapped unit, routing it around the second stairway and thus closer to the bluff edge, and the construction of a new wooden deck west of the first floor unit. The deck is proposed to be cantilevered over the existing edge of the bluff. Finally, to address the small bluff failure, the applicant is proposing to backfill the collapsed area (a "hole" in the bluff approximately 15-foot square and up to eight-foot deep, believed to be caused by a leaking pipe and disrepair of the existing timber seawall) and replace an existing section of timber seawall with a section of concrete sheetpile seawall in a different but similar alignment to the existing wall.

3. Geologic Stability. Sections 30235 and 30253 of the Coastal Act are most applicable to the subject permit, and state in part:

Section.30235

Revetments, ... seawalls, ..., and other such construction that alters natural shoreline processes shall be permitted when required ... to protect existing structures ..., and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

Section 30253

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. ...

The project site is located along the shoreline within the Pacific Beach community of the City of San Diego. Where Pacific Beach and Mission Beach meet, south of the subject site, there is a relatively flat shoreline with no discernible bluff. As one moves northward, however, a bluff gradually forms; at the subject site, the bluff is approximately ten-twelve feet in height. The hotel was originally built in the 1930's, and the structure being remodelled herein was part of that original development. The top of the bluff fluctuates slightly, but the existing building being expanded and remodelled under the terms of the original approval is set back approximately twelve feet from the edge. The approved additions to this structure include development on the seaward side of both the first and second floors, which will extend both floors towards the south in line with the seaward portions of the previously-existing building.

The currently-proposed amendment, however, will also extend blufftop improvements, i.e. stairway, walkway and deck, in the area between the

hotel/retail structure and the bluff, which in this location is comprised of a steep, unvegetated slope approximately ten to twelve feet high. Portions of the proposed deck will be cantilevered over the edge of the bluff, and supported by three wooden piles in the sloping bluff face itself. However, the deck will not extend further seaward than existing blufftop improvements and shoreline protective devices located adjacent to the north and south.

In addition, the proposed shoreline stabilization works to address the small bluff failure on the subject site will add a new, approximately ten-linear-foot section of concrete seawall between existing seawall sections located to the north and south. There is an existing timber seawall on the subject site, which predates the Coastal Commission and extends in a northerly direction under the pier and parallel to the bluff. This existing wall encroaches no further seaward than the City wall located to the south. However, west of the subject hotel structure, the timber wall turns inland in a diagonal southeasterly direction to follow the contour of the bluff, thereby creating a gap in the parallel alignment of the existing walls. It is at this location that the applicant is proposing to replace the diagonal segment of the existing wall with a new segment of concrete seawall aligned parallel to the bluff. No modifications to the existing seawall beneath or north of the pier are proposed at this time.

The existing diagonal segment of the timber wall on the south side of the pier is considered in disrepair (9/27/96 letter from Hetherington Engineering, Inc. and notes on the project plans), and is immediately adjacent to the area where the small blufftop collapse occurred. It is suggested that the deteriorated condition of the seawall could be partially responsible for the collapse, although water leakage from an old pipe is believed to be the main cause. The proposed amendment would replace the existing diagonal timber seawall with a section of concrete sheetpile seawall extending directly southwards from the existing pier. The new wall would fill in an approximately 10-foot-wide gap between the alignment of the timber seawall underneath the pier and an existing, City-built section of seawall to the south, and would be built flush with the toe of the bluff. The City-built seawall portion was constructed in conjunction with the Ocean Boulevard public improvements (Coastal Development Permit 6-85-355), when the City's contractors inadvertently extended the seawall foundations too far north onto the applicant's private property.

Based on a 1985 geotechnical report prepared for the City's Ocean Boulevard public seawall and park improvements, the bluff in this area is relatively stable. That report, and an earlier one, addressed six blocks of shoreline, extending both north and south of Crystal Pier. A newer report (October 26, 1994) verified that conditions along this portion of shoreline have not changed over the years, and this report was submitted with the original permit application for the approved development. In addition, in March, 1993, the area from Grand Avenue to Garnet Avenue was inspected, and it was found that favorable geologic conditions exist in this locale. Specifically, the report states:

"These documents indicate that, in general, the geology of the coastal bluffs is stable, and that no adverse geotechnical conditions exist that would adversely affect existing bluff-top improvements."

The 1994 geotechnical report stated that, although the lower bluff is protected by a sheetpile wall, constructed in error by the City when it was installing the adjacent Ocean Boulevard concrete seawall improvements, marine erosion processes will continue to adversely impact the bluff. Direct wave impact on the lower bluff has been eliminated by the sheetpile wall; however, some overtopping can be expected in the event of major storms. Furthermore, the report states that relatively slow erosion of the upper bluff will also continue, such that portions of the blufftop improvements, including currently existing ones, may become undermined at some point in the future. The report indicated, however, that the approved remodeling and additions wouldn't exacerbate this situation, and could, with the inclusion of drainage improvements, help to stabilize the upper bluff.

In the current request to replace a section of existing timber seawall with an approximately ten-foot section of concrete sheetpile seawall flush with the base of the bluff, the applicant does not maintain that any existing structures are in imminent danger. However, the proposal is to replace a portion of an existing shoreline protective device, stated in the engineering report to be in disrepair, with a device constructed of sturdier materials in a more advantageous alignment that is no further seaward than existing shoreline protection. The new report identifies this as primarily a preventative measure at this time, and could be considered a repair and maintenance activity on the existing, pre-Coastal Commission, seawall.

The hotel/retail development, both as previously approved and as currently proposed in the subject amendment request, extends much closer to the edge of the bluff than is normally permitted through the coastal development permit process or by local governments enforcing certified LCPs. However, this particular property is unique in several ways. It is the only privately-owned property west of Ocean Boulevard, and has been developed with the current uses since the 1930's. Much of the hotel complex is located on the pier structure, with the blufftop (land-based) portion of the property being only approximately 40-45 feet in depth. The narrow depth precludes application of a 40-foot setback, which is common for the less stable bluffs to the north, such as those in the Encinitas, Solana Beach and Del Mar communities. Even the City of San Diego's 25-foot setback (generally applied in La Jolla, the northern end of Pacific Beach, and Ocean Beach) would be difficult to apply at the subject site, as it would leave only 15-20 feet available for improvements.

Aside from the difficulty of applying usual blufftop design standards to the subject site, the existing south building already extends to within 12 feet of the bluff edge. The originally-approved additions are in alignment with that prior setback, and the 1993 and 1994 geotechnical reports maintained that the bluff wouldn't be harmed by the improvements. A letter from Hetherington Engineering, Inc., submitted with the subject amendment request, makes a similar statement regarding the amended project.

In large part due to the unique constraints of this site, the Commission finds it appropriate to approve all of the proposed modifications to the project,

including the shoreline stabilization improvements and cantilevered deck. However, even though the proposed improvements are supported by the prior geotechnical reports and current engineering letters, the potential for damages to the property from storms and runoff is also understood. Due to the inherent risk of shoreline development and the Commission's mandate to minimize risks (Section 30253), the standard waiver of liability condition has been attached as Special Condition #1, requiring the applicant to record a deed restriction, acknowledging his acceptance of the identified hazards. By this means, the applicant is notified of the risks and the Commission is relieved of liability in permitting the development.

Pursuant to Section 13166(a)(1) of the Commission's administrative regulations, an application may be filed to remove Special Condition #1 from this permit if the applicant presents newly discovered material information regarding the existence of any hazardous condition which was the basis for the condition, if they could not with reasonable diligence have discovered and produced such information before the permit was granted. Thus, as conditioned, the Commission finds the proposal consistent with Sections 30235 and 30253 of the Act.

4. Public Access and Recreation. Many policies of the Coastal Act address the provision, protection and enhancement of public access to the shoreline and coastal recreation areas. Those most applicable to the subject amendment request are cited below, and state in part:

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.

Section 30212

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

Section 30221

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

Section 30222

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

The existing hotel and retail uses on the subject site, which is located between the sea and first coastal roadway, are priority visitor-serving uses under the Coastal Act. The development, as proposed for amendment, will maintain and enhance the existing facilities and is thus consistent with the cited Coastal Act policies. In addition to providing beachfront lodging and tourist-oriented retail facilities, the seaward third of Crystal Pier is public property, available for full public use between 7:00 a.m. and sunset daily. In addition to fishing, the pier is popular for strolling, and enjoying panoramic views of the ocean and coastline.

However, public parking in the immediate vicinity of the pier (in fact, throughout the entire Pacific Beach community) is severely limited. Special Condition #2 requires the submittal of plans delineating the areas to be used for staging and storage of materials and for access corridors to the site. The condition further prohibits the use of any public parking areas for such purposes, or adverse impacts on traffic flow on coastal access routes (Mission Boulevard and Garnet Avenue) due to construction vehicles. Finally, it requires that pedestrian access to the public portions of the pier be maintained throughout the term of construction. This condition was also part of the original approval, and plans were submitted showing a staging area entirely within the private property, and designed consistent with the stated parameters. If the applicant is planning to utilize the same area for construction of the amended project, a written acknowledgement to that effect will satisfy the condition.

Although the original development did not affect existing public access on the pier or on the beach below, there is some concern in this regard with the proposed project, since the project will extend improvements over the bluff edge and include a new section of seawall at the toe of the bluff. However, the bluff face and beach, extending fifty feet both north and south of the pier, are private property. Moreover, the proposed cantilevered deck will not extend further seaward than the existing City-built seawall, and the new approximately ten-foot seawall section will be aligned with existing seawall sections to the north and south. Neither improvement will occupy area currently used by the public.

An additional potential concern regards other future improvements at the site, since it can be expected that further redevelopment will be desired from time to time, and the applicant has verbally indicated a desire to relocate the existing access/entry gate on the pier itself. This gate is the public's only means to access the municipal portions of the pier, which comprise the far-western third of the structure. Generally speaking, nearly all improvements to commercial facilities, even relatively minor ones, on property located between the sea and first coastal road require a coastal development permit. Moreover, even minor modifications to approved projects require an amendment to the permit. Thus, Special Condition #3 is attached, requiring the applicant to acknowledge the permit and/or amendment requirement for improvements or activities which may be desired in the future. As conditioned, the Commission finds the development consistent with the cited Coastal Act policies, and with all other public access and recreation policies as well.

5. Visual Impacts. Section 30251 of the Act provides for the protection of scenic coastal areas, including public views to and along the shoreline, and for the compatibility of new and existing development. The approved additions to the south building were designed to match facade treatments applied to the north building, and conform to the overall design theme of the entire complex. The additional stairway proposed herein is identical to the one approved in the original permit action, and the walkway improvements are similar to what existed on the site previously. Thus, those portions of the proposed amendments will be visually compatible with the existing on-site development and with the mixed architectural styles of the surrounding community.

The site is adjacent to the beach and ocean and is highly visible from Garnet Avenue, Ocean Boulevard, the beach and the pier itself. The proposed amendments will extend a wooden deck over the edge of the existing bluff and include construction of a new approximately ten-foot-long section of concrete sheetpile seawall at the toe of the bluff. These portions of the proposed amendments will be visible; however, the Commission has determined that the development, as amended, should not adversely impact any existing public views to or along the coast. This determination is based on several factors. First, the cantilevered deck will not extend further seaward than the base of the bluff, since the bluff in this area is a sloping, rather than vertical, feature. Second, the new seawall section, which will extend approximately two feet above sand level, will connect with existing sections to the north and south and will be built flush with the toe of the bluff, as are those existing sections.

Finally, the amended development will not significantly impact public views to any greater degree than that which occurs from the existing public Ocean Boulevard seawall and park improvements. Immediately south of the subject property, the City has constructed, under Coastal Development Permit #6-85-355, a three-block-long, approximately ten-foot-tall concrete seawall, with intermittent public access stairways and a grassy mall with viewing areas on the bluff top. Although these improvements have provided increased public access and recreational opportunities, they are relatively massive and visually prominent when compared to the scale of improvements requested in the subject amendment. The Commission finds the proposed amendments will not significantly impact existing view corridors. Therefore, the proposal, as otherwise conditioned, is found consistent with Section 30251 of the Act.

6. Parking/Beach Impact Area. Section 30252 of the Coastal Act requires, among other things, that adequate parking be provided in all new development. The Pacific Beach LCP Land Use Plan was certified in July, 1994, with special provisions for off-street parking in the nearshore areas (Beach Impact Area - BIA) of the community. These standards require one parking space for every 400 sq.ft. of retail or office area (3,630 sq.ft. total), one space for every hotel unit (30), and one-and-one-half spaces for a one-bedroom apartment (manager's unit). Under those standards, the applicant is required to provide 40.5 parking spaces; 44 spaces are provided in the approved development, including two for handicapped persons. The proposed amendment, which does

not change the number of hotel units or increase retail square footage, do not generate the need for any additional parking. Thus, the Commission finds the proposed amendment, as otherwise conditioned, consistent with Section 30252 of the Act.

7. No Waiver of Violation. The applicant has proceeded with construction of the stairway and walkway improvements proposed in the current amendment, prior to the amendment's approval; construction of the deck and seawall, and repair of the collapsed bluff, has not yet begun. Although some development has taken place prior to submission and approval of this amendment application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of the permit amendment does not constitute a waiver of any legal action with regard to this violation of the Coastal Act that may have occurred; nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

8. Local Coastal Planning. Section 30604 (a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. As conditioned, such a finding can be made for the subject proposal.

The site is currently zoned "CV" by the City of San Diego, and has been designated as Commercial Visitor in the certified Pacific Beach LCP Land Use Plan. The "CV" Zone is used in areas where visitor-serving uses are the highest priority. With a hotel and tourist-oriented retail shops, the subject use is fully consistent with the visitor-serving designation. In this location, the certified Sensitive Coastal Resource Overlay (SCR) only applies to the beaches and not to the bluffs, such that no local discretionary permits were required for the proposed development. However, the property is entirely within the Commission's area of original permit jurisdiction, and the Commission's approval of the amendment is based on the project's consistency, as conditioned, with Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the amendment request, with the attached special conditions, will not prejudice the ability of the City of San Diego to continue implementation of its fully-certified LCP.

9. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the California Code of Regulations requires Commission approval of a coastal development permit, or permit amendment, to be supported by a finding showing the permit, or amendment, as conditioned, 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 amendment has been conditioned to minimize all adverse environmental impacts that may occur from constructing and staging the

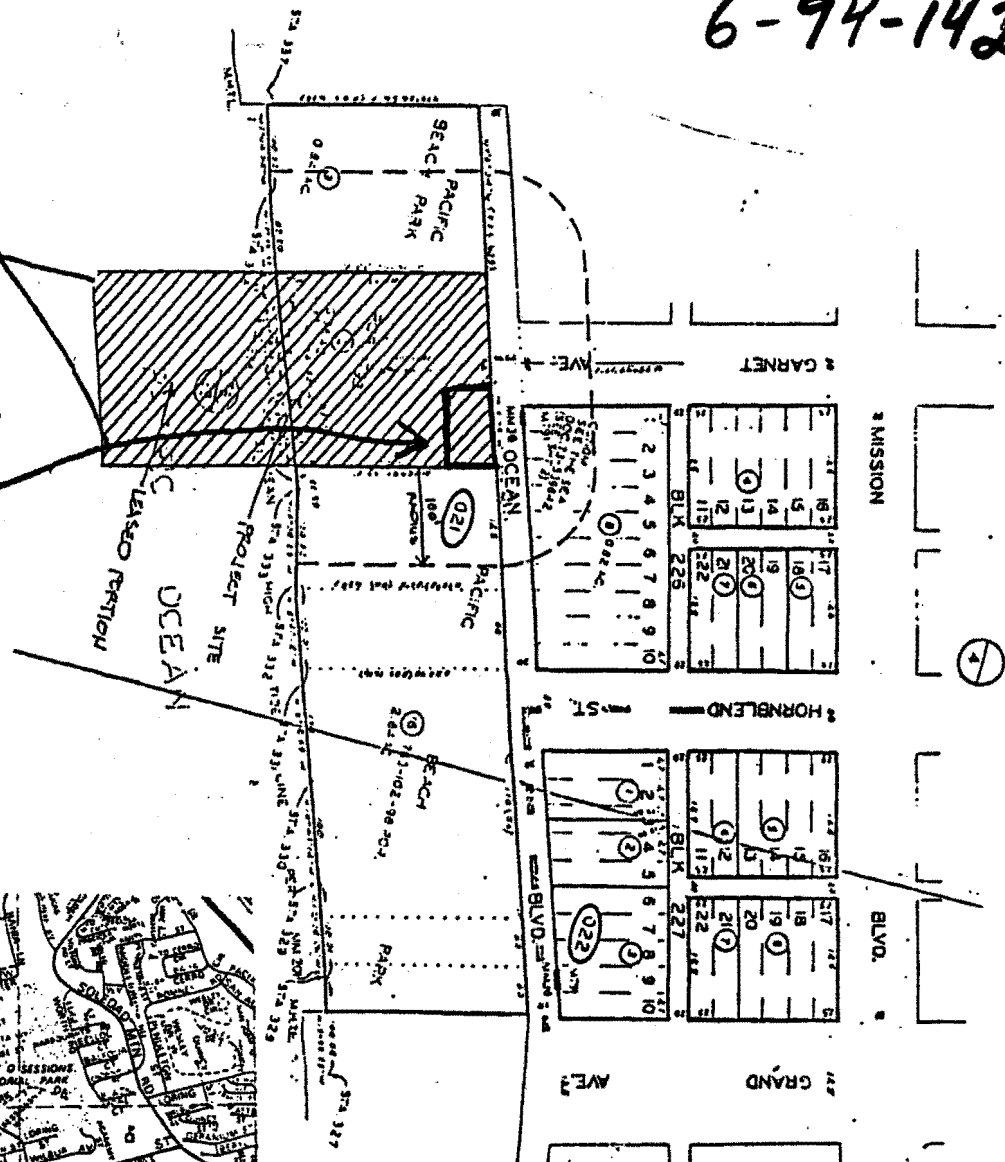
project. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed amendment, as conditioned, is the least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

(1398A)

Tu 29a

6-94-142-A

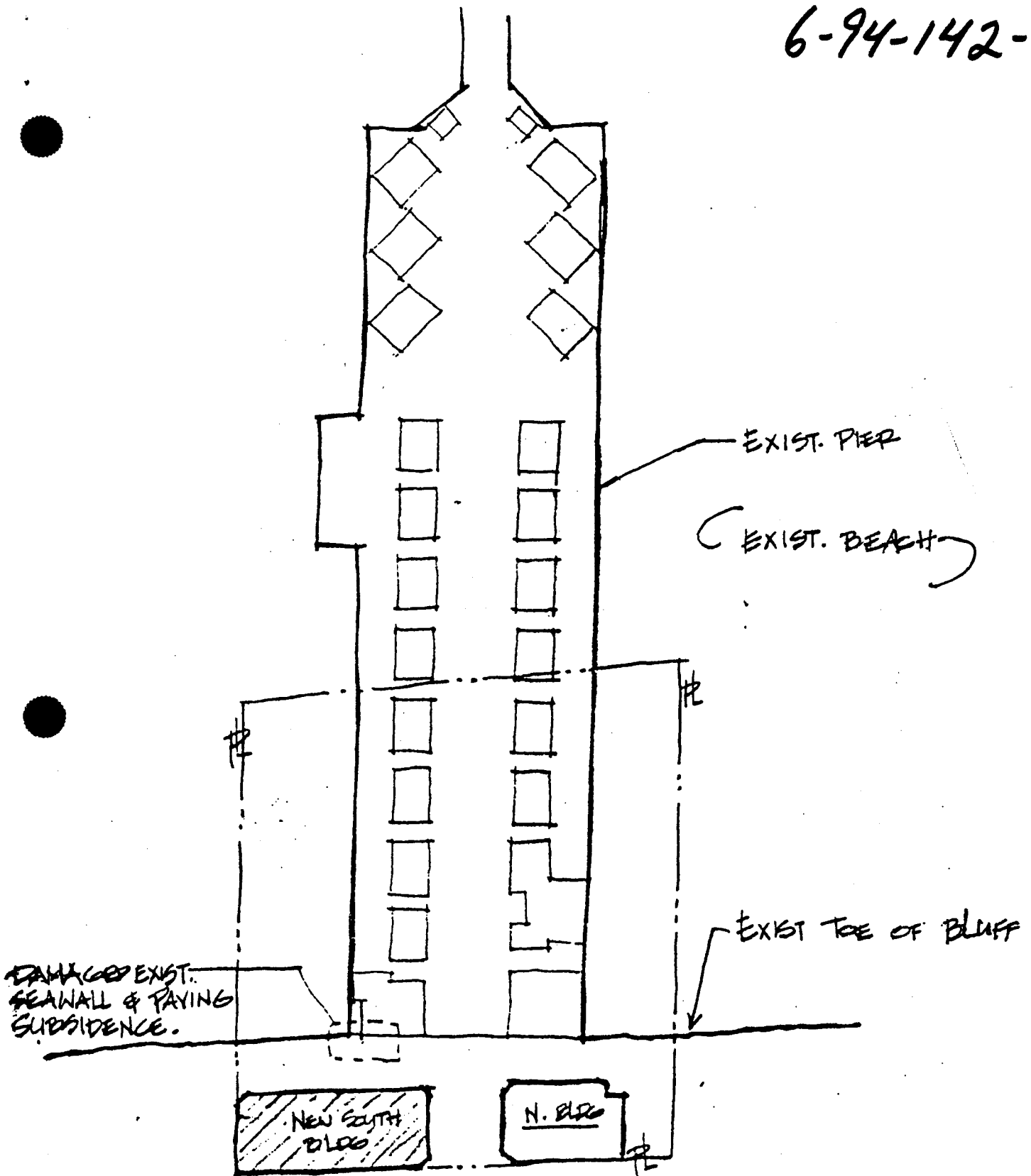
Entire Property
Specific Project Area



site

EXHIBIT NO. 1
APPLICATION NO. 6-94-142-A
Vicinity Maps
California Coastal Commission

6-94-142-A



DAMAGED EXIST.
SEAWALL & PAVING
SUBSIDENCE.

EXIST. PIER

EXIST. BEACH

EXIST TOE OF BLUFF

NEW SOUTH
BLDG

N. BLDG

OCEAN BLYD.

GARNET

REF NORTH

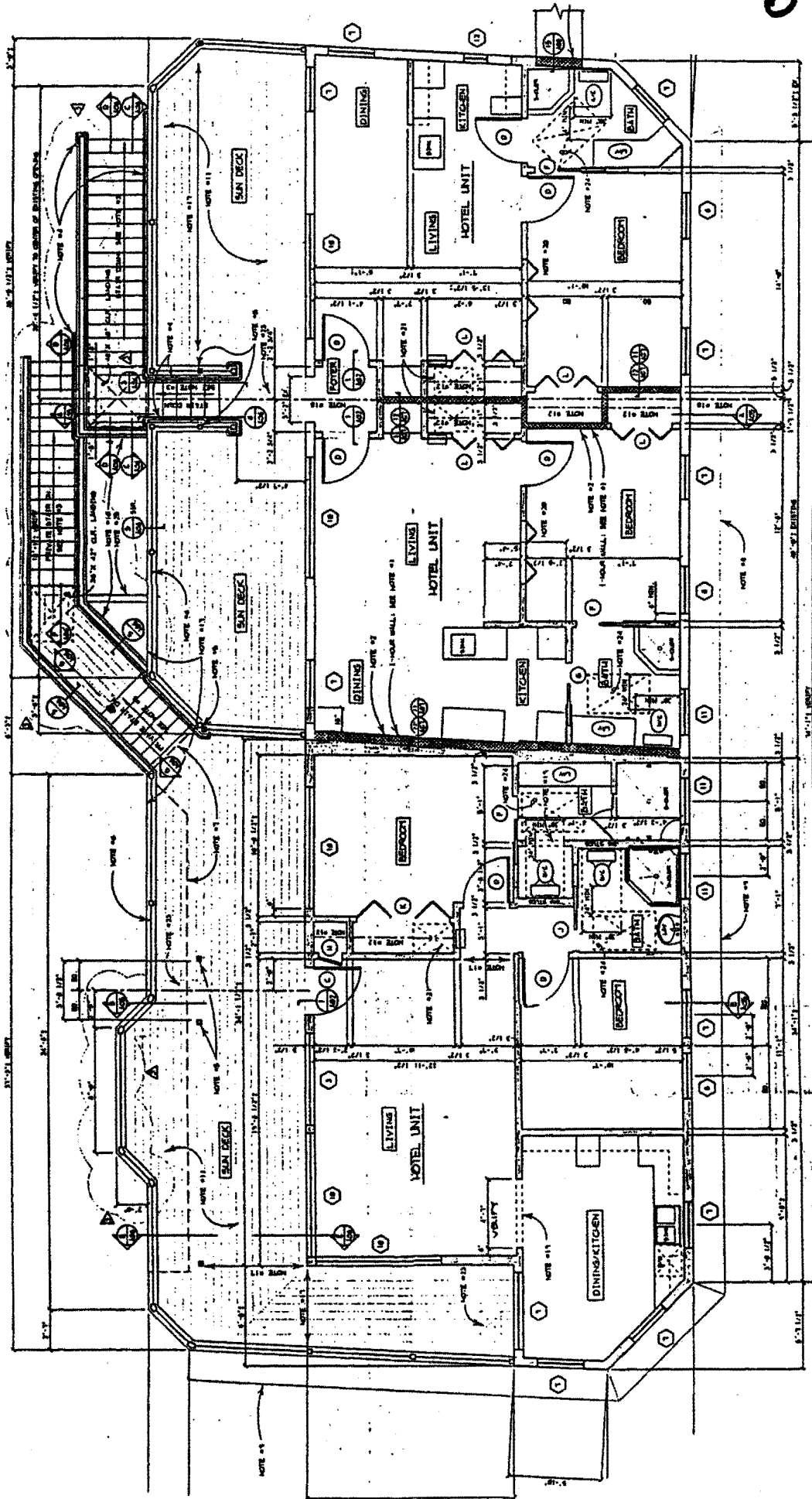
EXHIBIT NO. 2

APPLICATION NO.
6-94-142-A

General Site
Plan

California Coastal Commission

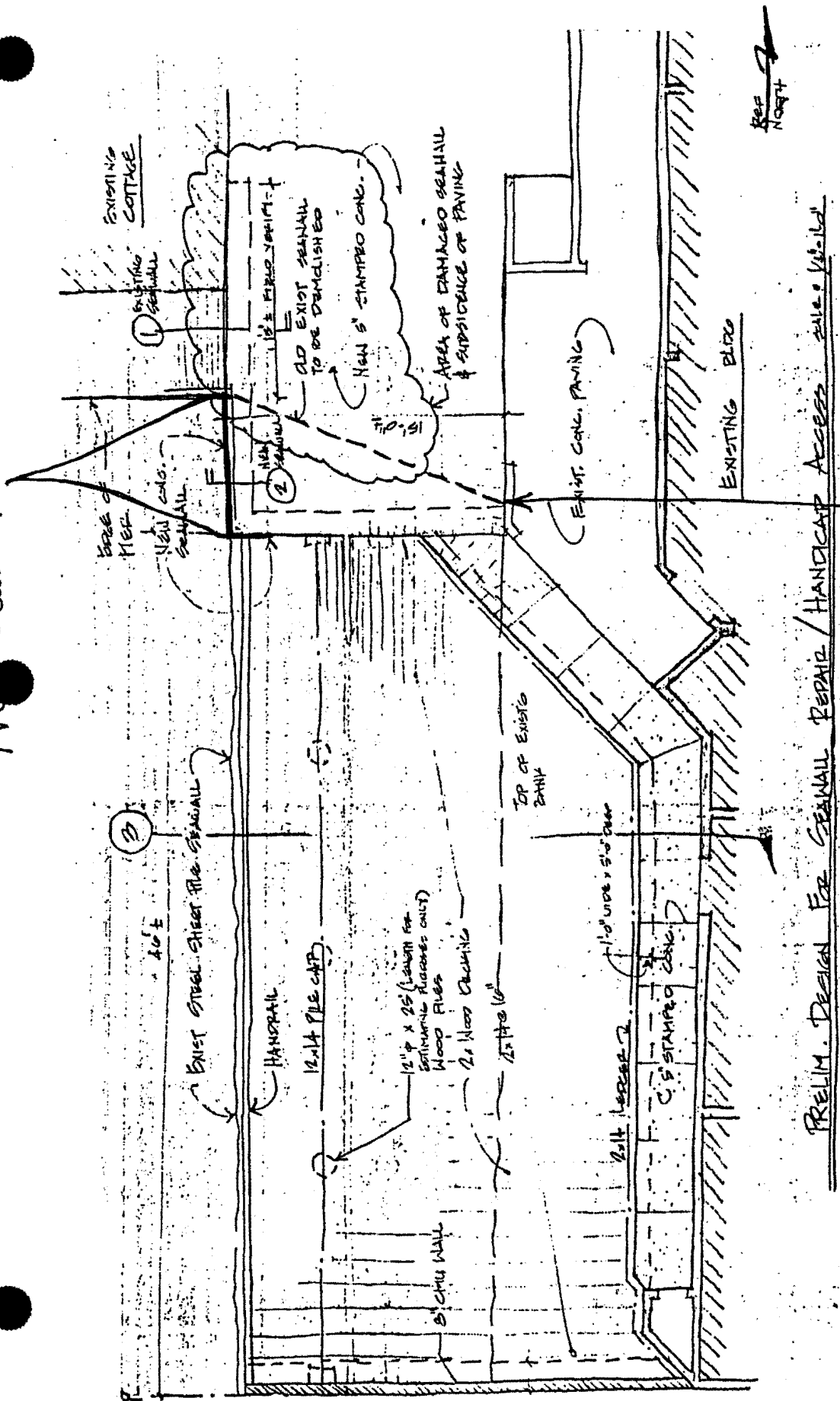
6-94-142-A



UPPER FLOOR PLAN

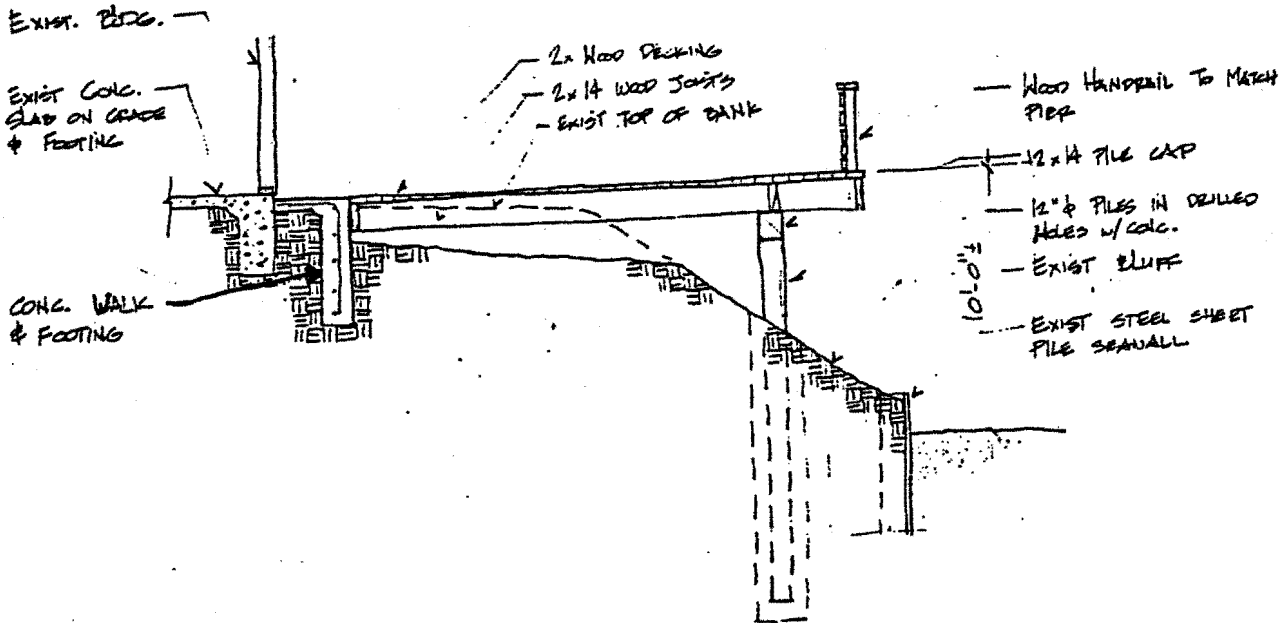
EXHIBIT NO. 3
 APPLICATION NO.
 6-94-142-A
 Plan Showing 2nd
 Stairway
 California Coastal Commission

New Seawall Section

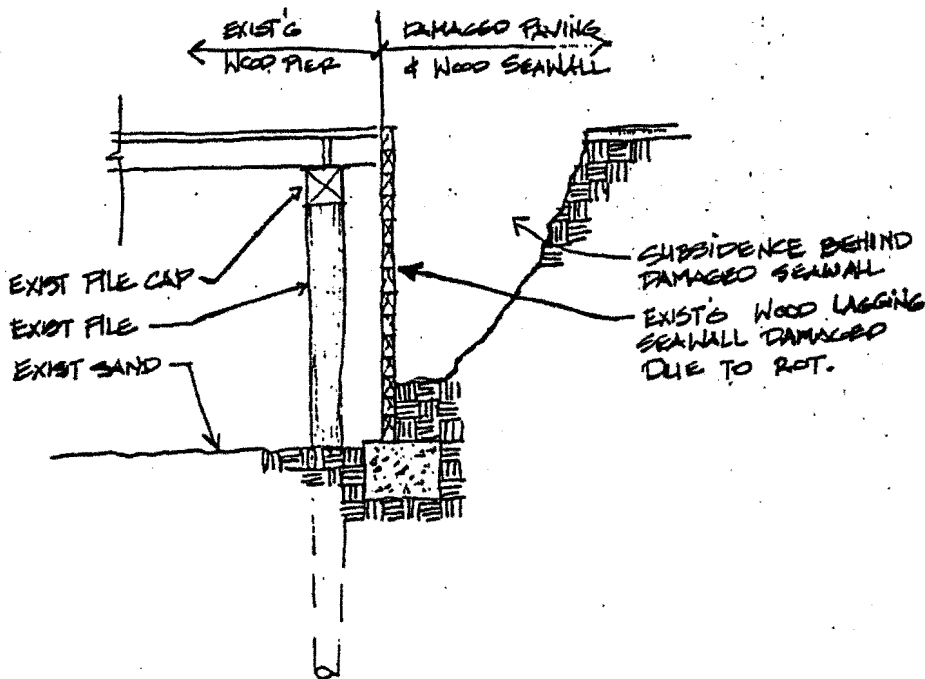


Timber Seawall to be Removed

EXHIBIT NO. 4
APPLICATION NO. 6-94-142-A
Plan Showing New Deck & Bluff Failure & Old & New Seawalls
California Coastal Commission



Cantilevered Deck Section - looking south



Bluff & Seawall Damage - looking north

EXHIBIT NO. 5
APPLICATION NO. 6-94-142-A
Two Sections
California Coastal Commission