

CALIFORNIA COASTAL COMMISSION
 NORTH COAST AREA
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Staff: Robert Merrill
 Staff Report: June 21, 1996
 Hearing Date: July 10, 1996
 Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 1-95-62

APPLICANTS: THE OLYMPIC CLUB

AGENTS: Zane Gresham and Ray Larroca, Morrison & Foerster LLP

PROJECT LOCATION: West of Skyline Blvd., south of Fort Funston, in the City and County of San Francisco, APN 7284-7.

PROJECT DESCRIPTION: Develop portions of two holes of a golf course by:
 (1) clearing and grubbing vegetation from an approximately 4.1-acre area; (2) grading a total of approximately 1,750 cubic yards of material, including 875 cubic yards of cut and 875 cubic yards of fill; (3) installing irrigation and erosion control improvements; (4) landscaping the tees and greens with turf and the fairways with native vegetation; (5) granting to the National Park Service a permanent 31-acre public access easement for the benefit of the general public connecting Thornton State Beach with the Fort Funston area of the Golden Gate National Recreation area; and (6) installing a landscaped buffer between the golf holes and the public access easement area. The development is part of a larger project that extends into San Mateo County outside of the Commission's retained jurisdiction involving the development of a total of six golf holes between Thornton State Beach and Fort Funston.

DATE OF COMMISSION ACTION: April 10, 1996

COMMISSION ACTION: Approval with Conditions

COMMISSIONERS ON THE PREVAILING SIDE: Chairman Williams and Commissioners Aerias, Calcagno, Doo, Flemming, Giacomini, Karas, Rick, Rynerson, Staffel, and Wan.

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LOCAL APPROVALS RECEIVED: San Francisco Grading Permit No. 774958, issued August 15, 1995.

(The portion of the larger project outside of the Commission's retained jurisdiction was granted the following approvals by San Mateo County in May of 1994: (1) Coastal Development Permit No. 93-0009; (2) Use Permit No. 93-0009; and Grading Permit No. 93-0043.

OTHER APPROVALS REQUIRED: None.

SUBSTANTIVE FILE DOCUMENTS: (1) Coastal Development Permit No. 1-93-37; (2) Lake Merced Water Resources Planning Study, SF Water Dept., dated May, 1993; and (3) the following aerial photographs: (a) CA Dept. of Navigation & Ocean Development vertical aerial photograph, Frame 211, dated May 21, 1970, (b) CA Dept. of Navigation & Ocean Development vertical aerial photograph, Frame 254, dated March 13, 1978, (c) CA Dept. of Boating and Waterways vertical aerial photograph, Frame 346, dated March 17, 1986, (d) CA Dept. of Boating and Waterways vertical aerial photograph, Frame 14, dated June 9, 1993.

STAFF NOTES

1. Procedure REVISE ALL THIS SECTION ACCORDING TO OLYMPIC CLUB

The Commission held a public hearing and acted on this project at the meeting of April 10, 1996 in Carmel. The day before the meeting, the applicant amended its application to include a mitigation proposal to address the impacts of the project on the local aquifer and water levels at nearby Lake Merced. The proposal provides for conversion from the use of groundwater for irrigating all of its golf course lands in the area to the use of reclaimed wastewater. The wastewater would be provided by the City of Daly City at such time as Daly City upgrades its sewage treatment facilities to provide tertiary treated wastewater. The proposal also provides for the applicant to pay the San Francisco Water Department to partially recharge Lake Merced with fresh water obtained from municipal surface water supplies during the interim period before tertiary treated wastewater is available from Daly City. At the hearing, staff recommended that the Commission change the terms of proposed Special Condition No. 4, which previously would have banned the use of groundwater for irrigating the two proposed golf holes within the Commission's jurisdiction, to require implementation of the applicant's proposal. The Commission approved this change to the recommendation. As the applicant amended the project description after mailing of the written

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recommendation and as the Commission's action on the application differed from the written staff recommendation prepared prior to the hearing, the following revised findings have been prepared for the Commission's consideration as the needed findings to support its action.

The Commission will hold a public hearing and vote on the revised findings at its July 10, 1996 meeting. The purpose of the hearing is to consider the adequacy of the revised findings in supporting the Commission's previous action rather than to reconsider the merits of the project or the appropriateness of the adopted conditions. Public testimony will be limited accordingly.

2. Standard of Review

The proposed project is located within the City and County of San Francisco. The San Francisco Local Coastal Program (LCP) was submitted to the Commission for certification in 1981. The Commission eventually certified the LCP, but because an issue over whether the Olympic Club property should be zoned for future use as either residential or open space use in the event the Club ever ceases operations was not resolved, the segment of the LCP covering the Olympic Club property within San Francisco was not certified. Therefore, the project site is within an area of deferred certification and the standard of review that the Commission applied to the project was the Coastal Act.

3. Supplemental Exhibit Packets Available Upon Request

In addition to the exhibits attached to this staff report as Exhibits 1 through 13, the report includes two separate supplemental exhibits packets containing a total of approximately 150 pages of exhibits. Supplemental Exhibits Packet No. 1, "Public Access Information," contains information provided by the Olympic Club relative to public access use of the project site (Exhibit A) as well as letters sent to the Commission by members of the public concerning public access use of the site (Exhibit B). Supplemental Exhibits Packet No. 2, "Water Use Information and Other Correspondence," contains information and letters provided by the Olympic Club, the San Francisco Public Utilities Commission, and the Committee to Save Lake Merced concerning the use of pumped ground water to irrigate the proposed golf holes (Exhibits C-E). Packet No. 2 also includes other correspondence received from the public that does not specifically address public access use of the project site (Exhibit F). All Commissioners and Alternates and certain individuals were mailed copies of both packets prior to the April 10, 1996 hearing. To save paper and mailing costs, copies of the packets have not been mailed again with this recommendation on revised findings. Anyone wishing to receive copies of one or both of the packets may request them by calling the clerical staff of the North Coast Area office of the Coastal Commission at (415)904-5260.

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STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the revised findings in Section IV below in support of the Commission's action on April 10, 1996, approving the project with conditions. For reference, the adopted resolution of approval and special conditions precede the proposed revised findings.

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the City and County of San Francisco to prepare and implement a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and the 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. See attached.

III. Special Conditions

1. Grant of Lateral Public Access Easement.

PRIOR TO ISSUANCE of the coastal development permit, the applicant shall submit to the Executive Director for review and approval evidence that the proposed 31-acre Grant to the National Park Service of a permanent public access easement connecting Thornton State Beach with the Fort Funston area of the Golden Gate National Recreation Area has been executed and recorded in accordance with the terms of the project description as proposed by the applicant. The easement area consists of the portions of San Francisco APN 7284-7 and San Mateo County APNs 002-011-020, 030, 090, and 100 that extend west from the proposed golf holes to the ocean and which is described specifically in the legal description on file at the Commission's office and shown in Exhibit A (pages 17-19), of the Commission staff report prepared for Permit Application No. 1-95-62.

2. Recordation of Future Development Deed Restriction

PRIOR TO ISSUANCE of the coastal development permit, the applicant shall record a deed restriction, in a form and content approved by the Executive Director of the Commission, providing that no development, as defined in section 30106 of the Coastal Act, shall occur in the project area, except as authorized by a future coastal development permit and as otherwise authorized by law. No coastal development permit exemptions as defined in section 30610 of the Coastal Act shall apply to the area described above. This deed restriction shall run with the land in favor of the people of the State of California, binding successors and assigns of the applicant or landowner.

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3. Golf Course Buffer Plan

PRIOR TO ISSUANCE OF THE PERMIT, the applicant shall submit for the review and approval of the Executive Director a detailed plan for the creation of a landscaped buffer screen between Hole 15 of the proposed golf course and the lateral public access easement area. The plan shall provide for the installation of a buffer composed of a combination of berming and vegetation that (a) provides for a combined height of the screen of 20 feet above the golf hole playing surface elevation or such other lower height as may be determined by the Executive Director, (b) provides for planting of trees along the screen at a density of at least 15-foot centers, and (c) utilizes native or non-native plant species commonly found in the area. The submitted plans shall include a grading plan showing the location and extent of all berming, a planting plan diagram, typical cross sections of the buffer screen, a plant list, and a narrative description of the planting and maintenance techniques to be followed (e.g., size and depth of holes to be dug, soil amendments to be added, planting schedule, fertilizing schedule, irrigation method and schedule, etc.).

The planting and maintenance program shall be designed to maximize the chances of survival of the vegetation to be planted. The trees to be planted shall be planted within three months of approval of the planting plan. Planting of vegetation shall occur during the first rainy season following the resumption of construction after issuance of the permit to provide a greater likelihood of survival. Any planted vegetation that dies shall be replaced at a one-to-one or greater ratio for the life of the project.

All development shall occur consistent with the final plans approved by the Executive Director.

4. Irrigation Water.

- a) To address concerns raised regarding the possibility of an effect on groundwater or Lake Merced water levels, prior to issuance of the permit, the applicant shall submit it to the Executive Director evidence of an executed agreement between applicant and Daly City regarding the purchase of tertiary-treated water by the applicant from Daly City for the applicant's irrigation water demand as outlined in the MOU between the applicant and approved by the San Francisco Public Utilities Commission (SFPUC) on April 9, 1996, when such water becomes available from Daly City. Any subsequent amendment to the above referenced agreement between the applicant and Daly City calling for a significant decrease in the use of tertiary-treated water shall be subject to the review and approval of the Executive Director.
- b) To address concerns raised regarding the possibility of an effect on groundwater on Lake Merced water levels caused by applicant's increased groundwater pumping to irrigate six new holes west of Skyline Boulevard, applicant agrees to purchase an equivalent amount of imported surface

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water (plus evaporative losses) from the San Francisco Water Department (SFWD) to be added by the SFWD to Lake Merced in order to recharge the Westside Basin. Applicant shall pay for the recharge water, consistent with the foregoing condition, until tertiary water is available for applicant's irrigation water demand. Prior to issuance of the permit, the applicant shall submit to the Executive Director a copy of the agreement with the SFWD relating to the purchase of recharge water as outlined above.

5. Statement of Non-Discrimination

Within six months of Commission approval of the Coastal Development Permit, the applicant shall submit evidence, for the review and approval of the Executive Director, that the bylaws of the Olympic Club contain a membership policy which states that the Club will not discriminate on the basis of race, sex, national origin, religion, disability, or sexual orientation. This provision shall remain in effect for the life of the project.

6. Public Rights.

By acceptance of this permit, the applicant acknowledges, on behalf of The Olympic Club and its successors in interest, that issuance of the permit shall not constitute a waiver of any public rights which may exist on the property. The applicant shall also acknowledge that issuance of the permit and construction of the permitted development shall not be used or construed to interfere with any public prescriptive or public trust rights that may exist on the property.

7. Condition Compliance.

All requirements specified in the foregoing conditions that the applicant is required to satisfy as prerequisites to the issuance of this permit must be met within one year of Commission action on this permit application. Failure to comply with this requirement within the time period specified, or within such additional time as may be granted by the Executive Director for good cause, will result in the nullification of this permit approval.

IV. Findings and Declarations

The Commission hereby finds and declares as follows:

A. Site Description.

The project site is located in the southwest corner of the City and County of San Francisco, off of Skyline Boulevard just south of Fort Funston (see Exhibits 1-2). A 4.1-acre portion of the site is proposed to be developed with the two golf holes (see Exhibit 2). This site is part of a larger approximately 100-acre ocean-front property that extends across the county line into San Mateo County to the Palo Mar Stables and the northern boundary

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of Thornton State Beach, west of the intersection of Skyline Boulevard and John Daly Boulevard. Approximately 45 acres of the property lies within the Commission's jurisdiction in San Francisco and 55 acres of the property lies within the coastal permit jurisdiction of San Mateo County. The ocean-front property is one of a number of contiguous parcels under the ownership of the Olympic Club extending between the ocean and Lake Merced (east of Skyline) where the Club maintains several golf courses and a clubhouse facility.

The ocean-front property varies in elevation from about 250 feet at a point near Skyline Boulevard to sea level. The terrain descends from the blufftop near Skyline Boulevard to the ocean in a series of cascading bluffs or terraces. The proposed golf holes are being developed on one terrace that descends gently in a northerly direction from the stables at an elevation of about 220 feet to a point just south of the Fort Funston boundary at an elevation of about 70 feet. A 31-acre portion of the ocean-front property is proposed to be granted to the National Park Service as a public access easement. The proposed 31-acre public access grant occupies most of an undulating lower terrace that parallels the upper terrace upon which the golf holes are being developed. The grant area also includes the bluff face of the lower terrace and the portion of the property that extends into the ocean.

The soft sandstone bluffs have been steadily eroding at a relatively rapid rate. The erosion has been so great that most of the original "Pacific Links" or "Cliffs Course" that the Olympic Club built on the parcel in the 1920s had to be abandoned over the years (See Exhibit A, pages 36-43 for photos and other exhibits of the original golf course). The portion of the original course that was located where the two holes to be constructed pursuant to the current permit application are located was abandoned in the late 1920s.

Development has commenced without benefit of a coastal development permit on the clearing and grubbing and grading for the project. Apart from the development that has occurred to date for the current project, the only apparent development of any significant size currently existing on the ocean-front property is an approximately 6.6-acre golfing area containing eight holes located on the blufftop adjacent to Skyline Boulevard in the northeast corner of the property (see Exhibits 2 and 3). This golfing area is a remnant of the original Pacific Links or Cliffs Course that remained in use until the early 1980s. In September of 1993, the Executive Director granted Administrative Permit No. 1-93-37 to the Olympic Club for renovation without expansion of this remnant of the original course into a 9-hole par 3 course. The 9th hole is located on a separate parcel on the east side of Skyline Boulevard. The project has been completed and the renovated 9-hole course is currently in use. The only other development existing on the ocean-front property are (a) wire fences that line Skyline Boulevard and extend down from the blufftop along the north and south property lines to points just east of the proposed grant area, and (b) a lateral public access trail constructed within the grant area in 1993 by the National Park Service in cooperation with the Olympic Club.

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Apart from the turf for the golfing area currently in use in the northeast corner of the parcel, the ocean-front parcel is vegetated almost entirely with iceplant and other non-native plant species. Very little native vegetation remains. Relatively few trees and only scattered pockets of shrubbery are found on the portions of the parcel below the blufftop. As discussed in the environmentally sensitive habitat finding, a prominent drainage located immediately north of proposed hole 15 contains a concentration of shrubby vegetation composed entirely of non-native ornamental species such as acacia, eucalyptus, and myoperum. A biologist has determined that the site is not a wetland or riparian area. No rare and endangered species are known to exist anywhere on the parcel, and the parcel contains no environmentally sensitive habitat.

The ocean-front property is uniquely located with respect to public recreational lands. It lies above and adjacent to a sandy beach area and the Pacific Ocean to the west, is bounded by the Fort Funston portion of the Golden Gate National Recreation Area to the North, and is bounded by Thornton State Beach to the south. As such, the Olympic Club's ocean-front property is surrounded by public recreational areas on 3 of its 4 sides.

A series of aerial photographs of the project site dating from 1970 to 1993 are shown in Exhibits 6-9. Some of the photographs show the entire Olympic Club parcel west of Skyline Boulevard (Exhibits 6A, 7A, 8A, and 9A). Others focus on the portion of the parcel within the Commission's jurisdiction in the City and County of San Francisco (Exhibits 6B, 7B, 8B, and 9B). Among other things, each aerial photograph shows an extensive network of trails between areas of vegetation both within the San Francisco portion of the site and the San Mateo County portion of the site. These photos, illustrating any change in the development pattern in the area, evidence that certain paths have remained a constant over 23 years and have been well-worn enough to be visible from an airplane.

Any day of the week, and particularly on weekends, many people can be observed using the ocean-front parcel for walking, jogging, horseback riding, picnicking, nature study, paragliding, beach combing, and other public access uses. Hang gliders soar overhead as they fly up and down this section of the coast from their takeoff point at Fort Funston. Visitors access the area from the beach north and south of the parcel and from vertical trails that descend the bluffs from the main parking lot at Fort Funston and from the end of Olympic Way at the former entrance to Thornton State Beach.

B. Project Description.

The Olympic Club proposes to rehabilitate the old Pacific Links or Cliff's Course golf course by utilizing portions of the applicant's ocean-front parcel to develop six (6) golf holes, two of which will be located within a 4.1-acre area mostly within the City and County of San Francisco, within the Commission's jurisdiction (see Exhibit 3). The rest of the course will be located within San Mateo County. As described in the previous finding, the

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proposed golf holes are being developed on the terrace that descends gently in a northerly direction from the stables to a point just south of the Fort Funston boundary.

To prepare the site for the golf holes, the project involves clearing and grubbing vegetation, grading to make minor alterations in the landform, and installing erosion control devices. The 4.1-acre area to be cleared and grubbed is shown in the upper portion of Exhibit 4. In addition to the clearing and grubbing, some minor landform alteration involving the grading of a total of approximately 1,750 cubic yards of material is required. The grading includes 875 cubic yards of cut and 875 cubic yards of fill. The maximum cut is approximately nine feet deep, and the maximum fill is to a depth of approximately five feet. The areas where grading for landform alteration is required is shown in Exhibit 5. The erosion control measures include, (a) the installation of approximately 18-inch high temporary drainage diversion dikes around the uphill side of the tee and green areas, (b) installing three-foot-high silt fences composed of "silt-lok" fabric and hardwood stakes around the downhill side of the tees and greens, and (c) hydroseeding all disturbed areas with fescue binder and fertilizer.

As described in the application (see submittal of 2/16/96), the design of the golf holes recaptures the "links" design theme of the Olympic Club's "Pacific Links" course that occupied the area in the 1920's. In keeping with the "links" design style, the design plan has incorporated the natural terrain, elevations, and vegetative features of the site to a high degree. Each hole has four (4) sets of teeing areas requiring golf shots of varying degree of difficulty over areas to be replanted with native vegetation. As a result, the need for formal turf areas has been kept to a minimum.

The two (2) holes in San Francisco are parallel par 4's. The most seaward hole, Hole 15, plays north. The adjacent hole to the east plays south. Both holes have been designed to accommodate the errant shot with emphasis on the slice shot to the interior of the two (2) holes.

Proposed Irrigation

The project also includes the installation of an irrigation system. As proposed, the irrigation system would be connected to the Olympic Club's existing ground water wells adjacent to Lake Merced, approximately one-half mile east of the site (see Exhibit D, page 8). The system would also be designed to accept treated wastewater.

On April 9, 1996, the applicant amended its application to include a mitigation proposal to address the impacts of the project on the local aquifer and water levels at nearby Lake Merced. The proposal provides for conversion from the use of groundwater for irrigating all of its golf course lands in the area to the use of reclaimed wastewater. The wastewater would be provided by the City of Daly City at such time as Daly City upgrades its sewage treatment facilities to provide tertiary treated wastewater for this purpose. The

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proposal also provides for the applicant to pay the San Francisco Water Department to partially recharge Lake Merced with fresh water obtained from municipal surface water supplies during the interim period before tertiary treated wastewater is available from Daly City. Details of the groundwater usage mitigation proposal are described in Finding E of this report, entitled, "Water Resources Availability and Impacts on Lake Merced," under Section d., "Irrigation Proposal."

Proposed Public Access

As part of the project, the applicant proposes to grant to the National Park Service a permanent public access easement over a 31-acre area, extending along the entire length of the ocean-front land owned by the Olympic Club between Fort Funston and Thornton State Beach (See Exhibits 3 and Exhibit A, pages 4-6, 11-19). Approximately one quarter of the easement area is within the portion of the project site within the Commission's jurisdiction (i.e. the portions of the two holes to be built within San Francisco), while the remaining three quarters of the easement area is within the portion of the project site within San Mateo County.

The public access easement area to be granted in perpetuity contains an existing trail that the Park Service and the Olympic Club previously cooperated to build between 1992-1994, during a period when the Olympic Club had previously provided the Park Service with a short term 2 year easement. The easement rights temporarily granted to the Park Service have expired. The lateral trail extends along the lowest terrace formation above the beach at elevations of about ranging between approximately 60 and 100 feet above sea level. The lateral trail connects at the north end with an existing vertical public access trail that descends from the bluff top at Fort Funston (see Exhibit 3). The lateral connects at the south end with a vertical public access trail at Thornton State Beach that descends from the bluff top at the end of Olympic Way, a frontage road paralleling Highway 35 (Skyline Boulevard). This vertical trail at Thornton Beach was built by the Olympic Club pursuant to a special condition of permits granted by San Mateo County to the Club for creation of the portion of the golf course being constructed within San Mateo County. The lateral trail through the Olympic Club property and the two verticals comprised were built to establish a segment of the Bay Area Ridge Trail through the area.

As proposed by the applicant, the public access easement to be granted to the National Park Service in perpetuity will provide the Park Service the right to establish trails over the easement area for public pedestrian and equestrian use and the responsibility to maintain, monitor, and patrol the easement area (see Exhibit A, pages 4-6). The application states:

"The public access easement will be in a form acceptable to the Executive Director of the California Coastal Commission, will include a legal description of the entire property and the easement area, shall run with the land, and shall be recorded free of prior liens which may

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affect the interest being conveyed. A signed and recorded copy of the deed of easement will be provided to the Executive Director prior to the issuance of the permit."

A draft of the proposed deed of easement document is attached as Exhibit A, pages 12-19.

The General Superintendent of the Golden Gate National Recreation Area has indicated in a letter to the agents for the Olympic Club that the National Park Service wishes to obtain the permanent public access easement, and will undertake the responsibilities associated with the new easement on behalf of the public (See Exhibit A, pages 20 and 21).

In a letter to Commission staff dated March 13, 1996 (Exhibit A, pages 1-7), the agent for the Olympic Club states:

The Olympic Club has made this grant of a substantial permanent public access easement a part of this project as a matter of consistency with its policy of cooperating with adjacent property owners, and to resolve any concerns which may exist regarding public access along the magnificent California coast."

Proposed Golf Course/Public Access Buffer

To minimize conflicts between the pedestrian and equestrian uses within the proposed public access easement area and the proposed adjacent golf course hole to be constructed (Hole 15), the applicant proposes to landscape the border of the two areas with appropriate trees and shrubbery and berms. These measures are reflected in the schematic diagram attached as Exhibit A, page 23. As described in the application:

"The combination of low bushes and trees, and the natural grade separation between the easement area and the golf hole (augmented, as necessary by berms) would avoid conflicts in uses between golfers and pedestrians and equestrians.

Within thirty (30) days after issuance of the permit, the Olympic Club would submit a detailed plan indicating the precise location and species of such plantings, and any berms which may be necessary. The Plan would be reviewed by, and subject to the approval of the Executive Director. Installation of such plantings would commence within six (6) months after the issuance of the permit, and completed within nine (9) months after the issuance of the permit. This would allow the plantings to be made in the fall of 1996, so that the plants could become established during the winter rainy season."

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C. Consistency of Proposed Project With Public Access Policies of the Coastal Act

Coastal Act Sections 30210, 30211, 30212 and 30214 require the provision of maximum public access opportunities, with limited exceptions.

Section 30210 states:

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

Section 30211 states:

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.

Section 30212 states:

(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,

(2) adequate access exists nearby, or,

(3) agriculture would be adversely affected. Dedicated access way 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 access way.

Section 30214 states:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

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- (1) Topographic and geologic site characteristics.
- (2) The capacity of the site to sustain use and at what level of intensity.
- (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.
- (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

To approve the proposed project, the Commission must find the project to be consistent with the policies of Chapter 3 of the Coastal Act, including the public access policies outlined in Sections 30211, 30210, 30212 and 30214 of the Act listed above. The project's consistency with each of these policies is described below.

1. Consistency With Section 30211.

Section 30211 states, in part, that "Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization." Applicants for coastal development permits must demonstrate that their proposed developments are consistent with the Coastal Act, including the requirements of Section 30211. In implementing this section of the Act the permitting agency, either the Commission or the local government where there is a certified LCP, must consider whether a proposed development will interfere with or adversely affect an area over which the public has

obtained rights of access to the sea. If the agency finds that there may be such an interference or effect, then it also must determine whether there is substantial evidence to support the conclusion that the area has been impliedly dedicated to public use. Because the authority to make a final determination on whether such a dedication has taken place resides with the courts, both the Commission's Legal Division and the Attorney General's Office have recommended that agencies dealing with implied dedication issues should use the same analysis as the courts. Essentially, this requires the agencies to consider whether there is substantial evidence indicating that the basic elements of an implied dedication are present. The agencies also must consider whether the applicant has demonstrated that the law prevents the area from being impliedly dedicated, even if the basic elements of implied dedication have been met.

A right of access through use is, essentially, an easement over real property which comes into being without the explicit consent of the owner. The acquisition of such an easement by the public is referred to as an "implied dedication." The doctrine of implied dedication was confirmed and explained by the California Supreme Court in Gion v. City of Santa Cruz (1970) 2 Cal.3d 29. The right acquired is also referred to as a public prescriptive easement, or easement by prescription. This term recognizes the fact that the use must continue for the length of the "prescriptive period," before an easement comes into being.

The rule that an owner may lose rights in real property if it is used without consent for the prescriptive period derives from common law. It discourages "absentee landlords" and prevents a landowner from a long-delayed assertion of rights. The rule establishes a statute of limitation, after which the owner cannot assert normal full ownership rights to terminate an adverse use. In California, the prescriptive period is five years.

For the public to obtain an easement by way of implied dedication, it must be shown that:

- a. The public has used the land for a period of five years or more as if it were public land;
- b. Without asking for or receiving permission from the owner;
- c. With the actual or presumed knowledge of the owner;
- d. Without significant objection or bona fide attempts by the owner to prevent or halt the use, and
- e. The use has been substantial, rather than minimal.

In general, when evaluating the conformance of a project with 30211, the Commission cannot determine whether public prescriptive rights actually do exist; rather, that determination can only be made by a court of law. However, the Commission is required under Section 30211 to prevent development from interfering with the public's right of access to the sea where acquired through use or legislative authorization. As a result, where there is substantial evidence that such rights may exist, the Commission must ensure that proposed development would not interfere with any such rights.

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In the present case, the applicant has proposed public access as part of the project. As specified in the easement deed, the applicant elected to grant such access to ensure that proposed development would not interfere with any public access rights which may exist. Consequently the Commission must evaluate any evidence of implied dedication to determine the extent to which the proposed public access is equivalent in time, place, and manner to any public use that has been made of the site in the past. To the extent any proposed dedication of access is equivalent, proposed development will not interfere with any existing public access rights. Therefore, if the Commission determines that the proposed access is in fact, equivalent in time, place, and manner to the access use made of the site in the past, the Commission need not do an exhaustive evaluation to determine if substantial evidence of an implied dedication exists because regardless of the outcome of the investigation, the Commission could find the project consistent with Section 30211.

a. Potential for Development to Interfere with Public's Right of Access to Sea.

The portions of the two golf holes under construction within the Commission's jurisdiction are located in areas where trails have existed for many years. Exhibits 6A through 9B show a series of aerial photographs of the golf course project area taken in the years 1970, 1978, 1986, and 1993. The aerial photographs are part of a collection of aerial photographs of the coastal zone maintained by the Commission at its San Francisco office. The 1970 photos are from the oldest set of coastal zone aerials that the Commission has in its possession. Exhibits 6A, 7A, 8A and 9A show the entire golf course area bordered by Fort Funston to the north and Thornton State Beach to the south. Exhibits 6B, 7B, 8B and 9B are blowups focusing on the project area within the Commission's jurisdiction.

In each photograph, a web of trails appearing as white lines stand out against the darker background of vegetation. On the photos of the larger project area, a prominent north-south trending trail extending from the northwest corner of the stable area to the southwest corner of the Fort Funston parking lot and viewing platform is clearly visible. Other trails run parallel to and branch off of this prominent north-south trail. The north-south trail and other trails are also clearly visible in each blowup of the project area depicted in Exhibits 6B, 7B, 8B and 9B. The portions of the trails within the areas identified in the photos as the project area have been obliterated by grading and clearing and grubbing activities that have taken place to date. The applicant indicates that the specific portion of the property where the golf holes will be constructed will not be made available for public access use. Therefore, to the extent that public access use has been made of this area in the past, such access would be eliminated by the proposed development.

However, the applicant proposes as part of its application to grant a permanent public access easement to the National Park Service over a 31-acre area that will not be affected by project construction. As described

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previously in the project description finding, the proposed access easement would extend the entire length of the Olympic Club property and cover the area between the proposed golf holes and the sea. This area consists mostly of land atop the first terrace or bluff above the beach, ensuring continuous public access along the shoreline even at high tides when the beach itself is completely covered by sea water. Much of the 31-acres lies south of the Commission's retained jurisdiction within the coastal development permit jurisdiction of San Mateo County.

As proposed by the applicant, the grant of easement would be for the benefit of the public in perpetuity. The National Park Service has indicated its intention to accept the easement, and the applicant proposes that the easement will be signed and recorded prior to issuance of the coastal development permit. Therefore, the proposed project will also provide extensive permanent public access to and along the shoreline throughout the project area.

b. Nature of Any Implied Dedication of Access.

Although in this case no formal investigation of historic use has been undertaken by Commission staff, a significant amount of information has been submitted that indicates that portions of the Olympic Club's property, including the proposed project site, have been used to provide public access to the sea. The Commission has before it a variety of information regarding the presence of an implied dedication over the subject Olympic Club property. The information that suggests that an implied dedication may have taken place includes (1) the previously described aerial photographs shown in Exhibits 6A through 9B, and (2) a total of 25 unsolicited letters from the public and (3) a videotape submitted by a member of the public showing hang gliding activity in the project area.

Aerial photographs taken in 1970, 1978, 1986, and 1993 show well defined trails over the entire area which were not overgrown with vegetation over the intervening 23 year period. The aerial photographs demonstrate that trails existed on both the limited project area that is the subject of Application No. 1-95-62 as well as the larger golf course area that extends south into San Mateo County dating back to at least 1970. Photos from before 1970 are not available. However, in light of the fact that it appears the trails were well established by 1970, it is likely the trails were started and well used before this date.

The presence of trails does not necessarily indicate that the general public has been using the site as if it were public. The information submitted by the applicant suggests that at least some of the use of the trails has been by permission. The Club has granted various licenses to the stables to the south of the project site to allow equestrians on to the Olympic Club property. However, it is clear from the letters submitted by members of the public that many other people not associated with the stables have been using the area also. Some of the letters submitted indicate that the writers had used the trails on the subject property over the years for walking, jogging, viewing

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the ocean, picnicking, and similar purposes. Other letters state that portions of the subject property have been used for launching and landing hang gliders.

Based on these unsolicited letters and other information the Commission has received since the Olympic Club submitted its application, it appears that many people have also been using the subject property for public access purposes without the express permission of the Olympic Club. The letters that have been received by the Commission that describe use of the site for access purposes in a manner that might give rise to public access are included in Exhibit B of the staff report. Each of the 25 letters received describes how the author of the letter and in some cases his or her friends or acquaintances have used the area between Fort Funston and Thornton State Beach for public access purposes.

Many people who used the area apparently thought that the property was public land given that (a) the property lies between two public parks, Fort Funston and Thornton State Beach whose boundaries are largely undistinguishable, and (b) the property was essentially undeveloped before the current grading began with the site so overgrown with vegetation that no recognizable portion of the former golf course that existed on the site in the 1920's remains.

Some of the letters do not distinguish between use of the area within San Francisco County which is the subject of Permit Application No. 1-95-62, versus use of the area within San Mateo County, which is outside of the Commission's retained jurisdiction. The Commission also notes that it has received other letters included in Exhibit B which describe how the writer of the letter used the Fort Funston area for public access use but which do not clearly indicate that the writer used any of the Olympic Club lands. Although some of these correspondents may not have used the Olympic Club property, some may have used the simpler generic term "Fort Funston" to apply to all the lands in the vicinity. If the Commission were to conduct a thorough investigation of implied dedication, the correspondents would be sent a questionnaire with a map of the project site and asked to mark the specific areas they used for public access purposes in the past. However, given that many of letters specifically discuss use of the area that was bulldozed, it appears likely that a large percentage of the correspondents used San Francisco areas of the site now before the Commission.

Moreover, the 4.1 acre portion of the site which is proposed to be developed with the two golf holes is part of the larger Olympic Club property which itself is uniquely located. The Olympic Club's property lies above and adjacent to a sandy beach area and the Pacific Ocean to the west, is bounded by the Fort Funston portion of the Golden Gate National Recreation Area to the North, and is bounded by Thornton State Beach to the south. As such, the Olympic Club's ocean-front property is surrounded by public recreational areas on 3 of its 4 sides.

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This location between two public parks increases the likelihood that members of the public travel laterally between the two public parks and along the beach. That both the state and federal public parks provide public vehicular parking and vertical access trails from such parking also increases the likelihood that visitors walking laterally along the beach include members of the general public who have traveled from various destinations and are not limited to neighbors who live nearby.

The letters describe how the authors of the letters have used the site for a variety of public access uses including walking, hiking, equestrian use, kite flying, ocean viewing, jogging, bird watching, fishing, picnicking, walking dogs, hang gliding, paragliding and nature study. Most of the letters indicate that the author has used the site for many years, and that his or her right to use the site was never challenged by the property owner or anyone else during his or her visit. The time periods specified in the letters range from 1970 to the present.

No trespassing signs are posted along all three fence lines along the North, East and Southern borders of the Club's property. Consequently, visitors accessing the site immediately from the road to the east would have seen these signs. However, these fences and signs are above the project site on higher terraces of the coastal bluff. No signs or fences line the immediate area of the subject site below these higher terraces. Consequently, visitors traveling laterally between Fort Funston and Thornton Beach below the higher terraces and within the subject site are not obstructed by fencing or faced with no trespassing signs. Instead, the lack of fencing and signs surrounding the subject site gives the impression that, unlike the coastal bluff property above, the unfenced subject site is for the public to enjoy.

Finally, the videotape that was submitted shows hang gliders reportedly using the site in the 1970's. Scenes depicted included beginning hang gliders launching hang gliders from the first terrace above the beach in the area that is recognizable as the portion of the site within San Francisco, and then landing on the beach below.

c. Sufficiency of Landowner Attempts to Negate Implied Dedication of Access.

There are some limitations that prevent property from being impliedly dedicated, even if the basic elements of implied dedication have been met. The court in Gion explained that for a fee owner to negate a finding of intent to dedicate based on uninterrupted use for more than five years, he must either affirmatively prove he has granted the public a license to use his property or demonstrate that he made a bona fide attempt to prevent public use. Thus, persons using the property with the owner's "license" (e.g., permission) are not considered to be the "general public" for purposes of establishing public access rights. Furthermore, various groups of persons must have used the property without permission for prescriptive rights to form in the public. If only a limited and definable number of persons have used

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the land, those persons may be able to claim a personal easement but not dedication to the public. Moreover, even if the public has made some use of the property, an owner may still negate evidence of public prescriptive rights by showing bona fide affirmative steps to prevent such use. A court will judge the adequacy of an owner's efforts in light of the character of the property and the extent of public use.

The applicant has submitted a variety of information which the applicant believe demonstrates that no implied dedication of public access has occurred. This information includes: (1) a copy of a notice of consent to use land recorded in 1992 pursuant to Section 813 of the Civil Code which gave consent to the general public to access the entire Olympic Club parcel; (2) a signed statement of the Superintendent of golf facilities at the Olympic Club, regarding efforts to prevent unauthorized access to the Olympic Club parcel, including the posting of signs pursuant to Civil Code section 1009 in the mid-80's; (3) copies of documents granting permissive use over certain areas and to certain parties including a two year grant of easement made in 1992 to the National Park Service over the area currently proposed for a permanent grant of easement and license agreements with operators of the stables to the south of the Olympic Club parcel; (4) copies of letters from the Olympic Club denying permission to various parties to use the parcel, including a hang gliding group; and (5) a narrative summary provided by the Club's representatives that summarizes the Club's efforts through the years to prevent an implied dedication over the property. (See Exhibit A).

The notice of consent to use land that was recorded at the San Francisco Recorder's Office was recorded pursuant to Section 813 of the Civil Code. (See Exhibit A, pages 24-25). Section 813 of the Civil Code, adopted in 1963, allows owners of property to grant access over their property without concern that an implied dedication would occur if they did not take steps to prevent public use of the land. Section 813 provides that recorded notice is conclusive evidence that subsequent use of the land, during the time that such notice is in effect, by the public for any use or for any purpose is permissive. Therefore, all public use of the site that has been occurring since the notice was recorded for the subject site on May 4, 1992 does not contribute to the creation of an implied dedication protected under Section 30211 of the Coastal Act. However, recordation of the notice granting permission to use the property does not extinguish any implied dedication which may have been established prior to recording of the notice in 1992. If prescriptive use of the land was occurring prior to recordation of the Notice of consent to use land, there would have been ample time prior to 1992 to establish a five year period of use.

The signed statement of John Fleming, the Superintendent of golf facilities at the Olympic Club, discusses efforts to prevent unauthorized access to the Olympic Club parcel (See Exhibit A, pages 26-33). The statement indicates that during the 24 year period that Mr. Fleming has been Superintendent of the golf facilities the Club has attempted to prevent unauthorized access to the parcel by (1) installing, inspecting, and repairing "Private Property/No

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Trespassing" signs and signs providing a right to pass by permission, (2) inspecting and repairing fences, (3) asking trespassers to leave, (4) ejecting other trespassers in cooperation with the Daly City Police Department, and (5) creating a concrete barrier topped with steel cable along the southern property line near the stables to block vehicles from entering the site but still allow people from the stables to ride through.

The narrative summary provided by the Club's representatives also summarizes the Club's efforts through the years to prevent an implied dedication over the property. (See Exhibit A, pages 34-35). The information summarized includes: (a) the club's policy against trespass, (b) the Club's efforts to maintain fencing and post the property boundaries, (c) the Club's granting of permission to the riding stables to the south of the Olympic Club parcel, (d) the Club's efforts to deny permission to use the property to various groups, and (e) the National Park Service's efforts to help the club enforce its no trespassing policy. A copy of the narrative summary with selected attachments is included within Exhibit A, starting at page 34.

The applicant has also submitted copies of photographs of various signs that are posted at particular locations around the perimeter of the parcel, including signs that read "Right to Pass by Permission of Owner." Pursuant to Section 1009 of the Civil Code, an owner may grant permission for the public to use the property prior to the time the five year period has ended and thus prevent the property from becoming impliedly dedicated. According to Mr. Fleming's statement, submitted by the applicant, the "Right to Pass by Permission of Owner" signs were posted by the Club at the suggestion of the Daly City Police Department around the perimeter of the property in the mid-1980s after certain incidents with motorcyclists and four-wheelers. Mr. Fleming indicates that the incidents occurred along the south property line, so the Right to Pass by Permission of Owner signs were presumably posted along the south property line at that time. Mr. Fleming also makes reference to "...those signs have been posted around the perimeter of our property west of Skyline Boulevard ever since." This statement suggests that the signs were posted elsewhere around the perimeter of the property besides the south property line, but the exact timing of when the signs were posted and the specific locations are unclear. Commission staff has asked the applicant more specifically when and where these signs were posted and has not yet received an answer.

The courts have recognized the strong public policy favoring access to the shoreline, and have been more willing to find implied dedication for that purpose than when dealing with inland properties. A further distinction between inland and coastal properties was drawn by the Legislature subsequent to the Gion decision when it enacted Civil Code section 1009. Civil Code section 1009 provides that if lands are located more than 1000 yards from the Pacific Ocean and its bays and inlets, unless there has been a written, irrevocable offer of dedication or unless a governmental entity has improved, cleaned, or maintained the lands, the five years of continual public use must have occurred prior to March 4, 1972. In this case, the subject site is

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within 1000 yards of the sea; therefore, the required five year period of use need not have occurred prior to March of 1972 in order to establish public rights.

It is important to note that section 1009 explicitly states that it is not to have any effect on public prescriptive rights existing on the effective date of the Statute (March 4, 1972). Therefore, public use of property for the prescriptive period prior to the enactment of section 1009 or utilization of application procedures set forth in the section is sufficient to establish public rights in the property. Assuming conservatively that the "Right to Pass by Permission of Owner" signs were posted completely around the property in the mid-1980s, there would have been ample time for an implied dedication to have occurred prior to the mid-80's.

Finally, the Olympic Club has permitted or expressly provided some of the public access use that has been made of the site in the past. The Club has historically allowed horseback riders from the stables on the parcel just to the south of the Olympic Club property to use certain trails on its property west of Skyline Boulevard. In addition, in 1992, the Olympic Club granted a short-term (two-year) easement to the National Park Service over the 31-acre area along the ocean front of the property now proposed as part of the application to be granted in perpetuity to the Park Service. As described in the Project Description finding of this report, between 1992 - 1994, the Club cooperated with the Park Service in building a lateral trail extending along the entire length of the easement that connects to vertical trails that descend from the blufftop at Fort Funston to the north and the blufftop off of Olympic Way to the south.

(d) Provision of Public Access Equivalent In Time Place and Manner.

As noted previously, where there is substantial evidence of the existence of a public access right acquired through use, and a proposed development would interfere with that right, the Commission may deny a permit application under Public Resources Code section 30211. As an alternative to denial, the Commission may condition its approval on the development being modified or relocated in order to preclude the interference or adverse effect. This is because the Commission has no power to extinguish existing public rights, even though it may authorize development which affects the exercise of those rights.

A full assessment of the degree to which the criteria for implied dedication has been met in this case could only be made after a more intensive investigation of the issue has been performed. A survey of potential users of the site would provide very helpful information to augment the information about use supplied in the unsolicited letters.

In this case, although there is an unresolved controversy as to the existence of public prescriptive rights, the applicant's dedication of a public access could serve to protect any existing public access rights which would be eliminated by the proposed development. Section 30214 of the Coastal Act

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directs the Commission to implement the public access policies of the Act in a manner which balance various public and private needs. This section applies to all the public access policies, including those dealing with rights acquired through use. Therefore, the Commission must evaluate the extent to which the proposed public access is equivalent in time, place, and manner to the public use that has been made of the site in the past. If the Commission determines that the proposed access is in fact, equivalent in time, place, and manner to the access use made of the site in the past, the Commission need not do an exhaustive evaluation to determine if substantial evidence of an implied dedication exists because regardless of the outcome of the investigation, the Commission could find the project consistent with Section 30211. If an investigation indicated substantial evidence of an implied dedication exists, the proposed project would not interfere with such public rights because it proposed access that is equivalent in time, place, and manner to the access previously provided in the areas subject to the implied dedication. If an investigation indicated that substantial evidence of an implied dedication was lacking, the Commission could find that with or without the proposed public access proposed by the applicant, the project would not interfere with the public's right of access where acquired through use and would be consistent with Section 30211.

The letters submitted by members of the public about prior public use of the parcel provide an indication of the time place and manner of public access use that has occurred in the project area prior to the mid-80's, the time period when the Olympic Club indicates it posted "Right to Pass by Permission of Owner" signs. Based on Civil Code Section 1009, if such signs were posted in the project area continuously, posting of the signs may have precluded an implied dedication from arising after the mid-80's. The letters from the public indicate the golf course project area has been used for a variety of purposes. Uses listed in the letters include walking or hiking, jogging, birdwatching, nature study by individuals as well as student groups, picnicking, hang gliding, paragliders, access for fishermen, equestrian use, dog walking, photography, kite flying, and viewing the coast. The letters contain no indication that the uses made of the site were limited to certain days of the week or times of day. It appears that people used the area anytime they wanted.

When describing the various uses that have been made, the letters generally refer to use of the entire Olympic Club parcel west of Skyline Boulevard between Fort Funston and Thornton State Beach. Although some letters specifically reference the bulldozed area which is the subject of this permit application, it is difficult to tell whether all of the reported uses occurred within the portion of the parcel within the Commission's retained jurisdiction (the San Francisco portion of the site). With one exception, it seems likely that all of the reported uses occurred in the area where the two holes would be built. Fishing obviously could not have occurred within the area now proposed for portions of the two golf holes as it is too far away from the ocean and there is no evidence that any other waters for fishing existed in the area now proposed for the golf holes. There are no other obvious physical

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differences between the area where the two golf holes would be built and the easement area to be granted for public access that would preclude the other kinds of public access use described in the letters. The aerial photographs attached as Exhibits 6A through 9B show trails existing in both parts of the site, suggesting that the various other uses besides fishing could have occurred in both locations.

The applicant proposes to construct portions of two golf holes within portions of the site where the available aerial photographs showed trails existing as early as 1970. As proposed by the applicant, the grant deed of easement would provide for access in perpetuity over a 31-acre area extending along the entire length of the Olympic Club property, from Fort Funston to Thornton State Beach. The property includes not only ocean-front land in San Francisco within the Commission's jurisdiction, but also ocean-front land in San Mateo County. The easement grants the National Park Service the rights to establish and maintain trails for pedestrian and equestrian uses for the general public, and the right and obligation to monitor, police and patrol over and across the easement area. The deed of easement provides that use of the easement shall be deemed for "recreational purposes" as defined in Section 846 of the California Civil Code.

This section of the Civil Code limits the liability of private property owners for use by any person who may enter or use an area for "recreational purposes." Although the purpose of including the provision in the grant deed of easement is not expressly to list the specific uses allowed, inclusion of the provision does at least provide an indication of the kinds of uses contemplated by both parties to occur within the easement area. The definition of "recreational purpose" provided in Civil Code Section 846 is as follows:

"A 'recreational purpose,' as used in this section, includes such activities as fishing, hunting, camping, water sports, hiking, spelunking, sport parachuting, riding, including animal riding, snowmobiling, and all other types of vehicular riding, rock collecting, sightseeing, picnicking, nature study, nature contacting, recreational gardening, gleaning, hang gliding, winter sports, and viewing or enjoying historical archaeological, scenic, natural, or scientific sites."

The only use specifically prohibited by the grant deed of easement is use of the area by motorized vehicles or equipment, except duly authorized government vehicles. No public access use mentioned in the unsolicited letters from the public describing past use of the project site is prohibited by the terms of the easement. Consequently the proposed grant of public access easement does provide the equivalent type of access the letters from the public suggest was occurring during the period when an implied dedication could have occurred.

The area of the project site within the Commission's jurisdiction is more limited than the area that could have been utilized by the public in the past,

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which was virtually the entire site. The Commission notes that the section of coastline where the project site is located is highly erosive. Much of the area of the former golf course that was built on the site in the 1920's has eroded into the ocean, and the soft sandstone bluffs show continual signs of erosion. The fact that the 31-acre area to be included in the public access easement grant is several times larger than the 4.1 acres where new golf holes will be located will help ensure that at least some portion of the grant of access easement will remain available for use for the foreseeable future despite the fact that the Pacific Ocean is continually cutting into the seaward side of the easement area.

Finally, the grant of easement would be in perpetuity just as an implied dedication would be. Furthermore, the deed of easement does not impose any direct limitations on days of the week or times of day that the public could utilize the easement area.

Thus, the Commission finds that the public access proposed by the applicant is equivalent in time, place, and manner, to the access use that appears to have been made of the project area in the past. Therefore, although there is an unresolved controversy as to the existence of public prescriptive rights, the applicant's proposed dedication of public access to the National Park Service protects the rights of the public, and the Commission finds that the proposed project is consistent with Section 30211 of the Coastal Act.

2. Consistency with Section 30212

Section 30212 of the Coastal Act states that public access from the nearest public roadway to the shoreline and along the coast need not be provided in new development projects where (1) it would be inconsistent with the protection of fragile coastal resources, or (2) adequate access exists nearby. However, the Commission notes that Section 30212 of the Coastal Act is a separate section of the Act from Section 30211, the policy that states that development shall not interfere with the public's right of access to the sea where acquired through use. The limitations on the provision of new access imposed by Section 30212 do not pertain to Section 30211. Whether or not public prescriptive rights of access have accrued over trails that pass through environmentally sensitive habitat area or in areas near other public access, Section 30211 requires that development not be allowed to interfere with those rights.

Moreover, in the absence of the grant, adequate access does not exist nearby. The Olympic Club parcel extends all the way from the nearest public road all the way to the sea. The beach on the seaward side of the parcel is frequently inundated by tidal waters, preventing passage by pedestrians and other public access users. Thus, without the grant of access easement proposed by the applicant, continuous public access along this section of the coast would be blocked.

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In this case, the grant of access easement will be implemented in a way that is consistent with the protection of fragile coastal resources. As discussed later in the report under the finding on Environmentally Sensitive Habitat, the Olympic Club parcel contains no known wetlands, riparian habitat, dune hollows, rare or endangered species or other environmentally sensitive habitats. Furthermore, the site is not known to contain archaeological resources or other coastal resources except for the site's spectacular beauty and accessibility for access purposes. As proposed, the grant easement will be assigned to a managing entity that will be granted the necessary authority to police and maintain the access provided by the grant and ensure that the coastal resources that do exist can be protected. Therefore, the use of existing trails or the creation of additional trails for public access purposes will not be inconsistent with the protection of fragile coastal resources.

Therefore, the Commission finds that the public access easement deed proposed by the applicant is consistent with Section 30212 of the Coastal Act as the access will be provided consistent with the protection of coastal resources and adequate access does not exist nearby.

3. Consistency with Section 30210

Section 30210 of the Coastal Act states that 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.

The grant of access easement is proposed by the applicant and has been drafted with the cooperation of the accepting agency, the National Park Service. The deed of grant easement contains various safeguards for public and private rights that the parties have mutually agreed upon to protect their interest. As noted above in the previous section, the access grant will be implemented in a manner that will protect the natural resources of the site from overuse.

However, one aspect of the proposed public access arrangement does present a potential public safety concern. As noted previously, the proposed 15th hole will be located in close proximity to a portion of the public access grant. Although prevailing winds and the preponderance of right handed golfers would combine to direct most errant golf shots east of the hole and away from the access area, occasional errant golf balls could land within the easement area, perhaps hitting an unsuspecting pedestrian. To avoid this conflict, the applicant has proposed to landscape the border of the two areas with appropriate trees and shrubbery and berms as depicted in Exhibit A, page 23. As described in the application:

"The combination of low bushes and trees, and the natural grade separation between the easement area and the golf hole (augmented, as necessary by berms) would avoid conflicts in uses between golfers and pedestrians and equestrians.

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Within thirty (30) days after issuance of the permit, the Olympic Club would submit a detailed plan indicating the precise location and species of such plantings, and any berms which may be necessary. The Plan would be reviewed by, and subject to the approval of the Executive Director. Installation of such plantings would commence within six (6) months after the issuance of the permit, and completed within nine (9) months after the issuance of the permit. This would allow the plantings to be made in the fall of 1996, so that the plants could become established during the winter rainy season."

The proposed planting and berming proposal would build on the natural grade separation between the public access area and the golf hole to protect public access users. Errant golf balls will likely either be deflected by the proposed berms and landscaping or fly so far above the adjacent pathway after clearing the trees that the balls will not land on the pathway.

The proposal to minimize the conflicts between public access and golf use of the site by creating a barrier should be effective if the combined height of the vegetation and berming is tall enough to provide an effective screen, and if the vegetation is dense enough to avoid too many open spaces between trees and shrubs where errant balls could find their way through the vegetation screen. In addition, the vegetation should be of native vegetation or non-native species commonly found in the area to ensure that the plantings grow successfully in the harsh ocean-front setting and that the appearance of the barrier will be compatible with the visual character of the area consistent with Section 30251 of the Coastal Act.

Therefore, the Commission attaches Special Condition No. 3 to provide for review and approval of a final plan for the installation of the buffer by the Executive Director that meets certain standards to ensure effectiveness and visual compatibility with the surrounding area. The condition requires the combined height of the berm and vegetative barrier to be at least 20 feet, the trees to be used to be planted on at least 15-foot centers, and that the plant species used be of native or non-native species commonly found in the area. In addition, to ensure such protection measures are in place before any permit issues, the condition requires submittal and approval of the plan prior to issuance of the permit.

As conditioned to provide a buffer to protect public access users from potential errant golf balls, the Commission finds that the proposed project is consistent with Section 30210 of the Coastal Act.

4. Conclusion

Wherever possible it is advantageous to secure actual dedication and recordation of public access rights. Unless this is done, the controversy over implied dedication is merely postponed, and passage of time may complicate problems of proof. Even where the evidence of implied dedication is clear, the public is best served by recordation of an actual dedication which clarifies the rights of everyone.

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To ensure that the proposed project will not interfere with any implied dedication of access which may have occurred, the Commission attaches Special Condition No. 1. This condition requires the applicant to provide evidence that the proposed permanent public access easement has been granted and recorded prior to issuance of the permit. To minimize conflict between public access and golf use, the Commission has attached Special Condition No. 3 to provide for review and approval of the final buffer plan prior to permit issuance.

Since public prescriptive rights have not at this time been adjudicated, the Commission also attaches Special Condition No. 6. Special Condition No. 6 states that by acceptance of the permit amendment, the applicant agrees that the issuance of the permit amendment and the completion of the development does not prejudice any subsequent assertion of any public rights of access to the shoreline (prescriptive rights), and that approval by the Commission of this permit amendment shall not be used or construed, prior to the settlement of any claims of public rights, to interfere with any rights of public access to the shoreline acquired through use which may exist on the property.

Special Condition No. 2 requires the applicants to record a deed restriction regarding future development on the site. This deed restriction requires that a coastal development permit be obtained for all future development on the parcel, including development that might otherwise be exempt under Section 30610(a) of the Coastal Act and the California Code of Regulations, which, depending on their location, have the potential to interfere with the public's continued use of the trails over the applicant's property. In this way, the County or the Commission will be able to review all future development to ensure that it will not interfere with public access or have any adverse impacts on public prescriptive rights that may exist on the parcel.

Although there is an unresolved controversy as to the existence of public prescriptive rights, the applicant's dedication of a public access easement protects the rights of the public called into issue by the proposed project. The proposed project as conditioned is consistent with Section 30211 because, whether or not a court-of-law were to adjudicate that existing use of the site for coastal access constitutes a public prescriptive right, for the reasons stated above, the Commission finds that the proposed development would not interfere with any access rights.

D. Use of Ocean-front Land

Section 30221 of the Coastal Act states:

Ocean-front 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.

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The Olympic Club parcel is a relatively large piece of ocean-front land that extends for approximately 0.8 miles along the coast and extends approximately 0.25 miles inland from the coast to Skyline Boulevard. As discussed in the public access finding above, letters from the public indicate that the land has long been used for a variety of recreational uses including walking, jogging, picnicking, dog walking, horse back riding, hang gliding, paragliding, nature study, etc. In addition, the parcel is located between two public parks sharing similar physical attributes, and the parcel and adjoining lands and water areas contain spectacular coastal scenery that would greatly enhance the experience of people using the property demonstrate that the property is suitable for recreational use.

As proposed, the entire project area will be devoted to recreational use and development: part of the site will be used for portions of two golf holes and the rest of the project site between the golf holes and the sea will be part of a grant of public access easement.

The major component of recreational use that will be provided is the 31-acre grant of public access easement. As noted in the public access finding, the grant of public access easement will allow all of the kinds of recreational uses that have been made of the property before to continue within the easement area. The grant area extends along the entire shoreline of the Olympic Club's ocean-front parcel, not just along the shoreline within the Commission's jurisdictional area. The existing trail system through the grant area is a link in the regional Bay Area Ridge Trail, which when completed, will ring the hilltops around San Francisco Bay. The beauty and the sense of remoteness afforded by the easement area provides for a unique and pleasing recreational experience as attested to by many of the members of the public who wrote letters to the Commission concerning the project (see Exhibits B and F). This major recreational use will continue to be made be available free of charge and will be available to all members of the public.

The second component of recreational use that will be provided by the proposed project is the golfing use itself. The views of the ocean and coastline that will be afforded from the holes and its relative isolation should make use of the course a very desirable coastal recreational experience. However, the ability for the average member of the public to use this second component of the recreational use of the land will be limited. The course will be private, not public, and only Club members who have paid a substantial membership fee and their guests will be allowed to use the course. The Commission finds that if the golf course development was proposed alone, without the accompanying grant of public access easement, the proposed project would not have been consistent with the provisions of Section 30221, as the recreational opportunities to be provided to the general public would be so limited. The accessibility of the grant of access to everyone will allow the project to match the apparent intent of Section 30221 to make recreational opportunities on ocean-front lands available to the general public. Nonetheless, to more fully comply with the intent of Section 30221 and to alleviate the limited ability of a member of the public to use the golfing facilities, the

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Commission finds that it is essential that in the selection of members, the applicant must not discriminate on the basis of race, sex, national origin, religion, disability, or sexual orientation. Therefore, the Commission attaches Special Condition No. 5, which requires the Olympic Club to submit evidence, for the review and approval of the Executive Director, that the bylaws of the Olympic Club contain a membership policy which states that the Club will not discriminate on the factors listed above.

The Club recently revised its bylaws to make the bylaws more gender-neutral. As currently worded, the bylaws do not contain any statements that are discriminatory on their face. However, the bylaws also do not currently have a statement declaring that the Club will not discriminate. The requirements of Special Condition No. 5 will help ensure that membership is truly open to all, and that the recreational opportunities to be afforded on the ocean-front parcel that is the subject of the current permit application are in fact, open to all.

The Commission finds that only as conditioned is the proposed project consistent with Section 30221 of the Coastal Act.

E. Water Resources Availability and Impacts on Lake Merced.

Section 30231 provides, in applicable part, as follows:

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

The golf course project as proposed by the applicant will have off-site impacts on the biological productivity and quality of a nearby coastal water, Lake Merced.

The applicant proposes to irrigate the new golf course initially with ground water pumped from wells located adjacent to Lake Merced, approximately one mile east from the project area (see Exhibit D, page 8). The Olympic Club currently irrigates all of the golf courses on its entire property with water from these wells. The wells draw from an underground aquifer known as the Westside Basin, that extends from north of Golden Gate Park to the San Francisco International Airport. Lake Merced is a surface expression of the aquifer, meaning among other things, that the lake is fed largely by ground water that seeps into the lake from the surrounding underground Westside Basin aquifer.

a. Westside Basin Aquifer and Lake Merced.

Portions of the Westside Basin aquifer currently are in a state of overdraft, meaning that withdrawals of water from the system exceed ground water recharge. At the same time, Lake Merced has been experiencing a sharp drop in lake levels, dropping from approximately 22 feet in 1984 to 14 feet in 1994. The drop in water levels has lead to an associated drop in water quality, which in turn has adversely affected the beneficial uses of the lake.

Lake Merced is located in the coastal zone within the Commission's retained jurisdictional area. Historically, Lake Merced was a coastal lagoon with a direct connection to the Pacific Ocean through a narrow channel that entered the ocean near the current Sloat Boulevard. By 1880, the channel was filled in both by longshore transport processes and human intervention, changing Lake Merced into a freshwater lake.

Lake Merced is used for many beneficial purposes. The Spring Valley Water District developed Lake Merced as a potable water supply for San Francisco in the 1870's. Although the Hetch Hetchy water system and other sources have replaced Lake Merced as the City's main source of potable water, the lake is still considered to be an emergency source of both potable water and water for fire-fighting. The Spring Valley Water District eventually sold Lake Merced to the City of San Francisco in 1930, which has managed the lake as an emergency water supply ever since. In 1950, jurisdiction over the surface of the lake was granted to the San Francisco Recreation and Park Department to develop beneficial recreational uses at the lake while still maintaining its status as an emergency water supply. Today, the lake is used by thousands of people for various coastal recreational pursuits including fishing and boating, wind-surfing, jogging, picnicking, bicycling and bird watching. Other recreational uses related to aesthetic enjoyment occur on surrounding lands, such as shooting and golfing at several golf courses, including courses owned by the Olympic Club.

Besides its value as an emergency water supply source and for coastal recreation, Lake Merced also provides important habitat for wildlife. Fish and wildlife species are extensive at Lake Merced, including a variety of fish, vegetation, birds, amphibians, mammals and reptiles. Trout are stocked by the California Department of Fish and Game, and warm water fish are also present. A total of sixteen special-status wildlife species are known to occur or have potential to occur at Lake Merced. A species of particular note is the state-threatened bank swallow which nests at Fort Funston and feeds on insects and other food items found in the marsh environment at Lake Merced. The National Park Service has invested considerable resources over the last few years to improve the nesting habitat of this species at Fort Funston, north of the proposed golf course site. According to NPS staff, maintenance of a healthy feeding habitat at Lake Merced is critical for the success of its efforts to enhance the nesting habitat at Fort Funston. Other special-status or endangered species have been observed at Lake Merced and the salt marsh yellow throat, a candidate species for federal listing as threatened or endangered, is known to nest along the banks of the lake.

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The drop in lake levels in recent years at Lake Merced and the effects such a drop was having on water quality and the beneficial uses of the lake encouraged the San Francisco Water Department to conduct a study of the water quality problems at Lake Merced. The study was intended to identify current and potential future uses of the lake; define the relationship between nearby ground water usage, lake storage, water quality, and existing beneficial use; set criteria from which to rank and evaluate competing beneficial use; recommend alternative means of maintaining water quality protection; and recommend a lake management strategy program. The resulting report, entitled the "Lake Merced Water Resource Planning Study" (LMWP Study) by Geo/Resource Consultants, Inc., was released in May of 1993.

The LMWRP Study documents the historic decline in lake levels and water quality since the mid-1900's, with an especially precipitous decline in recent years. Lake levels dropped from around 25 feet in 1950 (relative to the Lake Merced Gauge Board) to a low of 15.5 feet in 1990. Other studies performed since the LMWRP Study by the USGS indicate lake levels have fluctuated since, partly as a result of the Water Department's decision to discharge water from the Hetch Hetchy system into the lake to increase lake levels, but that levels now are at a point between 14 and 15 feet (relative to the Lake Merced gauge board). The LMWRP Study determined that to best protect water quality for the range of beneficial uses made of the lake, a lake level of 26 feet (relative to the gauge board) should be maintained. The decline in lake levels is attributed to three main causes:

1. Increased ground water pumping by; the municipalities, golf courses, and cemeteries in the vicinity of Lake Merced;
2. Drought conditions in the late 1980's and early 1990's; and
3. Diversion of most surface runoff that formerly went into the lake.

The municipal ground water pumpers include Daly City, South San Francisco, and the California Water Service Co. The golf courses pumping water in the vicinity of Lake Merced include The Lake Merced Golf & Country Club, the San Francisco Golf & Country Club, and the Olympic Club.

As indicated in the letter from the San Francisco Public Utilities Commission (PUC) to Coastal Commission staff, dated March 14, 1996 (see Exhibit D), the PUC adopted a resolution (PUC Resolution No. 95-0082) directing City staff to develop a conjunctive use program for the Westside Basin aquifer beneath Lake Merced in a partnership with its wholesale water customers overlying the aquifer (see Exhibit D Pages 11-16).

Goals of the conjunctive use program would be to (1) increase and stabilize water levels in Lake Merced and the Merced aquifer; (2) increase the reliability of the SFWD system during drought periods; and (3) develop long term management practices that maintain the aquifer as a sustainable resource. The conjunctive use program would attempt to manage both ground

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water and surface water, and the PUC is exploring the creation of a ground water management plan jointly enacted by the City and the other municipal users of the aquifer, the cities of Daly City, South San Francisco, Millbrae, San Bruno, San Mateo County and the California Water Service Company. The PUC also directed its staff to extend ground water planning and modeling efforts south of the San Francisco County line and request the financial participation of Daly City, San Bruno, and the California Water Service Company. A component of the conjunctive use program would be to further the development of recycled water supplies for irrigators overlying the Merced aquifer. The PUC strategy also includes entering into contractual arrangements with the other municipal users of the aquifer, to supply increased surface water supplies when available in lieu of the municipal water users pumping additional ground water from the aquifer.

In Resolution No. 95-0082, the PUC notes that conversion of irrigation water supplies to recycled water is a key first step in managing the ground water aquifer. In recognition of this priority, the PUC resolution gave the three golf clubs in the vicinity of Lake Merced until November 1, 1995 to indicate whether they would accept a supply of tertiary recycled water from Daly City. The PUC believes it has the authority to affect a change over from pumped ground water to use of recycled water through certain reserved ground water rights that it holds. Although the three golf clubs own the water rights to the ground water beneath their lands, the PUC owns certain reserved ground water rights to these same waters that are derived from San Francisco's purchase of the Spring Valley Water Company in 1930. The PUC has the legal ability to enforce sanitary and other restrictions imposed on the golf courses originally by the Spring Valley Water Company to protect Lake Merced.

In its letter dated March 14, 1995, the PUC indicates that the golf clubs responded in a timely fashion to its directive but that final agreement to use recycled waste water has not been reached.

b. Specific Impact of Irrigation with Groundwater on Overdraft of Aquifer Feeding Lake Merced

Use by the applicant of pumped ground water to irrigate the proposed golf holes would add to the demands on the aquifer and contribute to the cumulative impact on the aquifer and Lake Merced lake levels.

According to the applicant, the amount of water that would be used for irrigation of the portions of the two golf holes that are the subject of this application is estimated to be approximately 14.7 acre feet/year (see Exhibit C). The applicant did not indicate how much additional water would be drawn to irrigate the other four holes that are being constructed immediately south of the area covered by Permit Application No. 1-95-62, but the letter from the PUC estimates the total amount needed to irrigate all six holes is 48.4 acre feet/year.

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The applicant states in Exhibit C that pumping by all users of the aquifer is estimated to be 13,800 acre feet/year, and that the 14.7 acre feet/year to be used to irrigate the two holes within the Commission's jurisdiction represents only 0.1 percent (the letter incorrectly states 0.0011%) of this amount. Assuming the PUC is correct in estimating that the overall project would require 48.4 acre feet of water per year, the overall project would result in a 0.35 percent increase in ground water pumping throughout the aquifer.

The percentage increase to total ground water pumping that would be contributed by the project if groundwater was used exclusively to irrigate the new holes does not directly relate to the amount the increased pumping would affect lake levels in Lake Merced. The ground water consultant for the PUC, CH2M Hill, was asked by the PUC to comment on the effects of the proposed additional water extraction on the aquifer and Lake Merced water levels. The memorandum prepared by CH2M Hill dated March 13, 1996, and included with this staff report as Exhibit D, pages 5-7, points out that the Westside Basin is a complex ground water aquifer and the water budget (the comparison of recharge water entering the aquifer to discharge water leaving the aquifer) is variable within the aquifer. The consultant points out that in the northern portion of the basin, which includes Lake Merced itself, estimates indicate that recharge exceeds discharge by several thousand acre-feet per year. South of the County line, the ground water budget has a yearly deficit of 800-acre-feet, resulting in a steady decline of water levels in the southern portion of the Westside Basin and flow of ground water from the Lake Merced area towards the area of high pumping south of Lake Merced.

The CH2M Hill consultant points out that because of the size and complexity of the aquifer and the variability of water use within the basin, the local water budget should be considered when evaluating the impact on changes in water use to the surrounding aquifer. Of particular significance in this regard, is that the the Olympic Club wells are the largest wells in the immediate vicinity of the lake, and that the Club's two existing production wells are located in an area which may have significant impact on Lake Merced. The Olympic Club's two existing production wells are located along Lake Merced Blvd (see Exhibit D, page 8). Geophysical and geological logs from the existing wells and new monitoring wells being installed as part of an ongoing ground water investigation indicates that a key layer of clay that separates upper and lower units of the aquifer is thin or absent at the Olympic Club wells, resulting in a greater impact on Lake Merced from pumping in that location. As explained in the CH2M Hill memorandum:

"...A clay unit occurs in the vicinity of the lake and locally separates the Westside Basin aquifer into upper and lower units. Lake Merced is considered to be an expression of the water table in the upper unit. The clay separates the lake from the lower unit, which is where the majority of the ground water plumping occurs in the Westside Basin. A cross-section drawn through the Lake Merced area shows the occurrence of the clay and that the clay appears to be thin or absent at the Olympic Club wells. The absence of the clay in an area of high ground water

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pumping would increase the impact of that pumping on the ground water in upper unit and water levels in Lake Merced."

Given that the particular location of the Olympic Club wells causes pumping from the wells to have a disproportionately greater effect on Lake Merced water levels than pumping from wells located elsewhere, it is instructive to examine the increase in pumping that would occur from the Club's wells to serve the proposed golf holes. The PUC consultant estimates that the 48.4 acre feet per year increase in ground water pumping proposed by the Club for irrigation of all six of the holes to be constructed (including the four in San Mateo County), results in a 7% increase in the total amount of pumping by the Olympic Club (based on 1988 pumping data, the only year for which the extraction rate of the golf club has been estimated).

The ground water modeling work that has been performed to date is not comprehensive enough to predict exactly how much lake levels at Lake Merced would drop with the anticipated amount of additional ground water pumping required to irrigate the proposed project. However, based on the above information, it is apparent that the proposed pumping would contribute to the cumulative impact on Lake Merced water levels caused by ground water pumping in the area.

c. Alternative Water Sources.

There are at least two alternative sources of water that could be pursued to provide for irrigation of the new golf holes that would not result in an impact on the Westside Basing ground water aquifer and lake levels at Lake Merced. These two alternatives include using (a) San Francisco surface water supplies, and (b) treated waste water.

The City of San Francisco supplies surface water to many of the communities on the San Francisco Peninsula. Surface runoff into local reservoirs accounts for as much as 20% of the supply, with the remainder mainly drawn from San Francisco's Hetch Hetchy reservoir system in the Sierra. Although the San Francisco Water Department encourages its surface water customers to conserve water and reduce the use of water for such purposes as irrigation, there are no bans in place that would prevent the use of surface water supplies.

As noted previously, the PUC has been encouraging the Olympic Club and the other golf courses pumping ground water from the aquifer to convert to the use of treated waste water from municipal sewage treatment plants. Although treated waste water is not acceptable for use as potable water, treated waste water can safely be used for irrigation purposes. Treated waste water can also usually be provided at a cheaper cost than imported surface water supplies.

Many golf courses throughout California already use treated waste water for irrigation. According to Water Reuse for Golf Course Irrigation, sponsored by the United States Golf Association, and published in 1994, there were at least

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67 golf courses in California in 1994 using or switching to the use of treated waste water for irrigation, including such coastal courses as the Carmel Valley Ranch Resort, the San Luis Obispo Golf & Country Club, the Santa Barbara Community Golf Course, and the Sea Ranch Golf Course to name a few.

At least one municipality in the area has been actively seeking customers to buy its treated waste water for use as irrigation water. Since 1977, the City of Daly City has had secondary water for sale and has tried to sell its waste water to golf courses. In furtherance of this proposal, Daly City installed pipelines to the property lines of several golf courses over five years ago, including the Olympic Club.

The Olympic Club and the other Lake Merced golf courses have to date not purchased any of the secondary treated waste water from Daly City or elsewhere raising concerns about whether the quality of water would be suitable for maintenance of what they consider to be the first-class nature of the playing surfaces on the golf courses. The clubs have also raised concerns about public health and safety issues associated with the use of secondary-treated waste water.

Although the clubs have raised concerns in the past about the use of secondary treated waste water, the record before the Commission includes no information that demonstrates that using secondary treated waste water to satisfy at least part of the irrigation needs of the golf holes would be infeasible. None of the concerns have prevented other golf courses from accepting secondary treated waste water for irrigation purposes. California law (Section 60301 of Title 22 of the Code of California Regulations) provides that golf courses may use either secondary or tertiary treated waste water. Many of the 67 courses that utilize treated waste water for irrigation use only secondary treated waste water.

In response to the golf courses concerns about the use of secondary-treated waste water, the City of Daly City has indicated a willingness to upgrade its sewage treatment facilities to provide tertiary treated waste water for the club's use. Tertiary provides a higher level of treatment by adding advanced biological processes to the treatment of the waste water. Daly City has indicated that such modification could be accomplished in approximately 18 months, but before incurring the expense of such a project, the City wants assurances in the form of a signed water supply contract with the golf courses that the golf courses would in fact purchase tertiary treated waste water the City would provide.

In its Resolution No. 95-0082, the San Francisco PUC directed the golf courses to commit to accepting tertiary treated waste water from the City of Daly City by signing purchase agreements by November 1, 1995. That deadline has passed and purchase agreements have not been signed.

d. Irrigation Proposal.

On April 9, 1996, just prior to the Commission's public hearing on the Olympic Club application, the Olympic Club amended its application to include an irrigation proposal that is intended to greatly reduce the use of groundwater for irrigating the proposed golf holes and minimize the effects of the remaining use of groundwater on the aquifer and Lake Merced. The proposal involves accepting and using tertiary treated wastewater from Daly City to irrigate all but a small portion of its lands that are devoted to golf courses once Daly City has upgraded its sewage treatment facilities and can provide it for the Club's use. Groundwater would be used for irrigation during the interim period before the tertiary water is made available. Groundwater would also be used in the long term to irrigate the small portion of the golf lands that are not proposed to be irrigated with tertiary treated wastewater. This portion that would be irrigated with groundwater rather than wastewater over the long term consists of the tees and greens, approximately 20% to 25% of the total area of grassy area devoted to golfing. The Olympic Club is concerned that using tertiary treated wastewater with its higher salt content relative to groundwater would make it difficult to maintain the manicured tees and greens in a condition consistent with the Club's intention to maintain a first class golf course. The fairways and rough areas do not have to be maintained to as high a standard and would be irrigated with the treated wastewater.

To address the concerns raised by others about the use of groundwater to irrigate the new holes during the interim period before the tertiary treated wastewater is available, the Olympic Club proposed to mitigate for whatever impact this use of groundwater would have on the aquifer overdraft problem by purchasing surface water from the public water supply system and making it available for recharging Lake Merced by discharging the water directly into the Lake. The Club proposed to purchase an amount of surface water equivalent to the amount of groundwater it will pump and use to irrigate all six of the proposed new golf holes to be built as part of the Cliff's Course (including the four holes previously granted a coastal development permit by San Mateo County) plus an extra amount to account for evaporation of the surface water during the recharge process. The water would be purchased from the San Francisco Water Department and the recharging of the Lake would be managed by the Water Department.

The applicant developed its irrigation proposal in consultation with the San Francisco Public Utilities Commission. The applicant's proposal is detailed in a Memorandum of Understanding (MOU) between the applicant and the PUC, an unsigned copy of which is attached as Exhibit 12. The PUC is strongly supportive of the applicant's irrigation proposal as indicated in the PUC's letter to the Commission dated April 8, 1996, attached as Exhibit 13.

To implement the Club's irrigation proposal, in its letter of April 9, 1996, the Club proposed that Coastal Development Permit No. 1-95-62 include two special conditions. The first condition proposed by the Club would ensure

that a commitment is made to use tertiary treated wastewater for irrigation over the long term. The condition would require that prior to issuance of the permit, the applicant must submit to the Executive Director evidence of an executed agreement between the applicant and Daly City for the purchase of tertiary-treated waste water consistent with the Memorandum of Understanding between the applicant and the PUC reached on April 9, 1996. The second condition proposed by the Olympic Club would provide for the Club's proposal to purchase surface waters for recharging Lake Merced.

e. Compliance With Section 30231.

Section 30231 of the Coastal Act expressly provides, in part, that the biological productivity and the quality of coastal lakes shall be maintained and, where feasible, restored through, among other means, preventing the depletion of ground water supplies and encouraging waste water reclamation. As discussed previously, the use of ground water from the Westside Basin aquifer to irrigate the proposed golf holes could have a significant cumulative impact on the biological productivity and quality of Lake Merced, a coastal lake within the coastal zone. However, the revised irrigation proposal presented by the applicant in the amendment to its application made on April 9, 1996, to convert to the use of treated wastewater for irrigating the vast majority of all of its golf course lands when tertiary treated wastewater becomes available and to provide for recharging Lake Merced at a rate commensurate with the Club's use of groundwater during the interim period would reduce the impact of the proposed project on the Westside Basin Aquifer to a level of insignificance. More than that, the proposal would also be a major step forward in addressing the overall overdraft problem affecting the aquifer.

The applicant's proposal would adequately mitigate the impact of the proposed project on the Westside Basin Aquifer. The proposed conversion to the use of treated wastewater would limit whatever long term damage might result to the aquifer from pumping water from it to irrigate the proposed new golf holes. The Commission notes that the proposed conversion would not totally eliminate the use of groundwater for irrigation purposes, as the applicant proposes to continue to use groundwater indefinitely even in the long term, for irrigating the tees and greens because of higher maintenance standards for these areas. However, the remaining cumulative impact on the aquifer of this more limited use of groundwater from irrigating the two holes within the Commission's jurisdiction will be more than offset by the fact that the proposal to convert to treated wastewater applies to all of the golf course lands managed by the applicant in the area, not just the two new holes on the Cliff's Course. With completion of the Cliff's course, the Olympic Club will have a total of 51 golf holes on three different courses in the Lake Merced area. All 51 of the holes would be irrigated in the manner proposed in the applicant's revised irrigation proposal. Based on estimates provided by the applicant that about 75 to 80 percent of its golf course lands would be irrigated by treated wastewater under its proposal, and assuming a direct correspondence between the amount of land irrigated and the volume of irrigation water required, the

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average annual use of groundwater at the Club should drop by a similar percentage.

This dramatic reduction in groundwater usage would much more than offset the average annual use of approximately 14.7 acre feet of water to irrigate the two holes proposed within the Commission's jurisdiction.

Whatever short term impact the exclusive use of groundwater to irrigate the proposed two holes in the Commission's jurisdiction in the interim period before tertiary treated wastewater is available would have on the aquifer and Lake Merced water levels is also adequately mitigated by the applicant's proposal to provide for recharging Lake Merced. Upgrading the Daly City sewage treatment plant facilities may take a couple of years or more. Under the applicant's proposal, for however long it takes for the tertiary facilities to be constructed and put into operation, the Club will measure the amount of groundwater it uses to irrigate all six of the new holes, and purchase an equivalent amount of water (plus evaporative losses) from the San Francisco Water Department so that it can be added to Lake Merced to help recharge the lake. As the proposal involves recharging Lake Merced with an amount of water equivalent to that used to irrigate all six of the new holes west of Skyline Boulevard, and not just the amount used to irrigate the two new holes within the Commission's jurisdiction authorized by this permit, the proposal would provide roughly 3 to 1 mitigation for the groundwater usage required for the portion of the project the Commission is approving. In addition, as the water to be purchased will be added directly to Lake Merced, the proposal involves mitigating where the impact of groundwater withdrawals from the aquifer is most keenly felt.

Therefore, the Commission finds that the applicant's revised irrigation proposal would adequately mitigate the impact of the proposed project on the Westside Basin Aquifer and Lake Merced water levels.

To ensure that the applicant's revised irrigation proposal is mitigated as proposed, the Commission attaches Special Condition No. 4. The condition language is similar to that proposed by the applicant in its April 9th letter that amended the application to include the revised irrigation proposal, but with some modifications to provide greater assurance that the proposal will be implemented as planned. Part (a) of the condition, which refers to the long term use of tertiary treated wastewater for irrigation purposes, has been modified to state that the executed agreement between the applicant and Daly City regarding the purchase of the tertiary-treated water must be as outlined in the Memorandum of Understanding (MOU) reached between the applicant and approved by the San Francisco Public Utilities Commission (SFPUC) on April 9, 1996 (see Exhibit 12). The MOU provides greater detail on what the specifics of the agreement between the applicant and the City of Daly City should provide for. By requiring conformance to the MOU, clearer standards are provided for reviewing the adequacy of the purchase agreement when it is submitted to staff for review. In addition, conformance with the MOU will ensure that the agreement will contain the elements agreed upon by the

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applicant and the principal agency charged with managing the aquifer for its beneficial uses, the SFPUC. Part (a) of Special Condition No. 4 has also been modified to require that any subsequent amendments to the agreement between the applicant and the City of Daly City that call for a significant decrease in the use of tertiary-treated water shall be subject to the review and approval of the Executive Director of the Commission. This provision is necessary to ensure that the intent of the condition and the approved agreement to provide for maximum use of wastewater for irrigation purposes is not thwarted by a later amendment to the agreement that the Commission would otherwise have no ability to review.

Part (b) of the condition language proposed by the applicant, which refers to the applicant's purchase of water for recharging Lake Merced prior to the time when tertiary treated wastewater is available for irrigation, has also been modified. The principal modification requires that the applicant submit to the Executive Director a copy of an agreement the applicant is entering into with the San Francisco Water Department that provides greater detail on how the applicant's use of groundwater will be measured, and how and when the applicant will make payments to the Department. Without provision for such details, it would be difficult to gauge the applicant's compliance with the intent of the condition.

As conditioned, the Commission finds that the proposed project would be consistent with Section 30231 in that the impact of the proposed project on the biological productivity and the quality of Lake Merced would be reduced to a level of insignificance through mitigation measures specifically called for by Section 30231. Special Condition No. 4 would prevent the applicant from depleting ground water supplies to serve the proposed project by requiring the use of waste water reclamation as a water supply source other than groundwater. Therefore, the Commission finds that the proposed project, as conditioned is consistent with Section 30231 of the Coastal Act.

F. Environmentally Sensitive Habitat

Section 30240 of the Coastal Act states the following:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

No evidence of the existence of environmentally sensitive habitat areas within the project area has been obtained by the Commission. To determine whether the project site contained any areas considered to be environmentally

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sensitive, the applicant hired biologist Rob Schonholtz, a principal of LSA Associates, Inc. to perform a botanical survey. Mr. Schonholtz conducted the survey on February 2, 1996 and documented the survey results in a letter dated February 16, 1996 to the manager of the Olympic Club (see Exhibit 10). The results of his survey indicate that no environmentally sensitive habitat areas (ESHA's) exist on the site.

A prominent drainage located immediately north of proposed hole 15 containing a concentration of vegetation was specifically examined to determine if the vegetated drainage might be a dune hollow wetland, riparian habitat, or some other form of ESHA. The drainage was found to support shrubby vegetation composed entirely of non-native ornamental species. The dominant plants found are acacia, eucalyptus, and myoperum. The herbaceous vegetation around the shrubs includes primarily ice plant and wild radish, with a mix of other species. These species are not associated with either dune hollow wetlands or riparian habitats. Although a watercourse is present, the area is strongly dominated by non-native plants which are not normally associated with freshwater watercourses.

Mr. Schonholtz also examined the site to determine if there are any rare and endangered plant or animal species present. In his report, Mr. Schonholtz states that:

"I observed no endangered or threatened species or species proposed for listing under either the federal or state Endangered Species Act during this reconnaissance visit, and I observed nothing to warrant a formal endangered species survey."

Commission staff consulted with the staff of the National Park Service at Fort Funston to verify the results. The Park Service staff commented that they also believe the site does not support any environmentally sensitive habitat.

Therefore, the Commission finds that the proposed project is consistent with Section 30240 of the Coastal Act as there is no ESHA area on the site that would be affected by the proposed project.

G. Alleged Violation.

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

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H. San Francisco Local Coastal Program

The proposed project is located within the City and County of San Francisco. The San Francisco Local Coastal Program (LCP) was submitted to the Commission for certification in 1981. The Commission eventually certified the LCP, but because an issue of whether the Olympic Club property should be zoned for future use as either residential or open space use in the event the Club ever ceases operations, the segment of the LCP covering the Olympic Club property within San Francisco was not certified. Therefore, the project site is within an area of deferred certification and the standard of review that the Commission must apply to the project is the Coastal Act.

Section 30604 of the Coastal Act authorizes permit issuance if the project is consistent with Chapter 3 of the Coastal Act and if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare or implement a local coastal program that is in conformance with Chapter 3 of the Coastal Act. As discussed above, approval of the project as conditioned is consistent with the policies of Chapter 3 of the Act, including those discussed above concerning public access, the use of ocean-front land, environmentally sensitive habitat areas, and the biological productivity and quality of coastal waters. Thus, approval of the project as conditioned, will not prejudice the City and County of San Francisco's ability to implement a certifiable LCP for this area.

I. California Environmental Quality Act (CEQA).

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications 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. As discussed above, alternatives have been considered and the project has been mitigated to avoid or minimize impacts to coastal resources, specifically to prevent direct impacts on coastal access in the project area and impacts on the beneficial uses of Lake Merced for habitat and recreational uses that would occur as a result of the applicant's proposed use of ground water for irrigation as proposed by the applicant. The project, as conditioned, will not have a significant adverse effect on the environment, within the meaning of CEQA.

RSM/ltc
8777p

ATTACHMENT A

Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. 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 of 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 development during construction, 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.

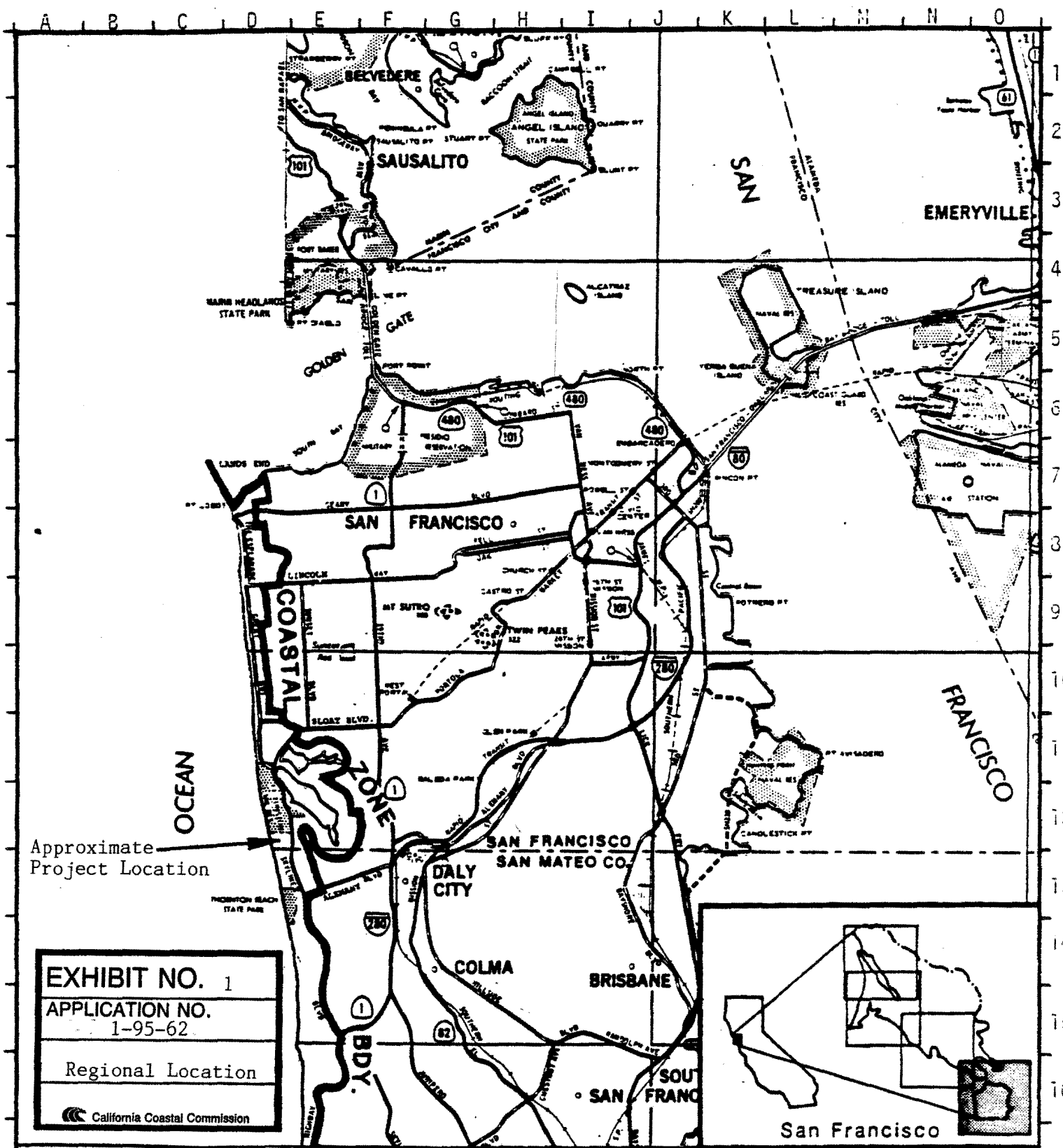
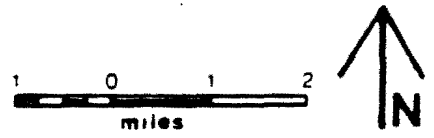


EXHIBIT NO. 1
 APPLICATION NO. 1-95-62
 Regional Location
 California Coastal Commission

California Coastal Commission

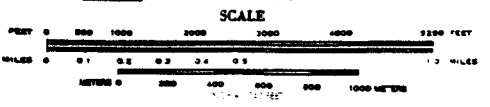
LOCATION MAP



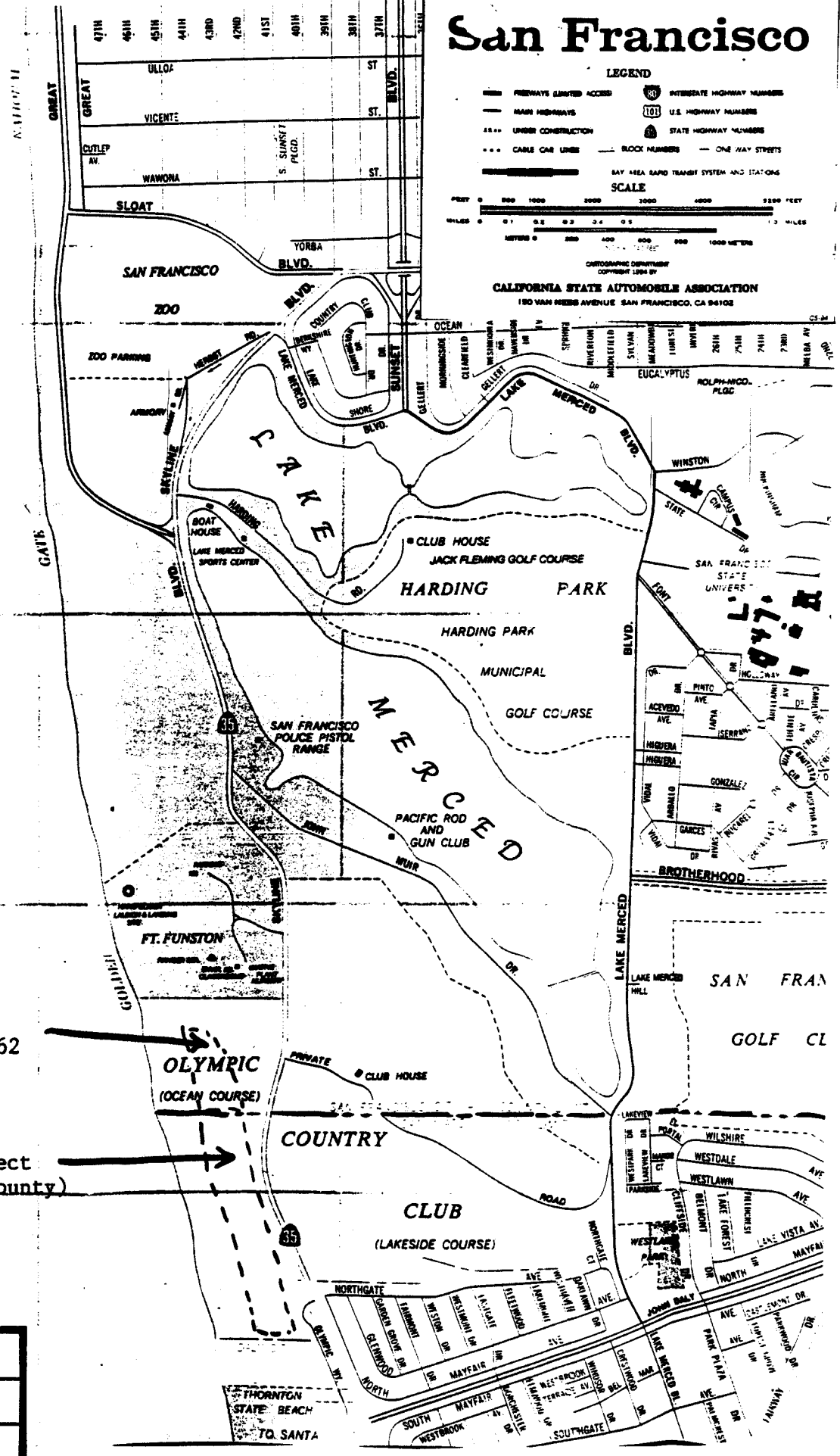
P A C I F I C

San Francisco

- LEGEND**
- FREEWAYS LIMITED ACCESS
 - MAIN HIGHWAYS
 - UNDER CONSTRUCTION
 - CABLE CAR LINES
 - INTERSTATE HIGHWAY NUMBERS
 - U.S. HIGHWAY NUMBERS
 - STATE HIGHWAY NUMBERS
 - BLOCK NUMBERS
 - ONE WAY STREETS



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CALIFORNIA STATE AUTOMOBILE ASSOCIATION
170 VAN NESS AVENUE SAN FRANCISCO, CA 94102



Project Area of
Application 1-95-62

Remainder of Project
Area (San Mateo County)

EXHIBIT NO. 1A
APPLICATION NO. 1-95-62
Vicinity Map
California Coastal Commission

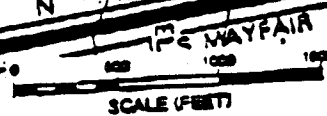
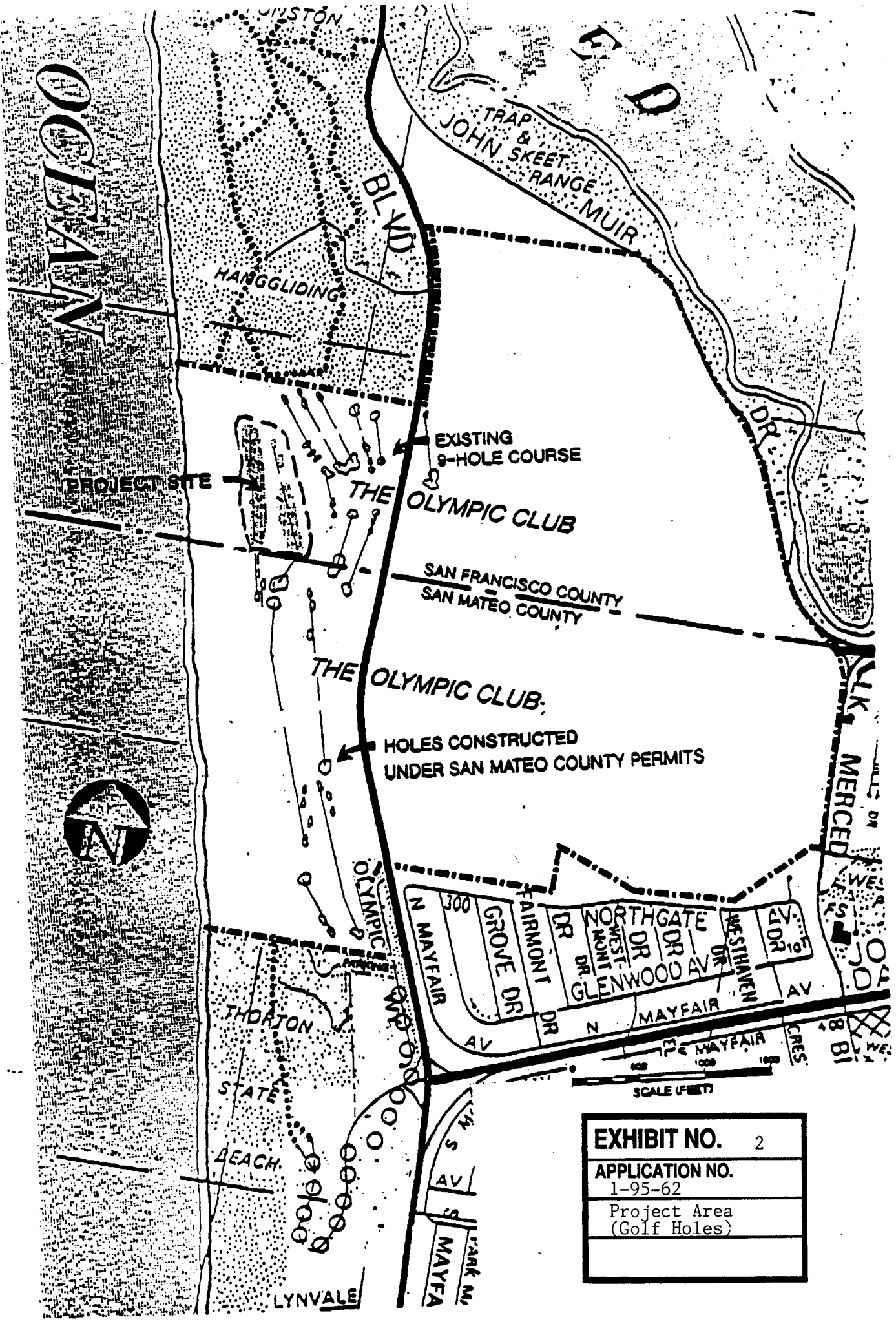


EXHIBIT NO.	2
APPLICATION NO.	1-95-62
Project Area (Golf Holes)	

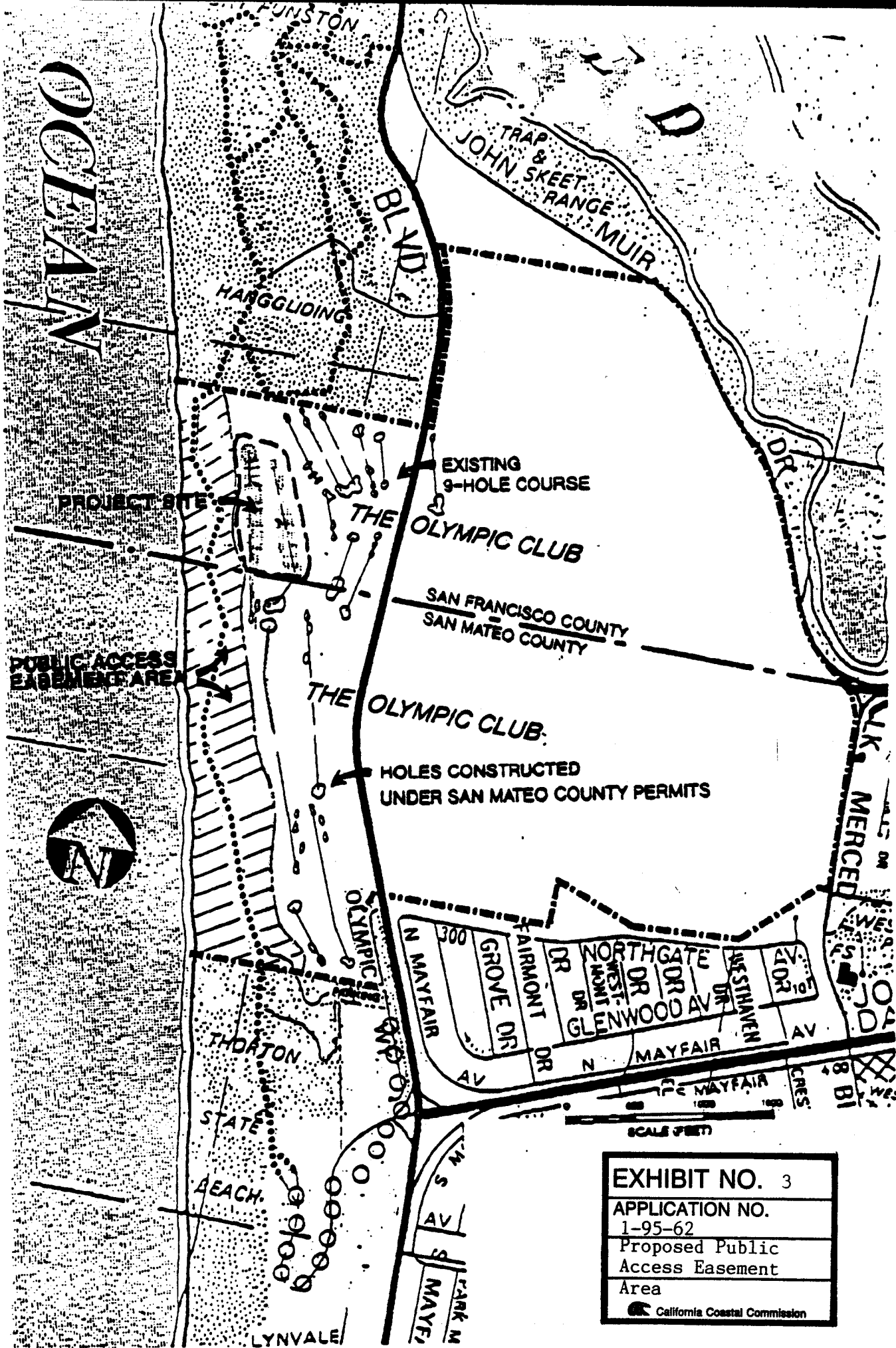


EXHIBIT NO. 3
APPLICATION NO. 1-95-62
Proposed Public Access Easement Area
California Coastal Commission

AREA OF PERMIT
 APPLICATION 1-95-62

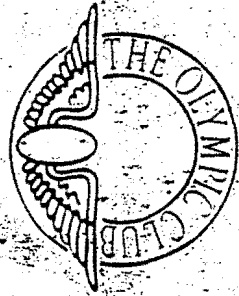
REMAINDER OF 6-HOLE COURSE

CLEARING PLAN FOR BEACH 6 HOLES

ORIGINAL CLEARING
 ALTERNATE CLEARING

4/11/75

WENSKOPF/ROBERTS
 2000 CALIFORNIA STREET, SUITE 1000
 SAN FRANCISCO, CALIFORNIA 94109



GOLF COURSE RENOVATION PLAN



GRAPHIC SCALE

EXHIBIT NO.	4
APPLICATION NO.	1-95-62
Veg. Clearing Plan	

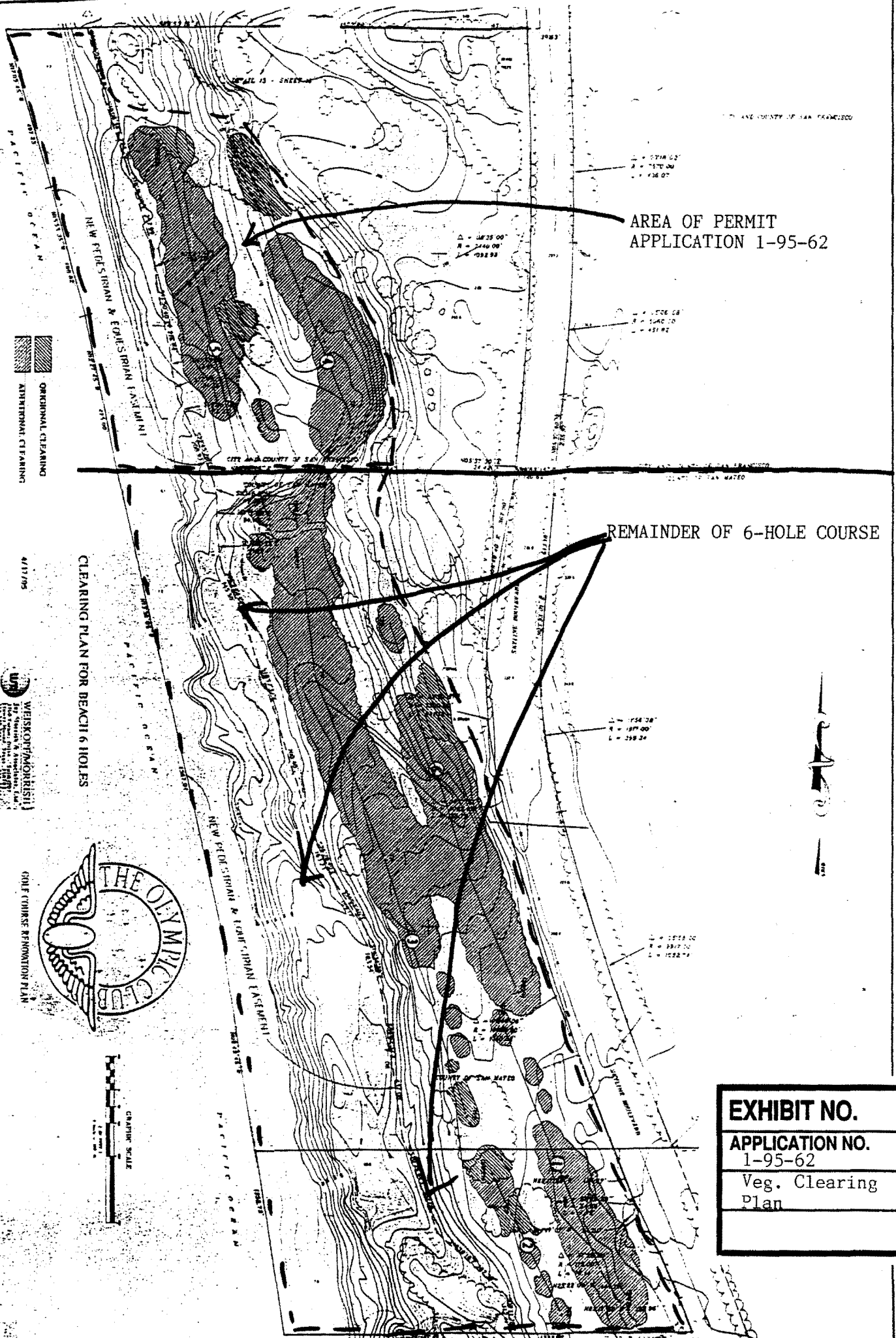
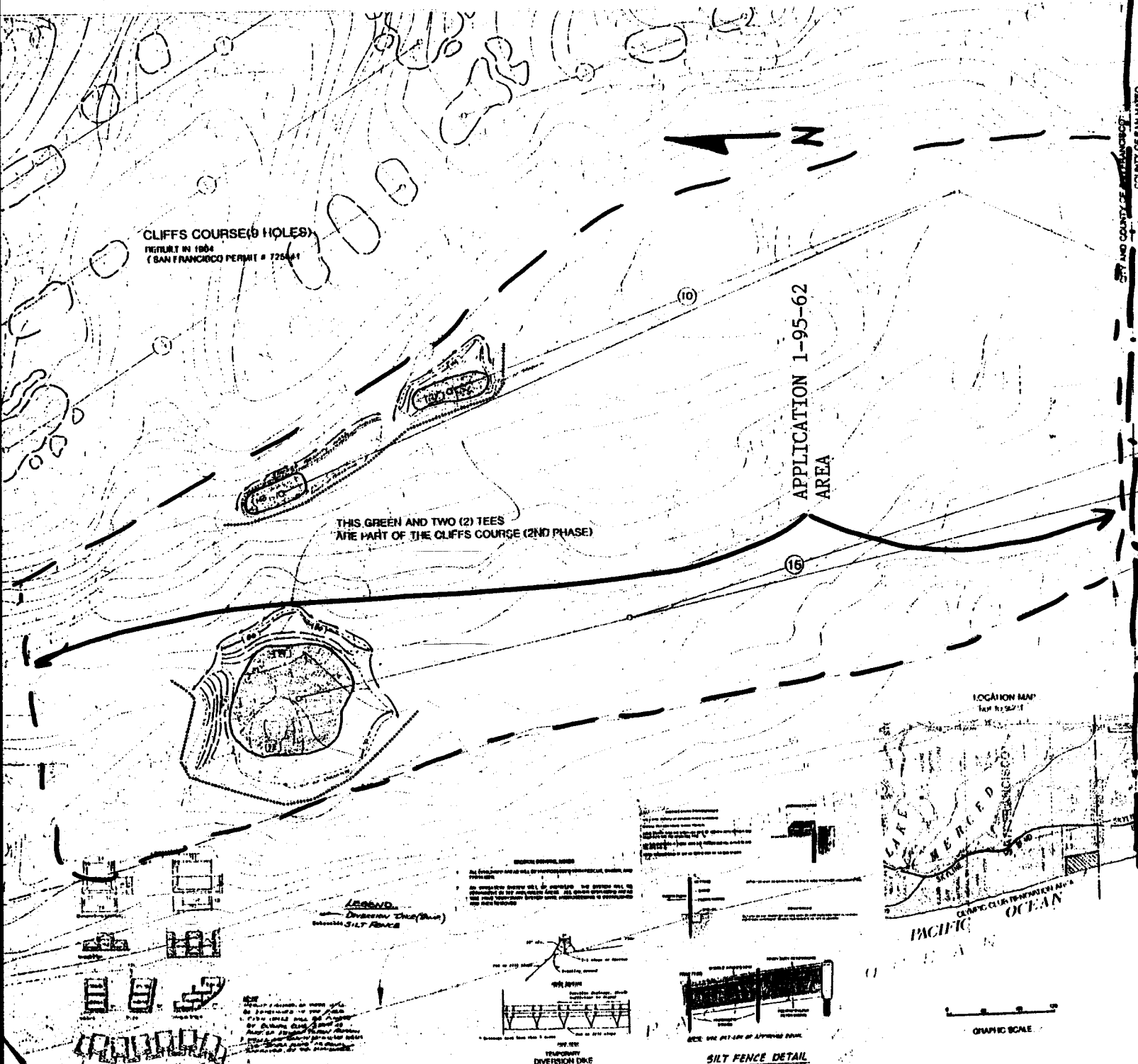


EXHIBIT NO.	5
APPLICATION NO.	1-95-62
Grading Plan	

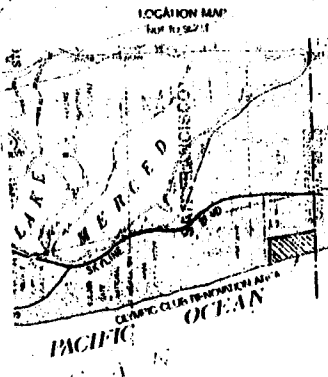
CLIFFS COURSE
 COUNTY OF SAN M
 APPROVED PERM
 PERMIT #09593-C
 BEGIN RECONSTR

CITY AND COUNTY OF SAN FRANCISCO
 COUNTY OF SAN MATEO



GENERAL NOTES:

1. ALL WORK TO CONFORM TO CITY AND COUNTY OF SAN FRANCISCO.
 2. ALL ERI SHALL HAVE 90% RELATIVE COMPACTNESS PER ASTM D1557.
 3. GRADE ALL SLOPES 3:1 MAXIMUM PRELIMINARY EXCAVATION QUANTITY
- COUNTY OF SF
 CA 1551
4. CONSIDERATION TO BE TAKEN BY CLIENT THEREIN NO CONSTRUCTION NOTES ARE REQUIRED.
 5. THE TYPE OF MATERIALS TO BE USED IN THE OPERATIONS OF ALL OPERATIONS SHALL BE AS SPECIFIED IN CHAPTER 10 OF THE UBC.
 6. MANHOLE CUT - 2' MANHOLE DIA - 4' DIA



EROSION CONTROL PLAN
 THE OLYMPIC CLUB
 GOLF COURSE RENOVATION PLAN

SAN FRANCISCO CALIFORNIA
 SCALE: SEE DETAIL OF APPROVED PLAN

KCA ENGINEERS, INC.
 ENGINEERING CONSULTING ARCHITECTURE

SHEET 1 OF 1
 KCA

4/2/70 Aerial Photograph

Fort
Funston

Project Area of
Application
#1-95-62

Golf Course
Project
Area

Thornton
State
Beach
Area



EXHIBIT NO. 6A
APPLICATION NO. 1-95-62
1970 Aerial

1970 Aerial Photograph

Detail of Project Area for CDP 1-95-62

Fort
Funston

Project
Area

Approximate
County
Line



EXHIBIT NO.	6B
APPLICATION NO.	1-95-62
1970 Aerial	
Blowup	

5/3/78 Aerial Photograph

Fort
Funston

Project Area of
Application
#1-95-62

Golf Course
Project
Area

Thornton
State
Beach
Area



EXHIBIT NO.	7A
APPLICATION NO.	1-95-62
1978 Aerial	

1978 Aerial Photograph

Detail of Project Area for CDP 1-95-62

Fort
Funston

Project
Area

Approximate
County
Line



EXHIBIT NO. 7B

APPLICATION NO.
1-95-62

1978 Aerial
Blowup

3/26/86 Aerial Photograph

Fort
Funston

Project Area of
Application
#1-95-62

Golf Course
Project
Area

Thornton
State
Beach
Area

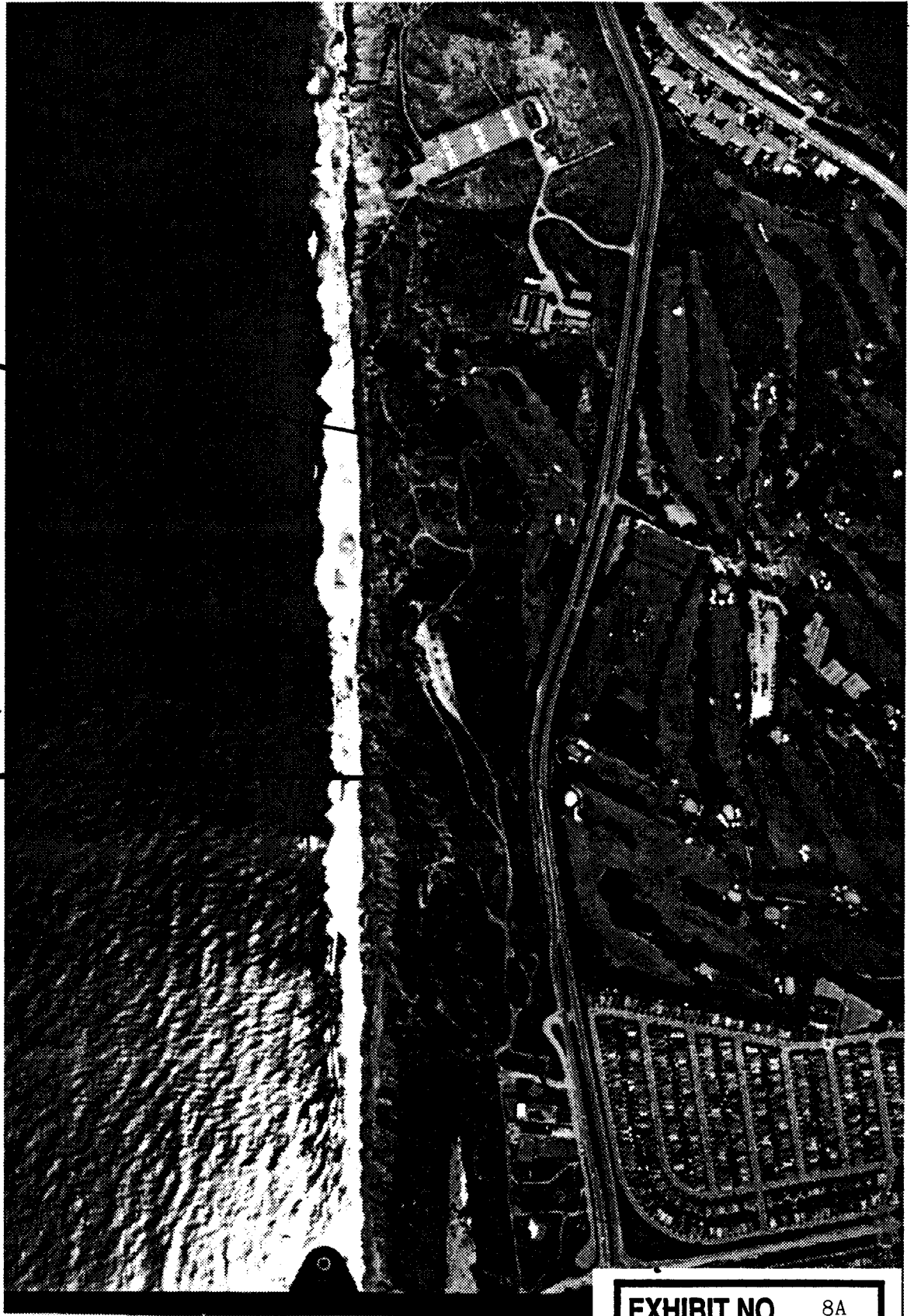


EXHIBIT NO.	8A
APPLICATION NO.	1-95-62
	1986 Aerial

1986 Aerial Photograph

Detail of Project Area for CDP 1-95-62

Fort
Funston

Project
Area

Approximate
County
Line



EXHIBIT NO. 8B

APPLICATION NO.
1-95-62

1986 Aerial
Blowup

4/19/93 Aerial Photograph

Fort
Funston

Project Area of
Application
#1-95-62

Golf Course
Project
Area

Thornton
State
Beach
Area



EXHIBIT NO. 9A

APPLICATION NO.
1-95-62

1993 Aerial

1993 Aerial Photograph

Detail of Project Area for CDP 1-95-62

Fort
Funston

Project
Area

Approximate
County
Line



EXHIBIT NO. 9B

APPLICATION NO.

1-95-62

1993 Aerial
Blowup

LSA Associates, Inc.

Environmental Assessments
 Transportation Engineering
 Resource Management
 Community Planning
 Environmental Restoration

**Principals**

Rob Balen
 Lynn Calderline
 Les Card
 Steve Granholm
 Roger Harris
 Art Hoenigbansen
 Larry Kennings
 George Kasilko
 Carolyn Lobell
 Bill Mayer
 Rob McCann
 Rob Sebnholtz
 Malcolm J. Sprout

Associates

Deborah Baer-Walker
 Connie Calica
 Ross Dobbertson
 Gary Dow
 Kevin Fincher
 Richard Harlacher
 Michele Huddleston
 Clive Kellner
 Karen Kirtland
 Benson Lee
 Sabrina Nicholls
 M. W. "Bill" O'Connell
 Anthony Petros
 Jill Wilson

February 16, 1996

Mr. Paul Kennedy
 The Olympic Club
 524 Post Street
 San Francisco, CA 94102

Subject: Olympic Club Course Renovation, Fourth Green Area

Dear Mr. Kennedy:

This letter will document the results of my site visit to the vicinity of the fourth green of the Olympic Club's Cliff Course, which is currently being renovated. I examined the area on February 2, 1996, in the company of golf course staff. The purpose of the site visit was to determine if a dune hollow "wetland" or "riparian habitat" is present near the green, and if so, to advise on any protective measures that might be appropriate. "Wetland" and "riparian habitat" areas are specifically regulated by the California Coastal Commission, and are defined in the Coastal Commission's 1981 *Statewide Interpretive Guidelines, Wetlands and Other Wet Environmentally Sensitive Habitats*, (Guidelines) specifically Appendix D of those Guidelines. I am a biologist qualified to make this assessment, as documented by the attached resume.

RESULTS

There is a drainage located northeast of the fourth green, which supports shrubby vegetation composed entirely of non-native ornamental species. An acacia (*Acacia longifolia*) is the dominant plant, followed by a eucalypt (*Eucalyptus* sp.) and myoporum (*Myoporum* sp.). The herbaceous vegetation adjoining the shrubs is dominated by iceplant (*Mesembryanthemum* sp.) and wild radish (*Rapbanus sativa*). Smaller amounts of mock heather (*Haplopappus ericoides*), sandwort (*Eriophyllum stachaeoidifolia*), blackberry (*Rubus vitifolia*) and wild oats (*Avena sativa*) are present. This vegetation is similar in composition to the vegetation of the entire hillside, but there is a concentration of shrubs along the drainage. This portion of the drainage is on the hillside well above the elevation of the beach.

02/16/96(PA01Y630GREEN4.LTR)

157 Park Plaza
 Pt. Richmond, California 94801

Telephone 510 236-6810
 Facsimile 510 236-3480

EXHIBIT NO.	10
APPLICATION NO.	1-95-62
Botanical Survey	
(1 of 2)	

Dune hollow wetlands are not specifically defined in the Guidelines, but typically are vegetated with dune sedge (*Carex pansa*), rushes (*Juncus* spp.), saltgrass (*Distichlis spicata*), cinquefoil (*Potentilla anserina*), and similar species. Willows (*Salix* spp.) and wax myrtle (*Myrica californica*) are sometimes present as subdominants. Dune hollow wetlands usually are found behind dunes at an elevation similar to the beach. No typical dune hollow wetland vegetation is present, and the drainage is not in a physiographic setting normally occupied by a dune hollow wetland. For these reasons, the area in question should not be considered a dune hollow wetland.

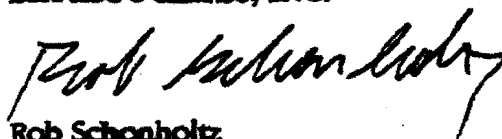
Riparian habitats are defined as an area of riparian vegetation, which is an association of plant species which grows adjacent to freshwater watercourses, including perennial and intermittent streams, lakes, and other freshwater bodies (per the Guidelines and Appendix D). Typical riparian plants are identified in Appendix D; those which might be expected in this setting include willows, blackberry, California bay (*Umbellularia californica*), bracken fern (*Pteris aquilinum*), and twinberry (*Lonicera involucrata*). The dominant plants species found in the area in question are not particularly associated with the watercourse near the fourth green (they grow throughout the hillside) or with watercourses in general. Willow, usually the dominant plant in riparian habitats in this physiographic setting, is entirely absent. Blackberry is the only "typical" riparian plant present, and it is a subdominant. Although there is a watercourse present, the area is strongly dominated by non-native plants which are not normally associated with freshwater watercourses. For these reasons, the area in question should not be considered a riparian habitat.

I observed no endangered or threatened species or species proposed for listing under either the federal or state Endangered Species Act during this reconnaissance visit, and I observed nothing to warrant a formal endangered species survey.

I trust this letter provides the information you require. Please call me if you have any questions.

Sincerely,

LSA ASSOCIATES, INC.



Rob Schonholtz
Principal

cc: Zane Gresham

attachment: resume

02/16/96(P:\OLY630\GREEN4.LTR)

EXHIBIT NO.	10
APPLICATION NO.	1-95-62
Botanical Survey	
(2 of 2)	

MORRISON & FOERSTER LLP

LOS ANGELES
SACRAMENTO
ORANGE COUNTY
PALO ALTO
WALNUT CREEK
SEATTLE
DENVER

ATTORNEYS AT LAW

345 CALIFORNIA STREET
SAN FRANCISCO, CALIFORNIA 94104-2675
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NEW YORK
WASHINGTON, D.C.
LONDON
BRUSSELS
HONG KONG
TOKYO

April 9, 1996

Writer's Direct Dial Number
(415) 677-7491

Via Facsimile and Messenger

Bob Merrill
State of California
California Coastal Commission
45 Fremont Street – Suite 2000
San Francisco, California 94105-2219

EXHIBIT NO. 11
APPLICATION NO. 1-95-62
Applicant's Revised Irrigation Proposal
(1 of 2)

Re: Olympic Club Application #1-95-62

Dear Mr. Merrill:

This letter relates to the Olympic Club's ("Club") proposed rehabilitation of portions of two holes of the historic Pacific Links course within the City and County of San Francisco, which is the subject of the above-referenced application. **The purpose of this letter is to supplement and clarify the project description as it relates to water usage.**

As the application notes, the amount of water expected to be used for irrigation purposes for the project is less than .1% of the current water usage from the aquifer. Even taking into account the irrigation needs for the previously approved four holes to be restored within San Mateo County, the total amount of water expected to be used for irrigation is less than .3% of the current water usage from the aquifer. Consequently, the Club does not believe that this minor amount of water usage could possibly result in any significant impact.

Nevertheless, the City and others have raised concerns regarding such irrigation. The Club has had discussions with the representatives of the City and County of San Francisco and the San Francisco PUC (collectively, "City") to address these concerns and, to avoid any possibility that the irrigation for the project or the other four holes could cause any impact on Lake Merced or groundwater levels, the Club has agreed with the City to condition the permit to reflect that: (1) the issuance of the permit shall be conditioned upon the execution of an agreement between the Club and Daly City regarding the purchase of tertiary water by the Club when such water becomes available from Daly City; and (2) as condition of the permit, until such tertiary water is available, the Club shall purchase water from the San Francisco Water Department at wholesale rates and in an amount equal to

MORRISON & FOERSTER LLP

Bob Merrill
April 9, 1996
Page Two

that used to irrigate the project and the other four restored holes (plus evaporative losses) so it can be added to Lake Merced.

To that end, the Club and the City have agreed that it would be appropriate to include the following permit condition language in lieu of the proposed condition suggested in the staff report:

1. To address concerns raised regarding the possibility of an effect on groundwater or Lake Merced water levels, prior to issuance of the permit, the applicant shall submit to the Executive Director evidence of an executed agreement between applicant and Daly City regarding the purchase of tertiary-treated water by the applicant from Daly City for all or a portion of the applicant's irrigation water demand when such water becomes available from Daly City.
2. To address concerns raised regarding the possibility of an effect on groundwater or Lake Merced water levels caused by applicant's increased groundwater pumping to irrigate six new holes west of Skyline Boulevard, applicant agrees to purchase an equivalent amount of imported surface water (plus evaporative losses) from the San Francisco Water Department (SFWD) to be added by the SFWD to Lake Merced in order to recharge the Westside Basin. Applicant shall pay for the recharge water, subject to water availability, until tertiary water is available for all or a portion of applicant's irrigation water demand.

Both parties believe that this permit condition language better addresses the concerns of the City and others on this issue

Please do not hesitate to contact me if you have any questions regarding this supplement to the project description. Thank you for your cooperation in this matter.

Very truly yours,


Ray Larroca

cc: Dennis Moriarty, Esq.
Josh Millstein Esq.
Zane Gresham, Esq.

EXHIBIT NO.	11
APPLICATION NO.	1-95-62
Applicant's Revised Irrigation Proposal	
(2 of 2)	

**MEMORANDUM OF UNDERSTANDING
OF PRINCIPLES OF AGREEMENT
FOR SUBSTITUTION OF TERTIARY RECYCLED WATER FOR GROUNDWATER
TO IRRIGATE GOLF COURSES**

This Memorandum of Understanding is made this _____ day of _____, 1996, between the Public Utilities Commission of the City and County of San Francisco ("SFPUC"), the City of Daly City ("Daly City"), and The Olympic Club, Lake Merced Golf & Country Club, and San Francisco Golf Club ("Clubs"), and provides as follows:

W I T N E S S E T H

WHEREAS the SFPUC is responsible for planning and management of the water resources of the City and County of San Francisco, including both groundwater and surface water, and owns the Lake Merced tract of land as utility property, and Lake Merced, which, in the opinion of Daly City and the SFPUC, is a surface expression of an aquifer containing potable water which underlies portions of San Francisco and San Mateo Counties, provides multiple public benefits to residents of San Francisco and surrounding communities, including recreation, fish and wildlife habitat, and is designated as a source of potable water for emergency consumptive and firefighting uses, and the SFPUC seeks to protect the multiple uses of Lake Merced, and to optimize the reasonable and beneficial use of the potable water resource provided by the aquifer; and

WHEREAS Daly City utilizes a portion of the same aquifer as one of two sources of the potable domestic water it distributes

EXHIBIT NO. 12
APPLICATION NO. 1-95-62
Proposed MOU on Irrigation
(page 1 of 8)

to the City's residents, and seeks to optimize the reasonable and beneficial use of the potable water resource provided by the aquifer, and Daly City also owns and operates a wastewater plant which currently treats municipal wastewater to secondary standards and discharges it to the ocean, and Daly City has installed a pipeline system for delivery of recycled water from its treatment plant to users, particularly including the Clubs, but earlier use agreements with two of the Clubs were not implemented; and

WHEREAS, Daly City is in a position to now deliver "restricted use" recycled water consistent with Title 22 of the California Code of Regulations, and Daly City has investigated and is prepared to proceed with design and installation of a tertiary treatment system for a portion of its municipal wastewater to provide and deliver "unrestricted use" recycled water consistent with Title 22, and would use its existing pipeline system to deliver tertiary recycled water to the Clubs; and

WHEREAS the Clubs each own and operate one or more golf courses located in the City and County of San Francisco and/or in San Mateo County, in the vicinity of Lake Merced, and the Clubs assert that these golf courses have been irrigated solely with groundwater pumped from the same underlying aquifer in relatively constant amounts and at relatively constant rates since the Clubs were established, and the Clubs' current use of groundwater is at an annual rate below 1.6 acre/feet per acre, and the consistent

EXHIBIT NO.	12
APPLICATION NO.	1-95-62
Proposed MOU on Irrigation	
(page 2 of 8)	

quality of the available groundwater, in combination with the particular types of grasses grown by the Clubs, and local soil conditions and weather, permit the Clubs to produce recognized golf course playing surfaces, and the Clubs' use of groundwater for these purposes is a legal and beneficial use of water; and

WHEREAS the water surface elevation of Lake Merced has declined since 1987, and the SFPUC has conducted numerous studies and carried out several actions intended to stabilize Lake levels, and has concluded that factors contributing to the declining Lake levels encompass groundwater pumping by municipal users including Daly City and other communities, groundwater pumping by irrigation users including the Clubs and others, the extended drought period which began during the late 1980's, urban development which has reduced aquifer recharge, and a lack of surface water inflow to the Lake; and

WHEREAS the SFPUC is performing master planning and environmental documentation for surface water, groundwater, and recycled water management activities which could be undertaken by San Francisco, and has determined that long-term reasonable and beneficial use of available groundwater and surface water resources will require cooperative efforts on the part of the various communities and water users now using portions of such resources; and

WHEREAS pending completion of planning and water management activities, the SFPUC determined that several actions were necessary to protect Lake Merced and the groundwater aquifer, and

EXHIBIT NO. 12
APPLICATION NO. 1-95-62
Proposed MOU on Irrigation
(page 3 of 8)

on May 23, 1995 the SFPUC adopted Resolution No. 95-0082, which called upon the Clubs to make a determination as to the suitability of use of tertiary water which might be supplied by Daly City as a substitute for the groundwater which has been utilized by the Clubs for their irrigation supply since they were established; and

WHEREAS numerous golf courses throughout California now use recycled water for irrigation purposes and such use has been shown to be beneficial and is consistent with State law and water policy aimed at enhancing public resources, but the Clubs are concerned about the water-related playing surface problems that have occurred at some of the golf courses irrigated with recycled water; and

WHEREAS the Clubs, on November 1, 1995, informed the SFPUC in writing that they had considered this question carefully and had preliminarily concluded that tertiary water from Daly City may be suitable for use as a substitute for the groundwater currently used to irrigate the Clubs, and also indicated their willingness and desire to work with the SFPUC and Daly City to determine the feasibility of substituting tertiary water for some or all of the groundwater now used by the Clubs to irrigate their golf courses, and the Clubs have subsequently provided information to Daly City and the SFPUC indicating their respective water use profiles, which provide necessary data on the Clubs' instantaneous, daily, seasonal, and annual need for irrigation water, and the Clubs are currently investigating the

EXHIBIT NO.	12
APPLICATION NO.	1-95-62
Proposed MOU on Irrigation	
(page 4 of 8)	

nature, extent, and costs of changes which would need to be made in their current irrigation systems to substitute tertiary recycled water from Daly City for portion of the groundwater currently used as the Clubs' irrigation supply, and in order to accomplish this objective the parties hereby agree that the following principles shall govern their negotiations:

A G R E E M E N T

1. The parties agree that the principles of the California State Constitution and California Statutory Law and State Regulations (Water Code Sections 13550-13551 and Water Code Section 106) shall apply to their efforts to develop a tertiary water supply from Daly City as a substitute for all or a portion of the groundwater currently and historically used for irrigating the Clubs' golf courses.

2. The parties agree to negotiate in good faith and on a regular basis to resolve issues.

3. The substitute water supply to be furnished to the Clubs shall be available for the Clubs' use at times and in quantities necessary to meet their irrigation needs. The Clubs can only irrigate their golf courses during limited periods during each day, and their respective demands are usually simultaneous, so the facilities for delivering and storage of the recycled water for the Clubs will need sufficient capacity to provide the required volumes of water in a timely manner. The Clubs shall be able to rely on the availability of this

EXHIBIT NO.	12
APPLICATION NO.	1-95-62
Proposed MOU on Irrigation	
(page 5 of 8)	

substitute supply on a daily basis throughout the irrigation season of each year.

4. The substitute supply shall be of consistently adequate and reliable quality for application as an irrigation supply on the Clubs' golf courses without causing damage to the playing surfaces. The parties agree that greens and tees are areas of particular concern. After Daly City notifies each Club that it is ready to commence production and delivery of recycled water, each Club shall accept and utilize recycled water for all golf course irrigation for which groundwater is now used, save and except for greens and tees (including practice areas), and save and except for areas which the parties agree are not appropriate for use of recycled water for irrigation. After recycled water operations have commenced, a Club may elect to use recycled water on some or all of its greens and tees, and shall so notify Daly City. Within a reasonable time after receipt of such notice, Daly City shall commence delivery of the increased quantity of recycled water to the Club under the terms of the agreement under which recycled water is provided.

5. Once recycled water operations have commenced, if problems occur related to the quality of the recycled water, and should such problems damage all or a portion of the playing surfaces of one or more of the Clubs' golf courses, the parties agree to meet and confer in good faith and to take reasonable steps to solve the problems, if possible, in a manner which will permit the recycled water operations to continue without damaging

EXHIBIT NO.	12
APPLICATION NO.	1-95-62
Proposed MOU on Irrigation	
(page 6 of 8)	

the golf courses. Examples of solutions to be considered shall include, but not be limited to, dilution of the recycled water with groundwater, and cessation of use of recycled water until the problems are corrected.

6. In determining the suitability of use of recycled water as a substitute for the current groundwater supply, the parties agree that recognized and established public health and safety issues shall be considered, consistent with requirements of the Regional Water Quality Control Board, San Francisco Health Department and San Mateo County Environmental Health Department.

7. The Clubs agree to make necessary internal changes and measures in their irrigation systems which would allow for the use of recycled water, if and when the allocation and responsibility for payment of the costs of said changes and measures in the irrigation systems are agreed upon between the Clubs and Daly City. The parties agree that the Clubs shall retain and maintain their groundwater systems in a manner and condition so that they can be used to irrigate all or portions of the golf courses when a sufficient quantity of recycled water of suitable quality is not consistently available.

8. Daly City and the Clubs shall negotiate appropriate hold harmless and indemnification provisions related to use of recycled water for irrigation of the Clubs' golf courses.

9. The parties agree that the recycled water shall be furnished at a reasonable cost to the Clubs, and the Clubs agree that Daly City is entitled to guaranteed revenues for furnishing

EXHIBIT NO.	12
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Proposed MOU on Irrigation	
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recycled water during the term of its agreements with the Clubs. In determining reasonable cost, the parties agree that all relevant factors, including statutory and regulatory factors, shall be considered.

10. The Clubs agree to cooperate on a reasonable basis with the SFPUC and Daly City regarding their efforts to analyze and manage the aquifer, including potential access to information regarding wells for study purposes.

EXECUTED and effective on the date shown above by duly authorized representatives of the parties.

CITY OF DALY CITY

By _____

Title _____

PUBLIC UTILITIES COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO

By _____

ANSON B. MORAN
General Manager

PUC Res. No. 96-
Adopted: _____, 1996

Attest: _____

Approved as to form:

Louise H. Renne
City Attorney

By _____

Joshua D. Milstein
Deputy City Attorney

THE OLYMPIC CLUB

By _____

Title _____

LAKE MERCED GOLF & COUNTRY CLUB

By _____

Title _____

SAN FRANCISCO GOLF CLUB

By _____

Title _____

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APPLICATION NO.	1-95-62
Proposed MOU on Irrigation	
(page 8 of 8)	



City and County of San Francisco

PUBLIC UTILITIES COMMISSION

1155 Market Street, 4th Floor
San Francisco, California 94103
(415) 554-3155

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CALIFORNIA
COASTAL COMMISSION

Robert S. Merrill
Chief of Permits
North Coast Area Office
California Coastal Commission
45 Fremont St., Suite 2000
San Francisco, CA 94105-2219

EXHIBIT NO.	13
APPLICATION NO.	1-95-62
	PUC letter supporting
	Irrigation Plan (1 of 2)

April 8, 1996

Re: Application Number 1-95-062, Olympic Golf and Country Club

Dear Mr. ^{Bob} ~~Merrill~~:

Since our last letter to you dated March 14, 1996 we have entered into discussions with the Applicant's representatives concerning appropriate permit conditions which would protect the City's interests in Lake Merced and the Westside Basin groundwater aquifer. We will support the issuance of the permit with the following two conditions substituted in lieu of the draft condition proposed by the Commission staff:

1. The permit should be conditioned on the Applicant providing evidence of an executed agreement for the purchase of tertiary recycled water from the City of Daly City. This agreement will enable Daly City to go forward with the construction of its tertiary plant and deliver a replacement source of irrigation water to all three golf clubs in the Lake Merced vicinity in lieu of most of the groundwater currently used.

2. The permit should be conditioned on the Applicant purchasing imported surface water from the San Francisco Water Department for addition to Lake Merced and recharge of the underlying Westside Basin aquifer. The Applicant will purchase from the SFWD an amount of water equivalent to the increased volume of groundwater pumped to irrigate the six new holes west of Skyline Boulevard, plus evaporation losses. The purchase of

Robert Merrill
April 8, 1996
Re: Olympic Club
Page 2

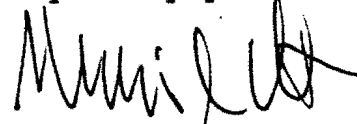
EXHIBIT NO. 13
APPLICATION NO. 1-95-62
PUC letter supporting
Irrigation Plan (2 of 2)

water from the SFWD will continue until tertiary water becomes available from Daly City.

In our view the latter condition is required under the California Environmental Quality Act to mitigate the impacts of increased groundwater withdrawal caused by the Applicant's permit application and the prior permit issued by San Mateo County.

Mr. Milstein of the City Attorney's office will be available at the Commission's meeting in Carmel to answer any questions you may have on our agreement with the Applicant.

Very truly yours,



MARION E. OTSEA
President
San Francisco Public
Utilities Commission

cc: Sup. Barbara Kaufman
Sup. Kevin Shelley
Sen. Quentin Kopp
Louise Renne
A. Moran
S. Ritchie
P. Sweetland, Daly City
Ray Larocca, Morrison & Foerster
Jerry Cadagan, Committee to Save Lake Merced
T. Berliner
J. Milstein