

**CALIFORNIA COASTAL COMMISSION**

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Hearing Date: Oct. 7-10, 1997  
Commission Action:

**RECORD PACKET COPY**STAFF REPORT: APPEALSUBSTANTIAL ISSUE HEARING

LOCAL GOVERNMENT: Los Angeles County  
LOCAL DECISION: Approval with Conditions  
APPEAL NO.: A-5-SCI-97-129  
APPLICANT: Santa Catalina Island Company  
AGENT: Bret Carman  
PROJECT LOCATION: Pebbly Beach, Santa Catalina Island, Los Angeles County.  
PROJECT DESCRIPTION: Construction of a 300 foot long rock revetment.  
APPELLANTS: California Coastal Commission Chairman Rusty Areias &  
California Coastal Commissioner Fran Pavley

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission determine that a substantial issue exists with the County approved project on the grounds that it does not address possible impacts to public recreation opportunities and would result in the permanent loss of 1,000 square feet of intertidal habitat by extending the revetment seaward of the current shoreline. The policies of the certified Santa Catalina Island Local Coastal Program require that all shoreline protective devices be designed to protect habitat and public recreation opportunities. Additionally, the locally approved project is partially located within the Commission's area of original jurisdiction and requires a Commission approved Coastal Development Permit.

Staff further recommends that subsequent to a finding of substantial issue the Commission open a combined public hearing for the de novo permit and the required Commission permit for the proposed development (See De Novo and Regular Calendar Permit staff report A-5-SCI-92-129/5-97-108).

SUBSTANTIVE FILE DOCUMENTS:

1. Los Angeles County Local Coastal Development Permit No. 96-119-(4).
2. Santa Catalina Island Certified Local Coastal Program (LCP).
3. Coastal Development Permit application 5-97-108 (SCI Co.).

I. APPELLANTS' CONTENTIONS

Local Coastal Development Permit No. 96-119-(4) was approved by a Los Angeles County Hearing Officer on February 24, 1997. The local permit approved the construction of a 300 foot long rock revetment at Pebbly Beach on Santa Catalina Island (See Exhibits). Local Coastal Development Permit No. 96-119-(4) permits a revetment covering approximately 10,000 square feet of shoreline area above and below the current mean high tide line. The approved revetment extends seaward of the current shoreline burying the current mean high tide line (MHTL). The approved seaward extension of the shoreline would result in the loss of approximately 1,000 square feet of existing intertidal habitat now located below the MHTL. The approved revetment consists of 6,950 tons of rock to be mined from a nearby quarry.

The County approval of Local Coastal Development Permit No. 96-119-(4) was appealed by two Coastal Commissioners on May 6, 1997. The Commissioners' appeal contends that:

1. Local Coastal Development Permit No. 96-119-(4) does not contain provisions for the protection of public access and recreational opportunities as required by the Coastal act and the certified LCP.
2. There is a dispute between the applicant and the State Lands Commission over the ownership of the project site.

After the County forwarded the complete County permit file to Commission staff, the additional information showed that the approved project included the placement of fill in the intertidal zone which would result in the elimination of the 1,000 square feet of intertidal habitat. The certified Santa Catalina Island LCP prohibits fill that damages habitat. Additionally, the portion of the County approved project located in the intertidal area is within the Commission's area of original jurisdiction and outside of the County's certified LCP area. No mitigation was proposed or required for the intertidal habitat which would be lost as a result of the County approved revetment. This additional information, received subsequent to the filing of the appeal, further supports the appeal.

As stated above, the Local Coastal Development Permit approves development within the Commission's area of original jurisdiction. The boundary between the County's LCP jurisdiction and the Commission's area of original jurisdiction is the mean high tide line. That line bisects the subject site (Exhibit #4). The Local Coastal Development Permit approves development on both sides of the line demarcating the Commission's original jurisdiction over tideland and former tideland areas. The applicant has submitted Coastal

Development Permit application 5-97-108 for the portion of the proposed project which is located within the Commission's area of original jurisdiction.

## II. LOCAL GOVERNMENT ACTION

As previously stated, a Los Angeles County Hearing Officer approved Local Coastal Development Permit No. 96-119-(4) on February 24, 1997 for the construction of a 300 foot long rock revetment at Pebbly Beach on Santa Catalina Island (See Exhibits). The County held public hearings for the proposed project on February 4 and 18, 1997, in which the dispute over the ownership of the project site was noted. There was no opposition testimony to the proposed project. In approving the proposed project, the County Hearing Officer found that the proposed revetment was required in order to protect an existing boat yard from erosion and was consistent with the certified LCP. A condition of approval required the applicant to obtain any necessary permits from the State Lands Commission and the Coastal Commission. There were no appeals filed at the local level.

On April 22, 1997, the Commission received the County's Notice of Final Action for Local Coastal Permit No. 96-119-(4). The Commission's ten day appeal period was established, and the County's approval was appealed by two Commissioners on May 6, 1997, the last day of the appeal period. Notification of the Commissioners' appeal was sent to the County and the applicant on May 7, 1997.

Pursuant to Section 30621 of the Coastal Act, a hearing on a Local Coastal Development Permit appeal shall be set no later than 49 days after the date on which the appeal is filed with the Commission. The applicant waived the 49 day requirement in order that the appeal and Coastal Development Permit application 5-97-108 could be heard at the same time by the Commission. Coastal Development Permit application 5-97-108 was filed as complete on September 12, 1997. Therefore, the Commission's October 7-10, 1997 meeting is the first available meeting at which both the appeal and the permit application can be heard together. [Note: the revetment proposed in Coastal Development Permit application 5-97-108 is a revised version of the revetment approved by the County. The design of the proposed revetment was revised in order to eliminate any loss of intertidal habitat by siting the revised revetment more landward than the revetment approved by the County.]

At this point, the Commission may decide that the appellants' contentions raise no substantial issue of conformity with the Coastal Act, in which case the action of the local government stands, or the Commission may find that a substantial issue exists with the action of the local government if it finds that the proposed project may be inconsistent with the certified LCP or the public access policies of the Coastal Act of 1976.

If the Commission finds substantial issue, then the appeal hearing will be heard as a de novo permit request. Section 13321 specifies that de novo actions will be heard according to the procedures that apply to other Coastal Permits, as outlined in Section 13114 of the California Code of Regulations.

The subsequent de novo permit hearing will be held concurrently with the Commission's hearing for Coastal Development Permit application 5-97-108 which the applicant has submitted for the portion of the proposed project located in the Commission's area of original jurisdiction.

### III. APPEAL PROCEDURES

After certification of a Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on Coastal Development Permits. Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea, or within three hundred feet of the inland extent of any beach, mean high tide line, or the top of the seaward face of a coastal bluff. Furthermore, developments approved by counties may be appealed if they are not designated "principal permitted use" under the certified Local Coastal Program. Finally, developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. [Coastal Act Section 30603(a)].

The Santa Catalina Island Local Coastal Program (LCP) was certified on October 11, 1989. On January 9, 1990, Los Angeles County assumed permit-issuing authority pursuant to its certified LCP. The County approved project is located in the appealable area identified by the certified LCP. The project is located both within three hundred feet of the mean high tide line and between the first public road and the sea. The project is actually located on the seashore over the current mean high tide line (MHTL) and on top of a rocky shoreline.

Section 30603(a) of the Coastal Act identifies which types of development are appealable. Section 30603(a) states, in part:

- (a) After certification of its Local Coastal Program, an action taken by a local government on a Coastal Development Permit application may be appealed to the Commission for only the following types of developments:
  - (1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is greatest.
  - (2) Developments approved by the local government not included within paragraph (1) of this subdivision that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

The grounds for appeals of projects located within three hundred feet of the mean high tide line are listed in Section 30603(b)(1) of the Coastal Act.

Section 30603(b)(1) states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in this division.

The action currently before the Commission is to find whether there is a "substantial issue" or "no substantial issue" regarding the local approval of the subject project. Section 30625(b)(2) of the Coastal Act requires a regular (de novo) hearing of the appealed project unless the Commission determines that "no substantial issue" exists with respect to the grounds for appeal [Section 30603(b)].

If Commission staff recommends a finding of "substantial issue", and there is no motion from the Commission to find "no substantial issue", the substantial issue question will be considered moot, and the Commission will proceed to a de novo public hearing where the Commission will act according to the merits of the project.

Pursuant to Section 30604(b) and (c) of the Coastal Act, and because the proposed development is located between the first public road and the sea, the standards of review for the project are: 1) the certified Local Coastal Program; and 2) the access and recreation policies of the Coastal Act.

The portion of the proposed project which is located within the Commission's area of original jurisdiction will be analyzed under the Chapter 3 Policies of the Coastal Act. The certified Local Coastal Program can be used for guidance in this area. In other words, in order to approve the proposed project, the Commission must find that the portion of the project within the Commission's area of original jurisdiction is consistent with the Chapter 3 Policies of the Coastal Act, while the portion of the project landward of the Commission's area of original jurisdiction must be found to be consistent with the certified Local Coastal Program and the access and recreation policies of the Coastal Act. Sections 13110-13120 of the California Code of Regulations further explain the appeal hearing process.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. Pursuant to Section 13115(c) of the California Code of Regulations, the only persons qualified to testify before the Commission at the substantial issue stage of the appeal process are the applicants, persons who opposed the application before the local government (or their representatives), and the local government. In this case, no persons opposed the application before the local government. Testimony from other persons may be submitted in writing. The Commission will then vote on the "substantial issue" matter. It takes a majority of Commissioners present to find that no substantial issue is raised by the local approval of the project.

#### IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that a substantial issue exists with respect to the conformity of the project with the policies of the Santa Catalina Island certified Local Coastal Program, pursuant to Public Resources Code Section 30625(b)(2).

MOTION. Staff recommends a NO vote on the following motion:

I move that the Commission determine that Appeal No. A-5-SCI-97-129 raises NO substantial issue with respect to the grounds on which the appeal has been filed.

A majority of the Commissioners present is required to pass the motion.

#### V. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

##### A. PROJECT DESCRIPTION AND AREA HISTORY

The proposed project involves the construction of a 300 foot long rock revetment at Pebble Beach on Santa Catalina Island (See Exhibits). Approximately 6,950 tons of rock is proposed to be placed over approximately 10,000 square feet of shoreline area both above and below the current mean high tide line (MHTL). The County approved revetment extends seaward of the current shoreline burying the current MHTL. The approved seaward extension of the shoreline would result in the loss of approximately 1,000 square feet of existing intertidal habitat now located below the MHTL.

The proposed project would replace the existing riprap protected shoreline with an engineered rock revetment. The current shoreline is comprised of riprap, rocks and junk which has been placed in the surf zone in the past to protect a boatyard and shop which are located immediately inland of the project site (Exhibit #3).

The Pebble Beach area is an unincorporated industrial area located approximately one-half mile south of the city of Avalon on Santa Catalina Island (Exhibit #2). The certified LCP designates this area as an industrial area for Avalon and allows the continuation and expansion of the existing uses which include: a freight yard, warehouses, repair shops, a helipad, boatyards, light industries, a commercial laundry, gasoline storage, solid and liquid waste facilities, and the Southern California Edison power generating plant (Exhibit #3).

Pebble Beach has been the primary industrial zone for the City of Avalon since the 1920's. The Pebble Beach industrial area is one of the few large areas of flat waterfront land located on the south end of the island outside of Avalon. Because of the possible hazards associated with industrial uses, the

LCP allows public access to the water at Pebbly Beach to be limited for public safety reasons. The LCP also states that shoreline protective devices, subject to certain limitations, may be permitted in order to protect existing and expanded industrial uses at Pebbly Beach. The LCP requires that any proposed shoreline protective devices be designed to protect habitat and public recreation opportunities.

Staff is recommending that the Commission determine that a substantial issue exists with the County approved permit on the grounds that it did not analyze the possible impacts to public recreation opportunities and would result in the permanent loss of 1,000 square feet of intertidal habitat by extending the revetment seaward of the current shoreline.

It must also be noted that because the proposed project is located in both the County's LCP jurisdiction and the Commission's area of original jurisdiction, two Coastal Development Permits are required: one from the City, and one from the Commission. The County approved the required Local Coastal Development Permit is the subject of this substantial issue hearing. If the Commission finds that a substantial issue exists in regards to the appeal, a subsequent combined de novo and Coastal Development Permit hearing will be held so that the entire project will be before the Commission. However, if the Commission finds that no substantial issue exists in regard to the appeal, only a Coastal Development Permit hearing will be held by the Commission; no de novo hearing will be required. Without a de novo hearing, the Commission will only have permit jurisdiction over the portion of the project which lies within the Commission's area of original jurisdiction.

[Note: the revetment proposed in Coastal Development Permit application 5-97-108 is a revised version of the revetment approved by the County. The design of the proposed revetment was revised in order to eliminate any loss of intertidal habitat by siting the revised revetment more landward than the revetment approved by the County.]

## B. SUBSTANTIAL ISSUE ANALYSIS

As stated in Section III of this report, the grounds for appeal of a Coastal Development Permit issued by the local government after certification of its Local Coastal Program are specific. In this case, the Local Coastal Development Permit may be appealed to the Commission on the grounds that it does not conform to the certified Local Coastal Program or the public access policies of the Coastal Act. The Commission must then decide whether a substantial issue exists in order to hear the appeal.

In this case, staff is recommending that the Commission determine that a substantial issue exists with the County approved project on the grounds that it did not analyze the possible impacts to public recreation opportunities and would result in the permanent loss of 1,000 square feet of intertidal habitat by extending the revetment seaward of the current shoreline. The policies of the certified Santa Catalina Island Local Coastal Program require that all shoreline protective devices be designed to protect habitat and public recreation opportunities.

The certified LCP for Santa Catalina Island states:

Shoreline Access Policy 9 (pg. II-8):

Public shoreline access in the following areas may be limited by the landowner where public safety may be jeopardized:

Pebbly Beach industrial area and Pebbly Beach rock quarry...

The County approval did not analyze the possible impacts, if any, that the proposed revetment would have on public access opportunities. Although the LCP does allow limitations on public access in the Pebbly Beach area, the County approval does not determine if the proposed project would require any such limitations or which limitations on public access may be necessary.

The certified LCP for Santa Catalina Island also states:

Diking, Dredging, Filling and Shoreline Structures Policies (pg. II-166):

- 1) All development of shoreline structures shall be regulated by the County and the COE to avoid beach erosion and adverse impacts upon habitat resources...
- 3) New revetments...that alter natural shoreline processes shall be permitted only when required for public safety or to serve coastal dependent uses and also, boating, fishing, marine education, etc. or to arrest erosion of public beaches and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

The County approval would result in the permanent loss of approximately 1,000 square feet of intertidal habitat by extending the revetment seaward of the current shoreline. The loss of intertidal habitat is an adverse impact which was not avoided or mitigated by the County approval. As previously noted, the applicant has submitted a revised plan for the proposed revetment that eliminates the loss of intertidal habitat by siting the proposed revetment in the same location as the current rocky shoreline. therefore, staff recommends that the Commission find that a substantial issue exists in regards to the County's approval because adverse impacts of the approved revetment were not avoided as required by the above stated LCP policy.

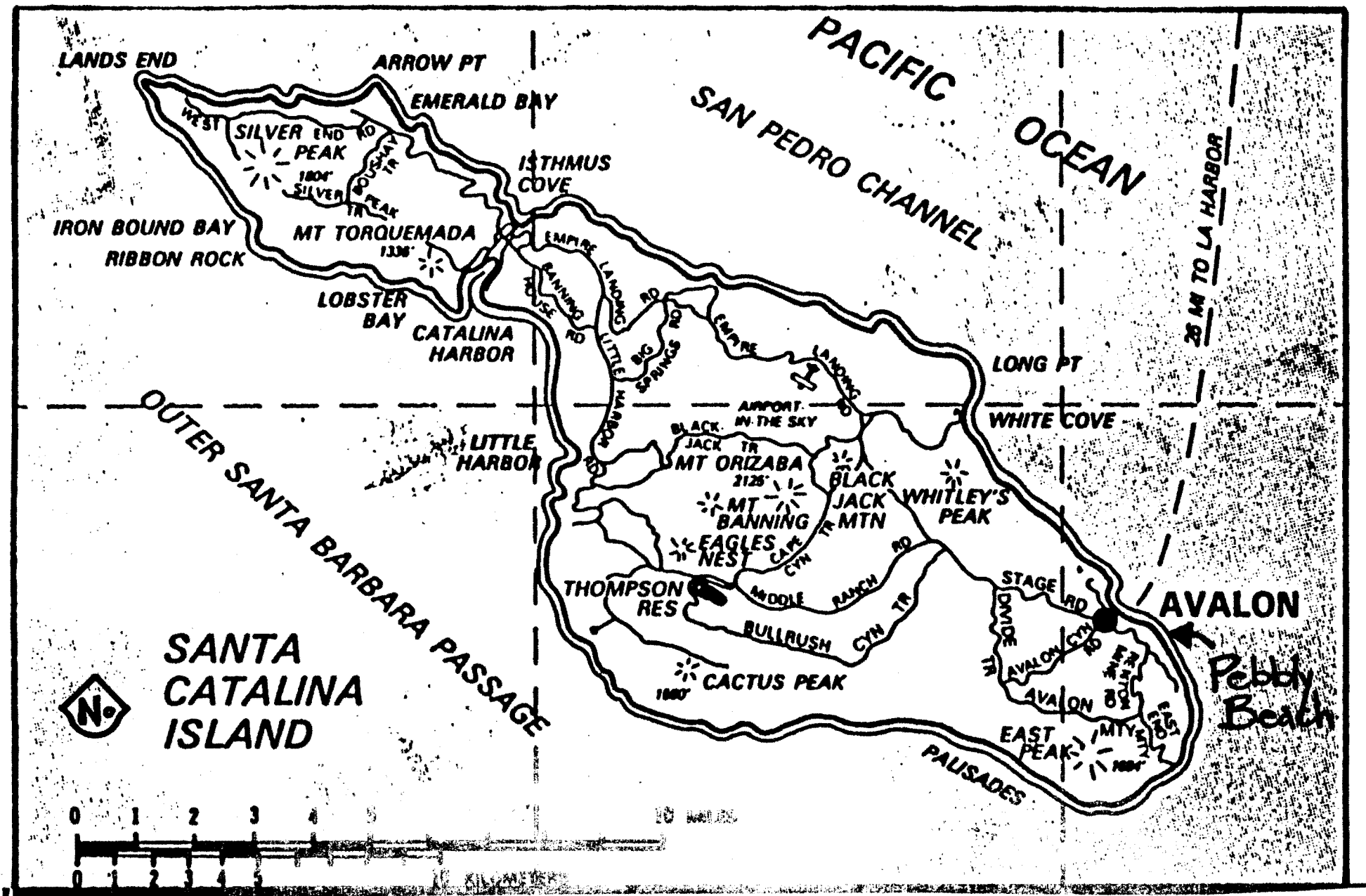
Finally, the Local Coastal Development Permit approves development within the Commission's area of original jurisdiction. The boundary between the City's Local Coastal Permit jurisdiction and the Commission's area of original jurisdiction is the former mean high tide line. That line bisects the subject site (Exhibit #4). Only the Coastal Commission can approve Coastal Development Permits which affect areas of original jurisdiction. The applicant has submitted Coastal Development Permit application 5-97-108 for the part of the proposed revetment which is located in the Commission's area of original jurisdiction and has requested that the Commission hold a public hearing for both the appeal and Coastal Development Permit application 5-97-108 at the same time.



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Pebbly Beach Revetment  
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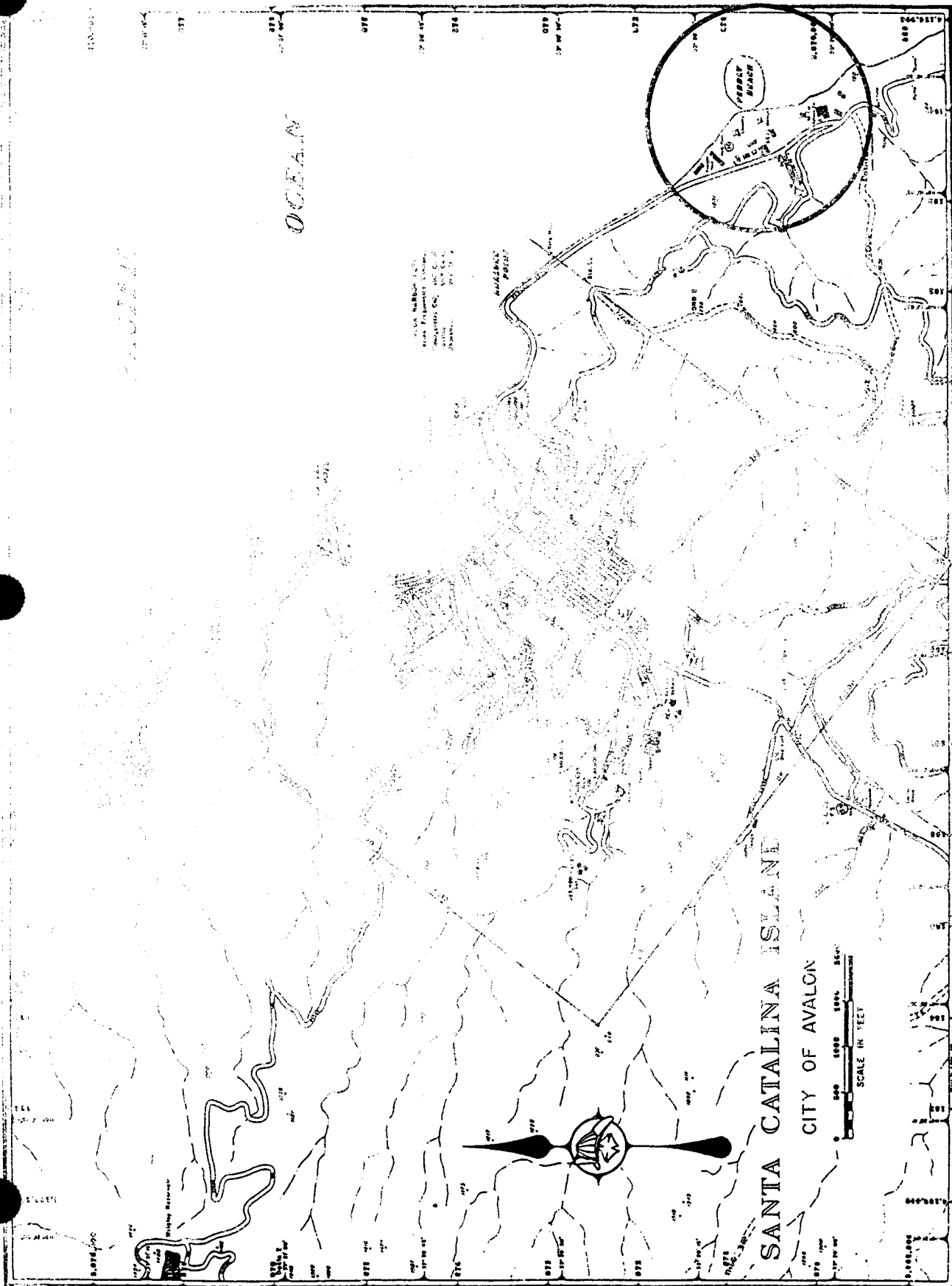
Staff recommends that the Commission find that a substantial issue exists with the approval of Local Coastal Development Permit No. 96-119-(4) on the grounds that it does not address possible impacts to public recreation opportunities and would result in adverse impacts to existing intertidal habitat.

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EXHIBIT # 1  
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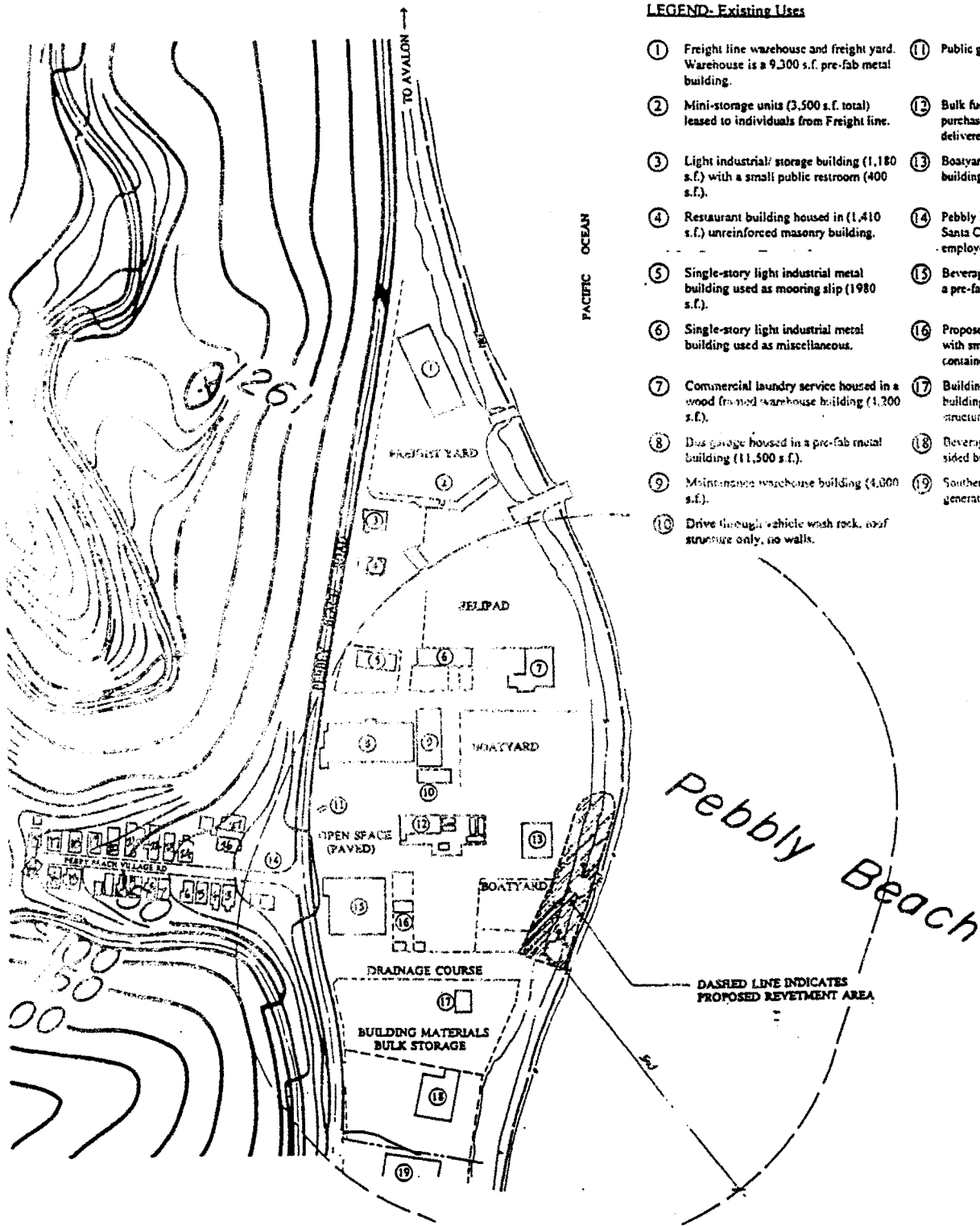
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EXHIBIT # 2

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# PEBBLY BEACH INDUSTRIAL AREA



## LEGEND- Existing Uses

- ① Freight line warehouse and freight yard. Warehouse is a 9,300 s.f. pre-fab metal building.
- ② Mini-storage units (3,500 s.f. total) leased to individuals from Freight line.
- ③ Light industrial/ storage building (1,180 s.f.) with a small public restroom (400 s.f.).
- ④ Restaurant building housed in (1,410 s.f.) unreinforced masonry building.
- ⑤ Single-story light industrial metal building used as mooring slip (1980 s.f.).
- ⑥ Single-story light industrial metal building used as miscellaneous.
- ⑦ Commercial laundry service housed in a wood framed warehouse building (1,200 s.f.).
- ⑧ Bus garage housed in a pre-fab metal building (11,500 s.f.).
- ⑨ Maintenance warehouse building (4,000 s.f.).
- ⑩ Drive through vehicle wash rack, roof structure only, no walls.
- ⑪ Public gas pumps
- ⑫ Bulk fuel storage facility. Fuel is purchased from the mainland and delivered to this facility for distribution.
- ⑬ Boatyard repair shop housed in metal building (3,000 s.f.).
- ⑭ Pebbly Beach Village. Used by the Santa Catalina Island Company for employee housing. 24 units total.
- ⑮ Beverage warehouse which is housed in a pre-fab metal building (10,000 sf).
- ⑯ Proposed and existing leased yard areas with small structures and storage containers.
- ⑰ Building supply yard which retails bulk building supplies. No permanent structures exist.
- ⑱ Beverage warehouse housed in a metal sided building (4,800 s.f.).
- ⑲ Southern California Edison power generation plant.

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EXHIBIT # 3  
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PACIFIC

Olaeres Lost  
Habitat

Approx.  
MHTL

Approx.  
MHTL

SCOUR PAD (below MHTL)  
S 53° 31' 35" E 1700'  
167:1 SLOPE

SOUTH BOAT  
STORAGE YARD

BOAT YARD SHOP

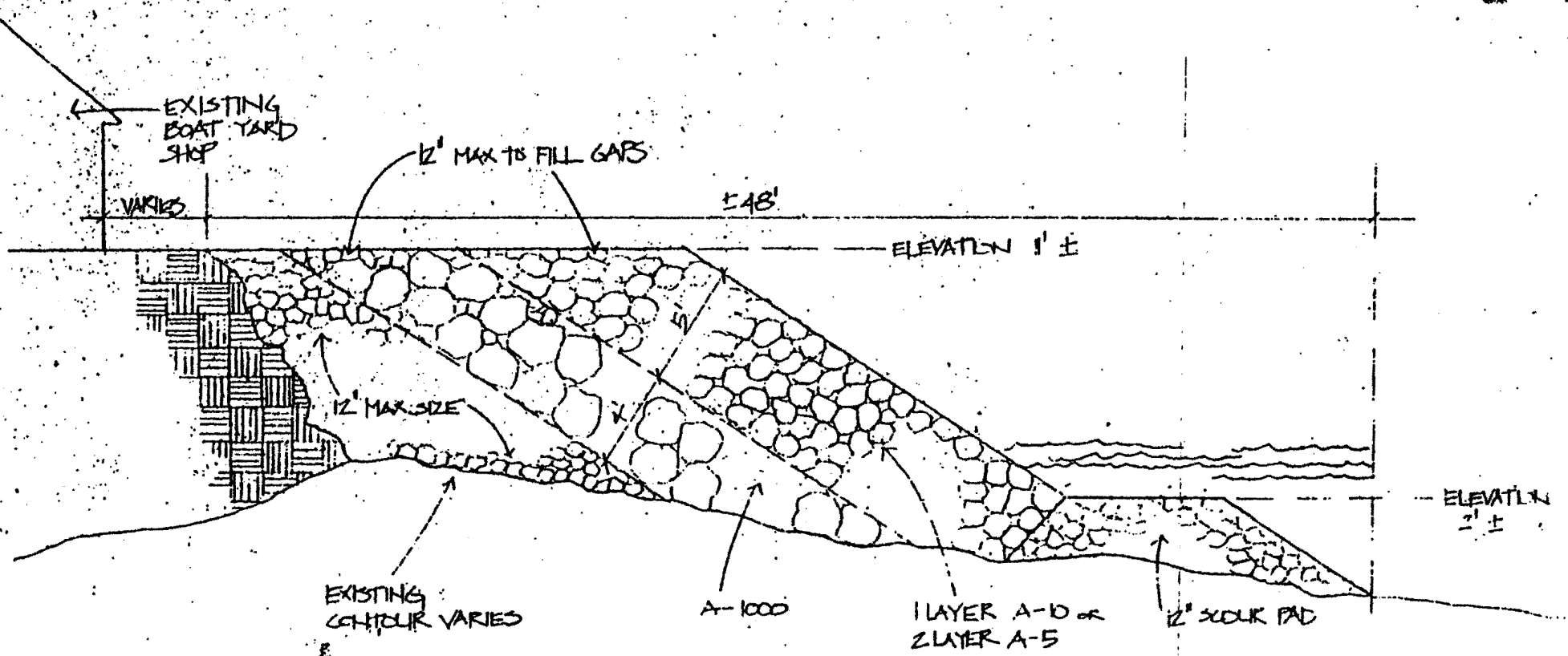
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EXHIBIT #

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L.A. Co. CDP No. 96-119-(4)

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CITY OF LOS ANGELES



SECTION A-A (Typical) L.A. Co. CDP No. 96-119-(4)

COASTAL COMMISSION NOT TO SCALE