

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

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Wed 8a



Filed: 5/26/98
49th Day: 7/14/98
180th Day: 11/22/98
Staff: LRO-SD
Staff Report: 6/15/98
Hearing Date: 7/7-10/98

STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL GOVERNMENT: City of Imperial Beach

DECISION: Approved With Conditions

APPEAL NO.: A-6-IMB-98-67

APPLICANT: Costa del Mar Homeowner's Association

PROJECT DESCRIPTION: Addition of approx. 53 tons of rock to an existing 800-ton stone revetment seaward of an existing 6-unit condominium building, including gathering of errant rocks that have migrated and placing them on the revetment as follow up to emergency work which has already occurred.

PROJECT LOCATION: 1138 Seacoast Drive, Imperial Beach, San Diego County.
APN 632-010-15

APPELLANTS: California Coastal Commission and Richard Kuhlemeier

STAFF NOTES:

The appeals for the subject project were received in the San Diego District office on 5/26/98. The City file was received on 6/3/98; however, it is not complete. There are no project plans and additional filing information requested from the project applicant on 6/9/98 including a coastal engineering study with alternatives analysis, and as-built surveyed site plans, has not been received as of this writing.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that substantial issue exists with respect to the grounds on which the appeal has been filed.

SUBSTANTIVE FILE DOCUMENTS: Appeal applications dated 5/26/98; Certified City of Imperial Beach LUP; City Staff Report dated 5/6/98.

I. APPELLANTS CONTEND THAT: The appellants contend that the project interferes with lateral coastal access along the beach and violates the stringline policy; that the project does not appear to be stable (properly engineered), that the additional rock was not necessary and that it has been solicited by private contractor(s) without regard to necessity or proper design methods. The appellants further contend that an assessment should have been made as to whether or not mitigation should be required for the existing revetment given that the certified LCP allows the construction of a shoreline protective device provided that it is designed to eliminate or mitigate adverse impacts to shoreline sand supply. The LCP further provides that when development involving the construction of such a device occurs, that a mitigation fee shall be collected which shall be used for beach sand replenishment purposes. The City found that a repair and maintenance project was not subject to the mitigation fee. However, by permitting the proposed project, the impact to public beach and sand supply is being allowed to continue without mitigation which appears inconsistent with the LCP policies. Furthermore, the appellants contend that the findings of the coastal development permit did not include an alternatives analysis to determine if the repair method was the least environmentally-damaging alternative or whether or not a vertical seawall should have been required.

II. LOCAL GOVERNMENT ACTION.

The Coastal Development Permit for repair of the revetment was approved by the City Council on 5/6/98. The notice of final local government action was received in the Commission's San Diego District office on 5/11/98. The permit is a follow-up to an after-the-fact emergency permit that was approved in February of this year. A permit for the revetment and the existing condominium building on the subject site, was approved by the City in 1990. The current coastal development permit includes several conditions of approval which required, in part: that any debris, rock or materials which become dislodged after completion of the repair through weathering shall be removed from the beach or redeposited on the revetment as soon as possible after discovery; that any change in the design or future additions of rock that require the operation of mechanized equipment on the beach will require a coastal development permit; that a letter be submitted from the engineer confirming that the repair and maintenance has been completed in accordance with the engineering recommendations in the engineering study; and, that no further beach encroachment of the revetment is permitted beyond the established stringline (35 feet seaward of the western property line).

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. Projects within cities and counties may be appealed if they are located within mapped appealable areas. The grounds for appeal are limited to the assertion that "development does not conform to the certified local coastal program." Where the project is located between the first public road and the sea or within 300 ft. of the mean high tide line, the grounds of appeal are limited to those contained in Section 30603(b) of the Coastal Act. Those grounds are that the development does not conform to the standards set forth in the certified local coastal program or the access policies set forth in the Coastal Act.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless it determines that no substantial issue is raised by the appeal. If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to a de novo hearing on the merits of the project.

If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project. If the Commission conducts a de novo hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Sec. 30604(c) of the Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3. In other words, in regard to public access questions, the Commission is required to consider not only the certified LCP, but also Chapter 3 policies when reviewing a project on appeal.

The only persons qualified to testify before the Commission at the "substantial issue" stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. At the time of the de novo hearing, any person may testify.

STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends the Commission adopt the following resolution:

Staff recommends that the Commission determine that SUBSTANTIAL ISSUE exists with respect to the grounds on which the appeal was filed, pursuant to PRC Section 30603.

MOTION

Staff recommends a YES vote on the following motion:

I move the Commission determine that Appeal No. A-6-IMB-98-67 raises 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.

FINDINGS ON SUBSTANTIAL ISSUE

1. Project Description. Proposed is the follow-up permit for emergency work that has already occurred consisting of repairs to an existing 800-stone revetment seaward of an existing 6-unit condominium building, including gathering of errant rocks that have migrated and placement on the revetment, and augmentation of the rip rap with an additional approx. 53 tons of rock. The emergency work was completed in February of this year. According to the City, there were gaps in the revetment which needed to be filled and required the placement of additional rock. The development on the site, a six-unit condominium complex, along with shoreline protection, was approved by the City on 2/15/90. In that permit, the City allowed reconfiguration of existing stones which were placed under emergency conditions prior to 1989, as well as additional stone.

The project site is a shorefront property on the west side of Seacoast Drive, between Imperial Beach Boulevard to the north and Admiralty Way to the south, in the City of Imperial Beach. The site is bounded by multi-family residential structures and single family residential development to the north and south and the Pacific Ocean to the west.

2. Shoreline Processes/Public Access. The subject site is located between the ocean and the first public road which, in this case, is Seacoast Drive. The site is situated between Imperial Beach Boulevard and Admiralty Way on the west side of South Seacoast Drive. The certified City of Imperial Beach LUP contains a policy which calls for the construction of vertical seawalls for those areas north of Imperial Beach Boulevard in an effort to minimize the encroachment that such structures have on the beach and their impacts on lateral public access. The reason the City does not have a similar policy for those properties south of Imperial Beach Boulevard is that the beach is wider in the area where the project site is located than other beach areas further north. Because the beach is wider at this location, it has resulted in different patterns of development along the shoreline consisting of rip rap revetments south of Imperial Beach Boulevard and concrete vertical seawalls north of Imperial Beach Boulevard. North of Imperial Beach Boulevard,

over the past few years, the City has required through the review of redevelopment projects, the replacement of rip rap revetments with vertical seawalls sited no further seaward than the western property line in an effort to minimize beach encroachment. In these latter types of seawalls, toestone has been permitted seaward of the western property line provided it was not exposed during winter profiles.

The existing rip rap revetment is located 35 feet seaward of the western property line of the subject site and as originally permitted, contains two layers of 4-ton "A" stone overlying one or two layers of 1/2-ton "B" stone, with a slope of 1 1/2 horizontal to one vertical. The thickness of the "A" stone on the slope is about 7.3 feet whereas the "B" stone layer would be about 3.6 feet on the slope and about 1.8 feet on the bottom or toe of the structure. Under the "B" stone, a layer of filter fabric protects the underlying material from erosion. The top elevation of revetment was designed at +17 ft and the toe at -1 feet mean sea level datum.

In February of this year, due to the storms associated with El Nino, some stones in the existing revetment became dislodged and had migrated seaward of the existing rip rap causing a gap in the revetment. The applicant applied for and obtained an emergency permit from the City to repair the rip rap revetment. The subject permit represents the follow-up coastal development permit for the emergency work to allow the rock to remain on a permanent basis.

As noted earlier, the City did not believe mitigation was necessary for the repair of the existing revetment because it was regarded as repair and maintenance of an existing shoreline protective device as opposed to the construction of a new device altogether. The certified LUP LCP contains policies which state the following:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, shoreline protection devices and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing principal structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Prior to completion of a comprehensive shoreline protection plan designed for the area, interim protection devices may be allowed provided such devices do not encroach seaward of a string line of similar devices.

The certified LCP (zoning ordinance) also contains the following requirement:

D. For all development involving the construction of a shoreline protective device, a mitigation fee shall be collected which shall be used for beach sand replenishment purposes. The mitigation fee shall be deposited in an interest-bearing account designated by the Executive Director of the California Coastal Commission and the City Manager of Imperial Beach in lieu of providing sand to replace the sand and

beach area that would be lost due to the impacts of any proposed protective structure.

In addition, the LCP addresses shoreline access and states the following:

Goal 14: Shoreline Access

To provide physical and visual access in the City's five coastal resource areas for all segments of the population without creating a public safety concern, overburdening the City's public improvements, or causing substantial adverse impacts to adjacent private property owners.

To date, the mitigation fee cited above has not yet been collected through any coastal development permit approved by the City as no new shoreline protective devices have been permitted and/or constructed since the LCP was certified in 1995. The City's shoreline has been almost entirely armored with shoreline protective devices prior that time. The subject permit represents the first time that repairs to an existing shoreline protective device have occurred since certification of the LCP, and raises the issue of whether the policies requiring mitigation for the impact of construction of such devices on sand supply also apply to repair and maintenance of existing shoreline protection devices.

The original permit for the condominium building and rip rap revetment on the subject site approved by the City Planning Commission in 1990 included a condition which required that the revetment be constructed in accordance with a coastal engineering study and that the applicants, heirs or assigns be responsible for maintenance of the permitted revetment. The condition further specified that any debris, rock or other materials that become dislodged either during the construction or after the project was completed, through weathering which impairs public beach lateral access be removed from the beach. In addition, if at any time it was determined that repair or maintenance of the revetment was deemed necessary, the applicant would need to consult with the City to determine whether or not any permits were necessary for the repair and maintenance activity. In addition, the permit also required the property owners to participate in any future City beach enhancement program which could include beach sand nourishment, long term beach restoration, beach maintenance and safety programs.

Once again, the permit does not include an analysis addressing the justification for the proposed repairs to the rip rap, an alternatives analysis to determine if the repair method is the least environmentally-damaging alternative or whether a vertical seawall should have been required instead. As noted earlier, staff has requested from the project applicant additional information including a coastal engineering study for the repairs to the rip rap that occurred in February of this year, and as-built surveyed plans of the existing revetment. Staff has requested that the study also include an alternatives analysis. As of this writing, this information has not yet been received. Staff will review the coastal engineering report to determine the need for the repairs to the rip rap and the alternatives analysis. Given the significant encroachment that the revetment has on the beach and its

potential impacts to public lateral access, as well as shoreline processes, the issue of whether or not mitigation should be required must also be addressed. Therefore, the Commission finds that a substantial issue exists with respect to the grounds on which the appeal has been filed.

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SITE

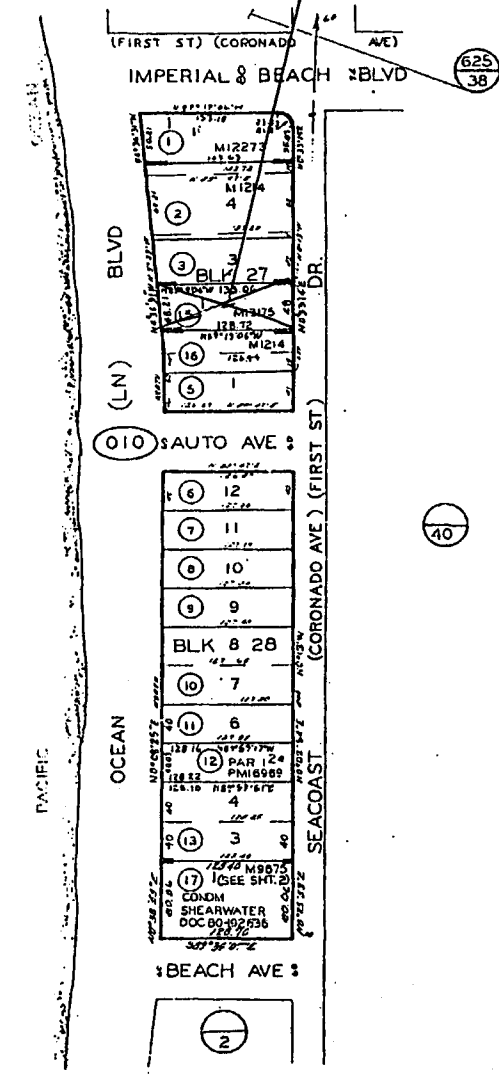
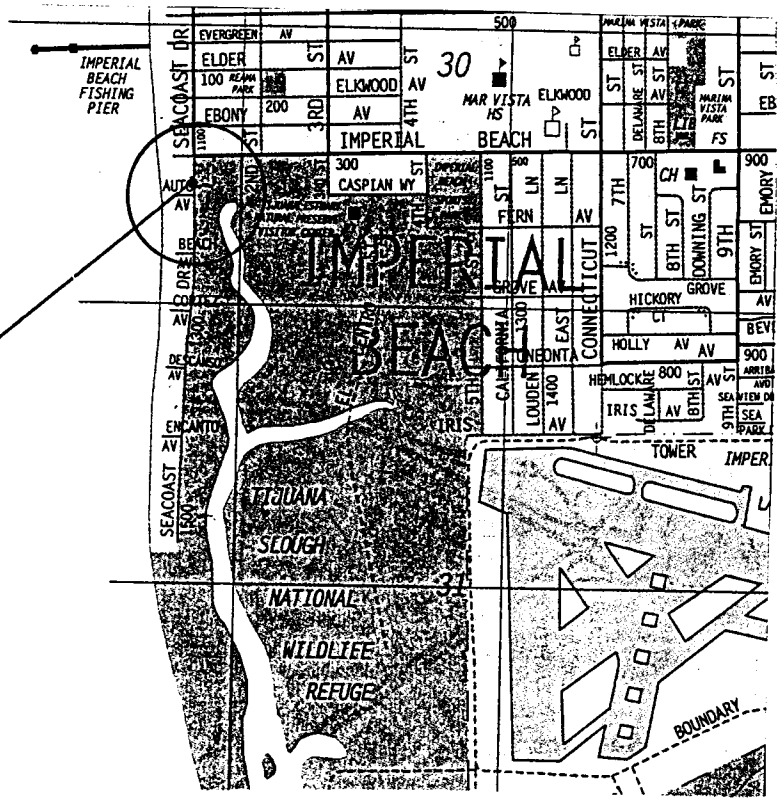



EXHIBIT NO. 1

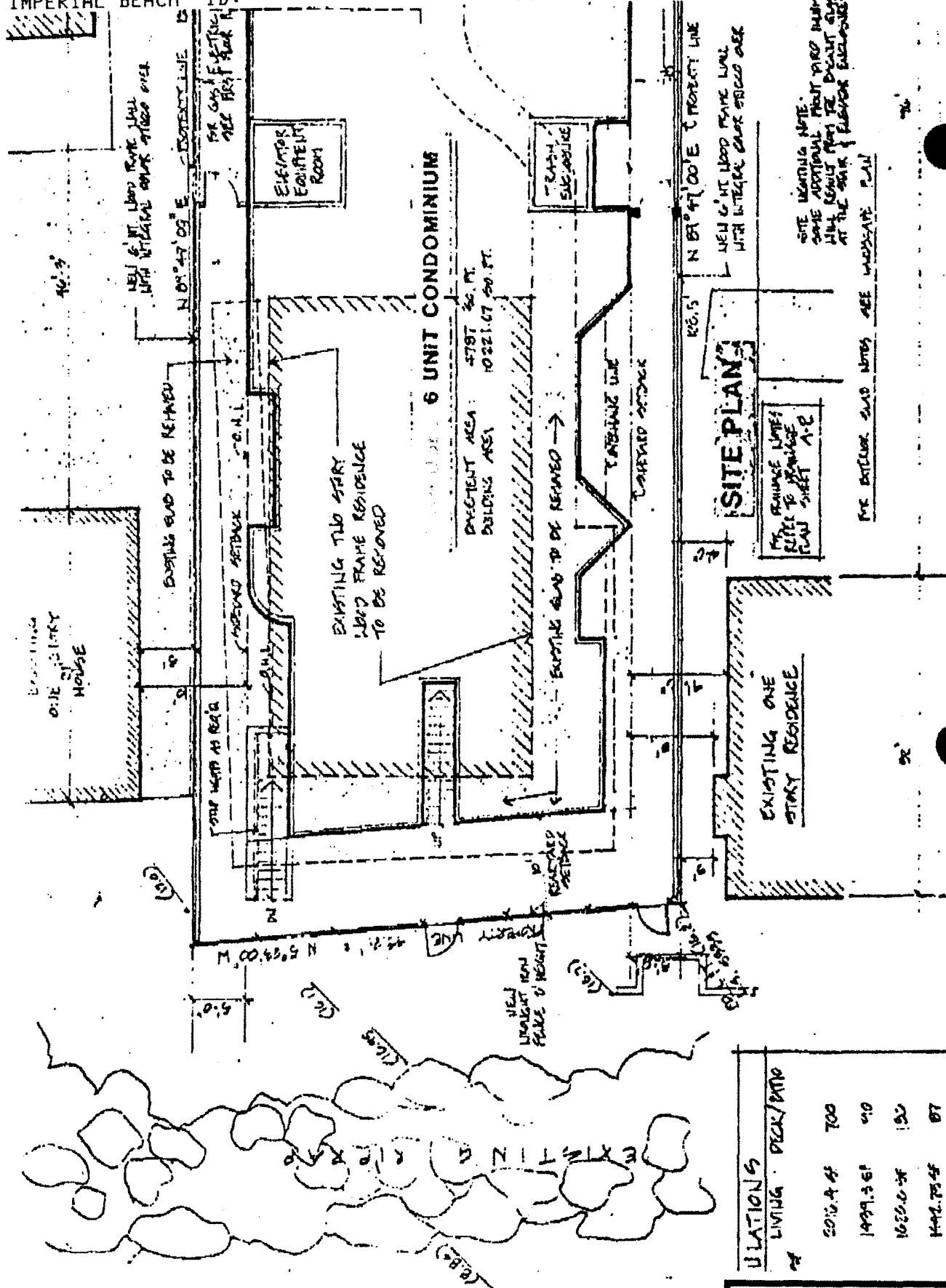
APPLICATION NO.

A-6-IMB-98-67

Location Maps

 California Coastal Commission

1/38 Decora



RELATIONS	LIVING	DECK/PATIO
24	2010.445	700
	1429.358	410
	1620.048	50
	1442.7845	87

EXHIBIT NO. 2
APPLICATION NO.
A-6-IMB-98-67
Site Plan