

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

3111 CAMINO DEL RIO NORTH, SUITE 200

SAN DIEGO, CA 92108-1725

21-8036



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Staff: EL-SD
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Hearing Date: July 7-10, 1998

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-98-65

Applicant: City of Del Mar, et al

Agent: Monica Tuchscher

Description: Construction of a 510-foot-long, 2'9" thick, vertical sheetpile seawall with concrete cap fronting eight oceanfront homes and two public streetends.

Zoning	RM-West and Beach Overlay Zones
Plan Designation	Medium-Density Residential and Public Beach
Ht abv fin grade	Varies

Site: 2124-2318 Ocean Front and the 22nd and 23rd Street streetends, Del Mar, San Diego County. APNs 299-096-02, 12 and 13; 299-097-01, 02, 11 and 12; and 299-137-01

Substantive File Documents: Certified City of Del Mar LCP Land Use Plan

STAFF NOTES:Summary of Staff's Preliminary Recommendation:

Staff recommends approval of the proposed seawall with special conditions addressing future maintenance or modifications, assumption of risk and submittal of "as-built" plans. This development has been nearly completed without benefit of a coastal development permit in apparent violation of the Coastal Act.

PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit for the proposed development, subject to the conditions below, 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 local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Maintenance/Seaward Extension Requires Permit. Any change in the design of the wall or future additions or reinforcement seaward of the wall, including placement of rock, boulders or footings will require a coastal development permit. Maintenance of the protective works shall be the responsibility of the applicants. If after inspection, it is apparent repair or maintenance is necessary, the applicants should contact the Commission office to determine whether permits are necessary.

2. Hold Harmless Agreement for City of Del Mar. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the City of Del Mar shall submit a signed document in which the applicant understands that the site may be subject to extraordinary hazard from storms, wave runup and flooding and assumes the liability from such hazards, and the applicant unconditionally waives any claim of liability on the part of the Commission or its successors in interest for damage from such hazards and agrees to indemnify and hold harmless the Commission, its officers, agents and employees relative to the Commission's approval of the project for any damage due to natural hazards.

3. Assumption of Risk for Private Party Applicants: PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, each applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from storms, wave runup and flooding, and the applicant assumes the liability from such hazards; and (b) the applicant unconditionally waives any claim of liability on the part of the Commission or its successors in interest for damage from such hazards and agrees to indemnify and hold harmless the Commission, its officers, agents, and employees relative to the Commission's approval of the project for any damage due to natural hazards. The document shall run with the land, binding all

successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. Final "As-Built" Plans. Within ninety (90) days of Commission action, the applicants shall submit final, "as-built" plans of the permitted seawall. Said plans shall demonstrate that the seawall has been built in substantial conformance with the preliminary plans labeled "22nd Through 24th Street Seawall," dated February 25, 1998 and received in the Commission's San Diego office on May 22, 1998. The permittee shall undertake development in accordance with the approved preliminary plans. Any proposed changes to the approved preliminary plans shall be reported to the Executive Director. No changes to the approved preliminary plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. Condition Compliance. WITHIN NINETY (90) DAYS OF COMMISSION ACTION OF THIS COASTAL DEVELOPMENT PERMIT APPLICATION, or within such additional time as the Executive Director may grant for good cause, the applicants shall satisfy all requirements specified in the conditions hereto that the applicants are required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The applicants are proposing construction of a 510-foot-long vertical sheetpile seawall along an approximately two-block stretch of the Del Mar shoreline. It will extend in front (seaward) of eight private properties between 2124 and 2318 Ocean Front and will also extend across the 22nd and 23rd Street public streetends, with all-weather public access at the streetends as part of the design. The seawall will be 2-ft., 9-in. thick and will be located generally on the Shoreline Protection Area (SPA) line delineated in the certified City of Del Mar LCP Land Use Plan and the City's Beach Overlay Zone, with its western face encroaching 2-ft., 9-in. seaward of the SPA line. The seawall foundations will extend down to elevation -24 feet mean sea level (msl). The visible portion of the seawall will vary according to the level of beach sand and individual homeowners desires to maintain private views, and is generally dictated by the elevation of private decks or patios. The elevation of the top of the seawall cap will range from approximately 13 feet msl to approximately 17 feet msl, according to the submitted geotechnical report.

Construction of the seawall has been nearly completed pursuant to an expedited local review, but without benefit of a coastal development permit. During extreme storm events in February, four homes within the subject site were severely damaged with less significant damages to adjacent properties. The City gave emergency authorization to eight private homeowners, including those that had sustained the most damage, to import 4-ton riprap to protect their homes. The local emergency action authorized the riprap only until April 15, 1998. The riprap was installed without Coastal Commission permit action. It was not removed by April 15, apparently because significant storm events were still ongoing at that time. It appears that the riprap was retained during construction of the vertical wall. Currently, the proposed vertical seawall construction is complete in front of the private homes, and the streetend improvements were also nearly complete at the time of a recent site inspection on June 9th. The riprap in front of the 2300-block of homes (three homes) had been removed as of June 9th, but large amounts of riprap remained in front of the homes further south. In fact, the riprap had been moved farther out onto the beach away from the homes, probably to accommodate the seawall construction, and has scattered such that most of the sandy beach between the homes and the water is not useable for recreational purposes. According to a representative of the City of Del Mar, removal of the riprap is continuing. The subject permit application is for the vertical wall only; the applicants have not applied for either the placement or removal of the unauthorized riprap.

This stretch of beach had pre-Coastal Act seawalls/revetments at one time, but they were abated a few years ago because they encroached onto the public beach and were inconsistent with the City's Beach Overlay Zone Ordinance. Because the more recent winters were rather mild, the homes were not threatened, and the homeowners had not pursued authorization for permanent protection either with the City or the Coastal Commission until the events of this past winter.

2. Geologic Conditions and Hazards. Section 30235 of the Coastal Act states, in part:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

In addition, Section 30253 of the Coastal Act states, in part:

New development shall:

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

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area ...

Coastal Act Section 30235 acknowledges that seawalls, revetments, cliff retaining walls, groins and other such structural or "hard" solutions alter natural shoreline processes. Thus, such devices are required to be approved only when necessary to protect existing structures. The Coastal Act does not require the Commission to approve shoreline altering devices to protect vacant land or in conjunction with construction of new development. A shoreline protective device proposed in those situations is likely to be inconsistent with various Coastal Act policies. For example, Section 30253 addresses new development and requires that it be sited and designed to avoid the need for protective devices.

Additionally, the Commission has often times interpreted Section 30235 to require the Commission to approve shoreline protection for existing principal structures only. The Commission must always consider the specifics of each individual project but has found, in many instances, that accessory structures such as patios, decks and stairways are not required to be protected under Section 30235. In addition, such improvements can usually be found capable of withstanding periodic inundation, such as happens from time to time with any shoreline development. Most, if not all, of the subject private properties have at-grade (i.e., close to beach level) accessory improvements between the existing principal structures (the existing residences) and the seawall.

Pursuant to Section 30253 of the Coastal Act, new development in hazardous areas such as the Del Mar shoreline, must be setback a distance that is sufficient to avoid or minimize exposure to the hazard, which in this case is flooding during winter storms and damages from wave action. The certified LUP for Del Mar identified 15 feet from the Shoreline Protection Area (SPA) line, which is contiguous with the western property line in this area of Del Mar, as the setback that is sufficient to allow construction of a shoreline protective device (vertical seawall) that does not encroach on public beach, and thus protect shoreline homes from flood and wave hazards. The subject western property lines are approximately 50-60 feet east of the current mean high tide line. However, nearly all the properties along the shoreline between Fifteenth Street and the San Dieguito River mouth were developed with residential or commercial uses prior to the Coastal Act and prior to the City's establishment of a 15-foot setback requirement. Thus, new construction primarily consists of redevelopment of previously-built sites and infill of the very few remaining vacant lots. When this occurs, the City requires compliance with the 15-foot setback. Many existing principal structures, however, are not setback this distance from their western property lines. Moreover, most of the previously-built sites already have some form of existing shoreline protective device, either vertical seawalls, riprap revetments or both.

The vertical seawall is proposed to protect existing homes as well as the streetends of 22nd and 23rd Street. A report has been submitted by the applicants' geotechnical

consultant verifying the necessity of providing shoreline protection for the existing residential structures and the City's public streets. The geotechnical report addresses the appropriateness of the selected seawall design, and concludes that the design minimizes encroachment onto sandy beach while maximizing protection of the homes consistent with maintaining private ocean views. The seawall has been designed to withstand storms of the magnitude of the 1982-83 winter season. Most of the existing homes on the subject property do not observe a 15-foot setback from their western property lines. According to the engineer, the vertical seawall cannot be constructed any closer to the existing homes than proposed, due to the high likelihood of structural damage to the homes from construction activities such as pile-driving. To provide a safe construction distance between the wall and the homes, while minimizing the encroachment of the wall onto sandy beach, the applicants propose to construct the wall with its eastern face on the property lines, such that the encroachment onto public beach would be the width of the wall (2 ft., 9 in.). According to the geotechnical report, the design scour depth is -4.0 feet msl; the seawall tip will extend twenty feet below that to -24 feet msl to provide sufficient embedment for seawall stability. As stated previously, seawall height will vary from approximately 13 feet msl to approximately 17 feet msl, depending on the ground surface elevations landward of the proposed seawall alignment, which range from 10.2 feet msl to 14.0 feet msl. In other words, the top of the proposed seawall will be approximately 2 to 3 feet above the adjacent at-grade private improvements.

The project site is located on the beachfront in an area that has been subject to storm waves. Section 30235 cited above allows for shoreline protective devices only when required to protect existing structures in danger from erosion and when designed to mitigate impacts on shoreline sand supply. The primary issue which has been identified and addressed in the review of proposals for shoreline protective works in this area of Del Mar has been their location and alignment more than the question of their necessity. It has been recognized for some time that all of the low-lying lots between Seagrove Park and the mouth of the San Dieguito River are and most likely will continue to be subject to impacts from storm waves. The vast majority of the residences in the area are protected by some form of device, and with very few vacant lots in the vicinity, new seawalls represent infill development. Thus, if properly designed, they can be found consistent with Section 30235 of the Act. It is understood that all designs of shoreline protection, when placed in an intertidal area, do affect the configuration of the shoreline and the beach profile and do have an adverse impact on the shoreline. These impacts have been addressed by the City of Del Mar through a comprehensive approach.

Previously-existing shoreline protective works at the subject site, which were located seaward of the SPA line on public beach, were abated several years ago under the City's ordinance and all the homeowners in this area were encouraged to propose a comprehensive seawall consistent with the design parameters of the ordinance. The applicants did not propose a seawall when their riprap was abated, apparently because they believed their homes were not threatened. However, the severe storms of the 1997-1998 El Nino winter resulted in significant damages to several of the subject properties, and the applicants applied to the City of Del Mar for emergency authorization to place

riprap in front of their sites to prevent further damage. The City permitted the temporary riprap, with a condition requiring its removal by April 15, 1998. However, when April 15th arrived, the winter storms had not yet abated, so the riprap was not removed from the site. Meanwhile, the applicants applied to the City to construct the subject seawall for permanent protection. The City expedited the local review process in the interests of having construction completed and the riprap removed before the summer beach season began. Construction of the permanent seawall began as soon as weather conditions allowed and is nearly complete at this time. Some of the riprap has been removed.

A number of adverse impacts to public resources (sandy beach and recreational access in this case) are generally associated with the construction of shoreline structures. In this particular case, the natural shoreline processes referenced in Section 30235 of the Coastal Act, such as the retention of sandy beaches, will be altered to some degree by construction of a seawall; in addition, the seawall will be located on public beach, usurping sandy area otherwise available for public recreation. A statewide comprehensive approach to impacts on sand supply and public access has been developed recently. The Beach Sand Mitigation Program has been implemented in several areas of San Diego County, and elsewhere in the state, to offset the adverse impacts of shoreline protection devices. The program includes a formula to calculate an in-lieu fee based on an individual project's quantifiable impacts; the monies are then expended on beach nourishment projects in the general project area.

Within the City of Del Mar, however, a mitigation program was already in place prior to adoption of the Beach Sand Mitigation Program. In April, 1988 the Beach Preservation Initiative was adopted, and is included in the City's certified LUP and draft implementation program as the Beach Overlay Zone. It established designs and alignments for new shoreline protective works and required the removal of existing beach encroachments within the area identified as the Shoreline Protection Area (SPA). It included setbacks to establish a new stringline of development which would accommodate necessary shoreline protection while minimizing private encroachment onto sandy beach and required a user fee for any encroachments seaward of the SPA line. In the subject location, the SPA line and western property lines are contiguous.

Based on review of the proposed seawall application, the Commission finds that the following impacts on beach sand supply would result from construction of the proposed seawall. The proposed seawall, is approximately 510 ft. long altogether, and will encroach on public beach its entire length. Thus, the encroachment is 510 feet long and 2-ft., 9-in. wide, resulting in a permanent displacement of public beach area that is currently available for public use of approximately 1,400 sq.ft. The City's approval of the seawall on the public beach included a requirement for the private property owners to fund the public streetend seawall and access improvements; this was how the City applied the required user fee in this instance.

In the case of the subject seawall, the proposed wall design and alignment represents the comprehensive solution the City of Del Mar has devised to address its several blocks of

existing shoreline structures and the adjacent public beach and streetend accessways. Since the SPA line was delineated and the Beach Overlay Zone adopted through public initiative in the 1980s, most previously existing private encroachments on public beach have been removed. The Del Mar shoreline had been comprised of an assortment of shoreline protective devices, many incorporating extensive riprap revetments. In addition, many private accessory uses had proliferated behind the various protective devices, usurping significant areas of public beach for private use. As these encroachments have been removed, the City and Coastal Commission have permitted the construction of vertical seawalls to protect the existing developed properties. Although there have been a few seawalls permitted for individual sites, others have included a number of contiguous properties, extending one or more city blocks and including protection of the intervening public streetends as well. In those cases where individual seawalls have been authorized, they generally represent infill connecting to adjacent existing seawalls of the approved design.

Section 30235 allows for shoreline protective devices when designed to eliminate or mitigate adverse impacts on shoreline sand supply. In promoting this comprehensive solution for shoreline protection, the City has devised its own program to mitigate the impacts to sand supply and available beach area associated with any approved seawall. This mitigation is in the form of funding/construction by the private property owners receiving the benefit of shoreline protection of the public streetend seawall and access improvements which benefit the general public. The City has found that this form of mitigation is mutually beneficial and that the costs are roughly proportional to fair market rental rates for the amount of encroachment involved amortized over the expected life of the seawalls. This approach is consistent with the City's certified LUP, which requires that a user fee be applied to any encroachments seaward of the SPA line. The City has found payment in the form of actual improvements to satisfy this requirement. In the case of the subject development, the proposed improvements will protect a total of eight private properties and two public streetends, and will connect existing, similar seawalls to the north and south. The wall is continuous from one lot south of 22nd Street, through the 2200 and 2300 blocks and connecting to an existing seawall across the 24th Street streetend.

In summary, the applicants have documented the need for shoreline protection through a current geotechnical report. The report still identifies the 1982-83 winter as the appropriate reference year for designing an adequate protective device. The past winter (1997-1998) was again an El Nino year, but the same combination of high tides and storm surge did not occur as it did in 1982-83. Although there were a few individual losses to homes in San Diego County (with four homes on the Del Mar shoreline suffering severe damages), the widespread devastation which occurred in 1982-83 did not occur this winter. The proposed seawall is designed to withstand storms of the 1982-83 intensity, yet is also designed to minimize encroachment onto public beach. The Commission finds that construction of the proposed seawall is appropriate under Section 30235 of the Coastal Act, and that the associated impacts on sand supply and beach availability are

acceptable with the included mitigation program. Special conditions are included addressing future maintenance activities and development in hazardous areas.

Although many repair and maintenance activities are exempt from coastal development permit requirements under Section 30610(d), such activities that enlarge or expand a structure are not exempt. In addition, certain methods of repair and maintenance of seawalls are not exempt (see California Code of Regulations Section 13252). Special Condition #1 advises the applicants that ongoing maintenance and repair activities which may be necessary in the future could require permits. The Coastal Commission should be contacted prior to undertaking any repairs to determine permit requirements. Moreover, the applicants are proposing to construct the development in an area subject to wave and storm hazards. Although the applicant's geotechnical report asserts that the proposed development can withstand such hazards and protect existing development from such hazards, the risk of damage to the structure and the existing development cannot be eliminated entirely. The Commission finds that in order for the proposed development to be consistent with the Coastal Act, the applicants must assume the risks of damage from flooding and wave action. As such, Special Conditions #3 and #4 require the applicants to execute hold harmless (in the case of the City of Del Mar) and assumption of risk (all private applicants) documents, waiving any liability on the part of the Commission for approving the proposed development. In addition, these conditions require the applicants to indemnify the Commission in the event that third parties bring an action against the Commission as a result of failure of the proposed development to withstand and protect against the hazards. As conditioned, the Commission finds the proposed (constructed) seawall consistent with Sections 30235 and 30253 of the Act.

3. No Waiver of Violation. Although construction on the site consisting of the construction of the subject vertical seawall has occurred without the benefit of a coastal development permit, consideration of the 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 violation of the Coastal Act that may have occurred; nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit. In addition, this permit does not address the placement and removal of riprap, which occurred without a coastal development permit.

4. Public Access and Recreation. The Coastal Act emphasizes the need to protect public recreational opportunities and to provide public access to and along the coast. The following Coastal Act policies, which address the protection of public access and recreational opportunities, are most applicable to the proposed development:

Section 30210

In carrying out the requirements 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

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

(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....

Section 30213

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

The Del Mar beach is a popular visitor destination for local and regional beachgoers. Historically, there has been a wide, sandy, public beach in Del Mar, varying somewhat season to season, but typically wider than many other North County beaches. Public access is generally available at every streetend from Fifteenth Street to the San Dieguito River mouth.

In the past, private encroachments onto the public beach, both shoreline protective works and deck/patio improvements, had restricted public access to some degree, usurping areas that would otherwise have been available to the public for beach play and sunbathing. For the most part, these encroachments have now been removed and the beach is open and available extending inland to the SPA line, which coincides with the western property lines of private properties in most locations including the subject site. Maintaining the beach for public recreational pursuits and providing adequate access thereto is a prime concern of both the City and the Coastal Commission. The citizens of Del Mar created the Beach Overlay Zone pursuant to the initiative process, and the City enacted guidelines for its implementation, with the removal of private encroachments and attendant

enhancement of public access a key goal. The provisions of the zone, and the guidelines, are part of the City's certified LUP.

The proposed vertical concrete seawall design, utilizing no toestone or riprap component, has been promoted by the City of Del Mar through the local permit process and endorsed by the Coastal Commission in several past permits, including CDPs #6-91-127 and #6-88-542, both of which authorized seawalls which extended across approximately two city blocks plus intervening streetends. In addition, CDPs #6-89-305, #6-90-022, #6-91-230, #6-94-122 and #6-95-134 authorized the same seawall design on individual sites as infill development. The remainder of the Del Mar shoreline has a mix of older walls and riprap revetments, with a few unprotected sites intermingled with the rest. All of the recently approved seawalls have been constructed in one, or a combination of, three alignments: entirely on private property, centered on the SPA line, or encroaching a maximum of 2-ft., 9-in. (the thickness of the seawall) onto public beach. Most of the older protective devices are also roughly aligned on the SPA line, since Del Mar has abated nearly all prior encroachments in recent years. An exception is the northernmost block in the City, where existing riprap extends a significant distance onto public beach; it is anticipated this revetment will be replaced with a vertical wall in the near future. Minimal encroachments onto public beach have been allowed in those instances when existing residences are setback less than 15 feet from the SPA line; where existing homes are closer than 15 feet to the construction site, the actual construction of the seawall (which involves pile-driving) could cause damage to the homes.

Public access features at the 22nd and 23rd Street streetends are part of the proposed seawall design. At both locations, an all-weather stairway access, in which the stairs are set parallel to the beach and located between two parallel walls (see Exhibit #4), is included in the seawall design. This protects the streetend and inland properties from flooding during severe storms, as could happen with a perpendicular stairway.

Typically, the Commission, whenever it approves nearshore construction projects, prohibits use of public beaches, roads, parking areas, etc. as staging or storage areas during the summer beach season, and minimizes such use at other times of year. In this particular case, construction of the seawall is occurring without a coastal development permit in the summer season (i.e., past Memorial Day). Since construction is nearly complete, the Coastal Commission has not had an opportunity to address construction impacts on public access and recreation. This aspect of the development will be analyzed during the enforcement investigation of this alleged violation matter.

In summary, the Commission finds that the project, portions of which occur on public beach, provides and enhances public access opportunities through the included streetend improvements. In addition, the Commission finds the City has required appropriate mitigation for the impacts of encroachment through the private funding of said public improvements. However, seawall construction is ongoing during the summer beach season. It is nearly complete at this time and access is currently available at all streetends, including those within the subject site. What public access impacts may have

occurred due to summertime construction will be investigated separate from this evaluation of the merits of the proposed seawall. Therefore, the Coastal Commission finds the proposed development consistent with the cited Coastal Act access policies, and, since the proposed development is located between the sea and first public road, consistent with all other public access and recreation policies as well, as required in Section 30604(c).

5. Visual Resources. Section 30251 of the Coastal Act provides for the protection of scenic coastal areas and for the compatibility of new and existing development. The proposed seawall will be located on and adjacent to the public beach of Del Mar. The amount of seawall visible above the sand will vary from season to season, as the sand supply diminishes and returns. During the summer season when sand levels are highest and the beach receives the greatest intensity of use, no more than about three or four feet of the seawall will generally be visible. This is because the wall height, which varies slightly from property to property, is dictated by the adjacent shoreline property owners' desires to maintain their first-floor (and deck and patio) ocean views, and, during summer, beach elevations are roughly equal to the ground level of those private properties. More of the seawall will be visible during the winter, when beach sand levels have dropped below the level of the adjacent private properties.

The design of the seawall is virtually identical to other existing seawalls along the Del Mar coast which have been constructed in recent years and gives the general appearance of a garden wall enclosing private deck and patio improvements on the adjacent sites. Since there has been one form or another of shoreline protection along most of the Del Mar coastline over the years, the subject seawall will not present a significantly different appearance and will be visually compatible with the general patterns of nearby development. Therefore, the Coastal Commission finds the proposed seawall, as conditioned to address other concerns, consistent with Section 30251 of the Act.

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

The specific project site includes portions of private, residentially-zoned properties and adjacent public beach. The proposed seawall is consistent with those designations as a necessary accessory use to protect both private (existing principal structures) and public (streets and accessways) development. The certified City of Del Mar LCP Land Use Plan allows for shoreline protective devices subject to strict design and siting criteria; the subject proposal meets those requirements. As conditioned, the proposed project is also consistent with all applicable Chapter 3 policies of the Coastal Act. Thus, the proposed development will not prejudice the ability of the City of Del Mar to complete preparation of its implementation program and attain a fully-certifiable local coastal program.

7. California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

The proposed project has been found consistent with the hazards, public access and visual resource policies of the Coastal Act, as conditioned to address future maintenance needs and to waive Commission liability. Mitigation measures, including the private funding of public access improvements, will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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 below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the 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.

(8065R)

6-98-65

Applicants

A.P.N. 299-096-13
 Name Edwin C. Lynch
 Mail 1411 N. Tatum Boulevard
 Phoenix, AZ 85028
 Situs 2306 Ocean Front
 Del Mar, CA 92014

A.P.N. 299-097-01
 Name ~~Alan~~ ^{Alan} Hart & Wendy Hart
 Mail ~~606~~ ⁹⁰⁰ Wilshire Boulevard, #246
 Santa Monica, CA 90401
 Situs 2222 Ocean Front
 Del Mar, CA 92014

A.P.N. 299-097-02
 Name Richard & Mary Heckman
 2220 Ocean Front
 Del Mar, CA 92014

A.P.N. 299-097-11
 Name Pauline W. Kemp
 Mail 310 62nd Street
 Newport Beach, CA 92663
 Situs 2212 Ocean Front
 Del Mar, CA 92014

A.P.N. 299-097-12
 Name Michael & Sharon Ensign
 Mail 16 Burning Tree Court
 Las Vegas, NV 89113
 Situs 2204 Ocean Front
 Del Mar, CA 92014

A.P.N. 299-096-02
 Name Salah Hassanein
 2318 Ocean Front
 Del Mar, CA 92014

A.P.N. 299-096-12
 Name Jack Scott
 Mail 660 Lombardy Place
 San Marino, CA 91108
 Situs 2312 Ocean Front
 Del Mar, CA 92014

A.P.N. 299-137-01
 Name Barry & Linda Rosenblatt
 Mail 5005 Alzada Drive
 La Mesa, CA 91941
 Situs 2124 Ocean Front
 Del Mar, CA 92014

A.P.N.
 Name Monica Tuchscher
 City of Del Mar
 Mail 1050 Camino Del Mar
 Del Mar, CA 92014

EXHIBIT NO.	1
APPLICATION NO.	6-98-65
Complete List of Applicants	
California Coastal Commission	

6-98-65

Site

Site

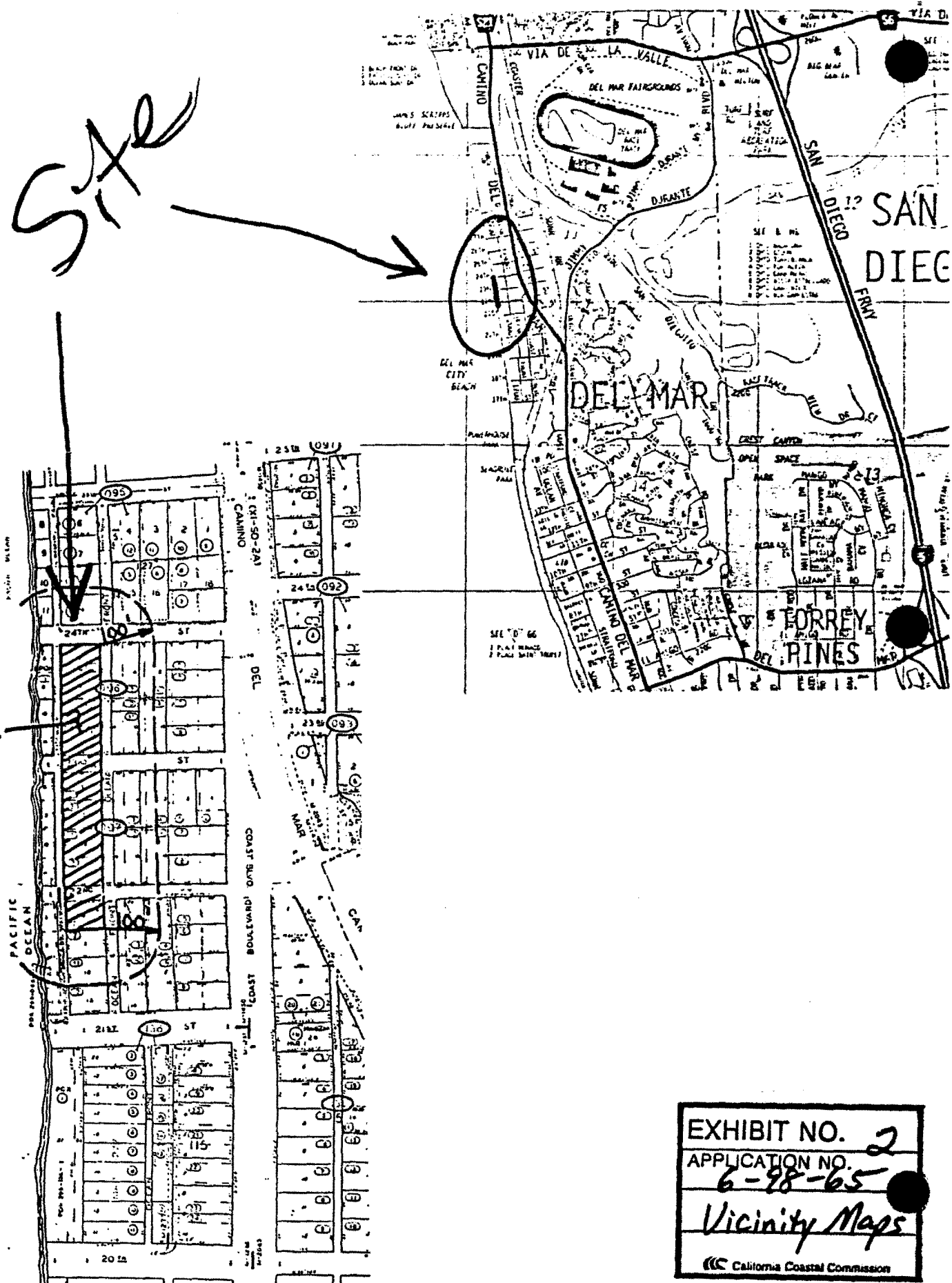


EXHIBIT NO.	2
APPLICATION NO.	6-98-65
Vicinity Maps	
California Coastal Commission	

6-98-65

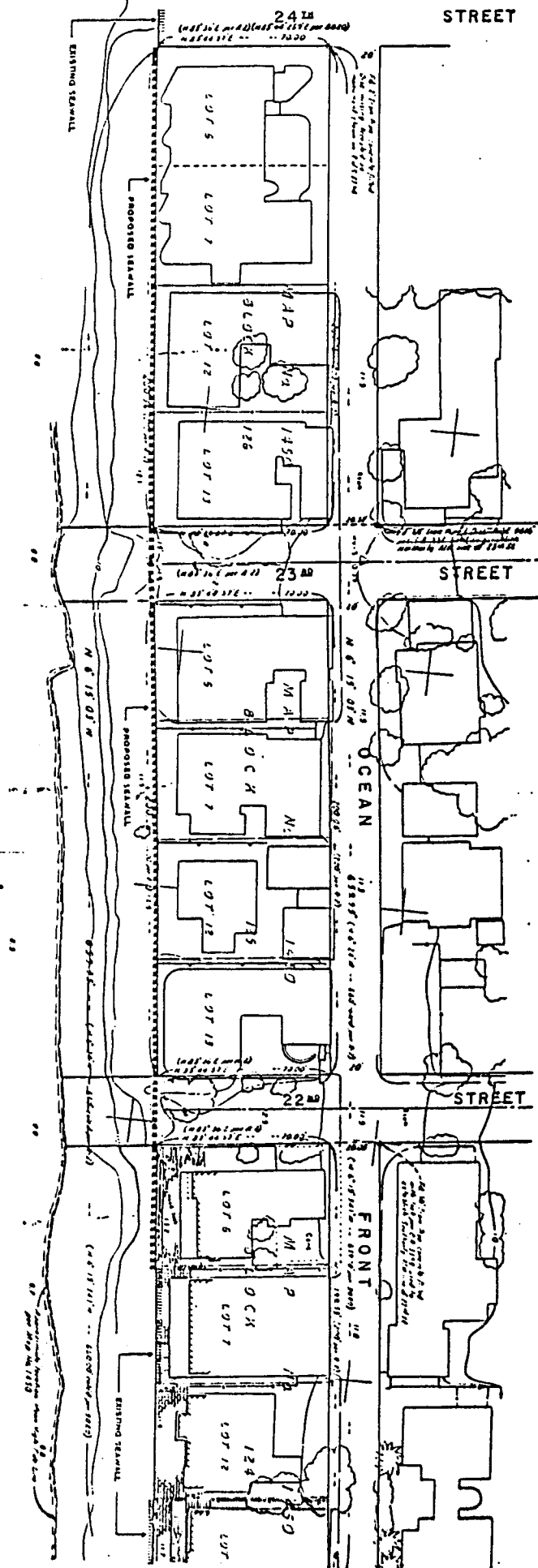
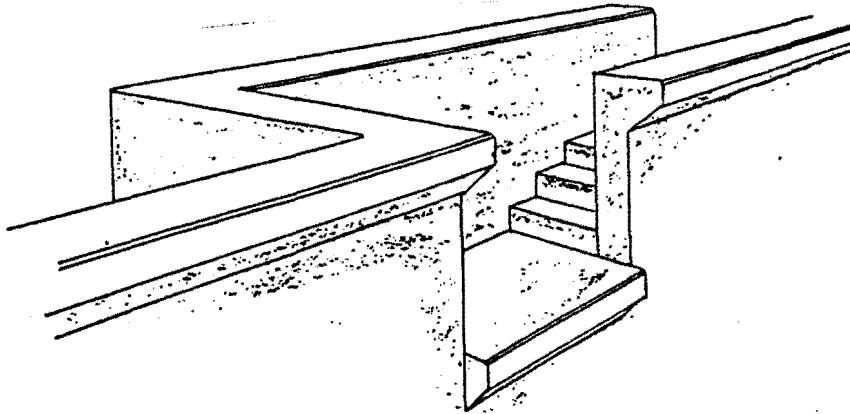
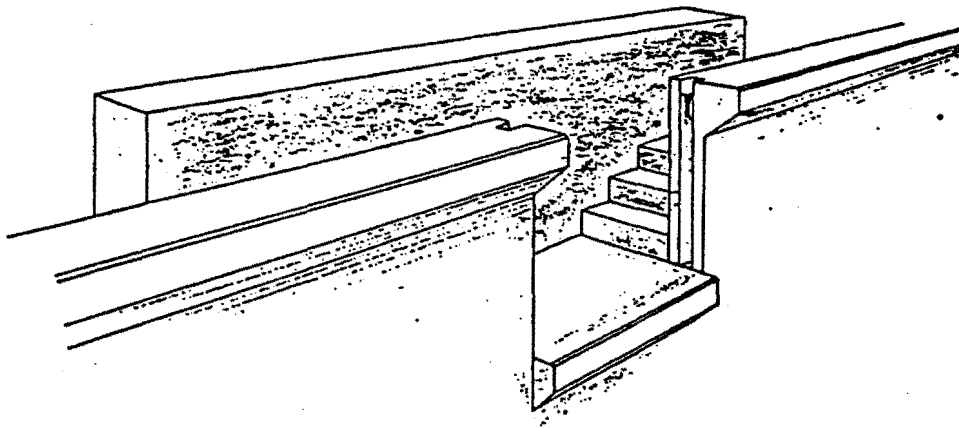


EXHIBIT NO. 3
APPLICATION NO. 6-98-65
Site Plan
California Coastal Commission

6-98-65



PUBLIC SEAWALL PENETRATION (TYPE 1)



PUBLIC SEAWALL PENETRATION (TYPE 2)

EXHIBIT NO. 4
APPLICATION NO. 6-98-65
All-Weather Accessways
California Coastal Commission