

## CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA  
 3111 CAMINO DEL RIO NORTH, SUITE 200  
 SAN DIEGO, CA 92108-1725  
 (619) 521-8036



# Th 8c

Filed: 8/23/99  
 49th Day: 10/11/99  
 180th Day: 2/19/00  
 Staff: GDC-SD  
 Staff Report: 9/23/99  
 Hearing Date: 10/12-15/99

STAFF REPORT AND RECOMMENDATION ON APPEAL  
SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of Encinitas

DECISION: Approval With Conditions

APPEAL NO.: A-6-ENC-99-115

APPLICANT: Jack Lampl

PROJECT DESCRIPTION: Construction of mid and upper bluff retaining walls, and private stairway on the bluff face; repairs and improvements to the retaining walls; and construction of 338 sq. ft. addition to existing 4,426 sq. ft. duplex.

PROJECT LOCATION: 676-678 Neptune Avenue, Encinitas, San Diego County.  
 APN 256-051-07

APPELLANTS: California Coastal Commissioners Paula Daniels and Sara Wan

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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.

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SUBSTANTIVE FILE DOCUMENTS: Certified City of Encinitas Local Coastal Program (LCP); Appeal Applications dated August 23, 1999; City of Encinitas Planning Commission Resolution No. PC-99-34; MUP/CDPDR 95-106; CDP # 6-99-8/Lampl.

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I. Appellants Contend That:

The appellants contend that the City's decision is inconsistent with several provisions of the City's LCP related to provisions for a thorough alternative analysis to the proposed development, the prohibition of private stairways and the preservation of the bluff. In,

particular, the appellants allege that the development is inconsistent with the LCP provisions that (1) require an analysis of alternatives to the project design including, but not limited to, no project and relocation/removal of threatened portions of or the entire home; (2) require that private stairways on the bluff be prohibited and; (3) require the conservation of the bluff face through the application of an open space easement.

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## II. Local Government Action.

The coastal development permit was approved by the City of Encinitas Planning Commission on July 22, 1999. Several special conditions were attached which require the applicant to participate in a future comprehensive plan to address bluff and shoreline erosion, that drainage be directed away from the edge of the bluff, that repairs to the retaining walls occur before the remodel/addition to the duplex occurs and, if replanting of the bluff face is required, that drought tolerant plants be utilized and that irrigation be limited.

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## 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 identified 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 may 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.

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#### 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 NO vote on the following motion:

I move the Commission determine that Appeal No. A-6-ENC-99-115 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.

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#### Findings and Declarations.

1. Project Description/History. The proposed development involves the construction of mid and upper bluff retaining walls, construction of a private stairway on the face of the bluff leading to the beach, repair and improvements to the mid and upper bluff walls, and an approximately 338 sq. ft. addition to the existing approximately 4,426 sq. ft. duplex. The mid and upper bluff retaining walls and the stairway have already been constructed without a coastal development permit.

The proposed development is located on the face of and above an approximately 95 ft. high coastal bluff on the west side of Neptune Avenue in Encinitas fronting a single lot containing a 4,426 sq. ft. duplex located approximately 17 feet from the edge of the bluff. According to the applicant, the existing duplex was constructed in 1972, prior to the

enactment of the Coastal Act and included a private access stairway to the beach and a tram. Based on review of plans submitted by the applicant, it appears the duplex was constructed with a foundation that includes caissons that have been installed up to 35 feet deep into the bluff. The pre-existing Coastal Act stairway and tram were subsequently removed or destroyed as a result of bluff failures. The current stairway was constructed in approximately 1995 in a different location than the previous stairway and tram. The current stairway is attached to the northern upper bluff retaining wall and traverses down the face of the bluff to the top of an unpermitted seawall below. A metal stairway extension has been placed on the face of the lower seawall leading to the beach below with concrete steps extending onto the beach.

The approximately 37 foot-high, 67 foot-long seawall located on the beach at the base of the bluff was also constructed without a coastal development permit. At its August 1999 hearing, the Commission denied an after-the-fact permit for the lower seawall on grounds that the seawall is inconsistent with Chapter 3 policies of the Coastal Act (ref. CDP No. 6-99-8/Lamp). The Commission found that although a lower seawall was necessary to protect the blufftop duplex, the proposed seawall was not the least environmentally damaging design.

The two subject approximately 35 foot-high, 50 foot-long (total) upper bluff retaining walls have been constructed beneath the edge of the upper bluff. The northern section of the wall consists of tied back concrete columns with horizontal wood lagging. The southern section of the wall consists of tied back wood/timber columns, one horizontal wood/timber waler with tie backs and horizontal wood lagging. The applicant's engineer asserts that the southern upper wall was probably constructed in 1989 and the northern upper wall in 1995 following an upper bluff failure. The applicant identified these upper walls to be in a state of failure that threatened the duplex and requested repairs and improvements to the walls. The proposed repairs consist of installation of a new row of approximately 40 foot-long tie backs near the bottom of walls and a reinforced concrete waler. Corrosion protected steel channel splints are also proposed to be installed onto the existing wood/timber columns.

The proposed mid-bluff wall consists of an existing approximately 18 foot-long retaining wall located on the southern half of the bluff face consisting of vertical and horizontal wood timbers with wooden bracing. The mid bluff wall was constructed at an unknown time between 1972 and 1985. The applicant also proposes to repair the mid-bluff wall by re-bracing the wall and replacing some vertical wood or timber supports, and reducing the height of the backfill by about 1 foot to reduce the load on the wall.

Finally, the applicant proposes to construct an approximately 338 sq. ft. addition to the existing approximately 4,426 sq. ft. duplex. The addition consists of a 130 sq. ft. first floor and a 208 sq. ft. second floor addition located directly above the first floor addition. The entire addition will be placed back approximately 41 feet from the edge of the bluff and, as required by the LCP, will be designed so as not to preclude its removal if threatened in the future by shoreline or bluff erosion.

The City approved a permit for the mid and upper walls, repair work for the walls and the addition to the duplex. With respect to the stairway, which was included in the applicant's permit application, the City recorded a covenant in which the City agreed not to order removal of the stairway and the applicant agreed not to remove and replace the stairway (see attached Exhibit #5). The covenant allows the applicant to perform routine repair and maintenance of the stairway. The City recorded the covenant in response to the applicant's application for a permit for the stairway. Since the covenant allows the stairway to remain, it is in effect a permit for the stairway and therefore, is part of the permit that has been appealed to the Commission.

2. Alternative Analysis. The appellants contend that the City's approval failed to examine alternatives to the proposed 35 foot-high retaining walls or the 18 foot-long mid bluff wall such as removal of the structures (no project) or project redesign as required by the LCP.

Section 30.34.020(B)(2)(9) of the City's Certified Implementation Plan (IP) states, in part:

The City shall develop and adopt a comprehensive plan, based on the Beach Bluff Erosion Technical Report (prepared by Zeiser Kling Consultants Inc., dated January 24, 1994), to address the coastal bluff recession and shoreline erosion problems in the City. . . . In addition, until such a comprehensive plan is approved by the City of Encinitas and the Coastal Commission as an amendment to the LCP, the City shall not permit the construction of seawalls, revetments, breakwaters, cribbing, or similar structures for coastal erosion except under circumstances where an existing principle structure is imminently threatened and, based on a thorough alternative analysis, an emergency permit is issued and emergency measures authorized by the emergency coastal development permit are designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

In addition, Section 30.34.020 (D)(8) of the City's Certified IP requires the submission of a geotechnical report for the project site that includes, among other things:

Alternatives to the project design. Project alternatives shall include, but not be limited to, no project, relocation/removal of threatened portions of or the entire home and beach nourishment.

The proposed development involves after-the-fact repairs to existing upper and mid bluff walls. While the City did find the mid and upper bluffs were necessary to protect the existing duplex, the City failed to analyze why failure of the mid and upper bluff walls would result in a threat to the existing residential structure given the duplex is founded on a caissons grade beam foundation. Further, even if there is a threat to the duplex such that protection is warranted, the City failed to analyze alternatives as required in the Certified LCP. Given that it is not clear the proposed protection is necessary to protect the existing residential structure and alternative designs (if required) were not analyzed

by the City, the Commission finds that the proposed development raises a substantial issue of conformity with the Certified LCP.

3. Private Stairway/Conservation of Bluff. The appellants contend that approval of the project by the City is inconsistent with provisions of the City's certified LCP that prohibit private stairways on the face of the bluff and that protect the bluff face from future activity or development through the application of an open space easement.

Public Safety Element (PS) Policy 1.6 of the City's Land Use Plan (LUP) states, in part:

The City shall provide for the reduction of unnatural causes of bluff erosion, as detailed in the Zoning Code, by:

a. Only permitting public access stairways and no private stairways, and otherwise discouraging climbing upon and defacement of the bluff face;

[...]

g. Permanently conserving the bluff face within an open space easement or other suitable instrument. . . .

As previously noted, a stairway and tram previously existed on the site but were damaged and/or removed from the site. Subsequently, a new stairway was constructed in a different alignment down the bluff face. Although PS Policy 1.6 (a) specifically requires that the City prohibit private stairways on the bluff face, the City's action on this permit, in effect, authorized the retention of a private stairway on the face of the bluff utilizing a recorded covenant between the City and the applicant. The covenant allows the stairway to remain and be repaired and maintained but not removed and replaced. In addition, the City's approval did not include a requirement to preserve the bluff face against future development or activity through the application of an open space easement as required by PS Policy 1.6(g). Thus, the City's action raises a substantial issue of conformity with the certified LCP.

In summary, the City's approval of the proposed mid and upper bluff retaining walls, private stairway and repairs to the mid and upper retaining walls appears inconsistent with several policies of the LCP that relate to private stairways on the bluff face, open space and appropriate alternative analysis to the proposed project. Furthermore, shoreline protective devices on the face of coastal bluffs raise issues of regional significance under the Coastal Act. These structures alter highly scenic natural landforms and adversely impact sand supply. Therefore, approval of such structures inconsistent with a certified LCP is of substantial concern to the Commission. In addition, the City's approval of the mid and upper bluff structures without conducting a thorough alternatives analysis sets an adverse precedent for City actions on future proposals for bluff face walls and structures. For all of the above reasons, the City's action raises a substantial issue with respect to the grounds on which the appeal was filed.

Leucadia

PROJECT LOCATION

Encinitas Beach County Park

Seaside Gardens County Park

MOONLIGHT STATE BEACH

Encinitas (BM 91)

Encinitas 119

PACIFIC OCEAN

ENCINITAS BEACH

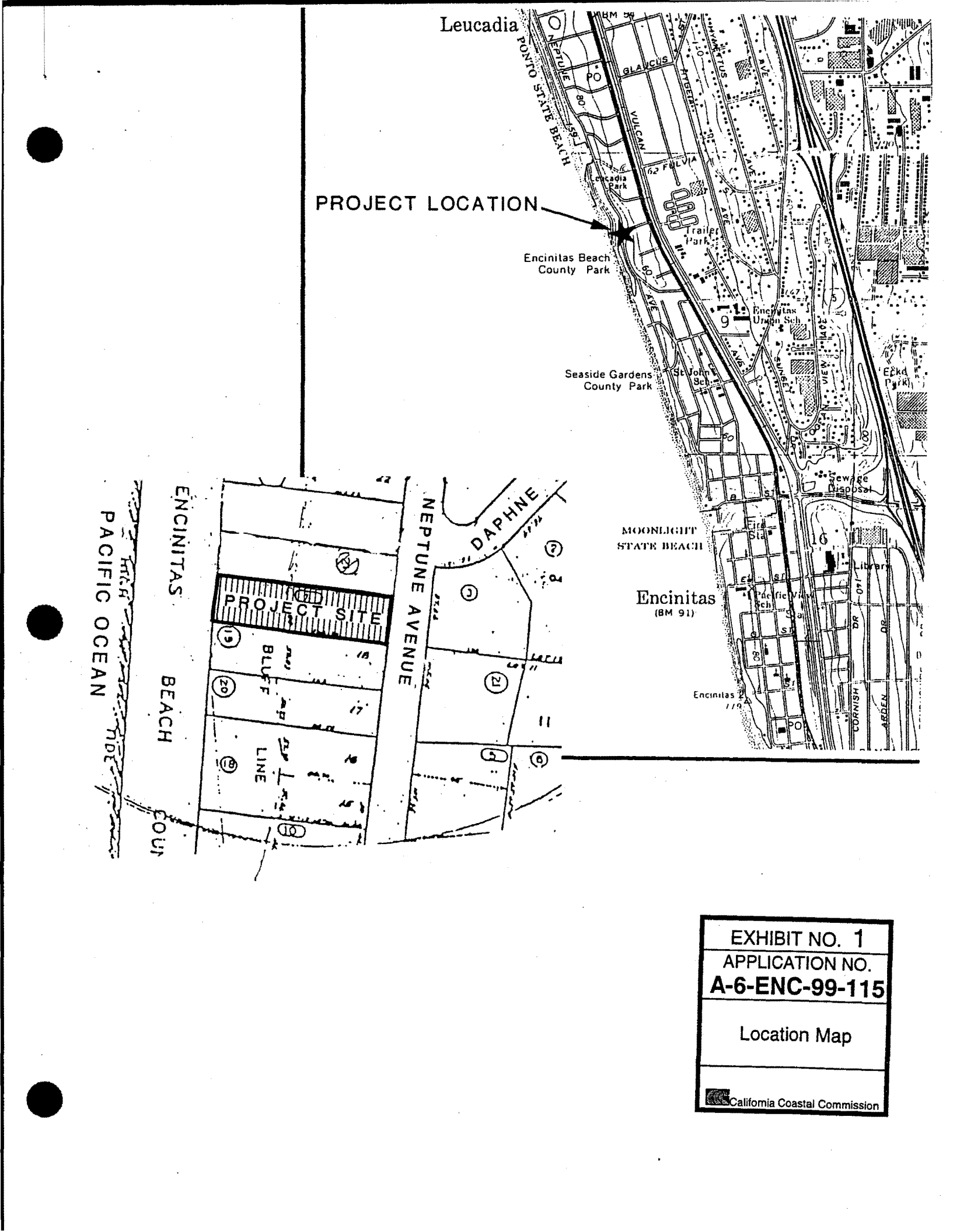
PROJECT SITE

NEPTUNE AVENUE

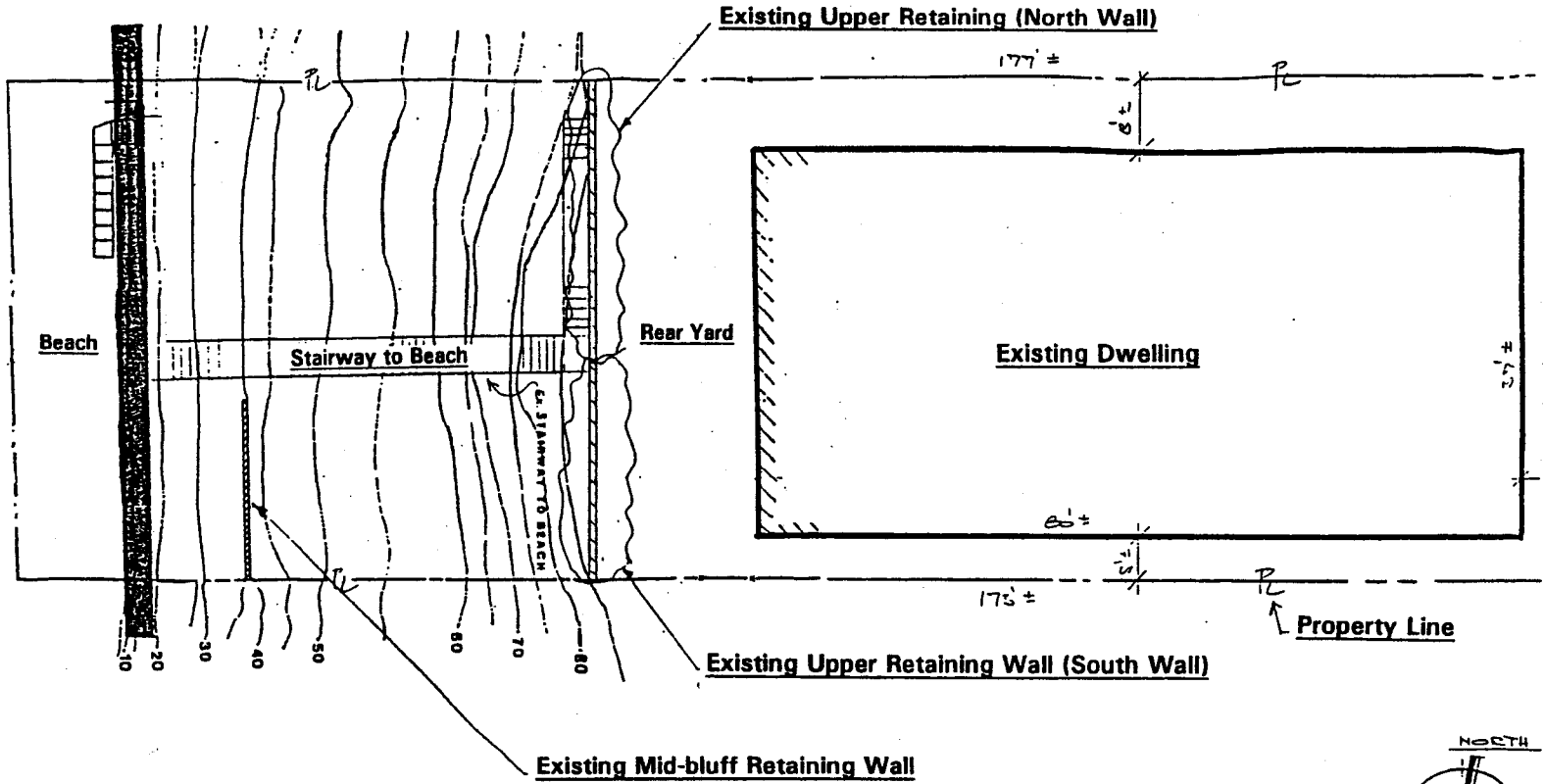
DAPHNE

BLUFF LINE

EXHIBIT NO. 1
APPLICATION NO.
<b>A-6-ENC-99-115</b>
Location Map
California Coastal Commission



N O SCALE



California Coastal Commission	EXHIBIT NO. 2
	APPLICATION NO.
	A-6-ENC-99-115
Site Plan	



Edge of Bluff

175'

19'-6"

**PROPOSED ADDITION 338 SQ. FT.**  
(LOWER FLOOR CROSSHATCHED, UPPER FLOOR SH/)  
LOWER FLOOR ADDITION (10'X13) 130 SQ  
UPPER FLOOR ADDITION (16'X13) 208 SQ.

5'

7'-6"

21'-6"

11'-0"

REC

SE

COAS  
SAN DIE

**2 STORY SFR &  
VT & 768 SQ. FT.**

CITY OF ENCIN  
APPROV  
CASE NO. 95-106-D  
PC Appl. 7  
Rosen PC  
  
Signature  
PLANNING AND CC  
DEVELOPMENT DE

95-1  
LAI

**EXISTING CONC. DRIVEWAY**

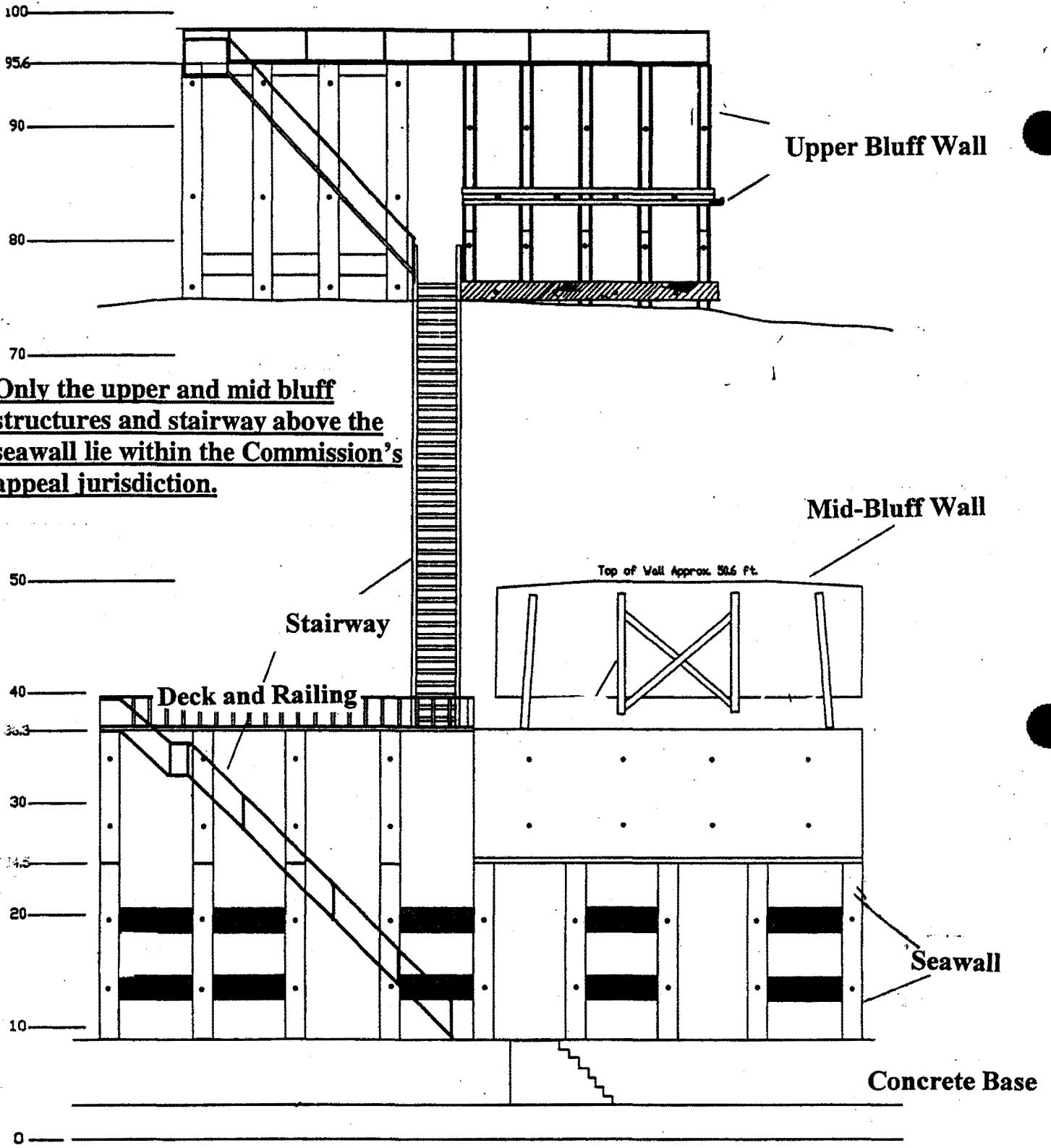
20'

16'

11'

Proposed masonry  
4' high w/ 1' high wa  
(total height 5'-0")

**EXHIBIT NO. 3**  
**APPLICATION NO.**  
**A-6-ENC-99-115**  
**Site Plan Indicating**  
**Additions to Duplex**  
  
California Coastal Commission



Only the upper and mid bluff structures and stairway above the seawall lie within the Commission's appeal jurisdiction.

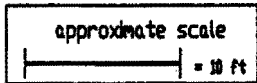
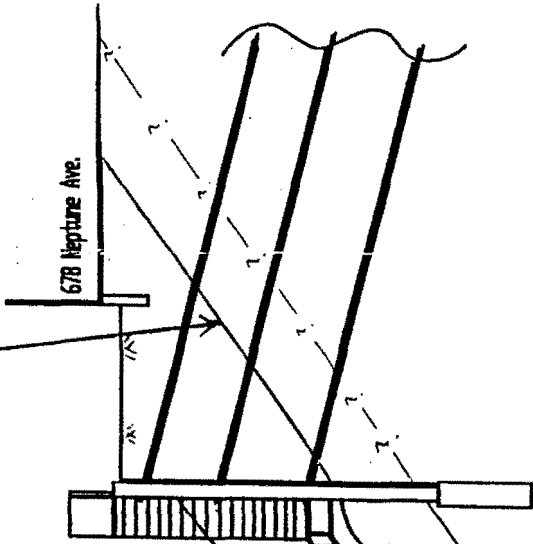
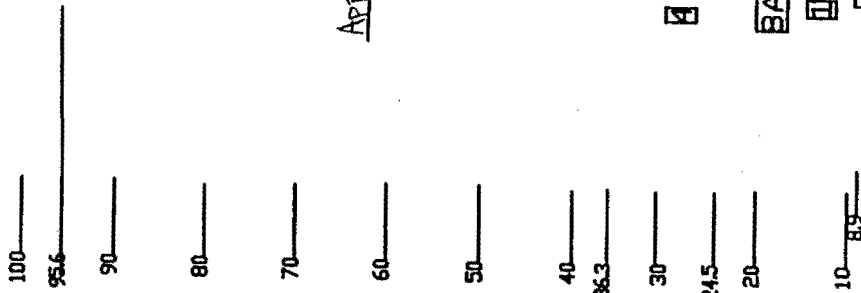


EXHIBIT NO. 4
APPLICATION NO.
<b>A-6-ENC-99-115</b>
Site Elevations
California Coastal Commission

ASSUMED ULTIMATE FAILURE PLANE. REMOVAL OF NORTH UPPER RETAINING WALL



SECTION AA  
UPPER NORTHERN RETAINING WALL

APPROX. EX. GRADE

ASSUMED ULTIMATE FAILURE PLANE. REMOVAL OF LOWER SEAWALL AND/OR NORTH 1995 VERT. EXT.

TERRACE DEPOSITS

TORREY FORMATION (SANDSTONE)



**EXHIBIT NO. 5**  
**APPLICATION NO. A-6-ENC-99-115**  
 Cross-Section of Northern Upper Wall and Stairway  
 California Coastal Commission

APPROX. ULTIMATE FAILURE  
PLANE REMOVAL OF UPPER  
RETAINING WALL.

PRIMARY  
RESIDENTIAL STRUCTURE  
678 Neptune Ave.

SECTION CC  
UPPER SOUTHERN RETAINING WALL

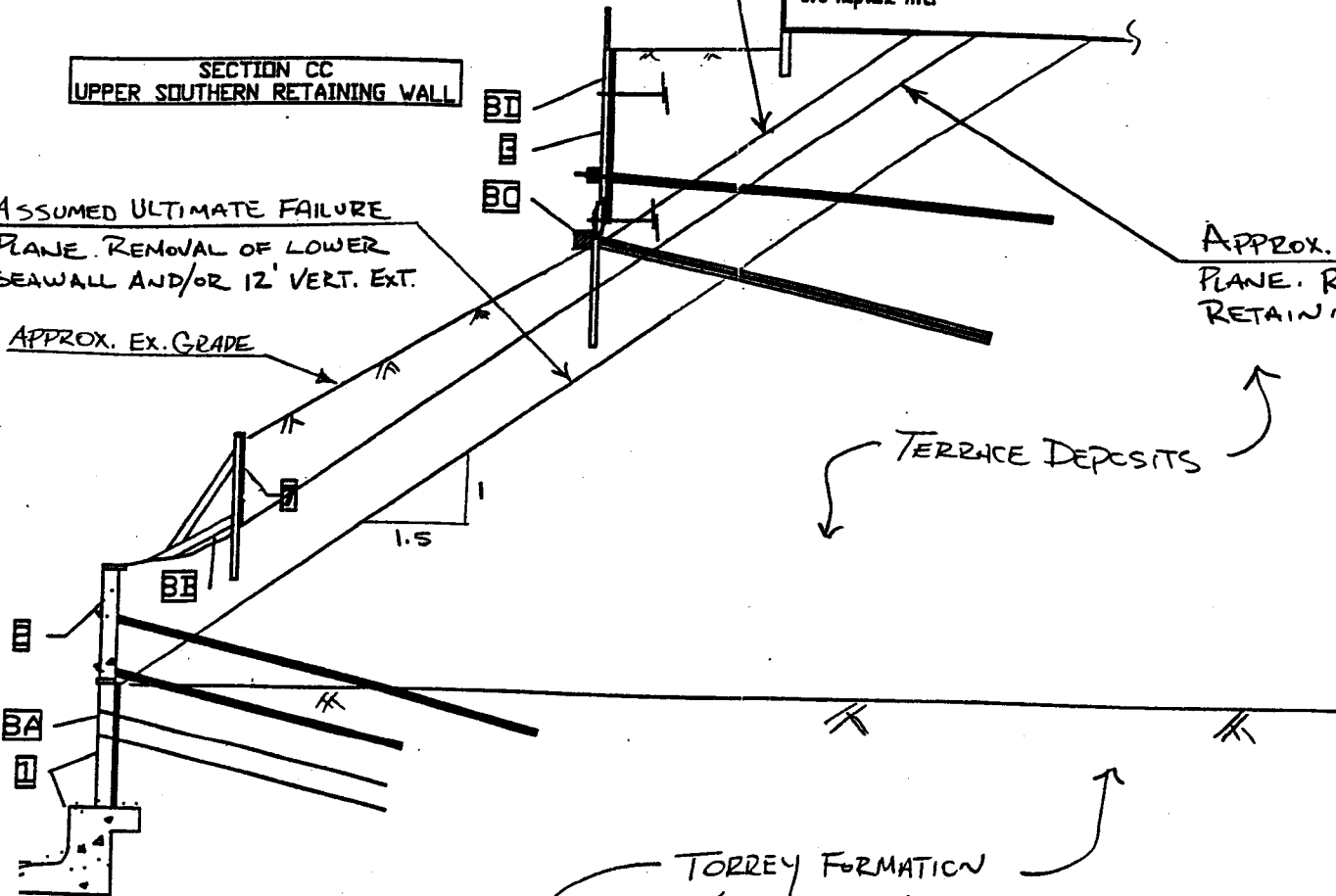
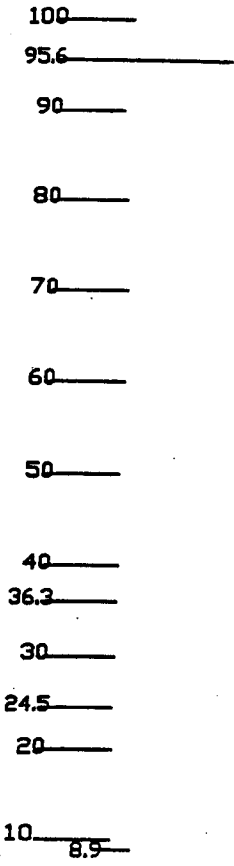
ASSUMED ULTIMATE FAILURE  
PLANE REMOVAL OF LOWER  
SEAWALL AND/OR 12' VERT. EXT.

APPROX. ULTIMATE FAILURE  
PLANE REMOVAL OF MID-B  
RETAINING WALL

APPROX. EX. GRADE

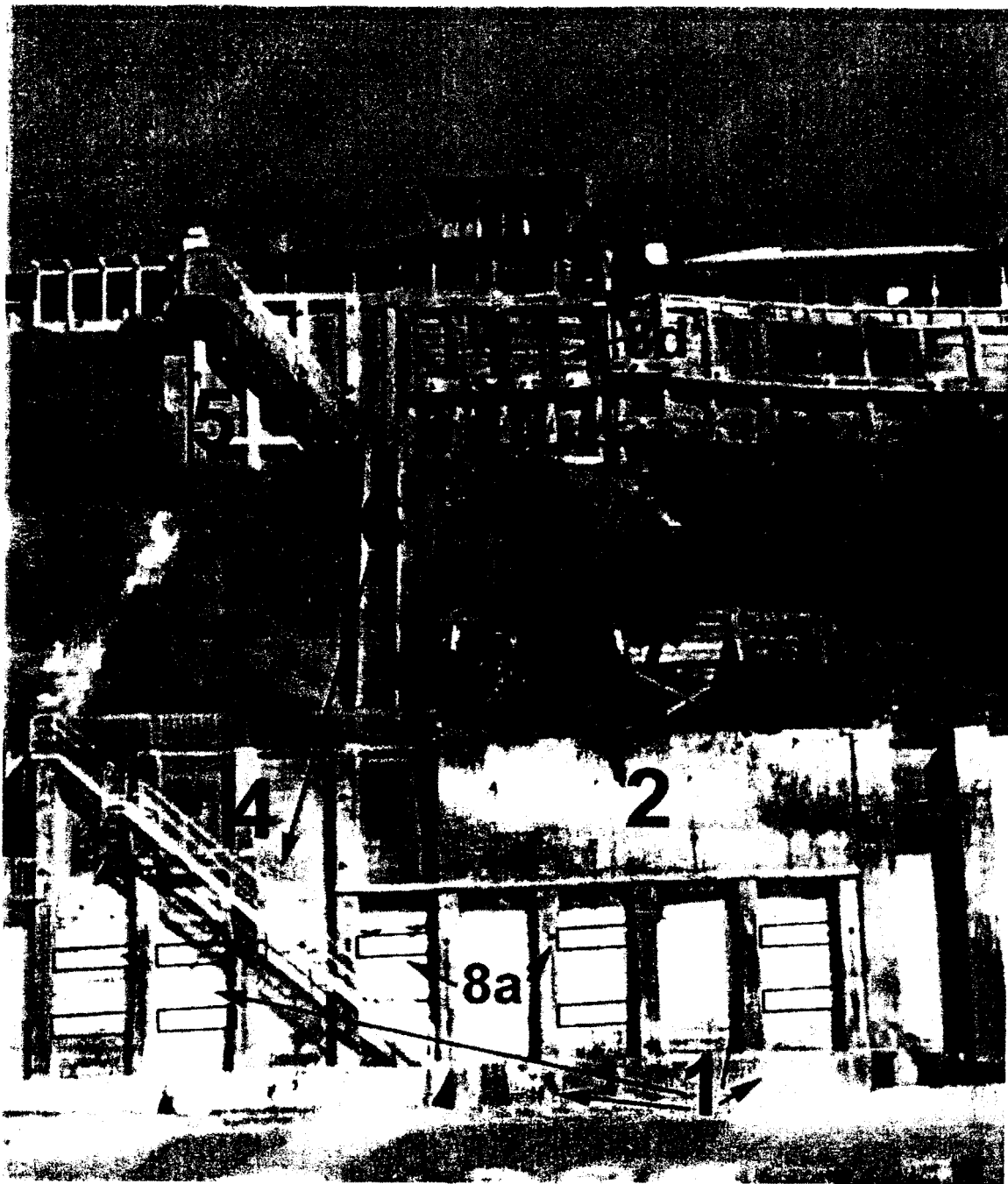
TERRACE DEPOSITS

TORREY FORMATION  
(SANDSTONE)



approximate scale  
| = 10 feet

EXHIBIT NO. 6  
APPLICATION NO.  
A-6-ENC-99-115  
Cross-Sections of  
Southern Upper Wall  
and Mid Wall  
California Coastal Commission



Existing Structures

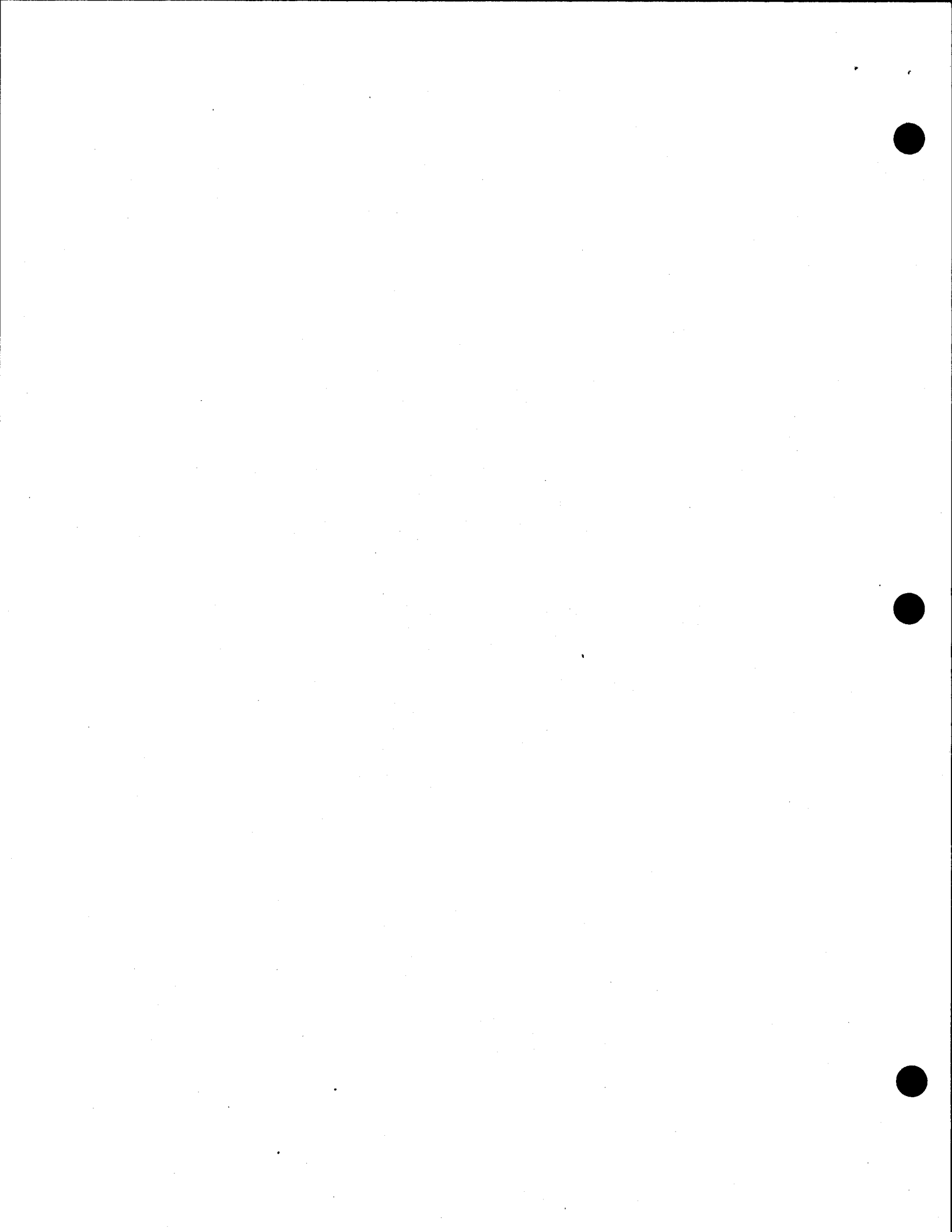
1. Lower Bluff Seawall
2. Vertical Extension of Lower Bluff Seawall (southern portion)
3. Upper Bluff Retaining Wall
4. Vertical Extension of Lower Bluff Seawall (northern portion)
5. Upper Bluff Retaining Wall
6. Stairway
7. Mid-bluff Retaining Wall

Proposed Repairs

- 8a. Concrete Walers and Tiebacks
- 8b. Minor Repair to Mid-bluff Retaining Wall
- 8c. Horizontal Grade Beam and Tiebacks
- 8d. Wooden Vertical Posts

EXHIBIT NO. 7  
APPLICATION NO.  
**A-6-ENC-99-115**

Details of Existing  
Bluff Site Features



P. 2/6  
THE ORIGINAL OF THIS DOCUMENT  
WAS RECORDED ON MAY 24, 1999  
DOCUMENT NUMBER 1999-0350629  
GREGORY J. SMITH, COUNTY RECORDER  
SAN DIEGO COUNTY RECORDER'S OFFICE  
TIME: 11:11 AM

A-6-ENC-99-115

When Recorded Mail To: )

City Clerk )

City of Encinitas )

505 S. Vulcan Avenue )

Encinitas, CA 92024 )

) SPACE ABOVE FOR RECORDER'S USE

RECEIVED

JUL 9 1999

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

**COVENANT REGARDING REAL PROPERTY:  
STAIRWAY ON FACE OF COASTAL BLUFF**

Assessor's Parcel No.: 256-051-07

A. Jack Lampl ("OWNER" hereinafter) is the owner of real property which is commonly known as 676 - 678 Neptune Avenue ("PROPERTY" hereinafter) and which is described as follows:


See Attachment "A"

B. In consideration of the City of Encinitas ("CITY" hereinafter), not ordering the removal of the existing stairway situated on the face of the coastal bluff located on PROPERTY, OWNER hereby covenants and agrees for the benefit of CITY, to not pursue any legal or administrative remedy, other than as noted within this document, to avoid the removal of the existing stairway and to comply with the terms and conditions as follows:

1. Owner and City agree that the property had, prior to 1972, legal stairways to provide pedestrian access to the beach and ocean. Evidence supporting this is the Special Use Permit (P71-441) dated approved 11/24/71 by the County of San Diego.

2. Owner and City agree that the property had a stairway on the bluff and continuing to the beach as evidenced in the Coastal Commission staff report for application 6-85-396, dated September 9, 1985 and shown on the submitted and stamped plans prepared for submission for the referenced Coastal Development Permit.

3. Owner and City agree that stairway(s) on the property have been altered by previous owners or their agents such that the location of the stairway(s) have been changed on at least two occasions between 1972 and 1995.

EXHIBIT NO. 8
APPLICATION NO.
<b>A-6-ENC-99-115</b>
Covenant Permitting Retention of Stairway
Page 1 of 3
 California Coastal Commission

4. Owner and City agree that the upper stairway area was altered by contractors of previous owners and that no permits or other entitlements were granted to the property by City for the purpose of altering the stairway.

5. Owner and City agree that the lower stairway to the bluff area has been replaced by the previous owner in a location approximately the same as the stairway shown on the plans for P71-441. The lower stairway is defined as the stairway beginning at the top of the lower seawall. The lower stairway is presently constructed of Galvanized Steel.

6. Owner agrees to provide routine maintenance and repair of the stairway. Routine maintenance and repair is defined as providing protective painting, varnishing, shellacking or other chemical means to protect the stairway from environmental elements and the replacement of fasteners such as screws or nails which may rust or become loose due to time and use of the stairways. Routine maintenance and repair would also include replacing on an as needed basis, treads and risers of the stairway which become worn or are otherwise impacted by the natural forces of environmental elements. Routine maintenance and repair DOES NOT INCLUDE the complete removal and replacement of the stairway UNLESS otherwise authorized by regulations in effect at the time of the complete removal and replacement of the stairway.

7. Owner agrees that should the stairway become unsafe or otherwise be not suitable for accessing of the beach and ocean, that owner will seek, at owner's expense, appropriate technical advice on how to accomplish removal of the stairway in whole or in part while maintaining the integrity of the coastal bluff.

8. Owner and City agree that the obligations in this covenant do not restrict the owner from further development of the property as may be authorized pursuant to codes and regulations in effect at the time of the development. Development may include, but is not limited to, work on the dwelling unit(s), bluff retaining devices, revetments, and other physical improvements to the property.

9. Owner agrees that if the stairway, or maintenance of the stairway, causes or contributes to damage, erosion, failure, deterioration, landslide or subsidence to the bluff, owner will defend and hold the City harmless and indemnify the City for any claim, action or demand arising out of or related in any way to such damage, erosion, deterioration or subsidence.

It is further understood and agreed that all rights under Section 1542 of the Civil Code of California and any similar law of any state or territory of the United States are hereby expressly waived. Said section reads as follows:

"1542. Certain claims not affected by general release. A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the




time of executing the release, which if known by him must have materially affected his settlement with the debtor."

C. This Covenant shall run with the land and be binding upon and inure to the benefit of the future owners, encumbrances, successors, heirs, personal representatives, transferees and assigns of the respective parties.

D. If either party is required to incur costs to enforce the provisions of this Covenant, the prevailing party shall be entitled to full reimbursement of all costs, including reasonable attorneys' fees, from the other party.

E. Failure of OWNER to comply with the terms of this Covenant shall constitute consent to the filing by CITY of a Notice of Violation of Covenant.

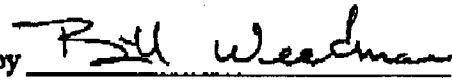
ACCEPTED AND AGREED:

Dated 5/20/99  OWNER

Dated \_\_\_\_\_ \_\_\_\_\_

(Notarization of OWNER signature is attached.)

CITY OF ENCINITAS

Dated May 20, 1999 by 

(Notarization not required) Bill Weedman  
City Planner

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA  
 3111 CAMINO DEL RIO NORTH, SUITE 200  
 SAN DIEGO, CA 92108-1725  
 (619) 521-8036



**APPEAL FROM COASTAL PERMIT  
 DECISION OF LOCAL GOVERNMENT**

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

**SECTION I. Appellant(s)**

Name: Commissioner Sara Wan  
 Mailing Address: 22350 Carbon Mesa Road  
Malibu, CA 90265  
 Phone Number: 310-456-6605

**RECEIVED**

AUG 23 1999

CALIFORNIA  
 COASTAL COMMISSION  
 SAN DIEGO COAST DISTRICT

**SECTION II. Decision Being Appealed**

1. Name of local/port government: City of Encinitas
2. Brief description of development being appealed: After-the-fact construction of mid and upper bluff retaining walls, repairs and improvements to the walls and construction of an approximately 338 sq. ft. addition onto the existing approximately 4,426 sq. ft. duplex.
3. Development's location (street address, assessor's parcel no., cross street, etc.):  
676-678 Neptune Avenue, Encinitas. (APN: 256-051-07)
4. Description of decision being appealed:
  - a. Approval; no special conditions:
  - b. Approval with special conditions:
  - c. Denial:

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

**TO BE COMPLETED BY COMMISSION:**

APPEAL NO: A-6-ENC-99-115

DATE FILED: 8/23/99

DISTRICT: San Diego

EXHIBIT NO. 9
APPLICATION NO. <b>A-6-ENC-99-115</b>
Appeal Applications
Page 1 of 8
California Coastal Commission

5. Decision being appealed was made by (check one):

a.  Planning Director/Zoning  
Administrator

c.  Planning Commission

b.  City Council/Board of  
Supervisors

d.  Other

Date of local government's decision: July 22, 1999

Local government's file number (if any): 95-106 CDP

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

Name and mailing address of permit applicant:

Jack Lampl  
678 Neptune Avenue  
Encinitas, Ca 92024

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

Bob Trettin  
9606 Laurentian Drive  
San Diego, Ca 92129

Diane Langager  
City of Encinitas  
505 S. Vulcan Avenue  
Encinitas, Ca 92024

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

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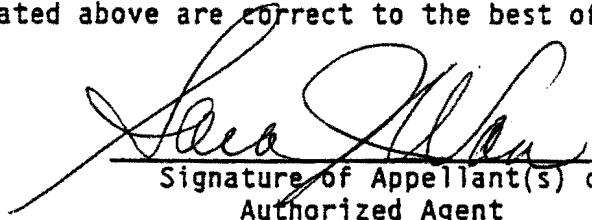
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SEE ATTACHMENT "A"

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

  
\_\_\_\_\_  
Signature of Appellant(s) or  
Authorized Agent

Date 8/19/99

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize \_\_\_\_\_ to act as my/our representative and to bind me/us in all matters concerning this appeal.

\_\_\_\_\_  
Signature of Appellant(s)

Date \_\_\_\_\_

Jack Lampl Appeal  
Attachment A

The coastal permit approved by the City of Encinitas allows the after-the-fact construction of mid and upper bluff retaining walls, repairs and improvements to those retaining walls and construction of approximately 338 sq. ft. additions to an existing approximately 4,426 sq. ft. duplex. While not permitted through the subject coastal development permit, the City's approval noted that an unpermitted stairway that was constructed on the face of the bluff leading to the beach below will remain as stipulated in a separate covenant between the City and the applicant.

As approved by the City, the development appears to be inconsistent with several policies contained in the certified Local Coastal Program (LCP). Specifically, the development, as approved by the City is inconsistent with the following LUP policies:

Public Safety Element (PS) Policy 1.6(a) of the City's Land Use Plan (LUP) requires the City to reduce unnatural bluff erosion by not approving private stairways on the bluff and discouraging climbing on or defacing the bluff face. Although the applicant specifically requested a coastal permit for retention of the existing unauthorized stairway, the City's approval failed to address the stairway. This is inconsistent with PS 1.6(a) which requires the City to deny private stairways on the face of the bluffs.

PS Policy 1.6(g) of the City's LUP requires the conservation of the bluff face through the application of an open space easement. In this case, the City's approval does not address open space to protect the bluff face from future or additional disturbance.

Section 30.34.020(B)(2)(9) of the City's Certified Implementation Plan (IP) requires that where structures are needed to protect an existing principal residence that is imminently threatened by coastal erosion any subsequent permit must be based on "a thorough alternatives analysis". In addition, Section 30.34.020 (D) requires the submission a geotechnical report for the project site that addresses, among other items, alternatives to the project design that include, but not limited to, "no project, relocation/removal of threatened portions of or the entire home . . .". The City's approval appears to have not included any analysis of alternatives to the proposed retaining wall structures but instead simply indicated that the proposed structures could not be removed or reduced in scope without resulting in the loss of the principal structure. As such, the City's approval appears to be inconsistent with the requirements of both Sections 30.34.020(B)(2)(9) and 30.34.020 (D) of the City's Certified IP.

In summary, the City's approved permit for the mid and upper bluff retaining walls, repairs to the walls and construction of an addition to the existing duplex appears to be inconsistent with several policies of the certified LCP which relate to private stairways on the bluff face, open space and appropriate alternative analysis to the proposed project.

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA  
3111 CAMINO DEL RIO NORTH, SUITE 200  
SAN DIEGO, CA 92108-1725  
(619) 521-8036

**APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT**

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

**SECTION I. Appellant(s)**

Name: Commissioner Paula Daniels  
Mailing Address: 12400 Wilshire Blvd., Suite 400  
Los Angeles, Ca 90025-1023  
Phone Number: 310-442-7900

**RECEIVED**

AUG 23 1999

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT**SECTION II. Decision Being Appealed**

1. Name of local/port government: City of Encinitas
2. Brief description of development being appealed: After-the-fact construction of mid and upper bluff retaining walls, repairs and improvements to the walls and construction of an approximately 338 sq. ft. addition onto the existing approximately 4,426 sq. ft. duplex.
3. Development's location (street address, assessor's parcel no., cross street, etc.):  
676-678 Neptune Avenue, Encinitas. (APN: 256-051-07)
4. Description of decision being appealed:
  - a. Approval; no special conditions:
  - b. Approval with special conditions:
  - c. Denial:

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

**TO BE COMPLETED BY COMMISSION:**APPEAL NO: A-6-ENC-99-115DATE FILED: 8/23/99DISTRICT: San Diego

5. Decision being appealed was made by (check one):

a.  Planning Director/Zoning  
Administrator

c.  Planning Commission

b.  City Council/Board of  
Supervisors

d.  Other

Date of local government's decision: July 22, 1999

Local government's file number (if any): 95-106 CDP

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

Name and mailing address of permit applicant:

Jack Lampl  
678 Neptune Avenue  
Encinitas, Ca 92024

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

Bob Trettin  
9606 Laurentian Drive  
San Diego, Ca 92129

Diane Langager  
City of Encinitas  
505 S. Vulcan Avenue  
Encinitas, Ca 92024

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
ATTACHMENT "A"  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



\_\_\_\_\_  
Signature of Appellant(s) or  
Authorized Agent

Date 8/19/99

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