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San Diego Coast District

CONSENT CALENDAR

Wednesday, December 8, 1999

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CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
3111 CAMINO DEL RIO NORTH, SUITE 200
SAN DIEGO, CA 92108-1725
619-21-8036



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STAFF REPORT: CONSENT CALENDAR

Application No.: 6-99-126

Applicant: City of Del Mar

Agent: Monica Tuchscher

Description: Construction of various drainage and street improvements consisting of new and replacement storm drain pipes, inlets, percolation basins, and curbs and gutters within existing public rights-of-way.

Site: Existing public streets and utility easements throughout the City of Del Mar (Camino del Mar, 12th Street and Luneta, Coast Boulevard and 21st Street, Coast Blvd. and 20th Street, Camino del Mar at 12th Street and Camino del Mar at 14th Street) Del Mar, San Diego County.

Substantive File Documents: City of Del Mar Certified LCP Land Use Plan; CDPs #6-99-4; 6-98-125; 6-99-111

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. Timing of Construction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a final construction schedule, which shall be incorporated into construction bid documents. The schedule and construction documents shall specify that no construction will take place for the project components located on: Camino del Mar, Coast Boulevard, and 15th Street) (reference Exhibit No. 2), between Memorial Day weekend and Labor Day of any year. Notes on the schedule and documents shall state that access corridors and staging areas shall be located in a manner that has the least impact on public access via the maintenance of existing public parking areas and traffic flow on coastal access routes (no street closures or use of public parking as staging areas).

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The City of Del Mar is proposing a number of drainage and street improvements at various locations throughout the city. The majority of the work will occur within existing public right-of-ways (ROW) as well as within existing utility easements on private property. The improvements are proposed, in part, to bring the City's drainage system up to current standards as well as to improve a problem with nuisance flow from areas where standing water occurs after rainfall.

More specifically, with regard to the proposed drainage improvements, two locations will receive new storm drain pipes and associated curb inlets, one location will replace a portion of an existing storm drain pipe with a new pipe and new inlets, two locations will receive new curb inlets and percolation basins and one location will receive a new curb and gutter. With regard to the proposed street improvements, one project element is to realign the curb line to create a "bulb" shape at two corners of an existing intersection (Camino del Mar at 12th Street) which will shorten the travel distance for pedestrians crossing the streets. All of the proposed improvements comply with ADA requirements. As a result of these proposed improvements, seven on-street parking spaces at the northwest corner of the intersection will be slightly re-configured (made narrower in width and longer in length) without a reduction in the number of spaces. At another intersection (Camino del Mar at 14th Street), similar improvements are proposed with the exception of realigning the on-street parking. All of the proposed improvements are located in existing public rights-of-way (reference Exhibit No. 3 for specific project description and location). The other projects listed on Exhibit No. 3 do not require a coastal development permit as they constitute routine repair and maintenance of existing public works or do not represent an increase in the intensity of use pursuant to the adopted "Interpretive Guidelines on Exclusions From Permit Requirements".

All of the proposed drainage improvements will take place within a closed system and will not be discharged into sensitive areas. That is, sewage routed through the new lines will be directed to a collector sewage treatment plant in nearby Sorrento Valley and then transferred to the Point Loma Sewage Treatment Plant for final disposal. No street closures or use of public parking as staging areas are proposed.

The City of Del Mar has a certified Land Use Plan and recently received approval from the Commission of its implementation plan. However, the implementation plan was approved with suggested modifications, which have not yet been formally accepted by the City. Thus, the LCP is not effectively certified. As such, the Commission retains permit jurisdiction for this area with the Chapter 3 policies of the Coastal Act as the standard of review.

2. Water Quality. Section 30231 of the Act states the following:

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

Because parts of the subject proposal involve the installation of new street and drainage improvements, the Commission is concerned that appropriate hydrocarbon filters and other measures are implemented in new projects to assure that the water quality of downstream resources (i.e., the ocean and San Dieguito Lagoon, in this instance) are not adversely affected. The City's engineering department has indicated that the proposed street and drainage projects comply with the City's NPDES Municipal Storm Water Program which incorporates several Best Management Practices (BMPs), monitoring programs, Illicit Connection/Illegal Discharge Detection Programs, Ordinances and other measures. The purpose of the proposed project is to maintain runoff water quality by decreasing nuisance flow from areas where standing water is present after rainfall. BMP elements are being incorporated into the project which include the following: installation of tiles indicating "No Dumping", street sweeping, regular maintenance of existing and proposed storm drains and grates on the inlets. The City has also indicated that an innovative BMP proposed for the project is the installation of two percolation basins. These basins increase the percolation of low flow nuisance water into the ground. Hydrocarbons will be removed as the storm water percolates through the soil and geotechnical fabric in the basin. The increased percolation rate prevents the low flow runoff from being conveyed into the gutters and storm drainage infrastructure. With incorporation of the new percolation basins, the City will have six operational low flow percolation basins.

In summary, with the incorporation of Best Management Practices proposed by the applicant, as described above, it can be assured that drainage and runoff from the newly proposed drainage improvements will not result in adverse impacts to water quality and/or downstream resources, consistent with Section 30231 of the Coastal Act.

3. Public Access and Recreation. Sections 30210, 30213 and 30220 of the Coastal Act provide for the protection, provision and enhancement of public access and recreational opportunities in coastal areas. These policies address the public's right of access to the sea and public recreational sites, and require that access considerations be given high priority in reviewing development proposals.

All of the proposed improvements will take place on or west of Camino del Mar (which is Old Highway 101 in Del Mar). Projects west of Camino del Mar raise potential concerns with coastal access. All of these project sites are located from one to three blocks from the ocean; therefore, construction activities on these streets during the peak beach-use season could have a significant adverse impact on public access. Therefore, Special Condition #1 has been attached, which requires the City to submit a construction schedule indicating that no work will take place on these projects during the summer months (Memorial Day to Labor Day). In addition, Special Condition #1 requires notes on construction bid documents notifying the contractor that access corridors and staging areas shall be located in a manner that has the least impact on public access and public parking spaces (no use of public parking, no closure of streets). Therefore, as conditioned, the Commission finds the project consistent with the cited sections of the Coastal Act, and with all other public access and recreation policies of the Act.

4. Growth Inducement. Section 30250 (a) of the Coastal Act is applicable and states, in part:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources....

Given that the proposed development, in part, involves drainage improvements through the installation and/or replacement of new storm drain pipes, inlets, and percolation basins, the question arises as to whether the project will be growth inducing. In other words, it must be determined whether or not the improvements to the existing drainage system is being proposed to serve existing development or whether it is being proposed to accommodate new development. In this particular case, the proposed improvements are largely proposed to maintain runoff water quality by decreasing nuisance flow from areas where standing water is present after rainfall. Another project feature is to increase the percolation rate of low flow runoff so that it will not be conveyed down into the gutters and storm drain infrastructure. Also, no installation of service to vacant parcels or installation of capacity beyond that needed to serve developments permitted

or exempted under the Coastal Act is proposed. As such, the proposed improvements should not have a significant overall inducement to growth. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30250 (a) of the Coastal Act.

5. 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, as conditioned, such a finding can be made.

The City of Del Mar has a certified Land Use Plan. The City's implementation plan was recently approved by the Commission; however, it was approved with suggested modifications, which have not yet been formally accepted by the City. Thus, at this time, the LCP is not effectively certified. The areas proposed for improvements are all in City right-of-ways and existing utility easements and are proposed to extend existing storm drain pipes, install new inlets percolation basins and curbs and gutters to eliminate standing nuisance drainage as well as to bring the City's storm drain system up to correct standards. The areas where the improvements will take place are largely built out, and the project is not considered to be growth-inducing in nature. The project is in conformance with all applicable Chapter 3 policies, and therefore approval of the project should not prejudice the City's ability to prepare a certifiable LCP.

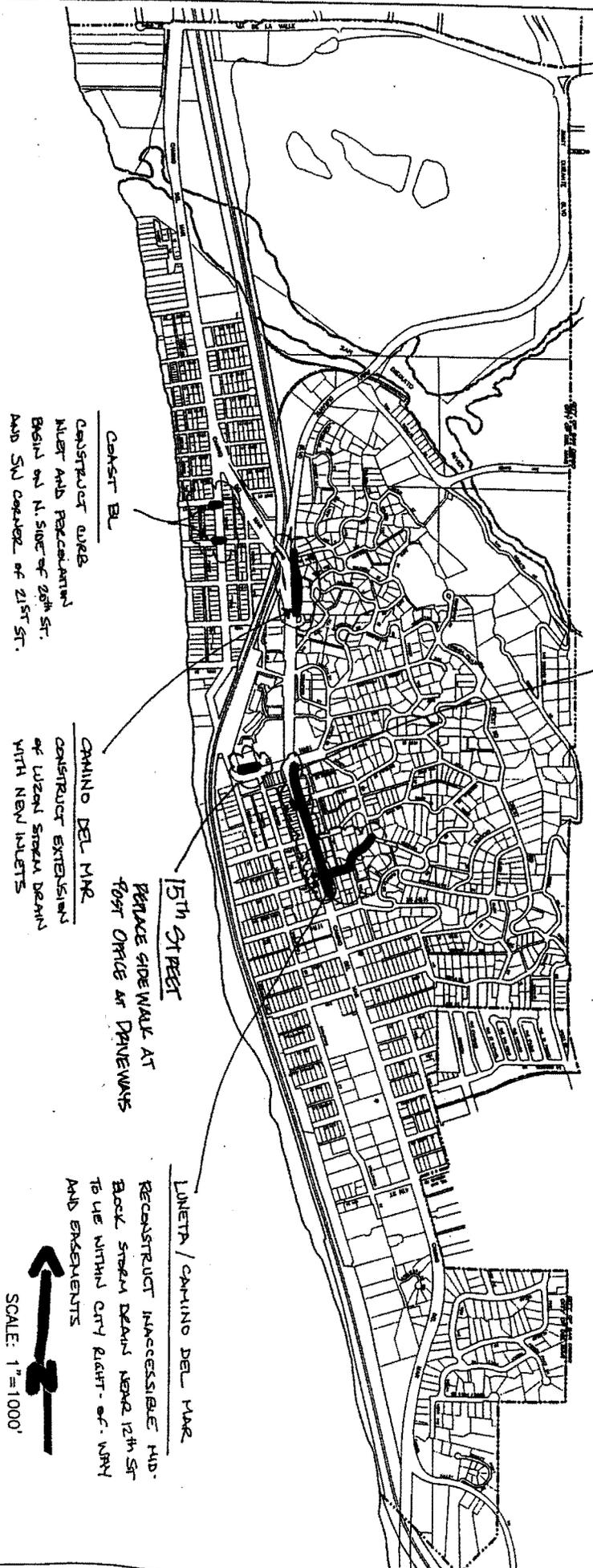
6. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) 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 effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the public access policies of the Coastal Act. Mitigation measures, including a condition addressing public access, 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.



CAMINO DEL MAR

15th STREET TO 13th STREET ~ CONSTRUCT
 STORM DRAIN PIPE AND INLET STRUCTURES TO
 INTERCEPT FLOW FROM 15th & 14th STREETS.
 CONSTRUCT CURBS & GUTTER TO PROVIDE
 INCREASED PEDESTRIAN SAFETY.

CONSTR BL

CONSTRUCT CURB
 INLET AND RECONSTRUCT
 BASIN ON N. SIDE OF 20th ST.
 AND SW CORNER OF 21st ST.

CAMINO DEL MAR

CONSTRUCT EXTENSION
 OF LIZARD STORM DRAIN
 WITH NEW INLETS

15th STREET

REPLACE SIDE WALK AT
 POST OFFICE AT DRIVEWAYS

LUNETTA / CAMINO DEL MAR

RECONSTRUCT INACCESSIBLE MID-
 BLOCK STORM DRAIN NEAR 12th ST
 TO USE WITHIN CITY LIGHTS OF. WALK
 AND EASEMENTS



CITY OF DEL MAR

PROJECT LOCATION MAP

EXHIBIT NO. 2
APPLICATION NO.
6-99-126
Project Location Map
California Coastal Commission

PROJECT DESCRIPTION

This project consists of drainage improvements including the installation and/or replacement of new storm drain pipe, inlets, percolation basins, curb and gutter and sidewalks at various locations throughout the City of Del Mar. Each of the areas are shown in the map attached and a description of improvements at each location is listed below:

LOCATION	DESCRIPTION
Camino Del Mar	Correct standing nuisance drainage by constructing approximately 1,700 linear feet of 18-inch diameter storm drain pipe and two curb inlets on the east side of Camino Del Mar between Seaview Ave. and Luzon Ave.
Camino Del Mar	Construct approximately 1,030 linear feet of 18- and 24-inch diameter storm drain, six inlet structures, and two cleanouts on the east side of Camino Del Mar between 15 th Street and 13 th Street which will connect to the existing storm drain on Camino Del Mar at 15 th Street. This construction is necessary to intercept runoff on 13 th and 14 th Street.
12 th Street & Luneta	Construct approximately 1,000 linear feet of 18-inch and 24-inch diameter storm drain pipe and four inlet structures to replace an existing 18-inch storm drain pipe located in an easement in private property. The storm drain located in the easement in private property will be abandoned upon construction.
Coast Blvd & 21 st Street	Construct a curb inlet and percolation basin at the southwest corner of 21 st Street and Coast Blvd. to eliminate standing nuisance drainage.
Coast Blvd. & 20 th Street	Construct a curb inlet and percolation basin at the northwest corner of 20 th Street and Coast Blvd. to eliminate standing nuisance drainage.
15 th Street	Replace irregular and damaged sidewalk at the Post Office at 122 15 th Street.

Exhibit 3
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EXHIBIT NO. 3
APPLICATION NO. 6-99-126
List of Proposed and Exempted Projects
 California Coastal Commission

Camino Del Mar
at 12th Street

The streetscape improvements to the intersection of 12th Street and Camino Del Mar (CDM) involve the northeast and northwest corners only. The improvements propose to "bulb" the existing corners and shorten the travel distance for pedestrians crossing the streets. The northeast corner is extended 6 feet towards CDM and 4 feet toward 12th Street. The northwest corner is extended 13 feet towards CDM and 6 feet towards 12th Street. The crosswalk is realigned to remove the existing skew. Aesthetic improvements include planting areas, colored concrete, and a rock-faced retaining wall. The planting areas will incorporate trees and plant species as outlined in the City endorsed Streetscape Plan. A new streetlight is included on the northwest corner to improve the crosswalk lighting. All improvements will comply with ADA regulations to the fullest extent possible.

Camino Del Mar
at 14th Street

The streetscape improvements to the intersection of 14th Street and Camino Del Mar (CDM) involve the southeast corner, west side, and center medians only. The improvements propose to "bulb" the southeast corner and add planting areas to the west side to shorten the travel distance for pedestrians crossing the streets. The southeast corner is extended 6 feet towards CDM and 6 feet toward 14th Street. The west side planting areas extend 6 feet towards CDM. The medians are widened from 4 to 8 feet to provide a safe zone for pedestrians caught in the middle. Aesthetic improvements include planting areas and colored concrete. The planting areas will incorporate trees and plant species as outlined in the City endorsed Streetscape Plan. A new streetlight is included on the southeast corner to improve the crosswalk lighting. All improvements will comply with ADA regulations to the fullest extent possible.

CALIFORNIA COASTAL COMMISSION

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Wed 4b

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 Hearing Date: December 7-10, 1999

STAFF REPORT: CONSENT CALENDAR

Application No.: 6-99-138

Applicant: Encinitas Resort Corporation (Sports Shinko) Agent: James C. Hirsch

Description: Removal of approximately 20 lineal feet of existing visible riprap at the base of a coastal bluff below a 4.3 acre vacant lot, for disposal outside of the coastal zone, and retention of up to 40 lineal feet of buried riprap.

Site: Base of the bluff at 2100 North Highway 101, Encinitas, San Diego County. APN 216-041-25

Substantive File Documents: Certified City of Encinitas Local Coastal Program (LCP); CDP #6-83-198-G; Comments Regarding Existing Riprap Proposed Encinitas Beach Resort by Woodward-Clyde, dated 11/17/92; Michael Hart, "Engineering Geologic Reconnaissance," 7/22/96; Michael Hart, "Update of Engineering Geologic Reconnaissance," 2/9/99; Riprap Removal Proposed Encinitas Beach Report by URS Greiner Woodward Clyde, dated 10/9/99.

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. Monitoring Program. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit to the Executive Director for review and written approval, a monitoring program which provides for the following:

- a. An annual evaluation by a qualified geologist or geotechnical engineer of the presence, amount, and location of any visible riprap at the base of the bluff at the project site, and how the riprap could be removed, contained in a report to be submitted to the Executive Director of the Coastal Commission on April 15 beginning the first year after construction of the project is completed (first report to be submitted April 15, 2001), for a period of five years.
- b. Provisions for removal of any riprap that becomes visible, including a timetable for obtaining and implementing a coastal development for removal of the visible riprap, identification of potential disposal sites for rip rap, identification of access corridors and staging areas, and acknowledgment that removal cannot occur between Memorial Day and Labor Day of any given year.
- c. An agreement that the permittees shall apply for, and implement, a coastal development permit to remove any riprap that becomes visible. The coastal development permit shall be filed with the Commission with three (3) months of discovery of visible riprap, and within three months of coastal development permit approval the riprap shall be removed, unless this would require removal between Memorial Day and Labor Day weekends, in which case, the removal will occur within 30 days of the end of the season.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Staging Areas/Access Corridors/Timing of Construction. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final plans indicating the location of access corridors to the construction site and staging areas. The final plans shall indicate that:

- a. No staging of equipment or materials shall occur on sandy beach or public parking areas. The permittee shall not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion. In addition, no machinery shall be placed, stored or otherwise located in the intertidal zone at any time.

- b. Access corridors shall be located in a manner that has the least impact on public access to and along the shoreline.
- c. No work shall occur on the beach between Memorial Day weekend and Labor Day of any year.
- d. The applicant shall submit evidence that the approved plans/notes have been incorporated into construction bid documents. The staging site shall be removed and/or restored immediately following completion of the development.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. California Parks and Recreation Approval. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a copy of a permit or letter of permission from the California Parks and Recreation Department for use of the Ponto Beach Parking Lot for access and/or staging area for the development herein approved. Any mitigation measures or other changes to the project required through said permits shall be reported to the Executive Director and shall become part of the project. Such modifications, if any, may require an amendment to this permit or a separate coastal development permit.

4. Condition Compliance/Project Implementation. 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. In addition, after issuance of the permit, the applicants shall implement the proposed riprap removal prior to Memorial Day, 2000. Failure to comply with these requirements may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

5. Other Permits. The applicant shall submit copies of all other required state or federal discretionary permits (such as the State Lands Commission and Army Corps of Engineers) for the development herein approved. Any mitigation measures or other changes to the project required through said permits shall be reported to the Executive Director and shall become part of the project. Such modifications, if any, may require an amendment to this permit or a separate coastal development permit.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. The proposed project involves the removal of visible riprap located at the base of a coastal bluff in the Leucadia community of the City of Encinitas, and the retention of a portion of the riprap. The site is located on Leucadia State Beach south of Batiquitos Lagoon. Currently, the beach is a wide sandy beach with a cobble berm which has built up against the base of the bluff. The bluff is heavily overgrown with a mat of iceplant to the extent that which the only riprap visible at the toe of the bluff consists of approximately 20 feet of riprap, or about ten distinct rocks of varying sizes. Currently, there is no evidence of erosion from wave action at the project site. The project would remove the visible portion of the riprap with a back hoe, haul it away in a dump truck through the adjoining State Park parking lot facility, and take the material outside the coastal zone. As proposed, the remaining, unexposed riprap would remain on the site.

The riprap was original placed on the site in late 1982 or early 1983 (by a prior landowner, not the current applicant). In March 1983, the Executive Director approved an after-the-fact emergency permit for the installation of approximately 60 lineal feet of riprap at the base of the bluff at the subject site to protect several existing mobile homes and single-family residences located on the bluff top from high tides and severe storms (#6-83-198-G). The applicants for the emergency permit proposed to remove the riprap at the "earliest opportunity". However, the riprap was not removed and no follow-up permit for the installation of the riprap was ever obtained.

In December 1992, the Commission approved a project on the blufftop at the subject site (for the current applicant) consisting of demolition of the three single-family residences and relocation of 7 mobile homes on the site, and construction of an approximately 138,460 sq. ft., two-story, 130-unit resort hotel complex with banquet facilities, a restaurant, public access amenities, and 230 space underground parking garage on the 4.3 acre blufftop site (#6-92-203). In its approval of the resort, the Commission required that, as proposed, the resort buildings be set back is 55 feet (under the provisions of the certified LCP, only a 40-foot bluff top setback is required) to ensure the hotel would not require shoreline protective devices for a period of at least 75 years. In addition, the Commission required that prior to occupancy of the hotel, the applicant remove the approximately 60 feet of riprap along the base of the bluff, or submit geotechnical evidence which documents that removal of the riprap would itself cause erosion and bluff stability concerns, to allow the rock to remain.

In 1994, the coastal development permit for the resort hotel was automatically extended for two years (until December 10, 1996) by legislation which provided for the extension of all permits issued by a state agency for projects which included a tentative subdivision map or parcel map if both the permit and the map were unexpired on the date the statute went into effect. In 1994, the Encinitas LCP was certified. The LCP became effective in early 1995. In 1996, the coastal development permit was again automatically extended for one year (until December 10, 1997) also by legislation affecting projects including a tentative subdivision map or parcel map. On November 7, 1997, the Executive Director extended the project one year until December 10, 1998, after surrounding properties were noticed for a ten working-day period and no objections to the extension were received. In 1998, a notice of extension was again circulated to surrounding properties. After

receiving objections to a new extension request, the Commission held a public hearing in March 1999 and approved an extension of the permit until December 10, 1999.

The applicants have indicated that they intend to comply with the Special Conditions and construct the project, however, the conditions of the permit are extensive, and it is unlikely that the permit will be issued and the hotel constructed within the next few years. Thus, in the meantime, the riprap has remained on the beach.

Although the special conditions have not been satisfied nor the permit issued, in 1998, the applicants demolished the single-family residences on the bluff-top, and removed the mobile homes without benefit of a permit. The bluff-top is now within the City of Encinitas' coastal permit jurisdiction; thus, this apparent violation of the Coastal Act cannot be resolved through a new coastal permit issued by the Commission. The violation is currently being pursued through a separate enforcement action. Since the existing bluff top structures have been removed, there is clearly no need for the rip rap to remain at the site. However, since the permit that allowed removal of the structures and that also required removal of the riprap has not been issued, the rip rap cannot be removed pursuant to that permit. Thus, the failure to obtain issuance of that permit before demolition of the structures has resulted in the rip rap remaining at the site without any purpose. The applicants propose to resolve this by applying for a separate permit to address the rip rap. This would allow the rip rap to be removed independent of the permit for the demolition and construction of the resort. The subject permit will serve as the follow-up permit to CDP #6-83-198-G.

The applicants have expressed their intent, upon approval of the subject permit, to process an amendment to the resort permit #6-92-203, to remove the special condition requiring removal of the riprap prior to occupancy of the resort. Such an amendment would be appropriate because otherwise there would be two permits addressing the rip rap removal, which could lead to confusion as to which requirements apply. In its approval of the subject permit for the rip rap, the Commission is in effect finding that the permit for the resort should be amended to remove the special condition regarding removal of the riprap.

The City of Encinitas has a fully certified LCP, however, the subject site is located within the Commission's original jurisdiction, therefore, Chapter 3 of the Coastal Act is the standard of review.

2. Consistency with Chapter 3 of the Coastal Act:

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.

Additionally, Section 30253 of the 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 or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Public Access/Recreation: Pursuant to Section 30604 (c), the Coastal Act emphasizes the need to protect public recreational opportunities and to provide public access to and along the coast. Section 30210 of the Coastal Act is applicable to the proposed development and states:

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

Section 30211 of the Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

In addition, Section 30212 of the Act is applicable and states, in part:

- (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 states in part:

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

Additionally, Section 30220 of the Coastal Act provides:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30221 states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Visual Quality: Section 30251 of the Coastal Act states, in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

There are a number of adverse impacts to public resources associated with the construction of either temporary or permanent shoreline structures. These include the loss to the public of the sandy beach area that is displaced by the structure, "permanently" fixing the back of the beach, which leads to the narrowing and eventual disappearance of the beach in front of the structure, a reduction/elimination of sand contribution to the beach, sand loss from the beach due to wave reflection and scour, accelerated erosion on adjacent unprotected properties and the adverse visual impacts associated with construction of a shore/bluff protective device on the natural bluffs. As such, the construction of bluff and shoreline development raises consistency concerns with the public access and recreational policies of the Coastal Act and Sections 30235, 30240, 30251, and 30253.

The project site is located on a public beach utilized by local residents and visitors for a variety of recreational activities. The sand loss associated with even normal winter conditions significantly reduces the width of this beach, which makes lateral access along the beach difficult or impossible at higher tides. The placement of riprap on this beach would present an additional obstacle to beach access by reducing the width of the beach even further. The riprap would also represent an adverse visual impact, as the rock is clearly not part of the natural beach/bluff landform, and thus, is not compatible with the character of the area.

On a short-term or emergency basis, such as was the case when the riprap was originally approved, the benefits of protecting bluff-top development during severe storms can outweigh the adverse impacts of the riprap. However, there are now no existing bluff top structures, and no evidence of any storm or wave damage at the base of the bluff. Therefore, for all of above reasons, it is appropriate to remove the riprap at this time.

The applicants are proposing to remove only the visible portion of the riprap, which consists of about 9 or 10 pieces of riprap of three to five foot diameter each. The applicants have submitted a letter from an engineering geologist which states that removal of the buried riprap would involve a significant effort to locate and excavate the material. The size of the excavation would have to be substantial because the slope of the excavated area within the loose cobbles would flatten and widen. The excavation could be as much as 20 feet or more across, which would have an impact on lateral public access across the beach during high tides. In addition, the excavation would have to proceed very carefully to avoid digging into and undercutting the bluff. The report notes that the stability of the berm has been enhanced by the thick mat of iceplant that has grown over the bluff and the cobble berm. Thus, it would be preferable to avoid removing any of the vegetation, since that could pull loose soil off the bluff. Alternatively, the report states that removing only the exposed riprap visible above the cobble berm would avoid most of the digging and would have much less impact on the bluff and public access. The report estimates that the work could probably be completed within a single day.

In general, the placement of riprap on the beach as temporary storm protection could only be found consistent with the public access, visual protection, and sand supply policies of the Coastal Act if the riprap is removed when the short-term threat is over. In the case of the proposed project, it is impossible to tell at this time just how much of the originally placed riprap remains on the site. It is possible that less than the approved 60 feet of riprap was actually placed on the site, or some of the riprap might have migrated away or been removed by the previous property owners. The visible riprap could represent most of the riprap remaining on the site. Any case, however much riprap actually remains buried on the site, the unexposed riprap does not currently represent an adverse visual impact or impact to public access. In addition, removal of the unexposed riprap could potentially destabilize the bluff. Therefore, in this particular case, it is appropriate to leave the unexposed riprap in place for the time being. However, additional riprap on the site could become exposed in the future due to wave action or changes in the bluff vegetation. At that point, the riprap would adversely impact public access and visual quality.

Therefore, Special Condition #1 requires the applicants to perform yearly monitoring of the base of the bluff to determine if any additional riprap has become exposed. If any riprap is exposed, the applicant must apply for a new coastal development permit to remove the riprap. Special Condition #2 requires submittal of access plans and prohibits construction activities from occurring during between Memorial Day and Labor Day, when beach use is highest and public access and recreation would be most impacted by construction activities on the beach or in beach parking lots. Because access to the project site would be through State Parks land, Special Condition #3 requires the applicants to provide evidence that State Parks has given permission for use of their land for the project. Staff at State Parks has preliminarily indicated that they will grant permission to the project applicants to remove the riprap.

The subject permit will serve as the follow-up regular permit for emergency permit #6-83-198-G, which was obviously not obtained within 60 days of issuance of the

emergency permit as required by the terms of the emergency permit. Although the applicants did obtain Commission approval of a permit in 1992 (for construction of the resort) which addressed resolution of the riprap on the site (#6-92-203), that permit has not yet been issued, and there is no evidence that the riprap will be removed through this permit in the near future. Therefore, the subject permit is necessary to resolve the failure to obtain a regular permit for the riprap on the subject site. Because the riprap is already in place on the site, Special Condition #4 requires that the applicants fulfill the conditions of the permit within 90 days of Commission action, and to implement the project prior to Memorial Day, to ensure the riprap is indeed removed as proposed. Special Condition #5 requires the applicant to submit copies of any other required state or federal permits; if conditions of these permits modify the proposed project, an amendment to the subject permit may be required. Therefore, as conditioned, the proposed project can be found consistent with the applicable Chapter 3 policies of the Coastal Act.

3. Local Coastal Planning. Section 30604 (a) also 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.

The subject site is located on the beach within the City of Encinitas. In November of 1994, the Commission approved, with suggested modifications, the City of Encinitas Local Coastal Program (LCP). Subsequently, on May 15, 1995, coastal development permit authority was transferred to the City. However, although the site is within the City of Encinitas, it is within the Commission's area of original jurisdiction. As such, the standard of review is the Chapter 3 policies of the Coastal Act, with the City's LCP used as guidance.

The subject site is zoned and planned for open space uses in the certified City of Encinitas LCP. The proposed development is consistent with these designations. As conditioned, the Commission finds the proposed development consistent with all applicable Chapter 3 policies of the Coastal Act. Therefore, the Commission finds the proposed development, as conditioned, will not adversely affect the City's continued implementation of its certified LCP.

4. Consistency with the 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)(A) 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 effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the public access policies of the Coastal Act. Mitigation measures, including conditions addressing monitoring of the site and the timing of construction, 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.



SUBJECT
SITE

IFIC
OCEAN
MEAN HIGH

LINE

SOUTH CARLSBAD STATE

P L
H M N 101

BENCH

⑤ 43
TOTAL 24.62 AC.
EX AREA IN LOTS 1-300
OPEN SPACE ESMT.
(13.36 AC)

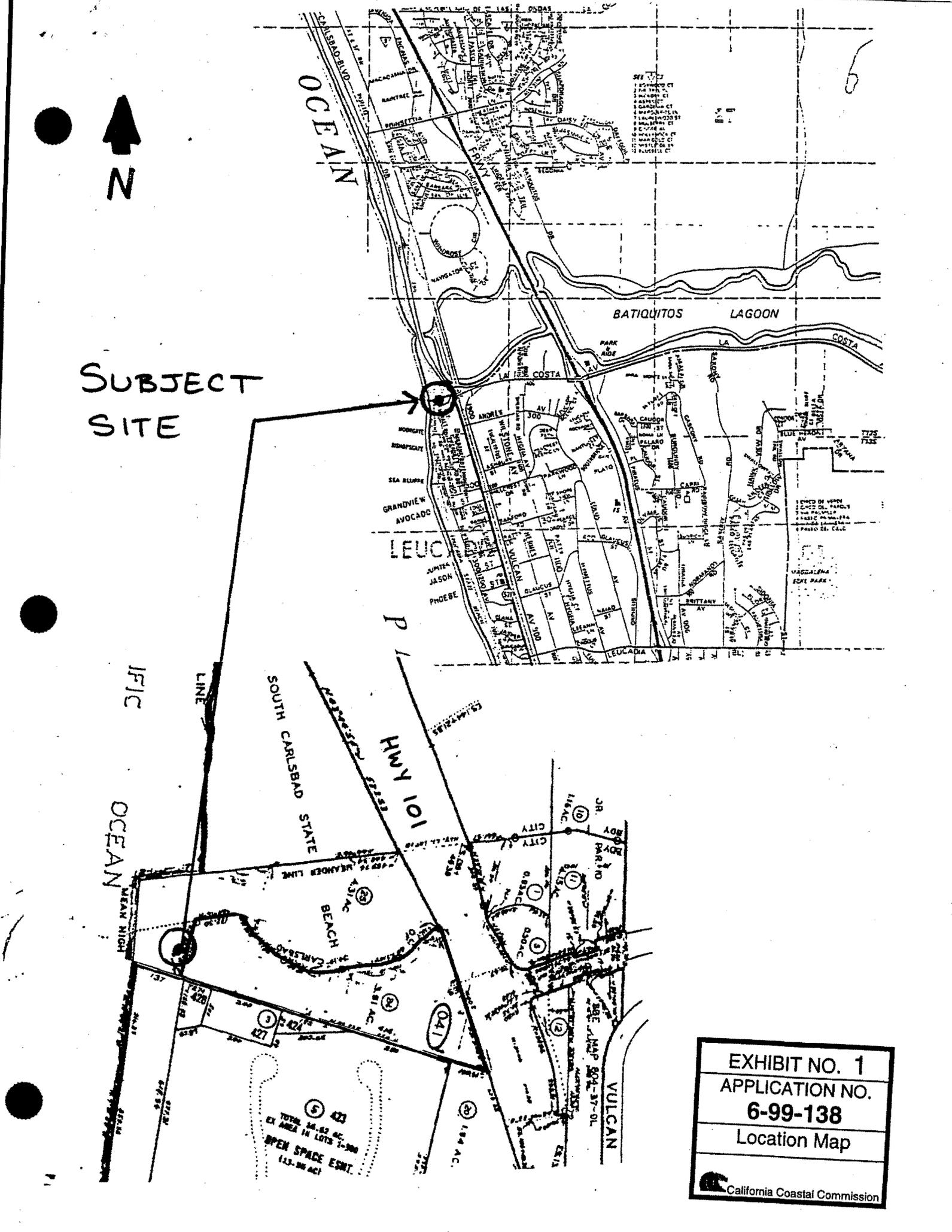
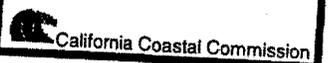
OCEAN

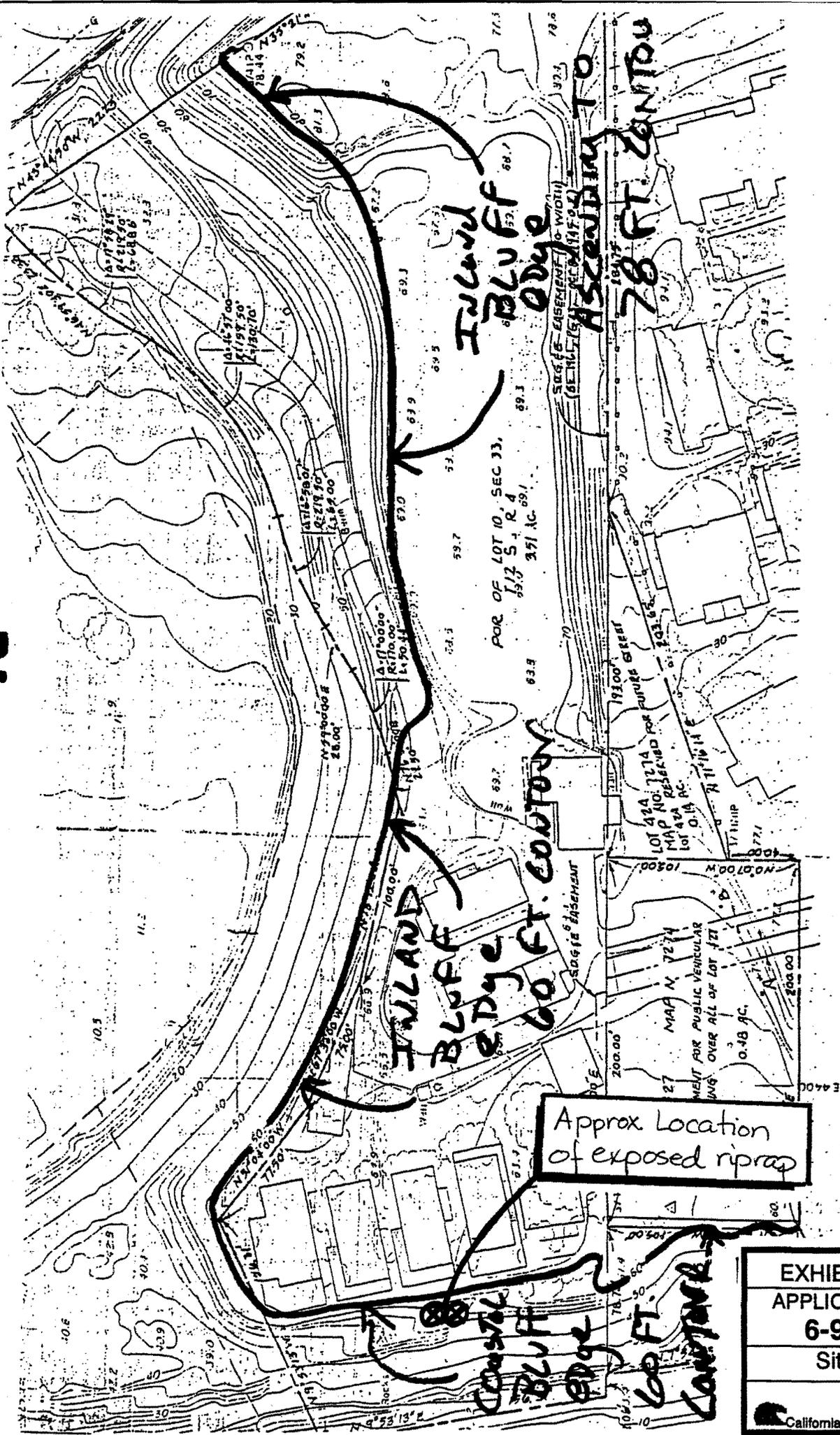
BATIQUITOS LAGOON

LEUCADIA

VULCAN

EXHIBIT NO. 1
APPLICATION NO.
6-99-138
Location Map

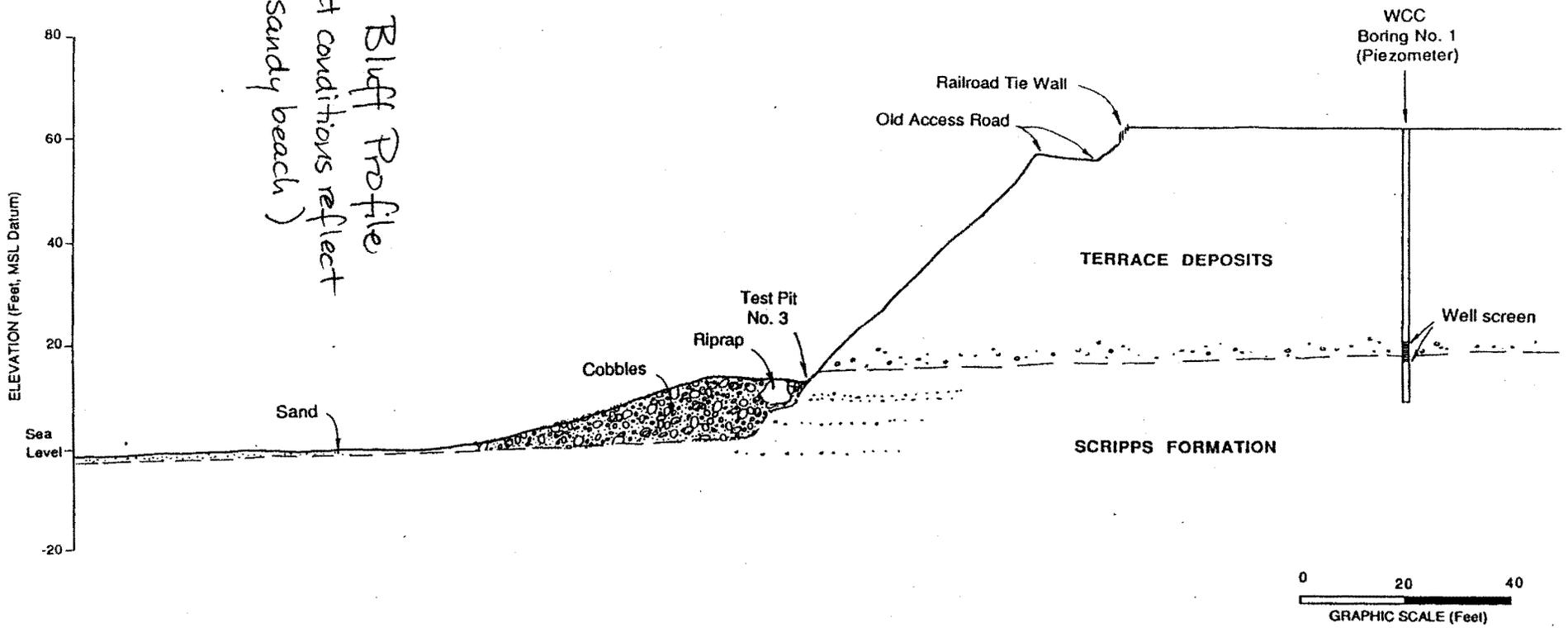




Approx. Location of exposed riprap

EXHIBIT NO. 2
APPLICATION NO. 6-99-138
Site Plan
California Coastal Commission

1992 Bluff Profile
 (Current conditions reflect
 more sandy beach)



**SEACLIFF PROFILE B-B'
 ENCINITAS BEACH RESORT**

DRAWN BY: <i>cb</i>	CHECKED BY: <i>DLG</i>	FIGURE NO.: 4b
DATE: 7-10-92	PROJECT NO.: 9251036D-GE01	

WOODWARD-CLYDE CONSULTANTS

Seacliff profile surveyed 6-12-92

	California Coastal Commission
EXHIBIT NO. 3	
APPLICATION NO.	
6-99-138	
1992 Cross-Section	