

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA

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Filed: February 23, 1999  
49th Day: April 13, 1999  
180th Day: August 22, 1999  
Staff: GDC-SD  
Staff Report: June 24, 1999  
Hearing Date: July 13-16, 1999

REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

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Application No.: 6-99-33

Applicant: City of Encinitas

Agent: Tom Buckner

Description: Replacement of existing lifeguard structure tower with new foundation and lifeguard structure and removal of several existing rip-rap boulders.

Zoning ER/OS/PK  
Plan Designation Ecological Resource/Open Space/Park

Site: On the public beach at Encinitas Swami's Park, below 1298 South Coast Highway 101, Encinitas, San Diego County. (APN 260-021-30)

Substantive File Documents: Certified County of San Diego Local Coastal Program (LCP); Certified City of Encinitas LCP; Preliminary Geotechnical Investigation dated October 29, 1998 by GEOPACIFICA; CDP Nos. 6-89-290, 6-98-044-W.

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STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed development with special conditions requiring the submission of final plans which document that the proposed lifeguard improvements will not result in further encroachment onto the public beach, the removal of existing rip-rap and a construction schedule restricting work to the non-summer months. With these conditions, impacts of the proposed development will be minimized or mitigated, consistent with Chapter 3 policies of the Coastal Act.

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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. Final Revised Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final revised plans for the lifeguard station which shall include the following:

a. The alignment of the replacement lifeguard station shall not extend no further seaward than the existing lifeguard station.

b. The location of all existing rock rip-rap surrounding the existing lifeguard station proposed to be removed.

c. Plans shall confirm, and be of sufficient detail to verify, that the color and texture of the proposed development closely matches the adjacent public access stairway and natural bluffs, including provision of a color board indicating the color of the lifeguard station, wooden piers and concrete footings.

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

2. Disposal of Rip-Rap. PRIOR TO THE ISSUANCE OF THE PERMIT, the applicant shall identify the location for the disposal of the rip-rap proposed to be removed. If the site is located within the coastal zone, a separate coastal development permit or permit amendment shall first be obtained from the California Coastal Commission or its successors in interest.

3. Construction Schedule/Staging Areas/Access Corridors. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval detailed plans identifying the location of access corridors to the construction sites and staging areas, and a final construction schedule. Said plans shall include the follow criteria specified via written notes on the plan:

- a. Use of sandy beach and public parking areas outside the actual construction site, including on-street parking, for the interim storage of materials and equipment is prohibited.
- b. No work shall occur during the summer months (start of Memorial Day weekend to Labor day) of any year.
- c. Equipment used on the beach shall be removed from the beach at the end of each workday.
- d. Access corridors shall be located in a manner that has the least impact on public access and existing public parking areas. Use of public parking areas for staging/storage areas is prohibited.

Prior to the commencement of construction, the applicant shall submit evidence that the plans have been incorporated into construction bid documents

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

4. Waiver of Liability. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant as landowner shall submit a signed agreement to the Executive Director, which shall provide: (a) that the applicant understands the site may be subject to extraordinary hazards from waves and tidal action and the applicant assumes the liability from such hazards; and (b) that the applicant unconditionally waives any claim of liability on the part of the Commission 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.

#### IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. Proposed is the removal of an existing approximately 25 foot-high lifeguard station and supporting foundations and construction of new approximately 29 foot-high lifeguard station with new foundations. Also proposed is the removal of several existing rip-rap boulders surrounding the existing lifeguard station. The existing lifeguard station, which was constructed prior to the enactment of the Coastal Act, is connected by an approximately 8 foot-platform to an existing public access stairway. The proposed lifeguard station will be located immediately adjacent to the existing stairs and will be supported on its north side by the pier supports of the stairway.

The subject development is located within the City of Encinitas' Swami's Beach Park at the base of a 60-70 foot-high coastal bluff. Existing facilities at the site include a public parking lot and restroom facility located at the top of the bluff and a public access stairway leading down the bluff to the beach. The blufftop parcels to the north and east are currently developed with the Self Realization Fellowship grounds to the north and a public park and residential homes to the east.

The subject development lies seaward of the mean high tide line (MHTL). State Lands Commission has indicated that generally the MHTL follows the toe of the bluff in the City of Encinitas. Although the City of Encinitas has a certified LCP and has been issuing coastal development permits since May of 1995, the proposed development is located within the Commission's area of original jurisdiction where permit jurisdiction is not delegated to the local government. As such, the standard of review is Chapter 3 policies of the Coastal Act, with the certified LCP used as guidance.

2. Geologic Stability. 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 or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs . . . .

The applicant is proposing to replace an existing lifeguard station and foundation with a new lifeguard station and foundation that will be located approximately 8 feet north of the previous site and attached to an existing public access stairway. In 1989 the Commission approved the relocation and construction of a public access stairway at the subject beach approximately 8 feet north of the existing lifeguard station (ref. CDP 6-89-290). Subsequent to that approval, the City without benefit of a coastal development

permit, constructed an 8 foot-long wooden bridge connecting the existing lifeguard station to the stairs.

The existing approximately 25 foot-high structure was constructed prior to the Coastal Act and consists of an approximately 68 sq. ft. lifeguard station supported on four wooden 12" beams attached to 55-gallon drums filled with concrete that lie on the public beach approximately 15 feet seaward of a coastal bluff. The drums are sitting on top of bedrock and are not secured to the ground. In 1998 the Commission issued a Coastal Development Permit Waiver (ref. CDP No. 6-98-44-W) allowing the applicant to excavate the existing foundation to examine its structural integrity. It was determined that the drums had rusted and deteriorated such that replacement was required.

The applicants propose to remove the existing structure and foundation and construct a new foundation consisting of two, 4 foot-wide concrete footings imbedded into bedrock (and supported laterally by an approximately 2'6" wide concrete connecting section at their base) with approximately 16 inch-wide, approximately 22 foot-high wooden piers inserted to the bottom of each footing (ref. Exhibit #4). This section will support the south side of the proposed lifeguard station. The north side of the station will be supported by the two existing similarly designed footings and wooden piers on the north side of the existing public access stairway. The new lifeguard station will, therefore, be located closer to the stairway than the existing lifeguard station and the new foundations will occupy less public beach.

Section 30253 of the Act requires that new development not require shoreline protective devices that alter the natural landforms of coastal bluffs and sea cliffs. The proposed development will be located on the public beach approximately 15 feet seaward of a 60-70 foot-high coastal bluff in an area that is subject to wave action during some high tides. The coastline in this area, as well as along the entire Encinitas coastline, have been subject to erosion, rockfalls and landslides. Immediately north of the subject site, at the base of the bluffs adjacent to the Self Realization Fellowship property, the Commission approved the placement of rock revetments (ref. CDP No. F9172). In addition, several rock rip-rap boulders lie beneath and in front of the existing lifeguard station. It is not known whether this rip-rap was placed on the beach before or after the enactment of the Coastal Act, however, the applicants are proposing removal of this rock with this application. In addition, the applicants have submitted a statement from their engineer that the proposed lifeguard improvements will not require shoreline protection in the future. Both the existing footing of the public access stairway and the new proposed concrete footings will be located 4 feet-below bedrock and rise approximately 6 feet above the surface of the bedrock. The applicants indicate that these concrete footings have been designed to protect the upper structures from waves and seismic events. In addition, the applicants have indicated that should the lifeguard structure itself be threatened in the future, the structure can be removed from the foundation rather than request shoreline protective devices.

The proposed development includes replacement of an existing deteriorated lifeguard station with a new station and foundation. The applicant has presented documentation

that the proposed development will be safe and not need shoreline protection in the future. Although the applicant has submitted documentation asserting that the proposed development can withstand such hazards, the risk of damage to the structure and the surrounding 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 Condition #3 requires the applicant to execute an agreement that they understand the site is subject to extraordinary hazards, waiving any liability on the part of the Commission for approving the proposed development.

Based on the above discussion, the Commission finds that the impact of the proposed project on erosion or geologic instability has been minimized to the maximum extent feasible and the proposed development will not require future shoreline protection. Therefore, the Commission finds that the proposed development is consistent with Section 30253 of the Coastal Act.

3. Public Access. Many policies of the Coastal Act address the provision, protection and enhancement of public access to and along the shoreline, in particular, Sections 30210, 20211, 30212.5, 30221, 30223 and 30252. These policies address maintaining the public's ability to reach and enjoy the water, preventing overcrowding by providing adequate recreational area, protecting suitable upland recreational sites, and providing adequate parking facilities for public use. In addition, Section 30604(c) requires that a specific access finding be made for all development located between the sea and first coastal roadway.

The proposed development is a replacement of an existing lifeguard station that was constructed prior to the Coastal Act and is located on Swami's beach, a City beach, below a 60-70 foot-high coastal bluff. A public access stairway leading from the top of the bluff is located immediately north of and adjacent to the existing lifeguard station. Swami's beach is heavily used by residents and visitors for a variety of recreational activities. The beach in this location is bounded on its north and east sides by high coastal bluffs and extends approximately  $\frac{3}{4}$  miles south until it joins with San Elijo State Beach. The existing structure is the only lifeguard station available to protect beachgoers in this location.

The existing lifeguard station is located approximately 8 feet south of the existing public access stairway and is connected to the stairs by a 8 foot-long wooden bridge. The applicants propose to remove the existing structure, foundation and bridge and construct a new lifeguard station that utilizes the existing stairway foundation for its northern support. As such, the 8 foot-wide gap between the two facilities will be eliminated. In addition, unlike the previous structure, the design of the proposed lifeguard station and the proposed removal of existing rip-rap will allow beachgoers to utilize the beach area under the lifeguard station. Since detailed construction plans were not submitted with the subject application, Special Condition #1 has been attached requiring the submission of final plans which documents that the proposed development will not extend further seaward than the existing lifeguard structure. Based on the above, the proposed lifeguard

station improvements will result in a significant increase of usable beach for the public over that which currently exists.

The City has indicated that work is not proposed to commence prior to Labor Day 1999, however, Special Condition #3 is proposed to assure that construction activities have a minimum impact on public access. This condition requires that access and staging areas be identified and that no beach or parking area be utilized for the storage of equipment or materials and that no work may occur during the summer months (Memorial Day to Labor Day) of any year.

In summary, the proposed project, as conditioned, will reduce the amount of beach encroachment over what currently exists. As conditioned, public access impacts will be minimized, consistent with the public access policies of the Coastal Act.

4. Visual Resources/Alteration of Natural Landforms. 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.

The proposed development involves the replacement of an existing approximately 25 foot-high lifeguard station on the public beach approximately 15 feet seaward of a 60-70 foot-high coastal bluff. The previous lifeguard facility consisted of an approximately 68 sq. ft. flat roof structure supported on four wooden posts imbedded into 55 gallon drums of concrete. The new proposed structure has been designed to match the existing public access stairway which, in 1990, was given an "Orchid Award" for design excellence by a San Diego County based architectural committee. The proposed development includes similar sized wooden piers that will be painted to match the stairway piers, wooden railings that match the railings of the stairs and a redesigned lifeguard station that includes a pitched roof with beige or sand colored exterior walls and shutters. Since detailed plans documenting the proposed colors were not submitted with the application, Special Condition #1 has been attached requiring the submission of a color board for review by the Executive Director. As proposed and conditioned, the development will blend in with the surrounding development and will be an improvement over the existing lifeguard facility.

In summary, the proposed development is needed for public safety and will be designed to be consistent with the adjacent public access stairway and the surrounding bluffs. Therefore, the Commission finds the potential visual impacts associated with the proposed development have been reduced to the maximum extent feasible, consistent with Section 30251 of the Coastal Act.

5. No Waiver of Violation. The previous lifeguard station and supporting foundation were connected to the public access stairway without the benefit of a coastal development permit sometime after the construction of the stairway. Although development has taken place prior to submission of this permit application, 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 this 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.

6. 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. 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 Chapter 3 policies of the Coastal Act, with the City's LCP used as guidance.

Based on the above findings, the proposed lifeguard station development has been found to be consistent with the Chapter 3 policies of the Coastal Act in that the need for the lifeguard station at this location has been documented and its adverse impacts on public access and visual resources will each be mitigated. In addition, the new proposed lifeguard station will eventually open-up beach area that is not currently available. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the ability of the City of Encinitas to continue to implement its certified LCP and prepare a comprehensive plan addressing the City's coastline as required in the certified LCP and consistent with Chapter 3 policies of the Coastal Act.

7. 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 geologic stability, public access and visual resource policies of the Coastal Act.



Mitigation measures 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, as conditioned, 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.

Site

PACIFIC

OCEAN

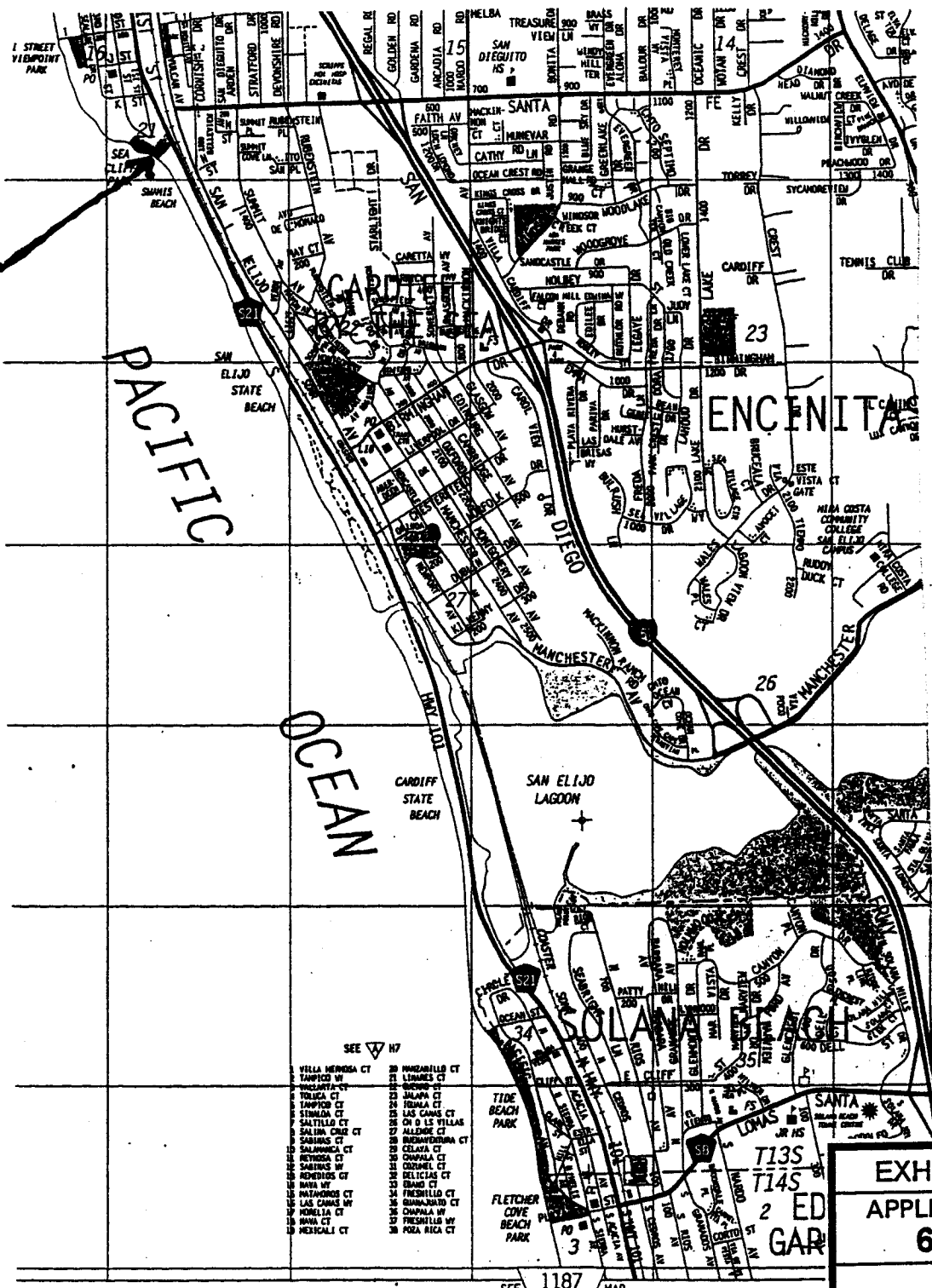
ENCINITA

SOLAN

EXHIBIT NO. 1  
APPLICATION NO.  
6-99-33

Location Map

California Coastal Commission



SEE H7

VILLA HEROSA CT  
TAMPOCO CT  
TOLUCA CT  
TAMPOCO CT  
TOLUCA CT  
SANTILLO CT  
SALINA CRUZ CT  
SABINS CT  
SALAMANCA CT  
NEVADA CT  
SABINS CT  
RENEDES CT  
NAVA CT  
MATADOR CT  
LAS CANAS CT  
MORILLA CT  
MEXICALI CT

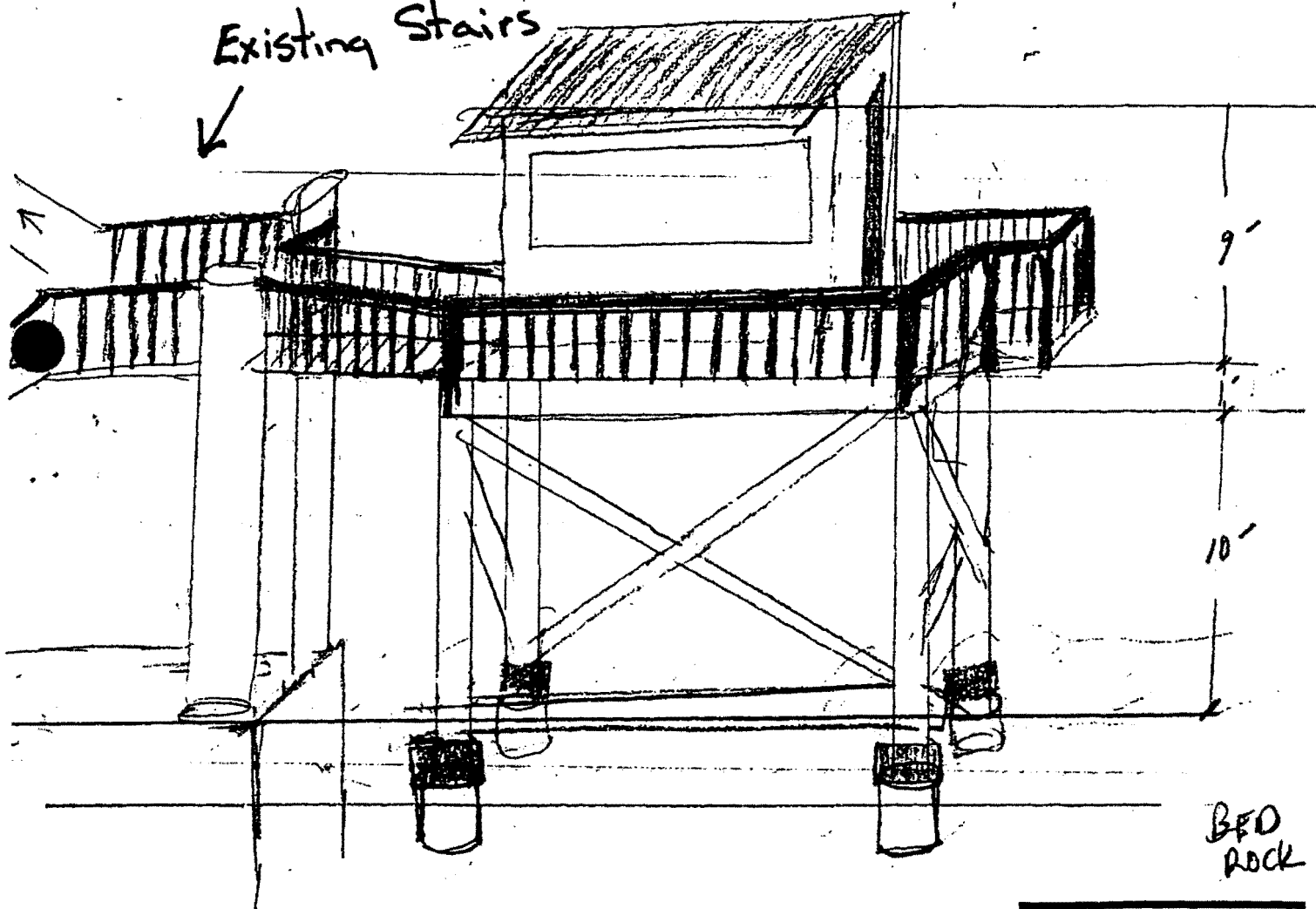
30 HERRILL CT  
21 LINDAS CT  
23 JALAPA CT  
24 JALAPA CT  
25 LAS CANAS CT  
26 ON O LS VILLAS  
27 ALLENDE CT  
28 BISHOP CT  
29 CELAYA CT  
30 ONAPALA CT  
31 COTUMEL CT  
32 DELICIAS CT  
33 BAND CT  
34 FRENCH CT  
35 GUANAJATO CT  
36 ONAPALA CT  
37 PRESIDENT CT  
38 ROSA RICA CT

SEE 1187 MAP

T13S  
T14S  
2 ED  
GAR

Sketch of  
EXISTING  
TOWER 3/99

Existing Stairs  
↓



BED  
ROCK

EXHIBIT NO. 2

APPLICATION NO.

6-99-33

Sketch of Existing  
Lifeguard Station  
attached to Existing  
Stairs

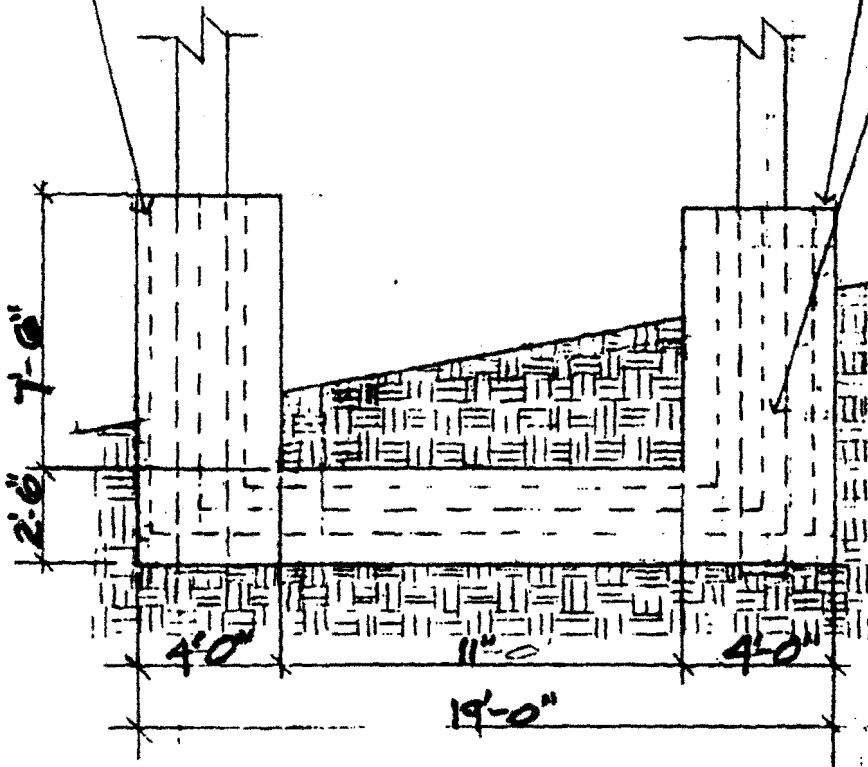
MILL. 3 #4  
 REIN. 2' x  
 2' x 2' TIES  
 TOGETHER  
 W/ 3 #14 ALL  
 AROUND

CONT. CONC.  
 FOOTING @  
 A MIN. OF 40"  
 BELOW LOWEST  
 ADJ. GRADE

16" DIA. PILE  
 EMBEDDED IN  
 CONC. AND  
 EXTENDING THE  
 BOTTOM OF THE  
 FOOTING BY 3"

← BEDROCK

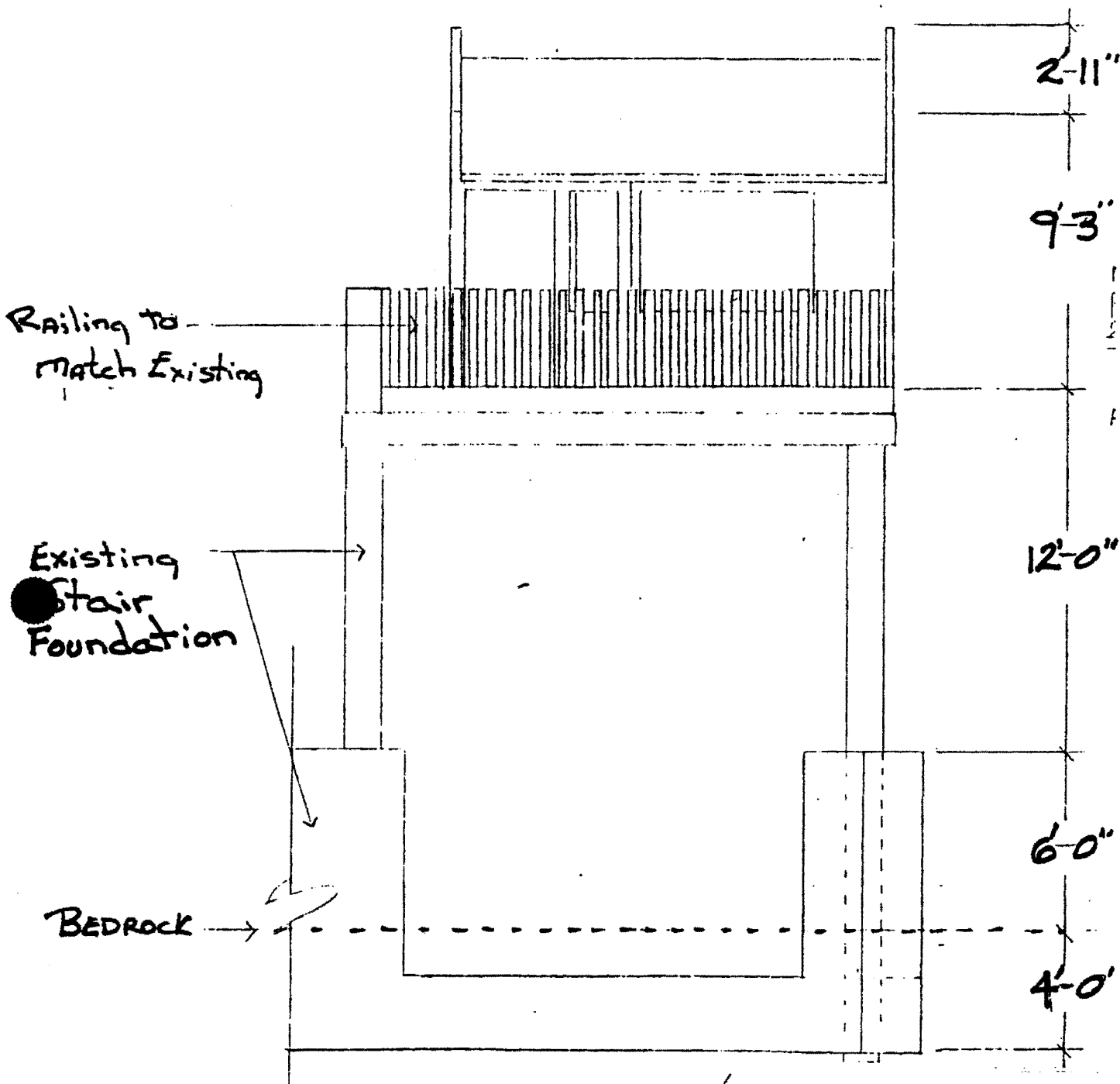
2500 LB PER  
 SQ FOOT MIN  
 BEARING CAPX.



FOUNDATION DETAIL

South Elevation

EXHIBIT NO. 4
APPLICATION NO.
6-98-33
Foundation Detail
South Elevation
California Coastal Commission



FRONT ELEV.  
(WEST)

EXHIBIT NO. 3
APPLICATION NO. 6-99-33
West Elevation
California Coastal Commission

