

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

3111 CAMINO DEL RIO NORTH, SUITE 200

SAN DIEGO, CA 92108-1725

521-8036



Filed: 1/22/99
49th Day: 3/12/99
180th Day: 7/21/99
Date of Extension Request: 6/14/99
Length of Extension 90 Days
Final Date for
Commission Action 9/12/99
Staff: GDC-SD
Staff Report: 7/22/99
Hearing Date: 8/10-13/99

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Th 9c

Application No.: 6-99-8

Applicant: Jack Lampl

Agent: Bob Trettin

Description: After-the-fact permit to construct an approximately 36 foot- high, 67 foot-long tie-back seawall on the public beach at the base of a coastal bluff consisting of an approximately 9 foot-high, 11 ½ foot-wide concrete base with 9, approximately 28 foot-high concrete columns on top of the base with horizontal timber laggings between the columns and the bluff, a deck with railings on top of the north side of the seawall and a stairway on the face of the seawall leading down to the beach. Also proposed is repair to the existing seawall through installation of ten 40 foot-long tiebacks and placement of concrete gradebeams at new tieback locations.

Site: On public beach fronting 676- 678 Neptune Avenue, Encinitas, San Diego County. APN(s) 256-051-07

STAFF NOTES:Summary of Staff's Preliminary Recommendation:

Staff is recommending denial of the seawall, deck and stairway because none of these structures are consistent with the Chapter 3 policies of the Coastal Act related to geologic stability, public access and visual resources. Because the seawall, deck and stairway development has been completed without Commission review, it is difficult, if not impossible to determine the exact nature of the hazard to the existing structure on top the bluff and to evaluate the structural or non-structural alternatives to the constructed development. In other words, the seawall has previously been constructed without any prior review to determine whether it is required to protect the existing residences, the adequacy of its design, and whether there are feasible alternative measures that would

protect the existing structures with fewer adverse impacts to coastal resources. In addition, the unauthorized construction activities on the bluff face in the past may have contributed to subsequent bluff failures, thus requiring more extensive remedial measures than might otherwise have been necessary. The disposition of these structures (seawall, deck and stairway) will be the subject of a separate enforcement action. Because the seawall is inconsistent with the Coastal Act, the Commission is also denying the proposed repairs.

PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Denial.

The Commission hereby denies a permit for the proposed development on the grounds that the development will not be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 and would 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.

Substantive File Documents: Certified City of Encinitas Local Coastal Program (LCP); Extended Initial Study 95-106 MUP/EIA dated June 8, 1999; Geotechnical Exploration for 678 Neptune Avenue by Converse Consultants dated April 19, 1985; Geologic Reconnaissance, File No. 183-95 by Michael W. Hart dated February 6, 1995; Limited Geotechnical Assessment Update by Soil Engineering Construction 678 Neptune Avenue, dated December 18, 1998; Design Report for Seawall & Bluff Stabilization for 656, 658 & 660 Neptune Avenue by First Phase Engineering dated May 9, 1992; CDP Nos. 6-92-254, 6-85-396, 6-87-678, 6-89-297-G, 6-92-86-G, 6-92-167-G, 6-93-131, 6-95-66, 6-96-6-G, 6-96-122-G, 6-98-39 and 6-98-131. "Landslide Hazards in the Encinitas Quadrangle, San Diego County, California", Open File Report, dated 1986 by the California Division of Mines and Geology; U.S. Army Corps of Engineers, Los Angeles District (September 1991) State of the Coast Report, San Diego Region (CCSTWS), and all Technical Support Documents prepared for this study; San Diego Association of Governments (July 1993) Shoreline Preservation Strategy (including technical report appendices, The Planners Handbook, Beachfill Guidelines, and Seacliffs, Setbacks and Seawalls Report); Stone, Katherine E. and Benjamin Kaufman (July 1988) "Sand Rights: A Legal System to Protect the 'Shores of the Sea'", Journal of the American Shore and Beach Preservation Association, Vol. 56, No. 3, pp. 8 - 14; Tait, J.F. and Gary B. Griggs (1990) "Beach Response to the Presence of a Seawall," Journal of the American Shore and Beach Preservation Association, Vol. 58, No. 2, pp. 11 - 28; Group Delta Consultants, Inc. (November 3, 1993) "Shoreline Erosion Evaluation Encinitas Coastline, San Diego County, California" prepared for Mr. and Mrs. Richard Cramer (Project No. 1404-EC01); Everts, Craig (1991) "Seacliff Retreat and Coarse Sediment Yields in Southern California," Proceedings of Coastal Sediments '91, Specialty Conference/WR Div./ASCE, Seattle WA; Sunamura, T. (1983) "Processes of Sea Cliff

and Platform Erosion," in CRC Handbook of Coastal Processes and Erosion, P.D. Komar (ed), CRC Press, Boca Raton, FL; Beach Bluff Erosion Technical Report for the City of Encinitas by Zeiser Kling Consultants, Inc. dated January 24, 1994; Sterrett, E.H. and R.E. Flick. "Shoreline Erosion Atlas." Shoreline Erosion Assessment and Atlas of the San Diego Region, vol. II. Sacramento, California: California Department of Boating and Waterways, 1994; "Encinitas Beach Survey" by Centennial Engineering, Inc. dated September 1994; Reconnaissance Report for the Encinitas Shoreline by the U.S. Army Corps of Engineers, dated March 1996; Final Draft Technical Report for the City of Encinitas Comprehensive Coastal Bluff and Shoreline Plan by Moffatt and Nichol Engineers, dated February 1996

I. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. The proposed project involves the after-the-fact construction of an approximately 36 foot-high, 67 foot-long seawall with tie-backs consisting of an approximately 9 foot-high, 11 ½ foot-wide concrete base with nine, approximately 28 foot-high, 2 foot-wide concrete columns on top of the base and horizontal timber laggings between the columns and the bluff. Because the existing development was constructed over a period of years by different property owners without the benefit of either coastal development permits or local approvals, a detailed history of the existing development and previous geologic conditions has been difficult to accurately confirm. However, based on the information provided by the current property owner along with information from Commission and City files, the general history is as follows: The seawall was constructed and added to at four different periods of time. The lower approximately 9 foot-high, 11 ½ foot-wide concrete base was probably constructed in 1985. The addition of approximately 16 feet of concrete columns with wood lagging occurred soon thereafter in approximately 1985-86. The upper 12 foot vertical extension of the seawall appears to have been constructed in 1992 with major improvements/repairs occurring in 1995 consisting of replacement of a damaged portion and the addition of a stairway and deck. None of the existing development was approved by a coastal development permit. The Commission did, however, approve a permit for a 12 foot-high, two foot-wide, 70 foot-long concrete seawall at the subject site in 1985 (ref. CDP# 6-85-396/Swift). That permitted, seawall included a proposed concrete base for support that was approximately 2 feet high, 70 feet-long and 7 feet-wide. The existing structure does not conform to the seawall approved in that permit. It does not appear that a seawall that conforms with the permit was ever constructed.

Since construction of the first approximately 25 foot-high section of the seawall in approximately 1985, the tieback supports have experienced severe corrosion such that they need to be replaced. As such, the applicants propose to repair the lower 25 feet of the existing seawall through the installation of approximately 10 "double corrosion protection" 40 foot-long tiebacks and installation of concrete gradebeams between the existing concrete columns at the new tieback locations. The existing damaged tiebacks

will not be removed. No repairs to the upper 12 foot extensions of the existing seawall that were constructed in approximately 1992 and 1995 are proposed with this application.

The subject development is located at the base of an approximately 95 ft. high coastal bluff on the west side of Neptune Avenue in Encinitas fronting a single lot containing a 3,482 sq. ft. duplex that is located approximately 17 feet from the edge of the bluff. 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. The pre-existing Coastal Act stairway and tram have subsequently been removed and replaced by an unpermitted stairway constructed in approximately 1995 that leads down the face of the bluff to the seawall. In addition, two approximately 20 foot-high upper bluff retaining walls have been constructed beneath the edge of the upper bluff. The applicant asserts that the southern upper wall was probably constructed in 1989 and the northern upper wall in 1995 following an upper bluff failure. In addition, a wooden retaining wall exists on the south half of the bluff between the upper bluff retaining walls and the lower seawall. Each of these upper and mid bluff walls and the stairway were constructed without coastal development permits or local approvals. However, the upper and mid bluff retention systems and the bluff-face stairway lies within an area of the City of Encinitas' coastal permitting authority and within the Commission's appeals jurisdiction. The required after-the-fact coastal development permit for these developments is being processed at the City concurrent with this application and will be appealable to the Commission.

Similarly designed seawall structures abut the existing subject seawall on its north and south sides. The Commission recently approved the follow-up to an emergency permit for the adjacent 36 foot-high seawall located to the south (6-99-9/Ash, Bourgault & Mahoney). The 25 foot-high seawall (that included a stairway and deck) located on the adjacent northern property was constructed without a required coastal development permit and the Commission denied the after-the-fact request for its approval in September of 1993 (6-92-254/Coleman).

The western boundary of the subject lot is a surveyed line, although any portion of the lot that is seaward of the mean high tide line is excluded from the lot. That surveyed line is at or west of the toe of the bluff, such that the bluff face is in private ownership. The subject seawall development lies seaward of the mean high tide line (MHTL). In September 1994, State Lands Commission surveyed the MHTL in Encinitas and concluded that the MHTL follows the toe of the bluff in the City of Encinitas ("Encinitas Beach Survey by Centennial Engineering, Inc. dated September 1994). The City of Encinitas has a certified LCP and has been issuing coastal development permits since May of 1995. However, because the proposed development lies seaward of the MHTL, it 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 Conditions and Hazards. Section 30235 of the Coastal Act states, in part:

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

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

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...

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

In addition, the Commission has generally interpreted Section 30235 to require the Commission to approve shoreline protection only for existing principal structures. The Commission must always consider the specifics of each individual project, but has found in many instances that accessory structures such as patios, decks and stairways are not required to be protected under Section 30235 or can be protected from erosion by relocation or other means that does not involve shoreline protection. The Commission has historically permitted at grade structures within the geologic setback area recognizing they are expendable and capable of being removed rather than requiring a protective device that alters natural landforms along bluffs and cliffs.

There are a number of adverse impacts to public resources associated with the construction of shoreline structures. The natural shoreline processes referenced in Section 30235 of the Act, such as the formation and retention of sandy beaches, are altered by construction of a seawall. Bluff retreat is one of several ways that beach area and beach quality sand is added to the shoreline. This retreat is a natural process resulting from many different factors such as erosion by wave action causing wearing

away of the lower bluff material, undercutting and/or cave formation, enlargement and eventual collapse; saturation of the bluff soil from ground water causing the bluff to slough off; and natural bluff deterioration. When a seawall is constructed on the beach at the toe of the bluff, it directly impedes some or all of these natural processes.

Some of the adverse effects of a shoreline protective structure on the beach, such as scour, end effects and, modifications to the beach profile, are temporary or difficult to distinguish from all the other actions which modify the shoreline. Seawalls also have non-quantitative effects to shoreline character and visual quality. However, some of the effects which a structure may have on natural shoreline processes can be quantified. Three adverse effects of a shoreline protective device that can be quantified are: 1) loss of the beach area on which the structure is located; 2) the long-term loss of beach which will result when the back beach location is fixed on an eroding shoreline; and 3) the amount of material which would have been supplied to the beach if the back beach or bluff were to erode naturally.

In addition to the above cited impacts, seawalls can threaten the stability of a site if the wall should become damaged in the future (e.g. as a result of wave action, storms, etc.) which could lead to the need for more shoreline or bluff stabilization devices. Damaged seawall structures could also adversely affect the shoreline by resulting in debris on the beach and/or creating a hazard to the beach going public. As such seawalls need to be designed to withstand the effects of wave actions and major storms and need to have their structural condition monitored on an annual basis to ensure proper maintenance and repair.

The proposed development is located at the base of a coastal bluff in the City of Encinitas. The site consists of Pleistocene marine terrace deposits that are underlain with Eocene Torrey Sandstone. The Torrey Sandstone covers the lower portion of the bluff. Continual bluff retreat and the formation and collapse of seacaves have been documented in northern San Diego County, including the Cities of Solana Beach and Encinitas. Bluffs in this area are subject to a variety of erosive forces and conditions (e.g., wave action, reduction in beach sand, seacave development). As a result of these erosive forces, the bluffs and blufftop lots in the Encinitas area are considered a hazard area. Furthermore, in 1986 the Division of Mines and Geology mapped the entire Encinitas shoreline as an area susceptible to landslides, i.e., mapped as either "Generally Susceptible" or "Most Susceptible Areas" for landslide susceptibility (ref. Open File Report, "Landslide Hazards in the Encinitas Quadrangle, San Diego County, California", dated 1986). Documentation has been presented in past Commission actions concerning the unstable nature of the bluffs in these communities and nearby communities (ref. CDP Nos. 6-93-181/Steinberg, 6-92-212/Wood, 6-92-82/Victor, 6-89-297-G/Englekirk, 6-89-136-G/Adams, and 6-85-396/Swift). In addition, a number of significant bluff failures have occurred along the northern Solana Beach/Encinitas coastline which have led to emergency permit requests for shoreline protection (ref. CDP Nos. 6-87-86-G and 6-87-167-G/Bourgault, Mallen & White; 6-93-181/Steinberg, 6-93-131/Richards et al, 6-93-36-G/Clayton, 6-93-024-G/Wood, 6-92-212/Wood, 6-92-73-G/Robinson, 6-91-312-G/Bradley, 6-98-029/Bennet, 6-98-157-G/Colton and 6-99-41-G/Bradley).

The proposed seawall will front a residential lot containing a duplex that was constructed prior to enactment of the Coastal Act. The proposed seawall has already been constructed without a coastal development permit. The seawall was apparently constructed in stages, by prior owners, from approximately 1985 through 1995. The only prior permit approved for shoreline protection at this site was a permit for a 12 foot-high, 7 foot-wide, 70 foot-long seawall that was approved in 1985. The existing wall does not conform to the description of that approved seawall (ref. CDP 6-85-396/Swift). Because the previous property owners constructed the subject 36 foot-high, 67 foot-long seawall, deck and stairway without the required coastal development permits or local discretionary approvals, critical site specific information including geotechnical information and as-built project plans is incomplete or unavailable. The applicant, however, has submitted various project plans, structural calculations and geotechnical information obtained from various sources attempting to document the project history of the site. However, this information does not contain a geotechnical or engineering analysis that supports the width, height and bulk of the seawall. The applicant has also submitted a new, but limited, geotechnical assessment of the project site, a site plan identifying each existing development and project plans for the proposed repairs. Thus, the geotechnical information for this project consists of this new limited assessment and the geotechnical information that was submitted in connection with the proposal to construct a 12 foot-high, 70 foot-long concrete seawall at the subject site in 1985. A review of the information concerning the development history of the site is set forth below.

Development History

In September, 1985 the Commission approved a permit for construction of a 12 foot-high, 70 foot-long seawall placed on a 2 foot-thick, 7 foot-wide concrete base and located at the toe of the bluff at the subject site (ref. CDP 6-85-396/Swift). The project plans submitted and approved by the Commission show a 12 foot-high wall resting on an approximately 2 foot-high, 7 foot-wide concrete block that extends approximately 5 feet seaward of the perpendicular seawall. The geotechnical report submitted for the 12 foot-high seawall indicated that the bluff and sea cliff were marginally stable with a factor of safety approaching 1 or less, that support for the residence may be undermined, and recommended immediate measures to secure the bluff (Geotechnical Exploration for 678 Neptune Avenue by Converse Consultants dated April 19, 1985). However, the report recommended a seawall structure of from "20 to 25 feet high, 1 to 2 feet thick and extending over the entire length of the property" and supported by a series of 30 to 36 inch diameter piles "penetrating the bedrock at least 20 feet." The report does not describe the design criteria for the base of the seawall. In addition, the report documents that "the beginnings (tied rebar) of a seawall was observed along the entire length of the sea cliff". The Commission findings in support of its approval of the 12 foot-high seawall (ref. CDP 6-85-396) do not reference the existence of any seawall structure at this site. Nor do the findings explain why the permit is for a 12 foot high wall while the geotechnical report recommends a 20 to 25 foot high wall. The findings do indicate that

the site contained four levels of timber and board retaining walls, a private wooden beach stairway and the remains of an old tram.

It is not clear what was constructed after the Commission approved the permit for the 12 foot-high wall. The applicant has submitted two sets of blueprints however it is unclear whether these represent what was constructed or simply proposed. The first blueprint, undated and prepared by "First Phase Engineering" shows an approximately 3 foot-high, 6.5 foot-wide concrete base supporting a sloping concrete wall that is approximately 4 feet-wide, 6 foot high and which has a 2 foot seaward protrusion beyond the pad. The second set of blueprints dated 12/8/92 by Earth System Design Group appear to propose repairs to an existing approximately 25 foot-high tiedback concrete seawall consisting of concrete pilings with wood lagging behind. The plans propose two additional rows of tiebacks to support the extension of the seawall to a height of approximately 36 feet and to cover the upper section of the wall with shotcrete facing. The applicant asserts that this plan was prepared and carried out in response to a major bluff failure that occurred on the adjacent property to the south.

However, it appears that the seawall had been extended to its current height of 36 feet in early 1992. In April, 1992 the Commission issued an emergency permit (ref. CDP 6-92-86-G) for the construction of a 37 foot-high, 83 foot-long tiedback seawall at adjacent southern site. (The Commission recently approved the follow-up regular coastal development permit for the site; ref. CDP 6-99-9/Ash, Bourgault & Mahoney). At the time of the emergency permit for the adjacent site, a bluff failure resulted in the loss of 10 to 14 feet of upper bluff material which left the upper terrace sands almost vertical beneath the western edge of the residential structures. The design report for that proposed seawall identified the cause of the failure as the accelerated wave action from the severe winter storms of 1991-2 combined with the wave reflection effects of the two existing 35 foot-high seawalls located on either side of that subject site (ref. "Design Report", by First Phase Engineering, dated May 9, 1992). Thus, that report suggests that the seawall on the subject property had been extended to a height of 35 feet by May 1992. The "Design Report" prepared for this adjacent site does not include any information pertaining to the site conditions for the subject development site. However, the Commission acted on a proposal to construct a seawall on the adjacent property to the north of the subject site in September 1993 (ref. CDP 6-92-254/ Coleman). The findings in support of denial of that project noted the existence of a 26 foot-high seawall on the subject site.

According to a recent Extended Initial Study 95-106 MUP/EIA dated June 8, 1999 prepared for the site for the City of Encinitas, the upper northern bluff at the subject site failed in January 1995 resulting in the loss of "the upper northern retaining wall, the stairway and the upper 12 feet of the lower seawall". The applicant has submitted a Geologic Reconnaissance by Michael W. Hart, dated February 6, 1995 which documents the failure of the upper retaining wall but does not identify damage to the seawall or the stairway or document any needed repairs to those structures. The report does identify the site as containing a seawall that is "approximately 20 feet high" and that consists of "reinforced concrete beams and timber laggings". The applicant has also provided

blueprints by Skelly Engineering and Nowak-Muelmester Associates dated 4/6/95 that proposed the construction of an approximately 12 foot-high vertical addition to the existing approximately 25 foot-high wall. The plans do not include the construction of a stairway or deck. However, both the applicant and the previously cited Extended Initial Study indicate that the stairway to the beach was constructed and completed in September 1995 along with the 12 foot-high extension of the seawall.

In summary of the detailed history, the Commission previously approved a 12 foot-high, 70 foot-long seawall with a 2 foot-high, 7 foot-wide concrete base at the subject site. The Geotechnical Exploration for the approved seawall recommended a seawall structure of up to 25 feet high and 70 feet-long. The previous property owner(s) subsequently built a far more substantial structure that is approximately 36 foot high, 11 ½ foot-wide, 67 foot-long tiedback seawall consisting of concrete pilings with wood lagging and a concrete base that extends approximately 3 feet seaward of the perpendicular section of the seawall. In addition, the constructed seawall included a deck and stairway leading down to the beach. The applicant has not provided any site specific geotechnical information that would support the need for the construction of any shoreline protective device or other improvements, beyond that recommended by the Geotechnical Exploration of April 19, 1995.

Section 30235 of the Coastal Act requires the Commission to approve shoreline protective devices if the existing structure is in danger from erosion. However, if shoreline protection is required the proposed project must also be the least environmentally damaging alternative. The Geotechnical Exploration by Converse Consultants dated April 19, 1985 documented the need for a seawall at the subject site to protect the existing structures from the effects of erosion. The report identified that the principal cause for the bluff failures at the subject site were "jointing parallel to the cliff face and wave action". The "direct attack of the cliff by wave action leads to subsequent undermining of large slabs of jointed bedrock". The report also indicated that the principle causes of upper bluff failure were the resulting effects of the lower bluff rock falls combined with seepage from irrigation and groundwater. The report asserted that the subject bluff was marginally stable with a factor of safety approaching 1 or less. In addition, the report analyzed the effects of increased water seepage and/or the effects of a moderate earthquake and concluded that unless a shoreline protection device was constructed the duplex would be undermined. As such, it appears that based on the submitted geotechnical report from 1985, some form of protection for the duplex may be warranted.

However, as stated previously, once a shoreline protective device has been identified as required to protect an existing structure, the proposed protection must be determined to be the least environmentally damaging alternative. The previously cited Geotechnical Exploration from 1985 identifies the preferred type of seawall to be one that is "an anchored, reinforced concrete wall supported by cast-in-place piles". The height of the structure is identified as being from 15 to 25 feet-high and from 50 to 70 feet in length. It also identifies that other designs may be used including a "reinforced concrete gravity wall", although these other designs may have a short life expectancy. The report also

specifically states the "scope of our study did not include remedial measures to stabilize the bluff (i.e., upper 85+ feet of the slope)". It is, therefore, reasonable to assume that other alternatives to the existing 36 foot-high, 11 ½ foot-wide seawall exists. The Geotechnical Report of 1985 cited alternatives including a lower, less massive seawall structure. Also, the Commission recently approved the follow-up permit for the adjacent seawall to the south (6-99-9/Ash, Bourgault and Mahoney) which consisted of a wall that is only approximately 7 ½ feet-wide. The applicant's engineer, however, has indicated that lowering or removal of any portion of the existing seawall is not an available alternative since such action will likely result in the destabilization of the upper bluff retaining structure and thereby the duplex above. The applicant, however, has not submitted detailed information supporting that contention or documenting any other available alternatives. Therefore, although it would be reasonable to assume that alternatives to the constructed seawall that would involve less beach encroachment and thus, less impact on public access and shoreline processes may have previously existed, site specific information detailing those alternatives is not available for review. In summary, while the applicant has provided geotechnical information that supports the need for some form of seawall to protect the existing residential structure, the proposed seawall design which would result in irretrievable resource damage occupying approximately 805 sq. ft. (70 ft. by 11 ½ ft.) of public beach cannot be found consistent with Coastal Act policies. The seawall has not been designed to be the least environmentally damaging alternative. Therefore, the proposed development is not consistent with Chapter 3 policies of the Coastal Act.

The applicants have also proposed to repair the existing seawall structure by installing ten, 40 foot-long tiebacks through the seawall into the bluff. These new tiebacks are proposed to provide additional support for the lower 25 foot-high section of the wall which currently is supported by a series of tiebacks that have corroded since their initial installation in approximately 1985. The Limited Geotechnical Assessment Update by Soil Engineering, Inc. dated December 14, 1998 states that, "It appears that the tiebacks for the lower seawall are severely affected by corrosion and are in need of replacement". The report recommends new "double-corrosion protected" tiebacks and the construction of concrete gradebeams between the columns at the tieback locations. The proposed repairs are proposed to restore the seawall to its "originally designed condition". However, the report does not specifically identify the seawall as being in a state of failure such that the residential structure above is threatened as required by Section 30235 of the Act. In addition, alternatives to the proposed tiebacks have not been presented or reviewed. While the applicant's engineer has indicated that removal of the seawall would result in the loss of the residential structure, no supporting geotechnical documentation supporting that contention has been submitted. Finally, since the Commission has determined that the existing seawall structure, stairs and deck are inconsistent with the Coastal Act, repairs to support these structures should also be denied. Therefore, the proposed repairs to the existing unpermitted development is not consistent with Chapter 3 policies of the Coastal Act.

3. 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 will occur on a public beach at the base of an approximately 95 foot-high coastal bluff fronting a duplex. Similarly designed seawalls lie immediately south and north of the subject site. These structures consist of an approximately 9 foot-high concrete base with a series of large concrete columns imbedded into the base rising to an elevation of about 36 feet on the adjacent southern site and to an elevation of approximately 25 feet on the adjacent northern site. As with the subject seawall, horizontal timber laggings separate the columns from the face of the bluff.

While the design for the adjacent southern wall was accepted by the Commission at the time of its approval as an emergency permit (ref. CDP No. 6-92-86-G), the design of these structures is not typical of structures that have more recently been approved by the Commission. In addition, the Commission denied the application request for the adjacent northern 25 foot-high seawall finding the wall and its stairway would have significant adverse resource impacts including irretrievable damage in the form of adverse impacts on visual resources. In recent permit approvals, the Commission has required that any permitted shoreline protective device be designed to reduce the potential adverse visual impacts through minimizing of height or coloring/texturing to be compatible with the surrounding natural bluffs. The proposed 36 foot-high seawall consisting of an approximately 11 1/2 foot-wide, 9 foot high, 70 foot-long concrete base supporting nine concrete columns with wood lagging behind the columns has not been designed in a manner that minimizes its visual impact to the beach going public. The wall is also approximately 12 feet higher than the adjacent wall to the north. In addition, the upper 12 feet of the subject seawall (on its southern half) has been encased in concrete such that it conflicts with the overall design of the existing structure and the adjacent seawalls. The adverse visual appearance of the existing seawall is further exacerbated by the attachment of a metal stairway that extends out from the face of the seawall from the top of the seawall to the beach below and the attachment of a deck with railing on top of the seawall. Thus, the proposed seawall, which represents a visual blight, is not consistent with Section 30251 of the Act.

Alternatives that could eliminate or mitigate adverse impact to visual resources could include removal of the stairway, deck and the lowering or removal of the 36 foot-high seawall. The applicant, however, has indicated that removal of any portion of the existing seawall could threaten the stability of the bluff above. The geotechnical information supporting that contention has not been submitted with the application. In addition, the applicant has not addressed the ability to remove the stairway or the deck on top of the seawall. Therefore, since the proposed development will have significant adverse impacts on visual resources and since alternatives to the proposed development

have not been adequately addressed, the proposed development is inconsistent with Section 30251 of the Coastal Act and must be denied.

4. 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.

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....

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.

The subject seawall development lies seaward of the mean high tide line (MHTL). In September 1994, State Lands Commission surveyed the MHTL in Encinitas and concluded that the MHTL follows the toe of the bluff in the City of Encinitas ("Encinitas Beach Survey by Centennial Engineering, Inc. dated September 1994). The State Lands Commission retains ownership of the public trust lands within the City of Encinitas until it amends its tidelands grant to include such lands. In this case, the City has not yet amended its grant to include the land upon which the proposed project is located. The site is located approximately two blocks north of the City of Encinitas' "Stone Steps" public access stairway. The beach at the project site is used by local residents and visitors for a variety of recreational activities. Thus, the proposed seawall is located on sandy beach area that would otherwise be available to the public. The project will have several adverse impacts on public access.

The proposed seawall will extend approximately 11 ½ feet onto the public beach occupying approximately 840 sq. ft. (70 ft. by 11 ½ ft.) of usable public beach. The seaward encroachment of the wall will extend approximately 4 feet further than the existing seawall on the south but will extend no further seaward than the existing seawall

on the north. However, the beach along this area of the coast is narrow and at high tides and winter beach profiles, the public may be forced to walk virtually at the toe of the bluff or the area may be impassable. As such, any encroachment of structures, no matter how small, onto the sandy beach in this area, reduces the beach area available for public use. This is particularly true given the existing beach profiles and relatively narrow beach.

In addition to the above-described direct interference with public access by the proposed seawall, there are a number of indirect effects as well. The adverse impacts of the proposed seawall on shoreline processes, sand supply and beach erosion rates, as described previously in section 2 of this report, alter public access and recreational opportunities. The loss of sandy beach area, and the loss of sand contribution to the beach reduce the beach area available for public access and recreation. The seawall will reduce lateral beach access by encroaching onto the beach and will have adverse impacts on the natural shoreline processes. As stated elsewhere in these findings, Section 30235 of the Act allows for the use of such a device where it is required to protect existing development that is threatened by erosion and where it has been designed to eliminate or mitigate adverse impacts upon shoreline sand supply. In this case, the direct impacts associated with this subject seawall have been ongoing and unmitigated since the concrete base of the subject seawall was completed in approximately 1985. In addition, since the seawall was constructed without the required coastal development permit, the Commission was not afforded an opportunity to review alternatives to the seawall that could have reduced impacts to the sand supply and, thereby, to the public recreational use of the beach.

Therefore, since alternatives to the proposed development have previously been identified that would involve less beach encroachment and since the proposed development will have both significant direct and indirect adverse impacts to public access and recreational opportunities, the proposed development is inconsistent with the public access policies of the Coastal Act and, therefore, must be denied.

5. No Waiver of Violation. The subject permit application represents an after-the-fact request to construct a seawall, private stairway and deck with railing on the public beach. Although this 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. Denial 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. Resolution of this matter will be handled under a separate enforcement action.

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 cannot be made and the application must be denied.

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.

As shoreline erosion along the coast rarely affects just one individual property, it is imperative that a regional wide solution to the shoreline erosion problem be addressed and solutions developed to protect the beaches. Combined with the decrease of sandy supply from coastal rivers and creeks and armoring of the coast, beaches will continue to erode without being replenished. This will, in turn, decrease the public's ability to access and recreate on the shoreline.

Based on specific policy and ordinance language requirements placed in the LCP by the Commission, the City of Encinitas is in the process of developing a comprehensive program addressing the shoreline erosion problem in the City. The intent of the plan is to look at the shoreline issues facing the City and to establish goals, policies, standards and strategies to comprehensively address the identified issues. To date, the City has conducted several public workshops and meetings on the comprehensive plan to identify issues and present draft plans for comment. However, at this time it is uncertain when the plan will come before the Commission as an LCP amendment or when it will be scheduled for local review by the Encinitas City Council.

In the case of the proposed project, site specific geotechnical evidence has been submitted indicating that the existing structure on the project site is in danger and that some form of shoreline protective device is required. However, the applicant has failed to document that the proposed development is the least environmentally damaging alternative.

Based on the above findings, the proposed seawall development has been found to be inconsistent with the Chapter 3 policies of the Coastal Act in that the proposed development will have unmitigated adverse impacts on the geologic stability, public access, beach sand supply and visual resources of the area. Therefore, the Commission finds that approval of the proposed seawall development would prejudice the ability of the City of Encinitas to prepare a comprehensive plan addressing the City's coastline as required in the certified LCP.

7. California Environmental Quality Act (CEQA) Consistency. Section 13096 of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit to be supported by a finding showing the permit is 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 found inconsistent with the resource protection policies of the Coastal Act relating to shoreline sand supply, geologic stability, public access and visual resources. Alternatives to the proposed development that would involve less beach encroachment and a reduction or elimination of adverse impacts on shoreline sand supply have not been examined. Therefore, the Commission finds that the proposed project is not the least environmentally damaging feasible alternative and cannot be found consistent with the requirements of the Coastal Act to conform to CEQA.

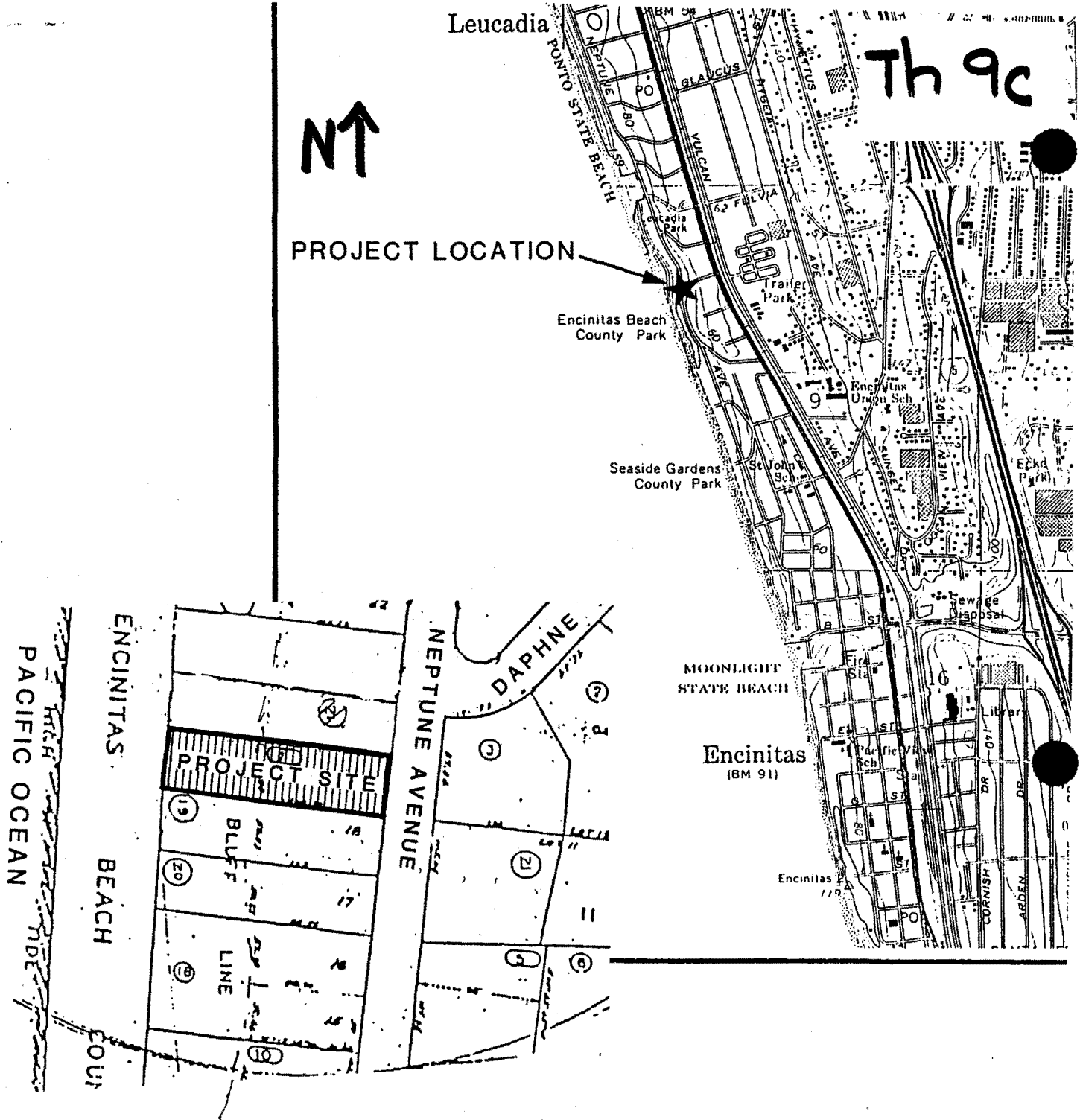
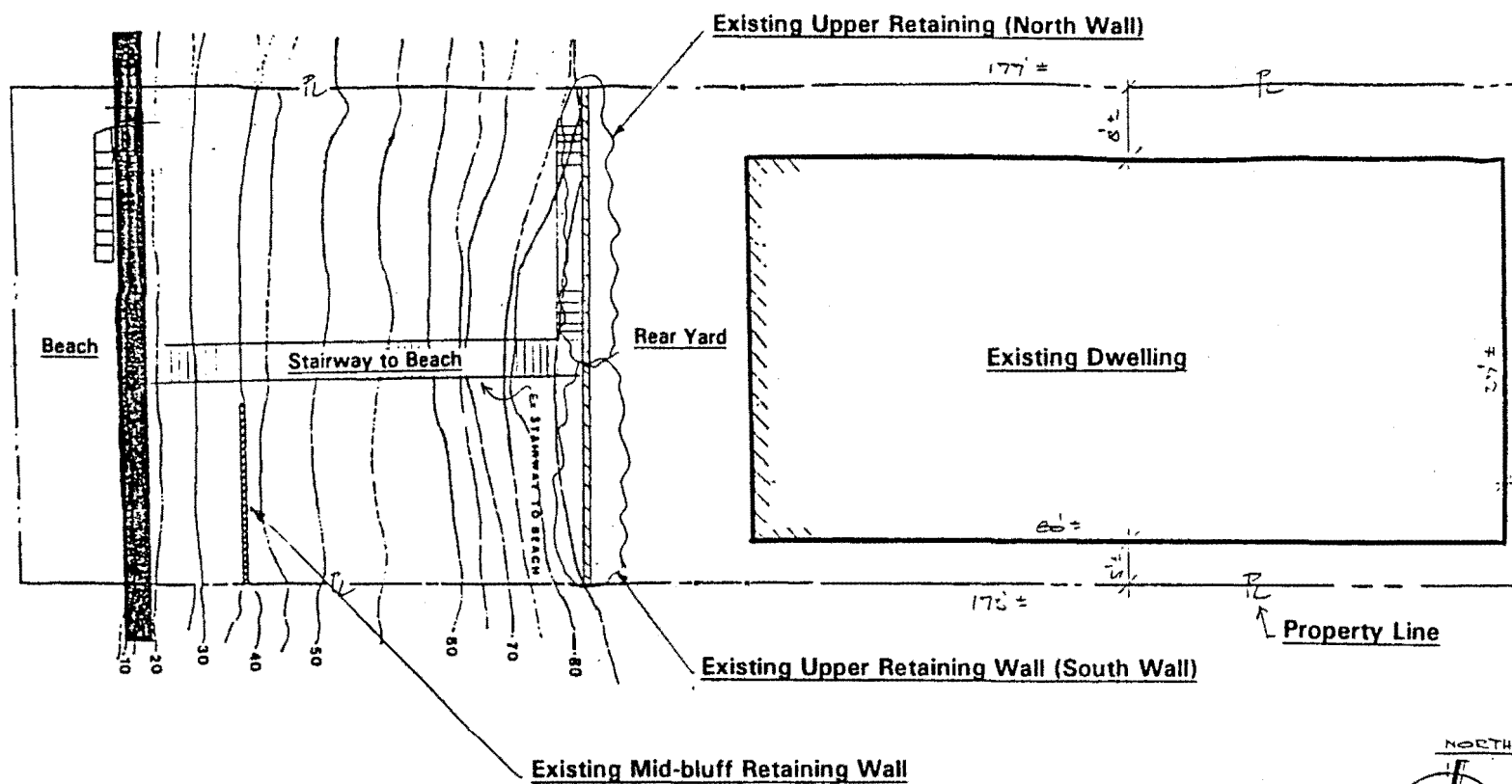


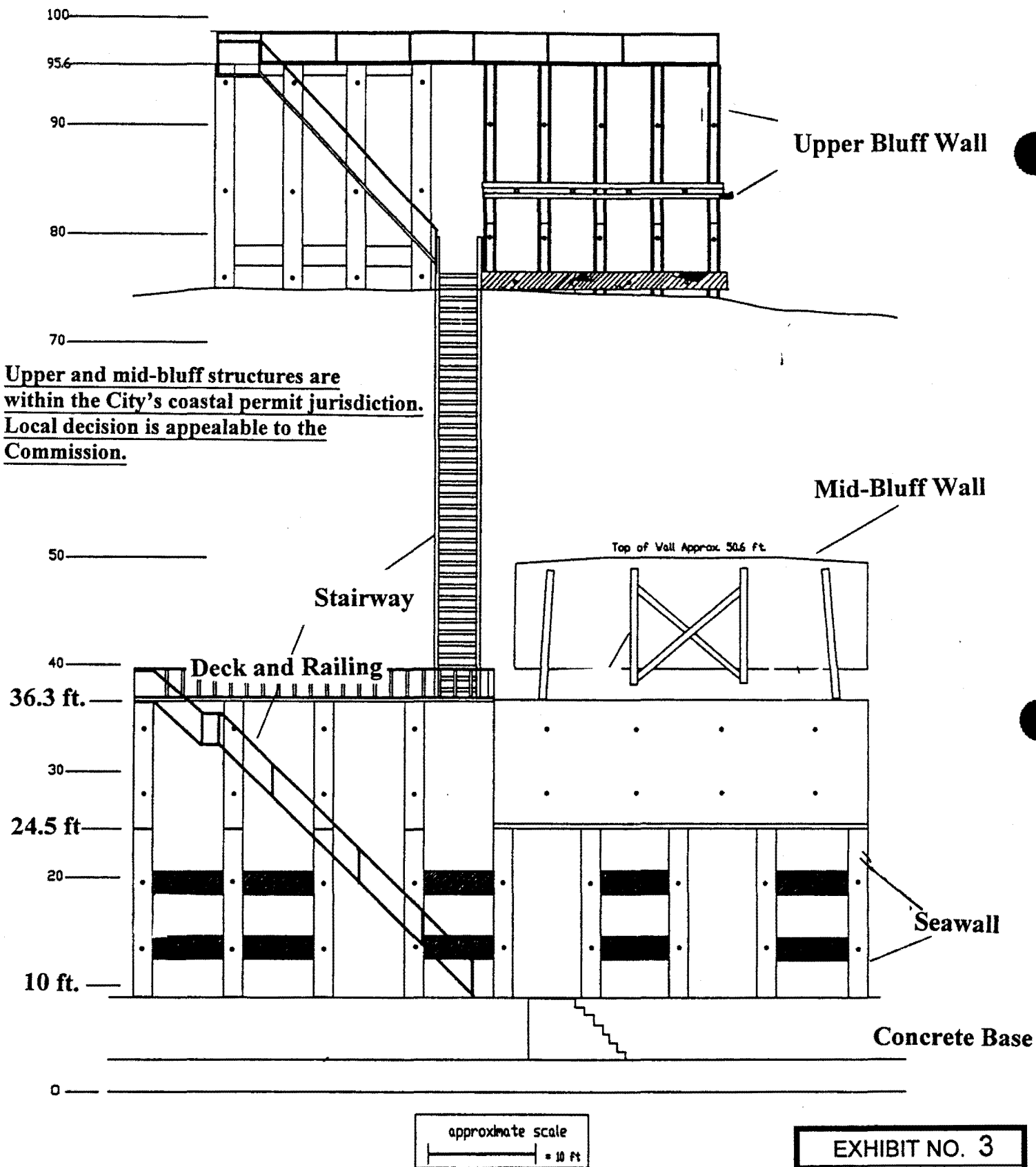
EXHIBIT NO. 1
APPLICATION NO.
6-99-8
Location Map

NO SCALE



Existing Seawall at Beach Level

EXHIBIT NO. 2
APPLICATION NO. 6-99-8
Site Plan
California Coastal Commission



Upper and mid-bluff structures are within the City's coastal permit jurisdiction. Local decision is appealable to the Commission.

EXHIBIT NO. 3
APPLICATION NO.
6-99-8

Elevations showing
Seawall and Upper
Retaining Walls

California Coastal Commission

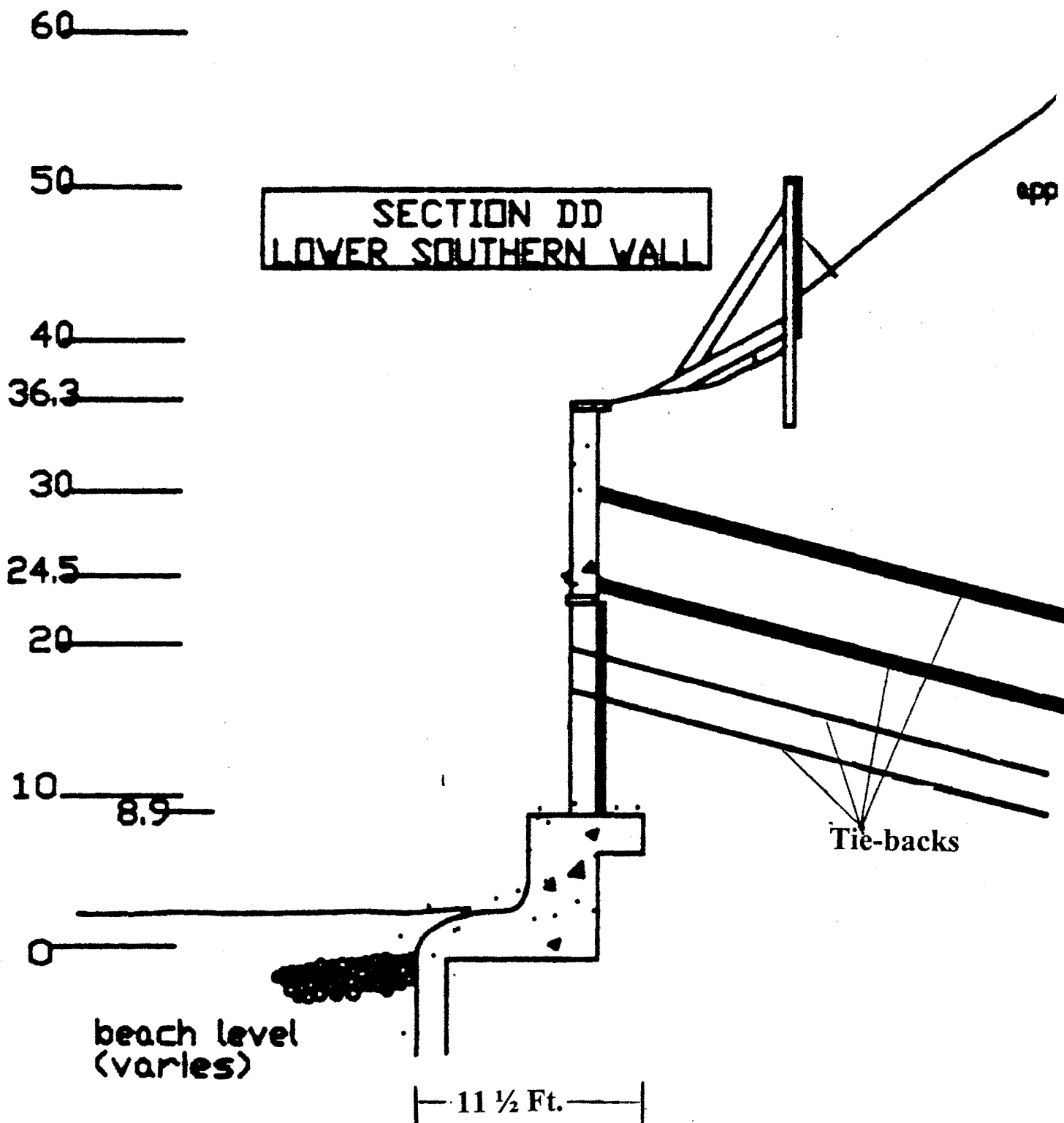


EXHIBIT NO. 4
APPLICATION NO.
6-99-8

Seawall Cross-
Section at Southern
Portion of Wall

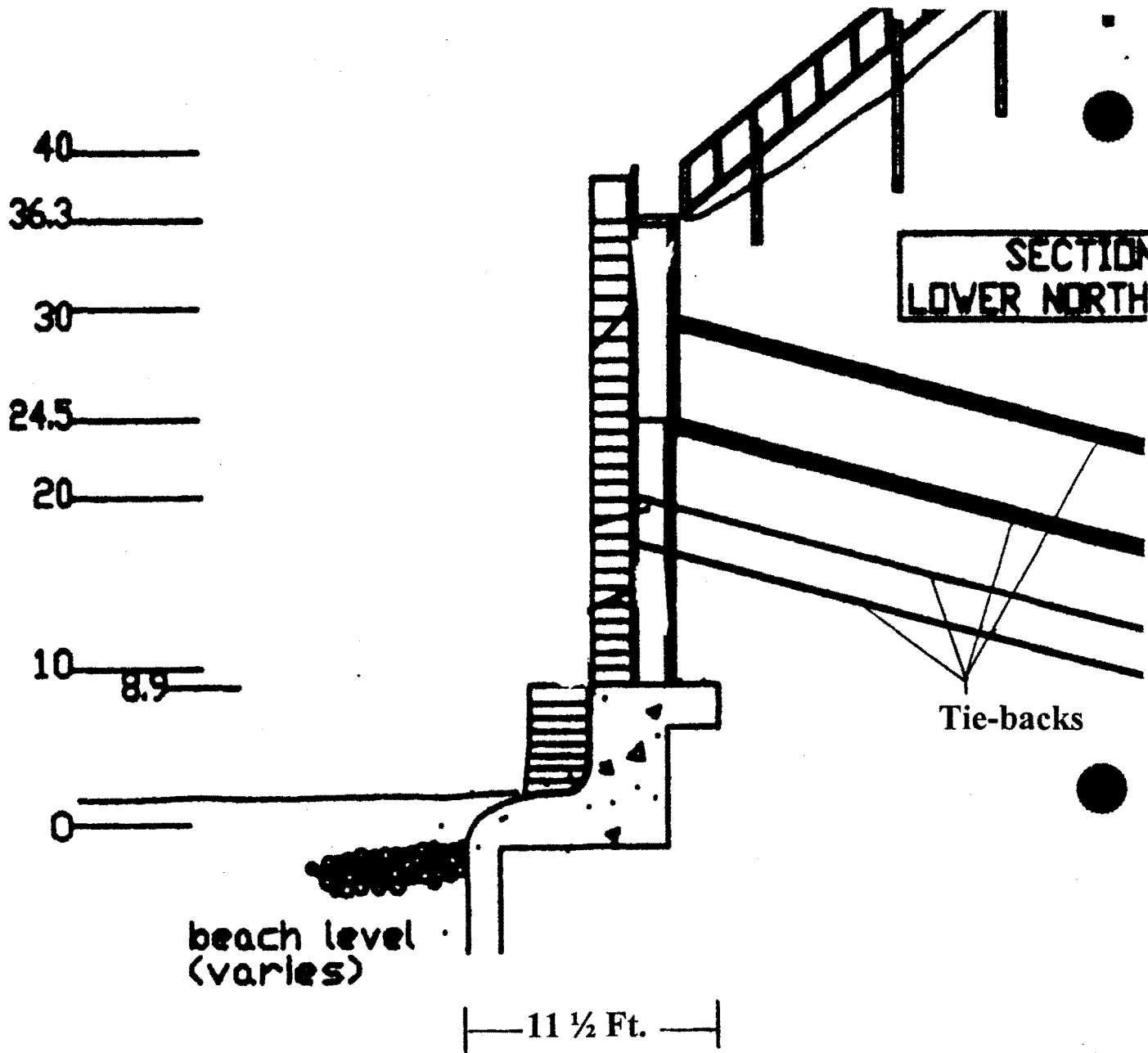



EXHIBIT NO. 5
APPLICATION NO. 6-98-29
Seawall Cross- Section at Northern Portion of Wall
 California Coastal Commission