CALIFORNIA COASTAL COMMISSION



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Staff: Staff Report: Hearing Date:

DL-SD January 27, 2000 February 15-18, 2000

STAFF REPORT: EXTENSION REQUEST

Application No.: 6-92-203-E4

Tue 24a

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

Description: Demolition of 3 single-family residences, relocation of 7 mobile homes and the construction of an approximately 138,460 sq. ft., two-story, 130unit resort hotel complex with banquet facilities, a restaurant, public access amenities, and 230 space underground parking garage on 4.3 acre blufftop site. Also proposed are the consolidation of 4 lots into 1 lot and the vacation of 2 public access easements totaling .67 acres.

Lot Area	189,055 sq. ft.
Building Coverage	48,260 sq. ft. (25%)
Pavement Coverage	24,756 sq. ft. (14%)
Landscape Coverage	77,744 sq. ft. (41%)
Unimproved Area	38,295 sq. ft. (20%)
Parking Spaces	230
Zoning	VSC
Plan Designation	Limited Visitor Serving Commercial
Ht abv fin grade	30 feet

Site:

2100 North Highway 101, Leucadia, Encinitas, San Diego County. APN 216-041-24, 254-043-02, 03, 04

1. <u>STAFF NOTES:</u>

<u>Staff Recommendation</u>: Staff is recommending that the Commission agree that there are no changed circumstances that would affect the project's consistency with the certified Local Coastal Program. If the Commission agrees, the extension will be granted. The Executive Director determined that the letters of objection to the proposed extension request that were received during the comment period identify changed circumstances that could affect the consistency of the development with the certified LCP, and thus, the project was scheduled for public hearing. However, upon analysis of the objections, which include bluff erosion, traffic, and habitat concerns, staff has concluded that there are no changes that have occurred which affect the project's consistency with the certified LCP. The applicant has submitted documentation that bluff erosion has not accelerated at a rate faster than anticipated, traffic has not increased beyond that originally accounted for, and no habitat use of the site has developed over the

last year or since the project was originally approved. The project is fully consistent with the provisions of the certified Local Coastal Program.

The staff recommends the Commission agree with the Executive Director's determination that there are no changed circumstances that affect the project's consistency with the certified LCP. If three Commissioners determine that there are changed circumstances that affect the project's consistency with the LCP, the project will be set for a hearing to determine its consistency with the LCP.

Substantive File Documents: Certified City of Encinitas Local Coastal Program (LCP); Woodward-Clyde, "Evaluation of Seacliff Erosion and Stability, August 1992; Recon, Final Environmental Impact Report and Appendixes for a Coastal Resort Hotel, 9/3/91 and 2/21/91; Michael Hart, "Engineering Geologic Reconnaissance," 7/22/96; Michael Hart, "Update of Engineering Geologic Reconnaissance," 2/9/99; David Shug, "Update Geologic Reconnaissance," 11/18/99, revised 1/6/00; David Shug, "Potential Increased Bluff Erosion Encinitas Beach Resort," 1/10/2000; Lindscott, Law & Greenspan, "Adequacy of the Previous Traffic Study for the Encinitas Beach Resort," 6/18/99; CDP #6-99-138; #6-90-219; #6-83-198-G.

2. <u>Extension Request Procedures</u>. In general, an approved coastal development permit will expire after two years unless development has commenced. Standard Condition #2, which is attached to all permits, establishes this expiration date. If development does not commence within the two year time period, the permittee may seek an extension. The Commission's regulations allow it to grant one-year extensions.

When an extension request is made, Section 13169 of the Commission's Code of Regulations requires the Executive Director to make a determination as to whether or not there have been "changed circumstances" that may affect the proposed project's consistency with the Coastal Act or, if applicable, a certified LCP. If the Executive Director determines that there are no "changed circumstances", the Executive Director must notify interested persons of this determination. If no member of the public submits a written objection within 10 days, the Executive Director must also report the determination to the Commission to provide the Commission with an opportunity to object to the Executive Director's determination. If three commissioners do not object to Executive Director's determination, the extension is approved.

If the Executive Director receives a written objection to his determination but concludes that the objection does <u>not</u> identify changed circumstances which may affect the project's consistency with the Coastal Act or certified LCP, the Executive Director reports this conclusion to the Commission at the same time that the Director reports the initial determination of no changed circumstances. If three commissioners object to the extension on the grounds that there *may* be changed circumstances that affect consistency, the extension is scheduled for a hearing on whether there are changed circumstances that affect the project's consistency with the Coastal Act or LCP.

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If the Executive Director receives a written objection to his determination and concludes that the objection identifies changed circumstances that *may* affect the consistency of the development, the extension must be scheduled for hearing on whether there are changed circumstances that affect the project's consistency with the Coastal Act or LCP.

In the subject case, the Executive Director determined that there were no changed circumstances. However, during the notice period, written objections were received that the Executive Director determined identified potential changed circumstances that may affect the consistency of the development, and the extension request has therefore been referred to the Commission.

3. <u>Project History/Proposed Project</u>. The subject project was approved by the Commission on December 10, 1992. In 1994, the coastal development permit 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 statue 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 and interested persons were noticed for a ten working-day period and no objections to the extension were received.

On September 30, 1998, the permittee submitted another extension request. Two letters of objection were received within the notice period, thus, the extension was referred to the Commission to determine whether there are changed circumstances that may affect the project's consistency with the certified LCP. In March 1999, the Commission approved the extension request (#6-92-203-E4).

On November 19, 1999, the permittee again submitted an extension request. On November 24, 1999, notice of the proposed extension was sent to surrounding property owners and interested parties. Five letters of objection were received within the notice period, and the Executive Director determined that the objections identify potential changed circumstances that may affect the consistency of the development with the certified LCP. Thus, the extension has been referred to the Commission for a hearing to determine whether there are changed circumstances. The letters of objection received during the notice period are attached as Exhibit #3.

The subject project consists of the demolition of three single-family residences, the relocation of seven mobile homes, and the construction of an approximately 138,460 sq.ft., two-story plus basement level, 30-foot high, 130-unit resort hotel. Also included is the construction of a 5,128 sq. ft. restaurant, a 420 sq. ft. retail shop, 1,600 sq. ft. of meeting rooms, 4,072 sq. ft. of floor area devoted to banquet facilities, a 3-level, 320-space subterranean parking garage, a swimming pool with cabanas, approximately 92,000

cubic yards of excavation. As proposed, all structures would be set back 55 feet from the edge of the coastal bluff. The proposal also provides for the installation of several public access amenities that include a state park overlook, a blufftop overlook, a stairway to the state park parking lot, and public access through the site. In addition, the proposed development will include the consolidation of 4 lots into 1 lot and the vacation of 2 public access easements.

The 4.3 acre bluff-top lot is located along the west side of Highway 101, just south of Batiquitos Lagoon in the northernmost portion of the City of Encinitas. The site is bounded by Ponto State Beach Parking Lot to the north, Highway 101 to the east, a large condominium development and restaurant to the south and the beach and Pacific Ocean to the west.

The project was approved with a number of special conditions including revised plans to include a 25-foot inland blufftop setback, an extensive public access program including construction of a blufftop overlook, a new public access stairway, and dedication of a public access easement, and a minimum \$156,000 fee for the acquisition of land and/or construction of low-cost visitor serving overnight accommodations. No structure on the site is permitted to exceed 2 stories or 30 feet in height, and landscaping and color and signage restrictions were included in the original project approval (see Exhibit #4, Notice of Intent).

Since the project was approved, the existing residences on the site were relocated and demolished, prior to issuance of the coastal development permit. The applicant is currently working with Commission staff to resolve this violation. In addition, the applicant addressed this apparent violation in part by proposing to remove all visible riprap at the base of the bluff at the subject site. Rip rap had been placed at the bluff in the past pursuant to an emergency permit (#CDP #6-83-198-G) issued to a prior landowner. When the present landowner acquired the site, the rip rap had not been removed or permitted through a regular coastal development permit. The subject permit addressed the rip rap by requiring the applicant to either remove the rip rap or submit a geologic report explaining why the rip rap could not be removed. As long as the permit remained unissued, however, the rip rap was not required to be removed or addressed. The demolition of the residences prior to issuance of the permit raised issues concerning the rip rap. The applicant addressed these issues by submitting a geology report demonstrating that removal of any buried rip rap would destabilize the bluff, and a permit application proposing removal of all visible rip rap. The Commission approved the permit for rip rap removal in December 1999 (#6-99-138).

4. <u>No Change in Circumstances</u>. The Commission finds that no changed circumstances exist which affect the project's consistency with the certified Local Coastal Program. The objections submitted by interested parties either repeat issues raised during the original hearing on the project and do not identify any changed circumstances that may affect the project's consistency with the certified LCP, or raise potential changed circumstances which are not supported by fact and thus are not actual changed circumstances.

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The Commission approved the City of Encinitas' Local Coastal Program on November 17, 1994. Since that time, a total of seven amendments to the LCP have been approved by the Commission. The first four involved specific parcels of land and/or minor revisions unrelated to the subject site or development.

The fifth amendment involved adoption of the North Highway 101 Corridor Specific Plan as the implementing ordinances for the North Highway 101 corridor, which includes the project site. The amendment did not change the land use designation of the subject site, which is designated Limited Visitor-Serving Commercial, consistent with the proposed hotel.

The sixth amendment involved a number of revisions to various components of the City's Implementation Plan including allowing time-share projects as a conditionally-permitted use within the various visitor-serving commercial zoned areas. This amendment would apply to the subject hotel project, which is located in a visitor-serving commercial zone. However, this amendment merely allows for time-share projects as well as typical hotels—it does not require time-share projects. An amendment to the subject permit would be required to convert the approved hotel into a time-share. Therefore, the consistency of the subject permit with the LCP is not affected by the LCP amendment. The seventh amendment involved changes to the Encinitas Ranch Specific Plan, which does not include the project site.

All of these amendments were reviewed by the Commission at the time of the last extension request, and determined not to effect the proposed project's consistency with the Coastal Act. Thus, the project was extended until December 10, 1999. There have been no amendments to the City's certified LCP since the last extension was granted. Therefore, there have been no changes to the LCP that would effect the project's consistency with the LCP. Further, there are no other changed circumstances that may affect the project's consistency with the LCP.

When the project was originally approved in 1992, the Commission made extensive findings regarding the project's visual impact and consistency with community character, public access, recreation, traffic and parking, geologic stability, and drainage, runoff controls and sensitive resources. The letters of objection to the proposed extension which have been received raise the following concerns: 1) how construction of the underground parking garage and zero lot line building placement will impact adjacent properties; 2) construction of the adjacent State Park parking lot and the provision of public access at the Park; 3) erosion of the coastal bluff and bluff stability, due in particular to the installation of a jetty system north of the subject site; 4) increases in traffic in the surrounding area; 5) new or increased wildlife use of the site.

One letter of objection asserts that the proposed project will have impacts on "the land, water and environment surrounding their project" and raises concerns regarding the project's proposed underground parking and building siting, and how these will impact adjacent property and structures. However, no particular changed circumstances are

identified in the letter. The proposed parking and building siting were fully reviewed in the Commission original project approval. Therefore, this letter does not identify a changed circumstance that may affect the project's consistency with the certified LCP.

Regarding the State Park parking lot, one letter of objection references the construction of this parking lot located north of the subject site, and suggests that the public access provided at this site makes the public access required on the subject site unnecessary and inconvenient. However, construction of the State Beach parking facilities were approved by the Commission in March 1988, well before the subject project was approved (#6-87-667). Therefore, the Commission was aware of these facilities when it approved the subject project. Further, the permit for the subject project requires the applicant to coordinate with the State Department of Parks and Recreation for the public access improvements associated with the subject project —including obtaining a permit from State Parks. Thus, this is not a changed circumstance that affects the project's consistency with the LCP. The other potential changed circumstances are addressed in order.

Bluff Stability/Jetties

At the time the project was approved, the Commission reviewed the geotechnical analysis prepared for the subject site. The proposed blufftop setback is 55 feet (under the provisions of the certified LCP, only a 40-foot bluff top setback is required). Relocatable improvements such as a public pathway and bluff overlook, railing, and benches, are permitted within the 55-foot setback. There is some non-engineered riprap along the toe of the bluff at the subject site. As noted above, the applicant has received Commission approval to remove the visible portions of such rip rap (#6-99-138). The geotechnical analysis reviewed by the Commission at the time the project was approved estimated bluff retreat rates (.5 feet per year) and projected failure surfaces for the bluffs and determined that the proposed hotel setback of 55 feet from the bluff edge would be sufficient to ensure the hotel would not require shoreline protective devices for a period of at least 75 years.

In July 1996, an additional geologic reconnaissance was performed for the site. This report also concluded that erosion and bluff retreat potential at the site can be classified as low to moderate. Although this more recent report estimates an even slower erosion rate (.2 to .3 feet per year), the report notes that the landform has, in fact, remained relatively unchanged for almost 100 years. In February 1998, an update of the geologic reconnaissance was performed by an engineering geologist. The geologist reviewed the site to determine if significant changes in erosion, drainage, or geologic conditions had occurred since the previous study. The update concluded that "no significant changes have occurred to either the position of the bluff edge or the appearance of the bluff face" with the exception of a an erosion channel with a maximum depth of approximately five or six feet, which has appeared on the bluff face about midway down the bluff in the north-central portion of the site. The channel has resulted from storm runoff. However, the report did not identify this channel as a significant threat to bluff stability. The report also noted that the cobble berm below the site existed at essentially the same position and

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elevation as it existed in 1996. Thus, there has been no indication that the El Niño storms of 1997-1998 had any adverse impact on the stability of the bluff. Unlike some areas of Encinitas, the subject site is not subject to near constant wave action, and the bluff has not been undercut, and appears to be a relatively stable angle of repose.

The current letters of objection raise the possibility that the jetties constructed in association with the Batiquitos Lagoon Enhancement Program located approximately ¹/₄ mile north of the site are a changed circumstance that could affect sand transport to the subject site and thus could effect the erosion rate and geologic stability of the site. The Batiquitos Lagoon Enhancement Program (BLEP) was approved as revised in March 1991 (prior to approval of the proposed development). The project involved the restoration and enhancement of Batiquitos Lagoon including dredging the lagoon, disposal of suitable dredge materials on Encinas Creek Beach, and construction of new inlet jetties at the mouth of the lagoon to create a permanently open lagoon mouth (#6-90-219). The project was the subject of a lengthy and exhaustive environmental review addressing a wide range of potential impacts associated with the proposed project, including potentially detrimental effects upon shoreline processes and littoral sand drift caused by the jetties. As part of the project, sand was required to be placed on the jetties specifically to avoid the creation of sand traps and adverse impacts to surrounding beaches.

The jetties were constructed in 1994. As discussed above, the geotechnical reviews of the subject site performed since construction of the jetties have not detected any increase in erosion of the bluff face beyond that anticipated by the Commission in its original approval of the project. There has been no evidence of sand loss at the project site, and in fact the beach appears to be currently wider than it has been in recent years. The applicant has submitted an updated geologic reconnaissance for the project site performed on January 4, 2000. The evaluation of the site determined that the erosion channel, or gully, on the site has continued to erode, at least in part due to people digging in the bluff. However, the report concludes that the erosion of the gully has not appreciably affected the stability of the bluff, especially as the bluff toe adjacent to the gully is not undercut. In fact, the report finds that no significant marine erosion has occurred at the base of the bluff over the past several years, probably due to the present of the wide cobble berm at the base of the bluff. The report concludes that with the exception of the gully, the rate of erosion on the site appears to be within the range estimated for the site (0.2 to 0.3 feet per year). In addition, in a supplemental letter, the applicant's engineer has specifically addressed the suggestion that the jetties have increased erosion rates beyond the estimated rate, and concluded that the project setback recommendations are still appropriate. Therefore, there is no evidence that construction of the jetties, or any other changes have occurred at the site which have affected the geologic stability of the site or the project's consistency with the certified Local Coastal Program.

Traffic

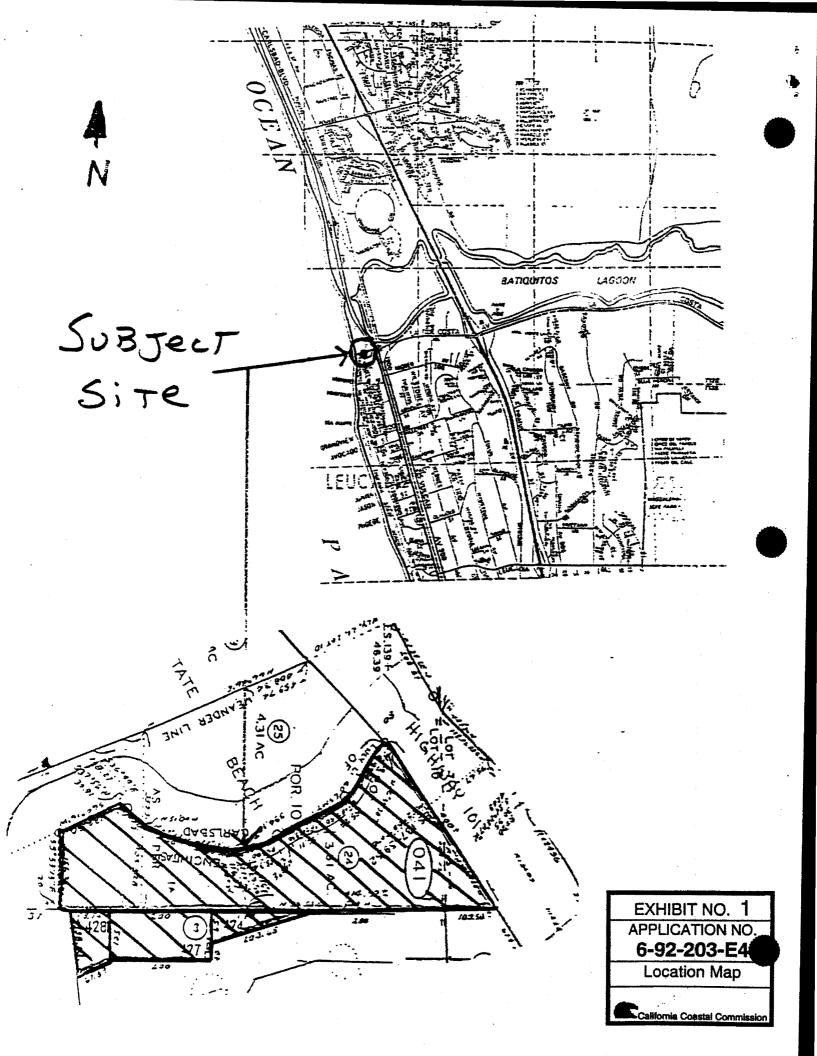
The Commission reviewed the issue of traffic associated with the proposed project at the time the project was approved, and included a special condition requiring final plans including traffic improvements and signalization at key intersections adjacent to the site, new left and right turn lanes, driveway improvements, sidewalk improvements and a bus stop. No specific changed circumstances regarding traffic that have occurred since the project's approval have been identified. As discussed above, there have been no changes to the certified LCP allowing increased densities in the surrounding area that could increase traffic levels in the area beyond the build-out anticipated at the time the subject project was approved. In June 1999, the applicant's traffic engineers performed a review of the traffic study in the original project EIR, and found that conditions have not materially changed in the project area, and that as mitigated, the project will have no significant traffic impacts. The engineers concluded that the traffic study in the EIR for the original project is still valid and further traffic analyses are not necessary. Thus, the Commission finds there are no changed circumstances that have affected traffic or the project's consistency with the certified Local Coastal Program.

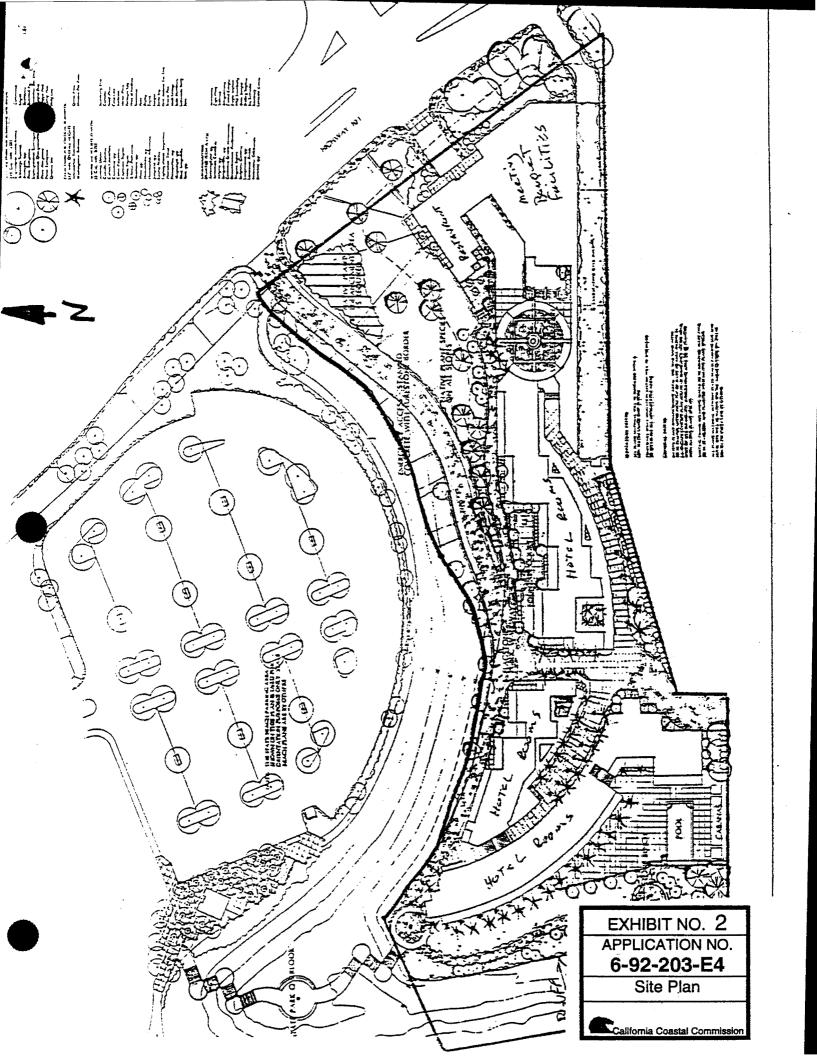
Biological Habitat

At the time the project was originally approved by the Commission, the site was disturbed and the Commission did not make any findings regarding the presence of rare or sensitive biological resources on the site. Since then, the residences on the site have been removed or demolished and the site has been fenced off. However, the site is located in an urbanized area, surrounded by multi-family residences and a restaurant to the south, a bluff and the Pacific Ocean to the west, the Ponto State Beach parking lot to the north, and Highway 101 to the east. Although there are some sensitive plant species north of the State Beach parking lot, the plants are located on beach level well below and north of the subject site. The subject site is not adjacent to a lagoon or native area from which sensitive plant species would be likely to spread, or from which sensitive animal species would migrate from. The applicants have submitted a biological reconnaissance performed for the site on January 25, 2000 which determined that the original biological survey for the project was still applicable, and that the only noticeable change in vegetation at the site was the spread of non-native vegetation. Thus, the Commission finds that there are no changed circumstances that have affected biological resources or the project's consistency with the certified Local Coastal Program.

In conclusion, there are no changed circumstances to the project that raise issues that which were not addressed by the Commission in its original approval. The subject project was previously found consistent with the visual impact, community character, recreation, geologic stability, and drainage/runoff/sensitive resource policies of the Coastal Act. There have been no changes to the certified Local Coastal Program or other changes in surrounding land uses or conditions, which would affect the project's continued consistency with the certified LCP. Therefore, since there is no information which would indicate that changed circumstances have occurred affecting the project's consistency with the certified Local Coastal Program, the Commission finds that the extension request should be granted.

(\\TIGERSHARK\groups\San Diego\Reports\Extensions\6-92-203-E4 Sports Shinko stfrpt.doc)





SMG

Ernest M. Simon, PRESIDENT Mergers and Acquisitions Corporate Renewal Management Consulting



DEC 01 1999

CALIFORNIA COASTAL COMMISSION SAN DIEGO COAST DISTRICT November 27, 1999

California Coastal Commission San Diego Coast Area 3111 Camino Del Rio North, Suite 200 San Diego, Ca. 92108-8036

Attn: Peter M. Douglas, Executive Director

Dear Mr. Douglas:

We object to the extension of an additional year for permit No. 6-92-203-E4.

In view of the fact that so many problems have occurred with the bluff in the Encinitas area, it is inconceivable that the commission continues to renew the permit for a group that is planning to excavate the bluff.

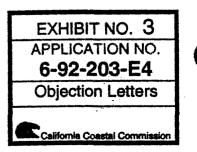
In nearly eight years Sports Shinko has not produced building plans, nor have they been able to arrange financing for the hotel project.

Will the Commission continue to renew this permit even after conditions have and are changing. How many more times will they be allowed to have this permit extended?

Sincerely.

Ernest M. Simon 1869 Parliament Road Encinitas. Ca 92004

Cc: Diana Lilly



STRATEGIC MANAGEMENT GROUP, LLC 4628 East Foothill Dr., Para Tel. (602) 596-7968 Fax (602) 596-4029 California: Tel: (760) 942-3732

RECEIVEN George B. Bland, DMD NOV 2 9 1999 3762 Calle De Soto CALIFORNIA COASTAL COMMISSION SAN DIEGO COAST DISTRICT Tucson, Arizona 85716 27 Caizonin Cristie Commission his are Desgenty owners at Sa-fayp which is a gasent to the property in question It is 3 great concern To us that any movement of the heart and menet actastrophe to an grogerly all one needs to doing look at The barge to the Santh to creating the damage that uned occur. will roger this hat I with under grand Barlang. There is no need for another both in this area. Very en ang: Dr. 17ms. Des. Black

Leucadia SeaBluff Village Community Association, Inc.

1750 North Coast Highway 101/Leucadia, California 92024/(760)753-2333



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DEC 0 1 1999

CALIFORNIA COASTAL COMMISSION SAN DIEGO COAST DISTRICT

November 30, 1999

To: California Coastal Commission San Diego Coast Area 3111 Camino Del Rio North, Suite 200 San Diego, CA 92108-1725

Reference: (1) Permit No. 6-92-203-E4/ Sports Shinko (USA) Co. Ltd. (2) Permit No. 6-99-138/ Encinitas Resort Corporation

From: Leucadia SeaBluff Village Community Association, Inc. 1750 North Coast Highway 101, Leucadia, CA 92024

Dear Commissioners:

Please be advised that our Association, which consists of 255 units, is objecting to the one year expansion of Permit No. 6-92-203-E4 being requested by Sports Shinko (USA) Co. Ltd. We are the property immediately south of their proposed project and would be most directly impacted by their construction and proceed hotel complex. It's not that we are opposed to a suitable development being built on the property, what we are requesting is that their extension be denied until they can have a current review of the impact their proposed development would have on the land, water and environment surrounding their project. In view of the development that has gone on in the ten (10) years since the initial permit was issued, the request to have a current impact study done seems only reasonable and prudent. Of particular concern is the construction of the 230 space underground parking garage. This is proposed construction is based on a zero lot line approach and is to be built abutting our property. Obviously, we are concerned as to how this construction is going to impact our property and structures.

We are also concerned over the requested project covered by Permit 6-99-138 to remove approximately 20 lineal feet of existing visible riprap at the base of a coastal bluff below a 4.3 acre vacant lot. This lot being the same property upon which the Sports Shinko (USA) Co. Ltd is asking a one year extension for construction of a 130 room hotel under Permit No. 6-92-203-E4. This riprap is helping maintain the meager amount of sand we have on our beaches along this section of beach and any action to decrease this effort should certainly be viewed negatively.

Leucadia SeaBluff Village Community Association, Inc.

1750 North Coast Highway 101/Leucadia, California 92024/(760)753-2333

November 30, 1999

The issue of riprap being visible needs to be addressed in terms of when, how often and to what degree. We would like to recommend having a coastal geologist/engineer familiar with our sand retention and restoration situation review this request and make a recommendation as to its suitability, with alternatives, before it proceeds any further. If there is a potential problem with visible riprap, then we would strongly urge the Coastal Commission to have a suitable replacement approach included in the permit so that the sand replenishment and retention efforts are not sacrificed in the name of progress and economic gain for a few.

Thank you for your consideration of our concerns when reviewing the above requests.

Sincerely,

Richard Akam

Richard A. Kerns, President, Board of Directors Leucadia SeaBluff Village Community Association, Inc.

cc: Board of Directors, PCM Property Manager

Batiquitos Lagoon Foundation

Preserve, Protect and Enhance

December 9, 1999

Ms. Diana Lilly California Coastal Commission 3111 Camino del Rio North, Suite 200 San Diego, CA 92108

DEC 0 9 1999

CALIFORNIA COASTAL COMMISSION SAN DIEGO COAST DISTRICT

Re: Extension of Coastal Development Permit No. 6-92-203-E4 for the Sports Shinko Resort at Batiquitos Lagoon.

Dear Ms. Lilly:

The Batiquitos Lagoon Foundation requests that the California Coastal Commission deny the extension of CDP No. 6-92-203-E4 based on the significant changes that have taken place in the project area since the permit was originally issued in 1992. These changes include:

- 1. Completion of the Batiquitos Lagoon Enhancement Project and construction of two jetties within a 1/4 mile of the proposed project. The effect these jetties may have on sand transport as it applies to the coastal bluff proposed for this development has not been analyzed. If the jetties result in sand stripping will this bluff be eroded at a rate that threatens the hotel?
- Increasing traffic on Highway 101. As traffic increases on Interstate 5 more people use Highway 101 as a commuter route. Traffic conditions have certainly changed since 1992.
- 3. Increasing wildlife use of the site. The subject site has been vacant for approximately three years. In the interim wildlife has started to recorcupy the site. Given these conditions we believe the biology at the site has changed significantly since 1992. We request that a biological survey be conducted to determine if significant change has occurred. In addition CEQA guidelines suggest an updated biological survey is required.

All three of these issues represent significant changes in conditions since the original permit was granted. We respectfully request you defer extension of this permit until these issues are addressed. Please feel free to call me at 760-931-0780 Ext. 108 if you have any questions or need additional information.

Sincerely, Batiquitos Lagoon Foundation

Seth Schulberg, President

POB 130491 Carisbad, California 92013-0491 • 760 • 845-3301

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Robert J. Macfarlane Attorney-Mediator 315 S. Coast Hwy. 101, U-74 Encinitas, CA 92024



DEC 1 0 1999

CALIFORNIA COASTAL COMMISSION SAN DIEGO COAST DISTRICT

December 7, 1999

California Coastal Commission San Diego Area 3111 Camino Del Rio North, Suite 200 San Diego, CA 92108-1725

Re:

Application No. 6-92-203-E4

Dear Commissioners:

SPORTS SHINKO'S request for a fourth extension of permits on their 1992 project should be denied, due to changed circumstances which may affect the project's consistency with the geologic stability, public access and recreation, and visual resources policies of Chapter 3 of the Coastal Act. These include:

PUBLIC ACCESS

Since the 1991 EIR on this development was completed, the state Parks and Recreation has installed a parking lot, a restroom and a paved path to the beach along the northern base of the bluff that this project is sited on. This project has its public access located along the northern perimeter of the bluff top, right above the new paved lot and path provided by the state. The new public access provided by the state makes the public access provided by this project duplicative and inconvenient at best.

In order for the project's public access to be of use to the public, it needs to be relocated along the southern border of the site. This would create a short cut to the

INCREASING STORM ACTIVITY AND GLOBAL WARMING

Last week my wife and I had the opportunity to walk with a coastal engineer, hired by the SeaBluff Homeowners' Association, while he was conducting his annual inspection of the ocean bluff in front of SeaBluff (which is adjacent to and south of the Sports Shinko property).

He informed us that we are coming out of an approximately 40 year cycle of relatively low energy storm activity and going into a cycle of high energy storm activity. This, he said, is occurring at a time when California beaches are at their narrowest. Additionally, the global warming that was suspected during the 80's, has been confirmed and rising sea levels are a reality.

He believes it will take time before consideration of these scientific discoveries filters down and become part of standard practice for geologic surveys. However, it struck me that the Coastal Commission, charged with the responsibility of protecting California's coastal bluffs, would be interested in these new findings of science. The 1991 EIR prepared for this site clearly did not address or anticipate these newly discovered conditions.

CONCLUSION

Significant changes of circumstance have occurred on and adjacent to this site that affect public access and may affect its geologic stability and biology. Since these changes may affect the project's consistency with the Coastal Act, a new EIR and review is warranted. Therefore, the extension must be denied.

Very truly your,

Robert J. Macfarlane RJM/rj

STATE OF CALIFORNIA THE RESOURCES AGENCY

261	c	WILSON.	Commer

CALIFORNIA	COASTAL	COMMISSION
IN DEGO COAST A	REA	

SAN DIEGO COAST AREA 1111 CAMINO DEL RIO NORTH, SUITE 200 SAN DIEGO, CA 92108-1725 (100021-3035

Oate	January	5, 1993	_
Applicat	ion No	6-92-203	-
Page 1 d	if 10		

NOTICE OF INTENT TO ISSUE PERHIT

On <u>December 10, 1992</u>, the California Coastal Commission approved the application of <u>Soorts Shinko (USA)</u>, subject to the attached standard and special conditions, for the development described below:

Description: Demolition of 3 single-family residences, relocation of 7 mobile homes and the 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 4.3 acre blufftop site. Also proposed is the consolidation of 4 lots into 1 lot and the vacation of 2 public access easements totaling .67 acres.

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Pavement Coverage	24,756	sq. ft.	(14%)
Landscape Coverage	77,744	sq. ft.	(41%)
Unimproved Area	38,295	sq. ft.	(20%)
Parking Spaces	230		
Zoning	VSC		
Plan Designation	Visitor	Serving	Commercial
Ht abv fin grade	30 feet	-	

Site:

2100 North Highway 101, Leucadia, Encinitas, San Diego County. APN 216-041-24, 254-043-02, 03, 04

The permit will be held in the San Diego District Office of the Commission, pending fulfillment of Special Conditions 1 - 15, 17, 18 & 20. When these conditions have been satisfied, the permit will be issued.

CHARLES DAMM DISTRICT DIRECTOR 8Y



NOTICE OF INTENT TO ISSUE PERMIT NO. 6-92-203 Page 2 of 10

STANDARD CONDITIONS:

- 1. Notice of Receipt and Acknowledgement. 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.
- 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. <u>Compliance</u>. 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 approved.
- Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 5. <u>Inspections</u>. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
- 6. <u>Assignment</u>. 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. <u>Terms and Conditions Run with the Land</u>. 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.

SPECIAL CONDITIONS:

The permit is subject to the following conditions:

1. <u>Final/Revised Plans</u>. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, final/revised site, building, and foundation plans that have been approved by the City of Encinitas and shall incorporate the following:

a. A revised site plan indicating a minimum 25 ft. setback for all structures from the inland bluff edge as shown on Exhibit #1 attached. The inland bluff edge is generally described as the 60 ft. topographic contour from the western limit and ascending to the 78 ft. topographic contour adjacent to the proposed restaurant site and eastern limit of the inland bluff. In addition, the revised site plan shall indicate that the connecting access path, as described in Special Condition #2 below, has been revised to follow the inland bluff edge, to the north of the proposed NOTICE OF INTENT TO ISSUE PERMIT NO. 6-92-203 Page 3 of 10

SPECIAL CONDITIONS. continued:

restaurant and extending to the hotel entrance at Highway 101. The plan shall indicate that the only structures permitted within the 25 foot setback shall include the public access pathways.

b. Said plans shall have received design review approval from the City of Encinitas and verify that no structure shall exceed 2 stories or 30 feet in height as measured from the lower of natural or finished grade.

2. <u>On/Off-site Public Access Program</u>. Prior to the issuance of the coastal development permit, the applicant shall submit for review and written approval of the Executive Director, detailed plans which shall incorporate each of the following access features:

a. <u>Bluffton Overlook</u>. A blufftop scenic overlook for hotel guests and the visiting public along the western portion of the site. Said overlook shall include a safety rail or barrier which does not interfere with public views, and benches for the visiting public. No structures are to be located within 5 ft. of the bluff edge. The overlook's structural features shall be designed to facilitate relocation as needed to respond to potential bluff erosion. The public area shall include at a minimum the area of 55 ft. from the top of the bluff (approximately 60 ft. topographic contour) as indicated on the site plan dated January 13, 1992.

b. <u>Public Parking</u>. The hotel parking lot shall be available for use by the general public.

c. <u>Public Access Stairway/State Park Overlook</u>. A stairway that extends from the top of the coastal bluff at the northwestern corner of the site, off-site in a northward direction down the bluff to the State Beach parking lot below. Said stair structure shall provide a public viewing area/rest platform halfway down that includes seating and a shade structure for the visiting public.

d. <u>Connecting Access Path</u>. A paved sidewalk or pedestrian access path for public use, at least 8 feet in width, that connects the seabluff overlook and Highway 101 and follows along the top of the inland bluff, as depicted on the revised site plan required under Special Condition #T above.

e. <u>Pedestrian Access Road</u>. A paved pedestrian/handicapped access path for public use that extends from Highway 101 and the adjacent State Parks parking lot (off-site) to the connecting path (d above) on-site at the top of the inland hillside.

f. <u>Signage</u>. Access routes, overlooks and blufftop access stair shall be clearly marked for public use with a minimum of one sign located along Hignway 101 at the entrance to the hotel and at the entrance to the pedestrian access road; at the base and top of the access stairway; at the

NOTICE OF INTENT TO ISSUE PERMIT NO. 6-92-203 Page 4 of 10.

SPECIAL CONDITIONS, continued:

blufftop overlook and in the parking garage. Said signage shall indicate the provision of public access through the site, the availability of public parking and the location of the blufftop overlook and access stair. In addition, signage shall be located at the adjacent State Beach parking lot (the placement and design to be acceptable to the State Department of Parks 1 and Recreation) that directs the public to the access trails and blufftop overlook at the proposed hotel site. The text, design and location of such signs, which shall be clearly visible, shall be subject to review and approval of the Coastal Commission prior to issuance of the permit.

g. <u>Continual Access</u>. No structures shall be constructed or placed that would impede use of the public accessways or blufftop overlook by the general public.

Prior to the issuance of the coastal development permit, the applicant shall apply for and obtain a separate coastal development permit for the proposed off-site public access stairway/state park overlook. Approval shall first be obtained from the State Department of Parks and Recreation. The plans shall indicate the access structures shall be constructed prior to or concurrent with the hotel construction, and shall be completed prior to occupancy of the hotel. All plans shall be first be reviewed and approved by the City of Encinitas.

3. Implementation of the On-site and Off-site Access Programs. Prior to the issuance of the coastal development permit, the applicant shall record a restriction against the subject property, free of prior liens and encumbrances, except for tax liens, and binding on the permittee's successors in interest and any subsequent purchasers of any portion of the real property. The restriction shall state that the applicant shall agree to construct and maintain the public access facilities on-site and off-site as depicted on the plans required and approved pursuant to Special Condition #2 of this permit. The applicant shall agree to construct the access features prior to or concurrent with the hotel construction, and that the access improvements shall be completed prior to occupancy of the hatel. The applicant shall also agree to maintain said access improvements in perpetuity regardless of whether the required access easements are accepted by a public agency or private association. The recording document shall be in a form and content acceptable to the Executive Director. Evidence of recordation of such restriction shall be subject to the review and written approval of the Executive Director.

4. Offer to Dedicate Public Access. Prior to the issuance of the coastal development permit, the applicant shall record an irrevocable offer to dedicate to a public agency, or to a private association acceptable to the Executive Director, easements for passive recreational use and public access to and along the shoreline, as applicable. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access

NOTICE OF INTENT TO ISSUE PERMIT NO. 6-92-203 Page 5 of 10

SPECIAL CONDITIONS. continued:

acquired through use which may exist on the property. Said easements shall encompass the access features required and approved pursuant to Special Condition No. 2 of coastal development permit #6-92-203, except where the features are located on existing public lands, and as depicted in concept on Exhibit #5 attached. The document shall include legal descriptions of both the applicant's entire parcel(s) and the easement areas. The offer shall be irrevocable for a period of 21 years, shall run in favor of the People of the State of California, binding successors and assigns of the applicant and/or landowners, and shall be recorded prior to all other liens and encumbrances, except tax liens. The offer to dedicate shall be in a form and content acceptable to the Executive Director.

5. Low Cost Recreational Facilities/In lieu Fee. Prior to the issuance of the coastal development permit, the applicant shall comply with the following, subject to review and written approval of the Executive Director:

The applicant shall provide through a financial instrument subject to Executive Director approval, the amount of not less than \$156,000 payable to the California Coastal Commission. Such deposit shall be available for distribution to a public agency or a private non-profit association designated in writing by the Executive Director of the Coastal Commission (including, but not limited to, the California Department of Parks and Recreation or the American Youth Hostel Association) for the acquisition of land and/or construction of a low-cost visitor serving overnight accommodations within San Diego County. Such funds shall be deposited, beginning with 10% of the total due prior to the issuance of the coastal development permit (\$15,600); and the balance due prior to occupancy of the hotel (\$140,400).

5. Prohibition on Conversion to Exclusive Use. Prior to the issuance of the coastal development permit, the applicant shall submit evidence for review and approval in writing by the Executive Director, that a deed restriction has been recorded for the hotel site which indicates that this coastal development permit authorizes the development of a 130-unit resort hotel complex with banquet and meeting facilities and a restaurant, which is a proposed visitor serving use exclusively available to the general public. Furthermore, the deed restriction shall specify that conversion of any portion of the approved: facilities to a private or member only use or the implementation of any program to allow extended or exclusive use or occupancy of the facilities by an individual or limited group or segment of the public is specifically not authorized by this permit and would require an amendment to this permit or a new cermit in order to become effective. The document shall run with the land, binding all successors and assigns, and shall be recorded free of grior liens and encumbrances, except tax liens, and binding on the permittee's successors in interest and any subsequent purchasers of any portion of the real property.

NOTICE OF INTENT TO ISSUE PERMIT NO. 6-92-203 Page 6 of 10

SPECIAL CONDITIONS, continued:

7. Offer to Dedicate Open Space Easement. Prior to the issuance of a coastal development permit, the applicant shall record an irrevocable offer to dedicate to a public agency, or to a private association acceptable to the Executive Director, an open space easement over the area shown on the attached Exhibit "#4" and generally described as the coastal bluff face from approximately the 60 ft. topographic contour to the toe of the bluff and the inland bluff face from the top of the bluff (approximately the 60 ft. topographic contour, except for the eastern most portion of the site where it ascends to the 78 ft. countour) to the northern property line. The document shall include legal descriptions of both the applicant's entire parcel(s) and the easement area. Said open space easement shall prohibit any alteration of landforms, placement or removal of vegetation, or erection of structures of any type, except as approved in coastal development permit #6-92-203.

The offer shall be irrevocable for a period of 21 years, shall run in favor of the People of the State of California, binding successors and assigns of the applicant and/or landowners, and shall be recorded prior to all other liens and encumbrances, except tax liens. The offer to dedicate shall be in a form and content acceptable to the Executive Director.

8. <u>Revised Landscaping Plan</u>. Prior to the issuance of the coastal development permit, the applicant shall submit a detailed final landscape plan indicating the type, size, extent and location of all plant-materials, the proposed irrigation system and other landscape features. Drought tolerant native or naturalizing plant materials shall be utilized to the maximum extent feasible. In addition, said plans shall indicate the following:

a. All areas of the inland bluff that have been disturbed by grading historically or by grading for the proposed project shall be replanted with native species. Vegetation shall also be planted for purposes of screening the proposed retaining walls and potential de-silting basin located along the pedestrian access road.

b. The placement of at least 40 specimen size trees (minimum 24-inch box) along the northern and northeastern facing areas of the site (as alternatives or in addition to the proposed palms). Said trees shall be of a species with sufficient height and canopy to break-up the north facing building facade and effectively screen the north facing areas of the proposed development from views from Highway 101, the beach and and the lagoon. This may include landscaping on the off-site portions of the inland hillside, subject to approval by the State Department of Parks and Recreation.

c. Minimal landscaping shall be permitted within the geologic setback area (55 feet from the edge of the bluff). Any proposed landscape screening along the western limits of the hotel buildings shall occur outside the 55 setback area.

NOTICE OF INTENT TO ISSUE PERMIT NO. <u>6-92-203</u> Page 7 of <u>10</u>

SPECIAL CONDITIONS, continued:

d. No permanent irrigation system shall be allowed within the geologic setback area (55 ft. from the coastal bluff), within 25 feet of the inland bluff, or on any bluff face.

e. Prior to occupancy of the hotel, all required plantings shall be in place. In addition, the applicant shall submit a written commitment that all required plantings shall be maintained in good growing condition, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape screening requirements.

Said plan shall first be approved by the City of Encinitas and State Department of Parks and Recreation, and shall be submitted to, reviewed and approved in writing by the Executive Director.

9. Exterior Treatment. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval of the Executive Director, a color board or other indication of the exterior materials and color scheme to be utilized in the construction of the proposed hotel facility. Said materials shall be consistent with those described in the following which shall be recorded as a deed restriction against the property that states:

Any future modifications to the exterior surfaces of the hotel shall be implemented with building materials of natural earthen tones, including deep shades of green, brown and grey, with no white or light shades, and no bright tones, except as minor accents, to minimize the development's contrast with the surrounding scenic areas, and consistent with those approved under Coastal Development Permit #6-92-203, on file in the San Diego Commission office.

Said restriction shall be recorded in a form and content acceptable to the Executive Director. The document shall be recorded against the subject property, free of all prior liens and encumbrances, except for tax liens, and binding on the permittee's successors in interest and any subsequent purchasers of any portion of the real property.

10. <u>Sign Program</u>. Prior to the issuance of the coastal development permit, the applicant shall submit a comprehensive sign program for all proposed signage, including access signage as required in Special Condition #2 above, documenting that only monument signs, not to exceed eight (8) feet in height, or facade signs are proposed. No tall, free-standing pole or roof signs shall be allowed. Said plans shall be subject to the review and written approval of the Executive Director.

11. Assumption of Risk: Prior to the issuance of the coastal development permit, the applicant [and landowner] shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from shoreline erosion, structural failure,

NOTICE OF INTENT TO ISSUE PERMIT NO. <u>6-92-203</u> Page 8 of <u>10</u>

SPECIAL CONDITIONS, continued:

earthquakes and related seismic hazards and other geologic conditions and the (b) applicant hereby waives any future claims of liability against the Commission or its successors in interest for damage from such hazards. The document shall run with the land, binding all successors and assigns.

12. Disposal of Graded Socils. Prior to the issuance of the coastal development permit, the applicant shall identify the location for the disposal of graded spoils. 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. In addition, any material found suitable for beach use by the State Department of Parks and Recreation shall be reserved for placement on the beach. Applicable – permits/review/approval from the Army Corps of Engineers and/or California Department of Parks and Recreation or other public agency shall be obtained prior to placement on the beach.

13. Removal of Rigrag. Prior to the issuance of the coastal development permit, the applicant shall submit detailed plans for removal of the approximately 60 ft. of riprap along the base of the bluff for review and approval in writing by the Executive Director. Said plans shall indicate the location of access corridors to the construction site and staging areas. 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 (Highway 101 and La Costa Avenue, in this instance). Use of public parking areas for staging/storage areas shall not be permitted. Disturbance to sand and intertidal areas shall be minimized. Beach sand excavated shall be redeposited on the beach. In addition, said plans shall also indicate that removal shall not occur during the summer months (Memorial Day weekend to Labor Day) of any year. The applicant shall submit photographic evidence to document that the rigram has been removed and that the removal shall occur prior to occupancy of the hotel. In addition, the applicant shall identify the disposal site for the removed rock. If said deposition site is located within the Coastal Zone, approval of a coastal development permit shall be required. However, if further geotechnical evidence is submitted by the applicant for review and written approval of the Executive Director, which clearly documents that removal of the riprap would itself cause erosion and bluff stability concerns. then the riorap shall be allowed to remain.

14. <u>Grading and Erosion Control</u>. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, final grading, drainage and runoff control plans which incorporate the following:

a. All runoff from impervious surfaces shall be collected and directed appropriately away from the bluff edge.

b. The drainage and runoff control plans shall be designed by a licensed

NOTICE OF INTENT TO ISSUE PERMIT NO. 6-92-203 Page 9 of 10

SPECIAL CONDITIONS, continued:

engineer qualified in hydrology and hydraulics, which would assure no increase in peak runoff rate from the developed site over runoff that would occur from the existing undeveloped site, as a result of a tan-year frequency storm over a six-hour duration (10 year, 5 hour rainstorm). Runoff control shall be accomplished by such means as on-site detention/desilting basins. Energy dissipating measures at the terminus of outflow drains shall be constructed.

c. Said plans shall indicate that storm water discharge from the project site, including the underground parking area, shall be subjected to a filtering system which will insure that sediment and potential pollutants (i.e., oil and grease) are filtered prior to discharge.

d. All grading activity shall be prohibited between October 1st and April 1st of any year. In addition, all areas disturbed by grading shall be planted within 60 days of the initial disturbance and prior to October 1st with temporary or permanent (in the case of finished slopes) erosion control methods. Said planting shall be accomplished under the supervision of a licensed landscape architect, shall provide adequate coverage within 90 days, and shall utilize vegetation of species compatible with surrounding native vegetation, subject to Executive Director approval.

e. All permanent runoff and erosion control devices shall be developed and installed prior to or concurrent with any on-site grading activities.

f. All areas disturbed, but not completed, during the construction season, shall be stabilized in advance of the rainy season. The use of temporary erosion control measures, such as berms, interceptor ditches, sandbagging, filtered inlets, debris basins and silt traps shall be utilized in conjunction with plantings to minimize soil loss from the construction site.

Said plans shall be first reviewed and approved in writing by the City of Encinitas, the State Department of Fish and Game, the State Department of Parks and Recreation and the Regional Water Quality Control Board.

15. <u>State Lands Commission Review</u>. Prior to the issuance of the coastal development permit, the applicant shall obtain a written determination from the State Lands Commission that:

- a. No State lands are involved in the development; or.
- b. State lands are involved in the development, and all permits required by the State Lands Commission have been obtained; or,
- c. State lands may be involved in the development, but pending a final determination, an agreement has been made with the State Lands Commission for the project to proceed without prejudice to that determination.

NOTICE OF INTENT TO ISSUE PERMIT NO. 6-92-203 Page 10 of 10

SPECIAL CONDITIONS, continued:

16. <u>Public Rights</u>. By acceptance of this permit, the applicant acknowledges, on behalf of him/herself and his/her successors in interest, that issuance of the permit shall not constitute a waiver of any public rights which may exist on the property. The applicant shall also acknowledge that issuance of the permit and construction of the permitted development shall not be used or construed to interfere with any public prescriptive or public trust rights that may exist on the property.

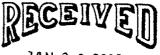
17. Off-site Improvement Plans. Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, final plans, approved by the City of Encinitas for all proposed off-site improvements. Said plans shall include, but are not limited to, signalization at La Costa Avenue/Highway 101, northbound left-turn lane from Highway 101 into the project site, a right-turn/deceleration lane at the southbound approach to the Highway 101/La Costa Avenue intersection, driveway improvements, sidewalk improvements and bus stop.

18. <u>La Costa Avenue/I-5 Interchange Improvements</u>. Prior to the issuance of the coastal development permit, the applicant shall be required to submit to the Executive Director for review and written approval evidence of contribution to the City of Encinitas of a pro-rata share for the construction of interchange improvements at the La Costa Avenue/I-5 Interchange. Said improvements are not a part of this permit and will be subject to review and approval under a separate coastal development permit.

19. <u>Prior to Occupancy</u>. Prior to receipt of an occupancy permit from the City of Encinitas, and pursuant to Special Condition Nos. 5, 8 and 13 above, it shall be the applicant's responsibility to submit required documentation/evidence of compliance with these conditions to Commission staff.

20. <u>Traffic Mitigation Plan</u>. Prior to the issuance of the coastal development permit, the applicant shall submit for review and written approval of the Executive Director, a traffic mitigation plan for the intersection of the pedestrian access road and Highway 101. Said plan shall indicate redesign of this intersection as necessary to allow for safe ingress and egress and the plan shall first be approved by the City of Encinitas Traffic Engineer and implemented prior to the occupancy of the hotel.

(3661N)



JAN 2 6 2000

CALIFORNIA COASTAL COMMISSION SAN DIEGO COAST DISTRICT

January 26, 2000

VIA MESSENGER

Ms. Diana Lilly California Constal Commission 3111 Camino De Rio North, Suite 200 San Diego, CA 9210_

Re: Application for Extension of Coastal Development Pannit No. 6-92-2-03E4; Encinitae Resort Corporation

Dear Diana:

This letter is being submitted on behalf of Encinitian Resort Corporation ("ERC") in support of its pending application for an extension of Constal Commission Permit No. 6-92-203 ("Permit"), and particularly in response to the comment letters neceived from the Batiquitos Lagoon Foundation and Robert Macfarlane. For the reasons set forth below, we believe that the issues related in these comments do not identify any changed original program, and therefore Project's consistency with the Constal Act and the certified local constal program, and therefore respectfully request that the extension be approved.

A. The Changes Identified in the Comments are Not Material and Do Not Affect the Project's Consistency

The comments focus on three primary issues of concern: (1) the construction of 2 jettics approximately % mile north of the project site which are alleged to potentially impact erosion of the coastal blaff; (2) increased traffic in the project area; and (3) wildlift use of the project site.

1. The Jetties Will Not Affect Bluff Stability for the Project

The Project as approved requires a 55 foot bluff-edge sciback, even though the City of Encinitias certified LCP only requires a 40 foot setback. This increased sciback was determined based upon geologic studies prepared by URS Greiner Woodward Clyde dated August 1992, which was submitted to the Commission when the project was initially proposed. The setback is based on the estimated long team troution rate affecting the size area (.2 to .3 feet per year), and also incorporates a potential higher encoder rate (.5 feet per year) to accounted future climatic conditions, see level rise and the possibility that rates of erotion at the site may increase. Other factors, including submitted and increased sciback. See Letter from Mr. David Schug to Mr.



PAGE 02

WH PACIFIC

Ms. Diana Lilly January 25, 2000 Page 2

convoluting the evolution mine used to develop the project actions, were prepared in 1996, 1997 and as mountly as lines [] of 1999, and they all constude that there is no orderand of increased excelor. A only of the updated reports are attached hereto as Excitite "2." Mark Johnson dated January 21, 2000, attached hereto as Extidit "L." Updated reports

emaion rates could instance due to variabilits such as construction of the jetting or effocts of 51 Nino. See Letter by Mr. Soling dated Jamary 10, 2000, strached hereto as Exhibit *3.* Moreover, there is no evidence that the jettine will have any effect on the name of bint? erosion. See Letter by Mr. Schug dated Jamary 26, 2000, attached hereto at "Exhibit *4." The around rates for the project's scheck are conservative and factor in the fact that

Photity, it should be noted that the proposed development -- which will include significant incheraping, desings control and shoet grading -- will actually promote slope stability and may actually minute the rate of bind excision.

In such, the potential for bluff ecotion —whether from weather, construction of structures or way other factors (including the jettice) — has already been considered and is more than adequately accounted for by the project's required 55 flost subject. Nothing in the second suggests otherwise.

Ņ Traffic Has Alrendy Been Accord and Therefore Ja Not a Changed Chernaustance and for on a Regional, Bulle Out Basis

The original EJR for the project, which was obtained by the Commission when the Permit was approved, was based as regional, built-out traffic projections. As such, future traffic has already been accounted for and doct not constitute a changed circumstance. For this reason, the allogations of increased to mills was stocastly determined to not be seatched by the Bachdas City Council when it hold public bearings on the attention of the City antillements for the project in June of 1999. Enclosed as Exhibitin "5" and "6" are the latters submitted to the City in the of 1999. ERC on this issue catabilishing that traffic impacts wave automed on a neglocal, built-out busis such that any increased traffic has already been taken into accound. Based on this ordenee, the City determined that traffic was not a new, substantial issue, recentified the HRR and recorded a Notice of Determination (a topy of which is enclosed as Exhibit */*).

the country Moncover, traffic improvements and midgetion requirements are required as a condition of the project. See, e.g., Permit Condition 20 (requiring solurisaion and approval of turffic minightion belated and inappropriate attempt to do an end run around the City's final determination. No evidence has been offered to suggest that the City's determination was encourous, and meansains should not be permitted to mize this issue now before the Commission as a

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Ms. Diana Lilly January 25, 2000 Page 3

plan for intensection of the pedestrian access tool and Highway 101). As such, the alleged increase in malific does not identify a changed circumstance affecting the project.

3. Wildlife Use of the Site

The original EIR for the project, which was relied upon by the Commission when it approved the project, noted that the site is a disturbed site that is isolated from the lagoon both geographically and topographically, and is not the site of any significant wildlife habitat. Attached hereto as Exhibit "8" are the relevant excerpts from the EIR. As noted above, the EIR was recently recertified in June of 1999 by the City of Bacinitas, and there is no evidence in the record to suggest that there are any material changes in wildlife on the site – which has continued to be a disturbed nic.

On January 25, 2000, Betty DeHoney of P&D Consultants also visually inspected the site. Anached hereto as Exhibit "9" is a letter setting forth's Ms. DeHoney's observations, and noting that she did not identify any significant habitat on the site. As such, the comments suggesting wildlife on the site are unfounded and based on mere speculation, and thus fail to identify any material changed circumstance.

B. The Project Furthers the Polivies of the Constal Act and LCP

In addition to the fact that there are no changed circounstances, as sat forth below, the proposed Project furthers the policies of the Constal Act and LCP:

- It is the only ocean front site named limited visitor serving commercial in the City of Encloses, and thus will be a development that furthers the Commission's visitor-serving goals, including a required \$156,000 payment of funds for lowcost visitor serving overnight accommodations in San Diego.
- The proposed project will provide a development that promotes public access to the facility and the beach, and provides numerous public amenities for the surrounding community – the project will include an onsite and officite public access program from Highway 101 to the beach through the site that includes a state park overlook, binfflop overlook, a public access stairway from the top of the coastal bluff on the site to the state park parking lot and public parking.
- The site is being redeveloped in accordance with the Commission's policy to move development away from the bluff edge - it removed the existing mobile

Ma. Diana Lilly January 25, 2000 Page 4

> homes which were located in a branchous manner on the bluff and is placing the new development 55 thet back from the bluff.

- The project proponent has obtained a separate partial (Permit No. 6-99-138) from the Constribution for the removal of the signap at the base of the bluff and has agreed to remove all visible rigsup for a five (5) year period, thereby furthering the Commission's objective to remove rights from the samely beaches.
- The project is conditioned to explore the possibility of placing approximately \$0,000 cubic yeads of such from the accordion of the site to the surrounding beach, and the groupouts for doing this are good. See Letter by URG attached herets as Exhibit "10," thereby furthering the Commission's goal of enhancing and preserving the study beaches for public use.

For the reasons set forth above, ERC respectfully sequents that the application for an extension be approved.

Vary truiv w es Hirsch

KMD

cc: Ma. Debomh Lee Mr. Lee McEachem Mr. Takeshi Kinoshita

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URS Greiner We A Vision of URE Companying ward Ciyde

1915 Milutzy Campon Rund. Sadet 1000 Swe Giago, CA-92106 Swi 6:19,204 9000 Faic 519,204 9000

January 21, 2000

Sup Francisco, CA 94105-2219 California Coastal Commission 43 Fremom Strott, Suite 2000 Mr. Mark Johnson

Application No. 6-92-203 Encinitas Report House Subject Geologic Studies

Dear Mr. Johnson;

been planted using a 53-fbot bluff-edge without. potendal higher ensige rads inded locally the to blockfulls (0.5 feet per year). Other funces evaluated included subserial eration, slope stability and groundwater. Based as there factors, the proposed housi lass estimated the long term erosion (the affecting the non-west (0.2 to 0.3 fast per year), and also examiniated report provided). Our saydy included comparison of historical maps and photon dating back to 1929. We Eachings, California. In 1992, we prepared a drauled bluff eronion andy and mability auxilying (copy of For your seview, we are providing copies of goologic studies prepared for the proposed report hotel is

Anny: Corps of Engineers (1996), and a recess article in Shore & Banch by Benunof and Griggs (October, 1999). The Corps' report contains a good summary of coastal geology, and Benunof and Griggs process bluff contion this quantified by photogrammetry. Both and its operbleman our previous estimates of the crosion rate used at develop the project school. For your information, I have also provided copies of the Rectors issued Report for Encidence by the U.S.

quinculous, picase first from to contains one as (619) 687-6174. We appreciate your interest in the project We have been studying this size and other projects in Sociation for quitt some time, and we would approxime any additional information, or if you have any

Yery only yours,

URS GREENER WOODWARD CLYDE

Pripatha

David L. Schug, C.E.G.

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URS Breiner Woodward Clyde

A Division of UHS Corporation

November 18, 1999

1815 Murray Canyon Road, Suita 1000 San Diego, CA 92108 Tel: 619.294.8400 Fax: 619.293.7920 Offices Worldwide

Mr. Jim Hirsch c/o Encinitas Resort Corporation 2100 Costa Del Mar Road Carlsbad, CA 92009

Subject: Update Geologic Reconnaisance Encinitas Beach Resort Encinitas, California Project No 58-9911057D.00-0GE01

Dear Jim:

As you requested, we have made a geologic reconnaissance of the coastal bluff at the site of the proposed resort hotel. The purpose of this review was to evaluate the current condition of the bluff with respect to erosion conditions or other significant geologic features. The historical photographs presented in our 1992 report¹, offer a basis of comparing past and current conditions.

Based on our review, the bluff has experienced localized minor erosion, primarily from surface runoff. Over the past several years, an eroded channel has developed in the central portion of the bluff (see photos, Figure 1). This feature was noted by Michael W. Hart, Engineering Geologist (letter dated February 9, 1999) and was attributed to concentrated runoff from the area of the former mobile home park. Based on Mr. Hart's description, the channel seems to have deepened and widened to some extent, depositing loose sand at the bluff toe. Enlargement of the channel is at least partly due to persons digging in the bluff (see upper photo). With the exception of the eroded channel, the rate of erosion appears to be within the range estimated for the site (0.2 to 0.3 feet per year).

If you have any questions, please call. Very truly yours,

URS GREINER WOODWARD CLYDE

David L. Schug, C.E.G. 1217 Engineering Geologist

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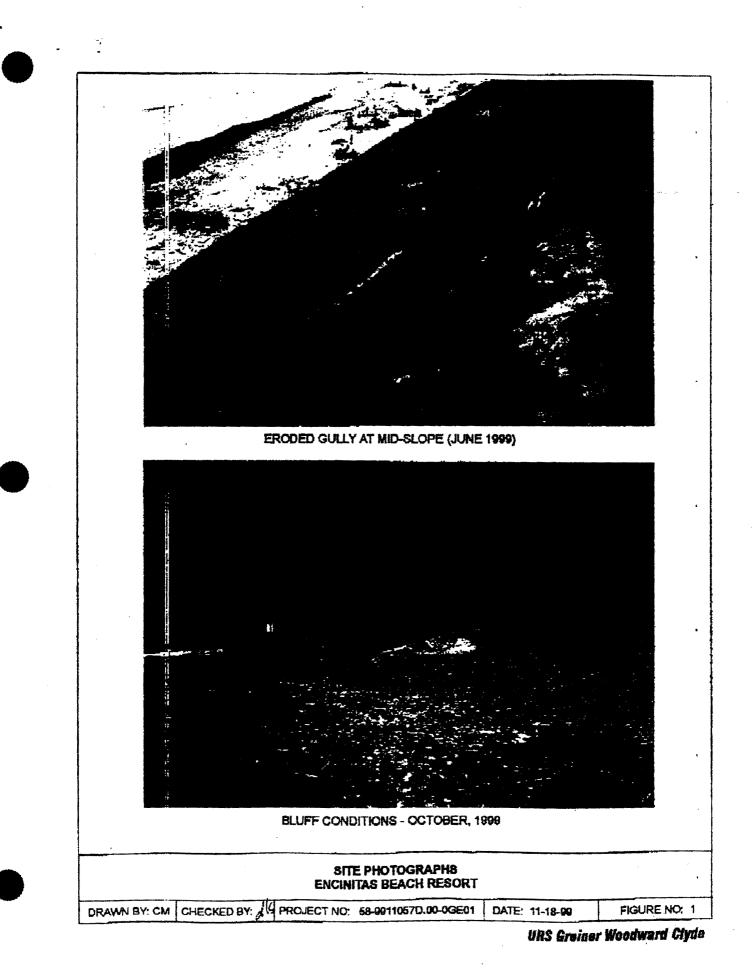
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¹ "Evaluation of Seachiff Broston and Stability, Proposed Encinites Beach Resort, California" dated August 7, 1992.

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MICHAEL W. HART

SHORNESSING GROUPS

Pebruary 9, 1999 File No. 243-66

Irvine, California 92715-1597 Allen, Mathing, Leck, Gambio, & Mailory 18400 Von Karman, Fourth Flour

Ann: Mr. Thomas Gibbs

Subject: Encisite Banch Resort Property Bacialita, California UPDATIS OF ENGINEERING GEORDESC NECCONNAISSANCE

Gondenner

In addition I have revisited the site for the purpose of determining if eightforms changes have construed with respect to provide, drainings, or geologic conditions since that report was propared. The mobile house park and other wood-forms structures have been respond since the original site study was performed. Reconsis in secondance with your sequent I have reviewed the pipert entitled Engineering Goologic Boo for the Su at Shores Mobile Bonn: Furk propered by the update grand on July 22, 1996.

by installation of perform drainings improvements in the upper portion of the site. Plantographs also confirm that the cobble berm shows the bench exists accatinily at the same position and elevation as it comparison it is concluded that an significant changes have occurred to either the position of the bioff cuiting the upper grady westerity sloping perion of the property man the north and of the uninting mesonry well. This change in defining pattern could have occurred as a result of the relatively rest by installation of parface drai removel of the mobile home part's wood frame structures. Bristing draipage could be readily convected sigs or the appointness of the blaff face with the following minor encoption. An aronion channel with a postions and meting tirest comparisons to the current coolitions of the blaff. But that? top and bight from were taken and compared to current conditions by recoveryying the photograph formations and metrics direct comparisons to the current conditions of the bight. Based on this In order to accomplish this roview and update, envent one-bialf and basch conditions wate compared with conditions that an and at the time of the July, 1996 andy. At that time averal photographs of the extend in 1996. maximum depth of approximately five or mix flox has appeared on the bluff face about unidency down the bluff in the north-control portion of the site. This channel has musical from concentrated storm runoff then could have occurred as a small of the relatively special note in the upper portion of the airs. Photographs also

If you have any questions cooccuring the original report or this update latter, planes contact the undernigned at yo

Bagincering Geologia CEG 706

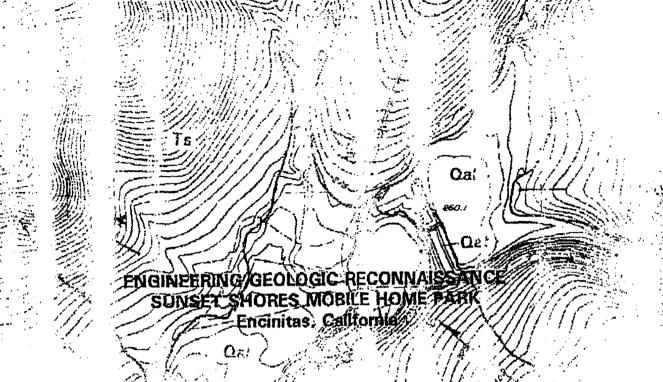
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for Allen', Matkins, Lack, Gamble, & Mallory Irvine, California July, 1996

MICHAEL W. HART ENGINEERING CEOLOGIST

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SETATORO29 24:1

MICHAEL W. HART

File No. 253-96 July 22, 1996

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Allen, Matkins, Leck, Gamble, & Mallory 18400 Von Karman, Fourth Floor Irvine, CA 92715-1597

Attn: Mr. Thomas Gibbs

Subject: Sunset Shores Mobile Home Park Encinitas, California ENGINEERING GEOLOGIC RECONNAISSANCE

Gentlemen:

In accordance with an agreement dated July 2, 1993, the undersigned has completed a geologic reconnaissance of the sea-bluff located at the subject site. It is concluded that erosion and bluff retreat potential at the site can be classified as low to moderate. The sea-bluff can be expected to retreat at an average long term rate of from 0.2 to 0.3 feet per year. The geologic conditions of the site and the potential for bluff failure and resulting distress to existing structures is discussed in the following report.

Very truly yours,

Michael W. Hart CEG 706

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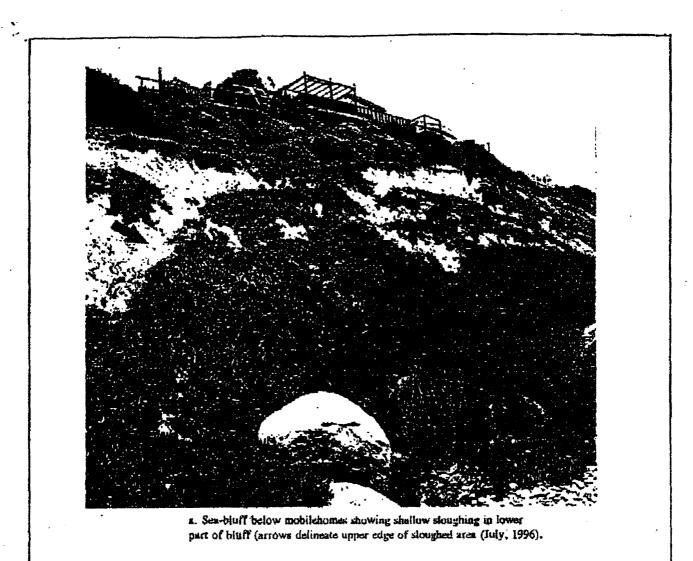
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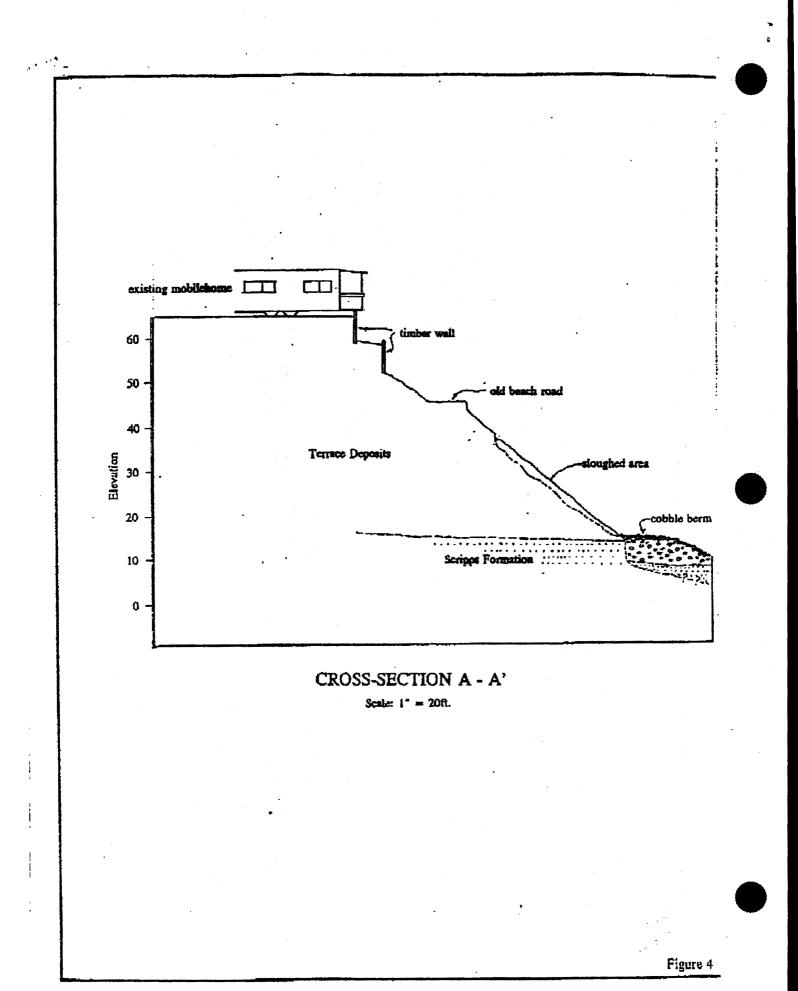
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b. North end of old beach road looking South (July, 1996). Note erosion has removed much of paved portion of road in center of photo (arrow).

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Woodward-Clyde Consultants

Engineering & summers applied to the same a series and

August 7, 1992 Project No. 9251036D-GE01

Mr. Paul Graham La Costa Hotel and Spa Costa Del Mar Road Carlshad, CA 92009

EVALUATION OF SEACLIFF EROSION AND STABILITY PROPOSED ENCINITAS BEACH RESORT ENCINITAS, CALIFORNIA

Dear Mr. Graham:

This report presents Woodward-Clyde Consultants' evaluation of seachiff crossion and stability at the site of the proposed Escinitzs Beach Resort. The evaluation was performed in accordance with our proposal dated April 1, 1992 (revised April 17, 1992).

Our evaluation was accomplished by a review of available geologic, geotechnical, and coastal information supplemented by new topographic and subsurface information. Using this data, we estimated the crossion of the smalliff due to wave action at the tree and subserial crossion along the face. The stability of the scacliff during an earthquake was also evaluated.

We recommend that a setback distance of at least 50 feet from the top of the sencirif bluff adge be used in planning the project. Our evaluation indicates that this setback distance should be sufficient for the 75-year design life of the project.

If you have any questions regarding this report, please contact us. We look forward to assisting you on this project as it proceeds.

Very truly yours,

WOODWARD-CLYDE CONSULTANTS

David L. Schug Project Manager C.E.G. 1212

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D. Handleit Senior Project Eng R.G.E. 373 GE373 27 AU

2560 Howi Cizcle North = Sen Olego, California 92158 (819) 294-8400 + Fax (619) 293-7930

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January 10, 2000

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Mr. Jim Hirsch clo Enclains Researt Corporation 2100 Casan Del Mar Road Caristoad, CA 92009

Supjence Encinitas Beach Resort Encinitas, California Potential Increased Binff Broalos

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evaluations. suggests that the new jother at Bathquines Lagnon may diminish the sand supply which may increase emakes of the coanal blaff. Also, there is concern that effentile factors have not been considered as part of size geologic We have seviewed the letter dated December 9, 1999 from the Backquinos Lagour Recadedion.

An evaluation of aca chill contine and scholliky of the sets was propaged to necommend blaff edge setheric coherts for the proposed bont perject. The anerty countiblend mann than 60 years of evaluation of the judicemedian. This time frame oncompanies emery system of erosion and beach conditions prior to countrations of the judice. In evaluating a setterick for the project, an crudes rate of 0.5 feet per year was used which, when applied to this sith, results in more than 2 to 21/s inters the total orotation apparent over the past 60 years. The long term academ to 0.3 (not per year. However based on an bigher than he available dans, research meric mation accept the birth and incom us pendy pulleous the possi pailed in the project study 5 the possibility shall be altered excesses and sources at acred at Grandview Sucrated oper study, the site specific evolves, in estimated for the past 60 years is approximately at. However, for sedant purpose, it was recommended that the past 60 years is approximately are then belowered evolves runs (i.e., 0.5 fear per year) to account for measurishing that runsers and oddingy, former climate conditions, and level ins, and the possibility that runsers may increase. Therefore, the possibility that spectra may increase was considered. "The long term explore Geometriew Street." As e sinveli be Y 0.2

State our report was propured, we have made interrutuan site visite, primarily to observe the control birth as well as the beach conditions. Since compraction of the jentics, the eroiseic and constal factors crowleared for developing project sotback recommendations are still appropriate. well as the beach cut Since ou praction of the jentes, the projects and constant factors considered for

We approciate the opportunity to provide these commonly

Very truly yours,

URS GREINER WOODWARD CLYDE

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David L. Schug, C.E.G. 12 12 Engineering Goologist

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6-92-203-E4

URS Greiner Woodward Clyde

A Division of URS Corporation

January 26, 2000

Mr. Jim Hirsch c/o Encinitas Resort Corporation 2100 Costa Del Mar Road Carlsbad, CA 92009

Subject: Comparison of Geologic Conditions Encinitas Coastline Encinitas, California URSGWC Project No. 58-9911057D.00-0GE01 1615 Murray Canyon Road, Suite 1000 San Diego, CA 92108 Tel: 619.294.9400 Fax: 619.293.7920 *Offices Worldwide*

JAN 26 2000

CALIFORNIA COASTAL COMMISSION SAN DIEGO COAST DISTRICT

Dear Jim:

As you requested, this letter provides an overview of geologic conditions that influence bluff erosion and stability along the Encinitas coastline. The objective of this review is to compare the geology of the proposed hotel site with areas to the south where several recent coastal bluff failures have occurred. The larger bluff failures include a landslide south of Beacon's Beach (June 1996) and a large blockfall near Stone Steps Beach in January 2000. The approximate locations of these areas are shown on Figure 1.

Some of the significant differences in geologic conditions as they relate to susceptibility to bluff erosion/instability are briefly outlined below. More detailed descriptions of coastal geology and bluff erosion in Encinitas are presented on a reach-by-reach basis in reports prepared by Zeiser-Kling Consultants (1994) and the U.S. Army Corps of Engineers (1996). A comparison of representative geologic profiles from the above-mentioned areas is presented on Figure 2.

Key erosion and stability factors along the Encinitas coastline include:

- Erosion Rate The project site is located within Reach 1, as described by USACE (1996). According to this study, Reach 1 has the lowest estimated erosion rate for the Encinitas coastline. Since about 1982/1983, the comparatively low erosion rate is at least partly due to the presence of the well defined cobble berm. To the south, the cobbles are sparse, and free to abrade the seacliff toe.
- Bluff Profile and Height The bluff is lower on the project site. The overall height of the coastal bluff decreases from over 100 feet on the south to about 65 feet on the site. The terrace deposits within the project area have a comparatively stable, gentle slope inclination without oversteepened areas.
- Geologic Contact Elevation The geologic contact between the terrace deposits and Eocene sedimentary formations gains elevation from north to south. When the geologic contact is higher, a higher vertical seacliff can develop. When higher seacliffs become undercut, these areas tend to be more prone to blockfalls. The Eocene formation (Santiago Formation) is at its lowest elevation in the project area, and the area is less prone to blockfalls.

Mr. Jim Hirsch c/o Encinitas Resort Corporation January 26, 2000 Page 2

- Relative Strength and Erosion Resistance at the Seacliff Toe The relative resistance of the • Eccene formation at the seacliff toe varies, as the seacliffs further south expose clay stone units that tend to be more erodible as comparable to the sandstone units. The clay stones also contain weak clay seams that have contributed to landslides at Beacon's. The seacliff below the site is a massive sandstone and weak clay seams are not present.
- Fracture/Fault Density The prevalence of faults/fractures in the seacliff is a major factor controlling blockfalls. These features represent weak planes and can concentrate groundwater. In 1993 a large block fall damaged the former Grandview beach access stairway south of the sites. The fracture/fault density in the site area is low compared to the seacliffs further south, where many closely spaced faults and fractures occur.
- Groundwater Seepage Groundwater contributes to bluff erosion. Several areas to the south of the site, including the areas of the recent bluff failures, have exhibited abundant groundwater seepage for many decades. Within the project area, the six piezometers (monitoring wells) indicate that groundwater is comparatively sparse for the past 8 years, and seepage at the bluff is minimal.
- Undercutting or Notching at the Seacliff Toe One of the most obvious differences along Encinitas is that the seacliffs along Stone Steps Beach and other areas south of the site have a pronounced basal "notch". The overhanging seacliff is more prone to blockfalls. Within the project area, our test pits (excavated below the cobbles) indicated the seacliff toe is not undercut.

The potential for block falls and deep-seated bluff failures was analyzed in our 1992 report. The evaluation considered the factors outlined above, and other site-specific conditions that affect local bluff erosion and stability. Considering the factors described above, local downcoast areas of the coastal bluffs in Encinitas are more susceptible to bluff erosion and instability than the subject site, as indicated by the history of bluff failures to the south.

Very truly yours,

URS GREINER WOODWARD CLYDE

David L. Schug, C.E.G. 1212

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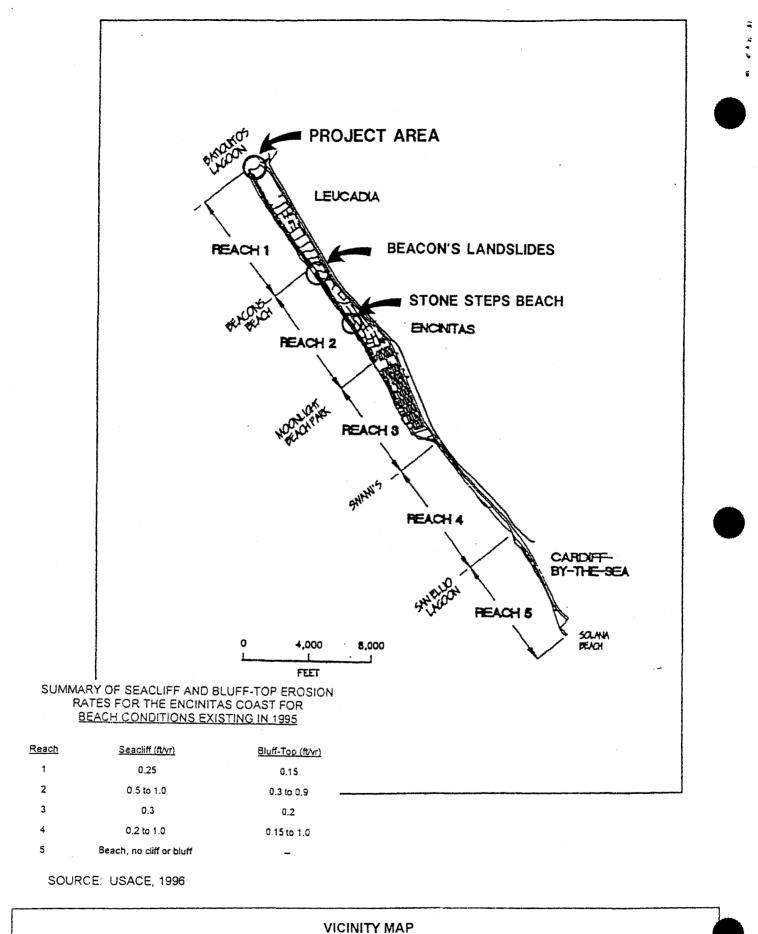
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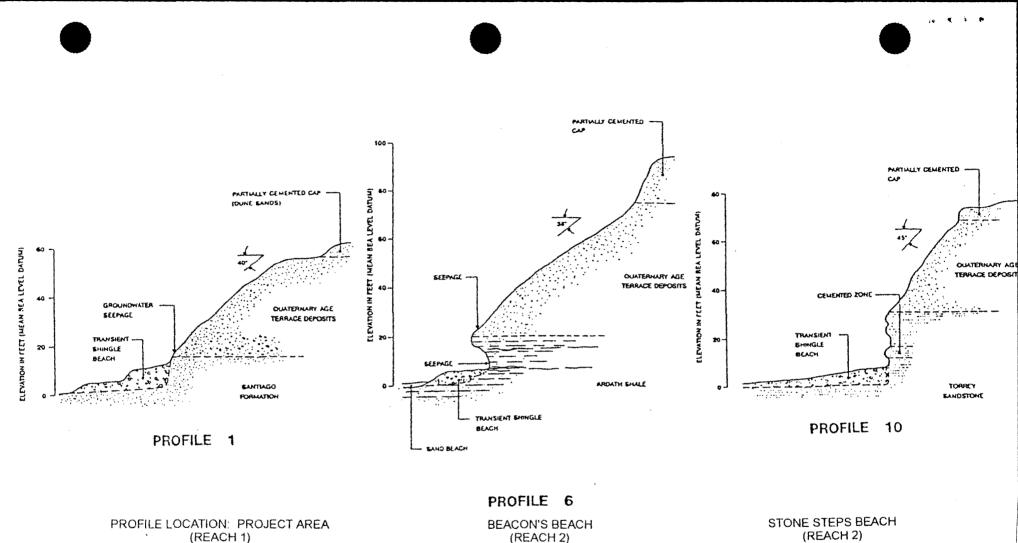
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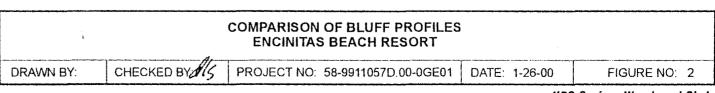


ENCINITAS BEACH RESORT		
DRAWN BY: CM CHECKED BY: 1, PROJECT NO: 58-9911057D.00-0GE01 DA	TE: 1-26-00 FIGURE NO: 1]



(REACH 2) Note: Profile is not within a landslide

SOURCE: USACE, 1996



URS Greiner Woodward Clyde

6-92-203-EY

URS Greiner Woodward Clyde

A Division of URS Corporation

January 26, 2000

Mr. Jim Hirsch c/o Encinitas Resort Corporation 2100 Costa Del Mar Road Carlsbad, CA 92009

Subject: Potential Shoreline Impacts Inlet Jetties at Batiquitos Lagoon Proposed Encinitas Beach Resort Encinitas, California URSGWC Project No. 58-9911057D.00-0GE01 1615 Murray Canyon Road, Suite 1000 San Diego, CA 92108 Tel: 619.294.9400 Fax: 619.293.7920 *Offices Worldwide*



JAN 2 6 2000

CALIFORNIA COASTAL COMMISSION SAN DIEGO COAST DISTRICT

Dear Jim:

This letter provides our comments on potential shoreline impacts as a result of the nearby jetties at Batiquitos Lagoon. At the time of preparing our 1992 report, two short jetties were proposed at the mouth of Batiquitos Lagoon. The Final EIR/EIS for the Batiquitos Lagoon Enhancement Project (City of Carlsbad, and U.S. Army Corps of Engineers, 1990) analyzed potential beach impacts, and additional technical studies where conducted to further evaluate the jetty effects (Arctec Offshore Corporation, 1993). According to the Batiquitos Lagoon Foundation (letter dated December 9, 1999), "the effect these jetties may have on sand transport...has not been analyzed. If the jetties result in sand stripping, will the bluffs erode at a rate that threatens the hotel?"

RESPONSE

According to Moffatt & Nichol Engineers (1996) the jetties at Batiquitos Lagoon are relatively short and should not contribute to beach retreat down coast. The jetties and replenished beach will tend to stabilize the protective cobble berm that extends along the project area. Therefore, the new jetties at Batiquitos Lagoon are not likely to increase bluff erosion. Further, the possibility that erosion rates may increase was analyzed in our 1992 report, and factored into the the calculation for the 55-foot setback.

BACKGROUND

The well defined cobble berm below the proposed hotel site acts like a natural revetment and protects the base of the coastal bluff from breaking waves. The berm has a crest width of more than 20 feet, and extends up to about elevation +14 to +15 feet above MSL. The cobble berm extends from well south of the project area, and continues north to the new inlet jetties (Figure 1). According to Zeiser Kling Consultants (1994), the cobble berm within north Leucadia "provides the most protection of any shingle (cobble) berm in Encinitas".

The cobble berm accumulated during the 1982/1983 El Niño event and has been intact for about 17 years. The jetties are located about 1,400 feet north of the site, and extend about 200 feet

Mr. Jim Hirsch c/o Encinitas Resort Corporation January 26, 2000 Page 2

(seaward) beyond the cobble berm. According to Moffatt and Nichol Engineers (1990), the net longshore transport rate for cobble in the area is about zero. The cobbles appear relatively stable and are not likely to be transported out of the project area. Thereby the cobble berm position is relatively "fixed".

The final EIR/EIS for the Batiquitos Lagoon Enhancement Project (City of Carlsbad, U.S. Army Corps of Engineers, 1990) indicates the jetties were designed to have minimal impact on longshore sand transport. Physical and numerical modeling (Moffatt and Nichol Engineers, 1990; Arctec Offshore Corporation, 1993) suggested that, after an initial period of adjustment (before and after jetty construction) the shoreline in the area would reach a semi-stabilized condition with an increased fillet beach width to the north, and a slightly narrower beach south of the jetty. Periodic dredging at the inlet is required to maintain circulation within the lagoon, and the sand dredged is placed on the beach immediately south of the jetties. Therefore, although the time frame since jetty construction (1994) has been relatively short, there is presently a wider beach in front of the proposed development than in years prior to jetty construction (see lower photo, figure 1). Much or even all of the sand in the project area was dredged from the lagoon, and may have accumulated from other local beach replenishment projects. The wider beach more effectively protects the coastal bluff.

SUMMARY

Our 1992 study and more recent update (January 6, 2000) evaluated bluff conditions over the past 60 to 70 years. This time frame encompasses many cycles of erosion and beach conditions prior to construction of the jetties. For setback purposes, the long-term erosion rate applied to the site considered a higher rate than indicated by the historical data (i.e., 0.5 feet per year) partly to account for future coastal change. It is of interest to note that Zeiser-Kling (1994) estimated the seacliff erosion rate in Encinitas would be approximately 0.4 feet per year with no protective sandy beach. Since construction of the jetties, the replenished beach and stabilized cobble berm could actually reduce the rate of bluff erosion.

We appreciate the opportunity to provide these comments.

Very truly yours,

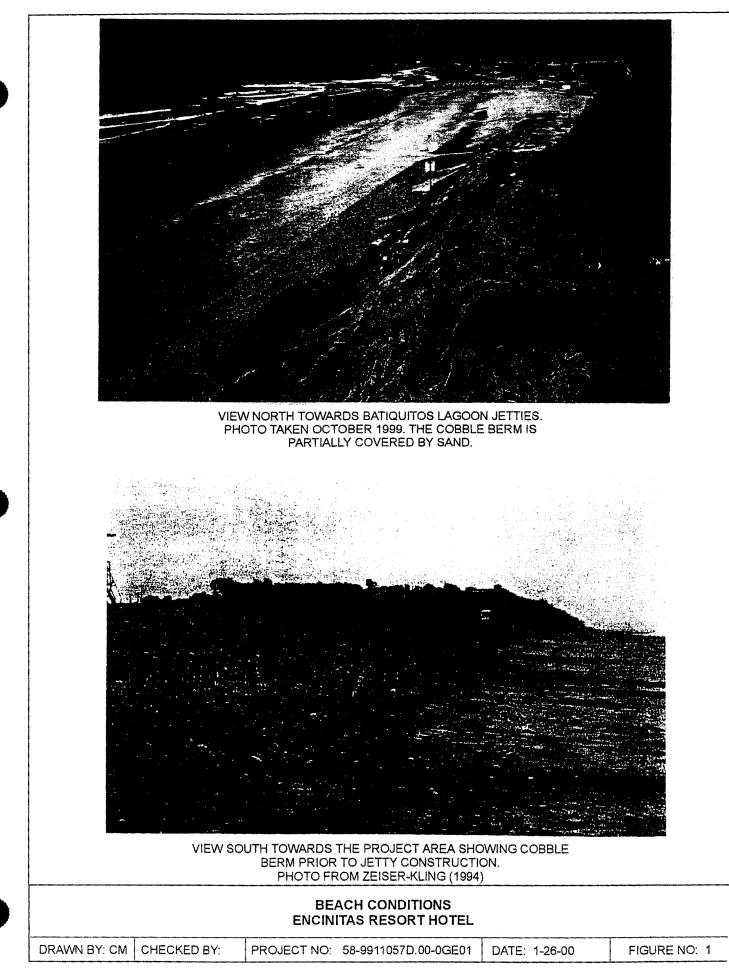
URS GREINER WOODWARD CLYDE

David L. Schug, C.E.G. 121 Engineering Geologist

DLS:mjr/lej

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- Arctec Offshore Corporation, "Batiquitos Lagoon Physical Hydraulic Model Test, Final Report," dated March 22, 1993.
- Batiquitos Lagoon Foundation, "Extension of Coastal Development Permit No. 6-92-203-E4 for the Sports Shinko Resort at Batiquitos Lagoon," letter dated December 9, 1999.
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URS Greiner Woodward Clyde

JUN-18-1999 14:41 FROM AUSTIN-FOLIST ASSOC.

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RAFFIG AMMEMERATES AND TRANSPORTATION PLANNING

2020 NORTH TUSTIN AVENUE . SANTA ANA, CALIFORNIA \$2705-7827

TELEPHONE (714) 657-0406 FAX (714) 007-7858 E-mail: avail@eutelinicjat.com

17606332918

June 18, 1999

City of Encinitas 505 S. /Vulcan Avenue Encinitas, CA 92024

ATTENTION: Mr. Rob Blough

SUBJECT,

ENCINITAS BEACH RESORT

Dear Rob:

),

This letter is in regard to the proposed 130 room Encinitas Beach Resort on the northwest corner of Highway 101 and La Costa Avenue. I understand that a question has been raised with respect to the traffic conditions for this project.

Based on our discussion, I have made an investigation as to the assumptions in the citywhile traffic model regarding this development. The results show that the long-range land use database for the Encintua Traffic Model have included this development since the 1992 update of the traffic model. It has therefore been part of the land use database for all subsequent traffic studies, including the Highway 101 Specific Plan, the Encintua Ranch Specific Plan and numerous traffic studies relating to circulation or land use issues.

It should also be recognized that as part of the regular updates for the traffic model, changes in external conditions are updated at that three since the Encinitas traffic model does not consider the City in isolation. The most recent update to the model was in 1997 which included a recognition of land use changes in surrounding jurisdictions such as Carlsbad and unincorporated County areas. Recent traffic data therefore includes both the project in question and the most recent external data.

I hope this will clarify the issue before the Planning Commission, and please call should you have any questions or require any further clarification.

Very truly yours,

Terence W. Austin

SEcondes Beach Res. wpc

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ENCINEERS & PLANNERS + TRAFFIC, TRANSPORTATION, MARKING

8989 Rio Sen Diego Drive, Saile 135 × San Diego, California 92106 Phone 619 299-3090 × Fac 619 299-3061

June 18, 1999

Mr. Jim Hirsch Walt PACIFIC 3350 Monte Villa Parkwsy Bothell, WA 98021

SUBJECT: Adequacy of the Previous Traffic Study for the Encinitias Beach Report

Dear Mr. Hirsch:

The purpose of this letter is to provide professional judgement as to the adequacy of the approved traffic study (January 1990) as referenced in the Sport Shinko EIR. The approved study was for a 180 room hotel plus ancillary facilitates. The current proposal is for about 130 rooms plus ancillary facilities. Therefore, the project impacts will be less than analyzed in the approved study, which identified measurable but not significant impacts. The project is consistent with the approved traffic study and further traffic analyzes are not nacessary.

We have reviewed the Highway 101 Corridor Specific Plan dated October 8, 1997 and the most recent traffic forecasts for buildout. These data suggest that conditions have not materially changed in the project area and that the approved traffic is still valid. The North 101 Corridor Specific Plan states that the intersection of Highway 101 at La Costa Avenue will operate at LOS A (AM) and LOS B (PM) at buildout, with intersection improvements. The improvements are primarily associated with wideoing La Costa Avenue to four lanes. With or without the La Costa Avenue widening, the project is deemed to have no significant impact. The project increases the intersection delay by about 0.5 second/vehicle, which is well within the standard of practice of a 2.0 second/vehicle allowable increase.

Six mitigation measures were listed in the EIR. Five of them are still appropriate. The south, a project-rate contribution to the La Costa Avenue/1-5 interchange is not necessary since the interchange work has been completed.

In summary, the approved traffic study is still valid and further traffic analyses are not necessary.

Sincerely LINSCOTT, LAWL& GREENSPAN

Sti Lester حسا

John P. Keating, P.E. Principal Philip M. Linzull, P.E. (Brt.) Jack M. Grosspan, P.E. William A. Caw, P.E. Ret.) Part W. Wilkianon, P.L. John P. Keering, P.E. Cavid S. Shendler, P.E.

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Within South Crisical State Park off-size areas that unight be impacted include a first standy preserve and statep manufactured slopes. The senarce ins However fig, sed suit vertices (Abrowler maritimal): one should be see debiin (Correspond maritimal) one observed at the base of the slope between the project site and this gradil moneo. Further cast, the surep intermillationed slopes are powered by Hennessee fig with scanned landscape elements and objectional marithue mechant acrob retainents.

R. FAUNA

The subject size affers finded wildlife habitat, due to the development. and the disturbed and senare of the undereloped areas. Expected and observed wild-life are listed in Table 2; expected wildlife are those species typical in urban, disturbed, or sandy habitats. Very fras wildlife wave observed during the two surveys. None was observed in the 1988 survey. During the 1990 survey, a leasted and a humaninghind were observed on-site, and California ground equiral (Spermophilus banchere sudject) and an unidentified lipsed wave . seen in adjacent areas of South Carisbut State Boach.

C. SENSITIVE RESOURCES.

One sensitive plant species was observed on-size, and another was observed in an off-size area that would be landacaped with this project. Several other plant species, annumiciand in Table 3, might be found on-size, but would not have been visible at the time of the survey. No sensitive wildlife was observed or is expected.

Det Max and sates (Correthrogyne filaginifolia ver. linifolia) is present within the distorted vegetation on the terrace overlocking Highmay 101. Roughly 20 picents are present. Within the region, this specific is being lost to development and is a Category 2 candidate for fuderal listing at endangered or investment. It lives in sandy and distorted areas close to the coast, between Carisbad and Fort Reservant in San Diego. Because the specifier is threatened in San Diego Causey, the CNPS places it on List 1B, which means that it is threat-ened throughout its range, and gives it a Resity-Endangement-Distribution (R-E-D) code of 3-2-3 (Smith and Berg 1988) (Table 4).

Sea dablia (Compate maritima) is a species that lives on binits shong the count from Carlshad south into Baja California. The CNPS places it on List 2, meaning that it is not in California and chewhere, with an R-B-D code of 2-2-1. Only one plant was observed. It is on the tenace near the occum. This tenace is off-the, but might be landscaped in association with this project.

VI. IMPACIS

The proposed perject would impact all vegetation within the grading limits, which includes the immerst actors the majority of the size. This would include the anali population of Del Mar must such such. This species represents the only distinctive native plant modulets on the size, but it is present in a small population in a seming that would be difficult to preserve. An inequality shaped triangle in the southeast county, which includes the slopes below the fil-and 70-first counters and the lower, flat area at the nextical boundary, would not be graded but would be lower, flat area at the nextical boundary, would not be graded but would be lower, with gative and non-nextive species. Uthan

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remost will flow from the site draugh the Ponno Bonch patting are and which increases the remost flow into the conta. There are potential impacts on the adjuoted site park from action mation during communities.

Offerite disact impacts might include landscaping of the resourcement slopes worth of the property and a study terrate now the hearth, all which South Catabad from Fack. This might include impact to the sea fields plant sbetreed. Off-size indirect impacts could include investor of non-netive indi-tage elements from the project into the univer plant indecaping that is planned for the Ponto Bosch particing area.

Received of its location and state of distortioners, development of the size would not advancely inspect wildlife labitat of significant value. The size is study of the Raighing Lagoon coulder to the ocean, and by high and other wildlife, and its reprographically associant more with the developed name to the seath than the open space to the same. The development of the Posto Beach periods such just nexts of the size, solid, and to bigh in 1990 by Childeria Department of Parks and Recreation, will introduce further isolation from more valued on wild in being the second recent and the solution of the posto Beach periods of the second of the size, solid, and the bight in 1990 by Childeria whahle wildlife hebitet.

VIL SECRETCANCE

The loss of the small population of Del Mar sand atter world be a signifi-ours adverse impact transplantation to an en-size location would mitigate this impact. Impacts to amainly hind species in the lagnon would not be signifi-cent because the Posito Bosch parking area, which is in the plantaling stage, will have an evertified impact. Principal indicast impacts by mon-stative plants into off-size unive plantings could be significant. Potential sedimentation impacts are significant but mitigable.

VHI. MITTGATION AND MONTPORTING

Implementation of the following Mitigating Measures and Monitoring Program world address impacts to biological resources.

- 1. As a condition of the Major Vin Permit and price in clearing the sim-for construction, the applicant shall retain a qualified biologist acceptable to the City Director of Counternity Services to transplant the Del Mar studi unter to the flat area south of the conceptucy access much just went of the site's eastern boundary.
- 2. The suggeded inland bluif face between the loted and the state park lands on the mosth side of the size shall, under the supervision of a qualified biologist acceptable to the City Director of Community Services, have all non-antive vegetation removed and shall be induceped with networks appendix to the location. Omageneous landscaping adjacent to dat native plantage shall not openin species likely to image the mative plantage. invest the maive plant area.
- 1. Other native plants in impacted areas, such as the lady finger and live-five-ever, should be wanaplanted into the native plant area manticated above. If all-size lundersping within the same brack is done in conjunction with this project, these manuals should be incorporated into the landscope plant.

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January 26, 2000

Mr. Jeff Roberson La Costa Resort and Spa Costa Dol Mar, CA 92009

CORRECTABLY

Subject

Hackitas Resort Eotel - Biological Recommissance

Deer Mr. Roberson.

On January 25, 2000, Salvations Zimmitti conducted a biological recomplishment survey at the Engineers Report Hotel Project Site. The purpose of this survey was to confirm and/or update a previous biological survey report, prepared by RECON, which documented existing punditions as of Japaney 8, 1990. P&D was requested to conduct this reconnelssance in response to a latter provived by the California Constal Commission from the Batiquitos Lancon Foundation.

Introduction

The project site is an approximately 4.3-acre, terraced constal bluff, located immediately south of Batiquitos Lagoon in the northwest corner of the City of Encinitas. The site virtually surrounded by urban development or madway (Elighway 101) with the exception of its western border, which descends down a since slope toward the ocean beach. Although currently undeveloped, this property was historically used as a borrow nize, and the western portion of the site previously supported a small mobile home park.

Survey Methodology and Limitations

The site was surveyed on foot by visiting all of the vegetation types present. Vegetation communities were mapped in the field and these results were used to undate an existing vogetation map of the site prepared by RECON (1990). The potential for the site to support sensitive species was noted and previously identified locations of sensitive plants ware surveyed in an effort to determine their current distribution cosity. In addition, a general list of poppegentative flore and found observed was recended in order to facilitate habitat characterization.

This commences stranges of this survey was limited due to weather conditions and time of year. Rain fell throughout the January 25 survey; these onel and wet conditions may have made some types of wildlife reclusive or more difficult to observe. In addition, this



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Mr. Jaff Robinson January 26, 2009 Page 2

survey was conducted in a relatively dry winter, with four plants flowering, making plant spacing difficult to identify.

Reals

The site is a tenneod coastal bloff that has been invaded by hottenest fig (Corpobration edds). The non-astive hottenest fig, also known as large-leaved iceptant, is clearly the dominant vegetation easies, and has appearantly assisteneed this dominance since the last vegetative survey (RECON 1990). The 1990 habits map breaks down this dominance into two regions: 1) open hottenest fig; 2) hotenest fig. This division has appearently been made to qualitatively address the variable density of this vegetation cosits. In general, this provious map suggested that a relatively down covering of fig commed on the slopes, while a spacer, "open" cover typified the tennes. It must be much that no fig van observed along the wastern postion of the tennes in 1990, as it was still being melationed as a mobile home pack.

The January 2000 servey suggests a much homogenous distribution of homosets for throughout the site. A sparse to moderately dense cover of this plant was observed in a weakly defined months throughout the steep slopes and turness onsite. Much of the habitst on the turness consisted of bare cards with small to large patches of homestor for inveding from the periphery. Indeed much of the turness that was identified as "developed/distantsoff." in 1990 is now covered by homesoff.

In addition to the non-native species identified, some isolated individual native species wave found slong the steep slopes and eastern edge of the textend area. Among the most community encountrated, were California backwheat (Briegenam functionization) California, sugebrach (Amonistic californics), leancoatheberry (Rine integrifibile), deserved (Lotus scopertur), lady fingers (Dudlays adulis), and live forever (Dudlays Inneolated). Along the top of the northermost slope intigation runnif appears to support a weakly defined inclosured community consisting of a vertexy of communical species, as well as native species, such as moletly (Bencharts salicifiels), coportional (Bencharts pitalority), and toyon (Herermoles arbiteficia). Non-native grasses appear to be more prevalent thus they wave in 1990; patches of non-native grasses are now been front along each of the north-facing slopes caults.

Wildlife use on the site did not appear to be attentive; however, the cool and reiny conditions during the servey may have made many spatiac rectative or difficult to detect. Despite these conditions several common bial species were observed onlite, such as the white approach sparrow (Zometrichia lessophyse), mounting dove (Zemain's macroises), and Anna's humanloghind (Calpter sourd). One California Spacies of Special Concern was observed onlite, the California legiess lizzed (danialla pulches). This formulal reptile was apparently flucted from the substants during the usin and was found exposed on one of the mosth facing slopes. This slope is being retained as open space in the current site plan.

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Mr. Jeff Roberton January 76, 2000 Page 3

The site was assessed for its potential to support the federally endangered Pacific pocket mouse (Paragraphus longiturembris pacificus). Historic records of this species suggest in range unlanded along the immediate coast from Maximi Del Rey, Los Angeles County, to the Maximu border. Currently, populations are known only from Camp Pendison and Dama Point, which is in Oninge County. Although the analy substance ensite is suitable for the species, the property is relatively small and closely isolated from native habitats. In addition, the site has had a long history of disturbance and invasion from non-native vegetation. Therefore, because of this project site's relative isolation and the highly disturbed character, it is highly unlikely that Pacific poolect mouse would court.

The project is located within the U.S. Fish and Wildlife's potential occurrence map for the quino chackarspot butterfly (QCB) (*Rephysicar editha quino*). During the January 2000 survey, the site was avaluated for its suitability to support the QCBs' hostplants (i.e., *Plantago* or *Cantilleja* up.). Although this survey was not conducted in a sessori that would permit the second identification of these hostplants, file existing substrates and nonestive vagetative ground cover make it highly unlikely that this site could support them. In addition, no cryptogramic crusts (mass/fichan-covered soils offen associated with the hostplant) were observed and toils appeared to lack the fine clay quality that these plants tend to prefer. Therefore, the existing conditions onsite do not suggest that an adult flight survey for the QCB is warranted.

Concinuion

In summary, the Jammy 2000 biological survey is consistent with the previous biological technical report prepared by RECON (1990). Over time, some of the boundaries of the vegetation communities have moved; however, overall, the non-native component (i.e., hottentot flig) has increased as a result of encroachment into previously developed areas. -In addition, the continued use of the site by people, peus, and vehicles (clearly visible at the time of survey) has apparently maintained the property in a disturbed state very singlar to that which was observed 10 years ago. Therefore, the biological reconsistence performed in Jammy 2000 is consistent with the findings presented by RECON in 1990.

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Betty Dehotey Director, Environmental Service

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EXHIBIT

URS Greiner Woodward Ciyde

A Division of LIRS Corporation

June 11, 1999

1615 Murray Canyon Road, Suite 1000 San Diago, CA 92108 Tel: 619.294.9400 Fax: 619.283.7920 Offices Worldwide

Encinitas Resort Corporation La Costa Hotel & Spa Costa Del Mar Road Carlsbad, CA 92009

c/o Mr. Jim Hirsch WNH Pacific 3350 Monte Villa Parkway Bothel, WA 98021

Subject: Preliminary Evaluation of Beach Replenishment Material Proposed Encinitas Beach Resort Encinitas, California URSGWC Project No. 58-9911057D.00-0EC01

Dear Mr. Hirsch:

For accordance with your request, URS Greiner Woodward Clyde (URSGWC, formerly Woodward-Clyde Consultants) has prepared this preliminary evaluation of potential beach materials that may be available from the project area. Our evaluation has been based on review of available information, including our previous geotechnical investigation entitled "Evaluation of Seacliff Erosion and Stability, Proposed Encinitas Beach Resort, Encinitas, California" dated August 7, 1992 (WCC Project No. 9251036D-GE01). We have also discussed the project with Ms. Katherine Stone of the City of Encinitas.

BACKGROUND

The proposed resort hotel is located near the seacliffs just south of Batiquitos Lagoon. The seacliffs in this area consist of sandstone in the lower portion and terrace deposits in the upper part of the bluff. Site development will involve grading primarily within the terrace deposits for a subterranean parking garage. This may generate up to 95,000 cubic yards of excess material. Rather than hauling this material off-site, the terrace sands could be used for beach replenishment, as discussed below.

Several coastal developments in north San Diego County have also considered contributing excavated materials for "opportunistic" beach fill. Often these sources may be from inland construction sites and are available at low or no-cost, compared to material typically imported specifically for beach enhancement.

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Regulatory agency approval is needed to place material on the beach. Generally, the material must meet certain criteria to be suitable for beach replenishment; the materials must be characterized relative to sediment gradation, color, particle size, and other factors. In general, the material should reasonably match the receiving beach sand, and be free of contaminants.

To expedite the regulatory agency review process, the City of Carlsbad is establishing an "opportunistic" beach fill program¹ which gives Carlsbad discretionary approval for beach fills, while notifying resource agencies of pending projects. The City of Encinitas has not presently established a similar program. For preliminary purposes, the criteria developed for Carlsbad may be considered appropriate for proposed beach fills in Encinitas.

Available Materials

Based on the proposed grading scheme, the proposed cuts would almost entirely involve sandy sediments of the terrace deposits. Previous site geotechnical investigations have included five test borings and geotechnical laboratory testing. Based on the subsurface explorations, the terrace deposits are exposed in the sea cliffs above approximately ± 15 to ± 16 feet Mean Sea Level, and are up to about 40 feet thick within the site limits. The terrace sands are homogeneous deposits consisting of yellow-brown silty fine to medium sand. The borings indicate the terrace sands become lighter in color with depth, and the fines content (amount of silt and clay) decreases. Available gradation tests (10 tests) indicate that the fines content ranges from 6 to 14 percent, with most fines contents less than 10 percent. The terrace sands exhibit some weak natural cementation and have low cohesion. There are spare interbedded gravels.

The terrace deposits were deposited atop a wave-cut surface during the Pleistocene epoch as a thin layer of marine sand, which was then overlain by wind-blown (colian) sand. Erosion of the coastal bluffs has been a contributing component of natural sand within the Oceanside Littoral Cell.

Beach Suitability

From a preliminary review, the following observations can be made concerning the available materials:

 The terrace deposits are primarily sandy. According to the Unified Soil Classification System, the material is classified as a silty sand (SM soil classification) or poorly graded sand (SP soil classification).

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¹ Jantz, S., Webb, C.K., and Lindquist, A. "Opportunistic Beach Fill Program, Carisbad, California," draft manuscript prepared for Shore and Beach, American Shore and Beach Preservation Association.

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- The color of the terrace deposits is light yellowish brown, which will initially stand out from the existing beach sand, but should eventually weather and blend to match the sand color.
- The terrace deposits are entirely natural and contain no debris and very little coarse material.
- The terrace sands are not likely to form a "hard-pan" as the fines content is generally less than 10 percent.
- Past residential use of this site has likely not generated significant concentrations of material that would be considered contaminated. Any non-desirable materials (top soils, pavements, etc.) could be selectively stockpiled and properly disposed off-site.

Considering the acceptance criteria developed for similar projects, the material derived from site grading appears to be acceptable as a beach fill.

OTHER CONSIDERATIONS

The terrace materials derived from site grading would likely be trucked onto the beach, which is presently narrow and backed by a continuous cobble berm. This may result in a sizeable beach in the vicinity of the project area, inasmuch as the area is down coast of the jetties at the inlet to Batiquitos Lagoon.

The San Diego Regional Association of Governments (SANDAG) Regional Beach Sand Project is also expected to provide up to several hundred thousands yards of beach sand along Encinitas. Together, these projects should significantly enhance the City's beaches.

We look forward to continuing to assist with the project. If you have any questions, please call me at (619) 683-6174.

Very truly yours,

URS GREINER WOODWARD CLYDE

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David L. Schug, C.E.G.⁴1212 Engineering Geologist

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