

CALIFORNIA COASTAL COMMISSION

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Appeal Filed:	April 5, 2000
49 th Day:	May 24, 2000
Staff:	VAE/SF
Staff Report:	April 20, 2000
Hearing Date:	May 12, 2000

STAFF REPORT: APPEAL

SUBSTANTIAL ISSUE

APPEAL NO.:	A-2-PAC-00-10
LOCAL GOVERNMENT:	City of Pacifica
LOCAL DECISION:	Approved
LOCAL PERMIT NO.:	CDP-130-98
APPLICANT:	City of Pacifica
PROJECT LOCATION:	528 to 572 Esplanade, Pacifica, San Mateo County APNs: 009-131-010, 009-131-030, 009-161-010 through 009-161-150
PROJECT DESCRIPTION:	Bluff repair and stabilization involving the construction of a rock (rip-rap) revetment, previously installed under emergency conditions
APPELLANTS:	Coastal Commissioners Wan and Potter
SUBSTANTIVE FILE:	See Appendix A.

STAFF NOTE:

The revetment is located in two coastal development permitting jurisdictions. The portion of the revetment on the bluff is within the City of Pacifica's permitting jurisdiction. The portion of the revetment on tidally-influenced shoreline is within the Coastal Commission's original permitting jurisdiction.

In Spring of 1998, the City approved an emergency permit for the construction of the revetment within its jurisdiction. On March 20, 2000, the City approved a coastal development permit (CDP) to permanently authorize the work done under the City's emergency permit. The appeal of the City's approval is addressed in this report.

The Coastal Commission granted a separate emergency permit for the portion of the revetment in its jurisdiction in May 1998. To fulfill the conditions of the Commission's emergency permit, the City submitted a coastal development permit application to the Coastal Commission to permanently authorize the portion of the revetment in the Commission's jurisdiction on March 22, 2000. Commission staff have since determined that the application is incomplete and can not be filed until certain information is received. This information is the same information that will be required for any de novo review of the portion of the revetment that is in the City's jurisdiction and the subject of this appeal (see Section 5.0).

Consistent with the incomplete status of the coastal development permit application for the portion of the project within the Commission's original jurisdiction, the Commission can not conduct a de novo review of the permit application for the portion of the project within the City's jurisdiction until the necessary information is received. If a substantial issue is found with the City's approval of the project within its jurisdiction in regard to the Local Coastal Program policies and the public access policies of the Coastal Act, the de novo review and original jurisdiction permit application will be heard together in a subsequent hearing once the information necessary to review the revetment is received.

EXECUTIVE SUMMARY:

The staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeal has been filed, because the appellants have identified potentially significant issues with the local government's action and its consistency with the certified LCP and the public access and recreation policies of the Coastal Act.

On March 20, 2000, the City of Pacifica approved a coastal development permit to permanently authorize a previously installed emergency rock revetment at the base of the bluff behind 528 to 572 Esplanade. The rock revetment was previously installed pursuant to emergency permits from both the City and the Commission. The City's action included approval of the project as built. No conditions were recommended.

The appellants' contentions are summarized as follows:

- (a) the approved project raises a substantial issue of conformance with Local Coastal Program (LCP) and Coastal Act policies pertaining to public access to the sea;
- (b) the approved project raises a substantial issue with LCP policies governing impacts to visual resources;
- (c) the approved project raises a substantial issue with LCP policies protecting environmentally sensitive habitat areas and marine biological resources;
- (d) the approved project raises a substantial issue with LCP policies for hazards and shoreline erosion; and
- (e) the approved project raises a substantial issue with LCP policies pertaining to shoreline protection and the analysis of alternatives to the project.

The Commission staff analysis indicates that the appeal of the project, as approved by the City, raises a substantial issue as to whether the proposed project, located west of Highway 1, is consistent with the policies of the certified LCP as they pertain to the provision of public access, the protection of visual resources, the protection of environmentally sensitive habitat areas and marine biological resources, the prevention of hazards and shoreline erosion, the protection of shoreline, and the analysis of project alternatives, and with the public access policies of the Coastal Act.

1.0 STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeal has been filed. The proper motion is:

MOTION: I move that the Commission determine that Appeal No. A-2-PAC-00-10 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue, and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-2-PAC-00-10 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency of the local action with the Certified Local Coastal Program and/or the public access and recreation policies of the Coastal Act.

2.0 APPEAL PROCESS

2.1 Appeals Under the Coastal Act

After certification of Local Coastal Programs, the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603).

Coastal Act Section 30603 provides, in applicable part, that an action taken by a local government on a coastal development permit application may be appealed to the Coastal Commission for certain kinds of developments, including the approval of developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea, or within 300 feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff; or in a sensitive coastal resource area or those located within 100 feet of any wetland, estuary, or stream. Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments that constitute a major public works or a major energy facility may be appealed, whether they are approved or denied by the local government.

The Esplanade revetment project is located between the sea and the first public road paralleling the sea (Highway 1) and within 300 feet of the inland extent of the beach, and thus meets the Commission's appeal criteria in Section 30603 of the Coastal Act.

Section 30603 limits the grounds for an appeal of a project located between the sea and the first public road paralleling the sea to an allegation that the development does not conform to the standards set forth in the certified LCP or the public access policies set forth in the Coastal Act. The Esplanade revetment project appeal raises issues with the project's consistency with the certified LCP and the public access policies of the Coastal Act.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. If the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of the Commissioners present to find that no substantial issue is raised. Unless it is determined that the project raises no substantial issue, the Commission will conduct a full de novo public hearing on the merits of the project. If the Commission conducts a de novo hearing on the appeal, the applicable test under Coastal Act Section 30604 would be whether the development is in conformance with the certified Local Coastal Program and with the public access policies of the Coastal Act.

The only persons eligible to testify before the Commission on the substantial issue question are the applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding the substantial issue question must be submitted to the Commission or the Executive Director in writing.

2.2 Filing of Appeal

On March 20, 2000, the City of Pacifica approved a CDP to permanently authorize a rock revetment, previously installed via emergency permit. The project was approved as built; no conditions were recommended. The City's 10-day local appeal period expired at 5:00 p.m. on March 30, 2000. The Commission received the Notice of Final Local Action from the City of Pacifica on March 22, 2000, and the Commission's appeal period began on March 23, 2000, the following working day. On April 5, 2000, within ten working days of receipt by the Commission of a complete notice of final local action, the appellants filed an appeal to the Commission. On April 6, 2000, the Commission sent notice of the appeal to the City of Pacifica. Pursuant to Section 30261 of the Coastal Act, the appeal hearing must be set within 49 days from the date an appeal of a locally issued coastal development permit is filed (by May 24, 2000).

In accordance with Section 13112 of the Commission's regulations, the City must provide to the Executive Director of the Commission a copy of the file containing all relevant documents and materials regarding the subject permit. On April 6, 2000, Commission staff requested all relevant documents and materials regarding the subject permit from the City. On April 12, 2000, the Commission received a letter from the City stating that all of the file documents, with the exception of the Pacifica Planning Commission's March 20, 2000 meeting minutes enclosed with the letter, have been furnished to the Coastal Commission in conjunction with the City's application for the CDP mailed on March 22, 2000 for the portion of the project within the Coastal Commission's original permit jurisdiction.

3.0 PROJECT SETTING AND DESCRIPTION

3.1 Site Location

The project is located at the base of the coastal bluffs running from 528 to 572 Esplanade in the City of Pacifica, in San Mateo County (Exhibits 1 and 2). The corresponding Assessor Parcel Numbers are 009-131-010, 009-131-030, and 009-161-010 through 009-161-150.

As mentioned in the Staff Note above and discussed in detail in Section 3.2, the revetment is located both within the City of Pacifica's permitting jurisdiction and the Coastal Commission's original permitting jurisdiction. The revetment is proposed to be permanently constructed partially on a bluff and partially on a tidally-influenced beach.

The revetment covers property designated as Low Density Residential, per the General Plan and Local Coastal Plan. Zoning for the property is Single-family Residential (R-1), Commercial Recreation (C-R), and Coastal Zone Combining District (Appeals zone) (CZ).

The property is surrounded by existing single-family residential development to the east, vacant property zoned multi-family residential to the north, a recreational vehicle park to the south, and coastal beach and the Pacific Ocean to the west. All immediately surrounding properties are consistent in land use, zoning classification, and General Plan and Coastal Plan land use designations.

3.2 Background

The project site and vicinity are subject to bluff erosion by storm waves. Since the mid-1960s, rip rap revetments have been placed at the base of the bluffs to protect blufftop property from periodic but generally minor wave erosion (Griggs and Savoy 1985). For instance, from 1970 to 1982, seacliff protection and rip rap protecting a mobile home park south of the project area experienced damage from storm waves. Waves caused by large storms in 1983 and 1998 have significantly eroded the bluffs in and south of the project site. In January 1983, the toe of the bluff south of the project area eroded 33 feet by storm waves. A previous rock revetment on the project site, constructed in 1983 and maintained by private property owners prior to the purchase of the properties by the City (see below), failed to stabilize the bluff and had deteriorated by fall 1997. The 1998 storms caused 40 to 60 feet of blufftop erosion at the project site.

In addition to erosion caused by storm wave action, the City cites extreme seawater levels and subsurface groundwater seepage as causes of erosion to the coastal bluffs at the project site. Surface flow from the blufftop may have contributed to bluff erosion as well.

Around March, 1998, the City approved an emergency permit for the construction of a rock revetment at the base of the bluff west of 528 to 572 Esplanade. In May 1998, the Coastal Commission granted a separate emergency permit for the portion of the same revetment located seaward of the mean high tide line, which is within the Commission's original permit jurisdiction (Emergency Permit 1-98-048-G). A contractor for the City completed construction in October 1998. The revetment, constructed under conditions of a state- and federal-declared emergency and funded by a Federal Emergency Management Agency (FEMA) grant, was intended to repair and stabilize the eroded bluff from severe wave action and subsurface water seepage caused by the El Niño storms of 1998. The new revetment replaced the previous revetment deteriorated over the years by storm waves. The City has determined that the project is statutorily and categorically exempt from the CEQA process, under Section 15269 (Emergency Projects) and under Section 15302 (Replacement or Reconstruction), respectively.

On March 20, 2000, the City approved the coastal development permit (CDP) for the portion of the project within the City's jurisdiction. This approval permanently authorized the portion of the revetment within the City's jurisdiction and constructed under the City's 1998 emergency permit. On March 22, 2000, to fulfill the conditions of the Commission's emergency permit, the City submitted an application to the Coastal Commission to permanently authorize the portion of the revetment in the Commission's jurisdiction.

As of April, 2000, two of the original twelve single-family homes on the top of the coastal

bluff from 528 to 572 Esplanade remain. The City, with FEMA funds, purchased 10 of the 12 homes from 528 to 572 Esplanade. These homes were declared unsafe, demolished, and removed by the City. Offers to acquire the last two properties (on 564 and 568 Esplanade) have been unsuccessful. The City is considering a passive park or similar public open space requiring little or no maintenance as a future use of the property.

3.3 Project Description

The project as approved consists of the construction of a rip-rap rock revetment to stabilize an eroding bluff (Exhibit 3). The project was intended to protect private homes, public property, public utilities, and a public road. The City's project description and site plans depict the revetment as constructed with approximately 23,000 tons of 2- to 8-ton rock, including remnants from the former revetment, placed on geotextile filter fabric. The large voids between the rocks are filled with type "B" stone and sand. The approved design shows an engineered fill buttress above the southern portion of the revetment, placed over type "B" stone, drainrock, and filter fabric. A 6-inch perforated PVC pipe is designed to run laterally through the base of the buttress. The approved revetment is approximately 1,000 feet in length, 40 feet in width, and varies from 20 to 60 feet in height at an approximate 2:1 vertical slope. The existing design, including quality of materials, is intended to withstand and exceed maximum anticipated wave action associated with a 100-year storm occurrence.

Several changes in the construction specifications have resulted in an as-built project that is different from the original design plan. Prior to construction, the Engineer's estimate for revetment rock quantities exceeded the final approved budget for the project. The footprint of the bluff was narrowed from 12 feet to 6 feet, resulting in an approximate 15% decrease in the volume of rock used. During the first weeks of construction, the contractor could not procure sufficient quantities of 8- to 10-ton revetment rock to proceed with the project in a timely manner. At the contractor's request, the project engineer determined that 7-ton rock could be used below the 8-ton armor rock above the keyway. The engineer also determined that above the 17-foot elevation, 6-ton rock could be placed. The hydraugers (PVC pipes) were not installed as originally planned. The City's findings for project approval do not note the modifications made to the original design plan.

4.0 FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

4.1 Appellants' Contentions

The Commission received appeals by Commissioners Sara Wan and Dave Potter on April 5, 2000. The appellants' contentions are summarized below, with the full text of the contentions in Exhibit 4. The appellants assert that the project as approved by the City raises a substantial issue of conformance with the policies of the City's certified LCP concerning public access, visual resources, environmentally sensitive habitat areas, marine biological resources, hazards, and shoreline protection, and with the policies of the Coastal Act concerning public access.

Issues of consistency have been raised with regards to LCP's Land Use Plan (LUP) Policies 2, 11, 12, 16, 18, 24, and 26, and Section 30211 of the Coastal Act. The relevant LCP and Coastal Act policies are listed in their entirety in Appendix B.

4.2 Substantial Issue Analysis

4.2.1 Standard of Review

Public Resources Code Section 30625(b) states that the Commission shall hear an appeal unless it determines:

With respect to appeals to the Commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

The term *substantial issue* is not defined in the Coastal Act or its implementing regulations. The Commission's regulations simply indicate that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." (Commission Regulations, Section 13115(b)). In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretation of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

For the reasons discussed further below, the Commission exercises its discretion and determines that the project as approved by the City presents a substantial issue with regard to the project's conformance with the certified LCP and the public access policies of the Coastal Act.

4.2.2 Allegations Which Raise a Substantial Issue

The following are the appellants' contentions which raise a substantial issue regarding the project's conformance with the City's certified LCP or with the public access policies of the Coastal Act.

4.2.3 Public Access

4.2.3.1 Contention

The appellants contend that the Esplanade revetment project as approved by the City raises a substantial issue of conformance with Pacifica LUP Policy 2 and Section 30211 of the Coastal Act because the project may significantly interfere with public access along the shoreline. The relevant LCP and Coastal Act policies are listed in their entirety in Appendix B.

4.2.3.2 LCP and Coastal Act Policies

LUP Policy 2 adopts verbatim the language of Coastal Act Section 30211, which requires that development must not interfere with public access to the sea where acquired through use or legislative authorization.

4.2.3.3 Analysis

The local record does not contain an analysis of the project's impacts to public access at the project site or the vicinity. The revetment is proposed to be permanently constructed in part on tidally-influenced shoreline. A description of existing lateral and vertical public accessways in the project area, accurate beach profiles during mild and high wave energy periods (summer and winter profiles), as well as the high and low tide elevations at the site are examples of the information necessary to evaluate the project's consistency with LCP and Coastal Act policies concerning interference with the public's right of access along the shoreline. Given that this information and an assessment of this information are not in the local record, there is no evidence that the public's right of access was adequately considered.

4.2.3.4 Conclusion

Projects proposed by the City in the coastal zone must consider potential impacts to public access to the shoreline. This is an issue of regional significance, since shoreline protection devices may adversely affect the public's right of access to and along the coast. Because the local record does not contain an assessment of the project's effects on public access along the coast, the project's interference with public access in the project area and vicinity has not been evaluated. The City has not demonstrated that it had the factual and legal information to support the project's consistency with the public access policies of the certified LCP and the Coastal Act at the time of project approval. Therefore, the Commission finds that the revetment project, as approved by the City, raises a substantial issue with Policy 2 of the City's certified LCP and Section 3021 as well as of the Coastal Act with regard to public access.

4.2.4 Visual Resources

4.2.4.1 Contention

The appellants contend that the Esplanade revetment project as approved by the City raises a substantial issue with regard to the protection of visual resources in the coastal zone. The revetment project may have significantly altered the bluff face, raising a substantial issue of conformance with LUP Policies 24 and 26 which restrict the alteration of natural land forms along cliffs and bluffs.

4.2.4.2 LCP Policies

LUP Policy 24 addresses the need for development to protect the scenic and visual qualities of coastal areas. The policy requires development to protect public views to and along the ocean by minimizing the alteration of landforms, by being visually compatible with surrounding areas, and by restoring visual quality in visually degraded areas.

LUP Policy 26 provides that new development must be stable and not cause erosion, geologic instability, or destruction of the project site or the vicinity, or require the construction of protective devices which would substantially alter natural landforms along bluffs and cliffs.

4.2.4.3 Analysis

The City's findings state that the bluff repair and protection will have limited, if any, visual consequences. However, the sheer magnitude of the project impacts the scenic quality of the bluffs. The approved project is a 1,000-foot long, 40-foot wide, 20 to 60-foot high rock revetment, covering approximately 0.9 acre of beach and bluff. The placement of about 20,000 tons of large rock, in addition to the construction of the fill buttress and construction road, have significantly changed the natural landform of the bluff face.

In addition, the City's approval does not contain provisions to ensure that the approved revetment is maintained. The road used to construct the project south of the revetment has not been maintained and is currently eroding and unusable. Another eroding maintenance road north of the revetment is also unsuitable for vehicular or pedestrian use. Since there is currently no vehicular access to the site, issues are raised regarding the maintenance of the approved revetment. The lack of maintenance of the project is also demonstrated by the exposed geotextile fabric and geogrid on the bluff face, and shopping carts and debris mixed in the revetment. Furthermore, the City's administrative record contains neither an analysis of the project's impact on visual resources nor a maintenance schedule to ensure that the project conforms with the visual resource policies of the LCP. Therefore, there is not a high degree of factual or legal support for the City's decision to approve the revetment as consistent with the certified LCP.

4.2.4.4 Conclusion

The large extent of development as approved by the local government raises a significant question in regard to the project's conformance with the LCP provisions regarding the protection of visual resources. Because the approved revetment has significantly altered the bluff face and the local approval contains no discussion of provisions to minimize the visual impact of the approved development, the Commission finds that the project as approved raises a substantial issue with respect to the project's conformance with the LCP provisions regarding the protection of visual resources.

4.2.5 Environmentally Sensitive Habitats and Marine Biological Resources

4.2.5.1 Contention

The appeal raises issues of the project's conformance with LUP policies relating to the protection of environmentally sensitive habitat areas and marine biological resources. The appellants contend that the City has not produced evidence that impacts to environmentally sensitive habitat areas and marine biological resources were analyzed prior to, during, or after the construction of the revetment project.

4.2.5.2 LCP Policies

LUP Policies 11, 12, and 18 provide for the maintenance and restoration of environmentally sensitive habitat areas and marine biological resources. LUP Policy 11 requires the protection of areas and species of biological or economic significance, and the maintenance of healthy populations of marine organisms. LUP Policy 12 further requires the maintenance of biological productivity and coastal water quality, specifically through actions such as controlling runoff and substantial interference with surface water flow. Environmentally sensitive habitat areas, under LUP Policy 18, must be protected against significant disruption of habitat values. Development must be designed to be compatible with and prevent the degradation of adjacent environmentally sensitive habitat areas.

4.2.5.3 Analysis

Prior to construction of the revetment, the project site may have provided habitat for cliff swallows, bank swallows (a state-listed threatened species under the California Endangered Species Act), western snowy plovers (a federally-listed threatened species under the Endangered Species Act), and/or other sensitive animal or plant species. The LUP states that the bluffs are protected by a thin layer of soil and north coastal bluff scrub vegetation which is damaged by human trampling. Given that the City's findings include no assessment of whether the project site contains environmentally sensitive habitat areas or whether the project may adversely affect marine biological resources, there is no factual or legal support to demonstrate whether the revetment has been designed to prevent the degradation of sensitive resources. Without information on the area's environmentally sensitive habitat areas and marine resources, the City could not know if the project was consistent with LCP policies protecting and maintaining

sensitive resources. Thus, insufficient factual and legal support exists for the local government's decision regarding the project's consistency with the certified LCP policies for environmentally sensitive habitat areas and marine resource.

The City's findings for approval state that any new protective devices must be evaluated for potential impacts and necessary mitigation regarding elements such as protections for threatened areas. The report further states that the constructed revetment and site conditions are either non-applicable or non-conflicting with this element. The City has determined that the proposal will not have significant adverse effects, either individually or cumulatively, on coastal resources, despite the lack of information to support this finding.

4.2.5.4 Conclusion

The City's approval of the project is based on the understanding that the development is in conformance with the certified LCP. However, based on the documentation in the administrative record, the project does not identify environmentally sensitive habitat areas or marine resources which may be impacted by the project, as required by the City's certified LCP. Furthermore, the significance of coastal resources potentially affected by the City's approval, most notably the possible presence of endangered, threatened, or other special plant and animal species, has not been considered. Thus, the Commission finds that the appeal raises a substantial issue with respect to conformance of the approved project with LCP provisions for protection of sensitive habitat areas or marine resources.

4.2.6 Hazards/Shoreline Erosion

4.2.6.1 Contention

The appellants contend that the project as approved by the City raises a substantial issue regarding conformance with LCP policies requiring developments to minimize risks to life and property in geologically hazardous areas and the contribution to erosion and instability of the site.

4.2.6.2 LCP Policies

LUP Policy 26 contains several provisions for new development. Of relevance to the revetment project is the requirement that new developments minimize the risk to life and property in areas with high geologic, flood, and fire hazards. They must be stable and not cause erosion, geologic instability, or destruction of the project site or the vicinity.

4.2.6.3 Analysis

It is not clear in the findings for the City's approval whether the revetment was properly engineered to protect against further bluff failure. The City's findings do not include an assessment of whether the approved project will accelerate bluff erosion in the areas adjacent to the revetment. The lack of such analysis is significant in view of the fact that by April, 2000,

only one and a half years after completion of the project, rills and gullies have formed at the project site, and the base of the bluffs behind the revetment show evidence of scouring. The fill buttress appears to be pulling away from the bluff, and erosion of the bluff face is continuing. PVC pipes draining water from the blufftop release water onto the bluff face, contributing to further erosion. Large voids between the revetment rock may allow storm waves and high sea levels to erode the toe of the bluff.

The project also raises uncertainties regarding the use of appropriate material to construct the revetment, since the project incorporates material such as concrete chunks with protruding rebar (possibly from the previous revetment which failed). Furthermore, the local record contains no provision for maintenance of the site, potentially contributing to the likelihood of hazardous conditions at the site. Structures remaining on the edge of the blufftop, apparently installed to protect property, have not been removed and pose a risk for the public who may be present at the base of the bluff. Since the project must minimize risks to life and property and prevent erosion and geologic instability of the site, the lack of information to support this requirement^{is required} raises a substantial issue of conformance with LUP Policy 26.

4.2.6.4 Conclusion

The City has not demonstrated that it had the information to support the project's consistency with the certified LCP at the time of project approval. Because the local record does not contain evidence that the project was properly designed and constructed to prevent further erosion and geologic instability, and because the development may not minimize the risk to life and property in the bluff area, the Commission finds that the project, as approved by the City, raises a substantial issue under the City's certified LCP with regard to policies addressing hazards and shoreline erosion.

4.2.7 Shoreline Protection/Alternatives Analysis

4.2.7.1 Contention

The appeal raises issues of the project's conformance with LUP policies relating to the construction of shoreline protection devices as needed to protect existing structures. The appellants contend that no analysis had been conducted to determine that the revetment was necessary to protect existing structures, or to determine that the project did not create or mitigate adverse impacts to the local sand supply.

4.2.7.2 LCP Policies

LUP Policy 16 permits construction of shoreline protection structures such as revetments and cliff retaining walls when required to protect existing structures and when designed to eliminate or mitigate adverse impacts on local sand supply.

4.2.7.3 Analysis

City staff has stated that the purpose of the proposed revetment is to protect Esplanade Drive (a public road), the houses on Esplanade (of which only two remain), and infrastructure beneath the road. The findings for the City's approval state that, "The bluff repair is needed to retard further erosion and loss of property." However, the City's approval contains no analysis of potential alternatives to the project to support a finding that the revetment is "required" to protect the road or infrastructure.

As described in Section 3.2 above, the City cites severe wave action *and* subsurface water seepage from the El Niño storms as the cause of erosion of the bluffs. The City's record does not contain an assessment of potential sources of erosion other than wave action, such as surface flow. Thus, given that wave action may not be the only source of erosion of the bluff, the approved project may not completely prevent further erosion. Without further analysis of the other erosion sources, it is uncertain that the revetment will protect the bluff as intended.

The approved project also raises a substantial issue with the provision of LUP Policy 16 that specifies that shoreline protection projects that protect existing structures must be designed to eliminate or mitigate adverse impacts to local shoreline sand supply. The staff report for the project reiterates this requirement by noting that any new protective devices must be evaluated for potential impacts and necessary mitigation regarding elements such as any alteration of natural migration and deposition of shoreline sand. However, there is no evidence in the administrative record that the City actually considered potential impacts to sand migration and supply.

4.2.7.4 Conclusion

The City record does not include information which demonstrates that the revetment is the only feasible method of shoreline protection; evaluates alternative to revetment for erosion control; assesses erosion sources other than wave action and techniques to control erosion due to these sources; or analyzes the project's effect on sand migration and supply. This information is necessary to evaluate the project for consistency with the certified LCP. Given the increasing number of emergency permits and coastal development permit applications for such structures in Pacifica, the approval of the Esplanade revetment project holds precedential value for future interpretations of the City's LCP. Because the City approved the project without adequate information necessary to determine the project's conformance with the LCP policies for shoreline protection, the Commission finds that the appeal raises a substantial issue with respect to conformance of the approved project with LCP provisions for protection of the shoreline.

5.0 INFORMATION NEEDED FOR DE NOVO REVIEW OF APPLICATION

As stated above, Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which an appeal has been filed. Section 30621 of the Coastal Act instructs the Commission to

provide for a de novo hearing on all appeals where it has determined that a substantial issue exists with respect to the grounds on which an appeal has been filed. If the Commission finds substantial issue as recommended, the Commission will hear the de novo application together with the permit application for the portion of the project with the Commission's original permitting jurisdiction. The whole project, because it is located in both the City and the Commission permitting jurisdictions, will be subject to review under the policies of both the certified LCP and the Coastal Act.

Because the project has come to the Commission after an appeal of a local government action, and because the City recently submitted the CDP application for the portion of the project within the Commission's original permitting jurisdiction, the Commission has not previously been in the position to request the information from the applicant necessary to determine if the project can be found to be consistent with the certified LCP and the Coastal Act. In order to assess the consistency of the proposed project with the certified LCP, including the geologic hazard, shoreline protection, ESHA, and access policies and standards of the LCP, the information specified below is needed for a de novo review of the application. This information is also needed by Commission staff to evaluate the consistency of the project with Sections 30210-30214, 30235, 30240, 30253 of the Coastal Act, and file the application for the portion of the revetment in the Commission's original jurisdiction.

5.1 Ownership

The following detailed ownership information is needed:

1. ownership information for all portions of the project site, including fee and easement interests; and
2. evidence that the applicant has complied with Section 30601.5 of the Coastal Act, including evidence of the applicant's ability to develop all portions of the project site and evidence that the applicant has invited all holders or owners of any interest in land to join as co-applicants.

5.2 Project Need

A detailed description and a map of the existing structure(s) the revetment is intended to protect are needed. The discussion should include, but is not limited to:

1. the length of the area to be protected by the revetment, in linear feet;
2. the type, purpose, and age of the existing infrastructure;
3. the areas served by the infrastructure; and
4. the ability and feasibility to relocate the infrastructure outside of the threatened area and/or bypass the infrastructure.

The map should be drawn to scale and depict the distance of the bluff edge to the structure(s). A cross-section of the bluff, showing the location of underground infrastructure relative to the blufftop and bluff face and drawn to scale, must be provided. Maps and cross-sections should be on both large scale and reduced 8.5" x 11" sheets.

5.3 Construction Description

The following details of the revetment must be provided:

1. final dimensions of the as-built project with the height referenced to a vertical datum;
2. kinds and quantities of all materials used;
3. size, shape, and source of all rock and backfill used;
4. type of construction equipment used; and
5. map showing the construction access points, staging areas, equipment washout areas, and equipment storage sites, both on large scale and on 8.5" x 11" sheets.

5.4 Alternatives Analysis

A thorough analysis of project alternatives designed to minimize impacts to public access, biological resources, sand supply, bluff and beach erosion in adjacent areas, and visual resources must be provided. The alternatives considered should include, but not necessarily be limited to:

1. a smaller revetment;
2. a vertical seawall;
3. drainage improvements in the upper bluff with the existing revetment;
4. drainage improvements in the upper bluff without the existing revetment;
5. relocation or elimination of threatened structures and removal of the revetment (i.e., the "no project" alternative).

The analysis should contain a comparison of each alternative's feasibility in terms of the resource elements listed above, the expected life of each alternative, and a cost/benefit ratio for each alternative. The ability of the alternatives to withstand a significant storm event, such as the 100-year storm event of 1982-1983, should also be evaluated.

5.5 Geologic Engineering Information

The Commission requires a geology and soils report for development in areas of potential geologic risk. The Geologic Engineering Report by a qualified geologic engineer should include the following:

1. geologic conditions of the project site and vicinity;
2. evidence and cause(s) of bluff erosion and failure at the project site;
3. description of shoreline protection devices previously installed on the project site or in the vicinity;
4. original engineered design plan with construction details and cross-sections, both on large scale and on 8.5" x 11" sheets;
5. discussion of whether the revetment can be expected to reduce or eliminate the immediate threat;

6. comparison of the as-built project to the original engineered design plan and an evaluation of the performance of the as-built project compared to that of the original design;
7. map and discussion of pre-project site drainage and drainage modifications caused by the project and dewatering devices used during and after construction;
8. impact of the revetment on erosion on adjacent bluffs and beach up and down the coast;
9. ability of the revetment to withstand a significant storm event, such as the 100-year storm event of 1982-1983;
10. background calculations supporting the need for the size and volume of rock, the size of the revetment, and other details in the original engineered design plan and in the as-built plan; and
11. additional erosion control measures, if any, necessary to treat and prevent erosion by different erosion sources.

Evidence that the City has approved the engineered plans, including that the plans submitted for the CDP application to the Coastal Commission are the same plans that the local government approved, must be given.

5.6 Coastal Process Information

A report on coastal processes for the project should include the following:

1. type and frequency of storms that have caused shoreline retreat historically;
2. estimated erosion rates for the site prior to construction of the revetment, both at the back beach and at the upper bluff;
3. historic contribution of project site to littoral sand supply;
4. normal and maximum tide ranges, transposed on a cross-section of the revetment as built;
5. storm surge and anticipated long-term changes in sea level;
6. maximum expected wave height;
7. identification of any offshore features affecting the site;
8. discussion of how wave energy, littoral currents, and other coastal forces may be modified by the revetment;
9. "summer" and "winter" beach profiles of the project site with references cited, on the same sheet and with the revetment as built depicted to scale, and a discussion of sand accretion and erosion patterns;
10. plot showing all historic shoreline surveys, with dates of surveys and references; and
11. the location of all mean high tide lines identified through surveys.

5.7 Biological Resource Information

An assessment of the existing and potential environmentally sensitive habitat areas, and plant and animal species, including marine resources, for the project site and vicinity (beach and bluff areas north and south of the project site) must be provided. This analysis should be prepared by a qualified biologist or ecologist and should include, but not necessarily be limited to:

1. presence of sensitive species potentially affected by the revetment project;

2. observed and potential changes to bluff and beach habitat due to the revetment project, ; and
3. observed and potential changes in plant and animal species due to the revetment project and effects on native species.

If environmentally sensitive habitat areas or sensitive plant or animal species exist or may exist in the project area, the protection and mitigation measures which could be implemented to prevent adverse impacts to them should be described.

5.8 Public Access Information

An analysis of the project's impacts to public access, should include but is not limited to:

1. description of the types of formal and informal vertical (from the blufftop to the beach) and lateral accessways in the vicinity of the project, including the distance of the access to the project site;
2. map showing the location of the public access points relative to the project site; and
3. discussion and evaluation of the effects of the revetment on the public's ability to walk to and along the shoreline, and the impacts of the project on recreational use of the beach and nearshore during the entire year, including an analysis of the proposed project's consistency with Section 30211 of the Coastal Act and LUP Policy 2 of the certified LCP.

5.9 Visual Resources Information

The assessment of visual resources should include but is not limited to:

1. map showing sight lines from the beach to the project; and
2. discussion of the permanent visual impact of the project relevant to Coastal Act concerns for protecting public views, minimizing landform alteration, and keeping new development visually compatible with the character of the surrounding area.

5.10 Maintenance and Monitoring Information

A description of how the project will be maintained, maintenance and monitoring schedules, and a description of the equipment to be used for these purposes needs to be provided. The monitoring plan should include:

1. monitoring objectives, including the specific aspects or effects of the project to be monitored;
2. success standards to evaluate the performance of the project;
3. monitoring techniques;
4. reporting techniques, schedule for reports, and parties receiving reports; and
5. expertise and professional qualifications for persons performing the monitoring.

5.11 Additional Information

Findings and recommendations by the Federal Emergency and Management Agency (FEMA) or other entities which conducted assessments at the project site or the bluffs and beach in the project vicinity should also be submitted.

EXHIBITS

1. Vicinity Map
2. Assessor Parcel Map
3. Site Plan
4. Appeal by Commissioners Wan and Potter

APPENDICES

- A. Substantive File Documents List
- B. Relevant LCP and Coastal Act Policies

FIC

SITE

PACIFICA

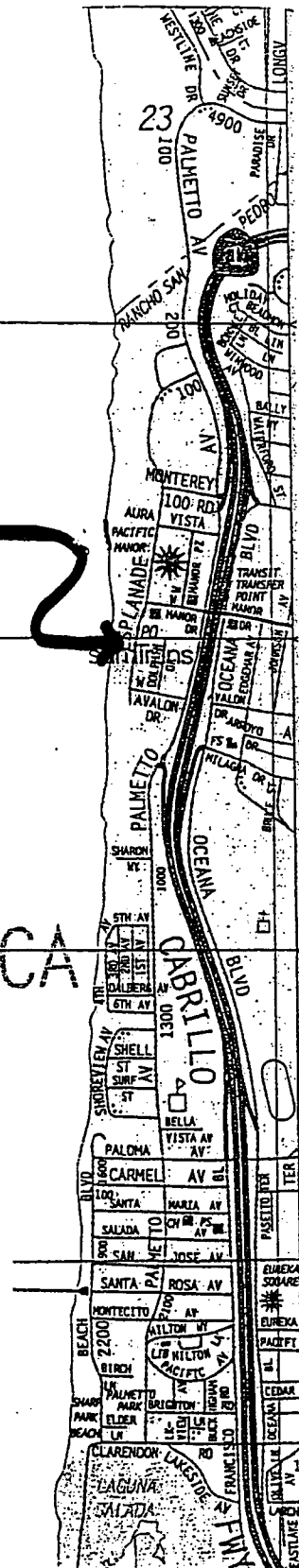


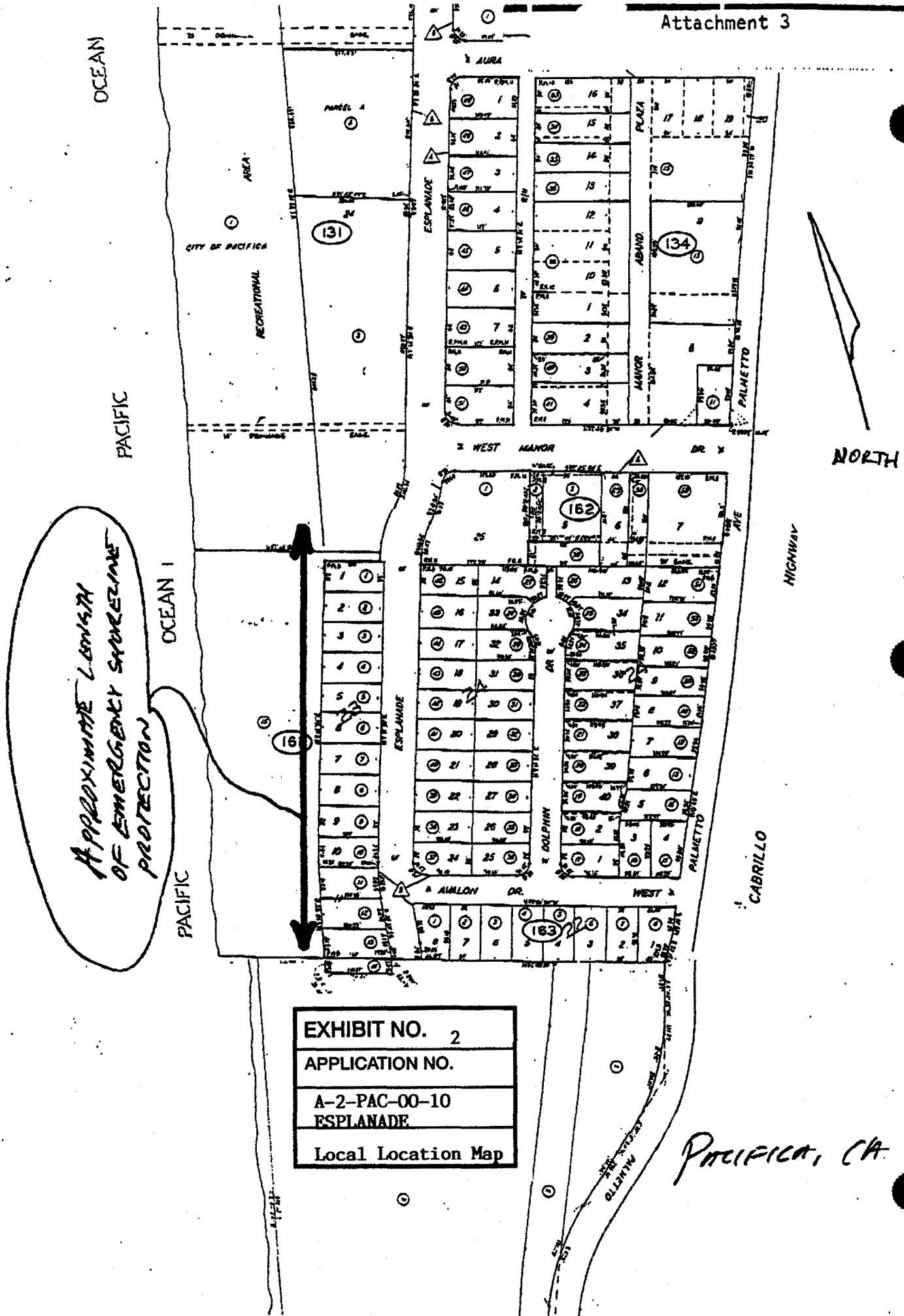
EXHIBIT NO. 1

APPLICATION NO.

A-2-PAC-00-10
ESPLANADE

Regional Location



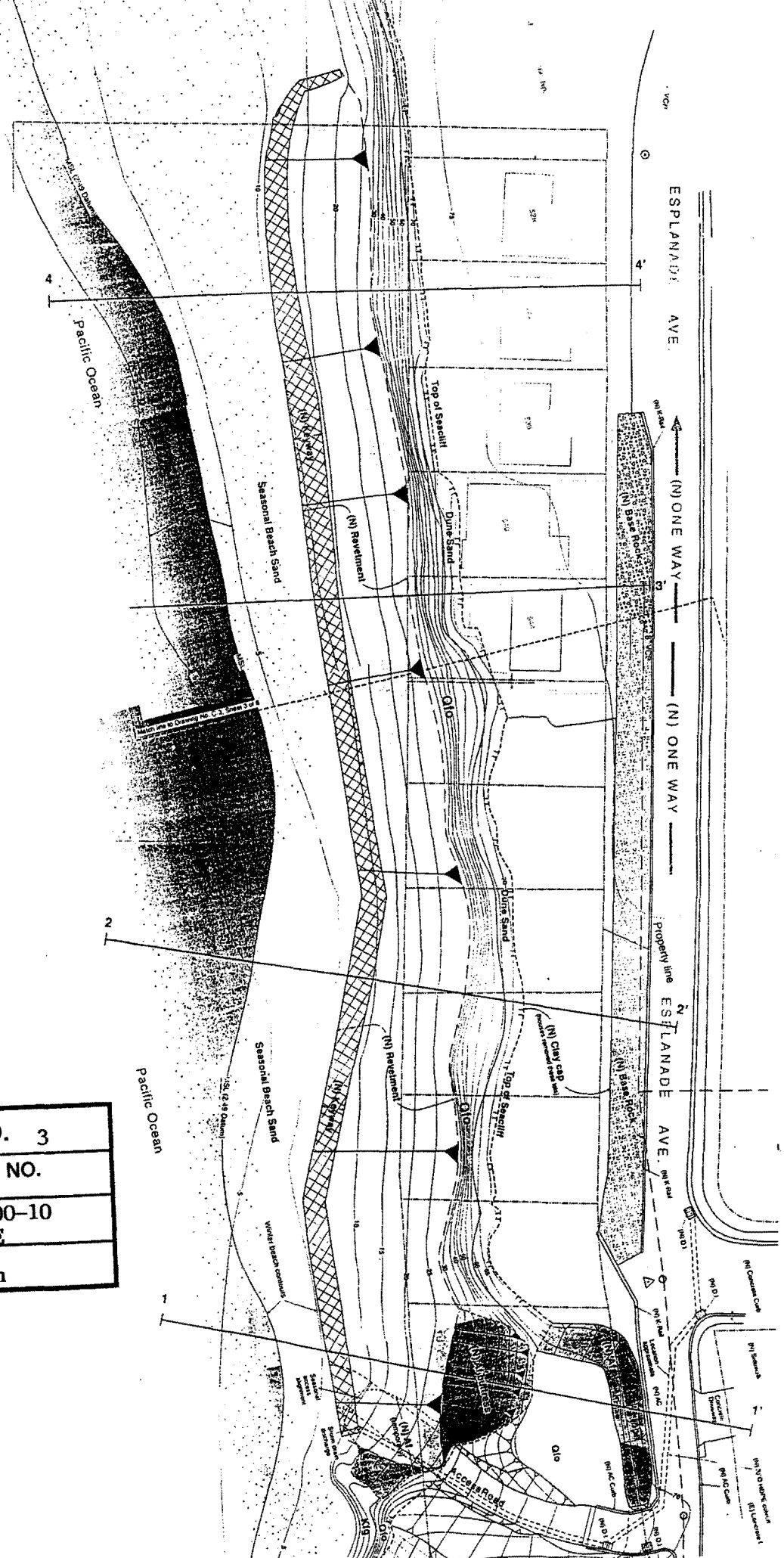
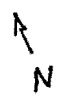


APPROXIMATE LENGTH
OF EMERGENCY SURVEILLANCE
PROTECTION

EXHIBIT NO. 2
APPLICATION NO.
A-2-PAC-00-10
ESPLANADE
Local Location Map

PACIFICA, CA

EXHIBIT NO. 3
APPLICATION NO.
A-2-PAC-00-10
ESPLANADE
Site Plan



CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT
 45 FREMONT, SUITE 2000
 SAN FRANCISCO, CA 94105-2219
 VOICE AND TDD (415) 904-5260
 FAX (415) 904-5400



April 5, 2000

TO: Peter Douglas, Executive Director

FROM: Sara Wan, Chair
 Dave Potter, Vice Chair

SUBJECT: **Appeal of City of Pacifica Local Coastal Permit CDP-130-98
 (Esplanade Revetment)**

EXHIBIT NO.	4
APPLICATION NO.	
A-2-PAC-00-10 ESPLANADE	
Appeal Letter	

1.0 LOCAL APPROVAL

Commissioners Wan and Potter are appealing the City of Pacifica's approval of Local Coastal Development Permit CDP-130-98. The City of Pacifica approved Coastal Development Permit CDP-130-98 to permanently authorize a portion of an approximately 1,000-foot long, 40-foot wide and 20 to 60-foot high rip-rap revetment installed under emergency authorization to protect existing structures from bluff failure in 1998. The revetment straddles the coastal development permitting jurisdictional boundary of the City and the Coastal Commission. The City recently submitted a CDP application to the Commission for the portion of the revetment that is located seaward of the Mean High Tide Line. The City-approved project does not include any modifications to the revetment as originally constructed under the emergency permits.

Since the time that emergency work was authorized, 10 of the 12 homes threatened by the bluff failure have been demolished. FEMA provided funding to the City to purchase these lots. The City now owns 11 vacant bluff-top lots between Esplanade Drive and the revetment. The City contemplates that this area will be designated for low intensity passive recreational use in the future.

2.0 REASONS FOR APPEAL

The approved development raises a substantial issue of conformance with the policies of the certified City of Pacifica LCP concerning public access, visual resources, environmentally sensitive habitat areas, marine biological resources, hazards and shoreline protection projects and with the coastal access policies of the Coastal Act.

2.1 Public Access

The approved project may significantly interfere with the public access along the shoreline raising a substantial issue of conformance with LUP Policy 2 and Coastal Act Section 30211.

2.2 Visual Resources

The approved project is a 1,000-foot long 20 to 60-foot high rock revetment. Few shoreline protection projects in the State are as massive as this. This comprises a significant alteration of

the face of the bluff raising a substantial issue of conformance with LUP Policies 24 and 26 which restrict the alteration of natural land forms along cliffs and bluffs.

2.3 Environmentally Sensitive Habitat and Marine Biological Resources

Prior to construction of the revetment, the project site may have provided habitat for cliff swallows, snowy plovers, and/or other sensitive animal or plant species. The City's findings contain no assessment of whether the project site may contain environmentally sensitive habitat areas or whether the project may adversely affect marine biological resources. This raises a substantial issue under LUP Policies 11, 12, and 18.

2.4 Hazards/Shoreline Erosion

The approved project was constructed under emergency conditions. It is not clear in the findings for the City's approval whether the revetment was properly engineered to protect against further bluff failure. The City's findings do not include an assessment of whether the approved project will accelerate bluff erosion in the areas adjacent to the revetment. This uncertainty raises a substantial issue of conformity with LUP Policy 26.

2.5 Shoreline Protection/Alternatives Analysis

Policy 16 of the Land Use Plan (LUP) allows construction of revetments and other shoreline protection projects when necessary to protect existing structures. Because 10 of the 12 homes have been removed, a substantial issue is raised whether the approved project conforms with LUP Policy 16. City staff has stated that the purpose of the proposed revetment is to protect Esplanade Drive and infrastructure beneath the road. However, the findings for the City's approval states only that "The bluff repair is needed to retard further erosion and loss of property," and contains no analysis of potential alternatives to support a finding that the revetment is necessary to protect the road or infrastructure.

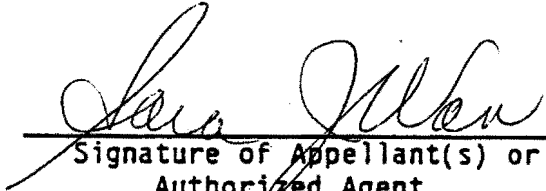
The approved project also raises a substantial issue under the provision of LUP Policy 16 that specifies that shoreline protection projects to protect existing structures must be designed to eliminate or mitigate adverse impacts to local shoreline sand supply. There is no evidence in the findings that the City considered potential impacts to sand supply.

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

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

SECTION V. Certification

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



Signature of Appellant(s) or
Authorized Agent

Date April 5, 2000

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

Section VI. Agent Authorization

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

Signature of Appellant(s)

Date _____

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

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SECTION V. Certification

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

Dave Pottin

Signature of Appellant(s) or
Authorized Agent

Date April 5, 2000

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

Section VI. Agent Authorization

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

Signature of Appellant(s)

Date _____

APPENDIX A: SUBSTANTIVE FILE DOCUMENTS LIST

- California Coastal Commission, 1999. *Beach Erosion and Response Guidance Document*, December, 1999.
- City of Pacifica, 2000. Address list of parties notified of project.
- City of Pacifica, 2000. Application for Coastal Development Permit, March 22, 2000.
- City of Pacifica, 2000. Assessor Parcel Numbers of properties within 100 feet of the project.
- City of Pacifica, 2000. Notice of Exemption for California Environmental Quality Act (CEQA) process to Office of Planning and Research and Office of County Clerk, March 21, 2000.
- City of Pacifica, 2000. Grant memo regarding Planning Commission approval, March 21, 2000.
- City of Pacifica, 2000. Minutes of the Planning Commission, March 20, 2000.
- City of Pacifica, 2000. Notice of Action.
- City of Pacifica, 2000. Notice of Pending Permit, posted March 22, 2000.
- City of Pacifica, 2000. Planning Commission Staff Report, March 20, 2000.
- City of Pacifica, 2000. Project plans, 11" x 17".
- City of Pacifica, 2000. Property owner list and location map.
- City of Pacifica, 2000. Property ownership documents.
- City of Pacifica, 2000. Reduced site plan,
- Cotton, Shires, & Associates, 1998. Summary Report of Earthwork Observations, October 1998.
- Griggs, Gary and Lauret Savoy, editors. *Living with the California Coast. Chapter 11, San Francisco to Año Nuevo* by Kenneth Lajoie and Scott Mathieson. Durham, North Carolina: Duke University Press, 1985.
- San Francisco Bay Regional Water Quality Control Board, 1998. Letter from Loretta K. Barsamian to Ken Solomon, April 10, 1998.
- State Lands Commission, 2000. Letter from Nanci Smith to Chris Kern, February 15, 2000.

State Lands Commission, 2000. Letter from Betty Silva to Ken Solomon, March 15, 2000.

U.S. Army Corps of Engineers, 1998. Letter from Calvin C. Fong to Ken Solomon, April 2, 1998.

APPENDIX B: RELEVANT LCP AND COASTAL ACT POLICIES

Local Coastal Program Policies:

LUP Policy 2 states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. (Coastal Act Section 30211)

LUP Policy 11 states:

Marine resources shall be maintained, enhanced, and, where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes. (Coastal Act Section 30230)

LUP Policy 12 states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams. (Coastal Act Section 30231)

LUP Policy 16 states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible. (Coastal Act Section 30235)

LUP Policy 18 states:

Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those

areas. Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of such habitat areas. (Coastal Act Section 30240)

LUP Policy 24 states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect public views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting. (Coastal Act Section 30251)

LUP Policy 26 states:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*
- (3) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development.*
- (4) Minimize energy consumption and vehicle miles traveled.*
- (5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses. (Coastal Act Section 30253)*

Coastal Act Policies:

Coastal Act Section 30211 states:

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

Page: 17

[CLK1]discuss with lesley how to do this – adjacent unprotected bluf?