

CALIFORNIA COASTAL COMMISSION

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Commission Action:

Th8a**RECORD PACKET COPY****STAFF REPORT: REGULAR CALENDAR**

APPLICATION NUMBER: 5-99-260

APPLICANT: MT No. I LLC, Attn: Jim Johnson & William R. Brasher, Esq.

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PROJECT LOCATION: Northwest of the intersection of Avenida Pico and N. El Camino Real, City of San Clemente (Orange County)

PROJECT DESCRIPTION: Request for authorization to make permanent the bluff stabilization grading undertaken under Emergency Coastal Development Permit 5-90-274-G. In addition, residential and commercial development, public park, trails and open space and associated infrastructure including roads and utilities on the 189.6 acre portion of the Marblehead property within the coastal zone. Included are a property subdivision; 4.95 million cubic yards of grading including site preparation and remedial grading; construction of several thousand linear feet of loffelstein walls within the canyons; construction of 424 single family homes as a private gated community with a private road network that will include 3 bridges; construction of 84,313 square feet of commercial space in 8 commercial buildings with 1,504 parking spaces, including internal circulation roads and 2 bridges; dedication of a 9.4 acre bluff park; establishment of 58.3 acres of other private open space including pedestrian and bicycle trails; construction of a new public road (Avenida Vista Hermosa) including one bridge; widening of El Camino Real including construction of a retaining wall along an existing Blochman's dudleya reserve and construction of sidewalks and bicycle lanes; widening of Avenida Pico including sidewalks and bicycle lanes; dedication of an off-site 1.1 acre beachfront property for public access; construction of a storm water management and flood control system; dedication of 1.0 acre of land for visitor serving commercial use; contribution of money to the City of San Clemente for downtown business district improvements, park improvements, public facility improvements, and off-site circulation improvements. Also, the applicant is proposing impacts to certain

habitat areas including 14.37 acres of 17.34 acres of coastal sage scrub, 0.31 acres of 0.31 acres of needlegrass grasslands, 0.08 acres of 0.59 acres of alkali meadow wetlands in the coastal zone, 0.01 acres of 0.21 acres of seasonal wetlands in the coastal zone, and 3,600 individuals of Blochman's dudleya. In addition to these impacts which will occur under the development now proposed the applicant is proposing to make permanent the impacts to habitat that occurred under Emergency Coastal Development Permit G5-90-274. These impacts include 3 acres of coastal bluff scrub, 2.5 acres of needlegrass grassland, 0.1 acres of wetlands, and 3.5 acres of Blochman's dudleya (estimated 6,500 to 10,700 individuals). Mitigation for the proposed impacts to biological resources include on-site mitigation of 16.57 acres of coastal sage scrub on the graded slopes of Marblehead Canyon and the western canyon; off-site acquisition of development rights and establishment of a conservation easement over 50 acres of land containing 30 acres of existing coastal sage scrub and 12 pairs of California gnatcatchers; translocation of 0.3 acres of needlegrass habitat to Marblehead Canyon and the Blochman's dudleya reserve; mitigation of impacts to 0.08 acres of alkali meadow wetlands with the creation of 0.16 acres of alkali meadow wetlands on-site; mitigation of 0.01 acres of seasonal wetlands impacted with 0.028 acres of seasonal wetlands on-site; mitigation for impacts to the Blochman's dudleya by completing a translocation plan being implemented under Coastal Development Permit 5-97-136; contribution of \$100,000 to the property owner's association for long-term on-site habitat management; contribution of \$106,000 for management of off-site mitigation areas.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends **DENIAL** of the proposed development because it is not in conformity with Sections 30213, 30221, 30222, 30223, 30230, 30231, 30233, 30240, 30252, and 30253 of the Coastal Act. The proposed development entails large-scale grading that would dramatically transform the natural landforms on the site. For example, the proposed project will grade and fill the slopes of two canyons on the project site in order to expand the area of development for single family residences. Some fill slopes within the canyons will be steepened through the use of mechanically stabilized earth structures (a.k.a. loffelstein walls). The result of this grading, filling, and use of loffelstein walls will narrow the width of the canyons and steepen the canyon walls. These landform alterations will have adverse visual impacts. Grading and construction of walls within the canyon will occur within 5 to 30 feet of existing wetlands. This grading and construction will eliminate existing native vegetation which provides a buffer for the existing wetlands. In addition, grading and construction within the canyons will eliminate existing Blochman's dudleya, a rare plant. The proposed development will also commit 110 acres of land suitable for either visitor serving commercial development or lower cost public recreation opportunities for residential development, a low priority use under the Coastal Act. Finally, the applicant has not submitted sufficient information to allow the Commission to adequately evaluate the impacts of the proposed development on native habitat, wetlands, hydrology, geologic stability, and water quality.

FEDERAL CONSISTENCY:

The proposed project site includes property located inland of the coastal zone boundary. The proposed development on that portion of the property would require a permit from the Corps of Engineers pursuant to Section 404 of the Clean Water Act. Section 307(c)(3)(A) of the Coastal Zone Management Act provides that:

Any applicant for a required Federal license or permit to conduct an activity, in or outside of the coastal zone affecting any land or water use or natural resource of the coastal zone of that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the enforceable policies of the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all the necessary information and data.

A Section 404 permit is listed in the California Coastal Management Program as a permit for activities that are likely to affect coastal zone uses and resource, and thus requires a consistency certification. In this case, development inland of the coastal zone and its associated facilities could potentially affect water supply to wetlands within the coastal zone, species migration to the coastal zone, and visual resources of the coastal zone. Therefore, that development may require Commission concurrence with a consistency certification before the Corps can issue its permit for any part of the development.

OTHER AGENCY APPROVALS RECEIVED: City of San Clemente Design and Architectural Review, General Plan Amendment 96-02, Specific Plan 95-02, Tentative Subdivision TTM 8817, Planned Residential/Commercial Development Approval, Site Plan Permit 97-16 and 99-16, Conditional Use Permit 99-17 and Sign Exception Plan 99-18 ; California Regional Water Quality Control Board, San Diego Region, Action on Request for Clean Water Act section 401 Water Quality Certification for Discharge of Dredged and/or Fill Materials, Order for Standard Certification dated August 1, 2000;

SUBSTANTIVE FILE DOCUMENTS: See Appendix A

STAFF RECOMMENDATION:

Staff recommends that the Commission DENY a coastal development permit for the proposed development by voting NO on the following motion and adopting the following resolution.

MOTION

"I move that the Commission approve Coastal Development Permit 5-99-260 for the development proposed by the applicant."

Staff recommends a **NO** vote. This will result in denial of a coastal development permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION

I. DENIAL

The Commission hereby **DENIES** a coastal development permit for the proposed development on the ground that the development will not conform with the policies of Chapter 3 of the Coastal Act and will prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

II. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. SITE AND PROJECT DESCRIPTION

The Marblehead site is a 250 acre property (189.6 acres in the coastal zone) located between El Camino Real (a.k.a. Pacific Coast Highway) to the southwest, Avenida Pico to the northeast, the Interstate 5 freeway to the northeast, and the Colony Cove residential subdivision to the southwest (Exhibit 1). The site is roughly rectangular and consists of an upland bluff top mesa which is incised by one large canyon (Marblehead Canyon) and several smaller canyons and drainages (Exhibit 2). The southwestern boundary of the project site (along El Camino Real) consists of 70 to 100 foot high coastal bluffs which are intersected by the mouths of the on-site canyons and drainages. The bluff is separated from the beach by El Camino Real, train tracks, and a private gated mobile home park (Capistrano Shores), therefore, the bluffs do not provide direct access to the beach. The closest beach access is at North Beach, which is across the street and south of the bluffs. North Beach contains a Metrolink train station, beach parking and is a popular beach area. The project site is the last large vacant parcel in the coastal zone in the City of San Clemente.

The applicant is proposing a comprehensive residential and commercial development, public park, trails and open space and associated infrastructure including roads and utilities on the 250 acre Marblehead site in the City of San Clemente, Orange County (Exhibit 3). While the project is an integrated development, only 189.6 acres are located within the coastal zone, therefore, only the portion of the development in the coastal zone requires a coastal development permit. The portion of the project outside the coastal zone may require Federal consistency review (see previous note). Included in the development are a property subdivision (Exhibit 5) and construction of 424 single family homes (Exhibit 6 and 7), 84,313 square feet of commercial space in 8 commercial buildings, a 9.4 acre bluff

park, and 58.3 acres of private open space and pedestrian and bicycle trails (see table below).

Following is a table identifying the proposed land uses followed by a detailed description of the proposed project (see also Appendix B for the applicants' description of their project):

Land Use	Non-Open Space (acres)	Open Space (acres)	Total (acres)
Lots and Private Drives (424 single family units)	95.7		
Manufactured Slopes (Identified as "OS-2" on Site Plan)		15.2	
Total Residential Area (including open space within development area)			110.0
Regional Commercial Area – 357,100 square feet of land (42.5 acres or 432,900 square feet are outside the coastal zone) (Excludes 1.05 acres of open space within OS-2 of which there is an overlap of 0.30 acres for commercial access bridge.	16.8	4.0	
Total Regional Commercial (Identified as "RC-1" on Site Plan)(including open space within development area)			20.8
Coastal Commercial – up to 60,000 square feet allowed according to the City's Specific Plan for the area (no actual buildings proposed)	1.0		
Total Coastal Commercial (Identified as "CRC-1" on Site Plan)			1.0
Public Park (includes 0.5 acres retained wetlands) (graded only – no facilities proposed)		9.4	
Total Public Open Space (Identified as "OS-1" on Site Plan)			9.4
Dudleya Reserve		1.3	
Dudleya buffer		0.8	
Central Canyon - Wetlands - Slopes		3.8 16.9	
Westerly Canyon - Wetlands - Slopes		0.5 2.7	
El Camino Real Bluff Face		8.1	
Perimeter Open Space - Manufactured Slopes (Excludes 0.1 acres portion of Lot A not within the coastal zone.)		5.0	
Total Private Open Space (identified as "OS-2" on Site Plan)(includes trails)(excludes open space in residential and commercial)			39.1
Avenida Vista Hermosa Interchange and Entries (Assumes 0.57 acres less for AVH bridge included in the OS-2 acreage)	8.4		
Total Avenida Vista Hermosa			8.4
Total All	121.9	67.7	189.6

1. Subdivision - Tentative Tract 8817

The applicant has indicated that the property is currently subdivided into 10 existing lots. Information submitted by the applicant indicates that a lot line adjustment related to these lots was processed at the local government level in 1998. Subdivisions, lot line adjustments, etc. within the coastal zone are considered development which requires a coastal development permit to be valid in the coastal zone. Commission staff have not identified any coastal development permits for subdivision(s), lot line adjustments, etc. for the subject site.

The applicant is proposing to subdivide the 250 acre site into 424 single-family residential lots (68.2 acres), 13 commercial lots (60.30 acres total/17.8 acres in the coastal zone), 37 open space lots (81.60 acres total/67.7 acres in coastal zone), 30 private street lots (26.90 acres), and one public street lot (13.55 acres total/9 acres in the coastal zone) (Exhibit 5). As noted above, only the portion of the development within the coastal zone requires a coastal development permit. Accordingly, only the portion of the subdivision on the 189.6 acres in the coastal zone requires a coastal development permit. The tentative tract map (8817) submitted by the applicant shows the location of the coastal zone boundary line. Based on this information, three of the thirteen commercial lots (Lot No.'s 438, 439, and 441 = 3.31 acres) and two of the thirty-seven open space lots (Lot No.'s KK and LL = 11.44 acres) are located entirely outside of the coastal zone. Meanwhile, eight of the thirteen commercial lots (Lot No.'s 440, 442 to 446, 448, 449 = 55.3 acres), one of the thirty-seven open space lots (Lot No. JJ = 9.0 acres), and the 9.37 acre lot for the proposed public street, Avenida Vista Hermosa, are bisected by the coastal zone boundary.

2. Grading and Site Preparation

The applicant is proposing to grade almost the entire property, with the exception of the wetlands areas and approximately 1,800 linear feet of bluff which were previously graded under Emergency Coastal Development Permit 5-90-274-G (Exhibits 9, 15, and 16). The applicant is requesting permanent authorization of the emergency grading under this permit application.

Emergency Coastal Development Permit 5-90-274-G authorized 310,000 cubic yards of grading in order to stabilize approximately 1,800 linear feet of the approximately 2,400 linear feet of 70 to 100 foot high bluffs which are on the Marblehead site and which face upon El Camino Real (Exhibit 15). The grading resulting in laying the bluff face back at a 1.5:1 to 2:1 slope (Exhibit 16). According to the Marblehead Coastal Bluffs Emergency Grading Program Focused EIR dated April 15, 1991, the actual emergency grading undertaken was 348,400 cubic yards of cut. This 348,000 cubic yards of cut was stockpiled in two locations (Exhibit 16): 1) between the western canyon and middle central canyon (a.k.a. Marblehead Canyon) on the Marblehead site; and 2) within the Marblehead Canyon on the site of the sewage treatment plant which was demolished in the early 1980's (see below for details). The 1991 EIR also states that a 30,000 cubic yard stabilization key involved the cutting and stockpiling of 30,000 cubic yards of material. According to a report by Leighton and Associates dated June 15, 2000, the stabilization key (essentially a ring of compacted soil) was constructed around the soil stockpiles to stabilize them since they were not placed as compacted engineered fill.

In addition to the Phase I grading which was already undertaken, the applicant is proposing 3,830,000 cubic yards of grading consisting of 2,100,000 cubic yards of cut and 1,730,000 cubic yards of fill and 370,000 cubic yards of material to be exported from the portion of the project site within the coastal zone (see Exhibit 9 for breakdown of grading quantities for individual areas on the project site). Approximately 30,000 cubic yards of material are anticipated to be beach quality sand which will be used for beach nourishment in accordance with a separate coastal development permit.

In order to prepare the site for construction of the residential development, the applicant is proposing to use a type of retaining wall, a "loffelstein" wall, in order to stabilize slopes that will be steepened within the western canyon and Marblehead Canyon as part of the grading (Exhibit 11). Over 2,000 linear feet of walls will be constructed within Marblehead Canyon and over 1,700 linear feet of walls will be constructed in the western canyon. Within Marblehead Canyon, the walls will range in height between approximately 7 feet tall to approximately 52 feet tall with an average height of 30 feet. Within the western canyon, the walls will range in height between 15 feet and 41 feet with an average height of approximately 20 feet. In the western canyon some of the walls will be placed in two tiers to achieve a cumulative height of approximately 50 feet. The walls will be constructed in the bottom of the canyons with the toe of the wall between 5 feet and 35 feet from the existing wetlands which course through the canyon bottoms. As a result of site grading and use of the loffelstein walls, the canyons will be narrowed and the slope of the canyon walls will be steepened (Exhibit 10).

The proposed loffelstein walls will have a v-ditch drainage channel along the top of the wall which will be connected by subsurface pipes to discharge locations at the base of the wall. In addition, subdrains will be installed in the created slope which will also discharge at the base of the wall. The discharge pipes will be located at approximately 50 foot intervals along the base of the wall. Drainage will discharge from the pipes to the wetlands which are located 5 to 35 feet from the toe of the proposed loffelstein walls (Exhibit 11).

3. Residential Development

The applicant is proposing to construct 424 single family residences on 110 acres of land within the seaward most portion of the property within the coastal zone (Exhibits 3, 5, and 6). There are eight basic floor plans which range in square footage from 1,805 square feet to 2,400 square feet (Exhibit 7). The structures have a height range of 23 feet to 28 feet 6 inches. Each design has an attached garage with capacity for at least 2 vehicles. The residential lots range in size from 5,000 square feet to 15,344 square feet.

The proposed development includes all associated infrastructure including roads and utilities. The residential development is proposed to be a private, gated community. Gates would be placed at all entrances to the residential community including at Street CCC, at the northern and southern terminus of Street AAA and at Street FFF.

Three concrete box girder bridges are included in the road network for the residential development which cross the on-site canyons (Exhibit 13). One bridge, Street BBB Bridge crosses Marblehead Canyon. This bridge is approximately 80 feet long and 58 feet wide,

with 27 feet of clearance between the bottom of the bridge span and the wetlands below. The two other bridges, Street AAA Bridge and Street RRR Bridge cross the western canyon. Street AAA Bridge is approximately 100 feet long and 38 feet wide with approximately 11 feet of clearance between the bottom of the bridge span and the wetlands below. Street RRR Bridge is approximately 70-75 feet long and 38 feet wide with approximately 27 feet of clearance between the bottom of the bridge span and the wetlands below. The bridges will be founded upon pilings and compacted fill retained by loffelstein retaining walls. The loffelstein walls will have v-ditch and subdrains similar to those described above. The toe of the walls will have minimum 5 foot setback from the wetlands.

4. Commercial Development

a. Marblehead Commercial Center:

The applicant is proposing the construction of eight commercial buildings (Building No.'s 12-19) within the coastal zone with a combined total of 84,313 square feet of space on 16.8 acres within a 59.3 acre commercial center of which 42.5 acres are outside of the coastal zone (Exhibits 5, 8a, 8b). Building heights will range from 36 to 46 feet tall. Following are the building sizes and proposed general uses of the development within the coastal zone:

<u>Building No.</u>	<u>Size (ft²)</u>	<u>Use</u>
12	17,890	Restaurant
13	11,860	Restaurant
14	6,370	Restaurant
15	10,233	General Commercial
16	10,150	General Commercial
17	5,475	Restaurant
18	7,045	Restaurant
19	16,000	General Commercial

Based on a letter dated July 11, 2000, from the applicant's agent RBF Consulting, general commercial uses will include a video store, convenience store, optometry, real estate sales, optical/sun glass shop, one-hour photo, home furnishings store, art gallery, chiropractor, surf shop, interior design studio, shoe store, general gift store, card shop, nail salon, barber, beauty supply, tobacco shop, bicycle shop, picture frame store, and copy store. According to the applicant, visitor serving uses include restaurants, a movie complex and public viewing plaza areas located within the commercial center (both inside and outside the coastal zone). The proposed uses within the coastal zone are:

<u>Use</u>	<u>Square Footage</u>
Video Store	2,500
Convenience Food Store	2,723
Optometry	1,200
Real Estate Sales	1,000
1 Hour Photo	1,000
Home Furnishings Store	4,000

Art Gallery	2,000
Chiropractor	1,200
Surf Shop	1,300
Interior Design Studio	2,000
Shoe Store	3,000
General Gift Store	3,000
Card Shop	2,000
Nail Salon	900
Barber	1,000
Beauty Supply	1,000
Tobacco Shop	900
Bicycle Shop	1,200
Picture Frame Store	2,000
Copy Store	1,200
Restaurant Uses	46,690
Total	84,313

Associated infrastructure to serve the commercial development will be constructed including internal circulation roads, parking and utilities.

There are three proposed entrances to the commercial development located within the coastal zone (a fourth entrance is located outside the coastal zone) which are accessed off proposed Avenida Vista Hermosa. Within the commercial development two concrete box girder bridges are proposed to be constructed over the northern reach of Marblehead Canyon and the existing wetlands contained in the canyon bottom. One bridge provides an entry to the commercial development. This bridge is approximately 220-250 feet long and 80 feet wide with 55 feet of clearance between the bottom of the bridge span and the wetlands below. The second bridge is internal to the proposed development and is approximately 150 feet long and 38 feet wide with 56 feet of clearance between the bottom of the bridge span and the wetlands below. These bridges have the same foundation system with pilings and loffelstein walls proposed for the bridges in the residential development.

According to a letter dated December 10, 1999, submitted by RBF Consulting, there are 1,504 standard parking spaces located within the coastal zone. Fifty (50) of these parking spaces are designated for handicap parking.

The commercial development within the coastal zone buildings and infrastructure are part of a larger commercial shopping center, the remainder of which is being constructed outside the coastal zone. According to the Addendum to Final EIR, the overall commercial development, including the elements inside and outside the coastal zone, will have 700,140 square feet of commercial space in nineteen buildings, with 3,664 parking spaces (2,971 in surface lots and 693 in a two-tier parking garage).

b. Other Commercial

In addition to the proposed commercial development, the applicant is proposing to designate 1.0 acre of land for visitor serving commercial use near the corner of Avenida

Pico and El Camino Real (Exhibit 3). This commercial area would be adjacent to a proposed Dudleya Native Plant Reserve and the public coastal park. This site will be graded only and will be reserved for visitor serving commercial uses.

In addition, the applicant is proposing the contribution of money to the City of San Clemente for the enhancement of the downtown business district (see Appendix B). According to the applicant, a significant portion of the business district where the money would be spent is in the Coastal Zone.

5. Roads and Infrastructure

The applicant is proposing the construction of roads and other infrastructure to serve the proposed development. Other infrastructure includes utilities to serve the proposed development such as water lines, reclaimed water lines, gas, electric, sewer, and storm drains with storm water management system.

In addition to the private road system and bridges noted above, the applicant is proposing the construction of one main arterial public roadway, Avenida Vista Hermosa (Exhibit 3). The proposed public road will extend from existing Avenida Pico to a new proposed freeway interchange at Interstate 5 (a portion of the road and the proposed interchange are outside the coastal zone). The road will provide access to the commercial and residential development.

Proposed Avenida Vista Hermosa will be a 4 lane, approximately 100 foot wide roadway with a center median. In order to construct the road, one concrete box girder bridge will be constructed over Marblehead Canyon (Exhibit 13). This bridge will be approximately 225 feet long and 109 feet wide with 55 feet of clearance between the bottom of the bridge span and the wetlands below.

The applicant is also proposing to widen 3,160 linear feet of El Camino Real in front of the project site. Along 2,450 linear feet of the 3,160 linear feet affected, the widening will increase the roadway from 45 to 50 feet wide. In addition, a 7 foot wide bike lane and 5 foot wide sidewalk will be added to this portion. Overall, El Camino Real will be widened by 17 feet. The remaining 710 linear feet will be widened a minimum of 5 feet and will include a bike lane and sidewalk. A retaining wall will be constructed along the Blochman's dudleya reserve in order to allow the widening to occur (Exhibit 12).

Avenida Pico will also be widened by 23 feet as a result of the project. The widening will affect 2,100 linear feet of Avenida Pico and will consist of increasing the width of the southbound lane from 20 feet to 28 feet, plus a 7 foot wide bike lane and an 8 foot wide sidewalk.

The applicant is also proposing the contribution of money to the City of San Clemente for off-site circulation improvements including construction of the Avenida Vista Hermosa freeway interchange and improvements to the Avenida Pico freeway interchange (see Appendix B).

The applicant is proposing to construct a storm water management system (Exhibit 14). According to the Marblehead Coastal Water Quality Plan dated July 7, 2000 prepared by

RBF Consulting (herein referred to as the Water Quality Plan), the proposed storm water management system includes storm drain catch basins with catch basin inserts, storm water retention basins, underground storm water storage tanks and a valve and telemetry system to control the diversion of dry weather nuisance flows and first flush storm water to the sewage treatment plant for processing and discharge through the South East Regional Reclamation Authority (SERRA) ocean outfall. There are three proposed storm water detention basins located on the slopes of Marblehead Canyon. These detention basins store storm water from the residential development prior to either diversion to the sewage treatment plant for processing or discharge of the storm water through various existing culverts which pass under El Camino Real and discharge at the beach. In addition, there are four proposed underground water storage tank systems located under the proposed commercial development. The storage tanks consist of several interconnected 10 foot diameter cylinders. These storage tanks capture the first flush and dry weather nuisance flows from the proposed commercial development as well as run off from some developed areas located on the inland side of Interstate 5 which discharge onto the subject site. According to the Water Quality Plan the applicant is also proposing installation of two continuous deflection separation (CDS) units.

6. Open Space, Park, Trails, and Bikeways

The applicant is proposing open space areas, a bluff park, trails and bikeways as part of the proposed development (Exhibit 6). According to the applicant, a total of 67.7 acres of public and private on-site open space are proposed. This figure cited by the applicant includes manufactured slopes within the residential development, vegetated setbacks and manufactured slopes in the commercial development, a public park, and privately maintained open space areas including a Dudleya habitat reserve and buffer, the central (Marblehead Canyon) and westerly canyons, the El Camino Real bluff face, and manufactured slopes along the perimeter of the development (see table above for land use break down).

Part of the 67.7 acre area is a 9.4 acre public bluff park. The bluff park will be located at the corner of Avenida Pico and El Camino Real adjacent to a Dudleya Native Plant Reserve and the 1.0 acre lot proposed to be reserved for visitor-serving commercial use. The applicant is not proposing any improvements to the 9.4 acre park other than grading of the site. However, the applicant is proposing to contribute money to the City of San Clemente for park improvements. According to the applicant's project description (Appendix B), the money would be used by the city for improvements to the bluff park as well as a proposed 7 acre sports park which is outside the coastal zone and north of the existing Shorecliffs Middle School. In addition, there is no on-site parking for the proposed park. However, the applicant indicates that approximately 60 diagonal parking spaces could be placed upon proposed Street BBB which provides access off Avenida Pico to the proposed park and the proposed residential development. The City of San Clemente has indicated a willingness to accept the park land (Exhibit 22)

Within the privately maintained 20.7 acre Marblehead Canyon open space area, the applicant is proposing approximately 1,900 lineal feet of 8 foot wide public trail. The proposed trail would be located on the westerly slope of Marblehead Canyon and would link the commercial center to the bluff park at the southern end of Marblehead Canyon.

In addition, the applicant is proposing approximately 2,300 lineal feet of trail approximately half way up the bluff face along El Camino Real. The bluff face would be maintained as private open space, however, the 2,300 foot long, 8 foot wide trail would be open to the public. The trail would be located along the top of the first bench created as part of the bluff stabilization project. The trail would be elevated and would include three vista points. The trail would extend from a sidewalk along El Camino Real near the proposed public park and then rejoin the sidewalk along El Camino Real near the existing Colony Cove development.

In addition to off-street public trails, the applicant is proposing pedestrian and bicycle trails and pathways in or adjacent to 8,500 lineal feet of Avenida Vista Hermosa, Avenida Pico and El Camino Real.

The applicant is also proposing the acquisition and public dedication of 1.1 acres of beachfront property which has 440 lineal feet of beach frontage (Exhibit 4). This property is located at the intersection of El Camino Real and Camino San Clemente and is across the street and approximately 800 feet upcoast from the subject site. The applicant is not proposing any improvements to the dedicated beachfront property. The 1.1 acre site is down coast of and contiguous with Poche Beach, a County owned public beach. The City of San Clemente has indicated some willingness to accept the land dedication (Exhibit 22)

Finally, the applicant is proposing contribution of money to the City of San Clemente for public improvements in the North Beach area (see Appendix B). However, no actual improvements are proposed under this application.

7. Habitat Impacts and Mitigation

The applicant is proposing to impact certain vegetation communities which are present on the project site as a result of grading and construction of the development. The "Biological Resources" and "Wetlands" sections of these findings detail the impacts to the various plant communities. In summary, the applicant is proposing the following impacts to plant communities/habitat areas in the coastal zone (Exhibit 17): 14.37 acres of 17.34 acres of coastal sage scrub (some of which is occupied by California gnatcatcher), 0.31 acres of 0.31 acres of needlegrass grasslands, 0.08 acres of 0.59 acres of alkali meadow wetlands in the coastal zone, 0.01 acres of 0.21 acres of seasonal wetlands in the coastal zone, and 3,600 individuals of Blochman's dudleya. In addition to these impacts which will occur under the development now proposed the applicant is proposing to make permanent the impacts to habitat that occurred under Emergency Coastal Development Permit G5-90-274. These impacts include 3 acres of coastal bluff scrub, 2.5 acres of needlegrass grassland, 0.1 acres of wetlands, and 3.5 acres of Blochman's dudleya (estimated 6,500 to 10,700 individuals).

In order to mitigate for the proposed impacts, the applicant is proposing to restore 16.49 acres of coastal sage scrub on the graded slopes of Marblehead Canyon and the western canyon. Some of this restored area, 2.41 acres, would be subject to fuel modification requirements for fire safety. In addition, the applicant is proposing to plant the Ioffelstein walls with coastal sage scrub which would result in an additional 3.27 acres of coastal sage scrub (Exhibit 18).

Impacts to the California gnatcatcher will be mitigated off-site (Exhibit 19). This mitigation includes the acquisition of development rights and establishment of a conservation easement over 50 acres of land containing 30 acres of existing coastal sage scrub and 12 pairs of California gnatcatchers. This mitigation would occur outside the coastal zone, several miles inland from the project site in the Las Flores area of Orange County. The site is located off Oso Parkway and is adjacent to the Tosoro High School and the proposed Foothill Transportation Corridor. This mitigation is being made available to the applicant by Rancho Mission Viejo, an entity that is selling the applicant mitigation credits.

In order to mitigate for impacts to needlegrass, the applicant is proposing to translocate 0.3 acres of needlegrass habitat. According to the applicants' mitigation plan contained in the document titled Preservation, Restoration and Management Plan for Wetlands, Sage Scrub and Other Upland Habitats dated July 7, 2000, the needlegrass would be translocated to Marblehead Canyon and the proposed Dudleya reserve.

According to Appendix A of the document titled Preservation, Restoration and Management Plan for Wetlands, Sage Scrub and Other Upland Habitats dated July 7, 2000, the applicant will be mitigating the impacts to 0.08 acres (3,623 square feet) of alkali meadow wetlands with the creation of 0.17 (7,246 square feet) of alkali meadow wetlands on-site. In addition, the 0.01 acres (612 square feet) of seasonal wetlands will be mitigated with 0.028 acres¹ (1,224 square feet) of seasonal wetlands on-site. The mitigation will occur in several mitigation sites located within the western canyon and Marblehead Canyon as identified on Exhibit 1 dated August 25, 2000 in the document titled Preservation, Restoration and Management Plan for Wetlands, Sage Scrub and Other Upland Habitats dated July 7, 2000 (Exhibit 18).

The proposed project will also result in impacts to 0.84 acres of ephemeral drainages on the project site. These impacts will be mitigated by the application through the creation of 0.9 acres of wetlands within the proposed storm water detention basins. According to the applicant, these ephemeral drainages are not considered wetlands under the Coastal Act.

In order to mitigate for impacts to the Blochman's dudleya, the applicant is proposing to complete the translocation plan being implemented under Coastal Development Permit 5-97-136. The translocation plan establishes a 2.1 acre reserve for the dudleya on-site near the corner of Avenida Pico and El Camino Real. The applicant is not proposing any additional mitigation for the dudleya.

Finally, the applicant is proposing to contribute \$100,000 to the property owner's association for long-term on-site habitat management. Off-site mitigation areas would be managed by a separate \$106,000 endowment established by the assessment of a onetime fee of \$250 per dwelling unit.

¹ Note: Exhibit 18 indicates that no seasonal wetland mitigation is proposed. However, the applicants Preservation, Restoration, and Management Plan indicates that mitigation is proposed. Therefore, apparently, there is an error on Exhibit 18.

8. Development Agreement and Specific Plan

The applicant has entered into a development agreement with the City of San Clemente. Where there is no certified local coastal program, such as at the project site, development agreements require a Coastal Commission approval to be effective in the coastal zone. The applicant has not requested the Commission's approval of the development agreement as part of this application.

In addition, a general plan amendment and specific plan was processed for the project at the local level. These documents were submitted as supporting documents by the applicant in their application for the subject coastal development permit. However, the City has not submitted the general plan or specific plan to the Commission for any certification. As will be noted below, there is no certified land use plan or local coastal program for the Marblehead site.

B. PROJECT SITE HISTORY

Prior to the 1880's the bluffs at Marblehead were subject to wave attack. However, with the construction of the railroad in the 1880's and El Camino Real in 1929, the bluffs were isolated from wave attack. The construction of the Capistrano Shores mobile home park (prior to the Coastal Act) seaward of El Camino Real and the railroad placed another line of development between the bluffs at the site and the Pacific Ocean.

In 1980, the California Coastal Commission granted Coastal Development Permit A-80-7433 to Marblehead D. Lusk & Son General Partner for the demolition of an abandoned sewage treatment plant on an 18.5 acre parcel within the Marblehead site. The permit was granted without special conditions.

In 1981, the City of San Clemente submitted a land use plan (LUP) for certification to the Commission which included the Marblehead site (then known as Reeves Ranch). The Commission certified the LUP with modifications, including a modification which removed the Marblehead site from the LUP certification. The Commission cited the lack of cohesive plans for development of the site and a lack of appropriate policies to address coastal resource issues at the site in their denial of certification of the LUP for this area. The certified LUP was not adopted by the City, and the certification lapsed after six months. Subsequent LUPs have been submitted and approved by the Commission, however, each of these submittals did not include the Marblehead site. Therefore, there is no certified LUP for the Marblehead site.

In 1987 the City of San Clemente processed an environmental impact report for the Marblehead site which included 27 acres of tourist commercial (TC), 16.3 acres of park, 36.5 acres of residential (250 units), 5.9 acres of very low density residential, and a small parcel of general commercial. The tourist commercial designation was intended for the Nixon Library site. Staff submitted a letter in response to the Nixon Library Draft Environmental Impact Report, however, the project never progressed beyond the EIR stage and an application was not submitted for a CDP. In this letter staff expressed concerns regarding coastal canyon setbacks, filling of coastal canyons which were designated as ESHAs, the filling of wetland habitat in coastal canyons, coastal bluff and landform alteration and protection of the Blochman's dudleya on the coastal bluffs.

On February 20, 1990, the Executive Director issued Emergency Coastal Development Permit G5-90-122 to the City of San Clemente for the removal of those portions of the bluff face which were posing an immediate hazard to life and property to those using Pacific Coast Highway (a.k.a. El Camino Real). The approved emergency work also included the preparation of pads at the top of the bluff to place equipment for additional bluff hazard remediation. In addition, on April 4, 1990, the Executive Director issued Emergency Coastal Development Permit G5-90-274 for the first phase of three phases of bluff stabilization. The Lusk Company together with the City of San Clemente asserted that the ongoing bluff failures of the Marblehead coastal bluffs represented a safety hazard to vehicular traffic and pedestrians along Pacific Coast Highway (a.k.a. El Camino Real). The position of the Lusk Company and the City of San Clemente as to the public safety hazard was supported by the Commission geologist, Richard McCarthy, and an emergency permit was issued by the Executive Director.

Phase I grading approved by Emergency Coastal Development Permit G5-90-274 was for approximately 310,000 cubic yards of grading to lay the bluffs back to a 1.5:1 or 2:1 gradient. Approximately 2,500 linear feet of the coastal bluffs were laid back as a result of this emergency grading in 1990. In the process, it is estimated approximately 5,000 Blochman's dudleya were salvaged and taken to the Tree of Life Nursery. Other estimates state that 3,700 plants were salvaged, while 2,900 plants were destroyed, out of a total population of approximately 10,000-12,000 plants. An estimated 4,200 plants remained on site in the Phase II (3,600) and Phase III (600) areas.

The grading was completed for Phase I but not for Phases II and III. Meanwhile, the applicants' submitted a follow-up coastal development permit application (5-90-274) which was eventually withdrawn by the applicant due to financial issues. Subsequently, another follow-up application was submitted (5-94-263) in 1994. However, prior to Commission action on the application, the applicant withdrew this application as well.

In 1995, the Commission granted Coastal Development Permit 5-94-256 and Coastal Development Permit Amendment 5-94-256-A to the City of San Clemente for a slope stabilization project along the bluffs at Colony Cove, which is immediately northwest of the Marblehead project site. In addition, the Executive Director issued Emergency Coastal Development Permit G5-94-256. The slope stabilization project involved the cut of 58,000 cubic yards of soil and 3,000 cubic yards of fill along the bluff and installation of retaining structures. In addition to stabilizing the bluffs at Colony Cove, the stabilization project extended onto the Marblehead project site. Approximately 400 linear feet of bluffs on Marblehead site were graded under 5-94-256, 5-94-256A, and G5-94-256. According to a document in the Commission's files for permit 5-94-256, the City intended to stockpile the soils cut as a result of the stabilization project on the Marblehead site between Marblehead Canyon and the western canyon. According to Exhibit 3 of the Marblehead Coastal Resource Management Plan dated October 1997, the cut material was stockpiled in the planned location. However, 5-94-256, 5-94-256A, and G5-94-256 did not authorize the stockpile of any soils on the Marblehead site and Commission staff have not been able to locate any coastal development permit approving this stockpile.

On November 5, 1997, the Commission granted Coastal Development Permit 5-97-136 to Marblehead Coastal, Inc. for the implementation of a Blochman's dudleya translocation plan.

The plan includes the collection of on-site Blochman's Dudleya seed, cultivation of seed, revegetation with associated native plants, installation of a six foot high chain link fence around a 1.34 acre translocation site, relocation of Dudleya plants to the 1.34 acre site and establishment of a 50 foot buffer area around the 1.34 acre site. The approval was granted with special conditions requiring implementation of the plan, a requirement for submittal of monitoring reports and failure contingency plan, restrictions on the use of the 1.34 acre site with associated deed restrictions.

C. LANDFORM ALTERATIONS AND SCENIC RESOURCES

1. Landform Alterations

Section 30251 of the Coastal Act states in relevant part:

Permitted development shall be sited and designed to... minimize the alteration of natural land forms...

The proposed project will result in the grading of almost the entire project site. Large areas of cut and fill are proposed to create terraces for the construction of homes (such grading would maximize the number of ocean view lots within the development) and the commercial development. In addition, large cut and fill areas are proposed within canyons on the project site in order to maximize the amount of development area for residences. These cuts and fills will result in the filling of at least one smaller canyon, the narrowing of the remaining two canyons, and the steepening of the walls of those remaining canyons. In addition to visual impacts, the landform alterations will require grading that has impacts upon biological resources within the canyons, impacts upon wetland buffer areas, and potential adverse changes to wetlands hydrology and water quality. These impacts resulting from the proposed landform alteration are discussed more fully elsewhere in these findings in the "Biological Resources" and "Wetlands" sections.

Exhibit 9 provides a summary of grading for the proposed development. Coupled with Leighton and Associates analysis titled Estimated remedial quantities pertaining to the grading of Marblehead Coastal Property, tentative tract 8817, City of San Clemente, California dated September 14, 2000, this provides an overview of the magnitude of the grading proposed. It appears that the remedial grading described in the Leighton and Associates analysis, which amounts to an estimated 1,470,050 cubic yards (1,119,500 cubic yards within the Coastal Zone), is in addition to the grading reported on Exhibit 9, which amounts to 5,286,000 cubic yards (3,830,000 cubic yards within the coastal zone). Accordingly, the total grading proposed would be 6.76 million cubic yards, of which 4.95 million cubic yards are within the coastal zone.

According to the Leighton and Associates analysis, it appears that remedial grading is solely for the purpose of overcompaction due to the highly compressible nature of the soils found on the site and for the construction of stabilization buttresses. That is, this material would be removed, recompacted, and replaced. The Coastal Commission has generally included such grading in figures for total grading involved in a project because although remedial grading may not have permanent landscape alteration impacts, the temporary disturbance involved potentially does have significant biological resource, traffic, water, and air quality impacts. The grading figures noted above may, in fact, underestimate the

total grading that would be necessary to carry out the proposed development in light of the fact that Exhibit 9 contains no estimates of grading necessary for the remediation of landslides and other slope failures and for removal and recompaction of alluvial soils, artificial fills, and debris.

The proposed project calls for the construction of large pads designed to accommodate 20-30 housing units and entire cul-de-sacs. The grading plan results in the filling of at least one entire small canyon (Tributary D) as well as the narrowing of both the western canyon and Marblehead Canyon. At the western canyon, the canyon will be narrowed and the overall slope of the canyon walls steepened through the construction of reinforced earthen slopes (a.k.a. loffelstein walls). In Marblehead Canyon, the main branch of the canyon will also be narrowed and the walls steepened through the use of loffelstein walls and grading to form 2:1 slopes. In addition, approximately 1,100 linear feet of the eastern branch of Marblehead Canyon will be filled. These alterations are proposed in order to accommodate the construction of single family residences and associated infrastructure.

The proposed fill of one canyon and the grading, construction of walls and other infrastructure within the western and Marblehead canyons would change the landform from gently to steeply sloping natural grades to a steeply sloping manufactured appearance. This proposed development would degrade the natural landform appearance of the canyons.

There are alternatives to the grading and filling of canyons on the project site. For instance, if development was confined to the approximately 112 acres of gently sloping marine terraces which occur over large areas of the project site, and building pads were constructed only to accommodate individual building footprints, then far less landform alteration would occur. In this way, the character of the existing canyons could be maintained.

The Commission finds that the proposed project does not minimize landform alteration. There is ample space on the project site where development could be accommodated without the substantial alteration of existing canyons. Therefore, the Commission finds that the proposed project is inconsistent with Section 30251 of the Coastal Act. Therefore, the proposed project must be denied.

2. Scenic Resources

Section 30251 of the Coastal Act states in relevant part:

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

The project site is visible to the public from the Interstate 5 freeway. Presently, there are views of the coast across the site and through the existing canyons. These are some of the last views the public travelling north along this major highway have of the coastline for several hundred miles. Furthermore, these views are some of the only views the public

has of the coastline from the highway in San Clemente. The proposed project will narrow Marblehead Canyon, which is the landform which makes these views possible. The narrowing of the canyon would interfere with these existing views.

In addition, the canyons on the project site have aesthetic qualities that are increasingly unique in San Clemente and Orange County. Elsewhere in San Clemente, the coastal canyons have been developed with residential and other urban development. In many cases, houses are perched at the top of the canyon slopes or within the canyons themselves. In addition, ornamental landscaping and associated appurtenant structures are found on the slopes and within the canyons. The visual quality of these other canyons has been substantially degraded over time. However, with the exception of the mouths of the canyons which were graded in the early 1990's, the landform of the canyons at the project site are relatively undisturbed. The slopes of the canyons are covered by a mixture of coastal sage scrub, grassland, and open canopy woodlands. The canyon bottoms contain alkali and freshwater wetlands. Birds and other wildlife are found within these canyons. The proposed landform alteration would narrow and steepen the sides of the canyons. These landform alterations would also change the appearance of the existing biological landscape from a natural one to a manufactured appearance. Furthermore, the quantity and diversity of wildlife will also decrease. Each of these elements decreases the overall natural quality to the canyons and their aesthetic appeal.

As noted above, there are alternatives which would avoid the large scale landform alteration proposed. The Commission finds that the proposed project does not protect the scenic and visual qualities of the site. This failure to minimize landform alteration results in adverse impacts to scenic canyons and coastal views. There is ample space on the project site where development could be accommodated without the substantial alteration of existing canyons. Therefore, the Commission finds that the proposed project is inconsistent with Section 30251 of the Coastal Act. Therefore, the proposed project must be denied.

D. WETLANDS

There are 4.95 acres of wetlands in the project area consisting of alkali marsh, alkali meadow, seasonal wetland, and mulefat scrub. These wetland areas are not subject to tidal inundation.

One of the main reasons for preserving, expanding, and enhancing Southern California's remaining wetlands is because of their important ecological function. First and foremost, wetlands provide critical habitat, nesting sites, and foraging areas for threatened or endangered species. Wetlands also serve as migratory resting spots on the Pacific Flyway a north-south flight corridor extending from Canada to Mexico used by migratory bird species. In addition, wetlands serve as natural filtering mechanisms to help remove pollutants from storm runoff before the runoff enters into streams and rivers leading to the ocean. Further, wetlands serve as natural flood retention areas.

Another critical reason for preserving, expanding, and enhancing Southern California's remaining wetlands is because of their scarcity. As much as 75% of coastal wetlands in southern California have been lost, and, statewide up to 91% of coastal wetlands have been lost.

1. **Wetlands Fill**

Section 30108.2 of the Coastal Act states:

"Fill" means earth or any other substance or material, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area.

Section 30121 of the Coastal Act states:

"Wetland" means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.

Section 30233(a) of the Coastal Act states, in relevant part:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

The proposed project will result in direct impacts to 0.08 acres (3,623 square feet) of 0.59 acres (25,700 square feet) of alkali meadow wetlands in the coastal zone and 0.01 acres (612 square feet) of 0.21 acres (9,148 square feet) of seasonal wetlands in the coastal zone. In addition to these impacts which will occur under the development now proposed the applicant is proposing to make permanent the impacts to sensitive habitat that occurred under Emergency Coastal Development Permit G5-90-274. These impacts include 0.1 acres (4,356 square feet) of wetlands.

The impacts occurring under the proposed development have been identified as "Impact Areas" A, B1, B2, and C. Impact Area A occurs at Tributary A along the bluffs overlooking El Camino Real at the northwest corner of the site. In this location, an existing 1,871 square foot alkali meadow wetlands will be eliminated as a result of grading for site preparation for the construction of single family homes including bluff stabilization necessary to stabilize the area for construction of homes.

Impact Area B1 results in the elimination of 362 square feet of alkali meadow at the base of the bluffs along the boundary of the Blochman's dudleya reserve. Impact Area B2 occurs in this same area and results in impacts to 1,390 square feet of alkali meadow. These impacts result from the proposed widening of El Camino Real.

Impact Area C occurs at the northeast boundary of the proposed bluff park area and eliminates a 612 square foot seasonal wetland. This impact is caused by the grading and construction of proposed Street BBB.

The applicant is proposing to mitigate the impacts to 0.08 acres of alkali meadow wetlands with the creation of 0.17 (7,246 square feet) of alkali meadow wetlands on-site. In addition, the 0.01 acres of seasonal wetlands would be mitigated with 0.028 acres (1,224 square feet) of seasonal wetlands on-site. The mitigation would occur in several mitigation sites located within the western canyon and Marblehead Canyon.

The proposed project will also result in impacts to 0.84 acres of ephemeral drainages on the project site. These impacts are proposed to be mitigated by the applicant through the creation of 0.9 acres of wetlands within the proposed storm water detention basins. According to the applicant, these ephemeral drainages are not considered wetlands under the Coastal Act.

Grading for the proposed project will cause the fill of wetlands as defined in Section 30108.2 of the Coastal Act. The purpose of the fill is for the construction of single family residences and the facilities to serve that development including bluff stabilization and the construction of roads. Section 30233 of the Coastal Act governs the fill of wetlands and establishes eight enumerated uses for which fill is allowable. Fill for the construction of single family residences is not one of the allowable uses enumerated.

However, it could be argued that the fill at each of the impact areas results from an incidental public service. For instance, the impact at Impact Area A is occurring in part due to a bluff stabilization project. The applicant has argued that the bluff stabilization is

necessary to prevent the closure of El Camino Real. The impact at Impact Areas B1 and B2 result from the widening of El Camino Real. Finally, the impact at Impact Area C results from the construction of Street BBB, which is proposed to be a public road. The construction and widening of roads in order to increase traffic capacity, however, do not constitute incidental public services. See Bolsa Chica, 83 Cal.Rptr.2d at 863-864.

Even if the Commission were to come to the conclusion that each of the wetland fills is occurring to provide an incidental public service, the Commission would still need to make a finding that the proposed fill is the least environmentally damaging feasible alternative. The applicant has submitted alternatives analyses which demonstrate that the proposed project is not the least environmentally damaging feasible alternative.

For instance, at Impact Area A, one alternative is to install a retaining wall on the seaward side of the existing wetlands and avoid grading within the wetlands (Exhibit 23). Use of this alternative would avoid direct impacts at Impact Area A. An analysis by Leighton and Associates dated September 18, 2000, concludes that this retaining wall is geotechnically feasible. In addition, a letter dated September 20, 2000, from Glenn Lukos Associates determines that the avoidance would be feasible from a biological standpoint.

According to Attachment 22 of the applicants' submittal dated July 11, 2000, the wetlands impacts from the proposed El Camino Real widening can be avoided at Impact Areas B1 and B2 (Exhibit 24). The alternatives analysis shows that by widening El Camino on the opposite side of the street, the street widening will have no impact at proposed Impact Areas B1 and B2.

Finally, according to alternatives analyses submitted by the applicant, the wetlands at Impact Area C could also be avoided (Exhibit 25). In this case, there are at least 3 alternatives including not building Street BBB and either realigning Street BBB south or north of the existing wetlands. According to a geologic analysis prepared by Leighton and Associates dated September 18, 2000, and a biological analysis prepared by Glenn Lukos Associates, these alternatives are feasible and would avoid direct impacts upon wetlands.

Therefore, since it has been demonstrated that it is feasible to avoid the impacts to wetlands at Impact Areas A, B1, B2, and C, the Commission finds that the project, as proposed, is not consistent with Section 30233 of the Coastal Act and must be denied.

2. Wetlands Ecology

Section 30230 of the Coastal Act states that:

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.

Section 30231 of the Coastal Act states that:

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.

Section 30240 of the Coastal Act states that:

(a) 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.

(b) 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 those habitat and recreation areas.

a. Wetland Buffers

The Marblehead project site consists of a bluff and bluff top mesa incised by several canyons. A majority of the wetlands are located within the canyon bottoms. However, there are a few wetlands along the bluff top as well.

The proposed project involves mass grading of the subject site and the construction of a system of loffelstein walls in order to prepare the site for the residential and commercial development. While the project will avoid planned direct impacts upon 4.86 acres out of 4.95 acres of wetlands within the coastal zone, the proposed project will result in grading immediately adjacent to the wetlands which will be retained. The canyon walls adjacent to the wetlands will be graded to create 2:1 slopes in some areas. In addition, loffelstein walls will be constructed immediately adjacent to the wetlands. According to the applicants' submittal, the toe of the loffelstein walls will have a minimum 5 foot setback from the wetlands and up to a 30 foot setback from the wetlands.

Buffer areas are undeveloped lands surrounding wetlands. Buffer areas serve to protect wetlands from the direct effects of nearby disturbance. In addition, buffer areas can provide necessary habitat for organisms that spend only a portion of their life in the wetland such as amphibians, reptiles, birds, and mammals. Buffer areas provide obstructions which help minimize the entry of domestic animals and humans to wetlands. Buffers also provide visual screening between wetland species that are sensitive to human impacts, such as lighting. Buffers can also reduce noise disturbances to wetland species from human development. The Commission has commonly found that that a minimum 100 foot buffer needs to be established around wetlands in order to protect those wetlands from disturbance.

The Commission's biologist, Dr. John Dixon, has reviewed the biological information submitted by the applicant and has determined that a minimum 100 foot buffer would be appropriate for the wetlands at the project site. This 100 foot buffer must contain no development and experience no disturbance as a result of adjacent development. Accordingly, no grading or construction of loffelstein walls may occur within the buffer area.

The applicant identifies a wetland buffer which varies in width and includes within it the re-graded canyon walls, the loffelstein walls, the storm water detention basins, storm drain outlets, subdrain outlets, the 8 foot wide public trail (in Marblehead Canyon), restored coastal sage scrub, and a 30 foot wide fuel modification zone. Essentially, the buffer identified by the applicant includes all the land between the edge of the wetland and the private streets and residential lots which are proposed. Within Marblehead Canyon this wetland "buffer" ranges between 30 to 100 feet wide. In the western canyon the area is between 10 and 50 feet. This buffer zone identified by the applicant does not provide the development-free setback commonly required by the Commission and recommended by the Commission's biologist. These proposed buffers are inadequate because 1) construction of the structures themselves will require grading that will cause sedimentation impacts on the wetlands, that will eliminate the upland habitat upon which certain wetlands associated wildlife species need to survive, and that will eliminate the existing wildlife within the habitat; 2) the buffers contain pedestrian and bicycle trails and storm water detention basins (which require maintenance) that will introduce an increased level of human disturbance to the wetland areas; and 3) the steepened canyon slopes will not provide the same type of habitat as exists presently, reducing or eliminating the potential for recolonization of the area after disturbance.

As noted above, there are wetlands located outside of the canyons. The applicant is proposing to retain one of these wetlands, a 1,251 square foot (0.03 acre) mulefat scrub wetland identified by the applicant as "Tributary B" (Exhibits 17 and 18). This wetland is located at the top of the bluff at the southwest corner of the property. In this case, the applicant is proposing to create a 0.09 acre, roughly rectangular lot for the wetland to reside. Residential lots will flank both sides of the wetland, and proposed Street TTT will be built on the inland side of the wetland. The proposed graded bluffs will be on the seaward side of the wetland. As configured, there would be an approximately 10 foot wide buffer around the wetland. The Commission's biologist has recommended a minimum 100 foot wide buffer.

Section 30231 of the Coastal Act requires that the biological productivity and quality of coastal waters be maintained through, among other means, the maintenance of a protective natural buffer area. Section 30240(b) of the Coastal Act requires that development in areas adjacent to environmentally sensitive habitat areas, such as wetlands, must be sited and designed to prevent impacts which would significantly degrade those areas. Development, including grading and the construction of loffelstein walls, would occur within the proposed buffer area. This grading and construction will result in a high degree of disturbance to areas surrounding the wetlands. Such grading and construction would cause siltation of the wetlands and elimination of the habitat for wetlands associated organisms such as amphibians, reptiles, birds, and mammals, which rely upon upland areas for survival. In addition, the grading and construction would eliminate the organisms themselves. Also, for those organisms that have a high degree of

mobility, there will be no nearby habitat areas to which the organisms can escape and temporarily reside during construction. The buffer area proposed by the applicant is not adequate to provide the protection required by Sections 30231 and 30240(b) of the Coastal Act. Therefore, the project, as proposed, cannot be found consistent with Sections 30231 and 30240(b) of the Coastal Act.

b. Shading Impacts

The proposed project involves the construction of six bridges which span the existing and proposed wetlands on the project site. These bridges are identified as Street AAA Bridge, Street BBB Bridge, Street RRR Bridge, Avenida Vista Hermosa Bridge, Commercial Entry Bridge, and Internal Commercial Bridge. The bridges range in width and length between 38 feet to 109 feet wide and 80 feet to 250 feet long. Clearance between the bridge and the wetlands below ranges from 11 feet at the Street AAA Bridge to 56 feet at the Internal Commercial Bridge.

The proposed bridges will cast shadows upon the wetlands below them. This shading can have impacts upon the vegetation communities that are a part of the wetlands. The applicant has submitted an analysis of shading impacts prepared by Glenn Lukos Associates titled Shading Study Associated with Proposed Bridges Spanning Existing Wetlands on Marblehead Coastal, San Clemente, California dated August 22, 2000.

According to this shading analysis, impacts to the wetlands from shading caused by the bridges will not be measurable at the Avenida Vista Hermosa Bridge, Commercial Entry Bridge, the Internal Commercial Bridge, and the Street RRR Bridge. Therefore, the applicants' biologist has concluded that impacts would not be significant

However, at the Street BBB Bridge, a total of 523 square feet (0.012 acres) of alkali marsh would be affected by shading. This bridge crosses Marblehead Canyon in the vicinity of the proposed bluff park. At this location shading is expected to have a measurable impact upon the growth of wetland vegetation due to the orientation of the bridge, the width of the bridge and the presence of steep sided canyons. However, the shading study indicates that the impact would be insignificant with respect to the hydrological and biogeochemical function of the wetlands.

Shading is also expected to impact 784 square feet (0.018 acres) of alkali marsh under proposed Street AAA Bridge. This bridge crosses the western canyon. However, similar to the Street BBB Bridge, the shading analysis states that wildlife usage is not expected to be affected by the shading impacts, nor are the hydrological and biogeochemical functions of the wetland expected to be impacted.

c. Wetlands Hydrology and Water Quality

The applicants' submittal contains various documents which describe the hydrology of the wetlands on the project site and the impacts the proposed development would have upon wetlands hydrology. The Preservation, Restoration, and Management Plan for Wetlands, Sage Scrub, and other Uplands Habitats dated July 7, 2000 (herein 'Preservation, Restoration, and Management Plan'), summarizes the applicants' analysis of wetlands hydrology and impacts. The applicant has also submitted additional supporting

documentation regarding wetlands hydrology and impacts including Leighton and Associates analysis titled Assessment of pre and post development groundwater conditions utilizing site-specific data, Marblehead coastal project, City of San Clemente, California dated 22 August 2000 and Glenn Lukos and Associates analysis titled Hydrological requirements of Alkali Marsh and Alkali Meadow Vegetation on Marblehead Site, San Clemente, California dated 22 August 2000 (see also Appendix A of this staff report).

The Preservation, Restoration, and Management Plan states that wetlands on the project site presently receive hydrologic input primarily from groundwater and, to a lesser extent, from urban runoff and rainfall. The proposed project will eliminate off-site urban runoff and introduce on-site urban runoff and runoff from irrigation of future canyon slopes and löffelstein walls constructed next to the wetlands.

Off-site urban runoff enters the wetlands on the project site through four storm drains which originate from the north side of Interstate 5 and cross under the highway. The proposed project would divert this runoff into the storm drain and water quality management system. Therefore, this runoff would no longer provide hydrological input to the wetlands. The Preservation, Restoration, and Management Plan states that the direction of this runoff away from the wetlands would have no adverse impact upon the wetlands because the wetlands do not substantially rely upon this water source.

Regarding rainfall, the Preservation, Restoration, and Management Plan states "*Under existing conditions, rainfall provides a periodic surface water supply source for the canyon wetlands. The proposed project would reduce the surface water tributary area to the preserved central and western canyon bottoms. However, because the wetlands rely on water during rainfall and surface water during the brief runoff period and groundwater as the primary sources, the reduction in size of the tributary surface water area would not adversely affect the wetlands. Rainfall would continue to provide a water source during a storm, and for a brief time after each storm event.*" Therefore, according to the applicant, while the hydrologic input to the wetlands from rainfall will decrease, the reduction will not adversely affect the wetlands because the wetlands only rely upon such inputs during rainfall and the brief period of runoff after the rainfall. Groundwater is the primary source for the wetlands and is the water source upon which the wetlands are substantially reliant. This information regarding groundwater as the primary source of water for the wetlands is also more fully described in Hydrological requirements of Alkali Marsh and Alkali Meadow Vegetation on Marblehead Site, San Clemente, California by Glenn Lukos Associates dated 22 August 2000.

Regarding groundwater as a source of water for the wetlands, the Preservation, Restoration, and Management Plan states "*Groundwater is the major source of water for the wetlands in the canyon bottoms (see Appendix A, Section II.A, Type of Habitat to be created/Enhanced, Paragraph 1). Ground water is currently in evidence at seeps near the canyon bottom and in the canyon bottoms. Ground water that enters the site from under the freeway and under future fill proposed within the canyons would be collected in canyon subdrains placed during construction and reintroduced into the canyon at outlets in the wetland setback.*"

The Preservation, Restoration, and Management Plan goes on to state: "*Groundwater that currently reaches the canyon bottom from adjacent on-site areas would continue to reach*

the canyon under developed conditions. In fill areas outside the canyons and in buttressed slopes adjacent to the canyons, subdrains would collect ground water and direct it to the canyon to assure an ongoing supply of water to the wetlands. In cut areas, no change in ground water permeability is anticipated. Loffelstein walls proposed for some slopes are permeable to ground water but also require subdrains to carry ground water under, and from behind backfill and the wall facing which will also be directed to the wetlands (see Appendix E, Water Quality Plan, and Exhibit 4).

Furthermore, the Preservation, Restoration, and Management Plan states: *"There will be an increase in impervious area but a significant increase in application rates due to irrigation will occur. Groundwater volume and quality is expected to be similar to the existing condition (see Anticipated Groundwater Conditions, Leighton & Associates, Appendix D)."*

Regarding landscape irrigation water, the Preservation, Restoration, and Management Plan states: *"A limited amount of landscape irrigation water from the canyon hillsides and future Loffelstein slopes immediately adjacent to the canyon may reach the canyon bottom. Most project irrigation water will be absorbed by vegetation, or will percolate into the ground. Excess irrigation water is anticipated to be minimal due to the low water requirements of the native and drought tolerant landscaping that will be used within the canyon areas, and the use of efficient irrigation. In addition, irrigation systems will only be temporarily operated until native vegetation is established."*

With the exception of the area occupied by the wetlands and a 5 to 30 foot wide buffer around those wetlands, the proposed project will result in the grading of the entire project site and the construction of buttress fills, retaining walls, roads, houses, commercial buildings, parking lots, among other development on the relatively flat upland areas and within the canyons themselves. This development will transform the site from a relatively vacant state to a predominantly urban environment. As noted above, the wetlands on the project site are substantially reliant upon groundwater. The grading and construction of structures could cause substantial changes to the hydrological mechanisms which currently provide water to the wetlands. The applicants' analyses of these changes and the scientific validity and reliability of these analyses is of utmost importance in determining whether the project is consistent with Coastal Act policies regarding the protection of biological resources including wetlands. Based on the Commission's review of these materials, the Commission cannot conclude that the wetlands will not be adversely impacted by the proposed project.

The applicants' report titled Assessment of Pre and Post Development Groundwater Conditions Utilizing Site-Specific Data by Leighton and Associates dated August 22, 2000, purports to provide an analysis of the post-development effects on groundwater conditions, using site-specific data to form assumptions. However, the concluding paragraph notes that making predictions regarding changes to amount and flow of groundwater to the canyon as a result of the proposed development is difficult because of the many variables. The report goes on to state that "basic" assumptions for the site have been made regarding annual rainfall, landscape irrigation, and groundwater paths. Based on the assumptions, the consultant concludes that "groundwater will continue to flow into the central and western canyons, experiencing a probable increase over the existing condition". These assumptions are generalizations and are not specific to the project site. Furthermore, the assessment does not consider other site specific conditions which may

have a considerable effect on the outcome of the analysis. For instance, normal losses and those which could be artificially induced based on important factors associated with existing site hydrology and post-development conditions pertinent to groundwater recharge, such as soil infiltration capacity and rates, annual recharge rates, the effect of consistent application of water through irrigation as opposed to the present seasonal contribution via rainfall, and on soil moisture retention and infiltrative capacity, are not reported in the Leighton and Associates *Assessment*.

The expected changes to the hydrologic regime at the proposed development site are also addressed in the Leighton and Associates *Assessment*. The analysis concludes that current contributions to groundwater amount to 292.3 acre-feet/year, and that post-development conditions will result in ground water recharge amounting to 315.5-400.5 acre-feet/year, suggesting that net impacts in terms of total ground water recharge will be limited to a possible slight elevation of the water table. Further it concludes that surface water contributions to the wetlands in the area are "relatively small."

This analysis is flawed in several regards. First, the analysis assumes that there is no runoff at the site. It assumes that 100% of the 14 inches of rainfall on the 250.6 acres of the site infiltrates and serves to recharge groundwater under current conditions, and would continue to do so in permeable areas after the development. No infiltration data that would support this unusual condition are provided. Such a condition is highly unlikely given the clay-rich soils developed on the Capistrano formation, which is exposed over portions of the site. The terrace deposits overlying the Capistrano formation over much of the site, although relatively permeable, still will likely not have the infiltration capacity to absorb all of the water of typical storm events. In fact, the assumption that there is no runoff at the site is in stark contrast to the stormwater management reports^{2 3 4 5 6}, which show peak 24-hour discharges leaving the site of from 18.6 acre-feet (24-hour volume for a 2 year storm) to 68.2 acre-feet (24-hour runoff volume for 100-year storm).

Second, the statement that surface water contributions to the wetlands are "relatively minor" is unsupported. No data are given concerning the annual volume of runoff crossing under Interstate 5 and entering the canyons on site. Since the proposed development would prevent all such surface water from entering the wetlands, analysis of its potential impact is necessary, and is not possible without such data. This issue may be significant, especially given comments made in a letter to the Commission from Fred Roberts, Jr. dated February 29, 2000, who states that the alkali wetlands at the project site may be substantially reliant upon hydrological inputs produced on the portion of the property outside the coastal zone (Exhibit 28).

² RBF Consulting 2000, "Marblehead Coastal 5-99-260 (MT No.1, LLC), reply to staff response letter of August 11, for coastal development permit application", 8 p. letter to Karl Schwing dated 23 August 2000 and signed by M. N. Nihan.

³ Unattributed data, "Table 1. Comparison of existing and proposed hydrologic conditions in the central and western canyons", 1 p. table, undated and unsigned.

⁴ Unattributed data, "Table 2. Comparison of existing and proposed hydrologic conditions under El Camino Real", 1 p. table, undated and unsigned.

⁵ Unattributed data, "Table 3. Comparison of existing and proposed hydrologic conditions in Marblehead Canyon small area hydrograph", 1 p. table, undated and unsigned.

⁶ RBF consulting report "Addendum 5: Marblehead Coastal Preliminary Stormwater Management Plan, Water Quality and Quantity Assessment," dated May 2000 and unsigned (and addendum 5A, continuation of appendices)

Third, the ground water balance in the Leighton and Associates Assessment is unusual not only in that no runoff is subtracted from rainfall inputs, but it includes no evapotranspiration, underflow into or out of the site, or seepage to surface streams. Although it could be argued that underflow into or out of the site can be reasonably assumed to be unchanged by the development, excluding evapotranspiration from the model might lead to large errors, as evapotranspiration will likely change markedly as a result of development.

Finally, the model makes some assumptions regarding irrigation that are questionable at best. It assumes that ground water recharge through irrigation of landscaped open space will be equal to twice the annual precipitation, and will contribute 141 acre-feet to ground water annually. However, proposed water quality management measures include the use of efficient irrigation systems designed to match evapotranspiration. If these irrigation systems operate as designed, ground water contributions from irrigation (70.5 acre-feet) will be zero. Subtracting 70.5 acre-feet/year from the post-development total of 315.5-400.5 acre-feet/year yields 245-330 acre-feet/year (as compared to the pre-development figure of 292.5 acre-feet/year), suggesting that ground water recharge could decrease as a result of development.

The model also assumes that irrigation of residential space will contribute 50 to 80 inches per year or, given the acreage involved in this project, 142-227 acre-feet/year. This figure is not well supported, but even if accurate, it is reasonable and conservative to use a lower value—as water becomes an increasingly scarce resource in the future, homeowners are likely to turn to more efficient irrigation systems. Given that the purpose of this model is to assure that ground water supply to the existing and proposed wetlands would be maintained after the development, a more conservative estimate would seem to be prudent. Subtracting some of the assumed 142-227 acre-feet/year from the water budget further decreases the estimate of the amount of post-development ground water recharge.

Thus, it appears likely that the proposed development could significantly impact ground water contributions to the wetlands. Glenn Lukos and Associates analysis titled Hydrological requirements of Alkali Marsh and Alkali Meadow Vegetation on Marblehead Site, San Clemente, California dated 22 August 2000 indicates that the alkali wetlands are maintained primarily by ground water sources.

The applicant has suggested that any uncertainty related to the quantity of water supplied to wetlands under developed conditions can be addressed through a monitoring program. If monitoring were to show that an inadequate supply of water was entering the wetlands, then water could be diverted from the proposed storm water management system to the wetlands. However, this type of monitoring with potential corrective measures may not be sustainable in the long term. Furthermore, as will be noted below, the chemistry of the water is important to the wetlands that exist on the project site. Saline ground water apparently provides the majority of water to the wetlands. The use of surface water in place of saline ground water may result in adverse impacts to the wetlands. Measures could be implemented to adjust the water chemistry, however, this would be accomplished through artificial means which may not be sustainable long term.

Additionally, the distribution of ground water to wetlands in the post-developed condition is of concern. Under existing conditions, ground water enters the wetlands through

various seeps throughout the canyons. The proposed project will change these distribution points as a result of grading, the installation of retaining walls and associated drains, and the installation of subdrains and their associated discharge points to the wetlands. Impacts to wetlands could occur due to increased flow in one wetland area and decreases in another as a result of alteration of existing seepage points and placement of sub-drains.

Not only could the amount of ground water recharge and the distribution of that ground water be affected by development, but the quality of that ground water could change as well. The massive grading proposed would result in the creation of thick fills, and much of the material in these fills would be derived from *in situ* materials—including the Capistrano formation, which is known to contain very high levels of particulate sulfate. Disturbance of this material and its incorporation into fills would expose fresh sulfate-bearing mineral surfaces to leaching by ground water, and it is likely that a marked increase in the amount of dissolved solids—particularly sulfate—in ground water would result.

The Preservation, Restoration, and Management Plan states that groundwater discharged to the wetlands from the site is expected to be similar in character to existing groundwater. The Plan bases this statement on an analysis prepared by Leighton & Associates titled Anticipated Groundwater Conditions, Marblehead Coastal Project, City of San Clemente, California dated June 15, 2000, which provides data regarding observed temperature, salinity and conductivity of groundwater at other sites with similar geology which have similar fill characteristics of the proposed project. Based on this data from other sites the analysis concludes that groundwater from the proposed development will have characteristics similar to the existing conditions. However, there is no clear explanation of how the study comes to this conclusion, especially given that the data shows the salinity and conductivity of the comparative sites is roughly half the measured salinity and conductivity of the on site groundwater. Furthermore, the conclusion of Leighton and Associates is not accompanied by any biological analysis of the effect upon wetlands which may be caused by changes in water chemistry.

Also, the Commission notes that some of the proposed wetlands restoration sites may have dubious quality as mitigation for biological habitat losses since they are being used to treat urban runoff generated by the proposed development. For instance, the detention basins (Restoration Sites 4, 5 and 8) will contain created wetlands that are intended to mitigate for the loss of ephemeral drainages on the project site. In addition, Restoration Site 7 is intended as partial mitigation for impacts to wetlands at Impact Areas A, B1, B2, and C. These wetlands will receive water directly from urban storm drains. While the storm drains will have catch basin inserts to treat the water prior to entering the detention basins, the wetlands within the detention basins are also intended to serve as part of the water quality treatment program. Therefore, as proposed, these wetlands are intended to function more as water quality treatment systems to serve the new development as opposed to habitat mitigation for impacts to biological resources.

The hydrology of the wetlands outside the canyons may also be adversely affected by the proposed project. For instance, several alternatives are presented by the applicant for preserving the alkali wetland in impact area A. The Tributary B wetland which the applicant is proposing to retain is also in this area. These wetlands lie downslope of an

area of extensive "cut" according to the conceptual grading plan ⁷ and the cross section in the applicants' geologic information⁸. At Impact Area A, preserving the wetlands within this grading framework would require a caisson-supported retaining wall with tieback anchors, as detailed in the applicant alternatives analysis. According to the applicants' drawings⁹, the wetland would nonetheless remain perched at the top of a six foot slope on its eastern side. Elevation of the wetland varies between 95 and 100 feet above sea level, and the elevation of the terrace/bedrock contact is 91 feet. The applicants' biological analysis ¹⁰ indicates that this wetland is maintained primarily by ground water. It further suggests that since the finished grade of the proposed nearby pads is 95 feet, that ground water perched on the terrace/bedrock contact could continue to supply the wetland. This may, indeed, be true, but the extensive cut in the area upslope of the wetland would eliminate many of the flow paths that currently contribute ground water to this wetland as well as the wetland at Tributary B. A more detailed study of the hydrology of this area is required before it can be determined what effect the proposed grading would have on ground water supply to the wetlands at Tributaries A and B.

4. Conclusion - Wetlands

The proposed project will result in the fill of wetlands on the project site. However, it has been demonstrated that there are alternatives which are less environmentally damaging than the proposed project. Therefore, the proposed project cannot be found consistent with Section 30233 of the Coastal Act. Also, the proposed project will result in large amounts of intensive development within 100 feet of, and sometimes as close as 5 feet to wetlands on the project site. The failure of the proposed project to provide adequate buffers threatens to significantly degrade the wetlands. In addition, there are significant issues relating to impacts upon wetland hydrology and water quality which have not been resolved. Therefore, the proposed project cannot be found consistent with Section 30230, 30231, and 30240(b) of the Coastal Act. Therefore, the project as proposed must be denied.

E. BIOLOGICAL RESOURCES

Section 30240 of the Coastal Act states that:

(a) 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.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which

⁷ Robert Bein, William Frost and Associates 2000, "Earthwork volume analysis", 1 p. schematic drawing dated 20 September 2000 and unsigned.

⁸ Leighton and Associates 2000, "Response to item E of the California Coastal Commission letter dated August 11, 2000, pertaining to the Marblehead Coastal Property, tentative tract 8817, City of San Clemente, California, coastal development permit 5-99-260", 2 p. letter report to Mr. Jim Johnson dated 18 September, 2000 and signed by T. Lawson (CEG 1821; PE 53388).

⁹ Robert Bein, William Frost and Associates 2000, "Wetlands avoidance plan--Alternative 1", 1 p. schematic drawing, undated and unsigned.

¹⁰ Glenn Lukos and Associates 2000, "Wetlands Avoidance of "Area A"", 1 p. letter report to Michael H. Nihan dated 20 September 2000 and signed by T. Bomkamp

would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Section 30250 of the Coastal Act states:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

The proposed project would result in impacts to biological resources, including coastal sage scrub and Blochman's dudleya. The project will also result in impacts to wetlands. This section contains a description of all of the biological resources, including wetlands, and associated impacts in order to provide a comprehensive view of the biological resources which are present on the site and the impacts to those resources. However, impacts to wetlands and their relationship to Coastal Act policy are more fully discussed in the "Wetlands" section of these findings.

The Marblehead site consists of approximately 250 acres, of which the most seaward 189 acres are in the coastal zone. The project site has been used for a variety of purposes in the past (Exhibit 2). For instance, between 1949 and 1969 a sewage treatment plant was located on approximately 18 acres in Marblehead Canyon. The more level upland areas of the project site have been used for agriculture. Some of these same level upland areas have been used for the placement of soil stockpiles, construction staging areas, and a seasonal carnival. There are several unpaved roads which cross the area.

Meanwhile, there are two primary canyons on the project site, the western canyon and the larger Marblehead Canyon. These canyons contain a variety of sensitive habitat areas. The western canyon is approximately 2,300 linear feet long, runs roughly north-south, and is roughly perpendicular to the bluff face and El Camino Real. Alkali meadow wetlands course through the canyon bottom. Ephemeral drainages are found at the head of the canyon. The mouth of the canyon was graded by the emergency grading in 1990. Coastal sage scrub, annual grasslands and needlegrass grasslands cover the slopes that form the canyon walls. In addition, a population of Blochman's dudleya is located near the mouth of the canyon. This canyon contains habitat which has been occupied by California gnatcatcher according to a 1997 survey.

Marblehead Canyon is the largest canyon on the project site (3,700 linear feet) and roughly bisects the property running in a north-south configuration perpendicular with the bluffs and El Camino Real. Alkali meadow, freshwater, and mulefat scrub wetlands course through the canyon bottom. The slopes of the canyon are covered by coastal sage scrub, annual and needlegrass grasslands. There is a canyon which branches off the main part of Marblehead Canyon which contains wetlands, coastal sage scrub, and annual grassland. Ephemeral drainages are found at the heads of the various branches of this canyon. This

canyon contains habitat which has been occupied by California gnatcatcher according to a 1997 survey.

A third smaller ravine west of the western canyon also contains wetlands, coastal sage scrub and Blochman's dudleya. Ephemeral drainages occur at the head of the ravine. Meanwhile, part of the mouth of the ravine was graded in 1990 in the emergency bluff stabilization. This ravine contains habitat which has been occupied by California gnatcatcher according to a 1997 survey.

There is also a small canyon located between the western canyon and Marblehead Canyon which contains coastal sage scrub and pine woodland. This canyon is roughly trident-shaped. Ephemeral drainages occur at the head of each trident. The mouth of the canyon was graded in 1990.

The bluffs overlooking El Camino Real and the Pacific Ocean range in height between 70 feet and 100 feet. Coastal sage scrub and Blochman's dudleya are found in areas not disturbed by the 1990 grading.

There is one blue-line stream (the Segunda Deschecha channel) on the United States Geologic Service (USGS) map for the area which is immediately adjacent to and outside the project site (Exhibit 1) adjacent to the Blochman's dudleya reserve. According to the applicants' submittal, the proposed development will not result in impacts to this channel.

Appendix A lists the biological field surveys prepared for the project site submitted by the applicant which identify and characterize the resources found on the site. These studies formed the basis for the analysis of biological resources and potential impacts in the Marblehead Coastal Final Environmental Impact Report dated June 1998 (FEIR), the Addendum to Final Environmental Impact Report (Addendum FEIR) dated February 2000, and the Marblehead Coastal Project Preservation, Restoration and Management Plan for Wetlands, Sage Scrub and Other Upland Habitats dated July 7, 2000, for the Marblehead project. Supplemental analyses of biological impacts were also submitted by the applicant and are listed in Appendix A.

1. Habitat Areas on the Marblehead Site

There are several plant communities that were found on the Marblehead site, including coastal bluff scrub, southern cactus scrub, sagebrush scrub, coyote bush scrub, saltbush scrub, annual grassland, native needlegrass grasslands, alkali marsh, freshwater marsh, mulefat scrub, Aleppo Pine woodland, disturbed ruderal habitat (Exhibit 17). In addition to these habitat areas, one sensitive non-wetland plant species was identified, Blochman's dudleya. Following is an acreage breakdown of the habitat types identified on the Marblehead site:

PLANT COMMUNITY		ACRES OF HABITAT IN THE COASTAL ZONE
Coastal Sage Scrub	Coastal bluff scrub	3.70
	Southern Cactus Scrub	0.90
	Sagebrush Scrub	1.55
	Coyote Bush Scrub	2.73
	Saltbush Scrub	8.45
Grassland	Annual Grasslands	37.30
	Needlegrass Grasslands	0.31
Wetlands	Alkali Marsh	3.44
	Alkali Meadows	0.59
	Freshwater Marsh	0
	Seasonal Wetlands	0.21
Riparian (wetlands)	Mulefat Scrub	0.71
Developed	Ornamental Landscaping	0.62
Disturbed/Ruderal	Disturbed or Barren	120.21
Other	Pine Woodlands	8.15
	Naturalized Exotics	0.75

Additionally, the FEIR identifies the habitats, plants, or animals considered to be "sensitive" under a variety of criteria including: 1) listing as rare, threatened, or endangered under the Federal and/or State Endangered Species Acts; 2) State or Federal Candidates for listing as rare, threatened or endangered; 3) California Species of Special Concern; 4) Special Plants or Animals as listed by the Department of Fish and Game; 5) plant species included in the California Native Plant Society's "Inventory of Rare and Endangered Vascular Plants of California"; or 6) plant or animal species considered locally uncommon or declining by biologists familiar with regional population trends.

a. Coastal Sage Scrub Community

According to the applicants' submittal, there are 17.34 acres of coastal sage scrub on the project site within the coastal zone. The coastal sage scrub community consists of several types of scrub habitats including coastal bluff scrub, southern cactus scrub, sagebrush scrub, coyote bush scrub, and saltbush scrub. According to the FEIR, the presence of California box thorn (*Lycium californica*), California sagebrush (*Artemisa californica*), California bush sunflower (*Encelia californica*) and Brewer's saltbush (*Atriplex lentiformis*) characterize the coastal bluff scrub community. On the Marblehead site, the Blochman's dudleya has been found in association with this plant community. The southern cactus scrub community is characterized by the presence of prickly pear cactus (*Opuntia littoralis*). The sagebrush scrub community is characterized by the presence of dense stands of California sagebrush. Coyote bush scrub is characterized by the presence of Coyote bush (*Baccharis pilularis consanguinea*). Finally, saltbush scrub contains Brewer's saltbush (*Atriplex lentiformis lentiformis*).

b. Grassland Community

According to the applicants' submittal there are 37.30 acres of annual grassland on the project site within the coastal zone and 0.31 acres of needlegrass grasslands. The annual grasslands are found primarily on the slopes of the canyons and drainages on the project site. Species present include wild oats (*Avena* sp.) and chess grass (*Brome* sp.). From late spring to early summer, black mustard (*Brassica nigra*) is present in this community. Needlegrass grasslands are characterized by the presence of needlegrass (*Nasella* sp.).

c. Wetlands

There are 4.95 acres of wetlands in the project area within the coastal zone. These wetlands are comprised of alkali marsh, alkali meadow, seasonal wetland, and mulefat scrub. The alkali marsh and meadow and seasonal wetlands are characterized by the presence of alkali heath (*Frankenia salina*), coastal salt grass (*Distichlis spicata spicata*), and common woody pickleweed (*Salicornia virginica*), coastal bulrush (*Scirpus robustus*) and slender cattail (*Typha domingensis*). These wetland areas are not subject to tidal inundation. The presence of these plants indicates there are alkali soils in the drainages. Mulefat scrub areas contain arroyo willow (*Salix lasiolepis*) and mulefat (*Baccharis salicifolia*).

d. Developed

There are 0.62 acres of which have been identified by the applicant as "developed" because they contain ornamental vegetation. Ornamental vegetation includes trees and groundcover. Iceplant (*Malephora crocea*) is the dominant plant cover.

e. Disturbed/Ruderal

There are 120.21 acres which have been described as disturbed/ruderal. These areas include slope stabilization and graded areas, dirt roads, and areas which have been cleared and disked on a regular basis.

f. Other

According to the applicant there are 8.15 acres of area described as pine woodland and 0.75 acres of area described as naturalized exotics. The pine woodland areas contain allepo pines (*Pinus halepensis*), which the FEIR describes as a planted ornamental tree. These areas have an open canopy of allepo pines and an understory of annual grassland.

Areas characterized as naturalized exotics include ornamentals and annual grasslands which the FEIR states have invaded bluff habitat areas.

g. Plants

In addition to the habitat areas, one sensitive plant species was identified on the Marblehead site, the Blochman's dudleya (*Dudleya blochmaniae ssp. Blochmaniaea*). The Blochman's dudleya is a perennial succulent plant species found on coastal bluffs from San Luis Obispo County, California, into the Baja peninsula. The Blochman's dudleya is a small plant which grows with spring rainfall, flowers in April and May and then remains dormant during the summer and fall. The plant survives on starch reserves stored in the underground caudex or stem, similar to a bulb. The plant reproduces primarily by seed but can reproduce vegetatively, via detached leaves. The plant is found on the margin of open areas on coastal bluffs and usually in association with other native plants such as California boxthorn, California sagebrush, coastal goldenbush (*Isocoma menseisii*), golden tarplant (*Hemizonia fasciculata*) and the lance leaf dudleya (*Dudleya lanceolata*). The

California Native Plant Society has placed *Dudleya blochmaniae* on List 1B of their inventory of Rare and Endangered Vascular Plants.

2. Wildlife on the Marblehead Site

According to the FEIR, a variety of wildlife are expected within the coastal sage scrub habitats on the project site. Amphibians include the Pacific slender salamander (*Batrachoseps pacificus*), western toad (*Bufo boreas*), and Pacific treefrog (*Hyla regilla*). Reptiles include side-blotched lizard (*Uta stansburiana*), western whiptail (*Cnemidophorus tigris*), and gopher snake (*Pituophis melanoleucus*). Bird species include California towhee (*Pipilo crissalis*), Bewick's wren (*Thrymmanes bewickii*), western kingbird (*Trannus verticalis*), rufous-sided towhee (*P. erythrophthalmus*), scrub jay (*Aphelocoma coerulescens*), bushtits (*Psaltiriparus minimus*), coastal California gnatcatcher (*Polioptila californica*), and house finch (*Carpodacus mexicanus*). Open shrub areas provide foraging areas for raptors including red-tailed hawk (*Buteo jamaicensis*), turkey vulture (*Cathartes aura*) and American kestrel (*Falco sparverius*). Small mammals include deer mouse (*Peromyscus maniculatus*), and house mouse (*Mus musculus*). Large mammals include California ground squirrel (*Spermophilus beecheyi*), desert cottontail (*Sylvilagus audubonii*), long tailed weasel (*Mustela frenata*), striped and spotted skunks (*Mephitis mephitis* and *Spilogale gracilis*), and coyote (*Canis latrans*). Woodrats (*Neotoma* spp.) may also be present.

According to the FEIR, wildlife expected in grasslands include birds such as towhees, sparrows, quail, and finch. In addition, lesser and American goldfinches (*Carduelis psaltria* and *C. tritis*) would also be found. Raptors include turkey vulture, red tailed hawk, black shouldered kite (*Elanus caeruleus*), American kestrel, barn owl (*Tyto alba*) and great horned owl (*Bubo virginianus*). Small mammals include deer mouse, house mouse, California ground squirrel, cottontail skunks, and coyote. In addition, California vole (*Microtus californicus*) and Botta's pocket gopher (*Thomomys bottae*) would be present.

Wildlife in wetland habitats include the Pacific tree frog (*Hyla regilla*) (was the only recorded amphibian) although, according to the FEIR, other amphibians mentioned above are likely. Birds specific to riparian areas include snowy egret (*Egretta thula*), American koot (*Fulica americana*), common yellow throat (*Geothlypis trichas*), and red winged blackbird (*Agelaius phoeniceus*).

According to the FEIR, one sensitive species of wildlife has been recorded on the project site, the coastal California gnatcatcher (*Polioptila californica*). The California gnatcatcher is listed by the U.S. Fish and Wildlife Service (USFWS) as threatened. According to the FEIR, the California gnatcatcher is an obligate, year-round resident of coastal sage scrub vegetation communities. California gnatcatchers primarily feed upon insects which are eaten directly off of coastal sage scrub vegetation.

In addition to the species identified in the FEIR, previous biological surveys have identified species which were not identified by the most recent surveys. For instance, according to the 1991 Biological Assessment Update prepared by Fred Roberts, a 1985 biological survey titled Biological Assessment Update for the Marblehead Coastal Project prepared by Karlin Marsh and Gordon Marsh noted that the project site was "...locally significant for

raptors, including one species, the northern harrier, which is considered rare by the California Natural Diversity Data Base...".

Also, Commission staff's biologist, Dr. John Dixon, visited the project site in April 2000. During this visit, Dr. Dixon observed a white-tailed kite (*Elanus leucurus*) foraging on the project site. In addition, Dr. Dixon observed a Loggerhead shrike (*Lanius ludovicianus*) perched on a pine snag. The white-tailed kite is a state listed Fully Protected species. In addition, the Loggerhead shrike is a state listed Species of Special Concern.

Some species that dwell off-site but periodically visit the site are important to maintaining the current balance of wildlife on the site. For instance, the FEIR notes that coyote are present on the project site. Larger predators, such as the coyote, are important in controlling the presence of smaller predators that prey on avian species. In the absence these larger predators, the diversity of avian species at the site is likely to notably decrease¹¹.

3. Environmentally Sensitive Habitat Areas

Section 30240 of the Coastal Act requires that environmentally sensitive habitat areas be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. On the Marblehead project site, at least one habitat, the Blochman's dudleya, is an environmentally sensitive habitat area (ESHA). On the basis of the information available to the Commission at this time, the Commission is unable to determine whether the coastal sage scrub present on the Marblehead site satisfies the statutory definition of ESHA.

Section 30107.5 of the Coastal Act states:

"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

a. Blochman's dudleya

The California Native Plant Society (CNPS) has placed *Dudleya blochmaniae* on List 1B of their Inventory of Rare and Endangered Vascular Plants. According to the CNPS classification, the plant is eligible for state listing as an endangered species. However, the California Department of Fish and Game has not recommended listing or candidate status. In addition, the *Dudleya blochmaniae* is not a federal candidate species for listing as endangered or threatened.

The *Dudleya blochmaniae* is found at three known sites in Orange County at the Dana Point Headlands, San Clemente State Beach, and at Marblehead, the project site. Within Orange County, the Marblehead site has the largest population. A 1991 biological assessment (1991 Biological Assessment Update Marblehead Coastal Project Site, San

¹¹ Crooks, K.R. and M.E. Soulé. 1999. Mesopredator release and avifaunal extinctions in a fragmented system. *Nature* 400:563-566.

Clemente, California) by Fred Roberts states that the estimated population of *Dudleya blochmaniae* was approximately 10,500-12,000 individual plants. The Dana Point Headlands has a population of approximately 250 plants according to the Dana Point Headlands Specific Plan Draft EIR. The San Clemente State Beach population is estimated as 150-300 plants. Additionally, there is a Camp Pendleton population in San Diego County estimated at perhaps 500 plants.

Roberts lists several factors which limit the spread of the Blochman's dudleya. These are that the plant: requires a specific maritime climate; is found near the coast; has very specific soil requirements; and does best where there is little or no competition from other plants. Roberts also notes that the population must be shielded from long-term impacts, such as future development.

In April 1990, Robert Bein, William Frost & Associates prepared a *Dudleya blochmaniae* Protection and Salvage Program for the Marblehead Coastal Site. The stated goal of the salvage program was "...to minimize damage to the plant during emergency grading, and to salvage as many plants as possible to allow subsequent re-establishment onsite and/or relocation offsite." According to the report, an estimated 5,000 plants were salvaged and transported to the Tree of Life Nursery in San Juan Capistrano. The 1991 reports by Roberts contradicts this 5,000 figure and states that only 3,700 *Dudleyas* were recovered from the salvage operation prior to grading while an estimated 2,900 plants were destroyed. Subsequent research by Commission staff in 1994 discovered that the salvaged plants died at the nursery because no provisions were arranged for their care. Roberts also reported that an estimated 4,200 plants remained in the Phase II (3,600) and III (600) portions of the project site. The Marblehead FEIR indicates that there are presently 3,600 individuals present along the bluffs at the northern portion of the project site. However, there is no indication that the 600 plants identified by Roberts in 1991 are still present in the Phase III area of the project site.

The *Dudleya blochmaniae* is only found in a few small populations throughout the State and Mexico. This small population and limited range cause the *Dudleya blochmaniae* to be rare. In addition, the population at the Marblehead project site is especially large compared with other populations in the region, causing that population to be especially valuable. Furthermore, due to the very specific conditions upon which the *Dudleya blochmaniae* are dependent to survive, the *Dudleya blochmaniae* could be easily disturbed by human activity. Therefore, the Commission finds that the *Dudleya blochmaniae* on the Marblehead site are environmentally sensitive areas under Section 30107.5 of the Coastal Act because they are rare and especially valuable plants which are easily disturbed by human activities.

b. Coastal Sage Scrub

"Coastal sage scrub" or "soft chaparral" is a general vegetation type characterized by special adaptations to fire and low soil moisture. The defining physical structure in CSS is provided by small and medium-sized shrubs which have relatively high photosynthetic rates, adaptations to avoid water loss, including drought deciduousness, and adaptations to fire, such as the ability to survive the loss of above-ground parts and resprout from root crowns. In addition to twenty or so species of perennial shrubs, such as California sage brush, CSS is home to several hundred species of forbs and herbs, such as the California

poppy. For convenience in mapping and management, CSS periodically has been divided into many types and sub-types, such as "southern coastal bluff scrub" and "Diegan sage scrub," based on geographic location, physical habitat, and species composition.¹² Some of these types may be comprised of distinct groups of co-evolved species that represent some underlying evolutionary reality, but many simply document current patterns of association that are sufficiently common to warrant a name.

About 18 ac of various types of coastal sage scrub habitats are present on the Marblehead site. The stands are degraded, scattered throughout the several drainages and interspersed with non-native grasslands. The flat portions of the site are disked and do not support perennial vegetation. Despite the fragmented and degraded nature of the scrub habitats that are present, they are occupied by the California gnatcatcher (federally designated as "threatened"), a species dependent on scrub habitats. The presence of two pairs of gnatcatchers was documented in 1990, one pair was observed in 1996, and two pairs were recorded in 1997.¹³ Additional surveys done in 1999/2000 indicate that up to three pairs occupied the site.¹⁴ One pair and at least one other individual were observed by the applicant's biological consultant during an agency site visit in 2000.¹⁵ The location of these birds has not been the same each year. Therefore, it appears likely that the site has generally supported two pairs of California gnatcatchers and much of the scrub habitat may potentially be occupied at one time or another.

Marblehead will be covered by the South Subregion Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP), which is being prepared by the California Department of Fish and Game (CDFG) and the U. S. Fish and Wildlife Service (Service). However, no written plan has been prepared to date. When completed, this plan will cover an overall area of about 130,000 acres, encompassing a variety of land uses and habitats. As planned, the 250-acre Marblehead project will result in the loss of about 16.5 of the 18 ac of coastal scrub and the "take" of probably two pairs of California gnatcatchers¹⁶, which is permitted by a Special 4(d) "take" authorization that has already been issued by the Service (Exhibit 20).¹⁷ According to the Special 4(d) "take" authorization letter, such authorization may be granted prior to the formal adoption of the South Subregion NCCP/HCP when a proposed "take" meets certain criteria outlined in the NCCP Process Guidelines. These criteria include measures related to cumulative losses of coastal sage scrub habitat within the affected subregion, avoidance of interference with habitat connectivity, and minimization of the impact, among other criteria (Exhibit 20). As pointed out by the applicant's consultant (Exhibit 27), by this action the Service has determined "...that existing coastal sage scrub (CSS) and gnatcatchers on the Marblehead Coastal property are not "essential to the conservation" of the gnatcatcher and not in need of

¹² Axelrod, D.I. 1978. The origin of coastal sage vegetation, Alta and Baja California. *American Journal of Botany* 65:117-131; Holland, R.F. 1986. Preliminary descriptions of the terrestrial natural communities of California. Unpublished report. Sacramento, California Department of Fish and Game; Sawyer, J.O. and T. Keeler-Wolf. 1995. A manual of California vegetation. Sacramento, California Native Plant Society.

¹³ City of San Clemente. 1998. Final Environmental Impact Report. Marblehead Coastal General Plan Amendment 96-01, Specific Plan 95-02, Tentative Tract Map. State Clearing House Number 95091037. A report prepared by David Evans and Associates dated June 1998 and adopted August 5, 1998.

¹⁴ Bartel, J.A. and W.E. Tippets. 2000. Letter to James Hare, City of San Clemente, authorizing incidental take of gnatcatchers at Marblehead.

¹⁵ Tony Bombcamp personal communication to John Dixon April 5, 2000.

¹⁶ City of San Clemente, 1998, op. cit.

¹⁷ Bartel and Tippets, 2000, op. cit.

"special management considerations."¹⁸ In addition, the Marblehead site is not included as Critical Habitat in the designation by the Service. It may be the case that the California gnatcatcher species may not be dependent on the survival or reproductive success of those gnatcatcher pairs presently utilizing coastal sage scrub at Marblehead, or of other pairs that might occupy that habitat in the future.

The question remains, "Is the coastal sage scrub on the Marblehead property an Environmentally Sensitive Habitat Area (ESHA) under the Coastal Act?" There seems to be an emerging opinion among developers' consultants that if an area is covered by an NCCP/HCP and if it is not designated for conservation, it is *ipso facto* not ESHA. For example, in another matter a consultant wrote, "Although coastal sage scrub has in some areas been considered a sensitive habitat because of its connection to the California gnatcatcher, the coastal sage scrub in all of the surveyed areas do not represent occupied habitat. Its lack of uniqueness or special habitat value was officially confirmed by the decision of the California Department of Fish and Game and the U.S. Fish and Wildlife Service in approving the Central Coast Natural Communities Conservation Plan...."¹⁹ In the present matter the applicant's consultant concludes that, "...based on the findings and actions of both CDFG and the Service in regards to the Marblehead Coastal property, it does not make sense to designate the CSS and occupied gnatcatcher habitat located on the Marblehead site as an ESHA."²⁰ The Commission believes that these analyses are incorrect because they are critically reliant on three fallacious assumptions: 1) that coastal sage scrub is a sensitive habitat only because of its importance to listed species, particularly the California gnatcatcher, 2) that if an area is subject to an NCCP/HCP, but not designated conservation, this fact demonstrates that the resource agencies consider the area to have no special habitat value, and 3) that there is no sensible basis upon which to designate an area as ESHA if it is covered by an NCCP/HCP but not protected.

First, it is important to recognize that coastal sage scrub, as a habitat type, can qualify as ESHA regardless of the presence of California gnatcatchers. Indeed, if the gnatcatcher became extinct, CSS could still be ESHA. Section 30107.5 of the Coastal Act states, "'Environmentally sensitive area' means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments." It is probably universally accepted among specialists that CSS is easily degraded and in fact has been destroyed by development over large areas of the state.²¹ About 2.5% of California's land area was once occupied by CSS. In 1981, it was estimated that 85% to 90% of the habitat type had been destroyed state-wide and, in 1991, it was estimated that San Diego, Orange, and Riverside counties had lost 66% of their CSS.²² Current losses are higher and losses in the coastal zone have undoubtedly been much higher. Compared to its natural distribution and abundance, CSS is in decline and it is in decline because it has been destroyed by human activities. Unfortunately for the habitat type, it occupies shallow slopes on lower elevations of coastal mountain

¹⁸ Meade, R. J. 2000. Memo to Karl Schwing dated November 28, 2000.

¹⁹ emphasis added.

²⁰ Mead, 2000, op. cit.

²¹ Mooney, H.A. 1977. Southern Coastal Scrub. Pages 471-489 in M.G. Barbour and J. Major, eds. Terrestrial Vegetation of California. Davis, U.C. Press; Westman, etc

²² Westman, W.E. 1981. Factors influencing the distribution of species of California coastal sage scrub. Ecology 62:439-455; Michael Brandman Assoc. 1991. A rangewide assessment of the California gnatcatcher. A report to the Building Industry Association of Southern California cited by J.E. O'Leary, et al. 1994, below.

ranges, areas that are understandably prized for development. Besides being in decline, CSS provides important ecological functions. It can be home to some 375 species of plants, many of which are local endemics. About half the species found in CSS are also found in chaparral after fire, but disappear from that habitat after about 7 years. CSS may provide a spatial refuge for those herbs between fires.²³ Nearly, 100 species of rare plants and animals are obligately or facultatively associated with coastal sage scrub habitats.²⁴ In addition, coastal sage scrub is often the natural upland habitat adjacent to wetland habitats such as coastal salt marshes and vernal pools, and is important to species that require both habitat types to complete their life cycle.

The second incorrect assumption is that areas not protected under an NCCP/HCP have been implicitly designated as unimportant habitat by the resource agencies. It must be recognized that the NCCP/HCP effort is a process by which resources in some areas are sacrificed to development in exchange for permanent protection of other resources in other areas. The actual trades that take place are determined in the context of a regional planning effort. This effort incorporates both ecological needs and development constraints. For example, to insure the long-term perpetuation of biological diversity within a region, it might be more important to protect degraded habitat that provides a critical movement corridor than to protect pristine habitat that is isolated from the major habitat blocks within the planning area. It also is the case that good habitat is sacrificed in some areas of prime development potential in order to provide an incentive to municipalities and property owners to participate in the NCCP/HCP program if the net effect is believed to be most protective of resources over the long run. At heart, this is a negotiated process and therefore it is also somewhat dependent on the skill of the negotiators for the various interests. These ecological and practical constraints and compromises are part and parcel of natural community conservation planning and demonstrate that no inferences regarding quality or value, particularly the local quality and value, of habitats can be drawn simply from the fact that a particular area is not protected by the governing plan.

Finally, there actually are many sensible bases for designating as ESHA some areas that have not been protected under a regional NCCP/HCP. For example, even degraded coastal sage scrub may provide essential habitat for species that require both CSS and saltmarsh plants to complete their life cycle. In the heart of urban environments, CSS may still support many bird species when there is sufficient open space to include coyotes in the system. High quality coastal sage scrub also may be of significant value in heavily urbanized areas by contributing to the local diversity of vegetation, even if it is so isolated as to lose much of its wildlife value. In addition, some categories of coastal sage scrub, such as southern coastal bluff scrub, are so rare that they may be inherently deserving of protection wherever they are found. Of course, if a stand of coastal sage scrub is home to listed species, the presumption should generally be that the habitat is ESHA in the absence of compelling evidence to the contrary.

It is evident that California coastal sage scrub is a habitat that could qualify for the designation as ESHA under the Coastal Act, regardless of the presence of the California gnatcatcher or any other particular species. However, does the fact that vegetation

²³ Westman, W.E. 1979. A potential role of coastal sage scrub understories in the recovery of chaparral after fire. *Madroño* 26:64-68.

²⁴ O'Leary, J.F., et al. 1994. Bibliographies on coastal sage scrub and other related malacophyllous shrublands of Mediterranean-type climates. *California Wildlife Conservation Bulletin* No. 10.

designated as "coastal sage scrub" potentially qualifies as ESHA imply that every particular stand of CSS must be so characterized? Generally speaking, the answer to that question must be "No." Section 30240 of the Coastal Act protects ESHA from any significant disruption of habitat values and confers considerable protection to adjacent areas. Given the far reaching implications of designating an area as ESHA, it is incumbent upon the Commission to use this designation with regard to a general category of habitat such as coastal sage scrub only where the local habitat itself meets the test of being rare or especially valuable because of its special nature or role in an ecosystem. However, in this context it is important to remember that the meaning of the word "ecosystem" does not contain any guidance as to the portion of the biosphere included. An ecosystem is simply the combination of a biotic community and its environment. It is up to the practitioner to define the boundary of any "ecosystem" under consideration. It could encompass the world or only the practitioner's own back yard. Therefore, a local area could certainly be an ESHA if it provides an important function in a local ecosystem, regardless of its regional significance. In summary, a case-by-case analysis is required, which has always been the Commission's approach.

In the case of Marblehead, there are several types of coastal sage scrub present. At the rare end of the spectrum is coastal bluff scrub which is present in several small patches and at the other end is coyote bush which is common and tolerant of disturbance. Most of the CSS at Marblehead is degraded and occurs in small patches adjacent to non-native grassland. Although it provides significant habitat value for song birds and for raptors, the Commission finds that that most of the CSS could not be characterized as ESHA were it not for the persistent presence of one or more pairs of California gnatcatchers. If this coastal sage scrub has supported successful reproduction by this listed species, based on existing conditions, the areas of CSS and other habitat within the use area of the gnatcatchers should be designated ESHA under the Coastal Act. On the other hand, the applicant's consultant has raised the specter of the local CSS acting as an ecological "sink" to the detriment of the gnatcatcher species. In the parlance of conservation biology a "sink" is an area of habitat where, for a species under consideration, mortality exceeds production of new individuals. Under such a regime, in the absence of colonization the local population will become extinct with only local implications. However, if the habitat continues to attract dispersing individuals which would otherwise successfully reproduce elsewhere, then the habitat is actually damaging in a regional context. If the Marblehead CSS actually is acting as a regional "sink," then it is an "attractive nuisance" for gnatcatchers and should not be classed as ESHA unless it provides valuable functions for other species. Unfortunately, there are no data beyond the simple observations of gnatcatcher presence and habitat use and the physical descriptions of the site and its biota. The data necessary to answer the question definitively would require a multi-year study of the reproductive success of banded birds, which would also allow one to assess immigration and emigration. These data are not available and probably will never be available. Given the existing evidence, one can easily imagine two reasonable scenarios. First, the resident pairs of gnatcatchers successfully fledge young that either disperse to other areas inland or remain in the area when space is opened due to the mortality of local adults. In addition, some transients from other areas occasionally arrive and take up residence when space is available. Second, the resident pairs of gnatcatchers do not produce enough young to replace themselves and the local population of two pairs is maintained by the occasional arrival of dispersing individuals that would have reproduced successfully elsewhere if the Marblehead habitat was not in existence. Given the first set

of facts, the Commission could call the area ESHA. Given the second, the Commission may not. In view of the existing uncertainty, the precautionary principle would require that the ecologically conservative alternative be followed. In this case, one alternative has a positive effect and the other a negative effect, so the conservative alternative is not obvious. Nevertheless, in the absence of convincing expert argument to the contrary and based on the principle of parsimony, the Commission would have recommended that the Commission consider the various scrub habitats and adjacent gnatcatcher use areas to be ESHA.

However, in order to clarify this issue Commission staff discussed the issue at some length with Dr. Dennis Murphy who was a member of the Scientific Advisory Panel for California's Natural Communities Conservation Planning effort and a principal author of that group's Conservation Guidelines. At Commission staff's request, Dr. Murphy wrote a letter wherein he discusses the issues relating to coastal sage scrub at the Marblehead site. After acknowledging the lack of pertinent data, he offers his professional opinion that the site is more likely acting as a regional "sink" for gnatcatchers than providing a marginal benefit.

Based on the evidence currently available to the Commission, the Commission cannot determine if the coastal sage scrub habitat at the subject site is ESHA. A study of gnatcatcher reproductive success during at least one reproductive cycle, and potentially other information regarding the value and nature or role of the various species in the coastal sage scrub and their susceptibility to disturbance, would be valuable in determining whether the coastal sage scrub at the site is ESHA. If the coastal sage scrub on the site is indeed ESHA, Section 30240 of the Coastal Act places important restrictions on the use of these areas. In the absence of additional information concerning the reproductive success of the gnatcatchers present on the Marblehead site, the Commission cannot now determine whether or not the coastal sage scrub on the Marblehead site is ESHA within the meaning of section 30107.5 of the Coastal Act.

4. Cumulative Impacts on Coastal Resources

Although not all the vegetated habitats at the Marblehead site ought to be categorized as "ESHA," they all do provide habitat value and some provide quite significant value. For example, the foraging value of annual grasslands and open scrub to raptors is important. Coastal sage scrub, whether ESHA or not, does provide valuable habitat to a variety of wildlife on the project site, as noted above. These habitat areas also serve as important buffer areas for wetlands on the project site.

Where development has significant adverse effects, either individually or cumulatively, to coastal resources, mitigation and other steps to minimize adverse effects would be appropriate under section 30250 of the Coastal Act.

5. Impacts

The proposed project will involve the mass grading of the site and result in the construction of structures on the subject site. In addition, this application seeks to make permanent the emergency grading undertaken in 1990. The proposed development will

result in impacts to biological resources on the project site. In addition, the work previously undertaken in 1990 resulted in impacts to biological resources.

The following table details the acreage of each habitat type that would be removed for the proposed development and the quantity of habitat preserved and mitigated:

PLANT COMMUNITY		EXISTING HABITAT	IMPACTED	PRESERVED	MITIGATED ON-SITE	MITIGATED OFF-SITE	NET
Coastal Sage Scrub		17.34	14.37	2.97	16.49	30	46.49
Grassland	Annual Grasslands	37.30	37.30	0	0	0	0
	Needlegrass Grasslands	0.31	0.31	0	0.30	0	.30
Marsh	Alkali Marsh	3.44	0	3.44	0	0	3.44
	Alkali Meadows	0.59	0.08	.51	0.17	0	.68
	Freshwater Marsh	0	0	0	0.93	0	.93
	Seasonal Wetlands	0.21	0.01	0.20	.028	0	.228
Riparian (in CZ only)	Mulefat Scrub	0.71	0	0.71	0	0	.71
Developed	Ornamental Landscaping	0.62	0.62	0	0	0	0
Disturbed/Ruderal	Disturbed or Barren	120.21	120.21	0	0	0	0
Other	Pine Woodlands	8.15	8.15	0	0	0	0
	Naturalized Exotics	0.75	0.75	0	0	0	0

In addition to the development now proposed, implementation of the emergency Phase I grading project resulted in the recontouring of 1,840 linear feet of coastal bluffs and the disruption of habitat up to 650 feet inland. Earth removed during the grading operation was stockpiled in the central portion of the site, burying approximately 30 acres of habitat in the coastal zone. According to the 1991 biological assessment prepared by Roberts, this development resulted in adverse impacts to several plant communities including annual and native grasslands, coastal bluff scrub, Blochman's dudleya or maritime bluff scrub, and wetlands. These impacts are as follows: annual grassland - 47 acres impacted; needlegrass grassland - 2.5 acres impacted; coastal bluff scrub - 3.0 acres impacted; Blochman's dudleya - 3.5 acres or 6,500 to 8,000 plants impacted; and wetlands - 0.1 acres impacted.

As described above, the project site's plant communities provide valuable habitat for a wide variety of animal species. The habitats provide food and water, shelter, sites for breeding and materials for nest building. The grading and construction of structures, as proposed, necessitates the removal of vegetation resulting in the loss of acres of habitat for wildlife. Small, slow-moving, or burrowing animals may be killed as a result of the grading operations. Some animals may be able to relocate to other areas, but competition with species already living there may preclude the long-term survival of displaced animals.

As noted in the project description, the applicant is proposing mitigation for the proposed impacts. This mitigation includes restoration of 16.49 acres of coastal sage scrub on the

graded slopes of Marblehead Canyon and the western canyon. Also, impacts to the California gnatcatcher will be mitigated off-site with the acquisition of development rights and establishment of a conservation easement over 50 acres of land containing 30 acres of existing coastal sage scrub and 12 pairs of California gnatcatchers. Impacts to needlegrass would be mitigated by translocating 0.3 acres of needlegrass habitat to Marblehead Canyon and the Blochman's dudleya reserve. Impacts to 0.08 acres of alkali meadow wetlands would be mitigated with the creation of 0.17 acres of alkali meadow wetlands on-site. In addition, 0.01 acres of seasonal wetlands impacted would be mitigated with 0.028 acres of seasonal wetlands on-site. Mitigation for impacts to the Blochman's dudleya are simply to complete the translocation plan being implemented under Coastal Development Permit 5-97-136. Finally, the applicant is proposing to contribute \$100,000 to the property owner's association for long-term on-site habitat management. Off-site mitigation areas would be managed by a separate \$106,000 endowment.

In addition to mitigation measures, the FEIR considered 7 alternatives to the Marblehead project²⁵. These alternatives include:

1. No Project Alternative
2. No Development
3. Alternative Land Use
4. Residential Alternative
5. Reduced Site Coverage with Wetland Avoidance
6. Reduced Commercial Development with Wetland Avoidance
7. Proposed Project on an Alternative Site

The FEIR also considered project design alternatives relating to:

- Alternative design and alignments of Avenida Vista Hermosa
- Avoidance of sage scrub habitat on-site

Several of the alternatives identified above would result in lesser or no direct impacts upon biological resources. For instance, the no development alternative would cause the site to remain vacant. According to the FEIR, the no project alternative would result in the elimination of public access and recreation benefits offered by the proposed project and other alternatives including a park and trails. However, the no project alternative avoids all impacts upon environmental resources.

The FEIR also analyzed a project alternative which would avoid impacts to coastal sage scrub and the California gnatcatcher. However, the FEIR states that this avoidance alternative was rejected in favor of a combination of on-site and off-site mitigation. The rationale stated by the FEIR for preferring this mitigation package was largely founded on the premise that the South Subregion Natural Communities Conservation Plan/Habitat Conservation Plan (NCCP/HCP) which is currently being drafted would provide a cumulative

²⁵ The applicant originally submitted their application for a coastal development permit in 1999. At that time, the project submitted was the same project analyzed as the "Proposed Project" in the FEIR. However, in 2000, the applicant revised their project and selected a variation of Alternative 5 (Reduced Site Coverage with Wetlands Avoidance). Therefore, the "Proposed Project" discussed in the FEIR is not the project that is the subject of this coastal development permit application. Rather, the project now proposed is essentially Alternative 5 discussed in the FEIR.

regional conservation approach for the California gnatcatcher that would be superior to protecting the resources on the Marblehead project site in place.

6. Analysis

a. Section 30240

The Marblehead site contains various valuable upland habitat areas, including wetlands, Blochman's dudleya, and coastal sage scrub. It is clear that the proposed project will result in significant adverse impacts to the biological resources on the site.

Section 30240(a) of the Coastal Act requires that environmentally sensitive habitat areas be protected against any significant disruption of habitat values and that only uses dependent on those resources can be allowed within ESHA. The proposed project is clearly not consistent with this policy. The Blochman's dudleya areas on the site, which the Commission designates as ESHA, would not be protected against any significant disruption of habitat values. Rather, some of these areas would be destroyed as a result of the proposed development. In addition, if the coastal sage scrub on the site were determined to be ESHA, the proposed development would also impact this ESHA. Further, uses within the ESHAs would not be restricted to those which are dependent on the resources. Housing, commercial facilities, and roads and other infrastructure would be located within the areas now occupied by the ESHAs. These uses are not resource dependent.

Additionally, Section 30240(b) of the Coastal Act requires that development in areas adjacent to ESHA is sited and designed to prevent impacts which would significantly degrade these areas, and is compatible with the continuance of the habitat areas. The development proposed is not consistent with this policy. In this case, the applicant is proposing to eliminate the ESHA. Therefore, the ESHA is not protected and results in the loss of the ESHA.

Typically, to ensure compliance with Section 30240 of the Coastal Act, development (aside from resource dependent uses) must be located outside of all environmentally sensitive habitat areas. Further, development adjacent to an ESHA must provide a setback or buffer between the ESHA and the development of an adequate size to prevent impacts that would degrade the resources. The width of such buffers would vary depending on the type of ESHA and on the type of development, topography of the site, and the sensitivity of the resources to disturbance.

As described above, the applicant is proposing mitigation including the translocation of the Blochman's dudleya habitat. In addition, the applicant is proposing the establishment of certain funding mechanisms for the management of mitigation areas.

However, Section 30240 of the Coastal Act does not provide for such measures in lieu of protecting ESHA resources. A recent Court of Appeal decision [Bolsa Chica Land Trust v. Superior Court, 71 Cal. App. 4th 493, 83 Cal Rptr. 2d 850 (1999)] speaks to the issue of mitigating the removal of ESHA through development by "creating" new habitat areas elsewhere. This case was regarding a Commission action approving an LCP for the Bolsa Chica area in Orange County. The Commission determined that a eucalyptus grove that serves as roosting habitat for raptors qualified as ESHA within the meaning of Section

30107.5 of the Coastal Act. The Commission found that residential development was permissible within the ESHA under Section 30240 because the eucalyptus grove was found to be in decline and because the LCP required an alternate raptor habitat be developed in a different area.

In the decision, the Court held the following:

The Coastal Act does not permit destruction of an environmentally sensitive habitat area [ESHA] simply because the destruction is mitigated offsite. At the very least, there must be some showing that the destruction is needed to serve some other environmental or economic interest recognized by the act. 83 Cal.Rptr.2d at 853.

The Court also said:

[T]he language of section 30240 does not permit a process by which the habitat values of an ESHA can be isolated and then recreated in another location. Rather, a literal reading of the statute protects the area of an ESHA from uses which threaten the habitat values which exist in the ESHA. Importantly, while the obvious goal of section 30240 is to protect habitat values, the express terms of the statute do not provide that protection by treating those values as intangibles which can be moved from place to place to suit the needs of development. Rather, the terms of the statute protect habitat values by placing strict limits carefully controlling the manner uses in the area around the ESHA are developed. 83 Cal.Rptr. 2d at 858.

Thus, the requirements of Section 30240 of the Coastal Act cannot be met by destroying, removing or significantly disrupting an ESHA and creating or restoring commensurate habitat elsewhere. The Blochman's dudleya is located at the southwestern boundary of the project site on the bluff face as well as within the western canyon. These Blochman's dudleya habitat areas would be destroyed as a result of the proposed bluff stabilization grading and the grading to prepare the western canyon area for construction of houses. In order to protect these resources, grading could not occur within the habitat. Therefore, in this case, the proposed project cannot be approved as submitted because it proposes the destruction of Blochman's dudleya ESHA on the Marblehead site, in violation of Section 30240 of the Coastal Act as interpreted by the Court of Appeal in Bolsa Chica.

Because elimination of adverse impacts to Blochman's dudleya would require significant re-design of the proposed project, the project as proposed cannot be found consistent with Section 30240 of the Coastal Act. As discussed in the "Alternatives" section of these findings, however, feasible alternatives are available that would allow significant development to occur on the site without impacting Blochman's dudleya ESHA.

b. Section 30250

The proposed project involves a property subdivision and construction of new residential and commercial development. Section 30250 of the Coastal Act requires that such development occur where it will not have significant adverse effects, either individually or cumulatively on coastal resources.

The proposed project will result in impacts to wetlands, Blochman's dudleya, coastal sage

scrub, and annual and needlegrass grasslands. Notwithstanding the consistency or inconsistency of these impacts with Sections 30230, 30231, 30233, and 30240 of the Coastal Act, such impacts should be minimized through mitigation or re-design of the project.

For instance, the proposed project will result in impacts to coastal sage scrub which is occupied by California gnatcatcher. If such impacts are unavoidable and are otherwise consistent with Coastal Act policy, such impacts should be mitigated. The U.S. Fish and Wildlife Service and the California Department of Fish and Game have required the purchase of 50 acres containing high quality CSS as mitigation for expected impacts to CSS and gnatcatchers on the Marblehead property.²⁶ Should those impacts occur, this may be appropriate mitigation in the context of the Coastal Act, even though the mitigation site is outside the coastal zone, because of the high quality of the vegetation, the presence of 12 pairs of resident gnatcatchers, adjacency to other gnatcatcher habitat, and the lack of similar mitigation opportunities near the Marblehead property in the coastal zone.

Also, in order for any of the natural habitats to maintain their existing biodiversity, it is important to maintain coyotes in the system. In the absence of coyotes, these habitats will be subject to heavy predation from domestic and feral cats and other small predators causing avian diversity to plummet.²⁷ If coyotes are to remain in the system, the various habitats on site must be connected with open space corridors and one or both of the two major drainages must be connected to access ways across the freeway. Recent sightings of coyotes on the Marblehead site suggest that they now utilize culverts or overpasses to gain access.

Marblehead is currently used as a foraging area for several species of birds of prey. The EIR documented the presence of northern harriers, Cooper's hawks, red-tailed hawks, and American kestrels.²⁸ During the agency visit last spring (April 2000), Commission staff observed a white-tailed kite foraging and a loggerhead shrike perched on a pine snag. There are undoubtedly other diurnal and nocturnal avian predators that forage on the site. However, there apparently has been no formal raptor survey, so the intensity of use by wintering, migrating, and resident birds is not known. However, the grasslands, open scrub, and large trees present on the Marblehead site are probably important to raptors. Protecting the drainages on the property would protect these habitats and insure the continued presence of raptors at the Marblehead property.

The proposed project results in large scale landform alteration which eliminates and/or significantly and adversely modifies the canyons and drainages on the property. This massive landform alteration including the grading and construction of loffelstein wall-supported fill slopes will impact habitat present in these canyon and drainage areas. These activities will eliminate habitat that is important to the continued viability of biological resources on the subject site including wetlands, coastal sage scrub, and raptor foraging habitat, among others. Such impacts could be avoided by concentrating development on disturbed upland areas where habitat values are limited.

²⁶ Meade, 2000, op. cit.

²⁷ Crooks, K.R. and M.E. Soulé. 1999. Mesopredator release and avifaunal extinctions in a fragmented system. *Nature* 400:563-566.

²⁸ City of San Clemente, 1998, op. cit.

F. ACCESS AND RECREATION

Section 30210 of the Coastal Act states:

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

Section 30212.5 of the Coastal Act states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30213 of the Coastal Act states, in relevant part:

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

Section 30221 of the Coastal Act states:

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

Section 30222 of the Coastal Act states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30223 of the Coastal Act states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking

facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

1. Land Use

As noted in the project description the applicant is proposing open space areas, a bluff park, trails and bikeways as part of the proposed development. The public access features proposed include dedication of a 9.4 acre "bluff" park, dedication of a 1.0 acre parcel for visitor serving commercial uses, a 1,900 linear foot public trail along the slope of the graded Marblehead Canyon, a 2,300 linear foot public trail on the face of the graded bluffs along El Camino Real, pedestrian and bicycle trails and pathways within or adjacent to proposed Avenida Vista Hermosa, Avenida Pico and El Camino Real, and off-site dedication of a 1.1 acre beachfront parcel of land. The trails will be constructed as part of the proposed project. Meanwhile, no amenities will be constructed at the bluff park, visitor serving commercial parcel, or the beachfront parcel. Rather, the applicant is contributing money to the City of San Clemente for their use in constructing amenities.

Based on the applicants' classification of land uses at the project site, use of land on the 189.6 acre portion of the project site within the coastal zone will consist of approximately 58% (110 acres) residential [of which the applicant indicates 8% (15.2 acres) is open space], 11% (20.8 acres) regional commercial [of which the applicant indicates is 2% (4 acres) is open space], less than 1% (1 acre) visitor serving commercial, 5% (9.4 acres) public open space, 20% (39.1 acres) private open space, and 4% (8.4 acres) public roads. Accordingly, the applicants' classification indicates that 35.7% (67.7 acres) of the project site will be open space and recreation area.

The project site is the last large area of undeveloped land along the coast within San Clemente as well as the last area of undeveloped land between the southern coastal border of Orange County and the Dana Point Headlands. The subject site does not have ocean frontage itself, however, it is across the street from a public beach area. The project site is the last undeveloped area with a vacant bluff top that has expansive views of the Pacific Ocean. Most of the other bluff top areas in San Clemente are developed residential areas.

While the subject site does not have a Commission-certified land use plan, there is a certified land use plan for the remainder of the City of San Clemente. This land use plan contains policies calling for the protection of public access and recreation opportunities in the coastal zone. Policies address the designation of lands for recreation and open space (V.1-V.4), the need to provide adequate recreational needs for new residents so that coastal recreation areas are not overloaded (VII.1), in addition to other policies regarding the provision of public access to the coast.

While the applicant's submittal indicates that 35.7% of the land on the project site will be for open space and recreation, the project raises an issue as to whether the acreage being provided is usable and adequate in relation to the overall size of the site and the fact that the majority of the site in the coastal zone is allocated for gated residential development, a

low priority use under the Coastal Act. Of the 189.6 acres in the coastal zone, 9.4 acres are proposed for public recreation as a park. However, at least 3 acres of the 9.4 acre bluff park are occupied by wetlands and proposed coastal sage scrub mitigation. The public would be excluded from this 3 acre area. Other open space includes 15.2 acres of graded slopes within the residential development. This open space is not available to the public. In addition, 4 acres of open space are within the commercial development. However, these areas are graded slopes and setbacks which are not usable as public park or recreation area. There are also 5 acres identified as "perimeter" open space which also has limited value for recreational purposes. In addition, 8.1 acres of bluff face fronting El Camino Real are identified as open space. Of the 8.1 acres of bluff, public use is confined to a trail. There are also 23.9 acres designated as open space within the western canyon and Marblehead Canyon. The western canyon open space is primarily for habitat avoidance and mitigation. No usable public space exists within this canyon, as proposed. Marblehead Canyon includes a trail but its primary function is for storm runoff retention and mitigation for habitat impacts. The 2.1 acre dudleya preserve will not be open to the general public, except perhaps as an educational study area. Therefore, of the 189.6 acres only 6.4 acres (of the 9.4 acre bluff park) or 3.3% is proposed for public recreation (a high priority use under the Coastal Act), while 110 acres or 58% is gated residential use (a low priority use under the Coastal Act).

The flat bluff top areas of the project site with views of the Pacific Ocean are the lands that are most suitable to support lower cost coastal recreational uses as encouraged under Sections 30213, 30221 and 30223 of the Coastal Act or to provide visitor serving commercial recreation facilities encouraged under Section 30222 of the Coastal Act. Comparable opportunities to advance the public access and recreation policies of the Coastal Act are not available in the San Clemente area because of earlier residential development. However, the flat bluff top areas of the Marblehead site are proposed to be utilized for residential purposes, a lower priority use under the Coastal Act.

In addition, the proposed project devotes only 6.4 acres of the 189.6 acre site for usable recreation area. This 6.4 acres is intended to provide recreational opportunities for the residents of the 424 single family homes that are proposed, as well as the general public. According to the FEIR dated June 1998, this same park is also intended to serve the recreational needs of the large residential development, consisting of several hundred homes, constructed outside the coastal zone, inland of Interstate 5 (known as Marblehead Inland) where public parks were not constructed in favor of the payment of in-lieu fees to the City of San Clemente. Section 30252 of the Coastal Act requires that new development maintain and enhance public access to the coast by assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by providing onsite recreation facilities to serve those residents. The Commission finds that the 6.4 acres of usable public park (which will not be constructed by the applicant and must be constructed by the City) is not adequate to accomplish both of these purposes: serving the recreational needs of new residents of the proposed project and providing lower cost visitor serving recreational facilities for the public.

Furthermore, the value of the proposed Marblehead Canyon trail is also an issue. The value of a trail is comprised of the visitor experience encountered by the trail user, as well as the connection the trail provides between one place and another. The proposed trail would extend from proposed Avenida Vista Hermosa to the bluff park. Any connection

through the park to El Camino Real would need to be constructed by the City. No connection is proposed by the applicant. Therefore, unless the City is able to complete the trail using funds the applicant is proposing to pay and any other funds available (which is not guaranteed), the trail may not provide a continuous connection between more inland areas and the coastline. In addition, the trail would be along the westerly slope of Marblehead Canyon. As noted elsewhere, the landform of Marblehead Canyon will be transformed as a result of grading and the construction of stabilization slopes and loffelstein walls and storm water detention basins. Therefore, trail users would experience a manufactured environment of engineered slopes, steep manufactured walls, v-ditch channels, bridges crossing the canyon, among other unattractive features. The quality of the visitor experience on the trail will be nominal and the trail, as proposed, is unlikely to be a draw for coastal zone visitors. Therefore, the visitor serving recreational quality of the trail is low. Rather, the trail will be oriented toward use by the casual passerby.

As also noted above, the proposed project raises an issue regarding the proposed use of 58% of the project site for residential use, a low priority use under the Coastal Act. The June 1998 FEIR states that the proposed project is consistent with Sections 30221, 30222, and 30223 of the Coastal Act in part because a destination resort use of the site is infeasible. The alternatives analysis in the June 1998 FEIR analyzes several hotel oriented alternatives including a 300 room destination resort with a golf course and restaurants, a business oriented hotel, and a lower cost visitor oriented hotel. The alternatives analysis finds that these other alternatives are not viable due to site and economic constraints. For instance, the alternatives analysis states that a destination resort is not feasible at the site because the site does not have certain qualities necessary for a destination resort along the coast such as an unbroken connection with a sandy beach; the lack of an existing championship golf course; and lack of proximity to a well known tourist destination. The alternatives analysis finds that an attraction such as a golf course is necessary in order for a destination resort to be viable because of the lack of other incentives in San Clemente to draw travelers to San Clemente and the project site. The alternatives analysis finds that a business oriented hotel is not feasible because it is not close to a major airport and other business traveler destinations. Finally, the alternatives analysis finds that a lower cost hotel would not be economically feasible.

The alternatives analysis states that a golf course is essential to the viability of any destination resort constructed at the project site. Therefore, it is notable that the Shorecliff Golf Course, a public course, is located approximately 600 feet northwest of the project site. A destination resort could complement this existing course. The alternatives analysis also states that if a golf course were to be constructed at the site the course would need to be constructed in a manner which avoids adverse impacts upon biological resources and which avoids large scale landform alteration. According to the alternatives analysis, such a design would preclude the construction of single family homes at the site because the land would be occupied by the resort and golf course. The alternatives analysis suggests that a project without a residential component is not acceptable. However, construction of a development without a residential component would be entirely consistent with Coastal Act policy which states that residential development is a low priority use in the coastal zone. Furthermore, golf courses are not coastal dependent recreational facilities. Other coastal dependent recreational facilities which require less land area than a golf course could be paired with a resort hotel to add the destination component which the applicant has stated is needed to assure the viability of the resort.

The applicant could also consider other mixtures of development including a hotel or resort and commercial development, utilizing the commercial component to draw visitors to the hotel. The on-site canyons and bluff top areas could be reserved for passive recreation and environmental open space, avoiding impacts upon these areas and allowing for a high quality, low cost visitor experience.

The applicant has also included the dedication of a 1.1 acre oceanfront parcel of land which is off site. This parcel of land would provide an opportunity for low cost visitor access to the coast line. Access to additional beach front property is certainly a high priority under the Coastal Act. However, this offer does not mitigate the proposed use of 110 acres of 189.6 acres of land suitable for visitor serving uses for residential development, a low priority use under the Coastal Act.

Therefore, the Commission finds that the proposed project is not consistent with the public access and recreation policies of the Coastal Act. Therefore, the project must be denied.

2. Pedestrian and Vehicle Circulation and Parking

The proposed project includes residential development that will increase the resident population in the area with attendant traffic and parking demands. In addition, the proposed project includes a commercial component which will increase traffic in the project area and create parking demands. The proposed project also includes a public park area and off-site 1.1 acre ocean front land dedication which will have parking demands if developed with amenities that will draw people to use them.

The public access and recreation policies of the Coastal Act, including Section 30252, require that new development provide adequate circulation and parking and facilitate transit service to assure that public access to the coast is not adversely impacted by the new development. For instance, increases in traffic associated with the development can adversely impact the public's ability to use traffic-impacted roads to access the coast. In addition, if adequate parking or public transportation to serve the development is not available, on-street public parking and/or public parking lots may be used to support the development. Such use of public parking facilities by the new development would displace members of the public trying to access the coast from those public parking facilities, resulting in adverse impacts to coastal access.

The FEIR and Addendum FEIR address project related impacts upon traffic and parking. These documents show that the proposed project will increase traffic demand in the project area. According to the Traffic Analysis prepared by Austin-Foust Associates, Inc. in Appendix 15.4 of the FEIR the proposed project would result in a "capacity deficiency" at Avenida Pico west of Interstate 5. The Traffic Analysis states that Avenida Pico is targeted for widening from four to six lanes under the City's Regional Circulation Financing and Phasing Program (RCFPP) which would mitigate the deficiency. The Traffic Analysis goes on to state that further study confirms the need to implement the widening. The Traffic Analysis also states that the proposed project, in combination with other development approved in the area (outside the coastal zone), will cause the level of service (LOS) to exceed "D", indicating an adverse impact at those intersections.

The applicant is proposing several off-site and on-site mitigation measures to address adverse traffic and circulation impacts. These measure include the payment of fees to the City for off-site improvements at Avenida Pico west of Interstate 5. These fees would be included in a pool of funds from other projects contributing to the adverse conditions at Avenida Pico and Interstate 5 that are being collected by the City. In addition, on-site measures include the construction of Avenida Vista Hermosa from Interstate 5 to Avenida Pico and intersection improvements at proposed Avenida Vista Hermosa and Avenida Pico. The Traffic Analysis concludes that the proposed measures will provide adequate capacity to serve the proposed development which will avoid adverse impacts upon public access to the coast.

In addition to automobile circulation elements, the proposed project also does provide for non-automobile circulation within the development. For instance, the proposed project includes off-street and on-street pedestrian and bicycle paths and lanes. These proposed measures would facilitate public access to the coast.

The proposed project includes 84,313 square feet of commercial space within the coastal zone. The proposed project also includes 1,504 parking spaces within the coastal zone which will serve the proposed development. This commercial space and parking within the coastal zone will be contiguous with 615,827 square feet of commercial space and 2,160 parking spaces located outside the coastal zone. In total, the commercial development within and outside the coastal zone will have 700,140 square feet of commercial space with 3,664 parking spaces.

The Commission has commonly required that commercial development provide 1 parking space for each 50 square feet of public service area for restaurants and 1 parking space for each 225 square feet of general commercial. The proposed development has 48,640 square feet of commercial space proposed for use as restaurants. There are no figures provided by the applicant which identify the amount of restaurant public service area there will be within the 48,640 square feet of restaurant space. However, conservatively identifying all 48,640 square feet of restaurant space as public service area, the project restaurant space within the coastal zone would require approximately 973 parking spaces. The remaining 35,673 square feet of commercial development within the coastal zone would have a demand of approximately 156 parking spaces. In total, using the Commission's commonly used parking guideline, the commercial development within the coastal zone will have a demand of 1,131 parking spaces. The proposed development provides 1,504 parking spaces within the coastal zone. Therefore, on-site parking appears adequate to serve the proposed commercial development.

The proposed project will also have a public park area on-site and an off-site beach front property dedication. No on-site improvements to the park and beach front property are proposed, however, the applicant is contributing money to the City for such uses. These public areas will serve the occupants of the proposed development and the general public. Such use will generate a parking demand. According to the applicants' submittal, there is enough space at proposed Street BBB to provide 60 public parking spaces for the on-site park. However, there is no indication in the applicants submittal of parking opportunities for the proposed off-site beach front land dedication. Section 30212.5 of the Coastal Act requires that public facilities including parking areas be distributed throughout an area to mitigate overcrowding and overuse of any single area by the public. Section 30213

encourages lower cost visitor and recreational facilities. Section 30252 of the Coastal Act requires the provision of adequate parking or public transportation to serve the development. Therefore, the Commission would require assurances that adequate facilities would be constructed to assure public access to the proposed on-site park and off-site beach front parcel.

The proposed project would have adverse traffic impacts which require the implementation of mitigation measures. The proposed project also includes public facilities to which supporting parking would need to be assured. The proposed project also includes pedestrian and bicycle ways which contribute to the overall public access program offered and to which public access would need to be assured. Given that the Commission is denying the project on other grounds, the Commission need not determine which mitigation measures would be appropriate.

G. GEOLOGIC STABILITY

New blufftop development poses potential adverse impacts to the geologic stability of coastal bluffs and to the preservation of coastal visual resources. Coastal bluffs in the City of San Clemente are composed of fractured bedding which is subject to block toppling and unconsolidated surface soils which are subject to sloughing, creep, and landsliding.

Section 30253 of the Coastal Act 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.

Section 30235 of the Coastal Act states, in relevant part:

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

1. Bluff Stabilization

There are approximately 2,600 linear feet of 70 to 100 foot high bluffs on the project site. These bluffs are coastal bluffs, however, they are no longer subject to wave energy because the Capistrano Shores mobile home park, railroad tracks and El Camino Real all stand between the Pacific Ocean and the base of the bluffs.

The coastal bluffs at the subject site have been subject to mechanical weathering and

landsliding. Bluff material from this weathering and landsliding periodically fell on El Camino Real, requiring lane and road closures. In order to address the lane and road closures and to address public safety issues, the applicant graded approximately 1,800 linear feet of the bluffs in 1990 under Emergency Coastal Development Permit 5-90-274G. This grading operation decreased the slope angle from near vertical to a 1.5:1 to 2:1 slope. In addition, surface drains and sub-drains were installed to address hazards from soil saturation. The applicant is proposing to make this emergency grading permanent under this application.

In order to finish the stabilization work, the applicant is also proposing to grade the remaining approximately 800 linear feet of bluffs in the same manner undertaken in the emergency grading operation. This grading will re-modify approximately 400 linear feet (within the 800 foot section) which were previously graded as part of the Colony Cove bluff stabilization immediately upcoast of the subject site.

The applicants' submittal shows that the factor of safety along the unstabilized portion of the bluffs is below the commonly accepted 1.5 factor of safety. Material sloughing from the bluff regularly collects at the base of the bluff indicating continued erosion. The applicants' submittal indicates that a larger erosion event or landslide could result in closures of El Camino Real and be a hazard to pedestrians, bicyclists, and motorists using El Camino Real. Therefore, the applicant is proposing to stabilize the bluff. The proposed stabilization will have the added benefit to the applicant of allowing the construction of residential structures along the bluffs in this area. However, the proposed stabilization method will result in impacts to an alkali wetland, as well as a population of Blochman's dudleya. Beyond providing calculations that indicate the factor of safety is below 1.5, the applicant has not provided a demonstration that the factor of safety is low enough to require stabilization to protect the road below. For instance, similar to other slopes adjacent to roads throughout the State, the factor of safety may be below 1.5 but is not so low as to necessitate stabilization. Other measures, such as the use of slough walls at the toe of the bluff may address hazard concerns adequately without undertaking the larger grading proposed.

The Commission has found in some other cases that shoreline protective devices that result in impacts to sensitive biological areas are necessary when it is found that such shoreline protective devices are necessary to protect existing structures and there are no other feasible alternatives. It is not clear that Section 30235 even applies to the proposed stabilization of the remaining ungraded Marblehead bluffs. Section 30235 provides that "[r]evetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted..." Given that substantial development now stands between the Marblehead coastal bluffs and the ocean, the proposed bluff stabilization is unlikely to alter natural shoreline processes. Even if Section 30235 did apply, there is at least one feasible alternative which will achieve the stabilization necessary and which will avoid direct impacts upon the wetlands at Impact Area A. This stabilization involves the use of retaining walls in place of excavation of the bluff and recompaction and recontouring of the bluff materials as an engineered buttress fill. Therefore, the Commission cannot approve the bluff stabilization as submitted.

The proposed bluff stabilization will also result in impacts to a population of Blochman's dudleya which, according to a vegetation survey submitted by the applicant, is present on

the bluff face. As noted elsewhere, the Commission finds that Blochman's dudleya is an ESHA. Therefore, pursuant to Section 30240 of the Coastal Act, development must avoid impacts to the ESHA. The proposed project would not avoid such impacts. Even if the stabilization were necessary to protect El Camino Real and were a permitted development under Section 30235 of the Coastal Act, the applicant has not demonstrated that the proposed stabilization is the least environmentally damaging feasible alternative. For instance, the Marblehead Coastal Bluffs Emergency Grading Program Focused EIR dated April 15, 1991, identifies at least one other alternative which would require minimal grading through the use of retaining walls (Exhibit 26) and which would reduce or avoid impacts to the Blochman's dudleya.

2. El Camino Real Retaining Wall

The proposed project also includes the construction of a retaining wall along the El Camino Real at the boundary of the Blochman's dudleya reserve at the southwestern corner of the project site (Exhibit 12). This wall is being constructed as part of the proposed widening of El Camino Real. Commission staff's Senior Geologist has reviewed the information associated with the retaining wall and has determined that the wall does provide an adequate factor of safety for the static condition. However, the applicant has not demonstrated that the wall will be safe for the seismic condition. Therefore, the Commission cannot conclude that the wall will assure structural integrity, as required by Section 30253 of the Coastal Act.

In addition, the applicants' submittal²⁹ recommends the use of clean sand or gravel as a backfill for the retaining wall in order to mitigate for the strong expansion potential of the native soils. As reported in the applicants' submittal "Use of soil having high expansion potential (as is present at the subject site) as wall backfill may result in very high lateral soil pressure on the walls." Since the design and stability calculations assume that clean sand or gravel will be used for backfill, the wall design requires that the entire soil wedge acting on the wall be composed of imported clean sand or gravel. Accordingly, grading will be required in this area to remove the existing soils and backfill with the engineered material. It is unclear from the applicants' submittal that the excavation can be undertaken without disturbance to the existing *Dudleya* reserve. Further, even upon completion of the wall, the applicants' submittal states that "the slope overlying the wall could be subject to isolated pockets of surficial failure." The report goes on to indicate that development at the top of the slope will be protected from such surficial slumping and potential slope retreat because the "area at the top of the slope will be occupied by the Dudley [sic] Natural Reserve, which is expected to provide an adequate setback..." Clearly, it was not the intent of the *Dudleya* preserve to provide setback for the proposed development, and its use as a stability buffer is not appropriate.

Just as a non-expansive backfill was recommended behind the El Camino retaining wall, it should be noted that native materials with a high expansive potential could damage the loffelstein walls proposed for the fill slopes along the canyon walls throughout the project.

²⁹ Leighton and Associates 2000, "Review of the bluff slope and proposed retaining wall along north El Camino Real on the boundary of the Dudley reserve, Marblehead Coastal Property, tentative tract 8817, City of San Clemente, California", 3 p. letter report to Mr. Jim Johnson dated 22 August 2000 and signed by T. Lawson (CEG 1821; PE 53388).

Alternative backfills or some type of reinforcement of the loffelstein walls may need to be considered. Damage to these walls could cause subsequent damage to the upslope structures, as well as the downslope wetlands and habitat areas. Without assurance that any retaining structures will not require future protection and attendant impacts, the Commission cannot find that the proposed project is consistent with Section 30253 of the Coastal Act.

3. Foundation Designs

Foundation designs for both residential and commercial structures are discussed in a general way in the applicants' submittal, however, no final foundation plans were submitted by the applicant. The purpose of requesting the applicant to supply foundation plans was to ascertain whether the development could take place without being subject to, or contributing to, geologic instability at the site, in accordance with section 30253 of the Coastal Act. Of particular concern is the highly expansive and severely corrosive nature of the soils at the site. In place of actual foundation designs, the applicant supplied a document titled Geotechnical recommendations for the design of foundations for the residential and commercial buildings, Marblehead Coastal Property, tentative tract 8817, City of San Clemente, California, Coastal development permit 5-99-260 by Leighton and Associates dated August 31, 2000. Foundation design parameters were supplied by the applicant which identify the allowable bearing capacities for foundation footings and geotechnical parameters for post-tensioned foundation slab design. The Commission finds that these design parameters are adequate, and the structures should be consistent with section 30253 if built in accordance with the recommendations by Leighton and Associates.

4. Stability of Detention Basins on Canyon Slopes

The Commission notes that there has been no stability analysis to demonstrate the stability of the canyon slopes adjacent to the proposed detention basins. Such an analysis must be undertaken to demonstrate that these slopes will not fail during static or seismic loading. These analyses should assume saturated soil conditions and surcharging by water in the basins to their design capacity. In absence of this information, the Commission cannot find that the proposed project is consistent with Section 30253 of the Coastal Act.

5. Alternatives and Conclusion

There are alternatives which would avoid impacts associated with geologic conditions at the site. For instance, there are alternatives for stabilizing the bluffs using retaining walls which result in an adequate factor of safety and which avoid or minimize impacts to wetlands and Blochman's dudleya. In addition, there are approximately 112 acres of more level lands outside of the canyons. Accordingly, the applicant does not need to construct development within the canyons and could avoid the use of loffelstein walls within the canyons. Furthermore, any detention basins could be located outside the canyon, reducing issues related to the stability of these structures. Avoidance of construction within the canyons would also address other Coastal Act issues raised elsewhere in this staff report.

Therefore, the Commission finds that the project, as proposed, is not consistent with Section 30253 of the Coastal Act. Therefore, the Commission must deny the proposed project.

H. SHORELINE SAND SUPPLY

Section 30233(d) of the Coastal Act states:

(d) Erosion control and flood control facilities constructed on water courses can impede the movement of sediment and nutrients which would otherwise be carried by storm runoff into coastal waters. To facilitate the continued delivery of these sediments to the littoral zone, whenever feasible, the material removed from these facilities may be placed at appropriate points on the shoreline in accordance with other applicable provisions of this division, where feasible mitigation measures have been provided to minimize adverse environmental effects. Aspects that shall be considered before issuing a coastal development permit for such purposes are the method of placement, time of year of placement, and sensitivity of the placement area.

Section 30235 of the Coastal Act 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.

The proposed project will entail development of a coastal drainage which presently supplies sand to the beach. The applicant has submitted studies which estimate the potential impacts of the proposed development on sediment supply to the beach^{30 31 32 33 34 35}. The studies suggest that both peak flows and 24-hour runoff volumes will be greatly decreased as a result of the development. This result demonstrates the efficiency of the stormwater management system; the goal of such systems is to counteract the natural tendency for runoff during storm events to increase as a result of development. From a resource point of view, reduced flow velocities and volumes will diminish the capacity of streams to carry sediments, and could reduce the delivery of sand to the beach.

³⁰ RBF Consulting 2000, "Marblehead Coastal 5-99-260 (MT No.1, LLC), reply to staff response letter of August 11, for coastal development permit application", 8 p. letter to Karl Schwing dated 23 August 2000 and signed by M. N. Nihan.

³¹ Unattributed data, "Table 1. Comparison of existing and proposed hydrologic conditions in the central and western canyons", 1 p. table, undated and unsigned.

³² Unattributed data, "Table 2. Comparison of existing and proposed hydrologic conditions under El Camino Real", 1 p. table, undated and unsigned.

³³ Unattributed data, "Table 3. Comparison of existing and proposed hydrologic conditions in Marblehead Canyon small area hydrograph", 1 p. table, undated and unsigned.

³⁴ RBF consulting report "Addendum 5: Marblehead Coastal Preliminary Stormwater Management Plan, Water Quality and Quantity Assessment," dated May 2000 and unsigned (and addendum 5A, continuation of appendices).

³⁵ RBF Consulting letter "Marblehead Coastal 5-99-260 (MT No. 1, LLC) Reply to staff response letter of May 17, 2000, for Coastal Development Permit Application," to Mark Schwing from Michael J. Burke, dated 11 July 2000.

Sediment delivery to the beach is analyzed using the 100-year and 10-year storm events and the Universal Soil Loss Equation. The volume of sand delivered to the ocean under existing conditions, as predicted from their models, is very small. Further, the applicant provides evidence that most of the material that is currently carried by the streams on the project does not reach the beach. Nevertheless, the post-project does result in impacts to the beach, however small. Given the declining width of beaches in San Clemente³⁶, especially those in the project area, the proposed development must provide mitigation to address the impacts from the project.

The applicant is proposing to export approximately 30,000 cubic yards of "beach quality" sand for use for beach nourishment. The Commission could find the proposed project, with appropriate conditions to assure the implementation of mitigation, is consistent with Sections 30233(d) and 30235 as they pertain to shoreline sand supply. However, the Commission is denying the proposed project on other grounds outlined elsewhere in these findings.

I. WATER QUALITY

Section 30231 of the Coastal Act 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.

The proposed project will result in the subdivision and grading of the 189.6 acre portion of the project within the coastal zone. Additional grading will occur outside the coastal zone. The implementation of the project will result in two phases where potential impacts upon water quality would occur: 1) the construction phase; and 2) the post-construction phase including the commitment of an 189 acre area for commercial and residential purposes. Construction phase impacts include erosion and sedimentation of coastal waters during grading. Post-construction phase impacts relate to the use of the proposed project, a residential and commercial subdivision. Run-off from commercial and residential developments is commonly polluted with petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and cleaners; soap and dirt from washing vehicles and patio areas; dirt and vegetation from yard and grounds maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and

³⁶ City of San Clemente, Beach Ad Hoc Committee, "The State of San Clemente's Coastal Zone and Beaches", undated.

acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

Water quality in the City of San Clemente has been subject to degradation in recent years. For instance, according to a recent study titled The State of San Clemente's Coastal Zone and Beaches by the San Clemente Beach Ad Hoc Committee, San Clemente's beaches have been closed on many occasions as a result of water pollution. The study points to the need to ensure that new development is constructed in a manner which controls polluted run-off and treats the run-off so that coastal waters are not adversely impacted.

In order to identify for the Commission the non-structural, routine structural and special structural BMPs the applicant is proposing to use to address post-construction water quality impacts from the proposed development, the applicant has submitted the Marblehead Coastal Water Quality Plan prepared by RBF Consulting dated July 7, 2000. The applicant's proposed water quality plan is designed with the "treatment train" approach in mind, and includes source and treatment control Best Management Practices (BMPs). Source control BMPs such as the use of landscaping plans which include primarily native or adapted drought tolerant landscaping in common areas will serve to reduce the need for application of fertilizers, pesticides and intense irrigation. Further the plan includes the use of efficient irrigation systems for common space in the commercial and residential areas, which should serve to prevent nuisance runoff from excess irrigation.

The plan involves non-structural BMPs such as street sweeping in both the commercial and residential areas. The type of sweeper to be utilized is not specified. The Commission would recommend that vacuum regenerative air sweepers be utilized for this purpose. Treatment control BMPs such as "fossil filter" catch basin insert devices, or equivalent filtration devices are proposed for installation in all catch basins.

Year-round diversion of dry weather nuisance flow run-off (i.e. non-storm related discharges from activities such as vehicle washing and over-irrigation) from the commercial area, the residential area, and from off-site sources including the freeway, and existing upstream residential development, to the City of San Clemente Water Reclamation Plant, for treatment is proposed.

In the Commercial area, in addition to nuisance flow, the "first flush" of storm water runoff will be captured and contained in an underground storm drain system. Flow will then be released to the Reclamation Plant, under controlled conditions regulated electronically by City operators. Diverted runoff will be pre-treated before entering the Reclamation Plant facilities. All diverted runoff will be treated at the Plant, and released through the SERRA outfall. In the future, the City plans to implement the first phase of the City's Reclaimed Water Master Plan. When this occurs, diverted runoff may be treated to reclaimed water standards, recycled and distributed to the Marblehead property and/or others. While the City indicates that they do not currently have the necessary facilities such as a pump station, reservoir, and distribution lines necessary to implement the Reclaimed Water Master Plan, the Marblehead development should be designed with dual plumbing where appropriate, to allow a "ready" connection to distribution lines from the Plant, when they become available.

The diversion of year round nuisance flows from the proposed development will serve to eliminate potential impacts on coastal water quality associated with such flow, thereby protecting public access and recreational opportunities at North Beach. Further the diversion of the "first flush" runoff from storm events which typically contains a disproportionately high pollutant loading, from the regional commercial areas, to the Reclamation Plant for treatment, will further serve to minimize impacts associated with stormwater runoff from urban development, on coastal resources. This measure will provide a source of water, which can be reclaimed and recycled pending the City's implementation of the Master Plan, furthering the City's goals related to water conservation.

With the exception of a 4.5 acre residential area discussed below, stormwater from the proposed development (beyond the first flush from the commercial area) and from the residential areas is directed to detention basins (3 total are proposed). Dry weather flows from the residential area will also flow through the detention basins prior to diversion into the sewer at El Camino Real. The detention basins will function as flood control devices controlling the volume and velocity of storm runoff. Wetland vegetation, which will be planted in the basins, is also expected to provide a water quality treatment function. Addendum 5, to the Preliminary Stormwater Management Plan dated May 2000 discusses TSS removal efficiency of wet detention basins. This report indicates that the basin efficiency for the proposed development was calculated to range from approximately 84% to 96%. Basin efficiency is high due to the exceptionally large storage volume available in the detention basins. However, it is unclear whether this capacity will be used to increase draw down time for smaller runoff events captured, thereby enhancing the basin efficiency. Therefore, the Commission recommends that detention basins be designed with the capability of providing a draw down time of 40 hours, for representative runoff events such as 2-year, 24-hour or other interval.

Stormwater runoff from the 4.5-acre residential area mentioned above is proposed to discharge into Marblehead Canyon. The applicant proposes to create a small impoundment for the water, with a low berm, for the purpose of establishing new wetlands. Strictly from a water quality standpoint, any discharge into the Canyon should be pre-treated or filtered, prior to discharge. Additionally, discharge would have to be controlled to prevent scour and erosion at the base of the canyon.

The applicant has considered post-construction BMP numeric sizing criteria established by the San Diego Regional Water Quality Control Board (SDRWQCB), currently proposed to be included in the municipal stormwater permit. This numeric criteria is similar to the design goals, recently imposed by the Commission for post-construction BMPs associated with past development of similar type and intensity. The applicant contends that the treatment train, including diversions, will meet the proposed requirements of the SDRWQCB.

The proposed water quality plan contains many important elements which will serve to reduce the adverse impacts of urban runoff on coastal resources. If BMPs are collectively sized in a manner consistent with the SDRWQB identified criteria and design goals recently imposed by the Commission in developments of similar type and intensity, the water quality plan will *contribute* to development compliance with the water and marine resource policies of the Coastal Act. "Contribute" is emphasized, as pollutant control and removal

from stormwater and nuisance runoff, and flood control measures are but pieces in an overall resource management plan, which must be integrated with other inter-related components of such a plan, in order to ensure comprehensive resource protection.

Further, aspects of the plan such as the diversion system, and permanent operation and maintenance of BMPs are reliant, as proposed, upon entities (the City and a Homeowner's Association) other than the applicant. In order to ensure the plans and maintenance responsibilities are carried out as proposed by the applicant, supporting implementation measures may need to be incorporated into any approval, such as funding mechanisms, and/or agreements executed between all parties involved.

Other critical components such as hydrology and site constraints with respect to geologic features and sensitive habitat areas must be considered when planning the location of structural BMPs and water quality features such as detention basins. Hydrologic concerns associated with groundwater conditions and wetlands, are noted elsewhere in these findings. In addition, other resource issues may potentially affect the water quality plan when changes to the project are implemented as a result of this Commission action.

With the implementation of the measures outlined above, the water quality treatment plan, as it relates to run-off from the project, could be considered consistent with Section 30231 of the Coastal Act. However, there are other water quality issues raised by the project which are addressed elsewhere in these findings which have caused the Commission to find that the proposed project is inconsistent with Section 30231 of the Coastal Act.

J. ARCHAEOLOGICAL RESOURCES

Section 30244 of the Coastal Act states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

According to the EIR, several archeological investigations of the Marblehead site have occurred over time, including investigations in 1974, 1979, 1989, 1990. These investigations revealed the presence of one archaeological site, CA-ORA-1258, along the bluffs on the Marblehead site. A subsequent study performed in 1996 failed to locate CA-ORA-1258. It is suspected that the emergency grading which occurred in 1990 destroyed CA-ORA-1258. No other archeological sites have been recorded on the Marblehead property, according to the EIR. However, scattered evidence of archaeological and paleontological resources have been found. In addition, grading activities could reveal archaeological or paleontological resources not visible from the surveys which occurred to date.

In order to assure that development is undertaken consistent with Section 30244 of the Coastal Act, the Commission would require that the State Office of Historic Preservation ("OHP"), the state Native American Heritage Commission ("NAHC"), and the Native American group/person deemed acceptable by NAHC, have the opportunity to review and comment on the applicants' research design. In addition, the Commission would require that a Native American monitor, oversee the archaeological activities. The Native

American monitor must be selected by the City in accordance with NAHC guidelines in consultation with the Native American group/person deemed acceptable by the NAHC.

In addition, it is possible that the archaeological test program missed cultural resources that are then discovered during development activities. Therefore, the Commission would require that development be temporarily halted in the vicinity of any discovery site until appropriate mitigation measures are developed for resources discovered during the course of post-investigation construction activities. Also, to ensure that contractors and workers are notified of their obligations related to archeological conditions at the site the Commission would require that the terms of obligation be incorporated into all documents that will be used by contractors and workers for construction related activity, including bids. While the Commission is denying the proposed project on other grounds, the Commission could find that, with implementation of the above measures, the project would be consistent with Section 30244 of the Coastal Act.

K. LOCAL COASTAL PROGRAM

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. On April 10, 1998, the Commission certified with suggested modifications the IP portion of the Local Coastal Program. The suggested modifications expired on October 10, 1998. The City submitted a second IP in June 1999. That submittal was subsequently withdrawn in October 2000.

The Commission has found that the proposed project is not consistent with Sections 30213, 30221, 30222, 30222, 30223, 30230, 30231, 30233, 30240, 30252, and 30253 of the Coastal Act. In addition, the proposed project would result in the alteration of natural landforms, impacts upon biological resources, and impacts upon public access and recreation inconsistent with the land use plan which has been certified for the remainder of the City. Therefore, approval of the proposed development will prejudice the City's ability to prepare a Local Coastal Program for San Clemente that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a). Therefore, the project must be denied.

L. ALTERNATIVES

The proposed project will result in the large scale alteration of natural landforms on the project site. Most significant are the proposed grading and construction of loffelstein walls which result in the fill of one canyon, the narrowing of the western and Marblehead canyons, and the steepening of the walls of the western and Marblehead canyons. This landform alteration causes significant impacts upon natural landforms as well as upon visual quality. The landform alteration also has significant adverse impacts upon wetlands and wetlands buffers as well as other biological resources on the site. The proposed project also commits a significant portion of the site suitable for visitor serving commercial and/or lower cost visitor serving uses, which are higher priority uses under the Coastal Act, for residential purposes, a lower priority use.

There are alternatives which would lessen or avoid the significant adverse impacts the proposed project has upon coastal resources. For instance, development could be concentrated on the approximately 112 acres of relatively flat land that is outside of the canyons. Such concentration could avoid the landform alteration within the canyons and could avoid the attendant impacts associated with those landform alterations including adverse impacts upon wetlands and other biological resources. In addition, there are alternative land uses which would reduce or avoid adverse impacts upon public access and recreation opportunities within the coastal zone. For instance, the flat areas outside the canyons could be used for visitor serving commercial uses such as restaurants, smaller scale hotel, or other visitor serving venue. Alternative coastal dependent visitor serving destination attractions could also be considered in combination with a hotel to create a destination resort at the site.

There are also specific alternatives presented by the applicant which would avoid or minimize impacts upon coastal resources (Exhibits 23 – 26). For instance, there are alternative bluff stabilization measures including the use of retaining walls in place of stabilization fills which would avoid or reduce direct impacts upon wetlands and Blochman's dudleya. There are also hazard avoidance and management measures, such as the use of setbacks and debris walls, which would avoid the need for either stabilization fills or retaining walls, which could address bluff stability issues. There are also alternative alignments of the proposed El Camino Real widening and Street BBB which would avoid the direct fill of wetlands at the project site.

M. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of coastal development permits to be supported by a finding showing the permit, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

As explained above and as incorporated here by reference, the proposed project is inconsistent with Sections 30213, 30221, 30222, 30223, 30230, 30231, 30233, 30240, 30252, and 30253 of the Coastal Act due to adverse impacts upon natural landforms, adverse impacts upon biological resources including wetlands and Blochman's dudleya; adverse visual impacts related to landform alteration; and adverse impacts upon public access and visitor serving recreation opportunities in the coastal zone. In addition, the applicants have not provided the Commission with sufficient information to adequately analyze impacts of the proposed project on native habitat, hydrology, water quality, and geologic stability. The Commission has also found that there are feasible alternatives which would avoid such impacts. Therefore, the Commission finds that the proposed project is inconsistent with the California Environmental Quality Act. Therefore, the proposed project must be denied.

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS

Environmental Impact Reports

- Marblehead Coastal Bluffs Emergency Grading Program Focused Environmental Impact Report (SCH No. 90011085) prepared by Ed Almanza and Associates dated April 15, 1991
- Final Environmental Impact Report, Marblehead Coastal, General Plan Amendment 96-01, Specific Plan 95-02, Tentative Tract Map (SCH No. 95091037) prepared for the City of San Clemente by David Evans and Associates, Inc. of Laguna Hills, California prepared June 1998 and adopted August 5, 1998.

Biology

- 1991 Biological Assessment Update Marblehead Coastal Project Site, San Clemente, California prepared for Ed Almanza & Associates by Fred M. Roberts, Jr. dated January 23, 1991 contained within Appendix E of Marblehead Coastal Bluffs Emergency Grading Program Focused Environmental Impact Report (SCH No. 90011085) prepared by Ed Almanza and Associates dated April 15, 1991
- Marblehead Coastal Resource Management Plan dated October 1997 and revised January 1998 prepared by Robert Bein, William Frost & Associates.
- Marblehead Coastal Project, Preservation, Restoration and Management Plan for Wetlands, Sage Scrub and Other Upland Habitats dated July 7, 2000 prepared and compiled by Robert Bein, William Frost & Associates
- Memorandum from R.J. Meade Consulting to California Coastal Commission dated November 28, 2000 regarding coastal sage scrub, on-site and off-site mitigation, and environmentally sensitive habitat areas.
- Letter from Glenn Lukos Associates to RBF Consulting regarding Changes to Upland Coastal Scrub Vegetation on Marblehead Coastal Site between 1976 and 2000 dated September 28, 2000 and affiliated documentation compiled and submitted by RBF Consulting dated September 29, 2000.
- Letter from Glenn Lukos Associated to RBF Consulting regarding Shading Study Associated with Proposed Bridges Spanning Existing Wetlands on Marblehead Coastal, San Clemente, California.
- Letter from Leighton and Associates to MT No. 1, LLC regarding Anticipated Groundwater Conditions, Marblehead Coastal Project, City of San Clemente, California dated June 15, 2000 (Project No. 881898-009).

- Letter from Leighton and Associates to MT No. 1, LLC regarding Assessment of Pre and Post Development Groundwater Conditions Utilizing Site-Specific Data, Marblehead Coastal Project, City of San Clemente, California dated August 22, 2000
- Letter from Glenn Lukos Associates to RFB Consulting regarding Hydrological Requirements of Alkali Marsh and Alkali Meadow Vegetation on Marblehead Site, San Clemente, California dated August 22, 2000.
- Letter from Glenn Lukos Associates to RFB Consulting regarding Wetlands Avoidance of 'Area A' dated September 20, 2000
- Letter from Glenn Lukos Associates to RFB Consulting regarding Wetlands Avoidance of 'Area C' dated September 20, 2000
- Letter from RECON to California Coastal Commission regarding the Blochman's dudleya Translocation Project at Marblehead Bluff dated June 19, 2000
- Letter from F.M. Roberts to San Clemente Citizens for Responsible Development regarding Alkali Wetlands within the Marblehead Development Project dated February 29, 2000
- Letter from Rancho Mission Viejo to MT No. 1, LLC regarding Confirmation of Available Mitigation Lands and Credits dated July 7, 2000

Geology

- Letter from Leighton and Associates to MT No. 1, LLC regarding Recommendations for Slope Setbacks, Marblehead Coastal, Tentative Tract Map 8817/Site Plan Permit 97-16, City of San Clemente, California dated April 12, 2000
- Letter from Leighton and Associates to MT No. 1, LLC regarding Response to California Coastal Commission Review Sheet dated May 17, 2000, Marblehead Coastal, Tentative Tract Map 8817, Coastal Development Permit Application 5-99-260, City of San Clemente, California dated June 15, 2000
- As-Graded Geotechnical Report of Rough Grading Operations Emergency Bluff Stabilization – Phase I, Marblehead Coastal, City of San Clemente, California, dated June 15, 2000, by Leighton and Associates (Project No. 881898-009).
- Letter from Leighton and Associates to MT No. 1, LLC regarding Geotechnical Review of Bluff Stability and Wetlands Along El Camino Real, Marblehead Coastal, Tentative Tract Map 8817/Site Plan Permit 97-16, City of San Clemente, California dated June 15, 2000
- Letter from Leighton and Associates to MT No. 1, LLC regarding Geotechnical Review of Alternatives 1 and 2, for the Existing Season Wetland, Wetland Avoidance Plans, Marblehead Coastal, Tentative Tract Map 8817/Site Plan Permit 97-16, City of San

Clemente, California dated June 6, 2000 and revised June 15, 2000 which pertains to Impact Area C.

- Letter from Leighton and Associates to MT No. 1, LLC regarding Review of the Bluff Slope and Proposed Retaining Wall Along North El Camino Real on the Boundary of the Dudley [sic] Reserve, Marblehead Coastal Property, Tentative Tract 8817, City of San Clemente, California dated August 22, 2000
- Letter from Leighton and Associates to MT No. 1, LLC regarding Geotechnical Review of Foundation Options for the Residential and Commercial Buildings Proposed at the Marblehead Coastal Property, Tentative Tract 8817, City of San Clemente, California, Coastal Development Permit 5-99-260 dated August 22, 2000
- Letter from Leighton and Associates to MT No. 1, LLC regarding Geotechnical Recommendations for the Design of Foundations for the Residential and Commercial Buildings...dated August 31, 2000
- Letter from Leighton and Associates to MT No. 1 LLC regarding Response to Item E of the California Coastal Commission letter dated August 11, 2000, Pertaining to the Marblehead Coastal Property...dated September 18, 2000 which addresses geotechnical feasibility of avoiding wetland impacts at Tributary A.
- Letter from Leighton and Associates to MT No. 1 LLC regarding Response to Item F of the California Coastal Commission letter dated August 11, 2000, Pertaining to the Marblehead Coastal Property...dated September 18, 2000 which addresses geotechnical feasibility of avoiding wetland impacts at Impact Area C.
- Letter from Leighton and Associates to MT No. 1 LLC regarding Estimated Remedial Quantities Pertaining to the Grading of Marblehead Coastal Property, Tract 8817, City of San Clemente, Coastal Development Permit 5-99-260 dated September 14, 2000

Resource Agency Letters

- Letter from U.S. Fish and Wildlife Service and California Department of Fish and Game to the City of San Clemente regarding Conditional Concurrence with the Special 4(d) Rule Interim Habitat Loss Mitigation Plan (IHLMP) for the Marblehead Coastal Development Project, MT No. 1, LLC, City of San Clemente, California dated August 17, 2000
- Letter from the California Department of Fish and Game to California Coastal Commission regarding Comments on the Marblehead Coastal Project Wetland Delineation dated June 26, 2000
- Letter from the California Department of Fish and Game to the California Coastal Commission regarding Comments on the Marblehead Coastal Project Wetland Delineation dated August 29, 2000

Letters from City of San Clemente

- Letter from the City of San Clemente Engineering Division to the California Coastal Commission regarding the SERRA Land Outfall dated September 8, 2000
- Letter from the City of San Clemente Engineering Division to the California Coastal Commission regarding Reclaimed Water Availability dated September 8, 2000
- Letter from the City of San Clemente Community Development Department to the California Coastal Commission regarding Beachfront land dedication to public entity dated July 3, 2000

Coastal Development Permit Application Files

A-80-7433; 5-90-122-G; 5-90-274 (Lusk Company); 5-90-274-G (Lusk Company); 5-94-256 (City of San Clemente), 5-94-256A (City of San Clemente), and G5-94-256 (City of San Clemente); 5-94-263 (Lusk Company); 5-97-136 (Marblehead Coastal, Inc.)

APPENDIX B

APPLICANT'S PROJECT DESCRIPTION

In a letter to the Commission dated July 11, 2000, the applicant provided the following project description:

Residential

- *Residential neighborhoods consisting of 424 single-family detached homes on a 95.7 acres on privately maintained, gated streets.*

Commercial

- *Eight commercial buildings containing 84,313 square feet of building floor area on 16.8 acres within a 59.3 acre visitor-serving commercial center of which 42.5 acres are outside of the Coastal Zone.*
- *1.0 acres designated for visitor serving commercial use near North Beach. This site will be graded only and will be dedicated to the City of San Clemente.*
- *Contribution of \$1,000,000 to the City for the enhancement of the downtown business district, of which a significant portion is in the Coastal Zone.*

Open Space, Public Access and Recreation

- *Acquisition and public dedication of 1.1 acres of beachfront property, including 440 lineal feet of beach front property.*
- *67.7 acres of public and private on-site open space.*
- *9.4 acre public passive use bluff park. (7 acre public sports park is outside and adjacent to Coastal Zone not included).*
- *Contribution of \$2,000,000 to the City for park improvements, including both the Bluff Top Park and the Sports Park.*
- *1,900 lineal feet of public trail linking the visitor serving commercial center to the bluff park within the central canyon.*
- *2,300 lineal feet of elevated bluff trail and three vista points along El Camino Real.*
- *Pedestrian and bicycle trails and pathways in or adjacent to 8,500 lineal feet of Avenida Vista Hermosa (includes scenic corridor trail), Avenida Pico and El Camino Real.*
- *On-site coastal public access route roadway improvements of Avenida Vista Hermosa (new), Avenida Pico (widening) and El Camino Real (widening).*

- *Contribution of \$7,200,000 to the City for off-site circulation improvements that included improvements to primary coastal access routes, such as construction of Avenida Vista Hermosa freeway interchange and improvements to Avenida Pico freeway interchange.*
- *Provision of a new access road outside the coastal zone to Shorecliffs Middle School to alleviate existing traffic congestion in the Coastal Zone.*
- *Contribution of \$1,465,437 (\$3,456.22 per dwelling unit) to the City for the improvement of the North Beach area.*
- *Visitor serving uses including restaurants, a movie complex and public viewing plaza areas located within the visitor serving commercial center.*

Habitat Protection and Enhancement

- *Preservation of 4.78 acres of wetlands.*
- *Completion of the 2.9 acre Dudleya Reserve in accordance with the translocation plan.*
- *Creation of 0.93 acres of wetlands in wetland basins to off-set impacts to 0.84 acres of non-wetland ephemeral waters inside and outside the coastal zone.*
- *Restoration and enhancement of 0.18 acres of wetlands within the central canyon to off-set impacts of 0.09 acres of wetlands in the Coastal Zone.*
- *Construction of Loffelstein walls landscaped with Coastal Sage Scrub within the central and western canyons to protect wetlands.*
- *Preservation of 2.97 acres of Coastal Sage Scrub.*
- *Restoration and enhancement of 16.57 acres of sage scrub habitat.*
- *Translocation of 0.3 acres of needlegrass habitat.*
- *Acquisition of development rights and establishment of a conservation easement for 50 acres of off-site containing 30 acres of existing coastal sage scrub, including 12 pairs of California Gnatcatchers.*
- *Contribution of \$100,000 to the property owner's association for long-term on-site habitat management.*
- *Contribution of a onetime fee of \$250 per dwelling unit (\$106,000) for long-term off-site habitat management.*

- *Implementation of water quality program which includes source reduction, on-site treatment and diversion to the City of San Clemente Water Reclamation Plant.*

Infrastructure

- *Six bridges to protect the wetlands.*
- *Contribution of \$250,000 for the improvement of the San Clemente Public Library, located within the Coastal Zone.*
- *Contribution of \$1,000,000 to the City for senior citizens.*
- *Contribution of \$4,200,000 to Capistrano Unified School District, which is \$1,800,000 more than required amount.*
- *All work performed to date including grading and mitigation in connection with Phase I emergency grading performed on the El Camino Real bluffs.*
- *Grading required to implement the project.*
- *A water system to serve the site and approved services and reliability for existing development in the Coastal Zone.*
- *Extension of the reclaimed water system to provide future service to off-site areas inside and outside the Coastal Zone.*
- *A system to provide reclaimed water to the project when available.*
- *A flood control system which will eliminate existing flooding of El Camino Real as well as protect existing on-site habitat.*
- *Utilities to serve the project.*

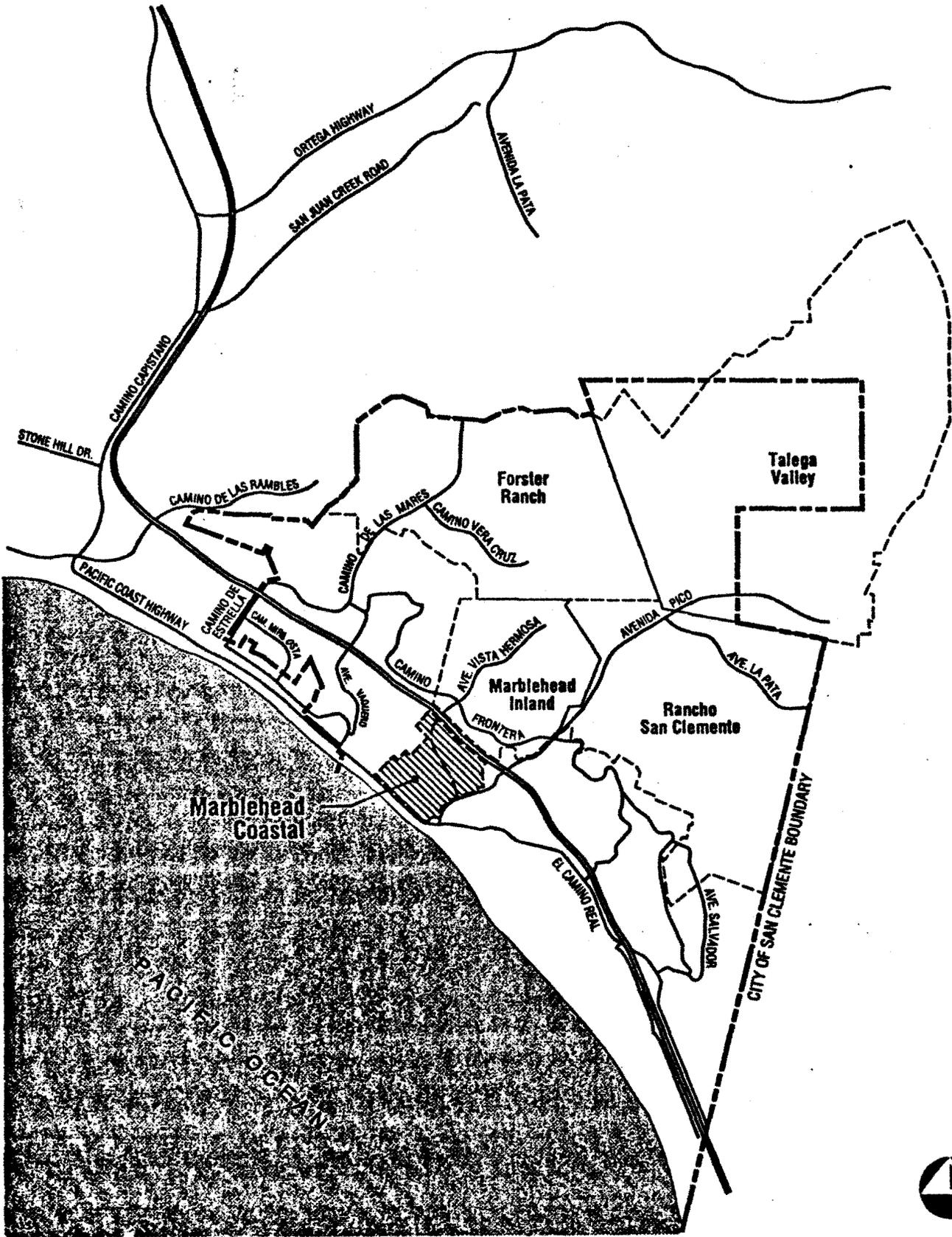


5-99-260 (MT No. 1 LLC)

Marblehead Coastal

List of Exhibits

Exhibit	Description
1	Location
2	Existing Site Conditions
3	Project Overview
4	Proposed Beach Property Dedication
5	Proposed Subdivision
6	Proposed Residential Site Plan
7	Proposed Floor Plans and Elevations for Single Family Residences
8a	Commercial Center Site Plan and Grading
8b	Commercial Center Landscaping, Elevations, and Misc. details
9	Proposed Grading
10	Cross Section of Marblehead Canyon (Existing and Proposed Condition)
11	Cross Section of Proposed Loffelstein Walls
12	Proposed Retaining Wall along N. El Camino Real at Blochman's dudleya Reserve
13	Proposed Bridges
14	Proposed Water Quality Plan
15	Emergency Grading Permit
16	Emergency Grading
17	Vegetation Communities with Proposed Project Overlay and Vegetation Communities Present at time of Emergency Grading
18	On-Site Mitigation Plan
19	Off-Site Mitigation Plan
20	Letters from California Department of Fish and Game and U.S. Fish and Wildlife Service
21	Regional Water Quality Control Board Approval
22	Letters from the City of San Clemente Regarding Various Approvals
23	Alternatives to Avoid Impacts at Wetland Impact Area A
24	Alternatives to Avoid Impacts at Wetland Impact Areas B1 and B2
25	Alternatives to Avoid Impacts at Wetland Impact Area C
26	Alternatives to Reduce Visual Impacts and Blochman's dudleya Impacts for Bluff Grading
27	Memorandum from R.J. Meade Consulting Regarding Coastal Sage Scrub and the California gnatcatcher
28	Letters of Objection to the Proposed Project Received as of 12/20/2000
29	Letters in Support of Proposed Project Received as of 12/20/2000

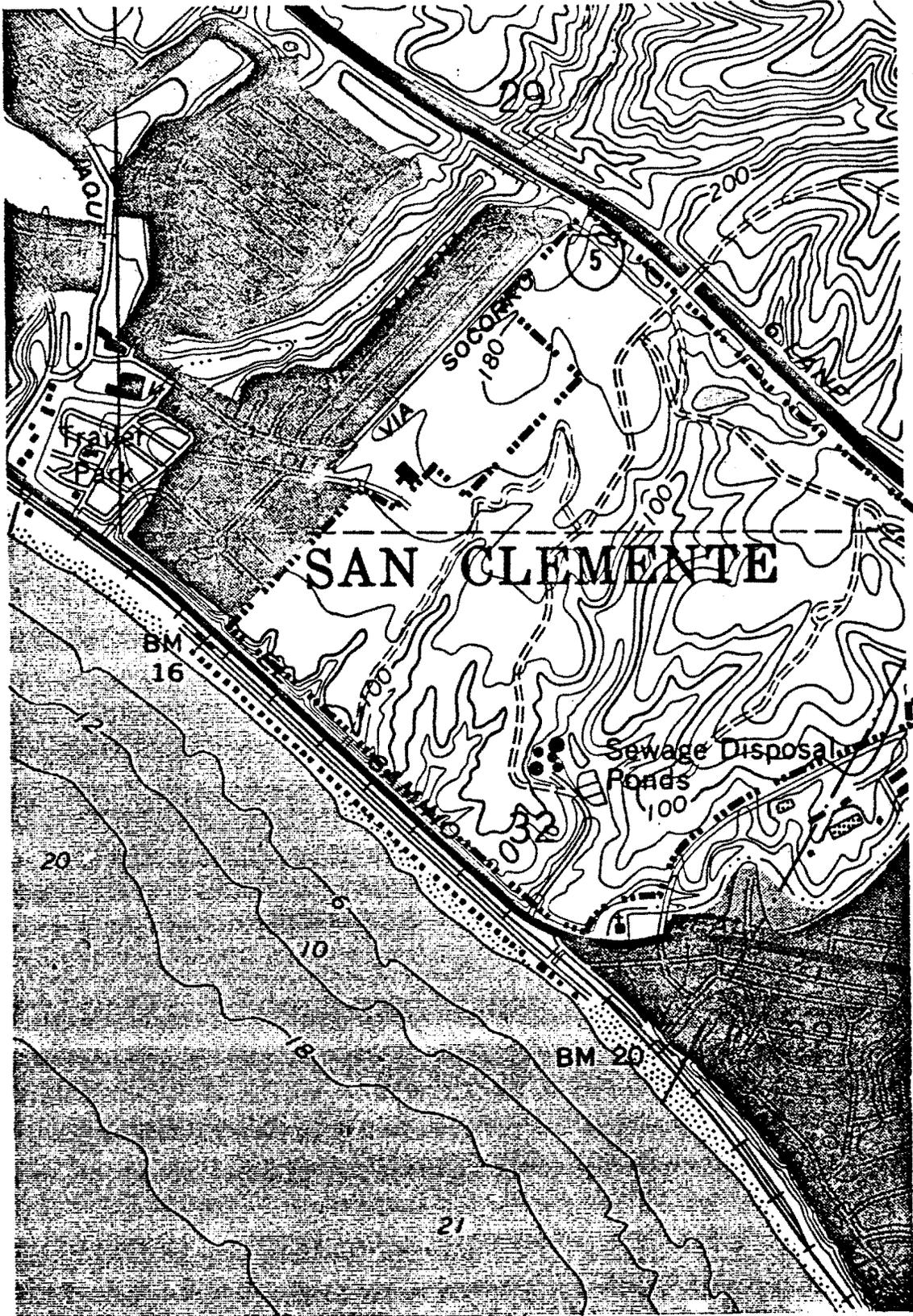


COASTAL COMMISSION
 5-99-260

CITY OF SAN CLEMENTE

EXHIBIT # 2
 PAGE 1 OF 2

VICINITY MAP
 Exhibit 3



Source: USGS Dana Point Quadrangle - Revised 1975

COASTAL COMMISSION
5-99-260

CITY OF SAN CLEMENTE

EXHIBIT # 1
 PAGE 2 OF 2

7/7/2000
MARBLEHEAD COASTAL
 Exhibit 2



OBLIQUE AERIAL VIEW OF PROJECT SITE

EXHIBIT No. 2

Page 1 of 4

Application Number:

5-99-260



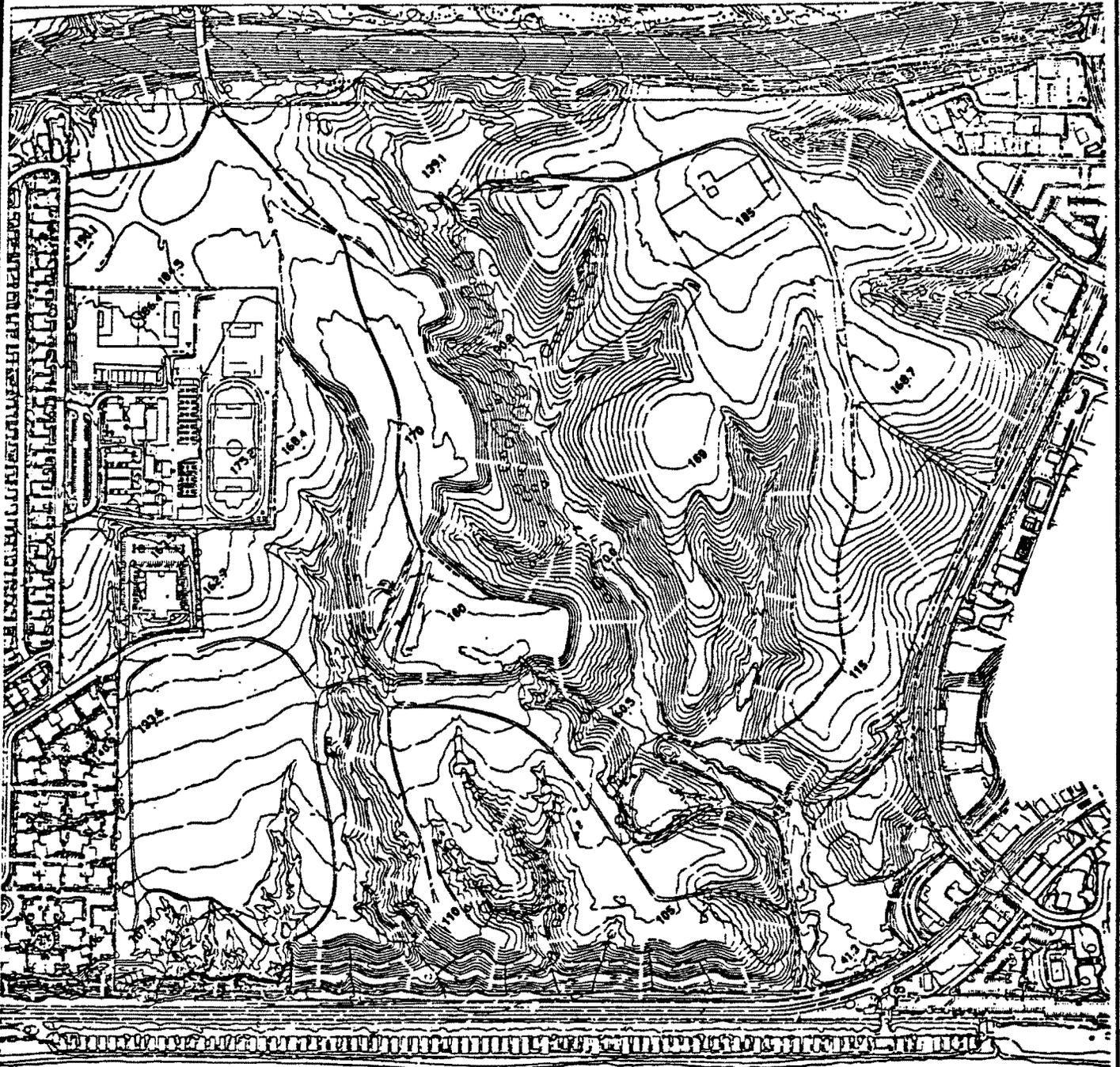
California Coastal
Commission



24" RCP 24" RCP RISK 1 AREA 4x2' RCB 24" RCP PHASE ONE EMERGENCY BLUFF STABILIZATION 352,900 C.Y. CUT

EXISTING SITE CONDITIONS

EXHIBIT No. 2	
Application Number: 5-99-260	
California Coastal Commission	



COASTAL COMMISSION
5-99-260

EXHIBIT # 2

PAGE 4 OF 4



Not to Scale

Source: RBF, 1998

MARBLEHEAD COASTAL SPECIFIC PLAN ■ City of San Clemente

DEG

DAVID EVANS AND ASSOCIATES, INC.

EXHIBIT 3-1

Existing Topography



EXHIBIT No. 3

Page 1 of 1

Application Number:

5-99-260



California Coastal
Commission

6-20-2000

**CITY OF SAN CLEMENTE
MARBLEHEAD COASTAL
ILLUSTRATIVE SITE PLAN**

691-34

Beach Access Property

FOR SEC. 30, 31 & 32, T. 8 S., R. 7 W.

THIS MAP WAS PREPARED FOR ORANGE COUNTY ASSESSOR AND IS GUARANTEED ONLY TO THE ASSESSOR. THE ASSESSOR'S LIABILITY FOR ANY ERRORS OR OMISSIONS IS LIMITED TO THE ASSESSOR'S NEGLIGENCE AND WILL NOT BE EXTENDED TO ANY OTHER PARTY.

BACKLASH

35

31

COAST

HIGHWAY

RECORD SURVEY

LOT 20

LOT 21

①

②

341

③

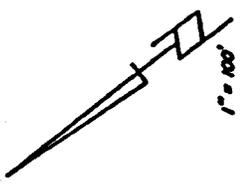
4-15

④

33

31

COURT LINE



ASSESSOR'S MAP
BOOK 691 PAGES 34
COUNTY OF ORANGE

NOTE - ASSESSOR'S BLOCK &
PARCEL NUMBERS
SHOWN IN CIRCLES

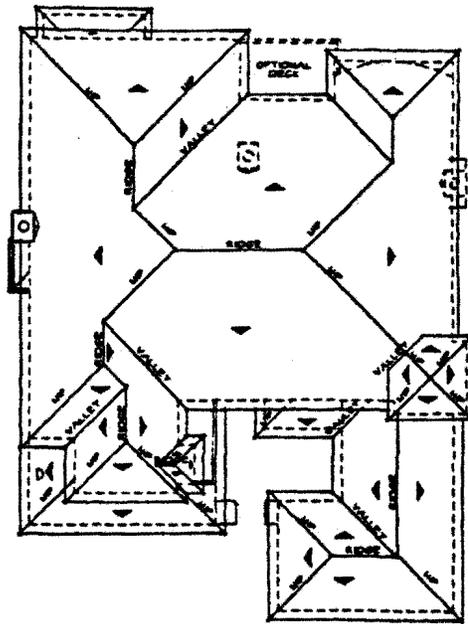
R. 7 S. 4 - 15

RECORD SURVEY

MARCH 1979

COASTAL COMMISSION
5-99-260

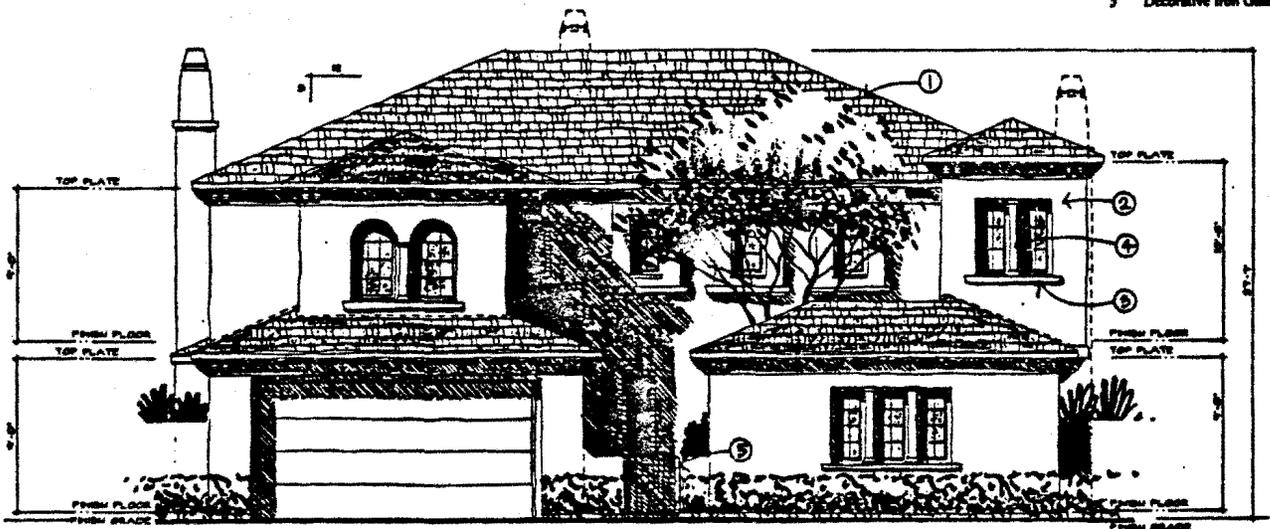
EXHIBIT # 4
PAGE 1 OF 1



ROOF PLAN
SCALE: 1/8" = 1'-0"

Exterior Materials

- 1 Concrete S-Tile Roofing
- 2 Stucco
- 3 Stucco over Wood Trim
- 4 Manufactured Decorative Panels
- 5 Decorative Iron Gate



FRONT ELEVATION

SCALE: 1/8" = 1'-0"
COASTAL COMMISSION
5-99-260

Note: Subject to Conditions of Approval,
and Development Agreement (Ord. 1208)

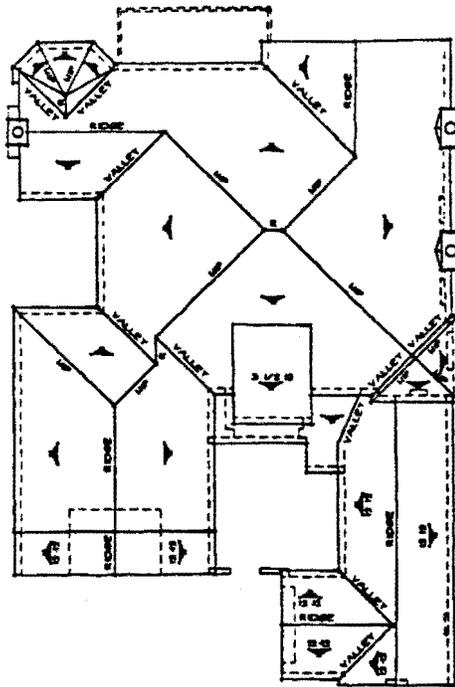
MARBLEHEAD COASTAL
SAN CLEMENTE, CA

MT NO. 1, LCC
16592 HALE AVENUE
IRVINE, CA 92606 (714) 757-6102 FAX: (714) 757-6320

EXHIBIT # 7
PAGE 1 OF 8

PLAN 1
6000 SERIES

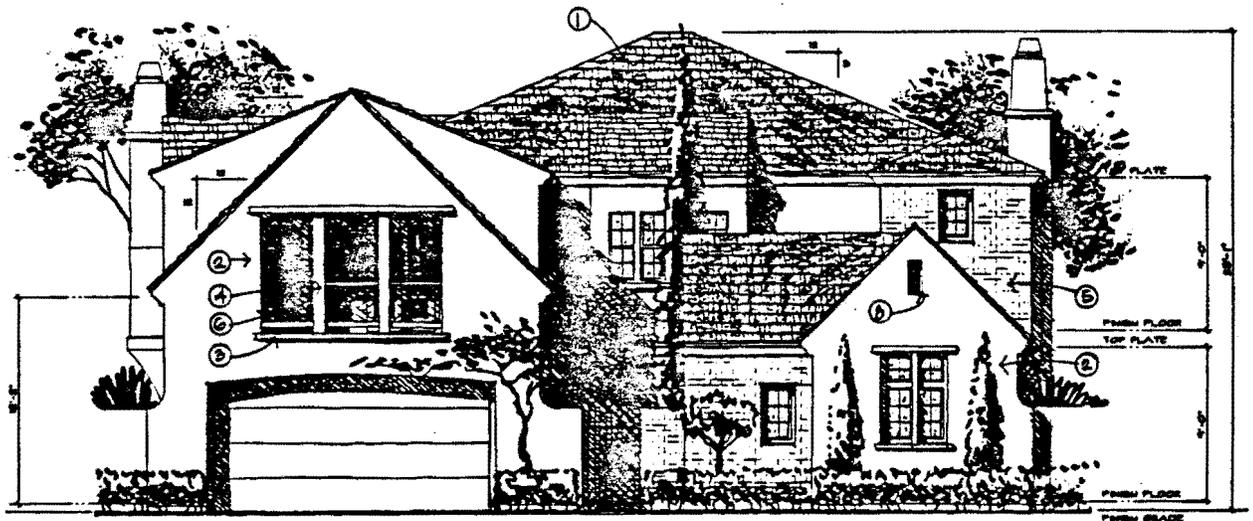




ROOF PLAN
SCALE: 1/4" = 1'-0"

Exterior Materials

- 1 Concrete Flat Tile Roofing
- 2 Stucco
- 3 Stucco over Wood Trim
- 4 Wood Trim
- 5 Brick Veneer
- 6 Decorative Iron Railing
- 7 Decorative Iron Gate
- 8 Decorative Gable Vent



FRONT ELEVATION
SCALE: 1/4" = 1'-0"

Note: Subject to Conditions of Approval,
and Development Agreement (Ord. 1208)

MARBLEHEAD COASTAL
SAN CLEMENTE, CA

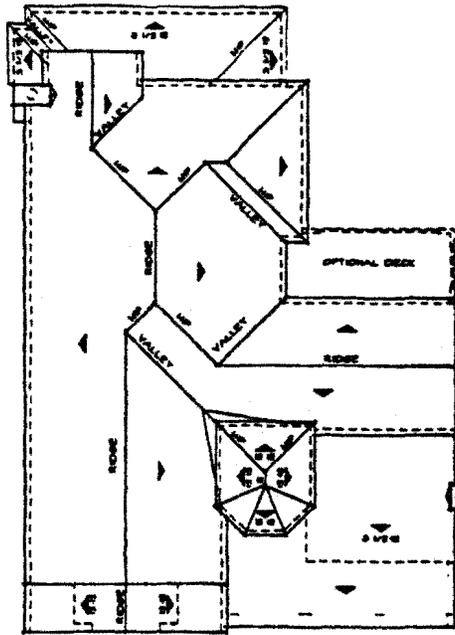
MT NO. 1, LCC
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COASTAL COMMISSION
5-99-260

EXHIBIT # 7
PAGE 2 OF 8

PLAN 2
6000 SERIES





ROOF PLAN
SCALE: 1/4" = 1'-0"

Exterior Materials

- 1 Concrete Flat Tile Roofing
- 2 Stucco
- 3 Stucco over Wood Trim
- 4 Wood Siding
- 5 Wood Trim
- 6 Wood Railing
- 7 Stone Veneer
- 8 Decorative Cable Veneer



FRONT ELEVATION
SCALE: 1/4" = 1'-0"

Note: Subject to Conditions of Approval,
and Development Agreement (Ord. 1208)

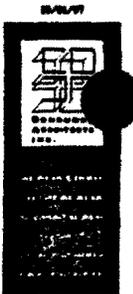
COASTAL COMMISSION
5-99-260

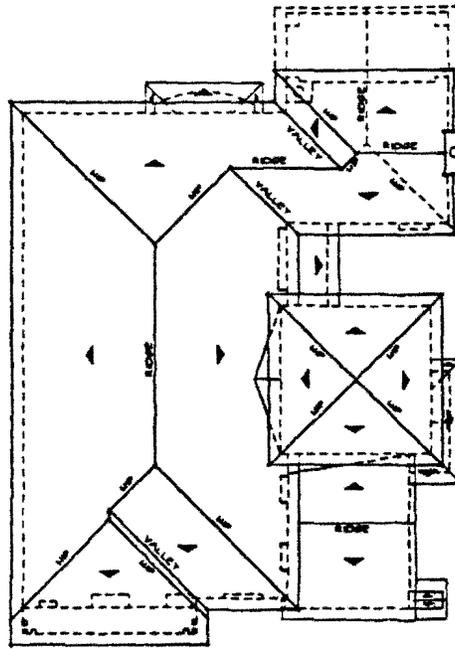
MARBLEHEAD COASTAL
SAN CLEMENTE, CA

EXHIBIT # 7
PAGE 3 OF 8

MT NO. 1, LCC
16592 HALE AVENUE
IRVINE, CA 92606 (714) 757-6102 FAX: (714) 757-6320

PLAN 3
6000 SERIES





ROOF PLAN
SCALE: 1/8" = 1'-0"

Exterior Materials

- 1 Concrete Flat Tile Roofing
- 2 Stucco
- 3 Stucco over Wood Trim
- 4 Wood Siding
- 5 Wood Trim
- 6 Wood Railing
- 7 Brick Veneer
- 8 Decorative Wood Gate



FRONT ELEVATION
SCALE: 1/4" = 1'-0"

Note: Subject to Conditions of Approval,
and Development Agreement (Ord. 1208)

MARBLEHEAD COASTAL
SAN CLEMENTE, CA

MT NO. 1, LCC
16392 HALE AVENUE
IRVINE, CA 92606 (714) 757-6102 FAX: (714) 757-6330

COASTAL COMMISSION

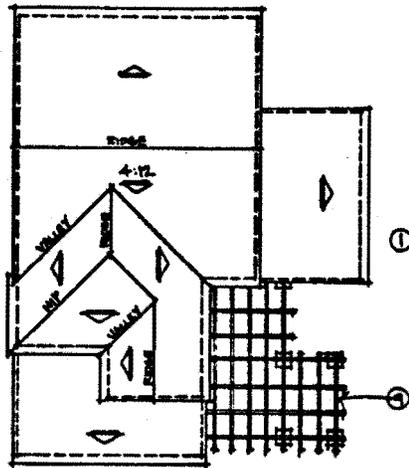
5-99-260

EXHIBIT # 7

PAGE 4 OF 8

PLAN 4
6000 SERIES





ROOF PLAN
1/8"=1'-0"

Exterior Materials

- 1 Concrete S-Tile Roofing
- 2 Stucco
- 3 Stucco over Wood Trim
- 4 Wood Trim
- 5 Wood Shutter
- 6 Decorative Wood Gate
- 7 Decorative Iron Trim
- 8 Decorative Clay Vents
- 9 Wood Trellis



FRONT ELEVATION
1/4"=1'-0"

Note: Subject to Conditions of Approval,
and Development Agreement (Ord. 1208)

MARBLEHEAD COASTAL
SAN CLEMENTE, CA

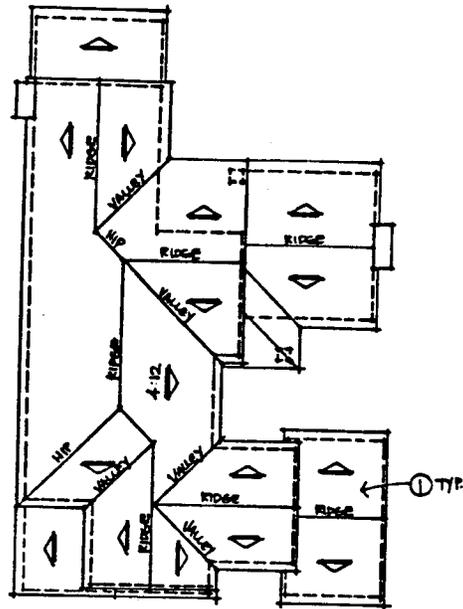
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IRVINE, CA 92606 (714) 757-6102 FAX: (714) 757-6320

COASTAL COMMISSION
5-99-260

EXHIBIT # 7
PAGE 5 OF 8

PLAN 1
5000 SERIES

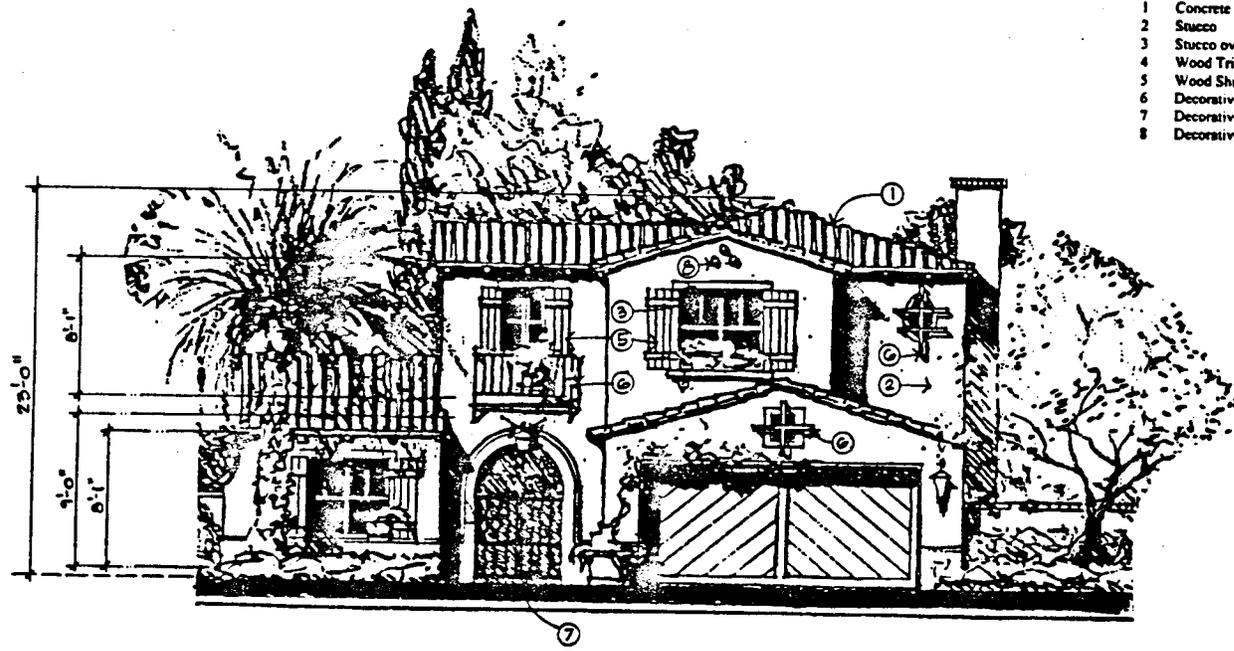




ROOF PLAN
1/8"=1'-0"

Exterior Materials

- 1 Concrete S-Tile Roofing
- 2 Stucco
- 3 Stucco over Wood Trim
- 4 Wood Trim
- 5 Wood Shutter
- 6 Decorative Iron Trim
- 7 Decorative Iron Gate
- 8 Decorative Clay Vases



FRONT ELEVATION (REVERSED)
1/4"=1'-0"

Note: Subject to Conditions of Approval,
and Development Agreement (Ord. 1208)

MARBLEHEAD COASTAL
SAN CLEMENTE, CA

MT NO. 1, LCC
16592 HALE AVENUE
IRVINE, CA 92606 (714) 757-6102 FAX: (714) 757-6320

COASTAL COMMISSION
5-99-260

EXHIBIT # 7
PAGE 6 OF 8

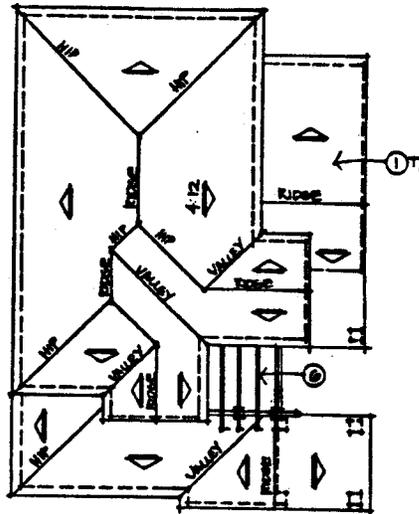
PLAN 2
5000 SERIES



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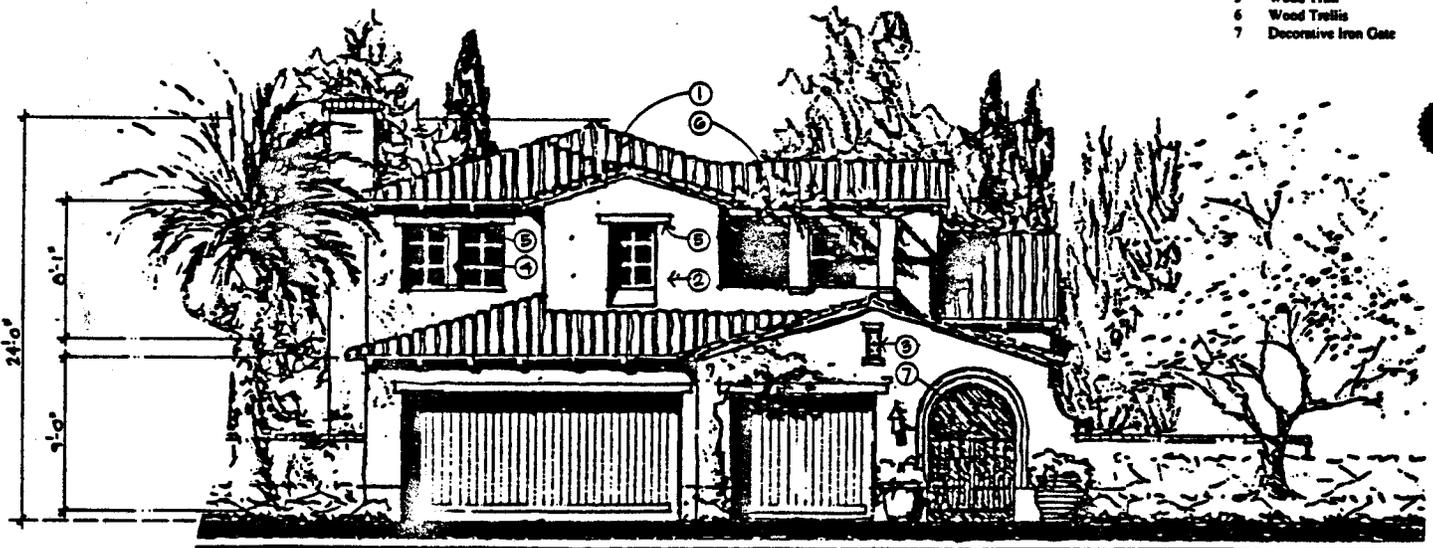
MAR 10 1988
EXHIBIT



ROOF PLAN
1/8"=1'-0"

Exterior Materials

- 1 Concrete S-Tile Roofing
- 2 Stucco
- 3 Stucco Reveal
- 4 Stucco over Wood Trim
- 5 Wood Trim
- 6 Wood Trellis
- 7 Decorative Iron Gate



FRONT ELEVATION
1/4"=1'-0"

Note: Subject to Conditions of Approval,
and Development Agreement (Ord. 1208)

MARBLEHEAD COASTAL
SAN CLEMENTE, CA

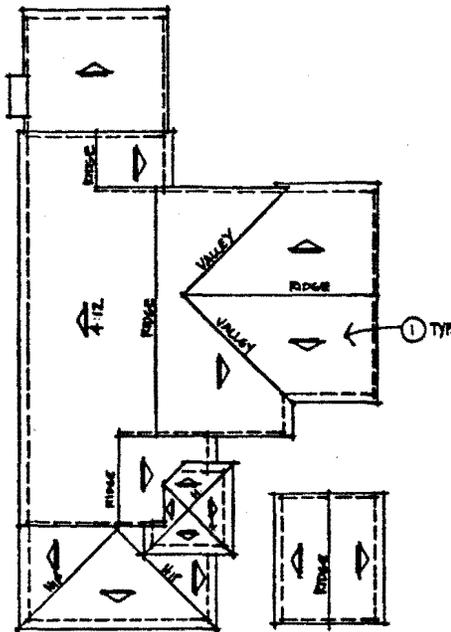
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18592 HALE AVENUE
IRVINE, CA 92606 (714) 757-6102 FAX: (714) 757-6320

COASTAL COMMISSION
5-99-260

EXHIBIT # 7
PAGE 7 OF 8

PLAN 3
5000 SERIES





ROOF PLAN
1/8"=1'-0"

Exterior Materials

- 1 Concrete S-Tile Roofing
- 2 Stucco
- 3 Stucco Recess
- 4 Stucco over Wood Trim
- 5 Wood Trim
- 6 Decorative Iron Rail
- 7 Decorative Iron Trim
- 8 Decorative Wood Gate
- 9 Decorative Clay Vents



FRONT ELEVATION
1/4"=1'-0"

Note: Subject to Conditions of Approval,
and Development Agreement (Ord. 1208)

MARBLEHEAD COASTAL
SAN CLEMENTE, CA

MT NO. 1, LCC
16592 HALE AVENUE
IRVINE, CA 92606 (714) 757-6102 FAX: (714) 757-6320

COASTAL COMMISSION
5-99-260

EXHIBIT # 7
PAGE 8 OF 8

PLAN 4
5000 SERIES

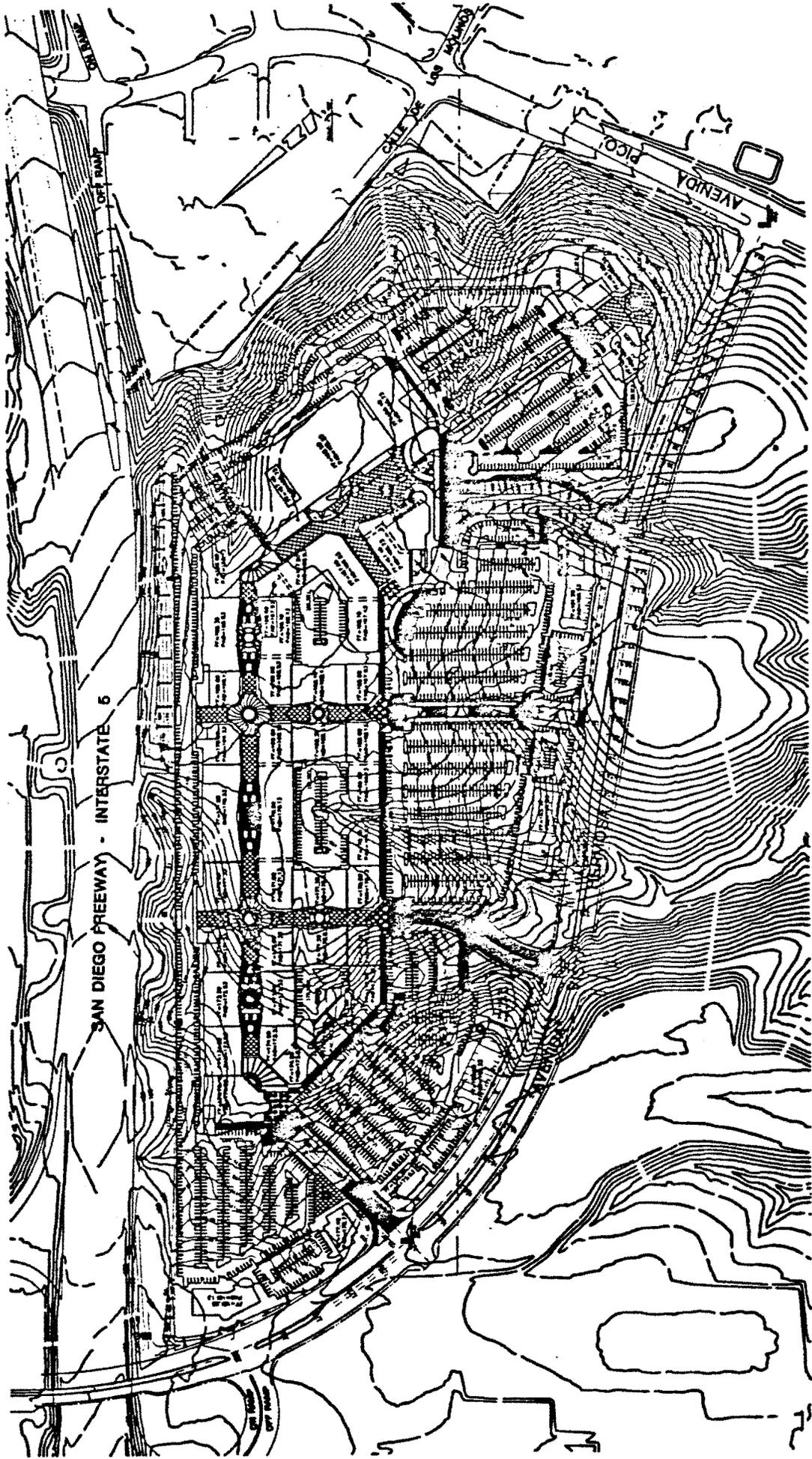


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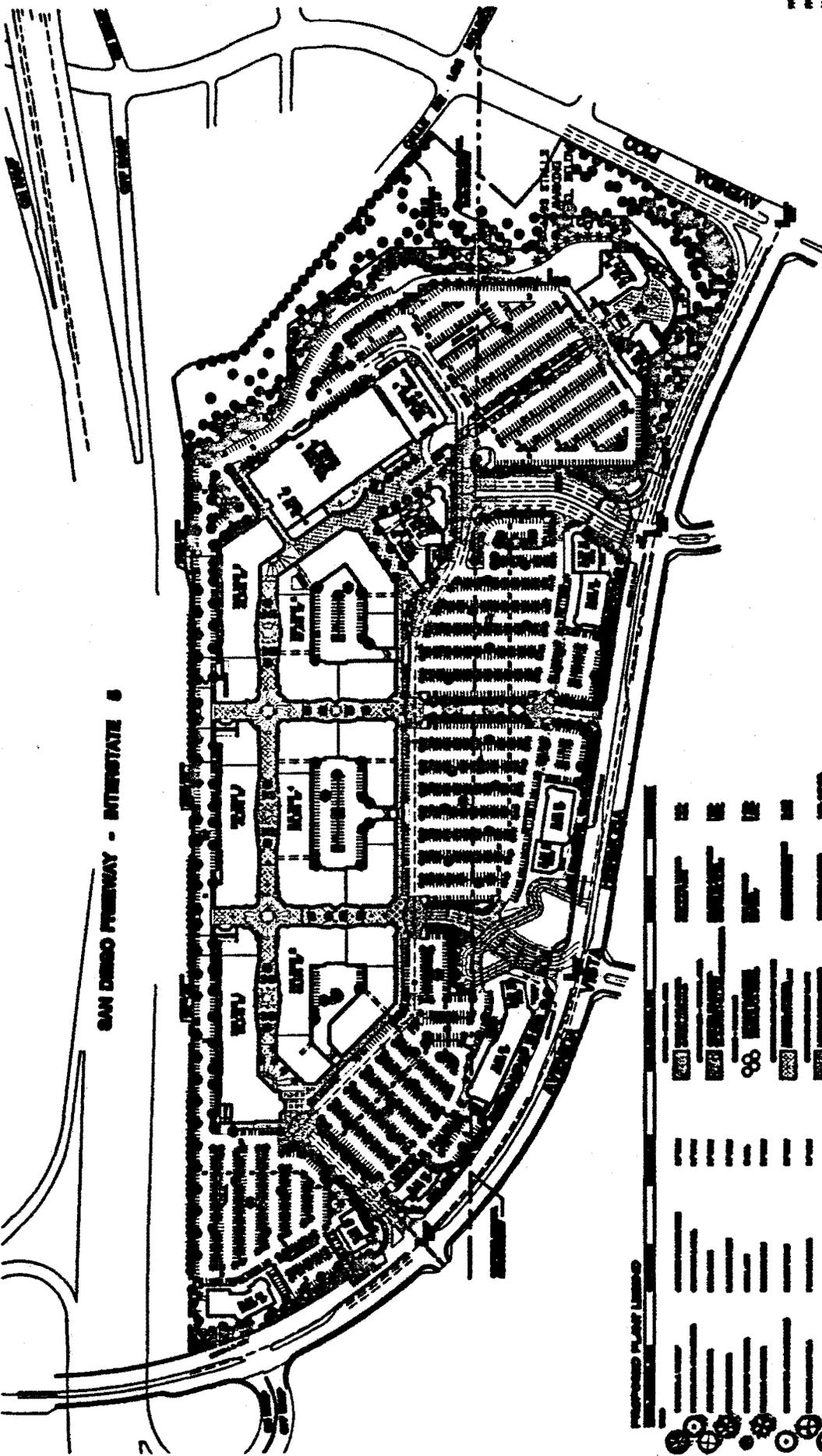


COASTAL COMMISSION
 5-99-260

EXHIBIT # 8A
 PAGE 2 OF 2

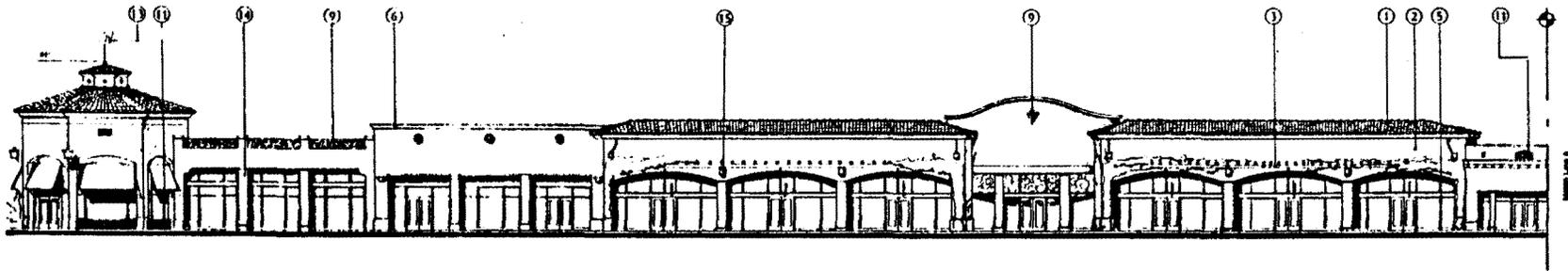
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HUITT-ZOLLARS
 HUITT-ZOLLARS, INC.
 18101 Red Hill Avenue, Tustin, CA 92780 (714) 268-7000
 Date: 06/27/00

GRADING EXHIBIT

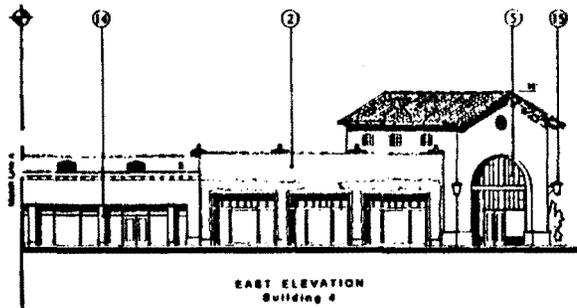


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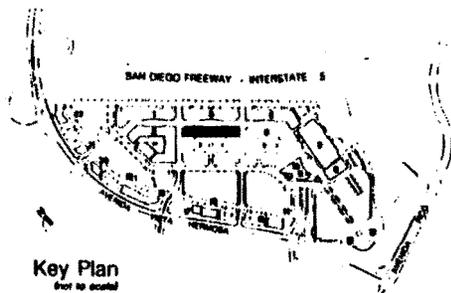
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EAST ELEVATION
Building 4



EAST ELEVATION
Building 4



Key Plan
Not to scale

Materials and Finishes

1. Cast Stone Tile
2. Concrete Block Wall Finish
3. White Enamel - Wall/Floor Tiles
4. Aluminum Profile Wall/Window
5. Aluminum Siding
6. Aluminum Profile Floor/Frame Cornice
7. Stone Veneer Siding
8. Paint
9. Concrete Block - Full work
10. Wood Trim
11. Concrete Block - Full work
12. Concrete Block - Full work
13. Concrete Block - Full work
14. Concrete Block - Full work
15. Concrete Block - Full work
16. Concrete Block - Full work
17. Concrete Block - Full work
18. Concrete Block - Full work
19. Concrete Block - Full work
20. Concrete Block - Full work

Notes

1. Building conditions are as indicated. The final building of record documents and all items to meet scope and building code requirements may necessitate some adjustments to the indicated design.
2. Materials are indicated only and may be revised in the final design drawings. See landscape drawings.
3. Changes not to exceed 1.0% of total program. "None"

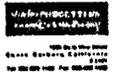


EXHIBIT # 8b
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COASTAL COMMISSION
5-99-260

Marblehead Promenade at San Clemente
San Clemente, California

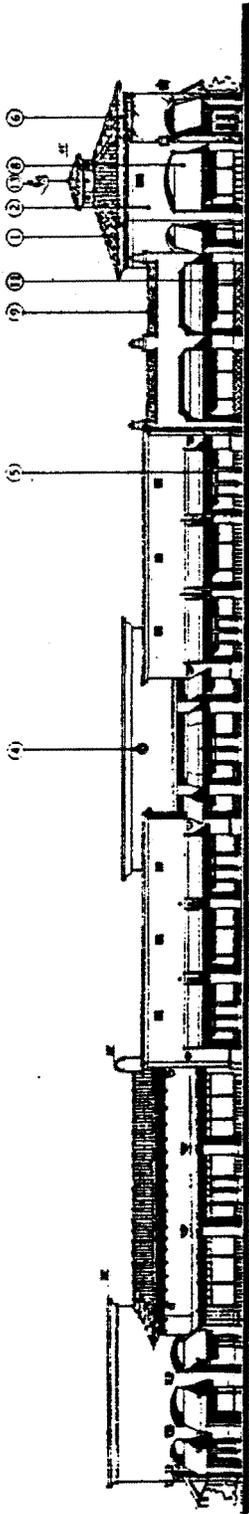
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Tel: 949.851.1414 Fax: 949.853.8750

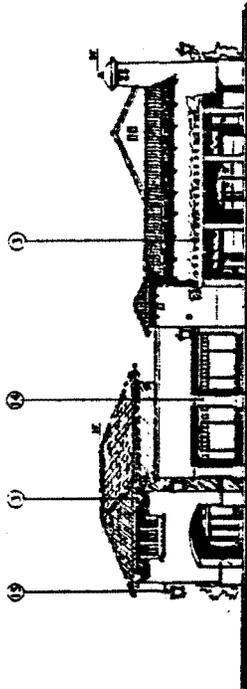
3500 Quail Street, Suite 100 Newport Beach, California 92660
Tel: 949.224.4100 Fax: 949.224.4101

Elevations

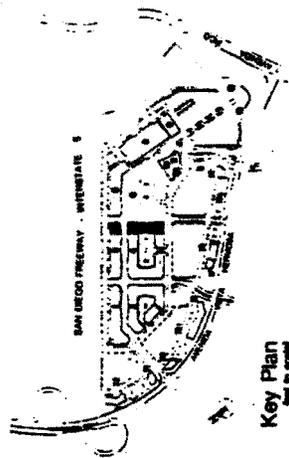
A2.6



SOUTH ELEVATION
Building 4



SOUTH ELEVATION
Building 3



Key Plan
Not to Scale

COASTAL COMMISSION
 5-99-260
 EXHIBIT # 8b
 PAGE 3 OF 26

Materials and Finishes
 1. All exterior walls shall be finished with light-colored stucco.
 2. All exterior walls shall be finished with light-colored stucco.
 3. All exterior walls shall be finished with light-colored stucco.
 4. All exterior walls shall be finished with light-colored stucco.
 5. All exterior walls shall be finished with light-colored stucco.
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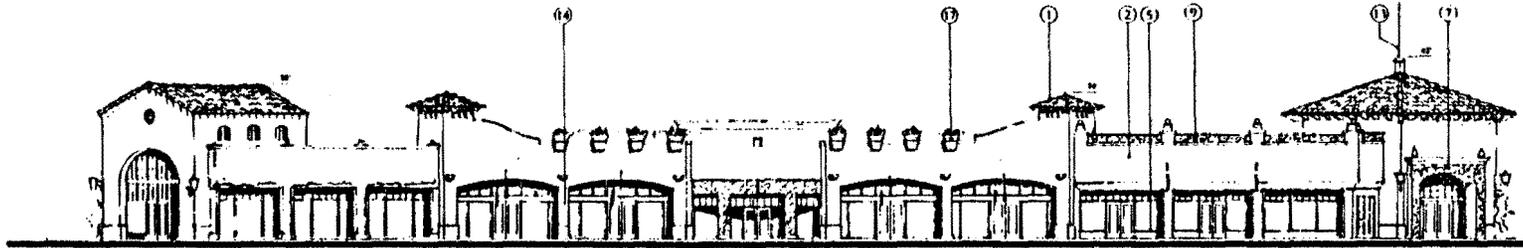
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Elevations

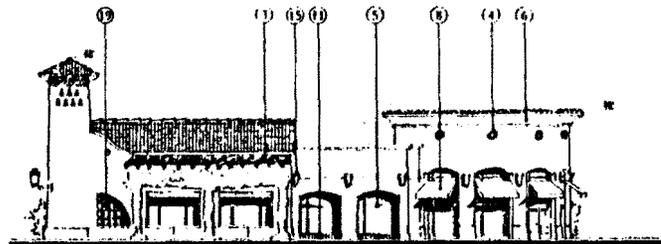
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 4 Upper Newport Place, Suite 200
 Newport Beach, California 92660
 Tel 949/4111111 Fax 949/3221788

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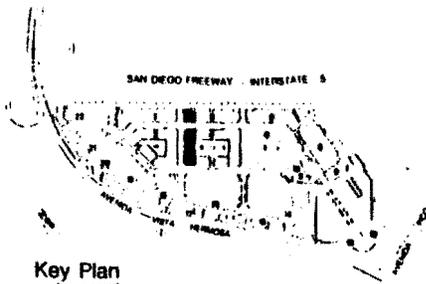
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NORTH ELEVATION
Building 4



NORTH ELEVATION
Building 3



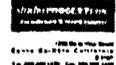
Key Plan
Not to scale

Materials and Finishes

- 1 Clay Roof Tile
- 2 Roman Stone Wall Finish
- 3 Smooth Finish (Ply) Form Finish
- 4 Stucco Finish (Ply) Form Finish
- 5 Horizontal Stucco Finish
- 6 Stucco Finish (Ply) Form Finish
- 7 Stone Veneer (Ply) Form Finish
- 8 Concrete
- 9 Concrete (Ply) Form Finish
- 10 Concrete (Ply) Form Finish
- 11 Stucco Finish (Ply) Form Finish
- 12 Stucco Finish (Ply) Form Finish
- 13 Stucco Finish (Ply) Form Finish
- 14 Stucco Finish (Ply) Form Finish
- 15 Stucco Finish (Ply) Form Finish
- 16 Stucco Finish (Ply) Form Finish
- 17 Stucco Finish (Ply) Form Finish
- 18 Stucco Finish (Ply) Form Finish
- 19 Stucco Finish (Ply) Form Finish
- 20 Stucco Finish (Ply) Form Finish

Notes

- 1 Existing elevations are consistent designs. The final elevations of each elevation and all elevations must be approved by the architect before construction.
- 2 Elevations are indicated only and may be revised in the final design drawings. See architectural drawings.
- 3 Elevation to be revised 1/2 of total height. Thank

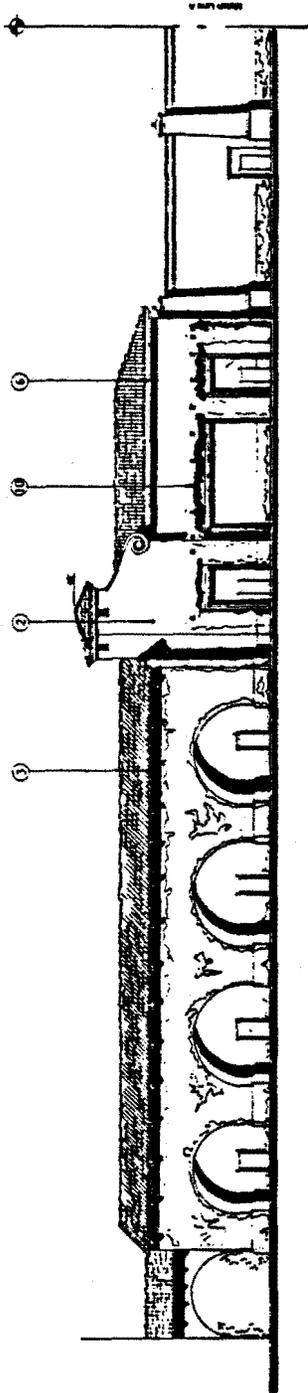


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 EXHIBIT # 2b
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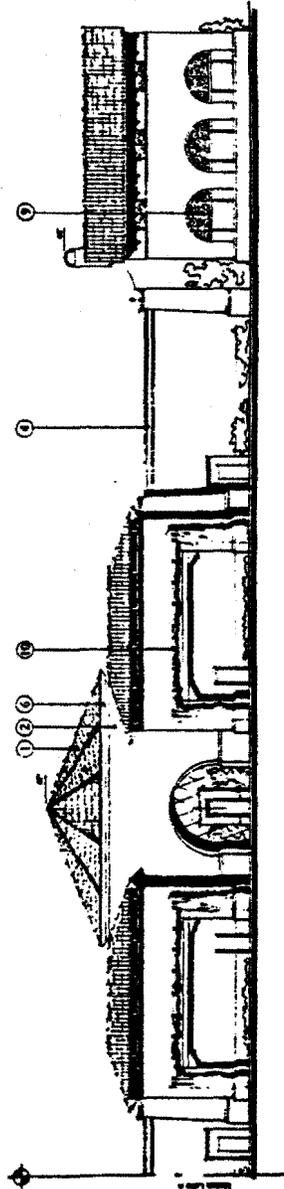
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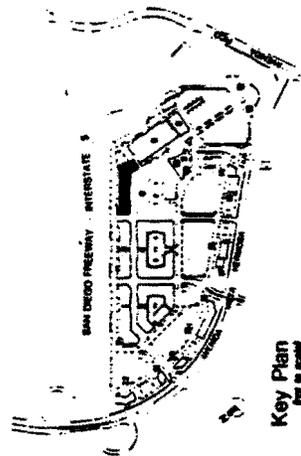
A2.8
 Elevations
 1/2 Scale
 2/2 Scale
 3/2 Scale
 4/2 Scale



EAST ELEVATION
Building 5



EAST ELEVATION
Building 6



Key Plan
Not to Scale

Materials and Finishes
 1. Concrete
 2. Stucco
 3. Brick
 4. Glass
 5. Metal
 6. Wood
 7. Paint
 8. Tile
 9. Stone
 10. Other

COASTAL COMMISSION
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 EXHIBIT # 81
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Marblehead Promenade at San Clemente
 San Clemente, California

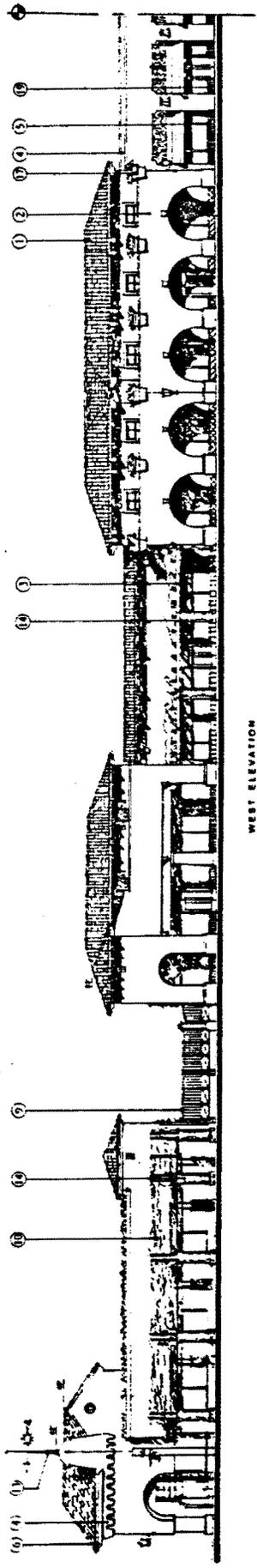
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 4 Upper Newport Place, Suite 201
 Newport Beach, California 92660
 Tel: 949.224.4100 Fax: 949.224.4101

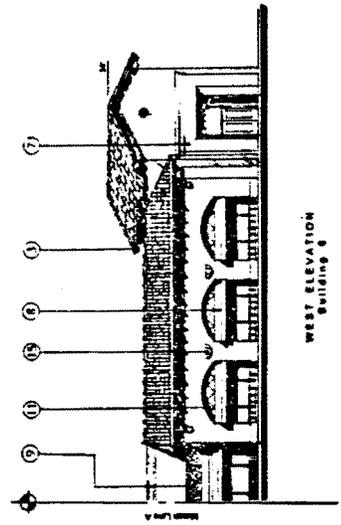
Elevations

A2.9

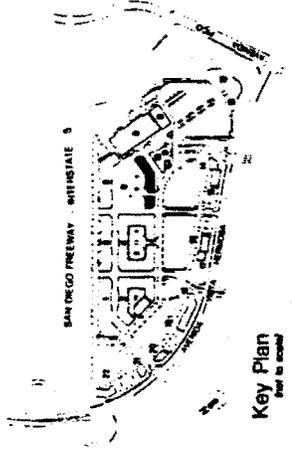




WEST ELEVATION
Building 5



WEST ELEVATION
Building 6



Key Plan
Not to Scale

Materials and Finishes

1. Concrete
2. Brick
3. Stone
4. Wood
5. Metal
6. Glass
7. Paint
8. Stucco
9. Tile
10. Other

Notes

1. All elevations are shown in black ink.
2. All elevations are shown in black ink.
3. All elevations are shown in black ink.
4. All elevations are shown in black ink.
5. All elevations are shown in black ink.
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5-99-260
 EXHIBIT # **86**
 PAGE **6** OF **21**

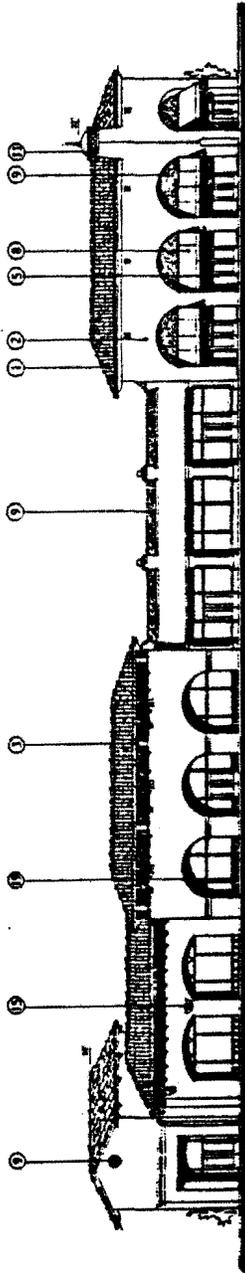
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 San Clemente, California
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SDC Partners, LTD. & Craig Realty Group
 5000 Duval Street, Suite 100
 Newport Beach, California 92660
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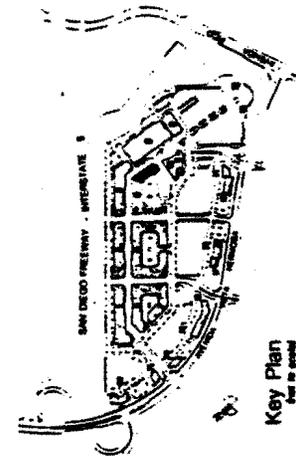
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Elevations

1	2	3	4	5	6	7	8	9	10
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EAST ELEVATION
BUILDING 1



Key Plan
See 10-1000

COASTAL COMMISSION
5-99-260
EXHIBIT # 8b
PAGE 7 OF 26

Materials and Profiles
 1. All exterior wall surfaces shall be finished with a light tan, textured stucco finish.
 2. All exterior window frames shall be finished with a light tan, textured stucco finish.
 3. All exterior door frames shall be finished with a light tan, textured stucco finish.
 4. All exterior roof surfaces shall be finished with a light tan, textured stucco finish.
 5. All exterior roof gutters shall be finished with a light tan, textured stucco finish.
 6. All exterior roof downspouts shall be finished with a light tan, textured stucco finish.
 7. All exterior roof flashings shall be finished with a light tan, textured stucco finish.
 8. All exterior roof eaves shall be finished with a light tan, textured stucco finish.
 9. All exterior roof soffits shall be finished with a light tan, textured stucco finish.
 10. All exterior roof fascia shall be finished with a light tan, textured stucco finish.
 11. All exterior roof ridge caps shall be finished with a light tan, textured stucco finish.
 12. All exterior roof tiles shall be finished with a light tan, textured stucco finish.
 13. All exterior roof tiles shall be finished with a light tan, textured stucco finish.
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 19. All exterior roof tiles shall be finished with a light tan, textured stucco finish.
 20. All exterior roof tiles shall be finished with a light tan, textured stucco finish.

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 10000 S. LA JOLLA VILLAGE DRIVE
 LA JOLLA, CALIFORNIA 92037
 TEL: 619-451-1000 FAX: 619-451-1001

Elevations
 1. All exterior wall surfaces shall be finished with a light tan, textured stucco finish.
 2. All exterior window frames shall be finished with a light tan, textured stucco finish.
 3. All exterior door frames shall be finished with a light tan, textured stucco finish.
 4. All exterior roof surfaces shall be finished with a light tan, textured stucco finish.
 5. All exterior roof gutters shall be finished with a light tan, textured stucco finish.
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 7. All exterior roof flashings shall be finished with a light tan, textured stucco finish.
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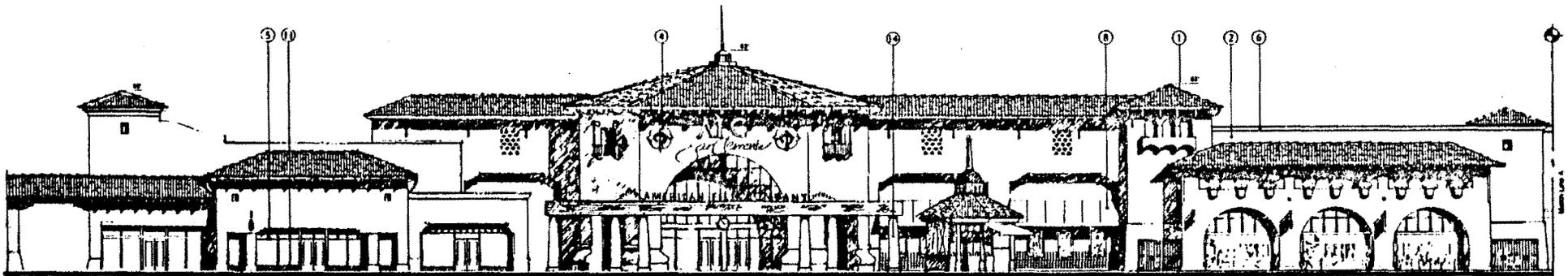
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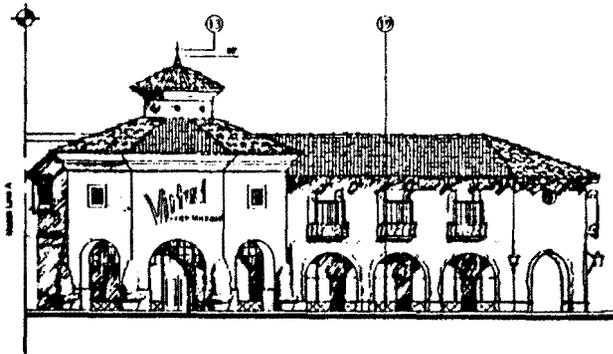
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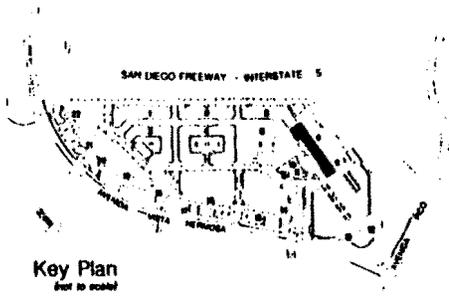
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WEST ELEVATION
Buildings 7.0A



WEST ELEVATION
Building 7.0B



Key Plan
(not to scale)

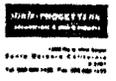
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Materials and Finishes

- 1 Clay Roof Tile
- 2 Ceramic Tiles and Marble
- 3 Wood 2 1/2" x 4" x 8" Ply
- 4 Concrete Flat roof Membrane
- 5 Aluminum Siding
- 6 Clear Glass Panel from Concrete
- 7 Blue or White Siding
- 8 Stucco
- 9 Concrete Mason 12" x 8" units
- 10 Stone Tiles
- 11 Terrazzo Floor Tile
- 12 Concrete Corner Roof Tile
- 13 Concrete of Structural Precast or Modular Form
- 14 White 2 1/2" x 4" x 8" Ply
- 15 Phenolic Resin Siding
- 16 White Siding
- 17 Blue or White Siding
- 18 Concrete Mason 12" x 8" units

Notes

- 1 Existing structure an established design. The full structure of new construction and work shall be made subject and building code requirements may vary significantly from requirements of the established design.
- 2 Materials to be substituted and any to be retained on the field drawing.
- 3 Drawings are preliminary drawings.
- 4 Copyright © 1988 by SDC Partners, LTD.



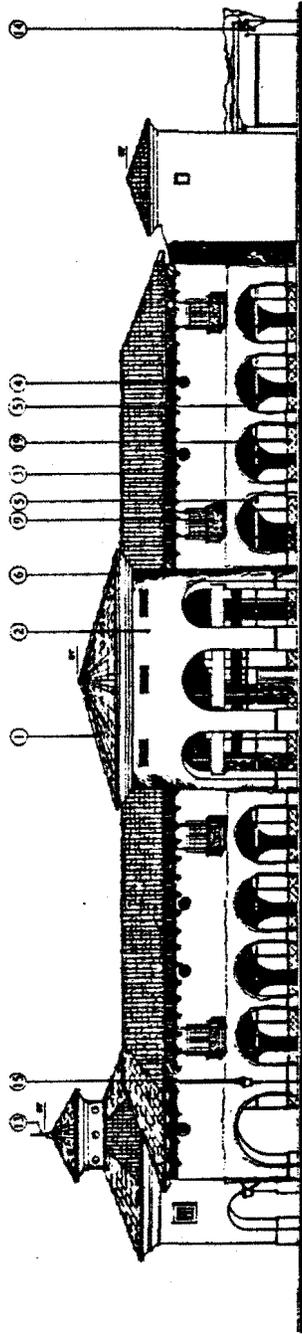
A2.12

Marblehead Promenade at San Clemente
San Clemente, California
SDC Partners, LTD. & Craig Realty Group

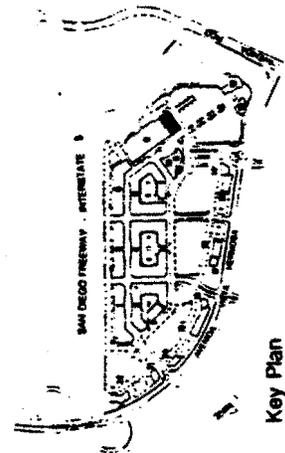
SDC Partners, LTD. & Craig Realty Group
4 Upper Newport Plaza, Suite 201
Newport Beach, California 92660
Tel 949.8511414 Fax 949.833.8750

800 Coast Street, Suite 100
Newport Beach, California 92660
Tel 949.224.4100 Fax 949.224.4101

Elevations
2nd Floor
3rd Floor
4th Floor
5th Floor
6th Floor
7th Floor
8th Floor
9th Floor
10th Floor
11th Floor
12th Floor
13th Floor
14th Floor
15th Floor
16th Floor
17th Floor
18th Floor
19th Floor
20th Floor



SOUTH ELEVATION
Building 3



Key Plan
Not to Scale

COASTAL COMMISSION
5-99-260
EXHIBIT # 8b
PAGE 9 OF 26

Marblehead Promenade at San Clemente
San Clemente, California

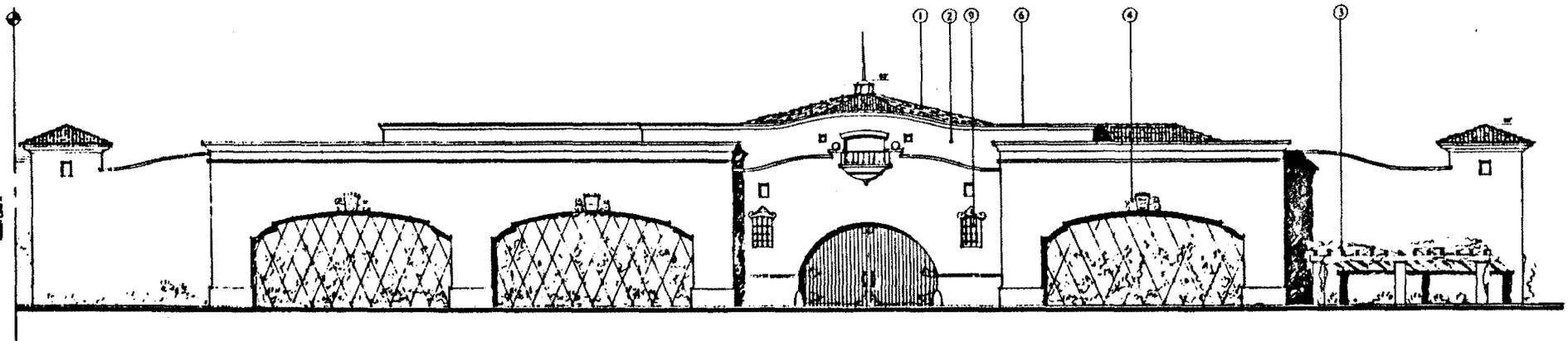
SDC Partners, LTD. & Craig Realty Group

Materials and Finishes
 The following materials and finishes are specified for the exterior of the building. All materials shall be of the highest quality and shall be installed in accordance with the manufacturer's instructions. All materials shall be approved by the Architect prior to installation.

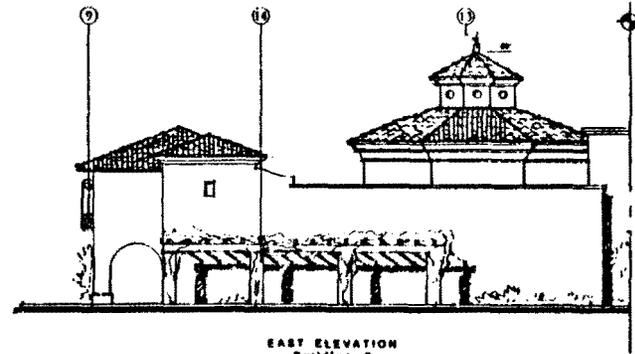
A2.13

Elevations
 The elevations shown on this drawing are for the exterior of the building. All elevations shall be in accordance with the manufacturer's instructions.

SDC Partners, LTD. & Craig Realty Group
 2000 Chief Street, Suite 200
 Newport Beach, California 92660
 Tel: 949/440-1111 Fax: 949/440-1112



EAST ELEVATION
Building 8



EAST ELEVATION
Building 8



Key Plan
Not to scale

Materials and Finishes

- 1 Clay Roof Tile
- 2 Exterior Masonry Wall Finish
- 3 Window Sill / Sill / Sill / Sill / Sill
- 4 Stone / Stone / Stone / Stone / Stone
- 5 Stone / Stone / Stone / Stone / Stone
- 6 Stone / Stone / Stone / Stone / Stone
- 7 Stone / Stone / Stone / Stone / Stone
- 8 Stone / Stone / Stone / Stone / Stone
- 9 Stone / Stone / Stone / Stone / Stone
- 10 Stone / Stone / Stone / Stone / Stone
- 11 Stone / Stone / Stone / Stone / Stone
- 12 Stone / Stone / Stone / Stone / Stone
- 13 Stone / Stone / Stone / Stone / Stone
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- 16 Stone / Stone / Stone / Stone / Stone
- 17 Stone / Stone / Stone / Stone / Stone
- 18 Stone / Stone / Stone / Stone / Stone
- 19 Stone / Stone / Stone / Stone / Stone
- 20 Stone / Stone / Stone / Stone / Stone

Notes

- 1 Building elevations are conceptual drawings. The final treatment of colors, materials and all doors to match current and building code. Measurements may necessitate some adjustments of the elevation.
- 2 All elevations are shown in black and white. Color is not shown.
- 3 All elevations are shown in black and white. Color is not shown.
- 4 All elevations are shown in black and white. Color is not shown.
- 5 All elevations are shown in black and white. Color is not shown.
- 6 All elevations are shown in black and white. Color is not shown.
- 7 All elevations are shown in black and white. Color is not shown.
- 8 All elevations are shown in black and white. Color is not shown.
- 9 All elevations are shown in black and white. Color is not shown.
- 10 All elevations are shown in black and white. Color is not shown.
- 11 All elevations are shown in black and white. Color is not shown.
- 12 All elevations are shown in black and white. Color is not shown.
- 13 All elevations are shown in black and white. Color is not shown.
- 14 All elevations are shown in black and white. Color is not shown.
- 15 All elevations are shown in black and white. Color is not shown.
- 16 All elevations are shown in black and white. Color is not shown.
- 17 All elevations are shown in black and white. Color is not shown.
- 18 All elevations are shown in black and white. Color is not shown.
- 19 All elevations are shown in black and white. Color is not shown.
- 20 All elevations are shown in black and white. Color is not shown.



COASTAL COMMISSION
 5-99-260
 EXHIBIT # 8b
 PAGE 10 OF 26

Marblehead Promenade at San Clemente
San Clemente, California

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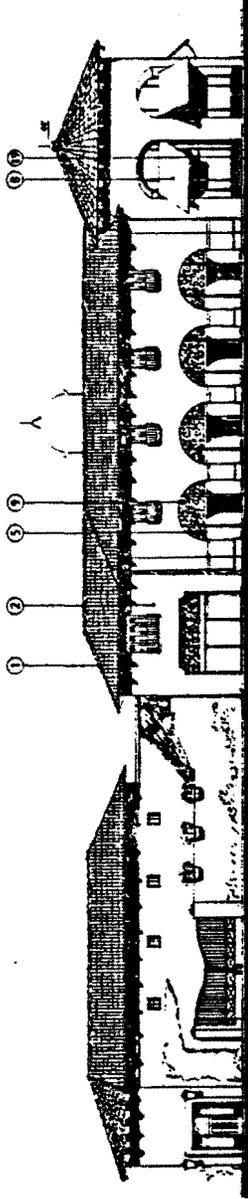
4 Upper Newport Plaza, Suite 201
Newport Beach, California 92660
Tel 949.8514141 Fax 949.853.9780

500 Quail Street, Suite 100
Newport Beach, California 92660
Tel 949.224.4100 Fax 949.224.4101

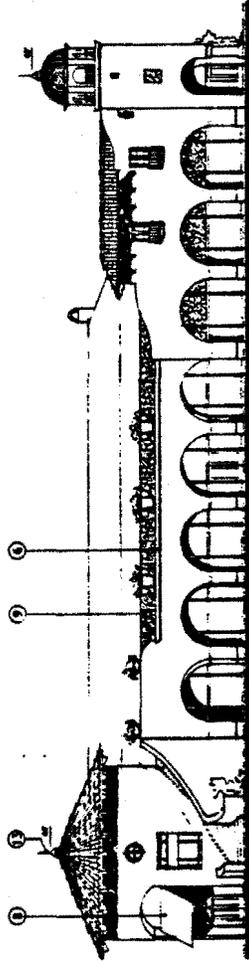
Elevations

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20

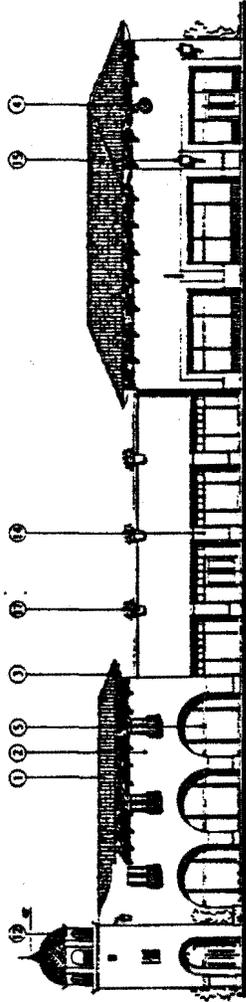
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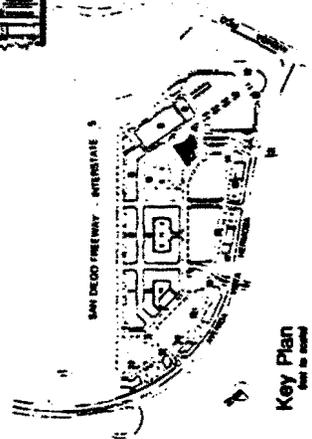
WEST ELEVATION
Building 11



EAST ELEVATION
Building 11



NORTH ELEVATION
Building 11



Materials and Finish
 1. Concrete
 2. Stucco
 3. Brick
 4. Tile
 5. Wood
 6. Metal
 7. Glass
 8. Paint
 9. Stone
 10. Marble
 11. Granite
 12. Copper
 13. Aluminum
 14. Steel
 15. Iron

Key Plan
(not to scale)

COASTAL COMMISSION
 5-99-260
 EXHIBIT # 80
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A2.15

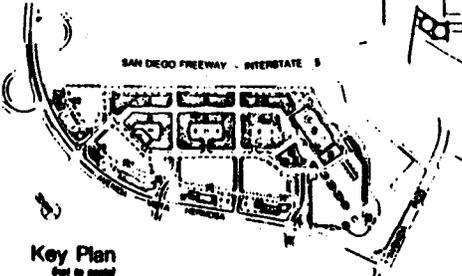
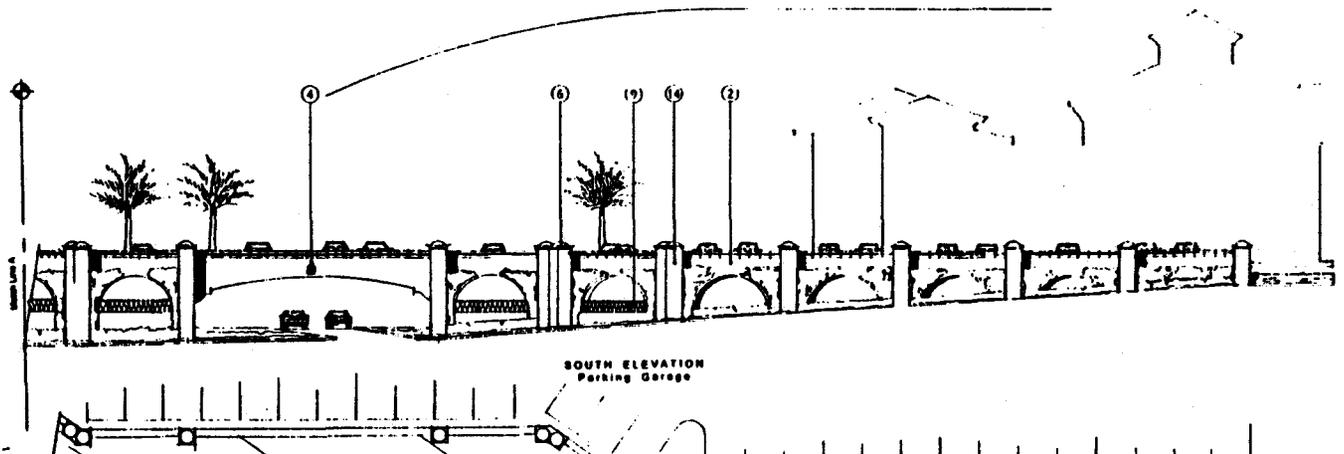
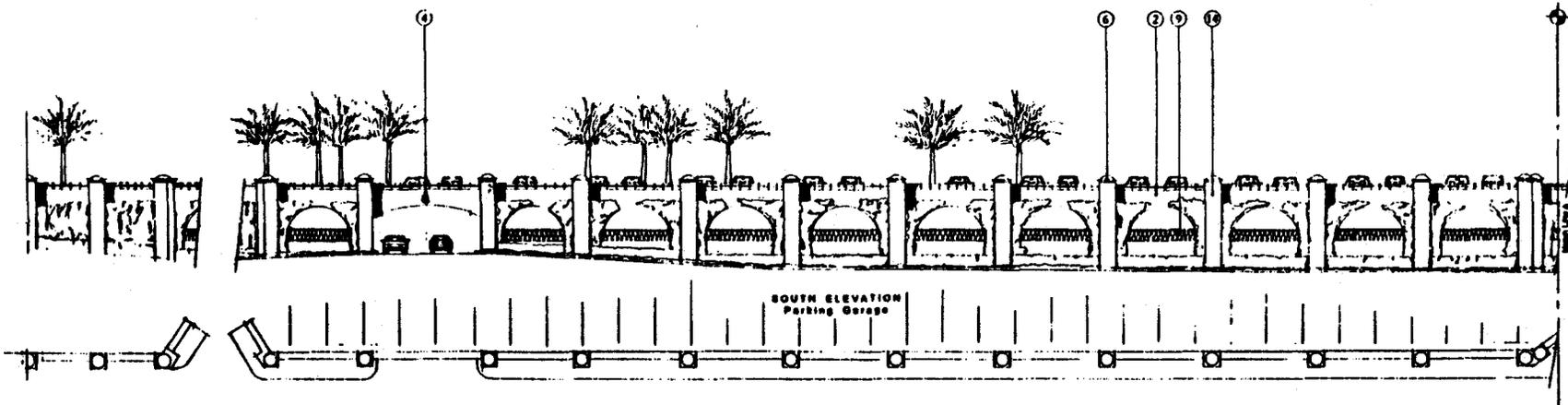
Elevations

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 Newport Beach, California 92660
 Tel 949.224.4788 Fax 949.224.4789

Marblehead Promenade at San Clemente

San Clemente, California

SDC Partners & Craig Realty Group



Key Plan
Not to scale

COASTAL COMMISSION
 EXHIBIT # 5799-260
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A2.17

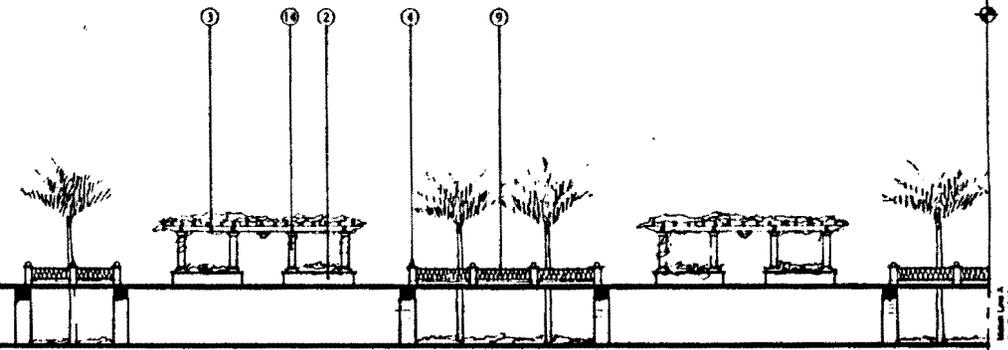
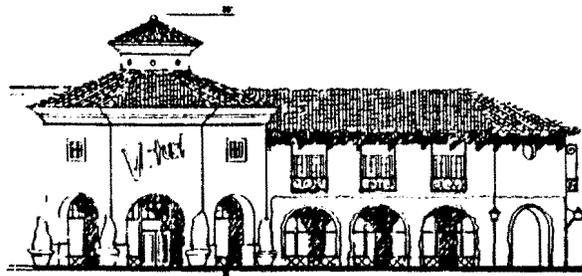
Marblehead Promenade at San Clemente
 San Clemente, California

SDC Partners, LTD. & Craig Realty Group

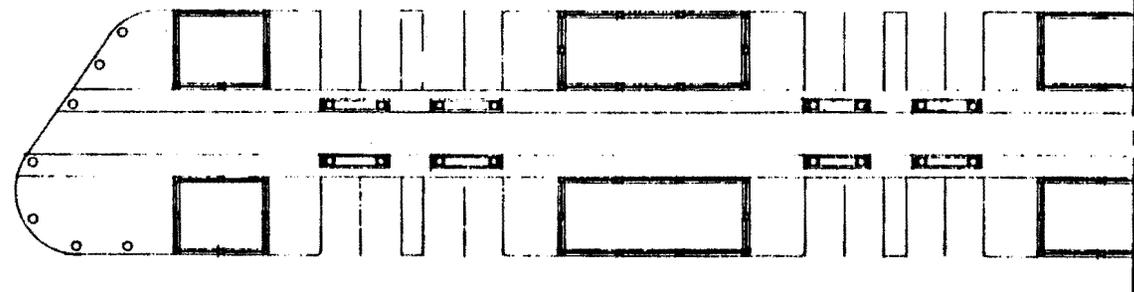
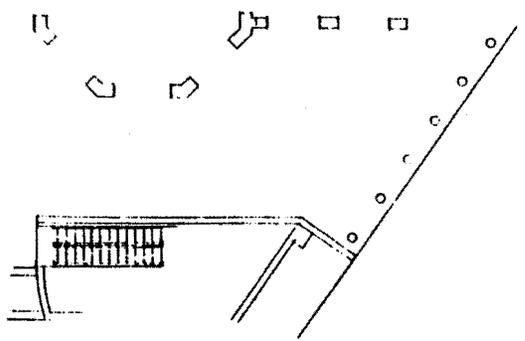
SDC Partners, LTD. & Craig Realty Group
 4 Upper Newport Plaza, Suite 201 500 Coast Street, Suite 202
 Newport Beach, California 92660 Newport Beach, California 92660
 Tel: 949.851.1111 Fax: 949.833.8788 Tel: 949.224.4100 Fax: 949.224.4101

Elevations





WEST ELEVATION / SECTION
Building B / Parking Garage



Key Plan
Not to scale

Materials and Finishes

- 1. Clay Roof Tile
- 2. Stucco Finish
- 3. Stucco Finish with Paint
- 4. Stucco Finish with Paint and Grout
- 5. Stucco Finish with Paint and Grout
- 6. Stucco Finish with Paint and Grout
- 7. Stucco Finish with Paint and Grout
- 8. Stucco Finish with Paint and Grout
- 9. Stucco Finish with Paint and Grout

Note:
1. Quality elevations are essential design. The final location of
elevation drawings and cut sheets to meet current and building code
requirements may necessitate some adjustments of the elevation
drawings.
2. Materials are subject to change and may be subject to the final design.
3. Elevation drawings are for informational purposes only.
4. Elevation drawings are for informational purposes only.



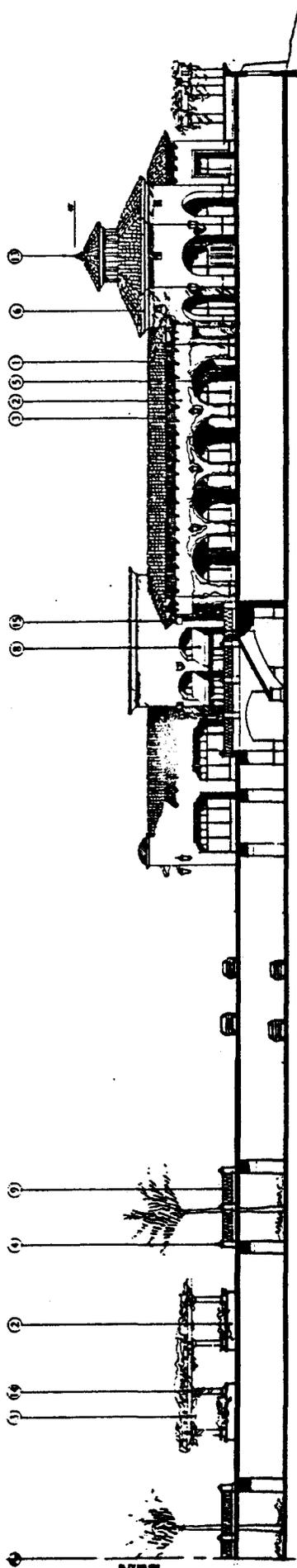
MARBLEHEAD OFFICE ARCHITECTURE
1500 OAK STREET, SUITE 100
NEWPORT BEACH, CALIFORNIA 92660
Tel: 949.224.4100 Fax: 949.224.4101

Marblehead Promenade at San Clemente
San Clemente, California
SDC Partners, LTD. & Craig Realty Group

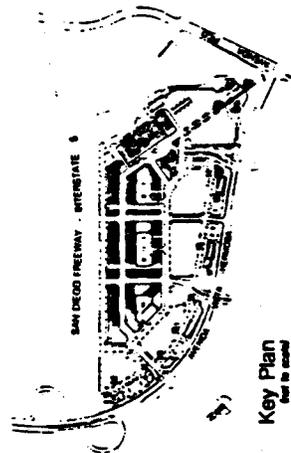
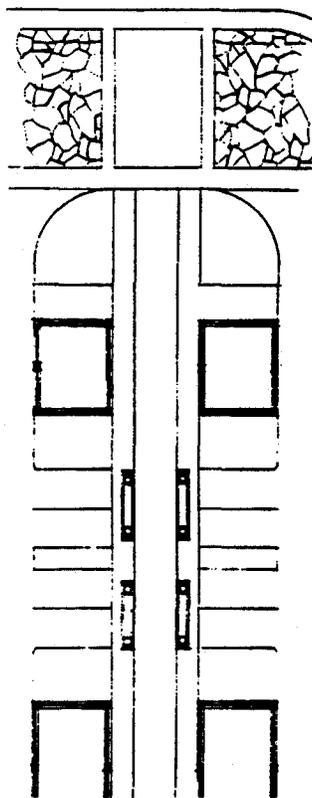
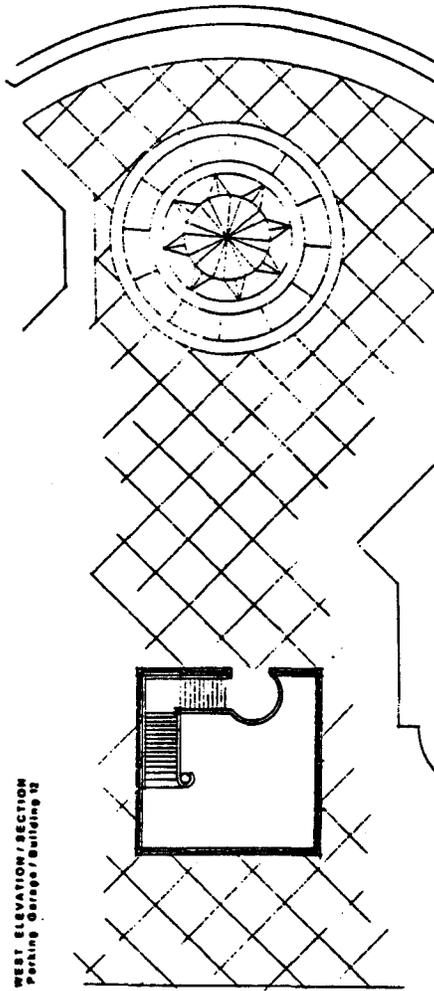
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5-99-260
EXHIBIT # 8b
PAGE 14 OF 26

SDC Partners, LTD. & Craig Realty Group
4 Upper Newport Plaza, Suite 201 Newport Beach, California 92660
Tel: 949.851.1414 Fax: 949.853.9750
1500 Oak Street, Suite 100 Newport Beach, California 92660
Tel: 949.224.4100 Fax: 949.224.4101

Elevations
A2.18



WEST ELEVATION / SECTION
Parking Garage/Building 12



Key Plan
See to scale

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5-99-260
 EXHIBIT # **80**
 PAGE **15** OF **26**

Materials and Finishes
 1. Concrete
 2. Steel
 3. Glass
 4. Aluminum
 5. Brick
 6. Stone
 7. Paint
 8. Tile
 9. Carpet
 10. Wood
 11. Fabric
 12. Other

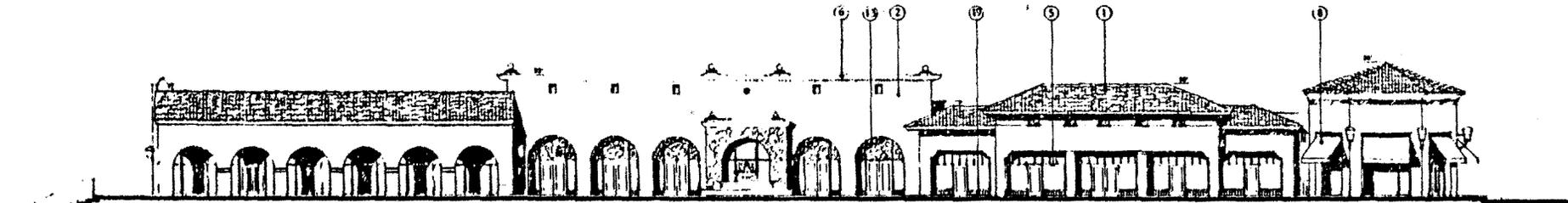
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Elevations
 1. North
 2. South
 3. East
 4. West

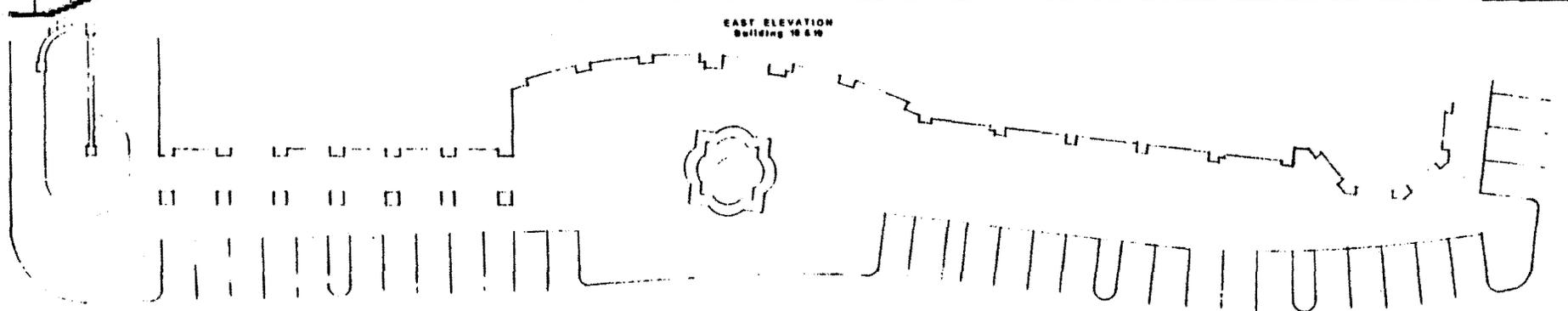
SDC Partners, LTD. & Craig Realty Group
 4 Union Street, Suite 200
 Newport Beach, California 92660
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Marblehead Promenade at San Clemente
 San Clemente, California

SDC Partners, LTD. & Craig Realty Group



EAST ELEVATION
Building 18 & 19



WEST ELEVATION
Building 18 & 19

Materials and Finishes

- 1 Clay Roof Tile
- 2 Exterior Stucco and Plaster
- 3 Glass Entry Canopy, Entry Foyer
- 4 Aluminum Plate Glass Windows
- 5 Aluminum Windows
- 6 Aluminum Plate Glass Entry Canopy
- 7 Stone Veneer Siding
- 8 Stucco
- 9 Cast-in-place Concrete
- 10 Stone Veneer
- 11 Cast-in-place Concrete
- 12 Cast-in-place Concrete
- 13 Cast-in-place Concrete
- 14 Cast-in-place Concrete
- 15 Cast-in-place Concrete
- 16 Cast-in-place Concrete
- 17 Cast-in-place Concrete
- 18 Cast-in-place Concrete
- 19 Cast-in-place Concrete
- 20 Cast-in-place Concrete

Notes

- 1 Building elevations are conceptual designs. The final location of large windows and air doors is subject to final window and door schedule.
- 2 Materials and finishes are subject to change without notice.
- 3 Dimensions in conceptual sets and may be subject to final design.
- 4 Materials and finishes are subject to change without notice.
- 5 Materials and finishes are subject to change without notice.



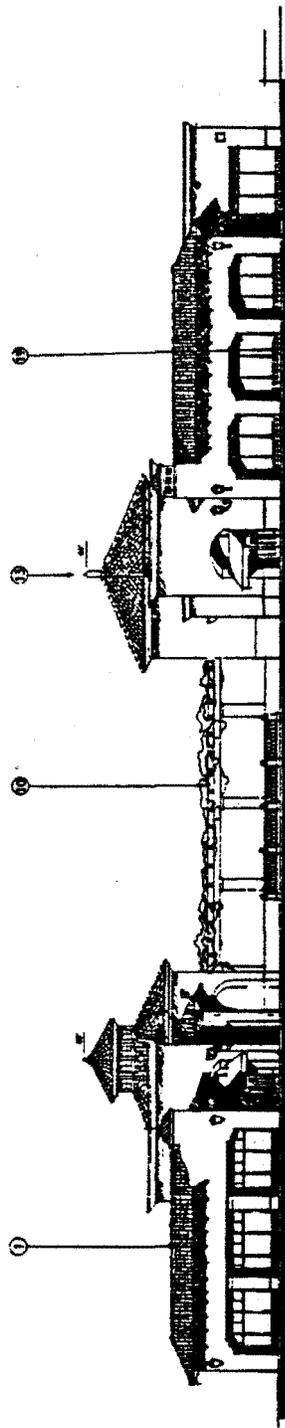
Key Plan
Part of overall

COASTAL COMMISSION
 5-99-260
 EXHIBIT # 8b
 PAGE 16 OF 26

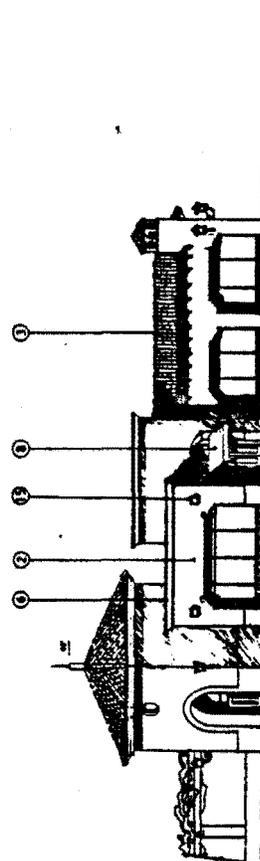
Marblehead Promenade at San Clemente
 San Clemente, California
 SDC Partners, LTD. & Craig Realty Group

SDC Partners, LTD. & Craig Realty Group
 4 Upper Newport Plaza, Suite 201 Newport Beach, California 92660
 Tel 949.8611414 Fax 949.833.9760
 1600 Quail Street, Suite 100 Newport Beach, California 92660
 Tel 949.224.4190 Fax 949.224.4191

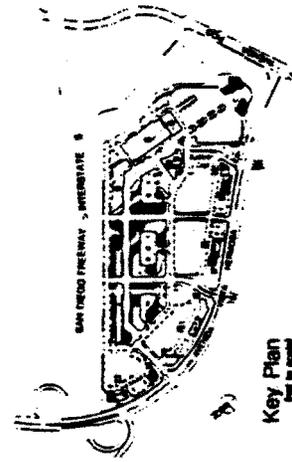
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 Elevations
 Part of overall
 Date: 11/11/99
 Scale: 1/8" = 1'-0"



NORTH ELEVATION
BUILDINGS 12 & 13



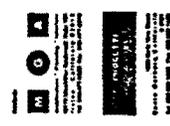
EAST ELEVATION
BUILDING 12



Key Plan
See to scale

Materials and Finishes

1. Concrete
2. Brick
3. Stucco
4. Stone
5. Wood
6. Metal
7. Glass
8. Paint
9. Tile
10. Carpet
11. Ceiling
12. Floor
13. Wall
14. Roof
15. Siding
16. Trim
17. Hardware
18. Fixtures
19. Appliances
20. Mechanical
21. Electrical
22. Plumbing
23. HVAC
24. Lighting
25. Security
26. Other



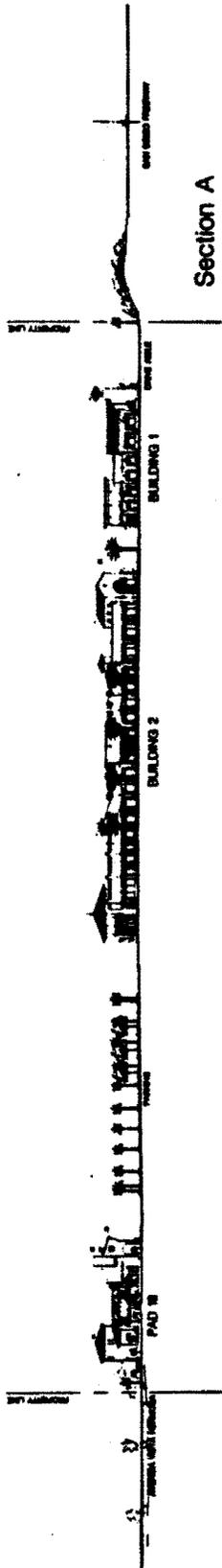
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Elevations
 SDC Partners, LTD. & Craig Realty Group
 4000 Newport Plaza, Suite 200
 Newport Beach, California 92660
 Tel: 949.254.1100 Fax: 949.254.1100

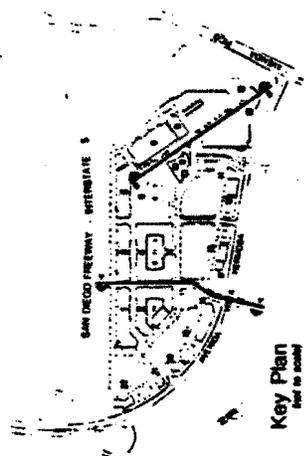
COASTAL COMMISSION
 5-99-260
 EXHIBIT # 81
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Marblehead Promenade at San Clemente
 San Clemente, California

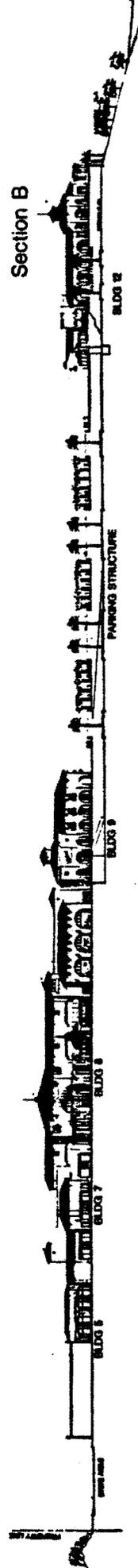
SDC Partners, LTD. & Craig Realty Group



Section A



Key Plan
Not to scale



Section B

A2.23

Site Sections

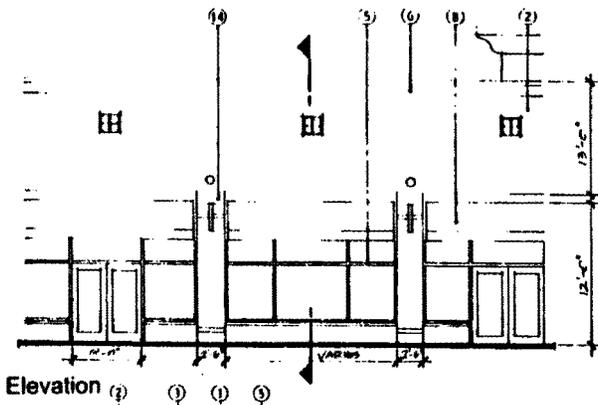
SDC PARTNERS, LTD. & CRAIG REALTY GROUP
 4 Upper Newport Place, Suite 200
 Newport Beach, California 92660
 Tel: 949.224.1100 Fax: 949.224.1101

COASTAL COMMISSION
5-99-260

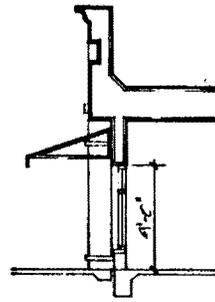
EXHIBIT # **8b**

PAGE **19** OF **20**

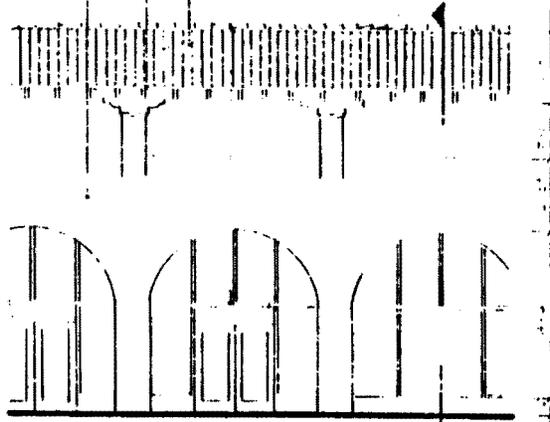
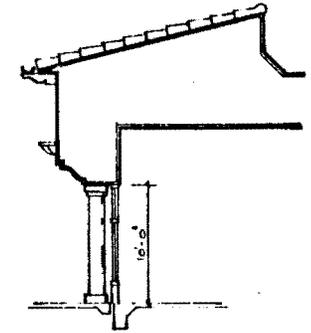
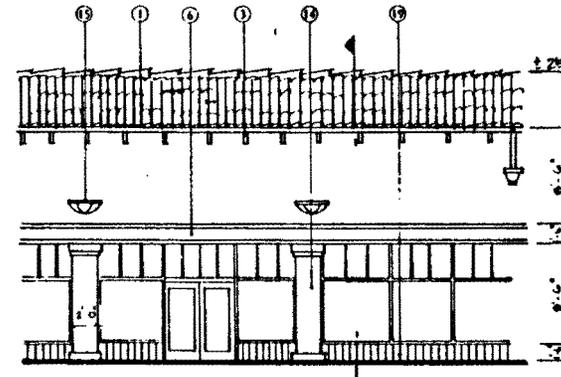
Marblehead Promenade at San Clemente
 San Clemente, California
 SDC PARTNERS, LTD. & CRAIG REALTY GROUP



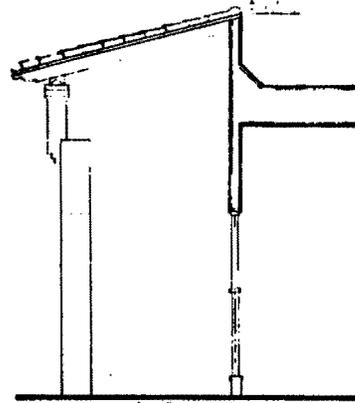
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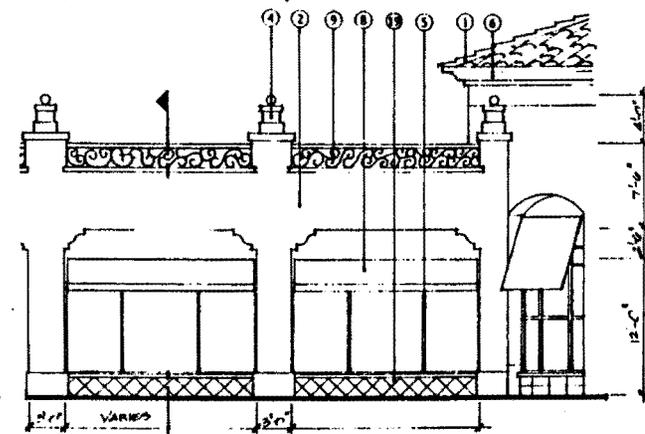
Section



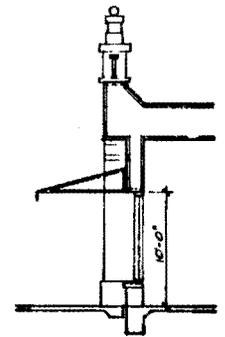
Elevation



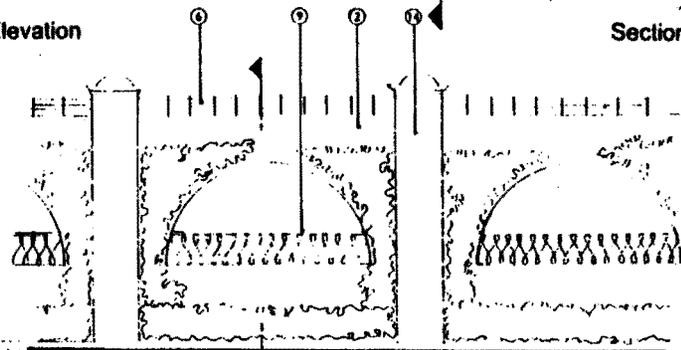
Section



Elevation

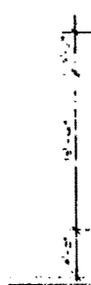


Section



Elevation

Parking Structure



Section

COASTAL COMMISSION
 5-99-260
 EXHIBIT # 8b
 PAGE 20 OF 25

Marblehead Promenade at San Clemente
 San Clemente, California

SDC Partners, LTD. & Craig Realty Group

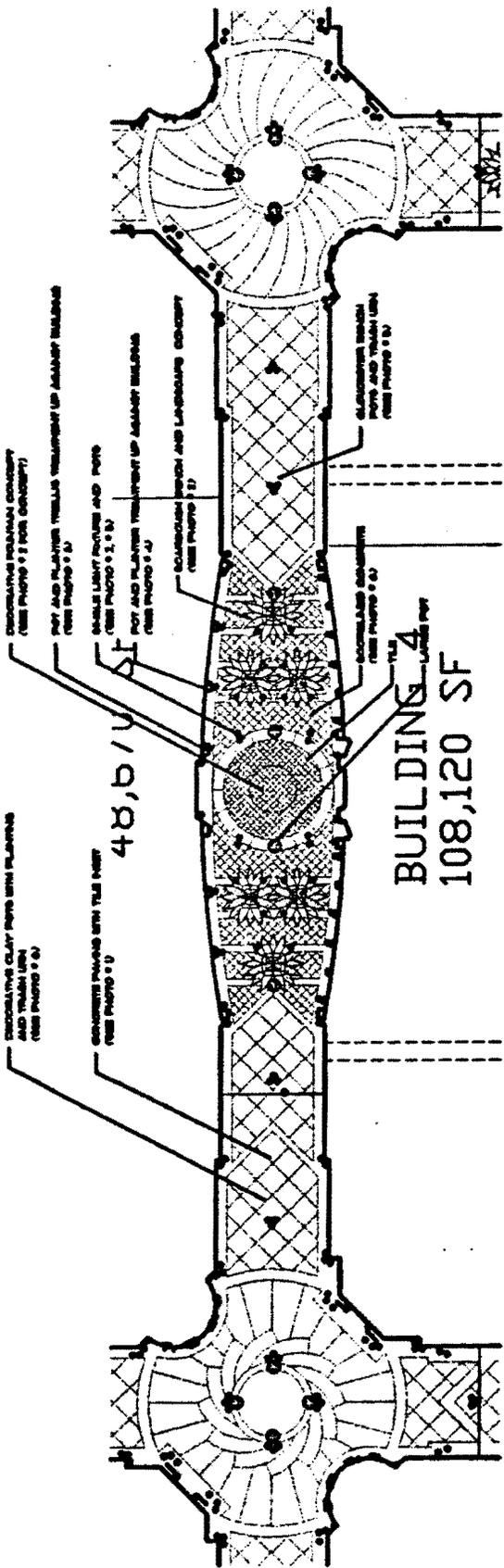
SDC Partners, LTD. & Craig Realty Group
 4 Upper Newport Plaza, Suite 201
 Newport Beach, California 92660
 Tel 949.851.1111 Fax 949.833.9760

1500 Quail Street, Suite 100
 Newport Beach, California 92660
 Tel 949.224.4100 Fax 949.224.4101



A3.0

Elev. Details



Pedestrian Corridor

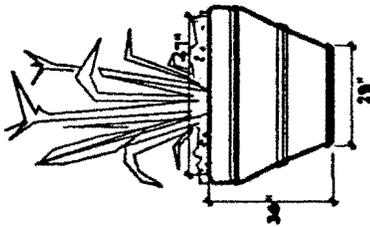
Concrete
 Granite
 Marble
 Aluminum
 Tile
 Paint
 Stucco
 Brick
 Glass
 Wood
 Metal
 Fabric
 Other

CLARKE & CLARKE, INC.
 1001 S. GARDEN ST.
 SANTA ANA, CALIFORNIA 92705
 TEL: 714/241-1111 FAX: 714/241-1112

COASTAL COMMISSION
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Marblehead Promenade at San Clemente

San Clemente, California
 SDC Partners, LTD. & Craig Realty Group
 4 Upper Newport Place, Suite 301
 Newport Beach, California
 TEL: 949-491-1111 FAX: 949-491-1112

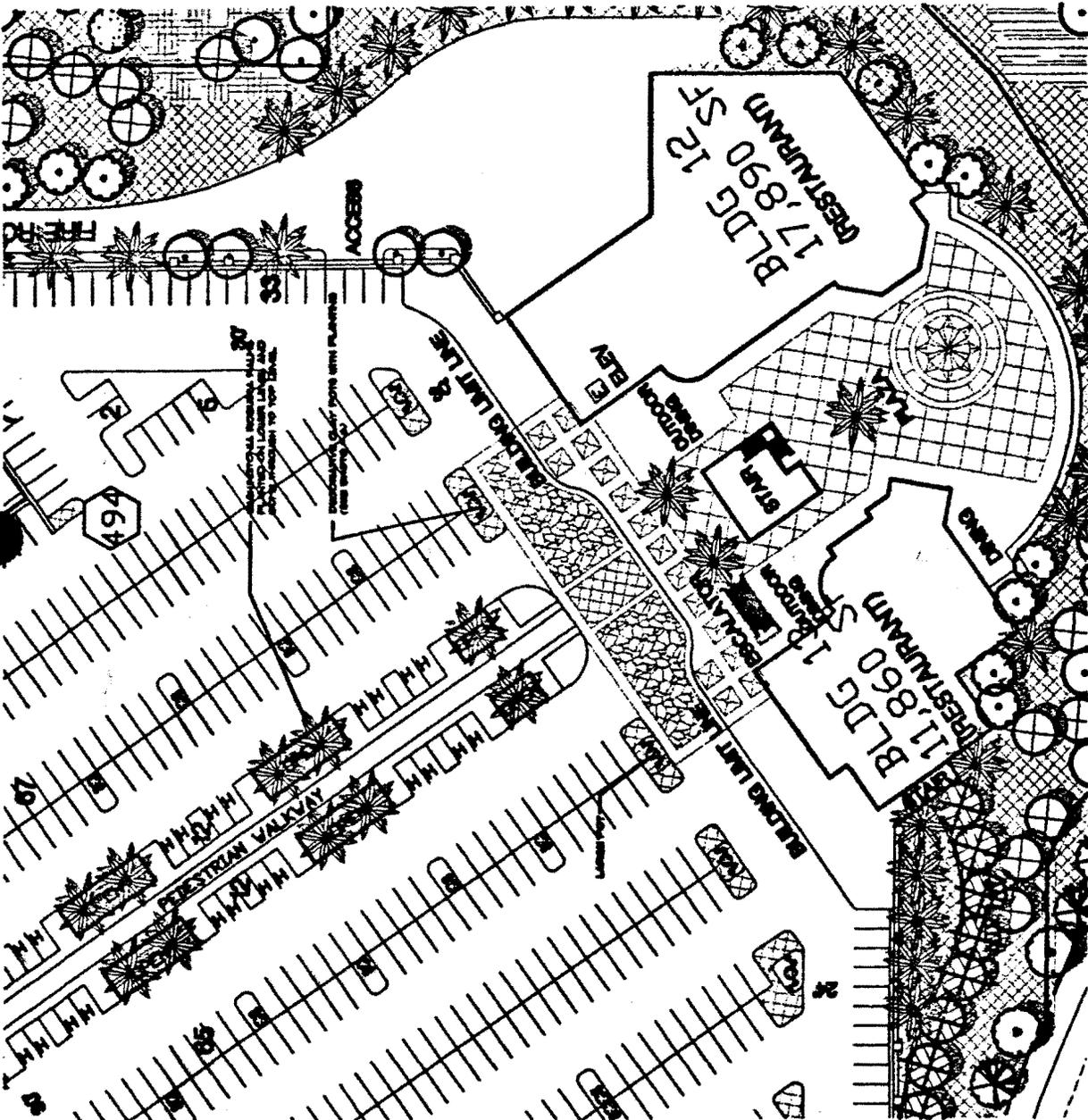


LARGE POT WITH PLANTING
 LARGE ITALIAN STYLE CONTAINER
 BIRD OF PARADISE W/ GROUNDCOVER
 BIRNATH



Buildings 12 & 13
 12
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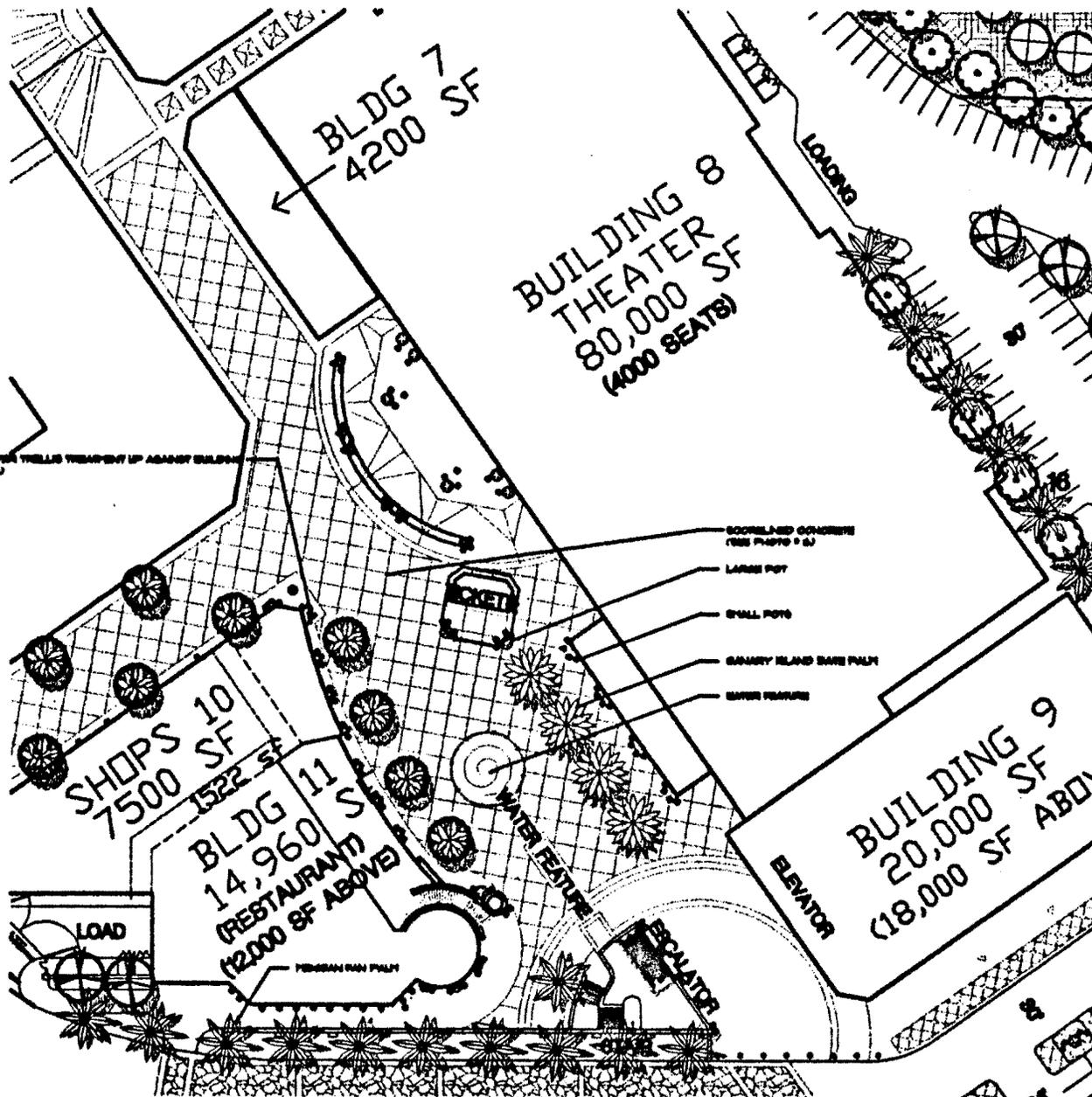
CLASNEY & CLASNEY, LTD.
 1000 S. GATEWAY BLVD.
 SUITE 100
 SAN ANTONIO, TEXAS 78204
 TEL: 512-343-1111 FAX: 512-343-1112



Marblehead Promenade at San Clemente
 San Clemente, California

COASTAL COMMISSION
 5-99-260
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 4 Upper Newport Place, Suite 201
 Newport Beach, California
 TEL: 949-451-9161 FAX: 949-451-4700



COASTAL COMMISSION
5-99-260
 EXHIBIT # 8b
 PAGE 26 OF 26



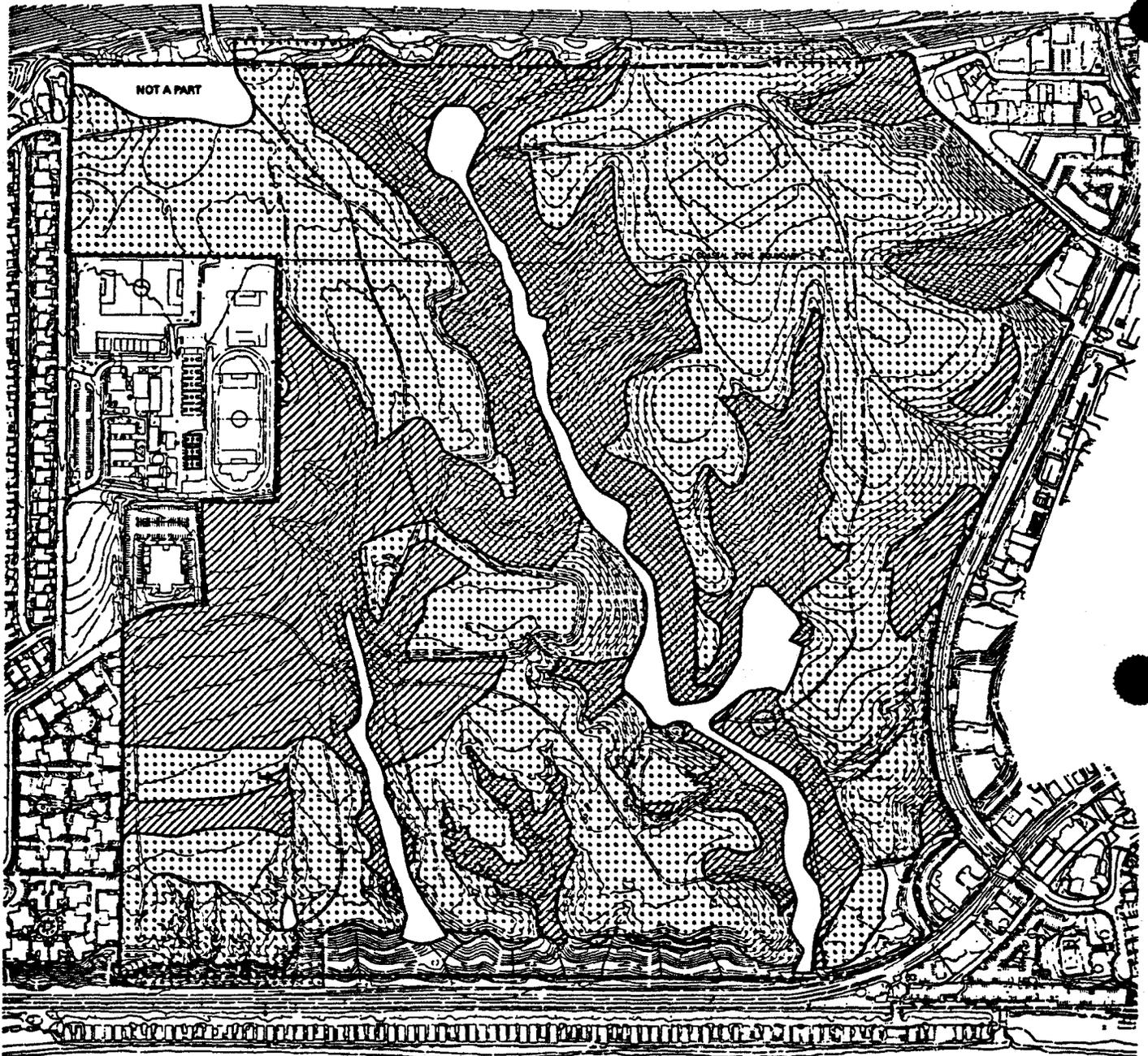
Theater Plaza
 L6

CLOSSON & CLOSSON, INC.
 1200 N. GARDEN STREET, SUITE 200
 ANAHEIM, CALIFORNIA 92816
 TEL: 714-938-1111 FAX: 714-938-1112

Marblehead Promenade at San Clemente

San Clemente, California

SDC Partners, LTD. & Craig Realty Group
 4 Upper Newport Plaza, Suite 501
 Newport Beach, California
 Tel: 949-891-1414 Fax: 949-891-6799



NOT A PART

PACIFIC OCEAN

LEGEND

-  GRADING CUT AREA
-  GRADING FILL AREA
-  NO PROPOSED GRADING

COASTAL COMMISSION
 5-99-260

EXHIBIT # 9
 PAGE 1 OF 2

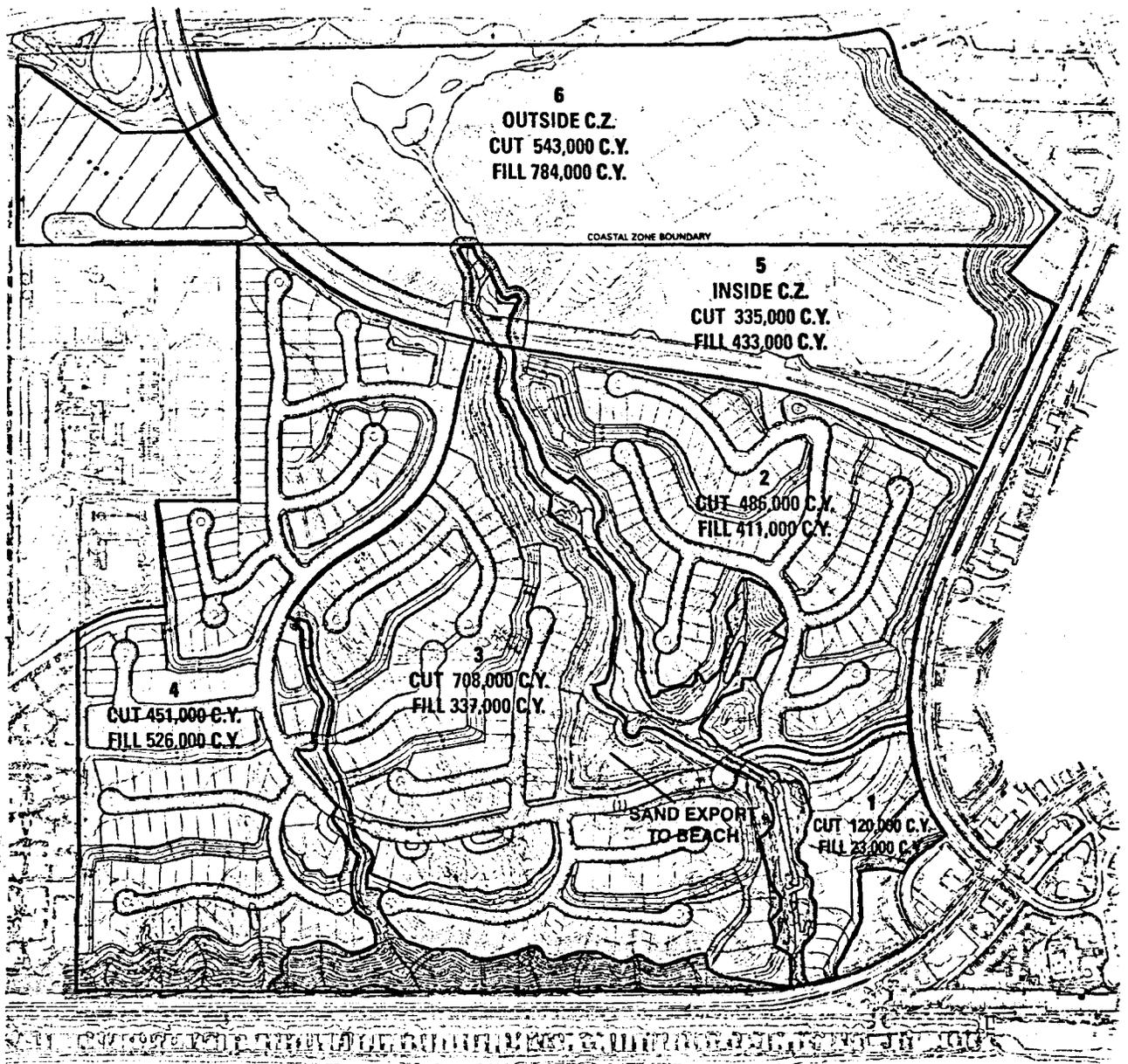
CITY OF SAN CLEMENTE
 MARBLEHEAD COASTAL

6/22/2000



RBF
 CONSULTING

**Cut and Fill Concept
 Alternative Wetland Avoidance**



 AREA NOT MASS GRADED

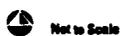
VOLUME ANALYSIS BY SUBAREA (CUT/FILL)

Subarea	CUT (C.Y.)	FILL (C.Y.)
1	120,000	23,000
2	486,000	411,000
3	708,000 (1)	337,000
4	451,000	526,000
5 INSIDE C.Z.	335,000	433,000
SUBTOTAL W/IN C.Z.:	2,100,000	1,730,000
6 OUTSIDE C.Z.	543,000	784,000
TOTALS	2,643,000	2,514,000
		*129,000
		2,643,000

* SHRINK @ 9% (ALLOW)

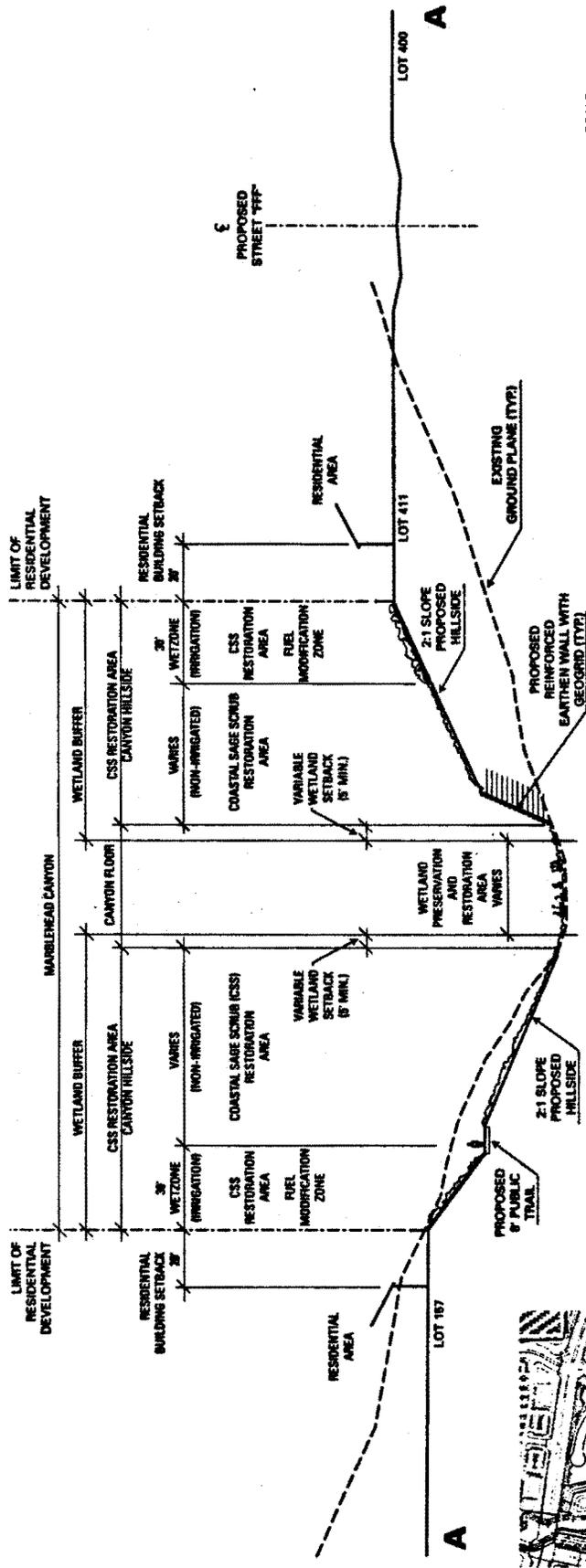
(1) Includes approximately 30,000 C.Y. to be exported for beach sand replenishment.

9-20-2000



COASTAL COMMISSION
5-99-260
 EXHIBIT # 9
 PAGE 2 OF 2

**CITY OF SAN CLEMENTE
 MARBLEHEAD COASTAL
 EARTHWORK VOLUME ANALYSIS**



SCALE
 1" = 40' horizontal
 1" = 40' vertical

CITY OF SAN CLEMENTE
 MARBLEHEAD COASTAL

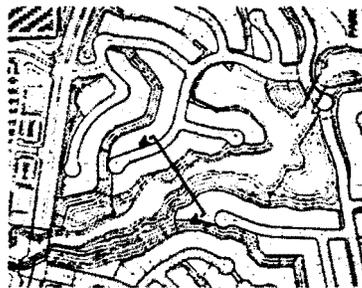
6/28/2000

EXHIBIT 2

Canyon Cross Section

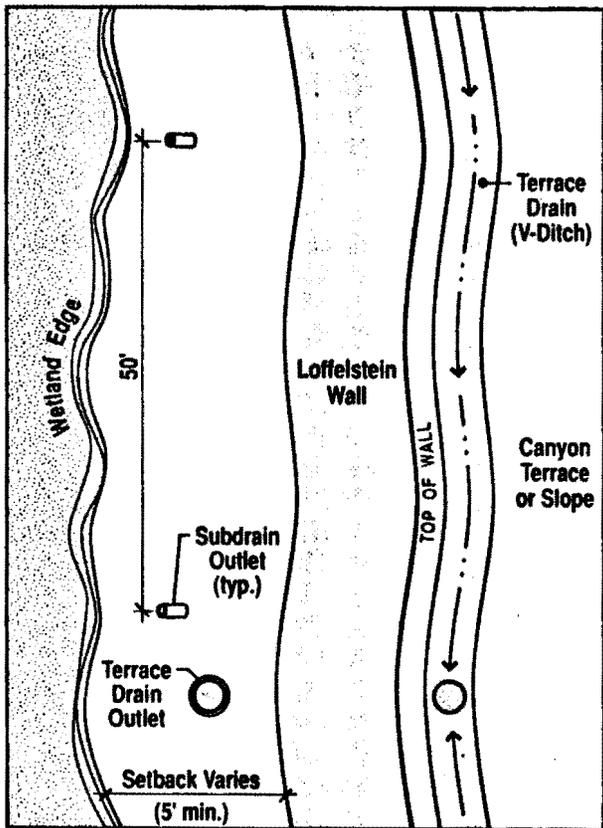
COASTAL COMMISSION
 5-99-260

EXHIBIT # 10
 PAGE 1 OF 1



LOCATION MAP
 (See Amended Tentative Tract No. 8817)



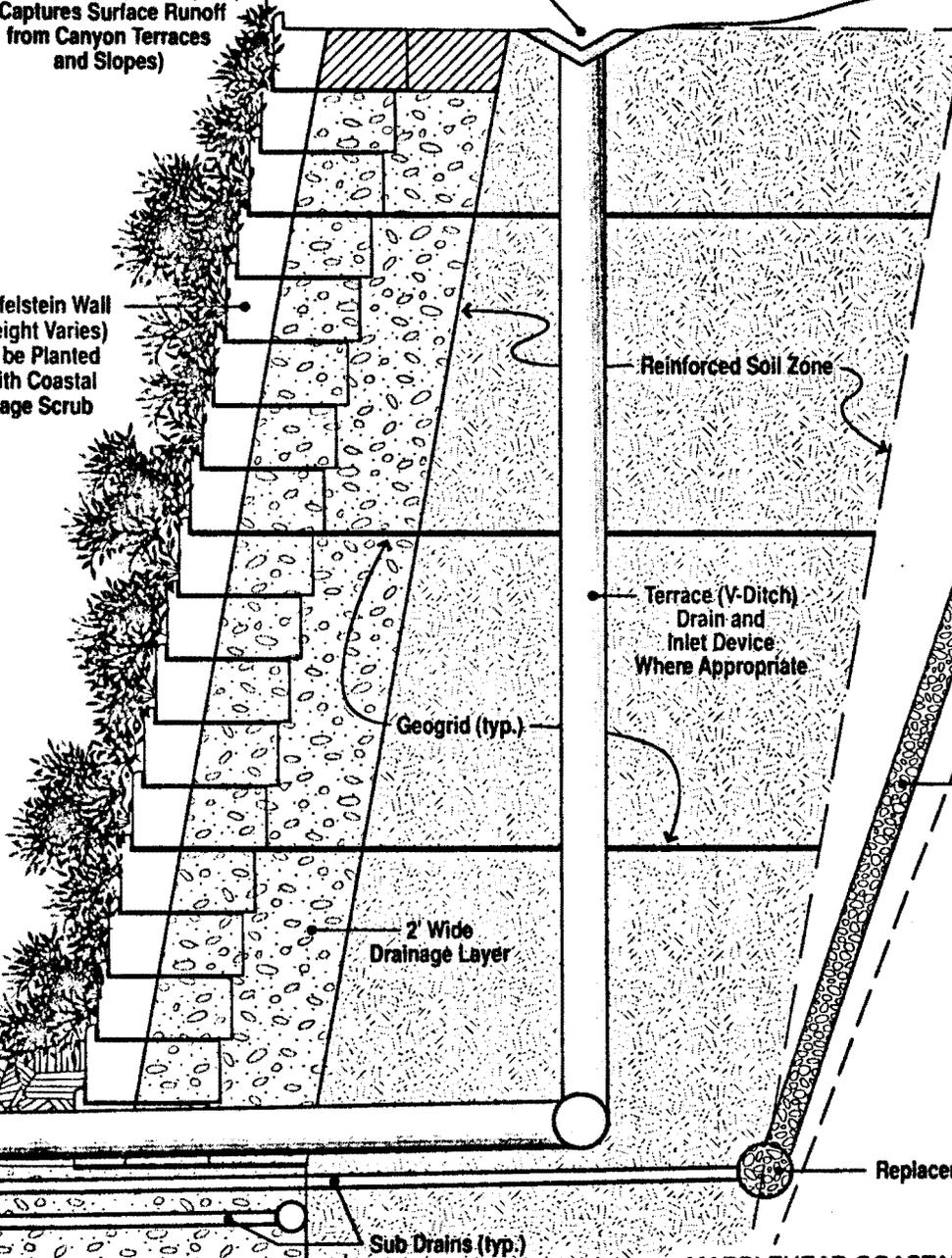


PLAN VIEW

Terrace (V-Ditch) Drain (1'-3')
(Captures Surface Runoff
from Canyon Terraces
and Slopes)

Loffelstein Wall
(Height Varies)
to be Planted
with Coastal
Sage Scrub

Canyon Terrace
or Slope



Extent of
Backcut

EXHIBIT # 11
PAGE 1 OF 1

COASTAL COMMISSION
5-99-260

Chimney Drain
(Captures Groundwater)

Surface Runoff Terrace Drain
Outlet / Dissipator (typ.)

Excess Storm Water to
Over Flow Periodically

Groundwater
Outlet

Permeable
Material

Wetland

Nuisance Flows
to Percolate to
Groundwater (typ.)

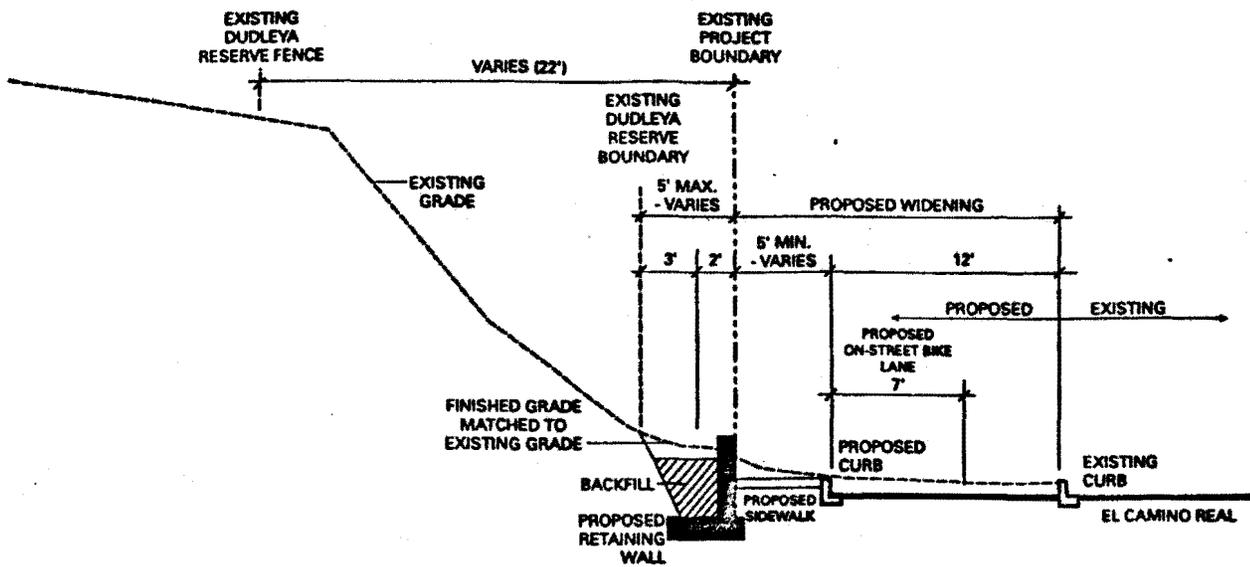
Solid PVC Drain and Inlet Device
to Capture Water Flow in
Terrace (V-Ditch) Drain

Sub Drains (typ.)

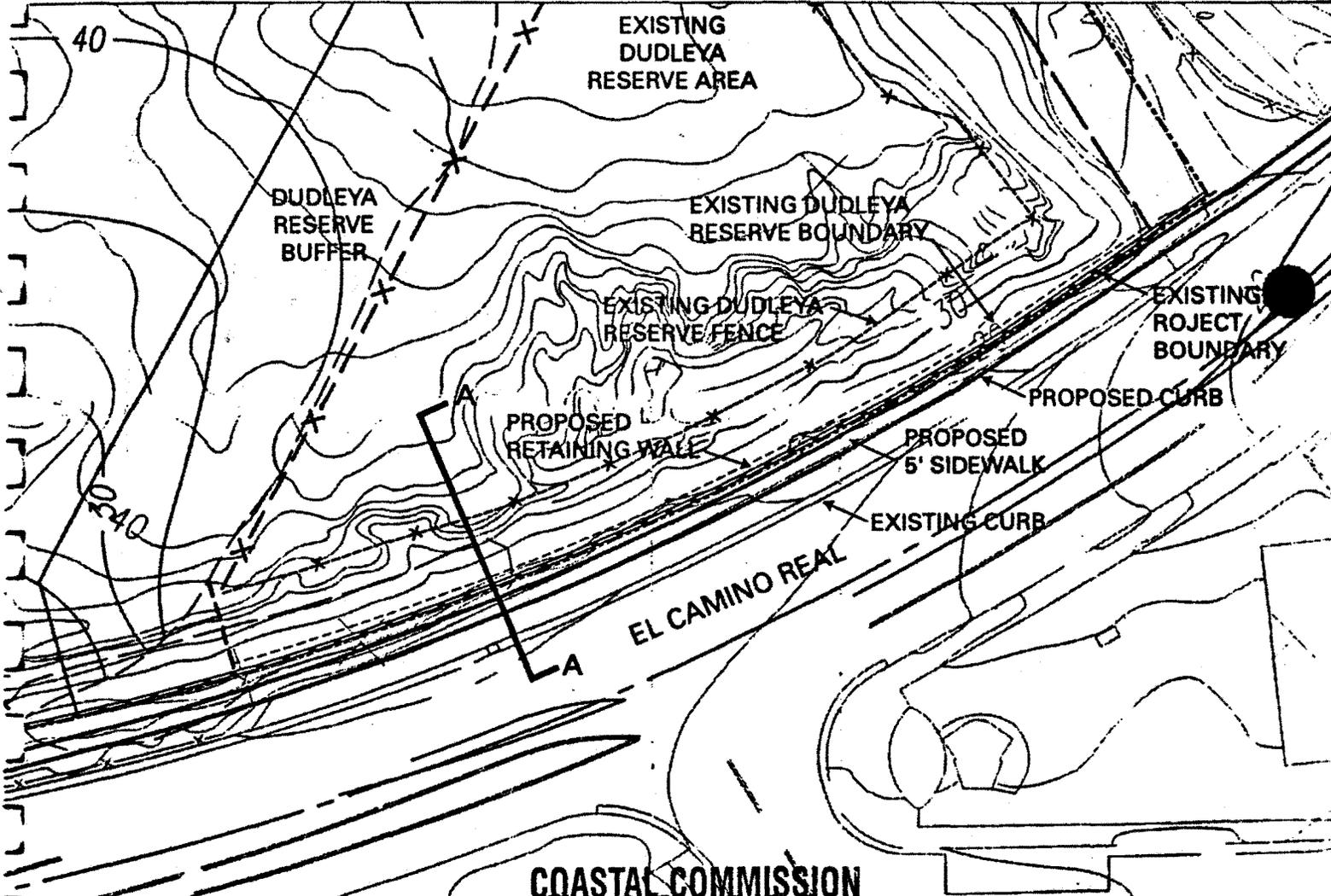
Replacement Fill Backdrain

MARBLEHEAD COASTAL - WATER QUALITY PLAN

Terrace (V-Ditch) Drain and Groundwater Sub Drain Outlets and Dissipator



SECTION A-A 1" = 10'
 (See North El Camino Real Retaining Wall Detail for specific information)



COASTAL COMMISSION
 5-99-260

CITY OF SAN CLEMENTE
 MARBLEHEAD COASTAL

SCALE
 1" = 50'

EXHIBIT # 12
 PAGE 1 OF 2

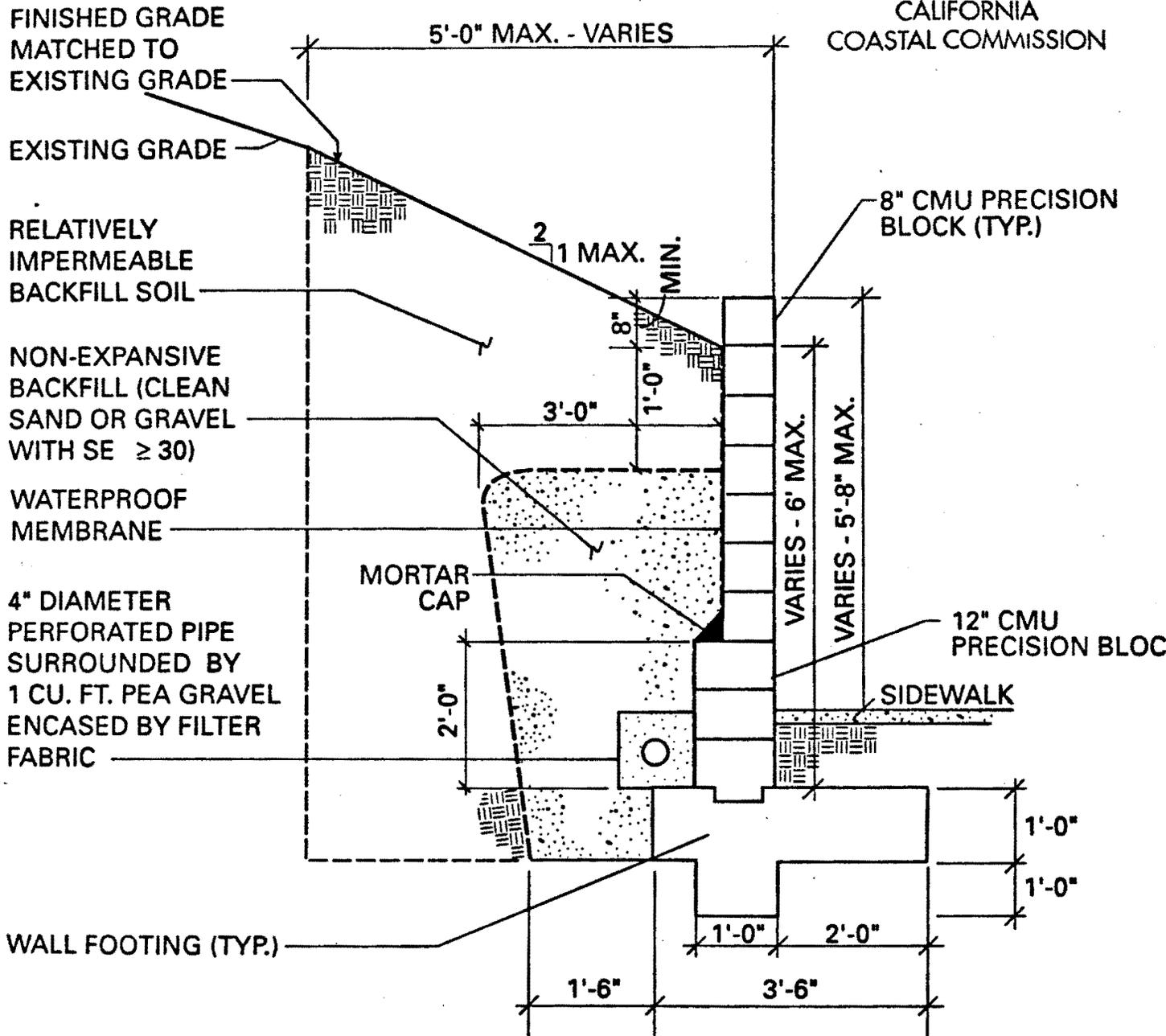
6/22/2000



North El Camino Real Retaining Wall Exhibit

AUG 23 2000

CALIFORNIA
COASTAL COMMISSION



NOTE: CONTRACTOR TO PROVIDE TEMPORARY SHORING FOR STABILITY OF BACKCUT DURING CONSTRUCTION OF WALL TO MAINTAIN 5'-0" MAXIMUM SETBACK FROM STREET SIDE OF WALL

COASTAL COMMISSION
5-99-260

EXHIBIT # 12
PAGE 2 OF 2

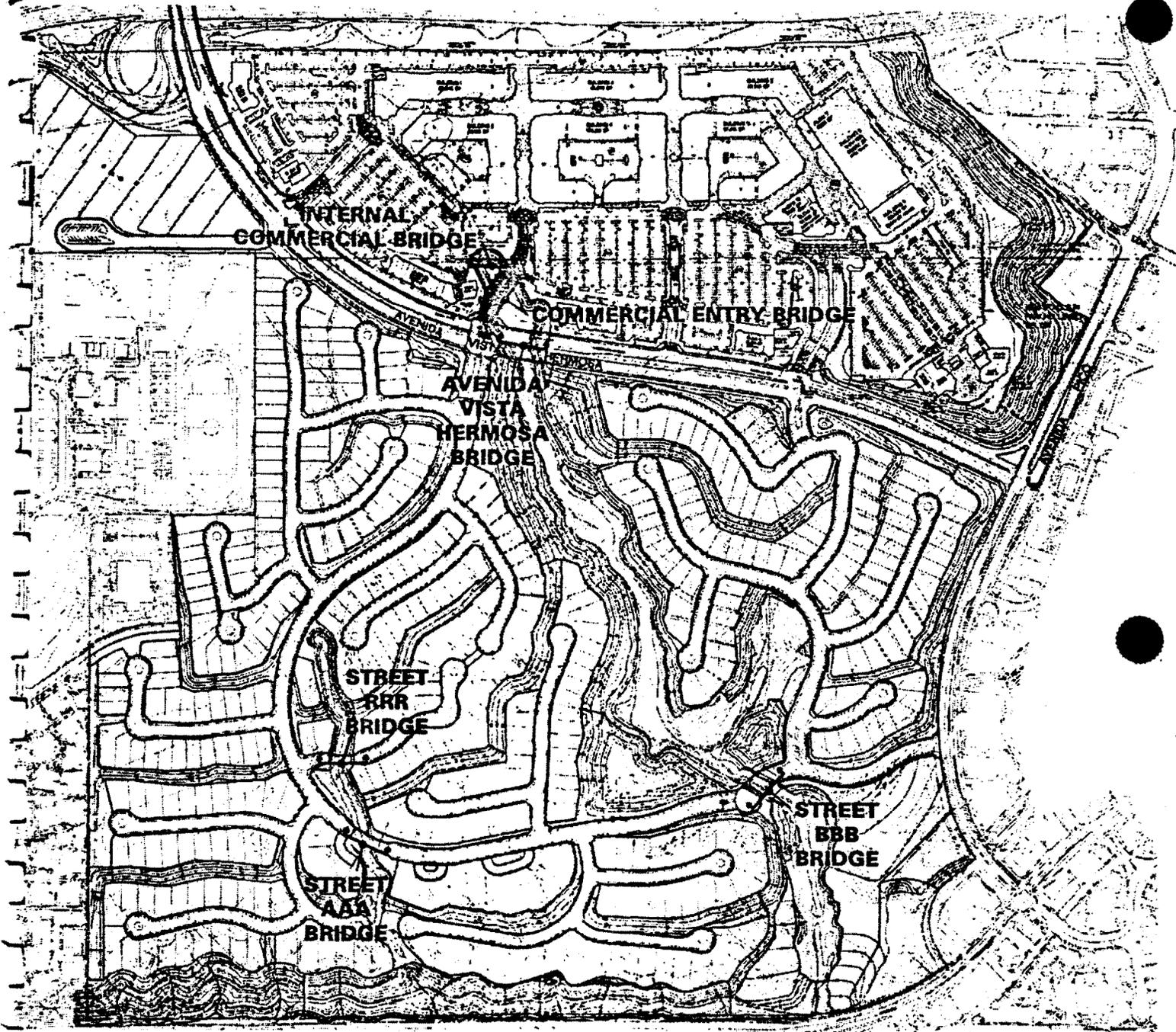
CITY OF SAN CLEMENTE
MARBLEHEAD COASTAL

SCALE
1" = 50'

7/8/2000



North El Camino Real Retaining Wall Detail



7/6/2000

D-G4\WORK\FOLDER\RBF\PROJECTS\MARBLEHEAD\BRIDGE\SECTIONS\6-8-00\SECTION\LOCATION\SECLOCALMAP

COASTAL COMMISSION
5-99-260

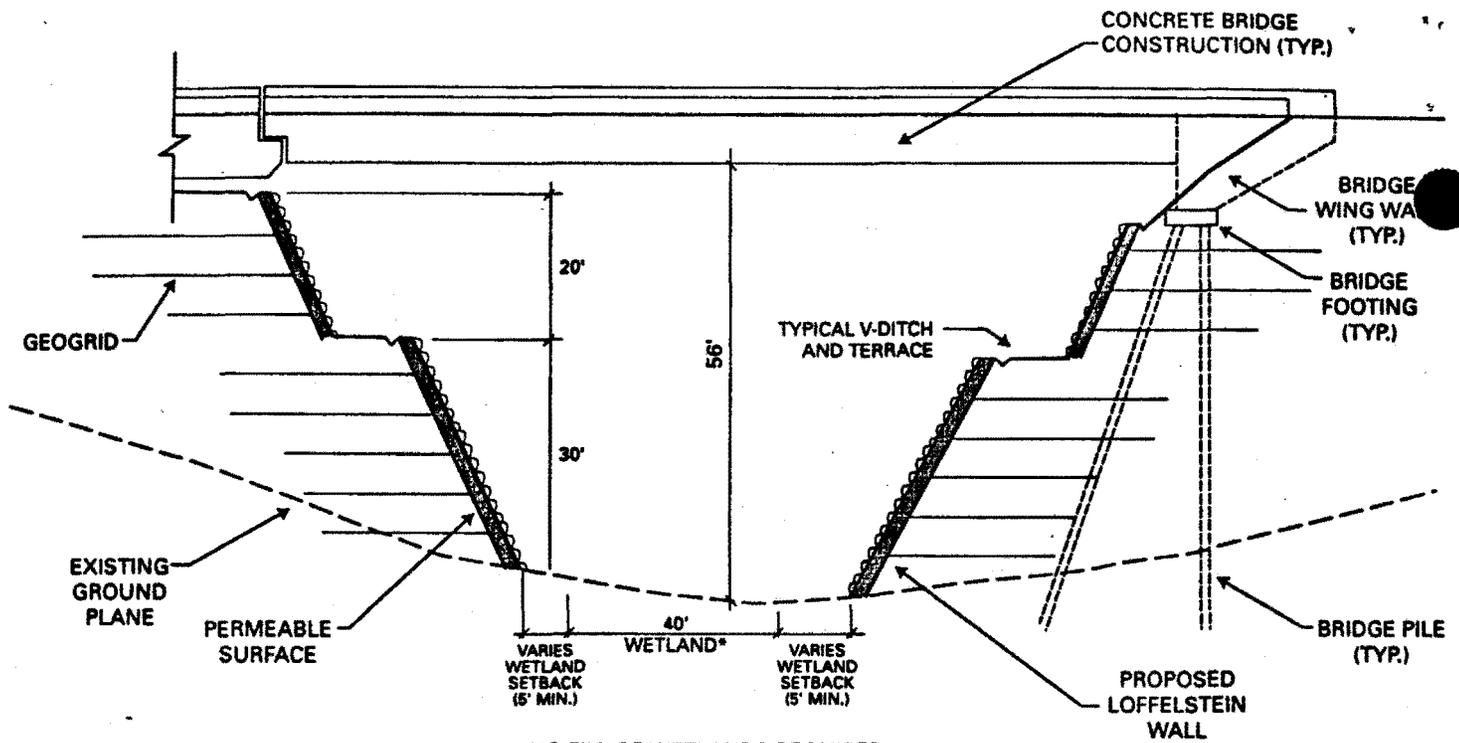
EXHIBIT # 13

PAGE 1 OF 7

CITY OF SAN CLEMENTE
MARBLEHEAD COASTAL

Bridge Profile Location Map

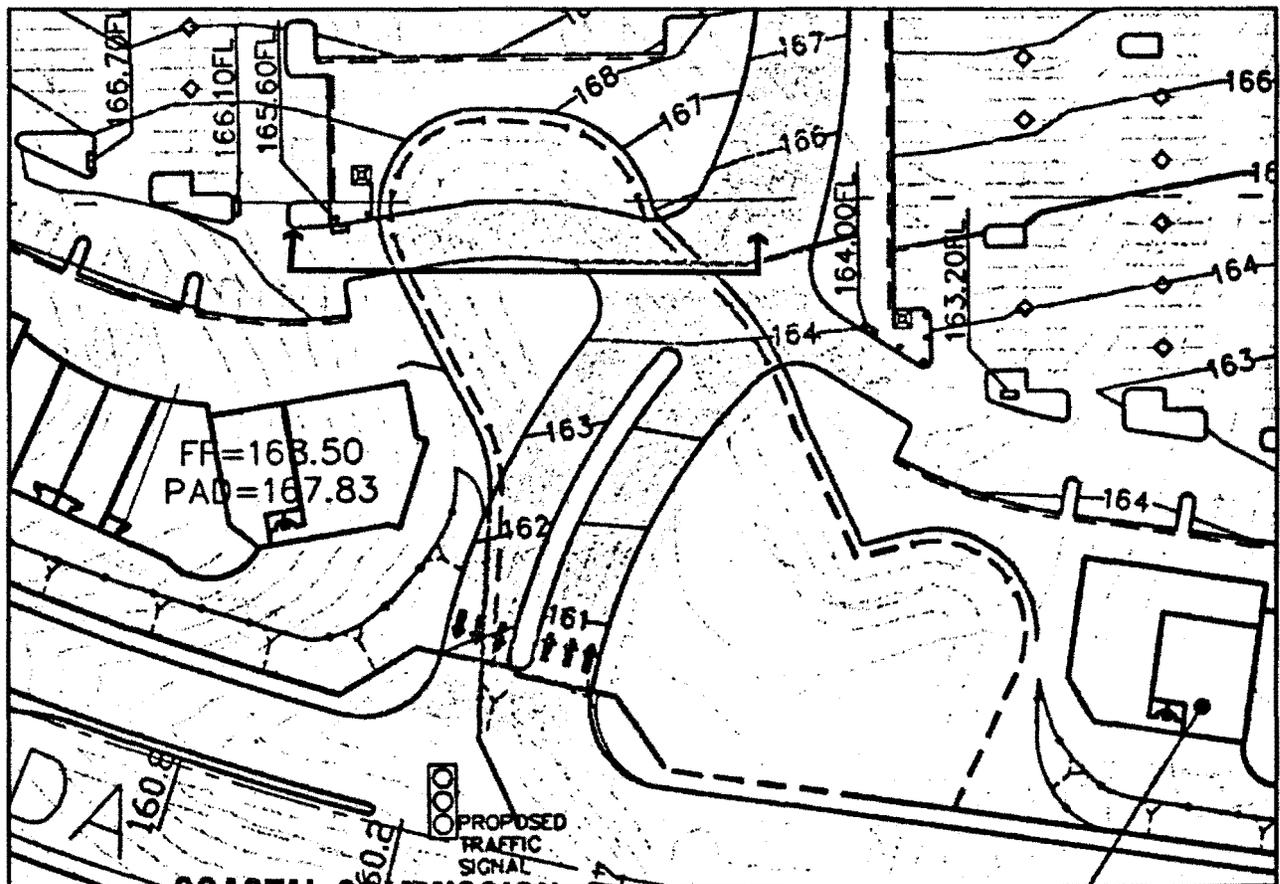




NO FILL OF WETLANDS REQUIRED
 *CDFG Delineation of Wetland

INTERNAL COMMERCIAL BRIDGE PROFILE IN ELEVATION

(See Amended TTM 8817 for more detail)



PLAN VIEW
 (not to scale)

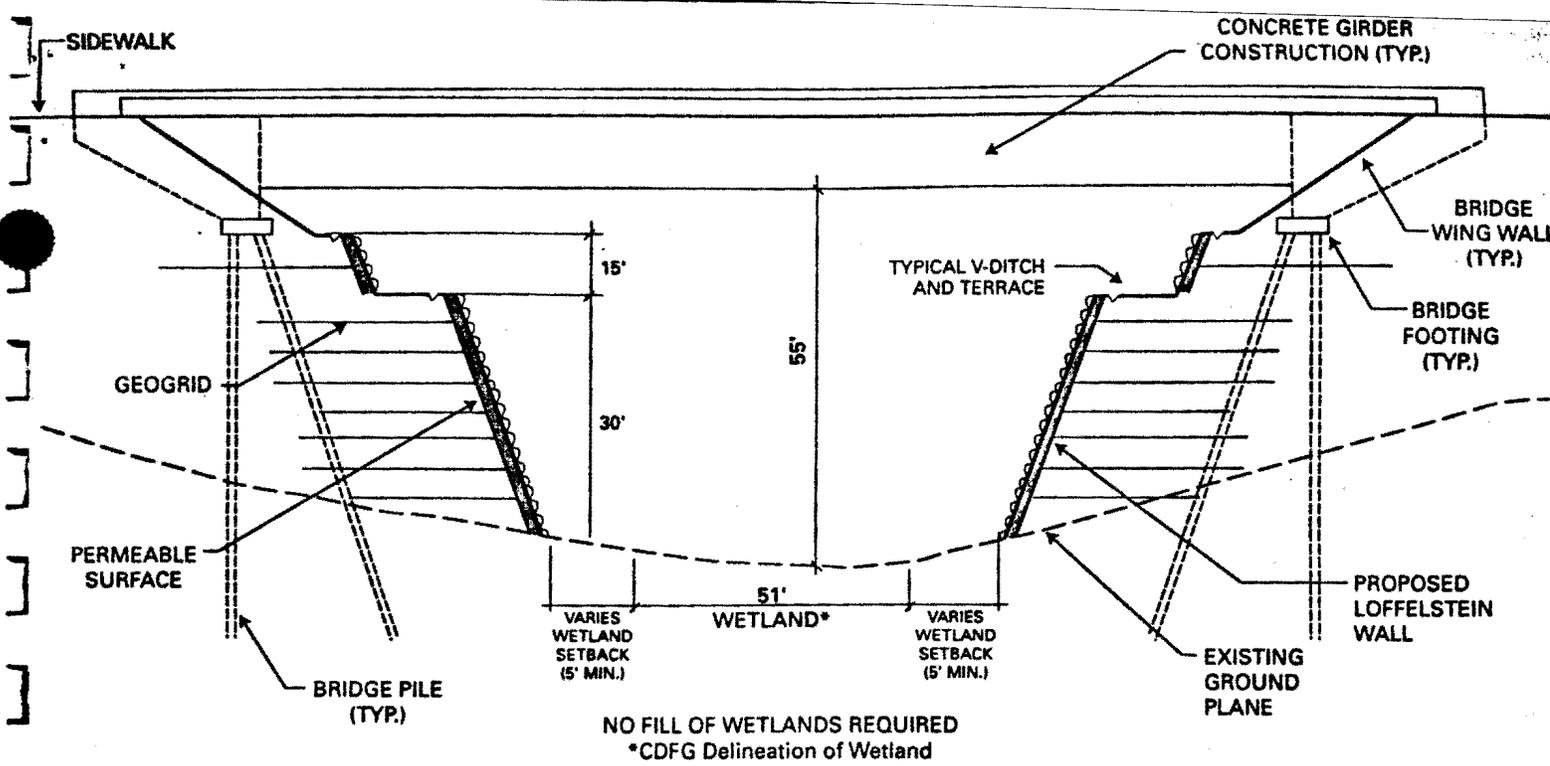
COASTAL COMMISSION
5-99-260

NOTE: Concrete bridge preferred to span and avoid impacts to wetlands.

EXHIBIT # 13

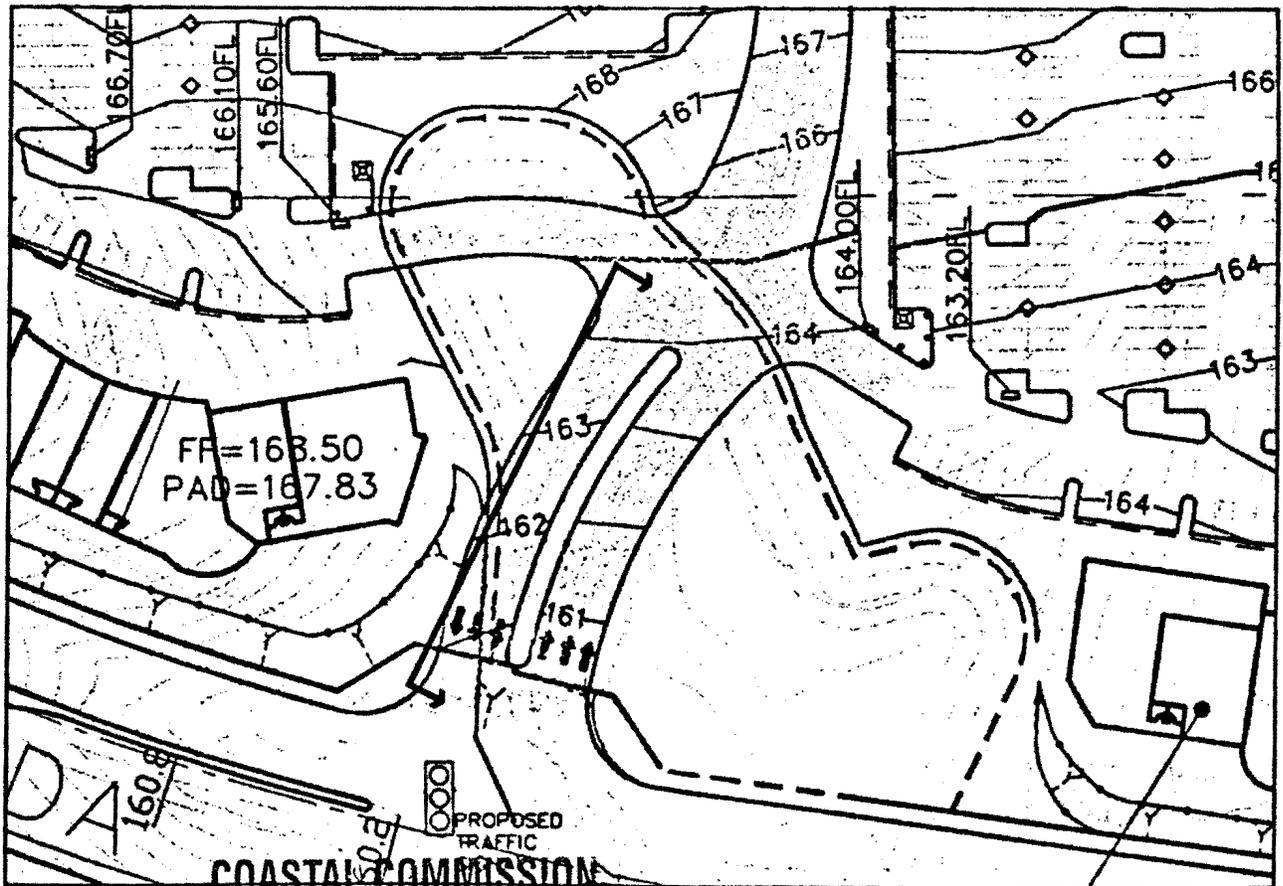
MARBLEHEAD COASTAL • CITY OF SAN CLEMENTE

PAGE 3 OF **Bridge Profile, Internal Commercial**



COMMERCIAL BRIDGE PROFILE IN ELEVATION

(See Amended TTM 8817 for more detail)



PLAN VIEW
1" = 50'

NOTE: Concrete bridge preferred to span and avoid impacts to wetlands.

COASTAL COMMISSION
5-99-260

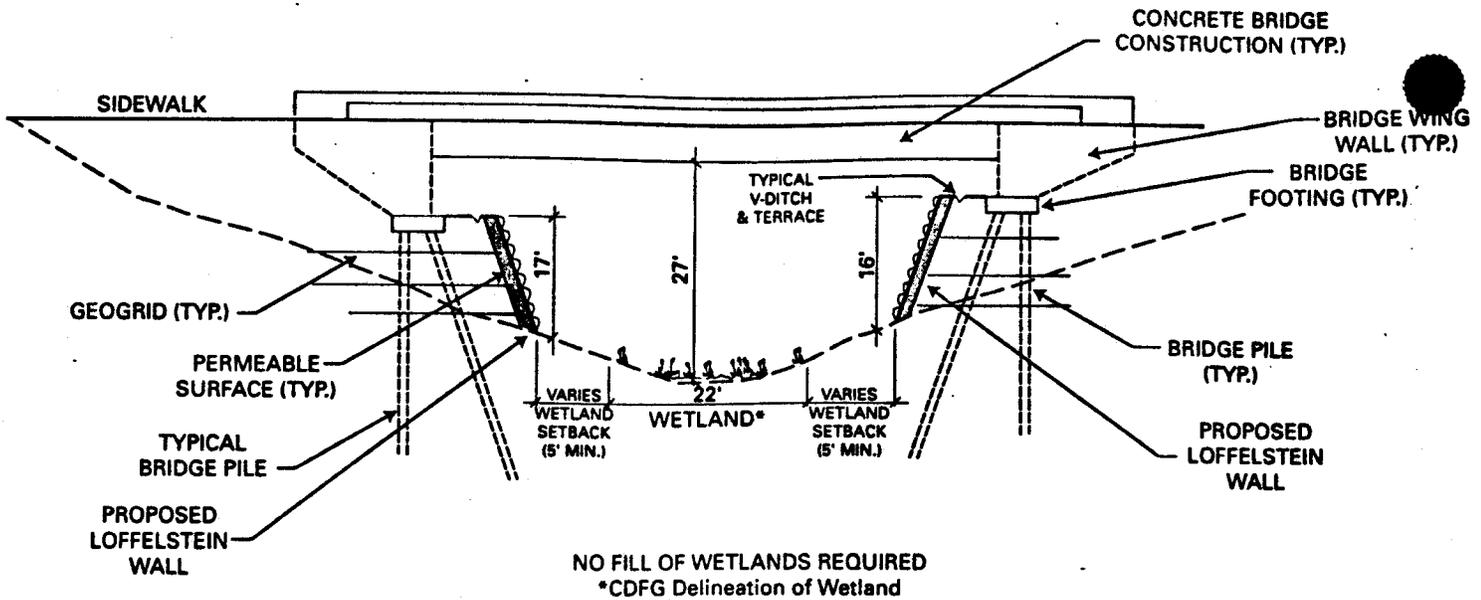
EXHIBIT # 13

PAGE 4 OF 7

MARBLEHEAD COASTAL • CITY OF SAN CLEMENTE

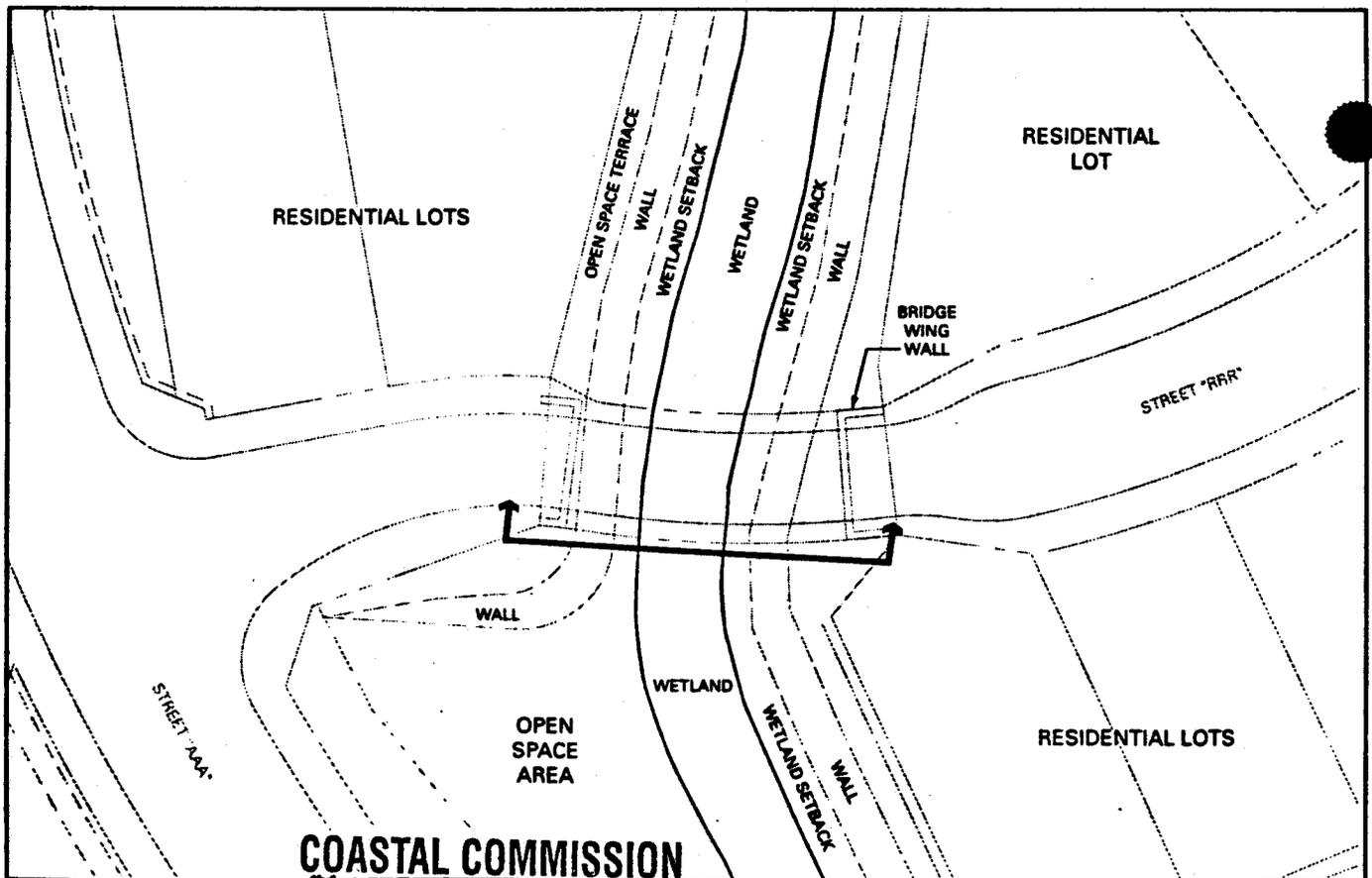
Bridge Profile, Commercial Entry





BRIDGE PROFILE STREET RRR IN ELEVATION

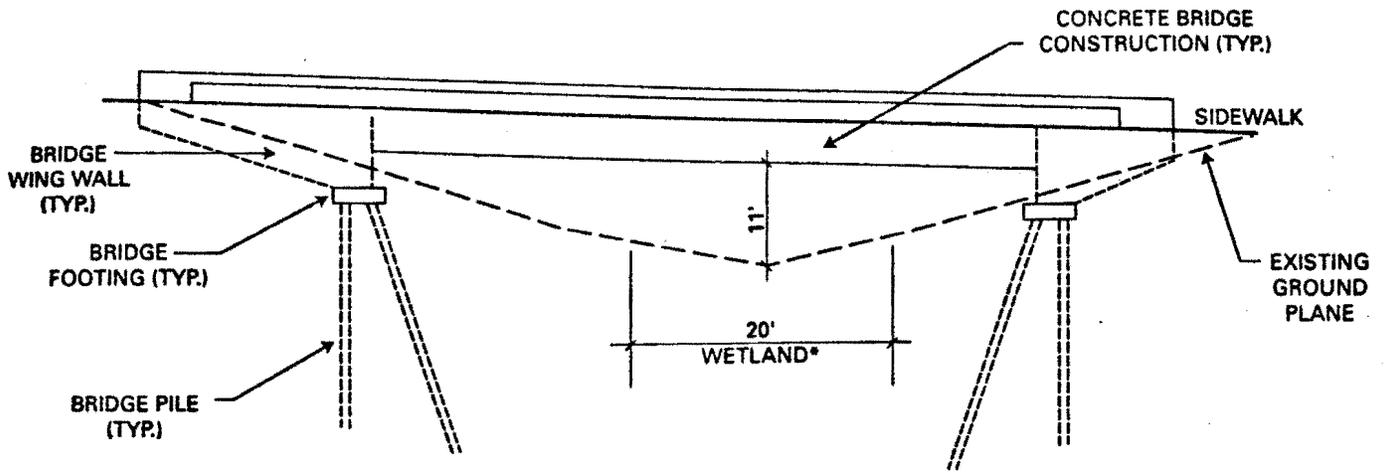
(See Amended TTM 8817 for more detail)



PLAN VIEW
1" = 50'

EXHIBIT # 13
PAGE 5 OF 7

MARBLEHEAD COASTAL • CITY OF SAN CLEMENTE
Bridge Profile, Street RRR

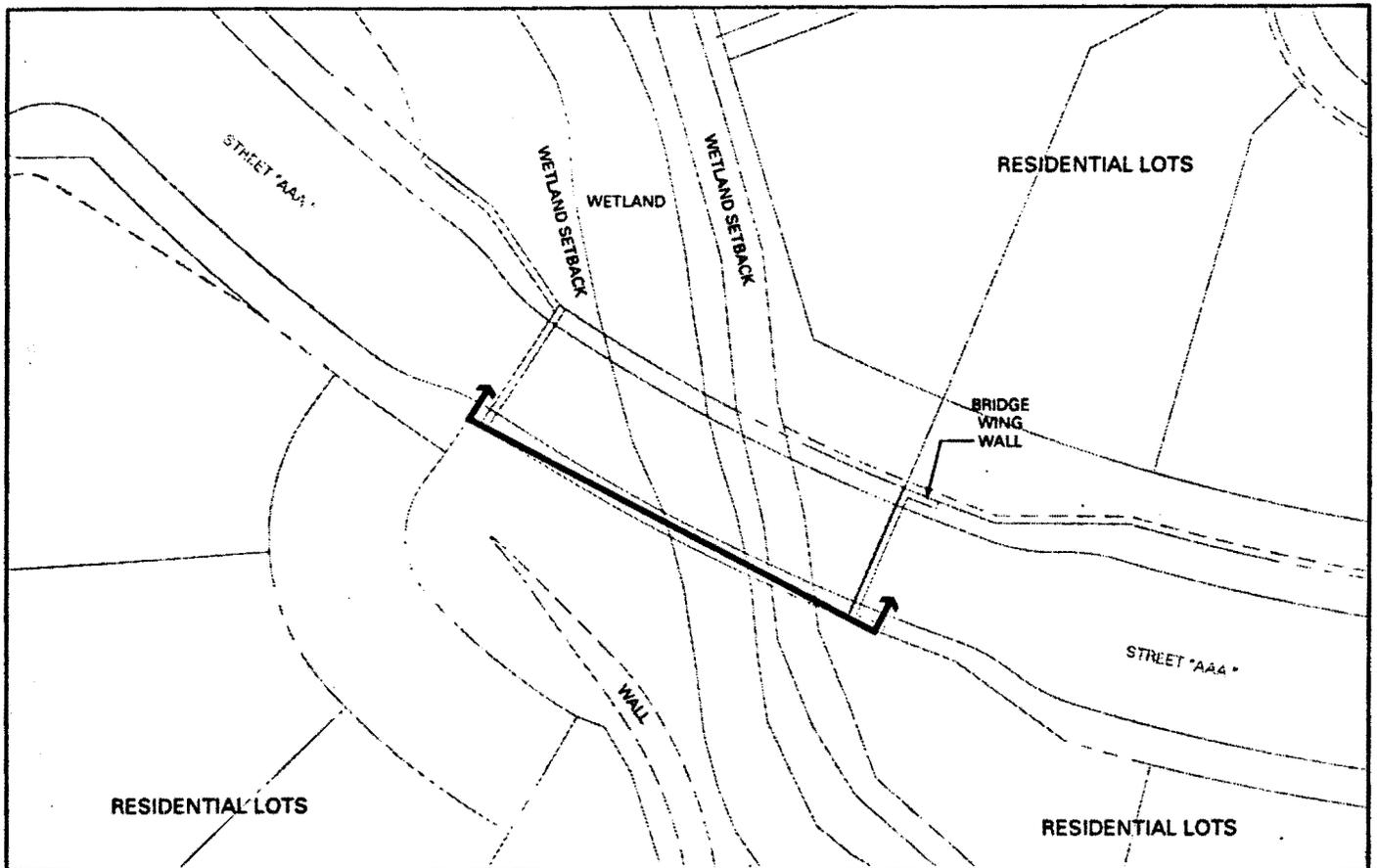


NO FILL OF WETLANDS REQUIRED
 *CDFG Delineation of Wetland

NOTE: With the required grading (outside the wetland), the 5 foot Loffelstien Wall under the bridge is not necessary as the wing wall to the bridge retains the slope.

BRIDGE PROFILE STREET AAA IN ELEVATION

(See Amended TTM 8817 for more detail)



PLAN VIEW
 1" = 50'

COASTAL COMMISSION
 5-99-260

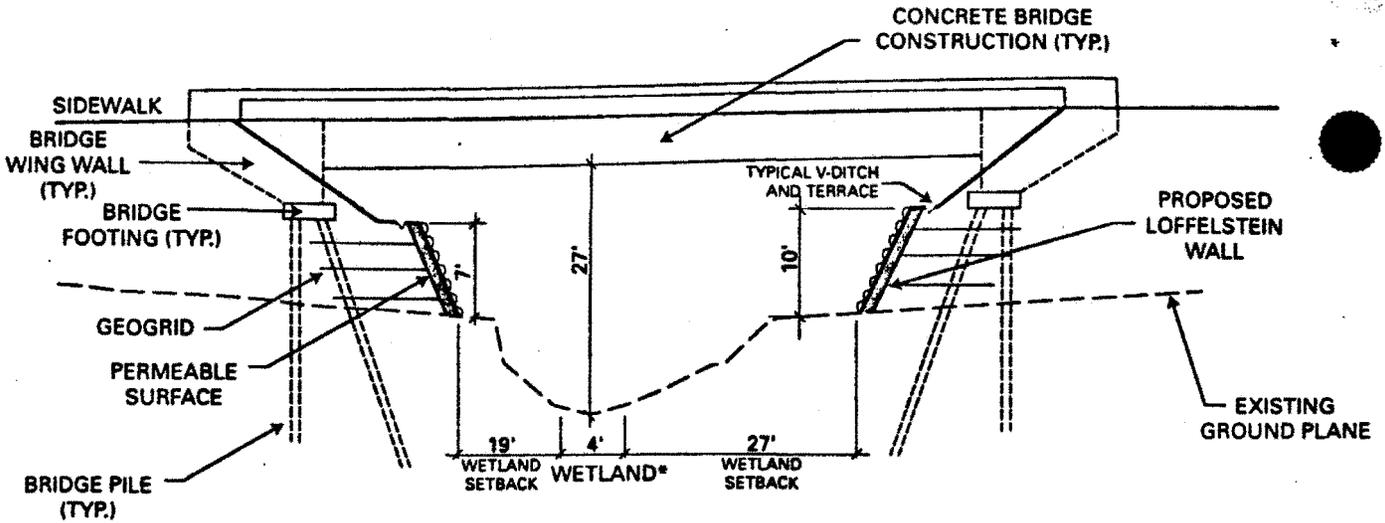
NOTE: Concrete bridge preferred to span and avoid impacts to wetlands.

EXHIBIT # 13
 PAGE 6 OF 7

MARBLEHEAD COASTAL • CITY OF SAN CLEMENTE
Bridge Profile, Street AAA



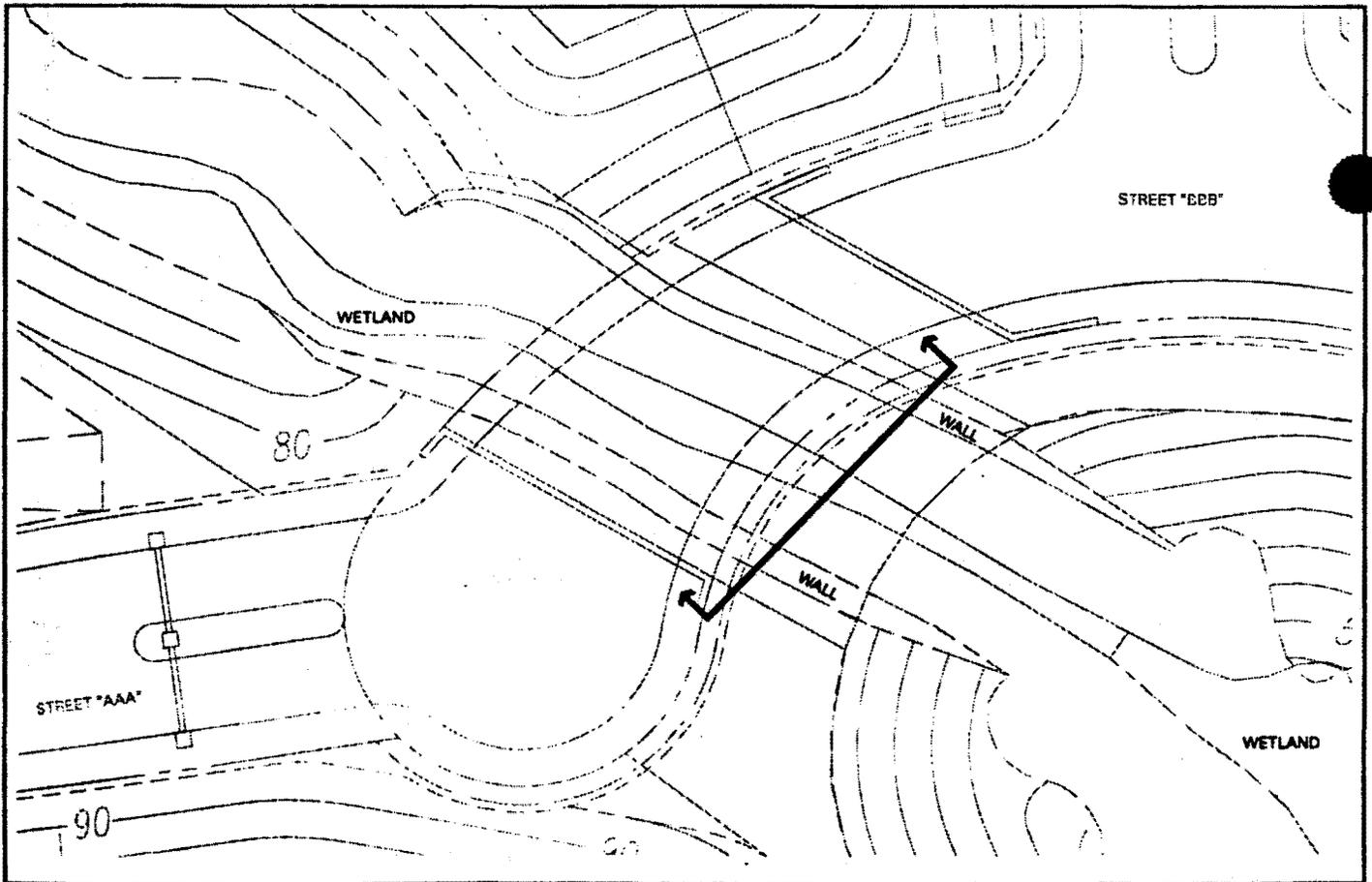
7/00 JUN 10-030481-7844



NO FILL OF WETLANDS REQUIRED
 *CDFG Delineation of Wetland

BRIDGE PROFILE STREET BBB IN ELEVATION

(See Amended TTM 8817 for more detail)



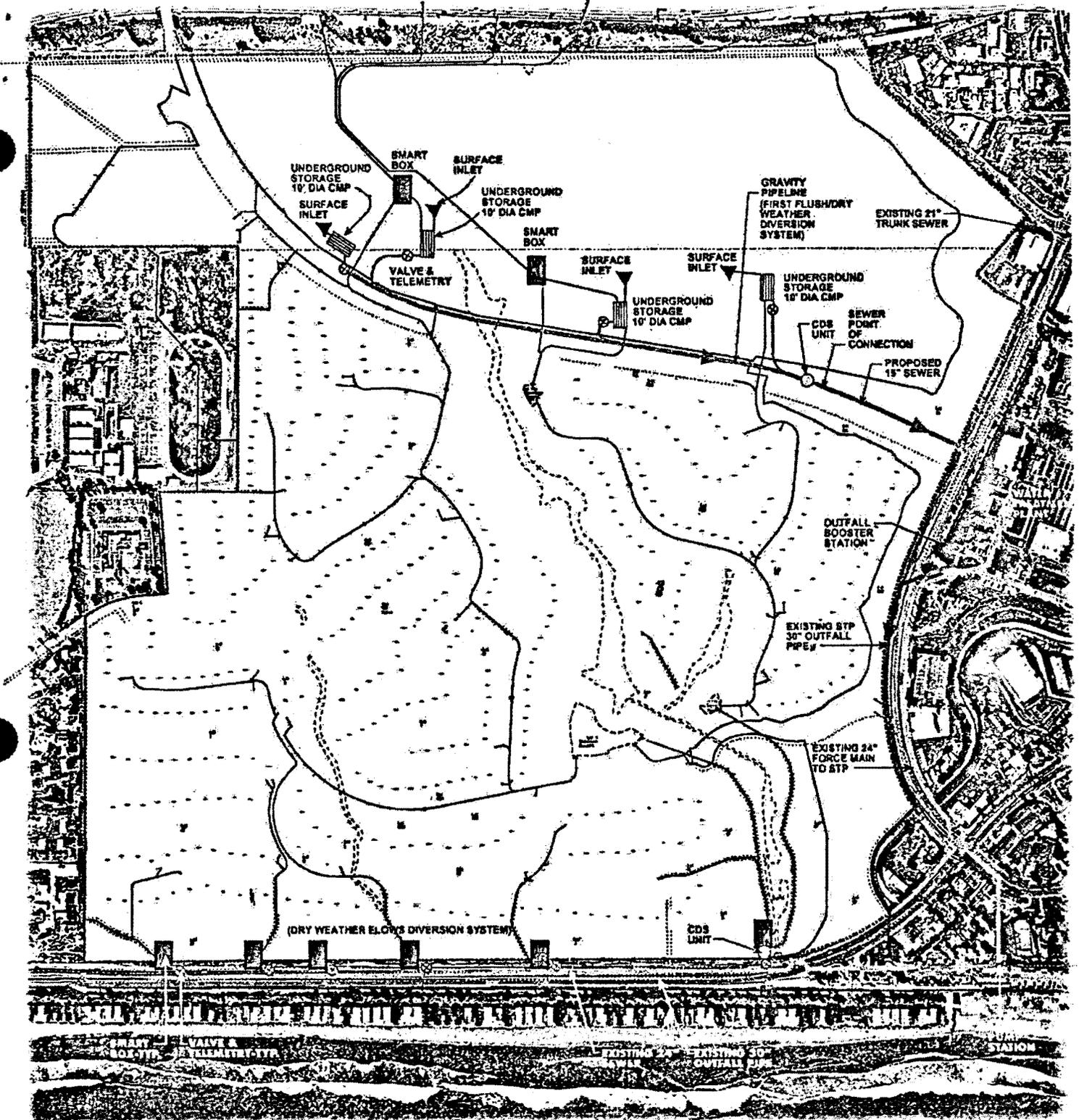
PLAN VIEW
 1" = 50'

COASTAL COMMISSION
 5-99-260

NOTE: Concrete bridge preferred to span
 and avoid impacts to wetlands

EXHIBIT # 13
 PAGE 7 OF 7

MARBLEHEAD COASTAL • CITY OF SAN CLEMENTE
Bridge Profile, Street BBB



LEGEND

-  SMART BOX
-  UNDERGROUND DETENTION 10 CMP
-  VALVE & TELEMTRY
-  PROPOSED PIPE SYSTEM TO WTP
-  EXISTING LAND OUTFALL
-  EXISTING SEWER LINE TO WTP
-  WETLAND VEGETATION EDGE
-  CONTINUOUS DEFLECTION SEPARATION (CDS) UNIT
-  REGIONAL COMMERCIAL AREA
-  RESIDENTIAL AREA

NOTE: TELEMTRY TO BE CONTROLLED AT WTP

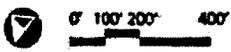
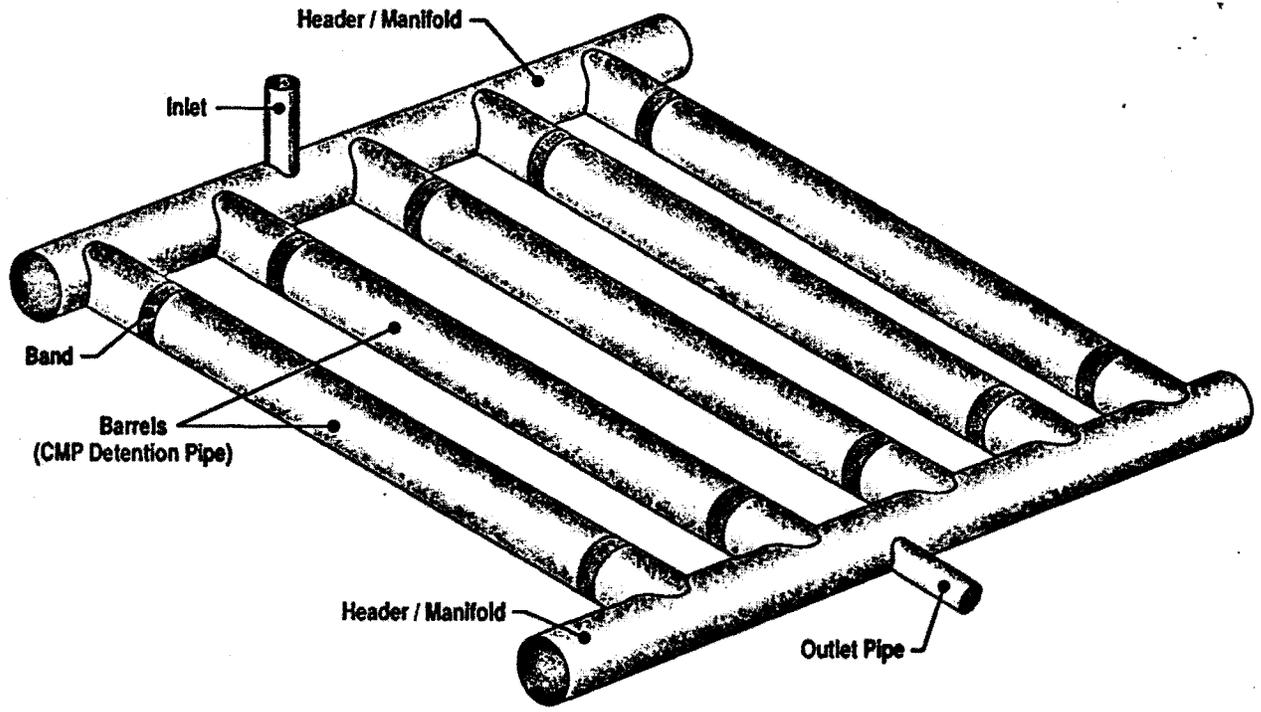


EXHIBIT No. 14
 Page 1 of 4
 Application Number:
5-99-260

California Coastal
 Commission

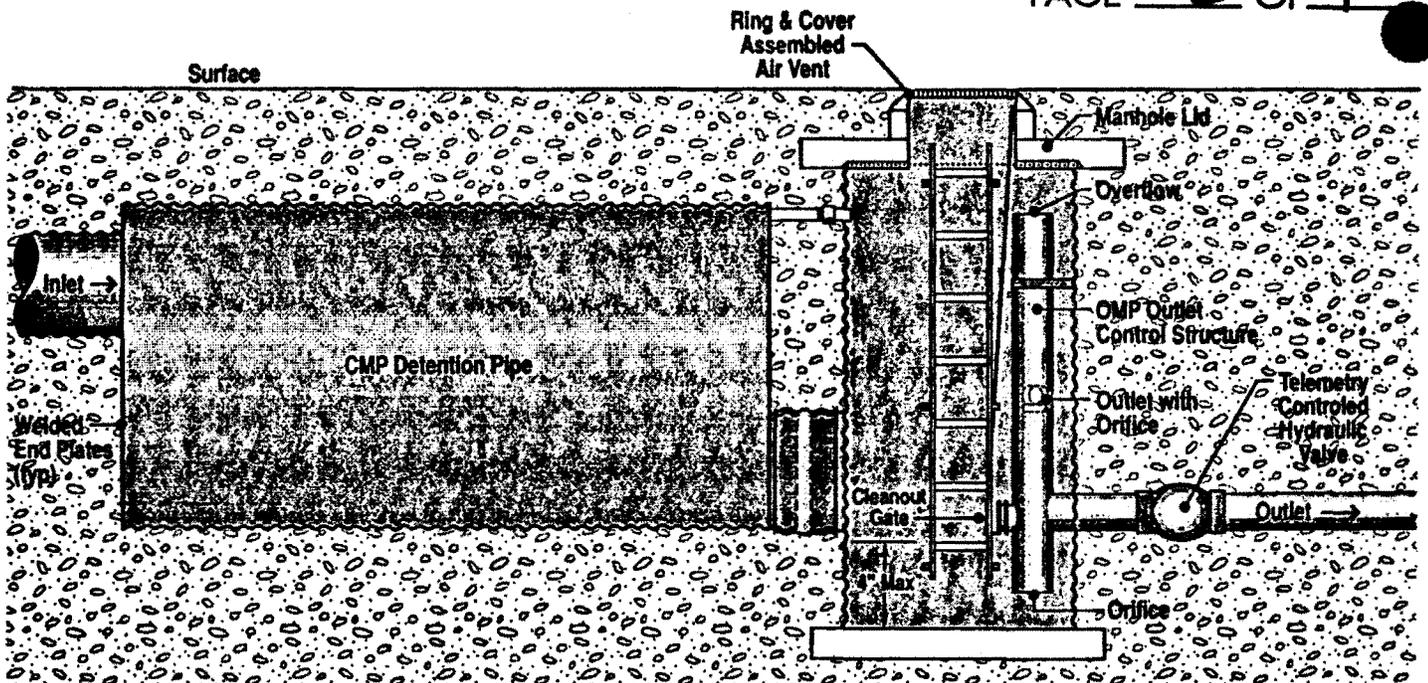
CITY OF SAN CLEMENTE
MARBLEHEAD COASTAL
WATER QUALITY PLAN



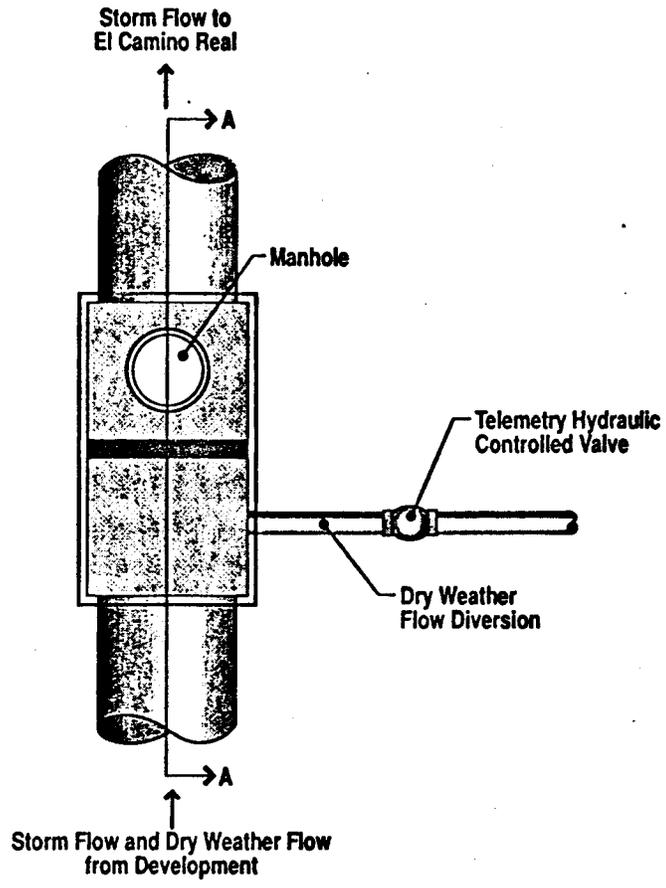
Schematic Underground Detention System
 (Source: Contech Construction Products)

COASTAL COMMISSION
5-99-260

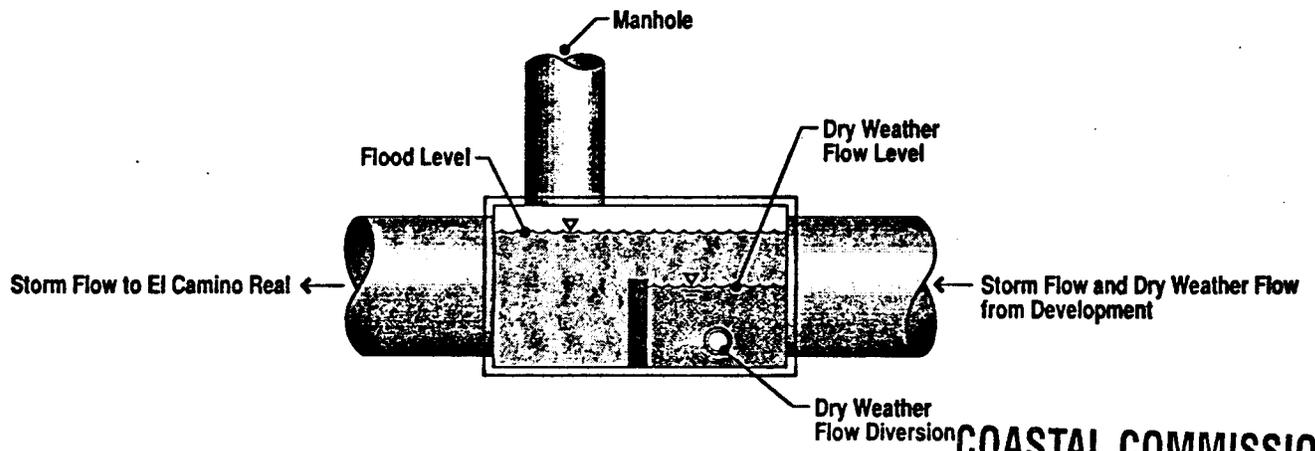
EXHIBIT # 14
 PAGE 2 OF 4



Schematic Underground Detention System Outlet
 (Source: Pacific Corrugated Pipe Company)

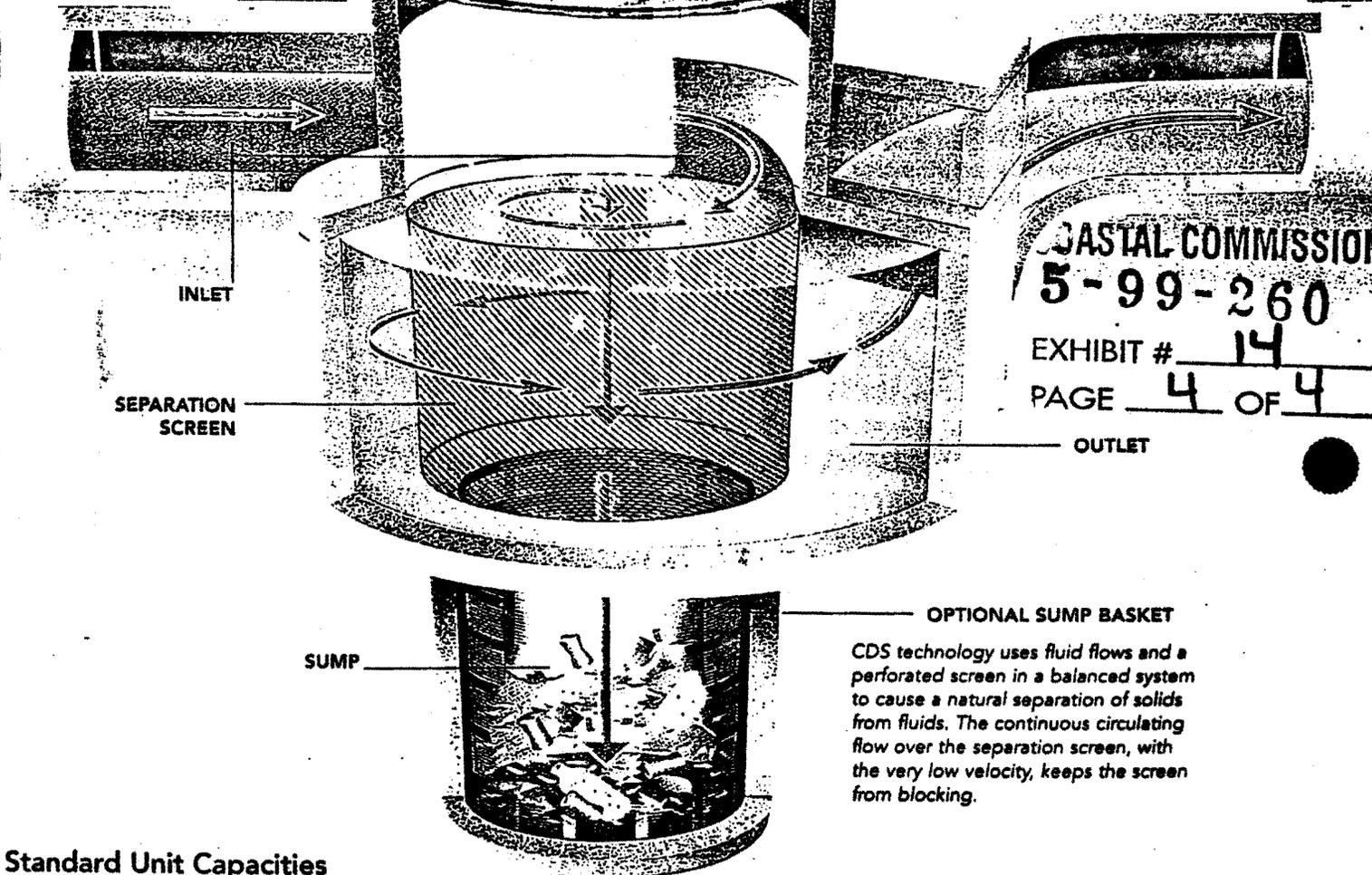


Plan View



Section A-A

COASTAL COMMISSION
 5-99-260
 EXHIBIT # 14
 PAGE 3 OF 4



CDS technology uses fluid flows and a perforated screen in a balanced system to cause a natural separation of solids from fluids. The continuous circulating flow over the separation screen, with the very low velocity, keeps the screen from blocking.

Standard Unit Capacities & Physical Features

Manufacture Material	Model* Designation	Treatment Capacity		Design Head Loss (ft)	Sump Capacity (yd ³)	Depth Below Pipe Invert (ft)	Foot Print Diameter (ft)
		cfs	MGD				
Fiberglass	FSW20_20	1.1	0.7	0.31	0.7	4.5	4.5
	FSW30_28	3.0	2.0	0.43	1.8	5.3	6.0
Precast** Concrete	PSW30_28	3.0	2.0	0.43	1.8	7.0	6.5
	PSW50_50	11	7.3	0.78	1.9	9.6	9.5
	PSW70_70	26	17.3	1.10	3.9	14.0	12.5
	PSW100_100	62	41.3	1.55	8.6	16.0	16.0
Cast in Place Concrete	CSW150_134	148	98.7	2.11	Varies	Varies	20.0
	CSW200_164	270	180.0	2.60	Varies	Varies	34.5
	CSW240_150	300	200.0	2.60	Varies	Varies	41.0

*CDS Fiberglass (F), Precast (P), and Cast in Place (C), Stormwater (SW)
 **CDS Technologies can customize units to meet specific design flows and sump capacities.

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA

245 WEST BROADWAY, SUITE 380

LONG BEACH, CA 90802

(213) 590-5071

EMERGENCY PERMIT

APR 20 1990



BY: REIN. WM. FROY

April 4, 1990

Date

5-90-2746

(Emergency Permit No.)

Coastal bluffs immediately inland of Pacific Coast Highway at "Marblehead Coastal" property in the City of San Clemente

Location of Emergency Work

Remove, and stockpile on-site, a maximum of 310,000 cubic yards of material from an unstable bluff landward of P.C.H. The project also includes landscaping and various erosion and runoff control features.

Work Proposed

This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from your information and our site inspection that an unexpected occurrence in the form of _____ a potential landslide onto P.C.H. requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. 14 Cal. Admin. Code Section 13009. The Executive Director hereby finds that:

- (a) An emergency exists which requires action more quickly than permitted by the procedures for administrative or ordinary permits and the development can and will be completed within 30 days unless otherwise specified by the terms of the permit;
- (b) Public comment on the proposed emergency action has been reviewed if time allows; and
- (c) As conditioned the work proposed would be consistent with the requirements of the California Coastal Act of 1976.

The work is hereby approved, subject to the conditions listed on the reverse.

Very Truly Yours,

Peter M. Douglas
Executive Director

By: Charles DammTitle: District Director

RECEIVED

APR 27 1990

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

COASTAL COMMISSION

5-99-260

EXHIBIT # 15PAGE 1 OF 2

CONDITIONS OF APPROVAL:

1. The enclosed form must be signed by the property owner and returned to our office within 15 days.
2. Only that work specifically described above and for the specific property listed above is authorized. Any additional work requires separate authorization from the Executive Director.
3. The work authorized by this permit must be completed within 30 days of the date unless an extension of time is granted by the Executive Director.
4. Within 60 days of the date of this permit, the permittee shall apply for a regular Coastal Permit to have the emergency work be considered permanent. If no such application is received, the emergency work shall be restored in its entirety within 150 days of the date of this permit unless waived by the Director.
5. In exercising this permit the applicant agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.
6. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies. Nor does the issuance of this permit extinguish any requirements of CEQA.
7. OTHER: Any deviation from the plans on file with this permit must be approved by the Executive Director.

Condition #4 indicates that the emergency work is considered to be temporary work done in an emergency situation. If the property owner wishes to have the emergency work become a permanent development, a Coastal permit must be obtained. A regular permit would be subject to all of the provisions of the California Coastal Act and may be conditioned accordingly.

Enclosures: 1) Acceptance Form; 2) Regular Permit Application Form

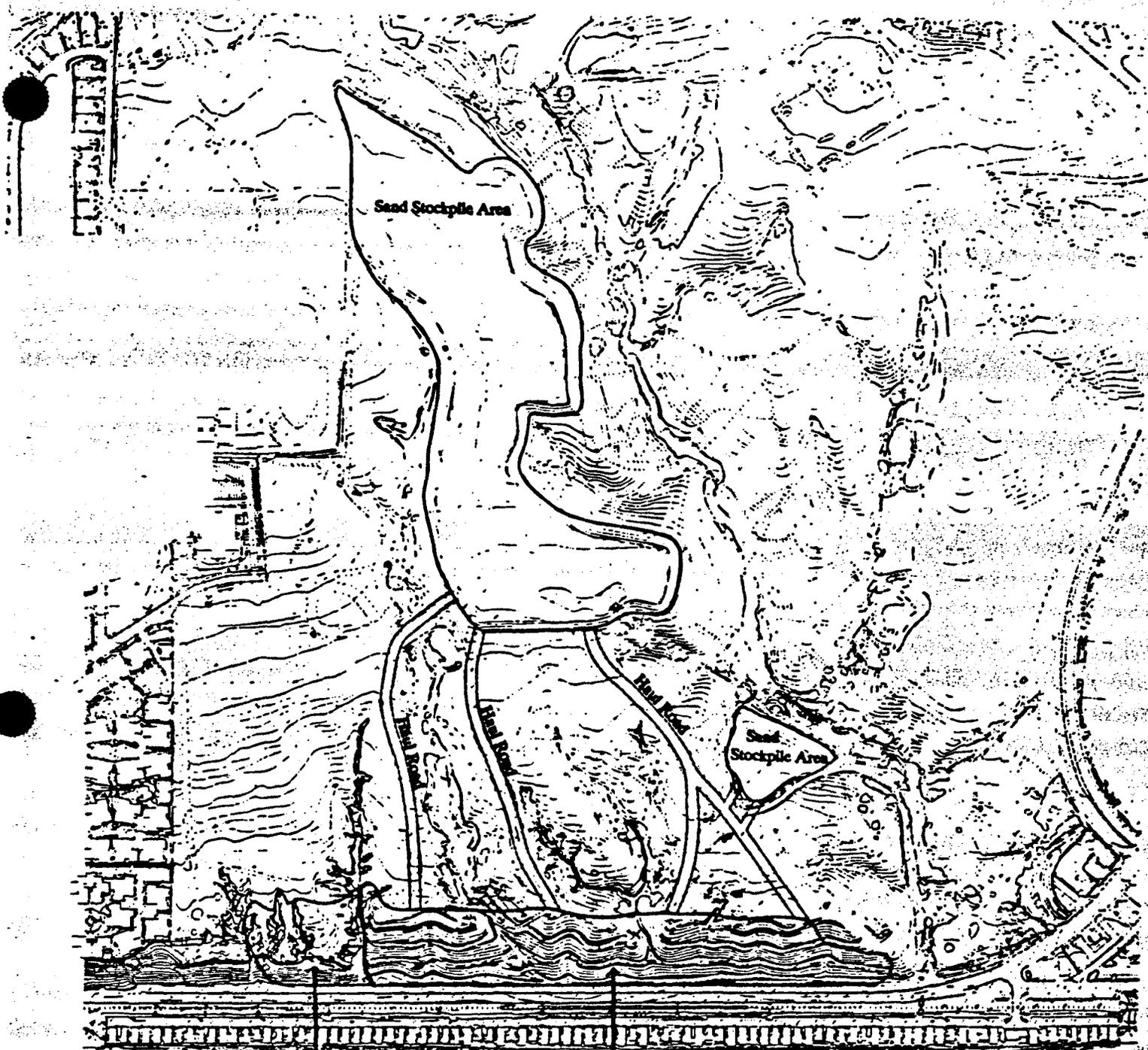
4137D
cc: Local Planning Department

COASTAL COMMISSION

5-99-260

EXHIBIT # 15

PAGE 2 OF 2



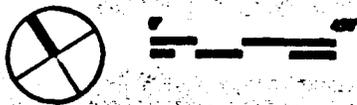
PHASE 2

PHASE 1

COASTAL COMMISSION
5-99-260

EXHIBIT # 16

PAGE 1 OF 4



MARBLEHEAD COASTAL BLUFFS GRADING

EXHIBIT 3

 ED ALMANZA &
ASSOCIATES

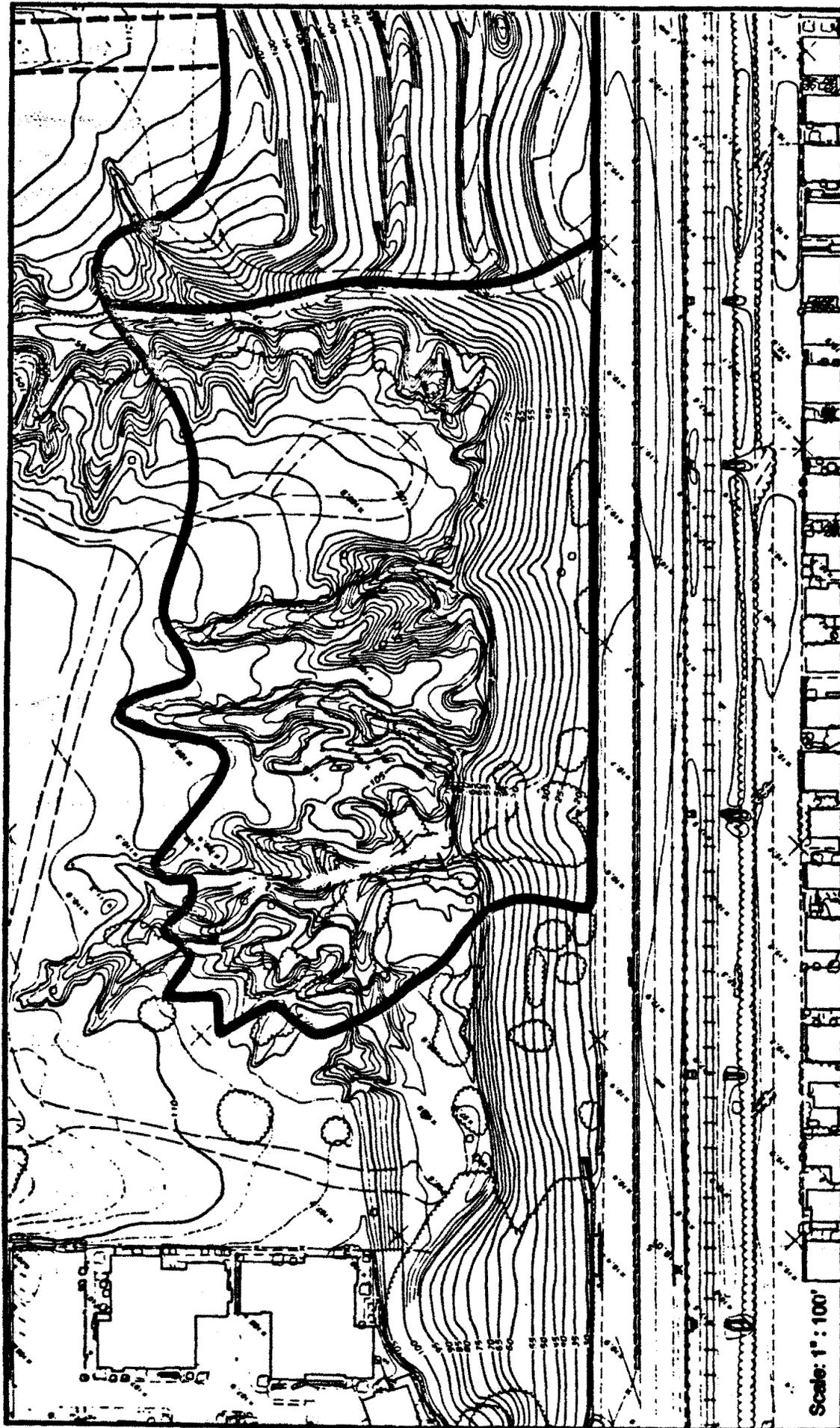
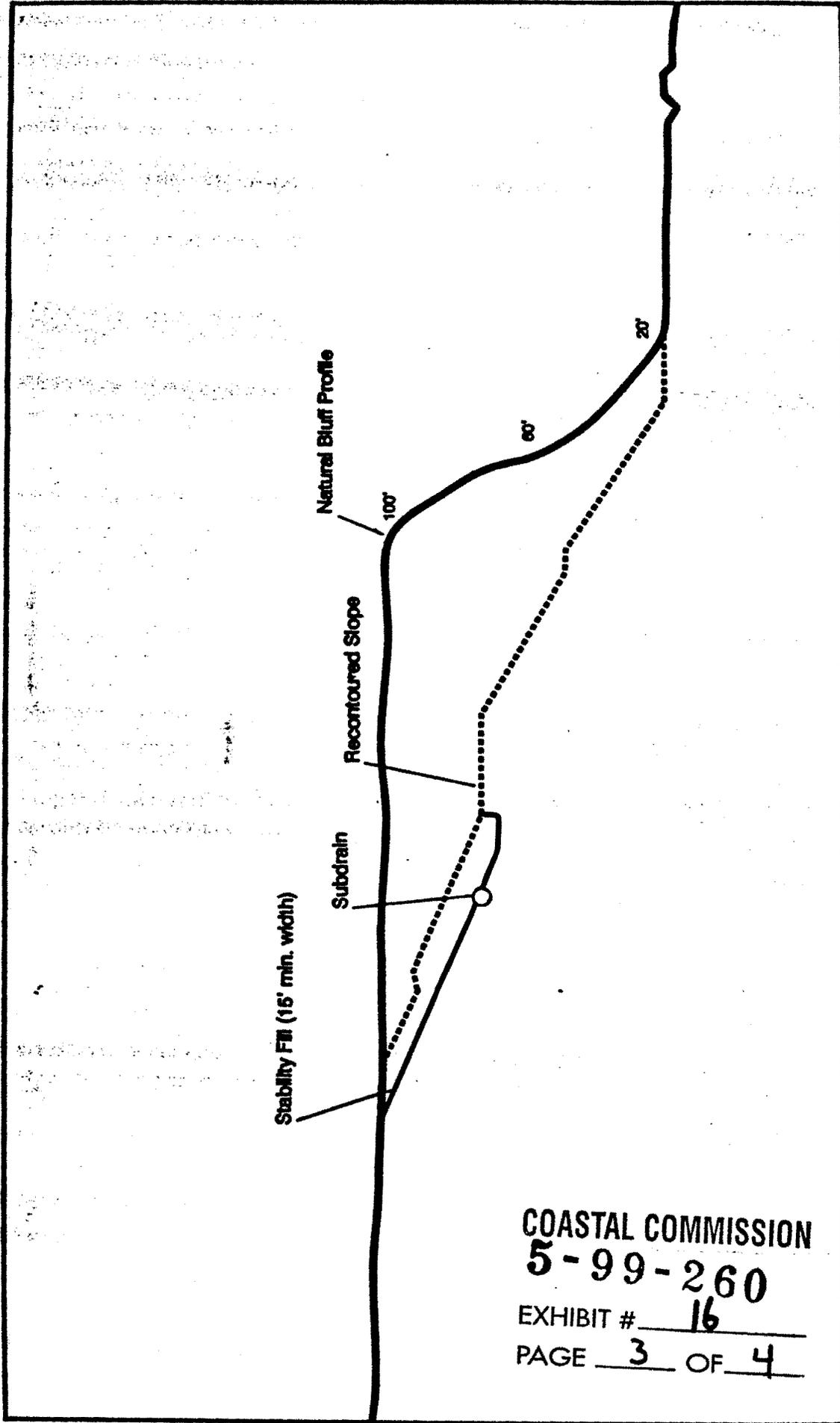


Exhibit 3-5

COASTAL COMMISSION
5-99-260

EXHIBIT # 16
PAGE 2 OF 4



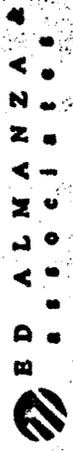
Natural Bluff Profile
 100'
 Recontoured Slope
 Subdrain
 Stability Fill (15' min. width)

COASTAL COMMISSION
 5-99-260
 EXHIBIT # 16
 PAGE 3 OF 4

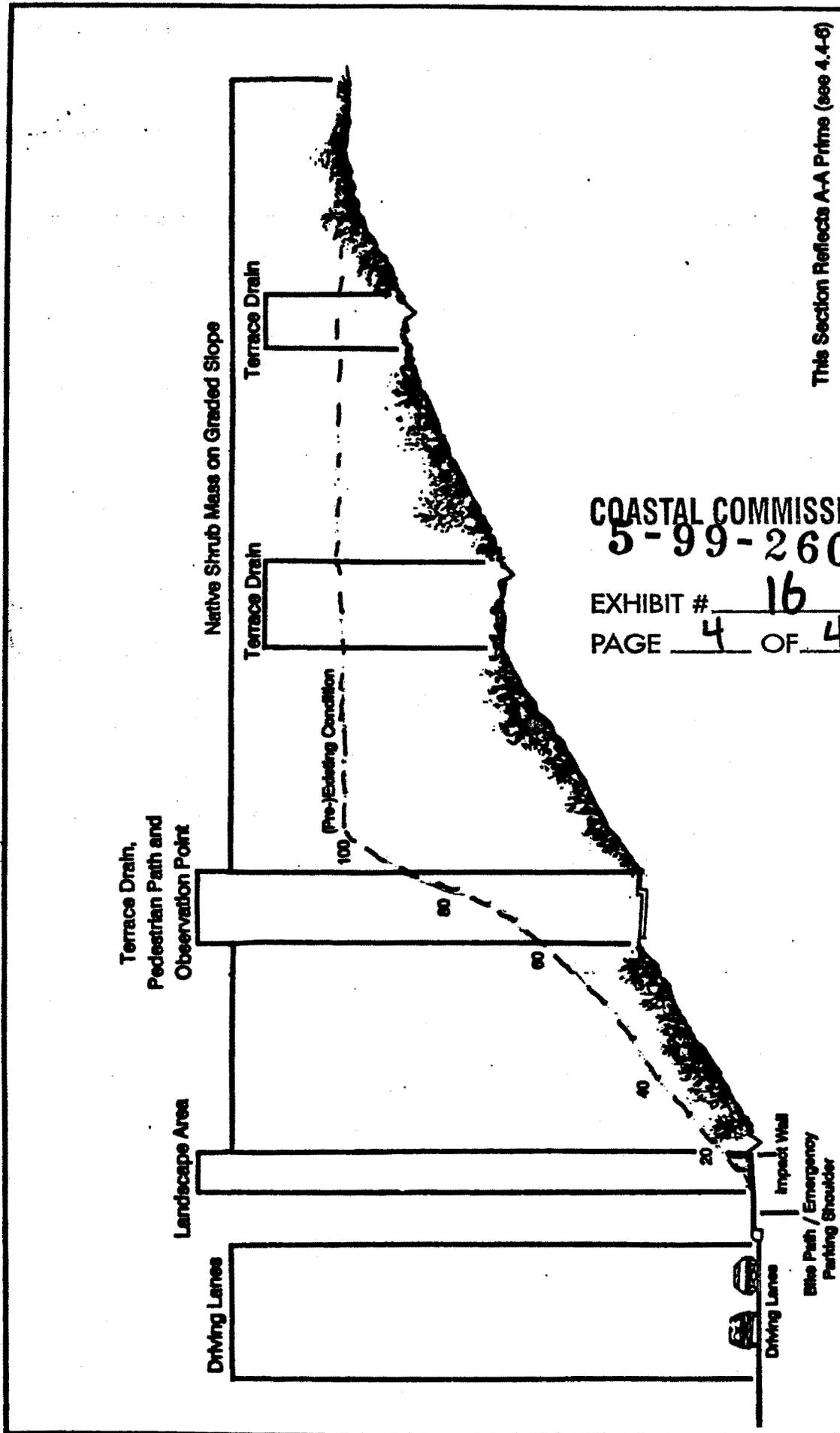
Source: Leighton & Associates

GRADED BLUFF PROFILE

Exhibit 4.1-7



B D ALMANZA &
 ASSOCIATES



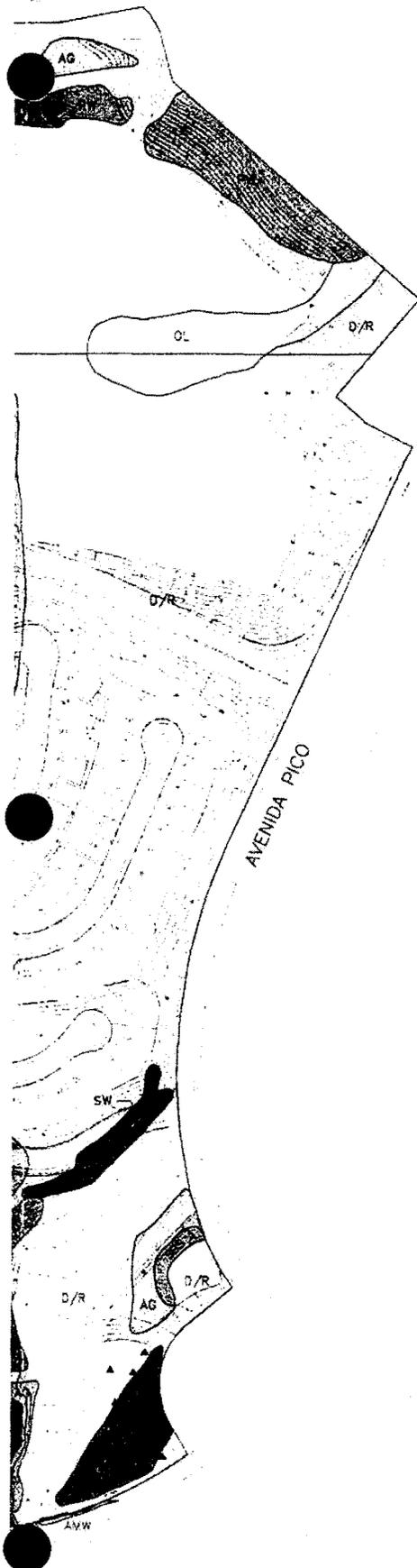
COASTAL COMMISSION
5-99-260

EXHIBIT # 16
PAGE 4 OF 4

This Section Reflects A-A Prime (see 4.4-6)

Exhibit 4.4-4

SLOPE CROSS-SECTION



LEGEND

HABITAT TYPES		MAP CODE	ORANGE COUNTY GIS CODE	WITHIN COASTAL ZONE	OUTSIDE COASTAL ZONE	TOTAL ACREAGE
SCRUB	COASTAL BLUFF	CBS		3.70	-	3.70
	SOUTHERN CACTUS	SCS		0.90	-	0.90
	SAGEBRUSH	SS		1.55	0.15	1.70
	COYOTE BUSH	CS		2.73	0.67	3.40
	SALT BUSH	SBS		8.46	0.24	8.70
GRASSLAND	ANNUAL	AG	4.1	37.30	4.97	42.27
	NEEDLEGRASS	NG	4.3	0.31	-	0.31
MARSH	ALKALI	AM		3.44	-	3.44
	ALKALI MEADOW OFF SITE	AMW		0.56	-	0.56
	FRESHWATER	FM	6.4	-	0.35	0.35
	SEASONAL WETLANDS	SW		0.21	-	0.21
RIPARIAN	MULEFAT SCRUB OFF SITE	MF		0.71	2.03	2.74
				-	0.03	0.03
DEVELOPED	ORNAMENTAL LANDSCAPING	OL	15.5	0.62	1.41	2.03
DISTURBED/RODERAL	DISTURBED OR BARREN	D/R	18.1	120.21	48.31	188.52
	BURNED	B	16.3	-	-	-
OTHER	PINE WOODLANDS	PW		8.15	2.82	10.97
	NATURALIZED EXOTICS	NE		0.75	-	0.75
	ROCK PILE	ROCK PILE		-	-	-
TOTAL ON-SITE				189.60	60.95	250.55
TOTAL OFF-SITE				0.03	0.03	0.06

* NOTE: DOES NOT INCLUDE 0.03 AC ALKALI MEADOW OFF-SITE ALONG EL CAMINO REAL

** NOTE: DOES NOT INCLUDE 0.03 AC MULEFAT OFF-SITE ALONG I-5 FREEWAY RIGHT-OF-WAY



GNATCATCHER ESTIMATED "OCCUPIED HABITAT" (1997)
(SEE UPDATED EXHIBIT 4 - CALIFORNIA GNATCATCHER HABITAT AREAS AS SUBMITTED 9-29-2000 TO CCC)



BLOCHMAN'S DUDLEYA - TRANSLOCATED DUDLEYA WITHIN DUDLEYA RESERVE AREA (PER APPROVED CDP 5-97-136)



BLOCHMAN'S DUDLEYA - HISTORIC & REMAINING DUDLEYA HABITAT (AREA INCLUDED IN CBS TOTAL - PER APPROVED CDP 5-97-136)



PROPOSED PROJECT OVERLAY (PER CITY APPROVED RESIDENTIAL SITE PLAN - SPP. 97-16 AND COMMERCIAL SITE PLAN - SPP. 99-16)

RECEIVED
South Coast Region

DEC 13 2000

CALIFORNIA
COASTAL COMMISSION

Source:
Natural Resource Consultants, 1997
Glenn Lukos Associates, 4/00 (Wetlands)



DATE: 12-12-00



0' 200' 400' 1 ACRE

VEGETATION COMMUNITIES AND SENSITIVE SPECIES
WITH PROPOSED PROJECT OVERLAY
EXHIBIT No. 17

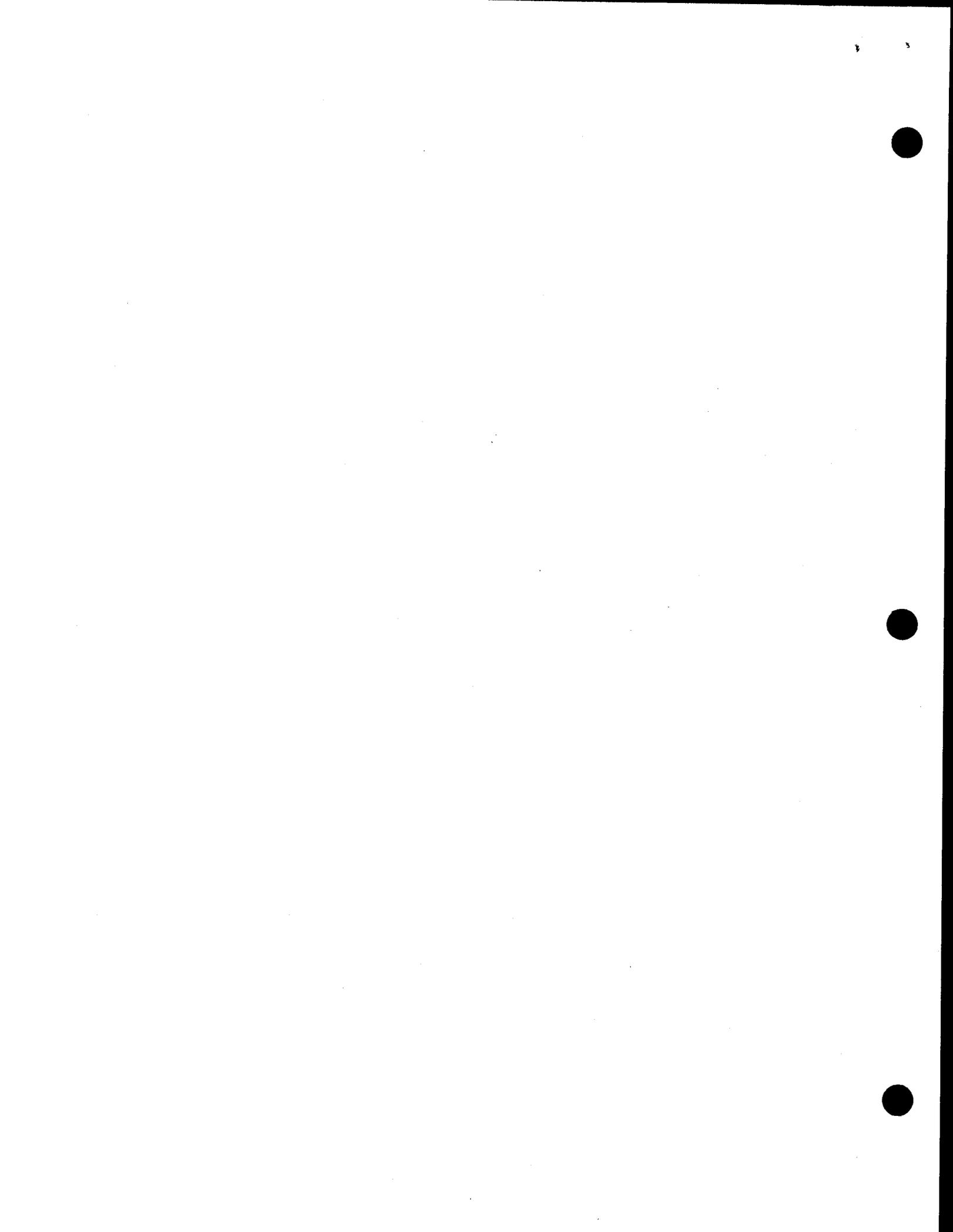
MARBLEHEAD COASTAL

Application Number:

5-99-260



California Coastal
Commission



I-5 FREEWAY



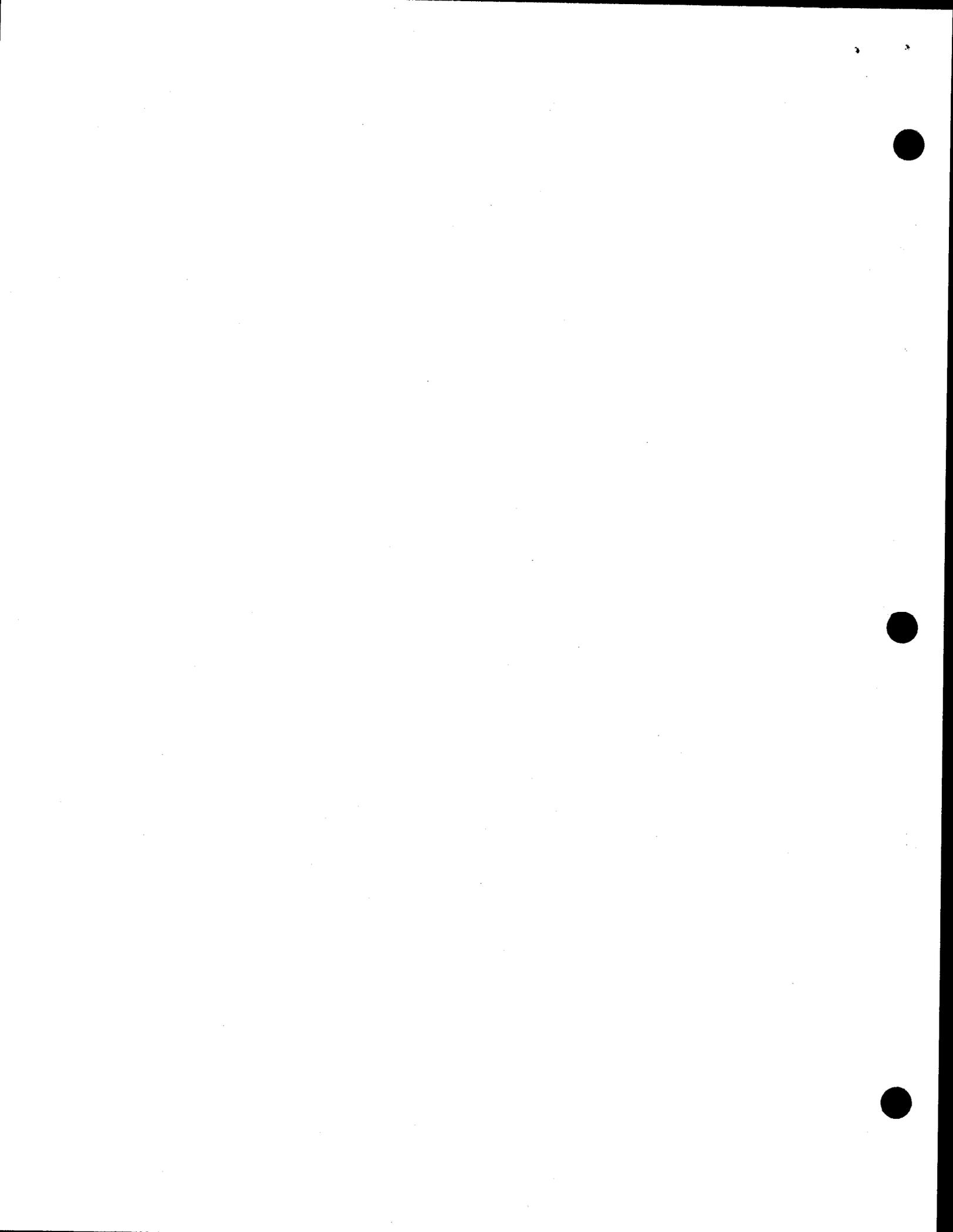
EL CAMINO REAL

EXHIBIT No. 17

Application Number:
5-99-260

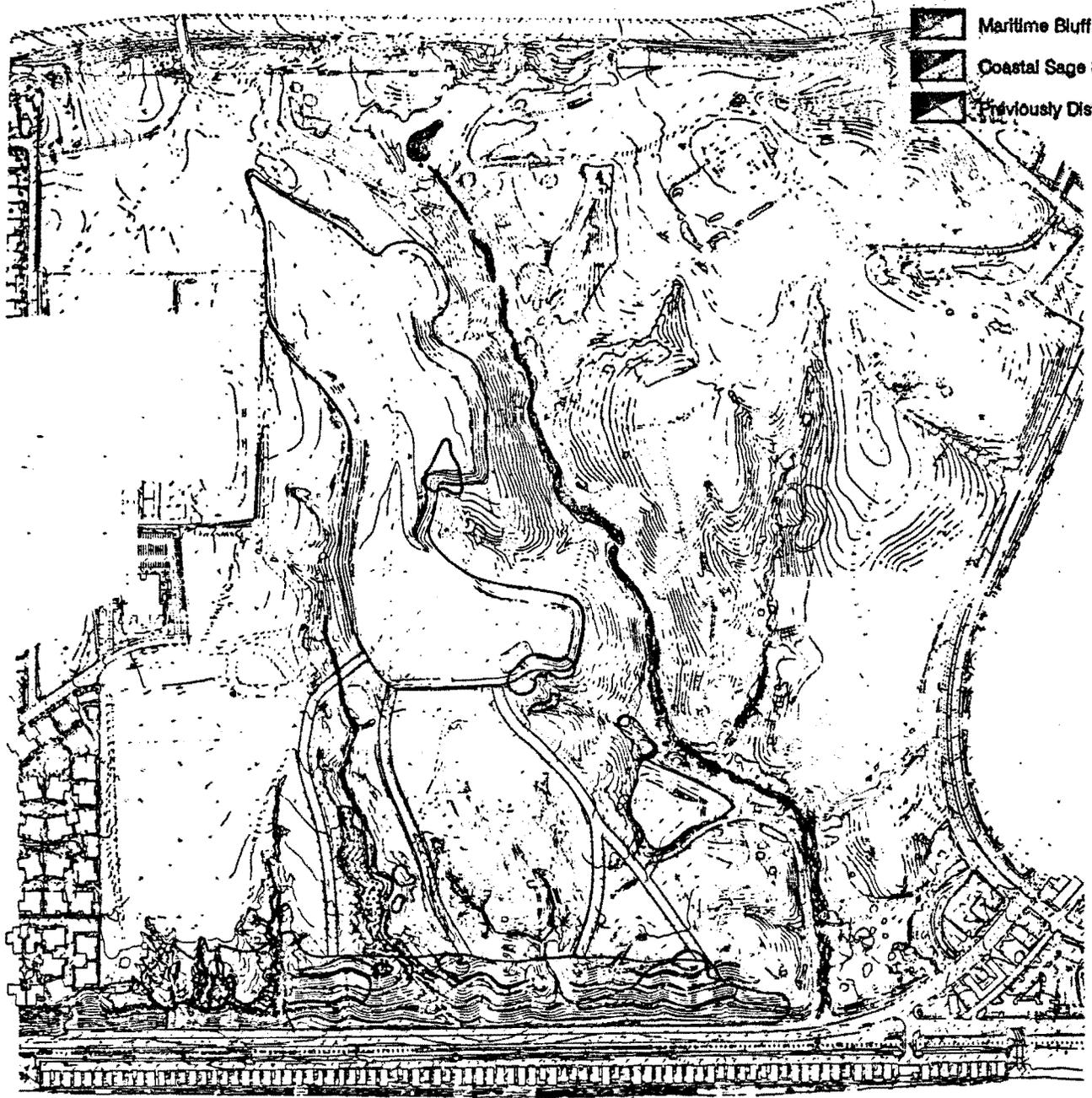


California Coastal
Commission



LEGEND

-  Wetland Associations
-  Native Grassland
-  Maritime Bluff Scrub
-  Coastal Sage Scrub
-  Previously Disturbed



Scale: 1" : 600'

COASTAL COMMISSION

5-99-260

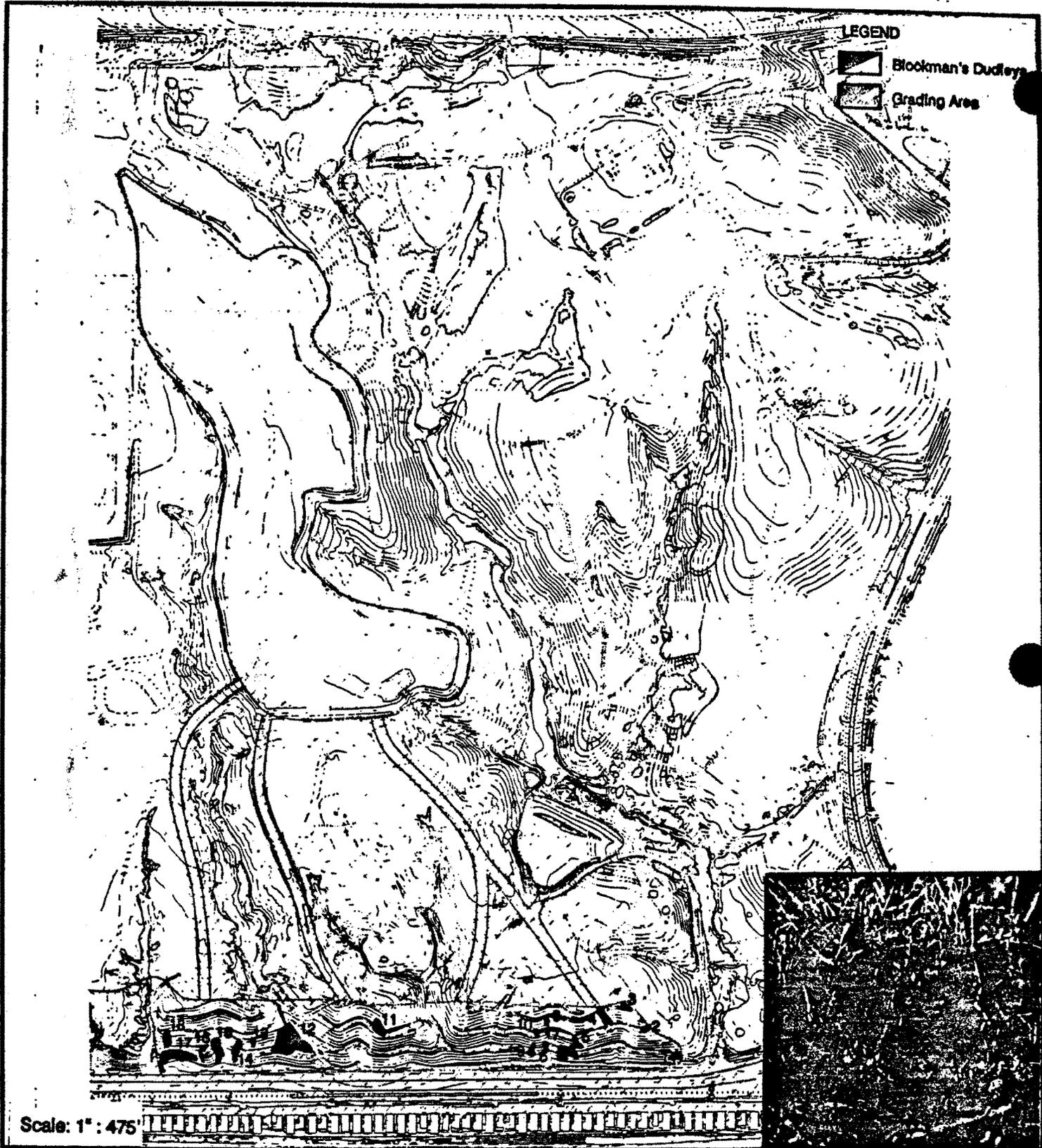
Exhibit 4.2-1

EXHIBIT # 17

PAGE 3 OF 5

PLANT COMMUNITIES

Per Marblehead Bluff Grading EIR



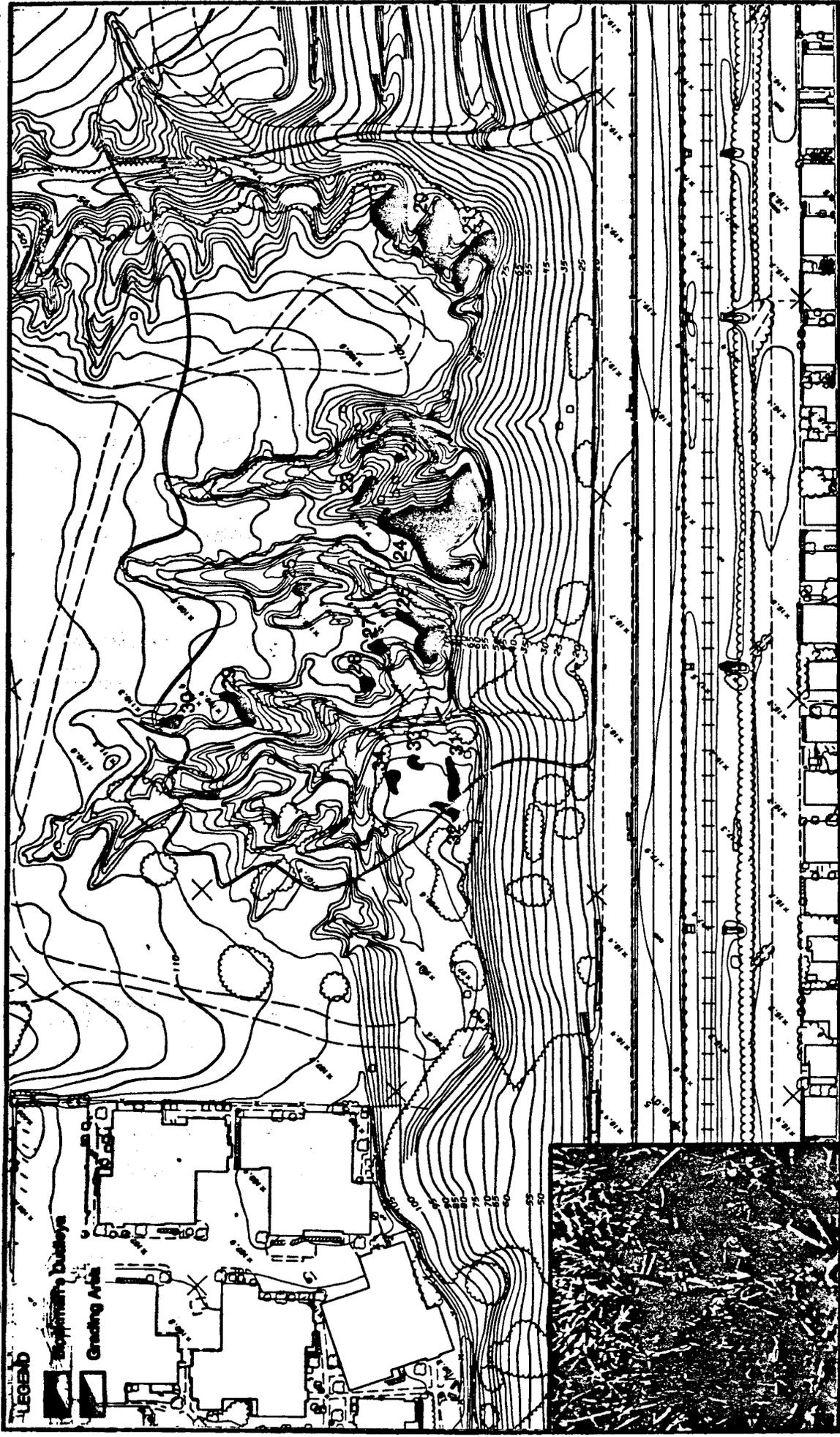


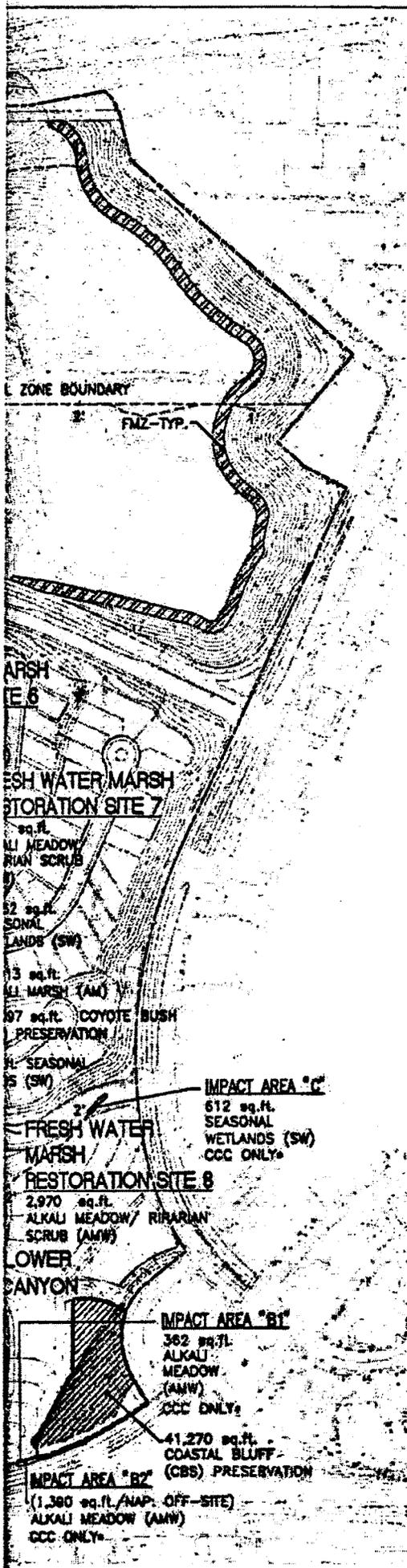
Exhibit 4.2-3

**PHASE 2 / GRADING AREA
BLOCKMAN'S DUDLEYA POPULATIONS**

COASTAL COMMISSION
5-99-260

EXHIBIT # 17

PAGE 5 OF 5



PROPOSED PROJECT

PROPOSED PROJECT OVERLAY (PER CITY APPROVED RESIDENTIAL SITE PLAN - SPP. 97-18 AND COMMERCIAL SITE PLAN - SPP. 99-18)

PROPOSED PRESERVATION / RESTORATION

- 3.44 AC WETLAND PRESERVATION (EXISTING) - (ALKALI MARSH: AM-3.44 AC; ALKALI MEADOWS: AMW-0.51; MULEFAT SCRUB: MF- 0.71 AC; SEASONAL WETLANDS: SW-0.2 AC.) PER GLENN LUKOS (SEE MATRIX BELOW).
- 0.05 AC IMPACTED WETLAND (EXISTING) - (WITHIN COASTAL ZONE BOUNDARY: 0.05 AC; OUTSIDE COASTAL ZONE BOUNDARY: 2.38 AC.) PER GLENN LUKOS (SEE MATRIX BELOW).
- WETLANDS RESTORATION (NEW ALKALI MARSH) - (SITE 1: 0.04 AC; SITE 2: 0.08 AC; SITE 3: 0.07 AC) PER GLENN LUKOS
- 0.83 AC WETLANDS RESTORATION (NEW FRESHWATER WETLAND) - (SITE 4: 0.58 AC; SITE 5: 0.14 AC; SITE 6: 0.03 AC; SITE 7: 0.01 AC; SITE 8: 0.07 AC) PER GLENN LUKOS
- 16.49 AC COASTAL SAGE SCRUB(CSS) RESTORATION AREAS (NEW) NOT INCLUDING WALL AREAS WALLS (ADDITIONAL CSS) 0.22 AC
- 13.64 AC MIDDLE CENTRAL CANYON (INCLUDES FMZ OF 2.41 AC.) 0 AC
- 2.41 AC FUEL MODIFICATION ZONE (FMZ) 1.05 AC
- 1.38 AC LOWER CENTRAL CANYON
- 1.47 AC WESTERN CANYON
- CSS PRESERVATION AREAS (INCLUDING COASTAL BLUFF SCRUB-CBS: 0.98 AC; SOUTHERN CACTUS-SCS: 0.23 AC; SAGEBRUSH-SS: 0.24 AC; COYOTE BUSH-CS: 0.48 AC; AND SALTBRUSH SCRUB: SBS-1.03 AC) - PER FEIR TABLE 4.12-2, P. 4.12-15.
- 4.3 AC DUDLEYA RESERVE AREA (NOT INCLUDING BUFFER AREA) - PER CDP5-97-136.

WETLANDS LEGEND (PER CDFG JURISDICTION)

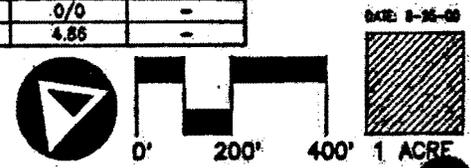
PRESERVED/IMPACTED WETLAND TYPE	IN CZ	OUT CZ	TOTAL
MF MULEFAT SCRUB	0.71 AC	2.03 AC	2.74 AC
AM ALKALI MARSH	3.44 AC	-	3.44 AC
AMW ALKALI MEADOWS	0.56 AC	-	0.56 AC
FM FRESHWATER MARSH	-	0.35 AC	0.35 AC
SW SEASONAL WETLANDS	0.21 AC	-	0.21 AC
SUBTOTAL ON SITE WETLANDS			7.30 AC
OFF-SITE WETLANDS			0.06 AC
WETLAND TOTAL **			7.36 AC

--- NON-WETLAND WATERS
 * SEE MATRIX BELOW FOR ACREAGE
 ** SOURCE: Glenn Lukos Associates, June, 2000; Rev. August 22, 2000

WETLAND MITIGATION MATRIX (TO REPLACE TABLE 4-RMP P.56)

4. WETLAND**	EXISTING (COASTAL/NON)	IMPACTED (COASTAL/NON)	PRESERVED (COASTAL/NON)	PROJECT MITIGATION
4.1 MULEFAT SCRUB (MF)	0.71/2.03	0/2.03	0.71/0	-
4.2 ALKALI MARSH (AM)	3.44/0	0/0	3.44/0	-
4.3 ALKALI MEADOWS (AMW)	0.56/0	0.05/0	0.51/0	0.17
4.4 FRESHWATER MARSH (FM)	0/0.35	0/0.35	0/0	0.83
4.5 SEASONAL WETLANDS (SW)	0.21/0	0.01/0	0.20/0	-
SUBTOTAL	4.92/2.38	0.06/2.38	4.86/0	1.10
OFF-SITE-WETLANDS	0.03/0.03	0.03/0.03	0/0	-
TOTAL PROJECT	7.36	2.50	4.86	-

** SOURCE: Glenn Lukos Associates, June, 2000
 Rev. August 22, 2000



PROPOSED RESTORATION PLAN

EXHIBIT No. 18
Page 1 of 2

Application Number:
5-99E260IT 1

MARBLEHEAD COASTAL

California Coastal Commission

PROPOSED PROJECT

PROPOSED PROJECT OVERLAY (PER CITY APPROVED RESIDENTIAL SITE PLAN - SPP. 97-16 AND COMMERCIAL SITE PLAN - SPP. 99-16)

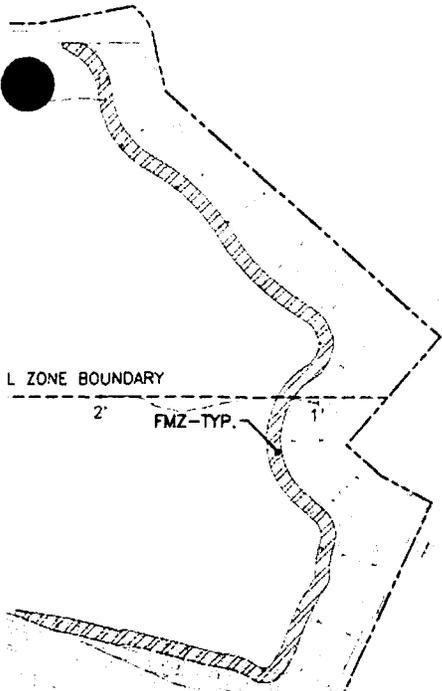
PROPOSED PRESERVATION / RESTORATION

- 2.74 AC WETLAND PRESERVATION (EXISTING) - (ALKALI MARSH: AM-3.44 AC; ALKALI MEADOWS: AMW-0.51; MULEFAT SCRUB: MF- 0.71 AC; SEASONAL WETLANDS: SW-0.2 AC.) PER GLENN LUKOS (SEE MATRIX BELOW).
- 0.06/2.38 AC IMPACTED WETLAND (EXISTING) - (WITHIN COASTAL ZONE BOUNDARY: 0.05 AC; OUTSIDE COASTAL ZONE BOUNDARY: 2.38 AC.) PER GLENN LUKOS (SEE MATRIX BELOW).
- WETLANDS RESTORATION (NEW ALKALI MARSH) - (SITE 1: 0.04 AC; SITE 2: 0.06 AC; SITE 3: 0.07 AC) PER GLENN LUKOS
- 0.93 AC WETLANDS RESTORATION (NEW FRESHWATER WETLAND) - (SITE 4: 0.62 AC; SITE 5: 0.14 AC; SITE 6: 0.03 AC; SITE 7: 0.01 AC; SITE 8: 0.07 AC) PER GLENN LUKOS
- 16.49 AC COASTAL SAGE SCRUB(CSS) RESTORATION AREAS (NEW) NOT INCLUDING WALL AREAS
- 13.64 AC MIDDLE CENTRAL CANYON (INCLUDES FMZ OF 2.41 AC.)
- 2.41 AC FUEL MODIFICATION ZONE (FMZ)
- 1.38 AC LOWER CENTRAL CANYON
- 1.47 AC WESTERN CANYON
- CSS PRESERVATION AREAS (INCLUDING COASTAL BLUFF SCRUB-CBS: 0.96 AC; SOUTHERN CACTUS-SCS: 0.23 AC; SAGEBRUSH-SS: 0.24 AC; COYOTE BUSH-CS: 0.49 AC; AND SALTBRUSH SCRUB: SBS-1.03 AC) - PER FEIR TABLE 4.12-2, P. 4.12-15.
- 4.3 AC DUDLEYA RESERVE AREA (NOT INCLUDING BUFFER AREA) - PER CDP5-97-136.

WALLS (ADDITIONAL CSS)
2.22 AC.

0 AC.

1.05 AC.



ARSH
IE 6

FRESH WATER MARSH
RESTORATION SITE 7

52 sq.ft. ALKALI MEADOW/RIPARIAN SCRUB (AMW)
52 sq.ft. SEASONAL WETLANDS (SW)

13 sq.ft. ALKALI MARSH (AM)

197 sq.ft. COYOTE BUSH PRESERVATION

11 SEASONAL WETLANDS (SW)

IMPACT AREA "C"
612 sq.ft. SEASONAL WETLANDS (SW) CCC ONLY*

FRESH WATER MARSH

RESTORATION SITE 8

2,970 sq.ft. ALKALI MEADOW/RIPARIAN SCRUB (AMW)

LOWER CANYON

IMPACT AREA "B1"
362 sq.ft. ALKALI MEADOW (AMW) CCC ONLY*

41,270 sq.ft. COASTAL BLUFF SCRUB (CBS) PRESERVATION

1,390 sq.ft./NAP: OFF-SITE) ALKALI MEADOW (AMW) CCC ONLY*

WETLANDS LEGEND (PER CDFG JURISDICTION)

PRESERVED/IMPACTED*	WETLAND TYPE	IN CZ	OUT CZ	TOTAL
	MF MULEFAT SCRUB	0.71 AC.	2.03 AC.	2.74 AC.
	AM ALKALI MARSH	3.44 AC.	-	3.44 AC.
	AMW ALKALI MEADOWS	0.56 AC.	-	0.56 AC.
	FM FRESHWATER MARSH	-	0.35 AC.	0.35 AC.
	SW SEASONAL WETLANDS	0.21 AC.	-	0.21 AC.
SUBTOTAL ON SITE WETLANDS		4.92 AC.	2.38 AC.	7.30 AC.
OFF-SITE WETLANDS		0.03 AC.	0.03 AC.	0.06 AC.
WETLAND TOTAL **		4.95 AC.	2.41 AC.	7.36 AC.

NON-WETLAND WATERS

* SEE MATRIX BELOW FOR ACREAGE

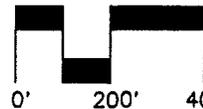
** SOURCE: Glenn Lukos Associates, June, 2000; Rev. August 22, 2000

WETLAND MITIGATION MATRIX (TO REPLACE TABLE 4-RMP P.56)

4. WETLAND**	EXISTING (COASTAL/NON)	IMPACTED (COASTAL/NON)	PRESERVED (COASTAL/NON)	PROJECT MITIGATION
4.1 MULEFAT SCRUB (MF)	0.71/2.03	0/2.03	0.71/0	-
4.2 ALKALI MARSH (AM)	3.44/0	0/0	3.44/0	-
4.3 ALKALI MEADOWS (AMW)	0.56/0	0.05/0	0.51/0	0.17
4.4 FRESHWATER MARSH (FM)	0/0.35	0/0.35	0/0	0.93
4.5 SEASONAL WETLANDS (SW)	0.21/0	0.01/0	0.20/0	-
SUBTOTAL	4.92/2.38	0.06/2.38	4.86/0	1.10
OFF-SITE-WETLANDS	0.03/0.03	0.03/0.03	0/0	-
TOTAL PROJECT	7.36	2.50	4.86	-

** SOURCE: Glenn Lukos Associates, June, 2000 Rev. August 22, 2000

DATE: 6-25-00



PROPOSED RESTORATION PLAN

MARBLEHEAD COASTAL

EXHIBIT No. 18

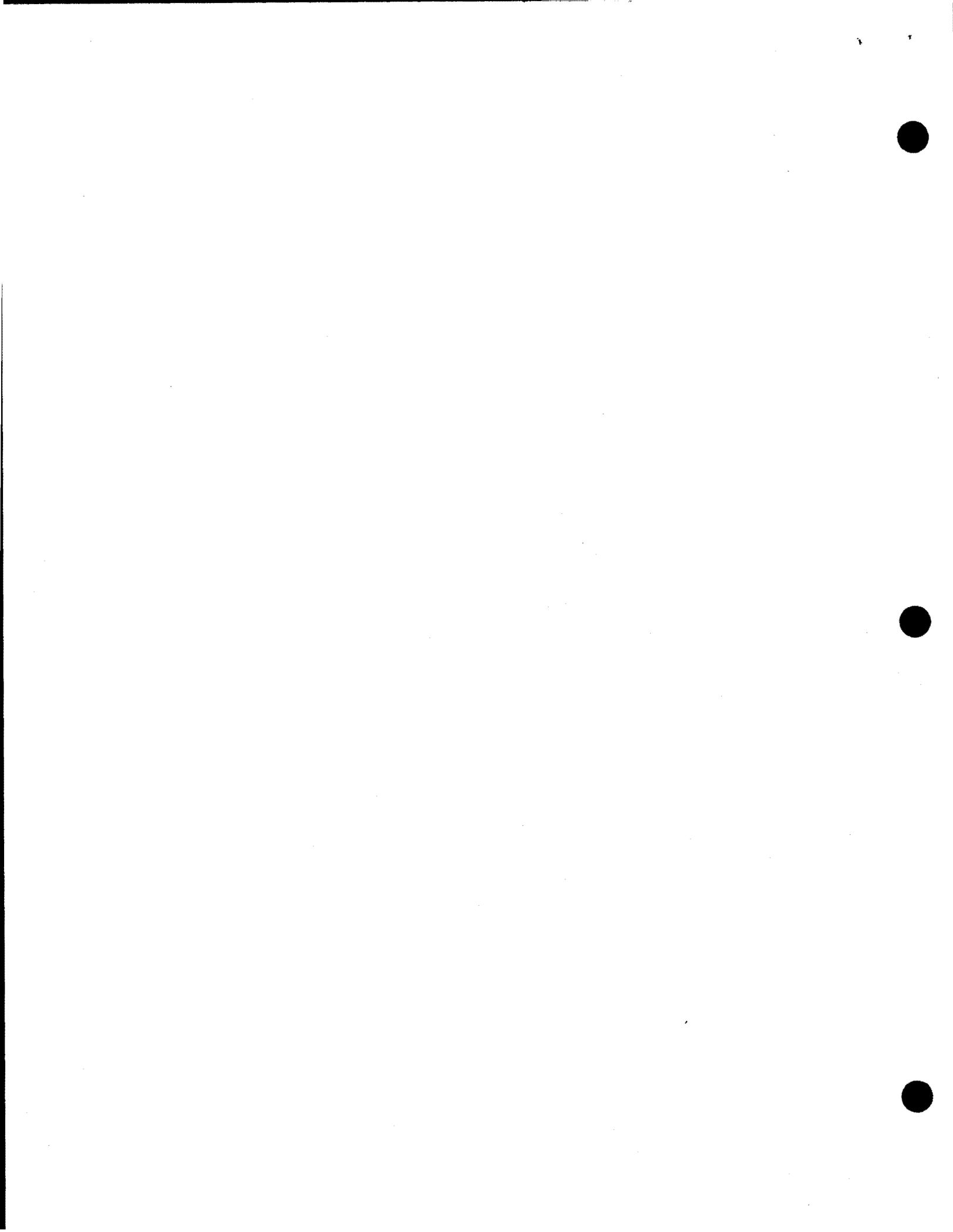
Page 1 of 2

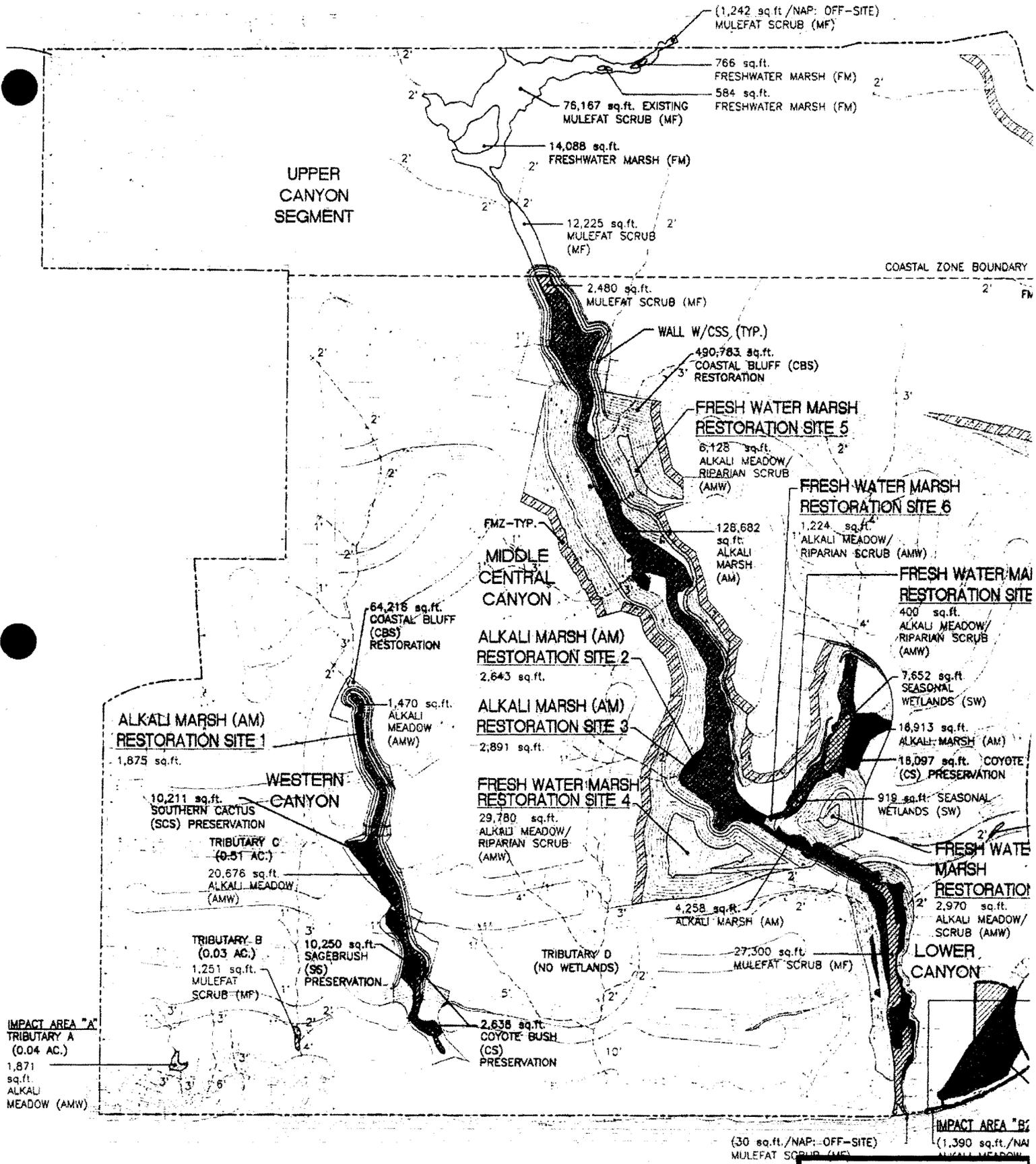
Application Number:

5-99-260

EXHIBIT 1

California Coastal Commission





CCC ONLY

EXHIBIT No. 18

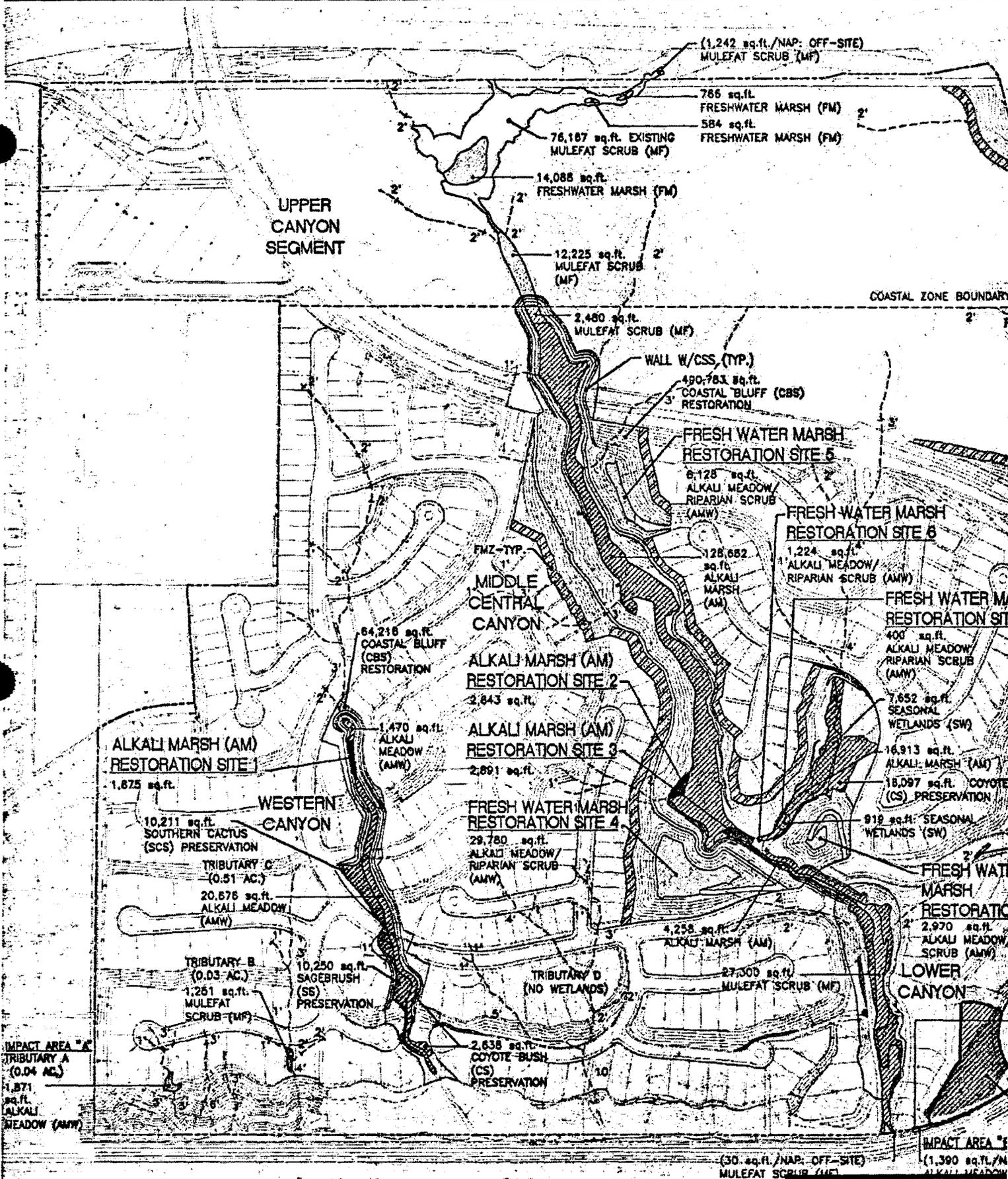
Page 2 of 2

Application Number:

5-99-260

California Coastal Commission





CCC ONLY

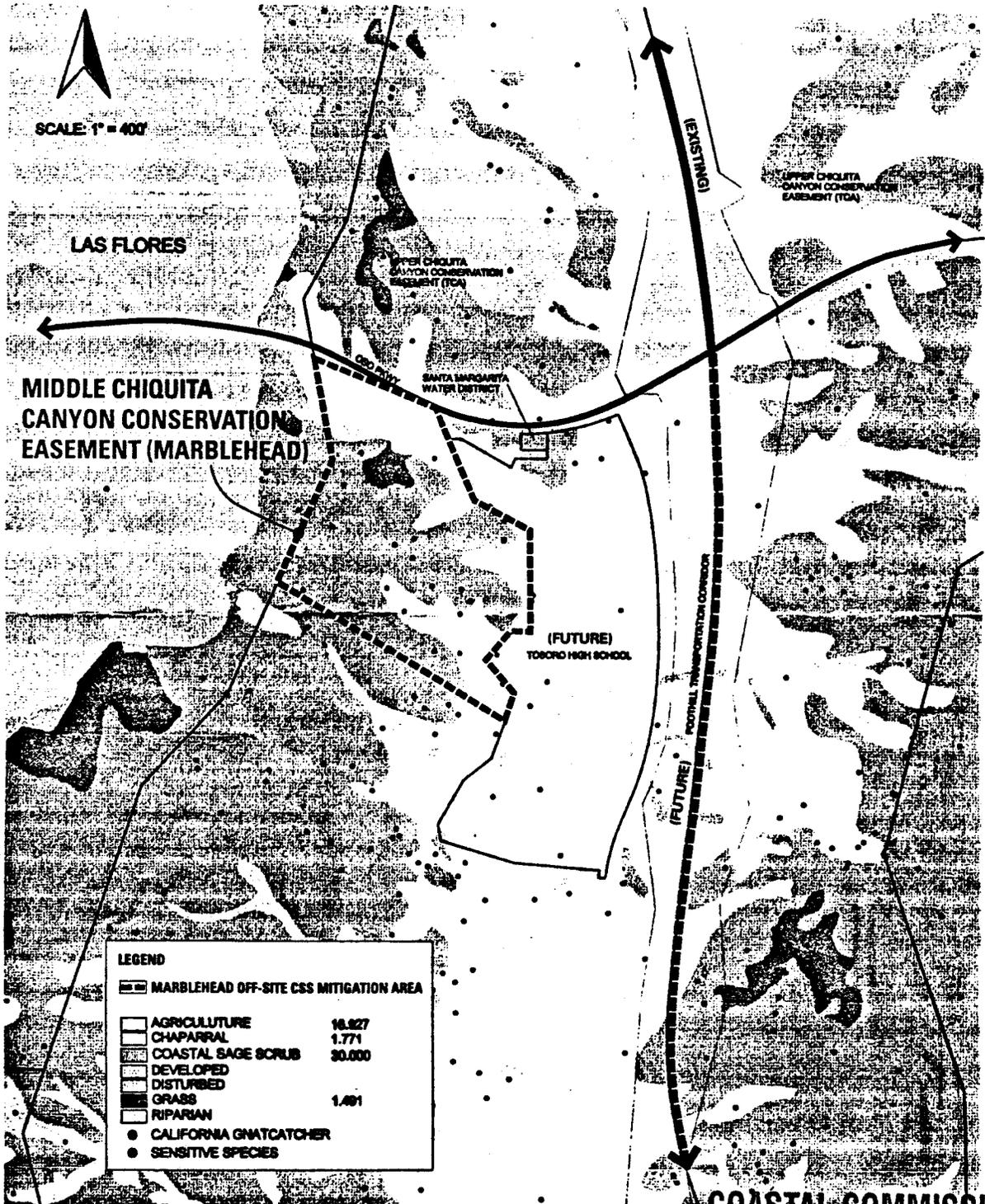
EXHIBIT No. 18

Page 2 of 2

Application Number:

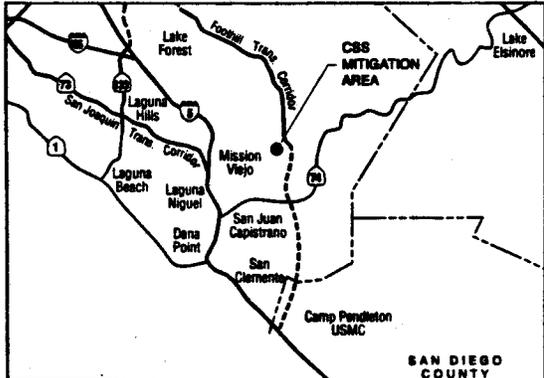
5-99-260

California Coastal Commission



LEGEND

	MARBLEHEAD OFF-SITE CSS MITIGATION AREA	
	AGRICULTURE	16,927
	CHAPARRAL	1,771
	COASTAL SAGE SCRUB	30,000
	DEVELOPED	
	DISTURBED	
	GRASS	1,491
	RIPARIAN	
	CALIFORNIA GNOTCATCHER	
	SENSITIVE SPECIES	



SOURCE: HUTT-ZOLLARS
6-28-2000

COASTAL COMMISSION
5-99-060
 EXHIBIT # 19
 PAGE 1 OF 3

CITY OF SAN CLEMENTE
 MARBLEHEAD COASTAL
 OFF-SITE CSS MITIGATION AREA
 Exhibit 4

RANCHO MISSION VIEJO

July 7, 2000

Mr. Jimmy D. Johnson
MT No. 1, LLC
16592 Hale Avenue
Irvine, California 92606-5005

Subject: Confirmation of Available Mitigation Lands and Credits

Dear Mr. Johnson:

I am writing as a follow up to my recent conversations with your consultant, Mr. Rod Meade, concerning your desire to mitigate impacts to wetlands and coastal sage scrub habitat associated with the Marblehead Coastal project in the City of San Clemente. My understanding is that you are interested in purchasing available wetland mitigation credits and creating a conservation easement on coastal sage acreage on lands controlled by Rancho Mission Viejo (RMV). The purpose of this letter is to confirm the availability of the credits and acreage.

Based on Mr. Meade's description of your mitigation needs, I recently forwarded an exhibit that identifies a 50-acre parcel of land located in Chiquita Canyon, immediately south of Oso Parkway and located between O'Neill Regional Park open space and Tesoro High School. As indicated on the exhibit, this 50-acre site contains 30 acres of existing coastal sage scrub and 12 identified gnatcatcher sites. Subject to negotiation, RMV is willing to sell MT No. 1, LLC the development rights for this parcel and record a conservation easement over it for habitat protection and management purposes.

RMV also has established a very successful wetlands mitigation site in Gobernadora Canyon that has been used by the Department of Fish and Game and other agencies for mitigating wetland impacts of other projects. This mitigation area, the Gobernadora Ecological Restoration Area (GERA), currently has 2.37 acres of wetland mitigation credits available for purchase. An exhibit showing the location of the GERA, including its current boundaries, is attached for your information and use.

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EXHIBIT # 19

PAGE 2 OF 3

DRUG USE
IS
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It is my understanding that Mr. Meade has discussed the costs of the wetland credits and CSS mitigation acreage and that you are interested in pursuing the purchase. I look forward to assisting you with your efforts to meet your off-site mitigation requirements. . Thank you for your interest.

Sincerely,



Richard Broming
Vice President
Planning and Entitlement

Cc: Rod Meade

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5-99-260

EXHIBIT # 19
PAGE 3 OF 3



U.S. Fish and Wildlife Service
 Carlsbad Fish and Wildlife Office
 2730 Loker Avenue West San
 Carlsbad, California 92008
 (760) 431-9440
 FAX (760) 431-5902 + 9618



CA Dept. of Fish & Game
 4949 Viewridge Avenue
 Diego, California 92123
 (858) 467-4201
 FAX (858) 467-4235

RECEIVED
 AUG 28 2000

AUG 17 2000

CALIFORNIA
 COASTAL COMMISSION

COASTAL COMMISSION

5-99-260

EXHIBIT # 20

PAGE 1 OF 9

James Hare
 City Planner
 City of San Clemente
 910 Calle Negocio
 San Clemente, California 92672

Re: Conditional Concurrence with the Special 4(d) Rule Interim Habitat Loss Mitigation Plan (IHLMP) for the Marblehead Coastal Development Project, MT No. 1, LLC, City of San Clemente, California

Dear Mr. Hare:

We have reviewed your July 6, 2000, letter requesting our concurrence that the IHLMP for the referenced project complies with the State of California's Coastal Sage Scrub Natural Community Conservation Planning (NCCP) Process Guidelines (NCCP Process Guidelines) and the special rule promulgated pursuant to section 4(d) of the Endangered Species Act of 1973, as amended, for the federally threatened coastal California gnatcatcher (*Poliophtila californica californica*, "gnatcatcher"). Under the special 4(d) rule, the loss of coastal sage scrub (CSS) and accompanying take of gnatcatchers can be authorized if the take is in accordance with the NCCP Process Guidelines. These guidelines require an approved IHLMP prior to project clearing of CSS.

The U.S. Fish and Wildlife Service (Service) and California Department of Fish and Game (Department), hereinafter referred to as the "Wildlife Agencies," have reviewed the 1) *Biological Resources Information to Support Special 4(d) Rule Interim Habitat Loss Mitigation Plan of the Marblehead Coastal Development (June 30, 2000)* and 2) *City of San Clemente Marblehead Coastal Project Preservation, Restoration and Management Plan for Wetlands, Sage Scrub and Other Upland Habitats (July 7, 2000)* that were submitted to us in support of the IHLMP for the project. We have also been provided additional information on the project during several conversations with Rod Meade on behalf of the project proponent, MT No. 1, LLC.

The 250.6-acre Marblehead Coastal Development site is located within the Southern Subregion of the Orange County NCCP planning area, in the City of San Clemente, and is bordered by Interstate 5 to the east, Pico Avenue to the south, El Camino Real to the west, and existing

residential development to the north. The proposed development would include up to 424 single-family homes on 110.9 acres; up to 700,140 square feet (sf) of commercial development on 59.3 acres; up to 60,000 sf of coastal recreation commercial on 1 acre; a bluff top park on 9.4 acres; and potential sports fields on 8.7 acres. The site also contains a 2.1-acre reserve previously established for Blochman's dudleya (*Dudleya blochmaniae* subsp. *blochmaniae*). Surveys of the project site in 1996/1997 documented 18.4 acres of CSS occupied by 2 pairs of gnatcatcher. Additional surveys done in 1999/2000 estimated that up to 3 pairs of gnatcatcher now occupy the site. The proposed project would impact 15.43 acres of CSS and take all 3 pairs of gnatcatcher.

The following minimization/mitigation measures are proposed in the IHLMP documents, and as clarified to us in several discussions with Rod Meade.

1. Onsite preservation of 2.02 acres of CSS (excluding 0.95 acre CSS already preserved in the existing 2.1-acre dudleya reserve) and creation of 14.2 acres of CSS. The 16.22 acres of preserved/created CSS shall be protected in perpetuity through recordation of a biological conservation easement in favor of an agency, non-profit organization, or other entity approved by the Wildlife Agencies. The permittee shall also provide a one-time fee of \$100,000 to an agency, non-profit organization, or other entity approved by the Wildlife Agencies (e.g., the Development's Property Owners Association) to establish a non-wasting interest bearing account for management in perpetuity of the 16.22 acres of preserved/created CSS.
2. Offsite preservation of a 50-acre parcel containing 30 acres of CSS and 12 pairs of gnatcatcher, within the Southern Subregion of Orange County in Middle Chiquita Canyon. The 50-acre parcel shall be protected in perpetuity through purchase and recordation of a biological conservation easement in favor of an agency, non-profit organization, or other entity approved by the Wildlife Agencies. The permittee shall also provide a one-time fee of \$100,000 to an agency, non-profit organization, or other entity approved by the Wildlife Agencies to establish a non-wasting interest bearing account for management of the 50-acre parcel in perpetuity. If a Southern Subregion NCCP plan is completed, the selected agency may transfer the management funds to the non-profit entity responsible for managing the Southern Subregion NCCP preserve.

Our determination regarding project compliance with the NCCP Process Guidelines and the special 4(d) rule for gnatcatchers is based on the enclosed evaluation of the interim loss criteria contained within the guidelines. Based on this evaluation, we concur with your determination that the proposed IHLMP complies with the NCCP Process Guidelines and approve the loss of an additional 15.43 acres of CSS and take of 3 pairs of gnatcatcher under the special 4(d) rule. In addition to the minimization/mitigation measures given above, the following measures are conditions of this approval.

3. The permittee shall submit draft biological conservation easement language for the 16.22-acre on site and 50-acre offsite mitigation areas to the Wildlife Agencies, at least, 60 days prior to the planned date of initiating the project-site CSS clearing. The form and content of the easement shall follow the enclosed example and be approved by the Wildlife Agencies prior to its execution. The easement shall state clearly that the other easements

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EXHIBIT # 20
PAGE 2 OF 9

or activities that would result in soil disturbance and/or vegetation removal (e.g., fuel modification), except as approved by the Wildlife Agencies, shall be allowed within the biological conservation easement areas. The permittee shall submit an executed copy of the conservation easement for the 50-acre offsite mitigation parcel to the Wildlife Agencies prior to the planned date of initiating CSS clearing. Within 90 days following completion of the CSS plantings on the 16.22-acre mitigation area, the permittee shall submit an executed copy of the conservation easement for the onsite mitigation to the Wildlife Agencies.

4. The entity(ies) approved by the Wildlife Agencies to manage the mitigation sites shall submit draft management plans to the Wildlife Agencies for approval, at least, 60 days prior to the planned date of initiating the project-site CSS clearing. These plans shall be updated annually as needed and include an annual expenditure budget that shall also be approved by the Wildlife Agencies. All management expenditures must be in conformance with the approved annual budget.
5. The permittee shall staff a biologist on site during CSS clearing to ensure compliance with all conditions of the IHLMP permit that are associated with land clearing activities involving CSS and gnatcatchers. The biologist shall submit a report to the Wildlife Agencies that documents compliance with the IHLMP permit conditions relating to the loss of CSS and take of gnatcatchers. The report shall include the biologist's observations with respect to the behavior and fate (if possible) of the gnatcatchers during the clearing activities. The biologist must possess a current recovery permit for the gnatcatcher pursuant to section 10 (a)(1)(A) of the Endangered Species Act.
6. The permittee shall perform all CSS clearing and grubbing activities outside of the gnatcatcher breeding season (considered to be from February 15 through August 30), or implement the contingency measures given in Condition 6 to minimize impacts to gnatcatchers during the breeding season. Brushing of the CSS prior to land development (clearing) of the proposed project site will be conducted in a general up and down pattern and in a manner that attempts to direct gnatcatchers to preserved areas of on-site vegetation.
7. Any CSS clearing activities anticipated to occur during the gnatcatcher breeding season must be approved by the Wildlife Agencies. If clearing and grubbing of CSS during the gnatcatcher breeding season are authorized by the Wildlife Agencies, the following contingency measures will be implemented:
 - Surveys by a biologist with an approved section 10(a)(1)(A) gnatcatcher permit will be conducted, at least, twice after the initiation of the nesting season to determine the presence of gnatcatchers, nest building activities, egg incubation activities, or brood rearing activities. These surveys will be conducted within 1 week prior to the initiation of brushing, grading or other land clearing activities within CSS. One survey will be conducted the day immediately prior to the initiation of work.

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5-99-260

EXHIBIT # 20
PAGE 3 OF 9

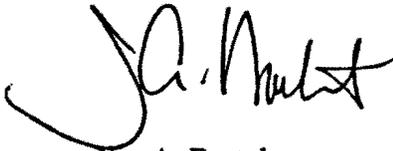
- If no nest(s), nesting behavior, or brood rearing activities are detected, work may commence. Prior to and during work activities, the permitted biologist will locate any individual gnatcatchers on site and direct operators to begin in an area away from birds. The biologist will also walk ahead of mechanized equipment to flush any previously undetected birds. The pattern of the brushing activities will be designed to optimize opportunities for flushed birds to be directed towards planned preservation areas on site.
 - If nesting birds are detected, a nest-monitoring program will be initiated and brushing near any active nest will be postponed until the nest is determined either a success or failure by the permitted biologist. Nest success/failure will be established by regular and frequent trips to the site, on an as-needed basis, as determined by the permitted biologist. Further work activities (brushing) near any active nests will not be initiated until chicks have fledged from the nest or the nest has been determined to be a failure.
8. The permittee shall submit a final CSS mitigation plan to the Wildlife Agencies for approval, at least, 60 days prior to the planned date of initiating CSS clearing authorized by this IHLMP. These plans shall include all final specifications and topographic-based layout grading, planting, and irrigation plans (with ½-foot contours).
 9. Onsite \$100,000 and offsite \$100,000 CSS mitigation management fees shall be put in non-wasting interest bearing accounts, and account information shall be submitted to the Wildlife Agencies, prior to initiating CSS clearing authorized by this IHLMP.
 10. The onsite created/preserved CSS acreage identified as mitigation shall not include fuel modification zones, public trails, drainage facilities, walls, maintenance access roads and/or easements. Further, such facilities shall be cited to minimize, to the extent feasible, impacts on the CSS-creation area (e.g., public trails and drainage facilities will, to the extent feasible, be located in or immediately adjacent to the fuel modification zone and avoid bisecting the CSS creation area). A detailed plan of such facilities shall be submitted, with the draft on-site easement, to the Wildlife Agencies for review and approval.
 11. The permittee shall fence (with silt barriers) the limits of the construction corridor to prevent additional CSS impact and spread of silt from the construction zone into adjacent CSS and other habitats.
 12. The permittee shall submit a report to the Wildlife Agencies within 60 days of completion of the CSS clearing authorized by this permit that includes a map or overlay of CSS that was impacted and preserved, photographs of CSS areas to be preserved, and other relevant summary information documenting that CSS impacts were not exceeded.

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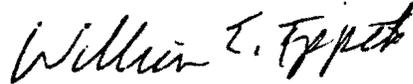
EXHIBIT # 20
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We appreciate the City's ongoing commitment to the NCCP program. The Services conditional concurrence with this IHLMP for impacts to CSS and take of gnatcatchers does not constitute our concurrence with, or preclude our agency from providing comments on, proposed wetland impacts subject to future Clean Water Act Section 404 permitting by the U. S. Army Corps of Engineers. If you have questions regarding our comments, please contact California Department of Fish and Game Habitat Conservation Supervisor, William Tippets, at (858) 467-4201 or U.S. Fish and Wildlife Service Biologist David Zoutendyk at (760) 431-9440.

Sincerely,



Jim A. Bartel
Assistant Field Supervisor
U.S. Fish and Wildlife Service



William E. Tippets
Habitat Conservation Supervisor
California Department of Fish and Game

Enclosures

1-6-00-HC-64

cc: Rod Meade, R. J. Meade Consulting
Tim Neely, County of Orange
Rebecca Tuden, USEPA, Region 9, San Francisco
Fari Tabatabai, U.S. Army Corps of Engineers, Los Angeles
Teresa Henry, California Coastal Commission, Long Beach

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ENCLOSURE

Evaluation of the Interim Loss Criteria of the NCCP Process Guidelines for the IHLMP for the Marblehead Coastal Development Project, City of San Clemente, California

1. *The habitat loss does not cumulatively exceed 5 percent guideline.* The project will impact 15.43 acres of CSS that, when added to the current cumulative losses in the Southern Subregion of Orange County, would amount to a total of 654.66 acres (i.e., 50%) of the 1,310 acres of permissible interim habitat loss per the 5 percent guideline.¹ Therefore, project habitat loss would not cumulatively exceed the 5 percent guideline.
2. *The habitat loss will not preclude or prevent connectivity between areas of high habitat values.* The habitat within the Marblehead Coastal Development area, which is west of Interstate 5 and bordered by development to the north and south, is relatively isolated from areas of high habitat values and of low long-term conservation value. Therefore, the habitat loss will not preclude or prevent connectivity between areas of high habitat values.
3. *The habitat loss will not preclude or prevent the preparation of the subregional NCCP.* Because the habitat on site is isolated and occupied by only three pair of gnatcatchers, it is considered to have low long-term conservation value. Therefore, loss of this habitat will not preclude or prevent the preparation of the subregional Natural Community Conservation Plan.
4. *The habitat loss has been minimized and mitigated to the maximum extent practicable in accordance with the NCCP Process Guidelines.* The Final Environmental Impact Report (FEIR) for the project (City of San Clemente, 95-01) states that 16.9 acres of CSS would be impacted. Since the FEIR was published, the project has been revised to reduce CSS impacts to 15.43 acres. The CSS to be impacted has been determined to be of low-intermediate conservation value due to its isolated nature and occupancy by gnatcatchers. The proposed mitigation includes: 1) on-site preservation and creation of 2.02 acres and 14.2 acres of CSS, respectively. The 16.22 acres of preserved/created CSS shall be protected in perpetuity through recordation of a biological conservation easement in favor of an agency approved by the Wildlife Agencies. The project proponent shall also provide \$100,000 to the development's Property Owners Association for the management in perpetuity of the 16.22 acres of preserved/created CSS; 2) off-site preservation of a 50-acre parcel containing 30 acres of CSS and 12 pair of gnatcatchers,

¹Discrepancies exist in the total number of CSS acres impacted thus far within the NCCP Southern Subregion. Although this discrepancy requires resolution, the discrepancy does not affect our conclusion for this IHLMP.

COASTAL COMMISSION
5-99-260

EXHIBIT # 20

PAGE 6 OF 9

which is of high long-term conservation value for the Southern Subregion and is part of a core gnatcatcher population area within the Southern Subregion of Orange County in Middle Chiquita Canyon. The 50-acre parcel shall be protected in perpetuity through purchase and recordation of a biological conservation easement. The project proponent shall also provide a one time fee of \$100,000 to an agency approved by the Wildlife Agencies for the management of the 50-acre parcel in perpetuity or until a NCCP plan is completed for the Southern Subregion of Orange County. If a NCCP plan is completed, the selected agency would transfer the management funds to the non-profit entity responsible for managing the Southern Subregion NCCP preserve; 3) limiting project grading to August 16 to February 14, unless otherwise authorized by the Wildlife Agencies, to avoid the gnatcatcher breeding season; and 4) retaining a biologist on site to monitor the work.

5. *The habitat loss will not appreciably reduce the likelihood of the survival and recovery of listed species in the wild.* Because the on-site CSS is relatively isolated, it is considered to be of low long-term conservation value, and the gnatcatchers on site are not considered a core population. Therefore, loss of 15.43 acres of CSS and take of three pair of gnatcatchers will not appreciably reduce the likelihood of the survival and recovery of this species in the wild.

6. *The habitat loss is incidental to otherwise lawful activities.* The habitat loss for the project has been approved by the City of San Clemente as part of the adoption of the Final Environmental Impacts Report (EIR 95-01) for the Marblehead Coastal Development. The project must also obtain a Clean Water Act section 404 permit and 401 certification, Coastal Zone Management Act Coastal Development Permit, and 1600 Streambed Alteration Agreement from the U.S. Army Corps of Engineers, California Regional Water Quality Control Board, California Coastal Commission, and California Department of Fish and Game, respectively.

COASTAL COMMISSION
5-99-260

EXHIBIT # 20
PAGE 1 OF 9

DEPARTMENT OF FISH AND GAME

South Coast Region
4949 Viewridge Avenue
San Diego, CA 92123

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South Coast Region



August 29, 2000

SEP - 5 2000

CALIFORNIA
COASTAL COMMISSION

Teresa Henry
California Coastal Commission
South Coast Area Office
200 Oceangate Avenue, Suite 1000
Long Beach, CA 90802-4302

Comments on the Marblehead Coastal Project Wetland Delineation

Dear Ms. Henry:

This letter is provided at the request of the California Coastal Commission (Commission) to verify the adequacy of the wetland delineation for the Marblehead Coastal Project (Project), as part of the project's Coastal Development Permit application. This letter supplements our original letter to the Commission, dated June 26, 2000. The 250.6-acre Project site is generally bounded by Interstate 5, Avenida Pico, and Pacific Coast Highway, and is located in the City of San Clemente, southern Orange County.

The Department has conducted site visits April 5 and 13, and August 23, 2000 and reviewed the April 17, 2000 Exhibit 1 "Draft Jurisdictional Areas for California Department of Fish and Game" and the December 9, 1999 Exhibit H "Jurisdictional Delineation for California Department of Fish and Game and the California Coastal Commission", the wetland data sheets submitted June 14, 2000 and information from the draft mitigation plan faxed to the Department June 21, 2000.

In our previous letter, we indicated that the amount of state-identified wetland acreage was 7.28 acres, plus a possible small additional amount of wetlands. The Department has determined that the wetland delineation is complete with the inclusion of an additional 2450 ft², or 0.06 acre. This brings the total state-identified wetlands acreage on the site to 7.34 acres: 4.93 acres in the coastal zone and 2.41 acres outside the coastal zone.

If you have any questions please contact Terri Dickerson of my staff at (949) 363-7538, or me at (858) 467-4212.

Sincerely,

William E. Tippetts
Habitat Conservation Planning Supervisor

cc: Terri Dickerson

COASTAL COMMISSION

5-99-260

EXHIBIT # 20

PAGE 8 OF 9

Memorandum

RECEIVED
MAR 24 1997

To : Mr. Chuck Damm, Regional Director
California Coastal Commission

JIM JOHNSON

Date: March 10, 1997

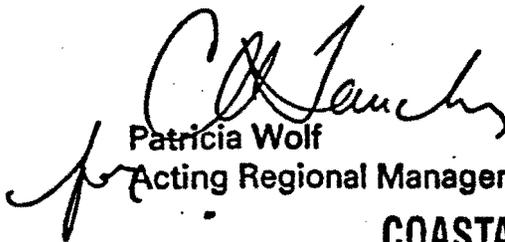
From : Department of Fish and Game - Region 5

Subject : Blochman's Dudleya Translocation Plan for Marblehead Bluffs
(Orange County)

The Department of Fish and Game (Department) would like to express our support for the "Blochman's Dudleya Translocation Plan for Marblehead Bluffs" prepared by RECON for the Lusk Company. It is our understanding that this plan will soon come before the California Coastal Commission (Commission) for review and final approval as part of the Commission's oversight of the proposed Marblehead Bluffs development within the city of San Clemente in Orange County.

The Department has been consulted extensively in the development and refinement of the proposed translocation plan. Our participation to date has included input into the site selection, methodology and development of success criteria, as well as review of the final draft document. Although the Department does not normally support translocation of rare plant species as an acceptable mitigation measure, we believe the translocation plan as developed by RECON, in consultation with Department staff, is feasible and represents a viable solution to the existing situation at Marblehead Bluffs.

Department staff is committed to participation in monitoring and oversight of the translocation project and willing to work with the Commission to verify and ensure that the plan is adhered to. If you or your staff have any questions regarding the Department's support for, or comments on, the proposed translocation plan, please do not hesitate to contact our Regional Plant Ecologist, Mr. Jim Dice, at (619) 767-3384.


Patricia Wolf
Acting Regional Manager

cc: See attached page.

COASTAL COMMISSION
5-99-260

EXHIBIT # 20
PAGE 9 OF 9



California Regional Water Quality Control Board San Diego Region

Winston H. Hickox
Secretary for
Environmental
Protection

Internet Address: <http://www.swrcb.ca.gov/~rwqcb99>
9771 Clairemont Mesa Boulevard, Suite A, San Diego, California 92124-1324
Phone (858) 467-2952 • FAX (858) 571-6972



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South Coast Region

AUG 16 2000

Action on Request for Clean Water Act section 401 Water Quality Certification for Discharge of Dredged and/or Fill Materials

CALIFORNIA
COASTAL COMMISSION

PROJECT: Marblehead Coastal Development (File No. 99C-164)

APPLICANT: Mr. Jim Johnson
MT No.1, LLC
16592 Hale Ave.
Irvine, CA 92606

ACTION:

1. Order for Standard Certification
2. Order for Technically-conditioned Certification
3. Order for Denial of Certification

STANDARD CONDITIONS:

The following three standard conditions apply to all certification actions, except as noted under Condition 3 for denials (Action 3).

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).
2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial certification action (Actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.

COASTAL COMMISSION
5-99-260

EXHIBIT # 21
PAGE 1 OF 3

California Environmental Protection Agency

ADDITIONAL CONDITIONS:

No additional conditions are required for the proposed project.

REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

Stacey Baczkowski
California Regional Water Quality Control Board, San Diego Region
9771 Clairemont Mesa Blvd., Suite A
San Diego, CA 92124
858-637-5594

WATER QUALITY CERTIFICATION:

I hereby certify that the proposed discharge from the Marblehead Coastal Development will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. Although we anticipate no further regulatory involvement, should new information come to our attention that indicates a water quality problem, we may issue waste discharge requirements at that time.



John H. Robertus
Executive Officer
Regional Water Quality Control Board

8-1-2000
Date

Attachment

cc: Army Corps of Engineers, Fari Tabatabai
State Water Resources Control Board
Robert Bein, William Frost & Associates, Michael Burke

COASTAL COMMISSION
5-99-260
EXHIBIT # 21
PAGE 2 OF 3

PROJECT INFORMATION

Applicant: Mr. Jim Johnson
 MT No.1, LLC
 16592 Hale Ave.
 Irvine, CA 92606

Applicant Representatives: Mr. Michael Burke
 Robert Bein, William Frost & Associates
 14725 Alton Parkway
 Irvine, CA 92618

Project Name: Marblehead Coastal Development

Project Location:
County(s): Orange

Certification File Number: 99C-164

**Fill/Excavation
 AREA (ACRES)**

										COMPENSATORY MITIGATION (ACRES)								
PERMANENT IMPACTS (ACRES)					TEMPORARY IMPACTS (ACRES)					WETLAND			RIPARIAN			WATERS		
Wetland	Riparian Stream bed	Lake	Ocean		Wetland	Riparian Stream bed	Lake	Ocean		Creation	Preserve	Restore	Creation	Preserve	Restore	Creation	Preserve	Restore
2.5	0	0.84	0	0	0	0	0	0	0	0.93	2.41	0.18	0	0	0	0	0	0

COASTAL COMMISSION
 5-99-260

**US Army Corps of Engineers
 Permit Number:** Unknown

EXHIBIT # 21
 PAGE 3 OF 3

CEQA Compliance: Environmental Impact Report
Lead Agency: City of San Clemente

Application Fee Provided: \$500.00

Project Description: 250.6-acre residential/commercial development in the City of San Clemente.



**CITY OF
SAN CLEMENTE**

Office of City Manager

Mike Parness, City Manager

Phone: (949) 361-8322 Fax: (949) 361-8283

NOV 12 1999

CALIFORNIA
COASTAL COMMISSION

November 8, 1999

CALIFORNIA COASTAL COMMISSION

Mr. Stephen Rynas, AICP
Orange County Area Supervisor
200 Oceangate, Suite 1000
Long Beach, CA 90802

Subject: Marblehead Coastal CDP Application 5-99-260

Dear Mr. Rynas:

On behalf of the City of San Clemente, I am responding to two questions that either have been raised in your CDP application review letter of August 16, 1999 to the applicant's representative, or may be raised by Commission Staff concerning the completeness of the Marblehead Coastal CDP Application 5-99-260.

City Authorization for Off-site Infrastructure Improvements

The first question involves improvements off site that may be necessary to support the proposed development activities within the Marblehead Coastal site. As noted in the applicant's CDP application, the Coastal Development Permit for the Marblehead Coastal project includes Commission permitting for certain infrastructure extensions, connections and improvements that will be required within City controlled public rights of way. I am writing to respond to the Commission staff request for written authorization from the City of San Clemente for the applicant to undertake such infrastructure improvements within City public rights of way, as identified in the CDP application now being reviewed by your staff. Once the construction plans for these improvements have been satisfactorily completed and are found to be in compliance with City project approvals, a written authorization for the applicant to undertake such off site infrastructure improvements within City public rights of way will be granted.

COASTAL COMMISSION
5-99-260

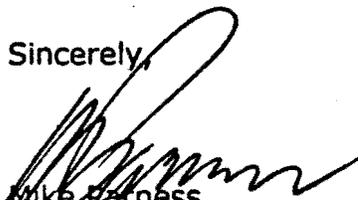
EXHIBIT # 22
PAGE 1 OF 8

City Acceptance of Project Park/Trail Dedications

The second issue attempts to anticipate a possible staff question concerning the City's willingness to accept the irrevocable offers of dedication for the proposed Bluff Top Park, trail and canyon trail system. On this point it should help you to understand the normal City approach to dealing with offers of dedication. The City already has indicated during public hearings on the Marblehead Coastal project that it will require dedication of the proposed bluff top park and trails. However, City policy is not to formally accept park/trail dedications until the Final Tract Map is filed and approved. Therefore, once the Final Tract Map(s) for Marblehead Coastal project have been approved and after the improvements are satisfactorily completed, the City is committed to accepting the park and trail offers of dedication identified in the CDP application for Marblehead Coastal.

I hope this letter responds to your questions.

Sincerely,



Mike Rarness
City Manager

Cc: James S. Holloway, Director, Community Development
David N. Lund, Director, Public Works and Economic Development

COASTAL COMMISSION

5-99-260

EXHIBIT # 22

PAGE 2 OF 8



**City of San Clemente
Engineering Division**

William E. Cameron, City Engineer

Phone: (949) 361-6120 Fax: (949) 361-8316

April 4, 2000

Mr. Karl Schwing
Coastal Program Analyst
CALIFORNIA COASTAL COMMISSION
South Coast Area
200 OceanGate, 10th Floor
Long Beach, California 90802-4325

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APR 05 2000

CALIFORNIA
COASTAL COMMISSION
COASTAL COMMISSION
5-99-260

EXHIBIT # 22

Re: Urban Runoff Management for Marblehead Coastal CDP Application 3 OF 8
5-99-260

Dear Mr. Schwing:

On behalf of the City of San Clemente, I am responding to a request that the City clarify its intent to accept urban runoff from the proposed Marblehead Coastal project's urban runoff management system into the City sewer system.

On March 1, 2000 the project's revised design for the drainage system, including the urban runoff management system, was approved by City staff and City Council along with the project amendments to Tentative Tract Map 8817. The City of San Clemente strongly supports this new urban runoff management system. We believe that the Marblehead Coastal project approach represents a significant improvement in urban runoff management that will provide a valuable model for future projects.

The urban runoff management system was developed from its onset through dialogue with the City of San Clemente. The system directs dry weather flows and first flush collected from offsite areas upstream of the project and the on-site regional commercial area to the land outfall which conveys it to the SERRA ocean outfall. In the event that it becomes necessary, those flows can be combined with sewer flows and can be routed through the treatment processes of the water reclamation plant. The dry weather flows from the residential portion of Marblehead Coastal will also be combined with sewer flows and routed through the treatment processes of the water reclamation plant.

The City of San Clemente will accept the proposed urban runoff into its facilities. These flows will either become a component of effluent discharged to the SERRA outfall or will be a component of the reclaimed water distributed by the City's Reclaimed Water System. In either case, the projects's urban runoff management plan will significantly reduce disposal of urban runoff on the beaches of San Clemente, or in any other near-shore area.

We look forward to the approval of the Marblehead Coastal project, including this innovative urban runoff management system. Please let me know if we can answer any questions on this subject.

Sincerely,



William E. Cameron
City Engineer

- cc: Mike Parness, City Manager
- David Lund, City of San Clemente
- Jim Johnson, MT No. 1, LLC
- Mike Burke, RBF

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COASTAL COMMISSION
5-99-260

EXHIBIT # 22

PAGE 4 OF 8



City of San Clemente Community Development

James S. Holloway, Community Development Director
Phone: (949) 361-6106 Fax: (949) 361-8281

July 3, 2000

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JUL 06 2000

Mr. Karl Schwing
CALIFORNIA COASTAL COMMISSION
South Coast Area Office
200 Ocean Gate, Suite 1000
Long Beach, CA 90802

CALIFORNIA
COASTAL COMMISSION
COASTAL COMMISSION
5-99-260
EXHIBIT # 22
PAGE 5 OF 8

Subject: Marblehead Coastal Project- Beachfront land dedication to public entity.

Dear Mr. Schwing:

The City of San Clemente has studied and strongly supports the proposed beachfront land dedication offered by the Marblehead Coastal project, as a part of their application for Coastal Commission approvals. The City would very much like to see the beachfront parcel, offered by Marblehead Coastal, become public property. One issue that the City is already addressing when the property does become public, is the issue of public access. The City has just completed a yearlong process to address the issue of safe public access to North Beach.

Approximately, 15 months ago the Council appointed a Rail Corridor Safety and Education Panel (RCSEP) to study and make recommendations regarding safe public access to and from the beaches across the railroad tracks that parallel the entire coastline of San Clemente. The RCSEP committee included representatives from Surfriders, Derail the Trail, Orange County Transportation Authority (OCTA)(owners of the rail right-of-way), seniors' advocates representatives, Chamber of Commerce Transportation Committee representatives, California State Park representatives and other constituency groups. One of the specific recommendations of the RCSEP committee was to provide an at-grade crossing of the railroad track at the intersection of Pacific Coast Highway and Camino Capistrano. This intersection is already a lighted intersection. Once safely across the tracks, a future trail is recommended paralleling the tracks that would run down to the new public beach lands offered by Marblehead Coastal. Additionally, improvements would be made to a current below grade pedestrian crossing.

These specific improvements are part of a larger comprehensive access improvement plan that would cost approximately \$5.6 million. A \$4.5 million TEA grant has been applied for by the City and approved by OCTA for construction of these improvements. Additional matching money is being sought through a variety of sources including the Coastal Conservancy, and State funding sources for parks and trails improvements.

The City is very excited about the prospects of the entire Marblehead Coastal project and look forward with great anticipation to a favorable staff recommendation and ultimate Coastal Commission approval of the project. The offer of beach land dedication and creation of more public beach, is just one part of an incredible package that is being offered by Marblehead Coastal. We urge you to make a favorable recommendation concerning this project.

Sincerely,



James S. Holloway
Community Development Director

COASTAL COMMISSION
5-99-260

EXHIBIT # 22
PAGE 6 OF 8

cc: Mike Parness, City Manager



City of San Clemente
Engineering Division

William E. Cameron, City Engineer

Phone: (949) 361-6120 Fax: (949) 361-8316

RECEIVED
SEP 13 2000

September 8, 2000

Mr. Karl Schwing
California Coastal Commission
200 Oceangate, 10th Floor
Long Beach, CA 90802-4325

CALIFORNIA
COASTAL COMMISSION

**Subject: SERRA Land Outfall – Marblehead Coastal CDP Application
5-99-260**

Dear Mr. Schwing:

On behalf of the City of San Clemente, I am writing to reiterate that the City will accept runoff from the Marblehead Coastal project for treatment at the City's water reclamation plant. Since my letter to you of April 4, 2000, an updated water quality plan dated July 13, 2000 (submitted to you on July 26) has been prepared in cooperation with the City. The revised plan shows that all flows introduced into the SERRA outfall will be fully processed by the wastewater treatment plant. No untreated runoff from the Marblehead Coastal site will be introduced into the SERRA outfall.

If, in the future, the Regional Water Quality Control Board and other appropriate regulatory agencies allow treated or untreated nuisance and/or storm water diversions directly to sewer outfalls, the City of San Clemente may investigate the feasibility of diverting treated or untreated flows to the SERRA outfall. Before any changes were made in drainage disposal, the City would obtain all required approvals and permits.

Sincerely,

A handwritten signature in cursive script that reads "William E. Cameron".

William E. Cameron
City Engineer

C: Mike Parness, City Manager
David N. Lund, Public Works & Economic Development Director
Jim Johnson, MT No. 1, LLC
Mike Burke, RBF

COASTAL COMMISSION
5-99-260

EXHIBIT # 22
PAGE 7 OF 8

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**City of San Clemente
Engineering Division**

**William E. Cameron, City Engineer
Phone: (949) 361-6120 Fax: (949) 360-8316**

RECEIVED
SEP 13 2000

CALIFORNIA
COASTAL COMMISSION

**Mr. Karl Schwing
California Coastal Commission
200 Oceangate, 10th Floor
Long Beach, CA 90802-4325**

September 8, 2000

**Subject: Reclaimed Water Availability – Marblehead Coastal CDP
Application 5-99-260**

Dear Mr. Schwing:

The purpose of this letter is to clarify the availability of reclaimed water for the Marblehead Coastal project. The City does have reclaimed water treatment facilities and two pipelines that provide reclaimed water to the City's Municipal Golf Course and the Pacific Golf Club. The City does not have reclaimed water storage and distribution lines to serve any other irrigation customers within the City, including the Marblehead Coastal property. The City's Reclaimed Water Master Plan, prepared in 1995, identified potential properties to receive reclaimed water and reclaimed water system improvements to be made to implement the plan.

Implementing the first phase of the Reclaimed Water Master Plan, which would then make reclaimed water available to Marblehead Coastal and other properties, would cost at least \$5 million to build a pump station, reservoir and distribution lines. The City does not have an identified funding source and does not anticipate construction of the reclaimed water facilities to occur for at least 5 to 10 years. Once those facilities are constructed, the Marblehead Coastal property and other properties will be connected to the City's reclaimed water system.

If you need additional information, please feel free to contact me.

Sincerely,

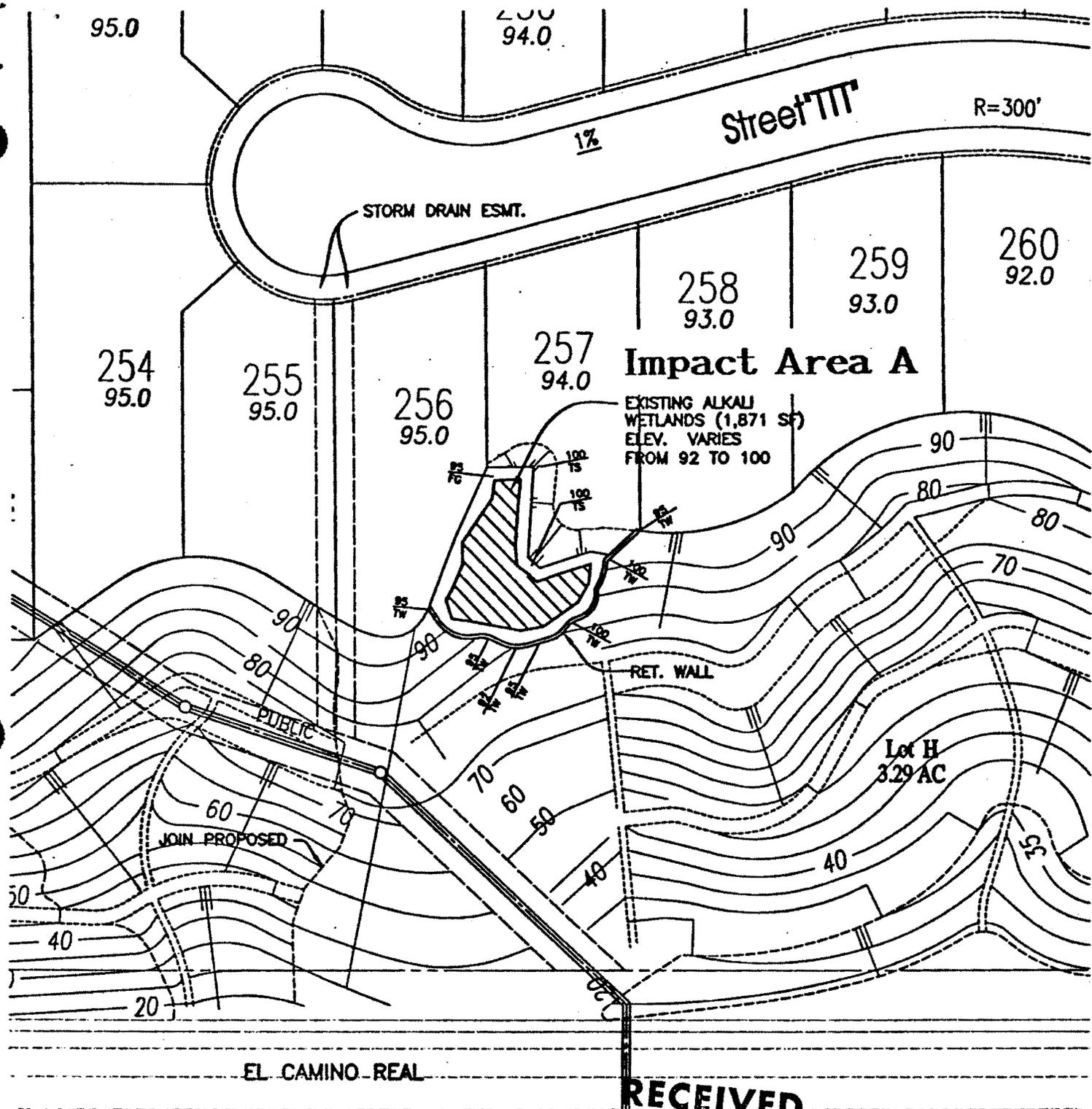
Handwritten signature of William E. Cameron in black ink.

**William E. Cameron
City Engineer**

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**COASTAL COMMISSION
5-99-260**

EXHIBIT # 22
PAGE 8 OF 8



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South Coast Region

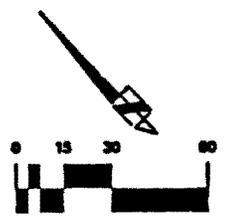
COASTAL COMMISSION
5-99-260

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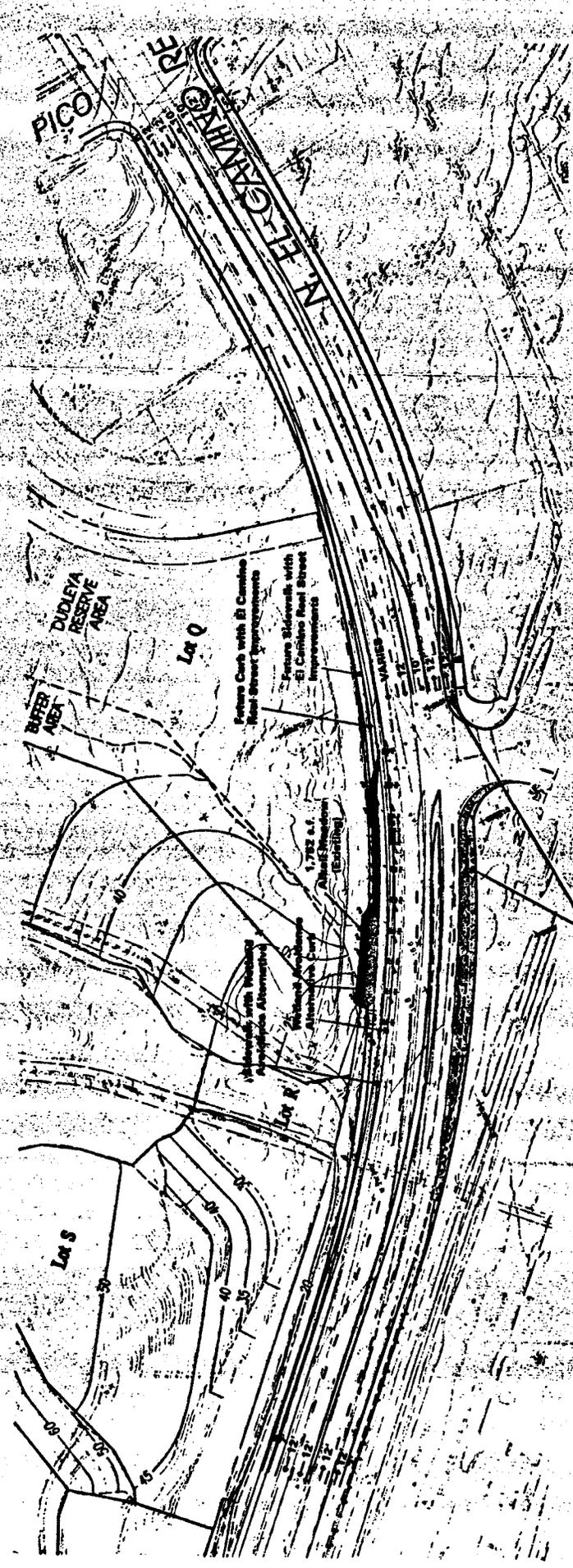
EXHIBIT # 23

CALIFORNIA
COASTAL COMMISSION

PAGE 1 OF 1



**MARBLEHEAD COASTAL
Wetlands Avoidance Plan
ALTERNATIVE 1**



City of San Clemente Future Improvements with El Camino Real, and El Camino Real and Avenida Pico Intersection Improvements

Wetland Avoidance Alternative Alignment Study



MARLBHEAD COASTAL • CITY OF SAN CLEMENTE
**North El Camino Real Wetland Avoidance
 Alternative Alignment Study**

ALTERNATIVE #1
IMPACT AREA B1 + B2

COASTAL COMMISSION
5-99-260

EXHIBIT # 24

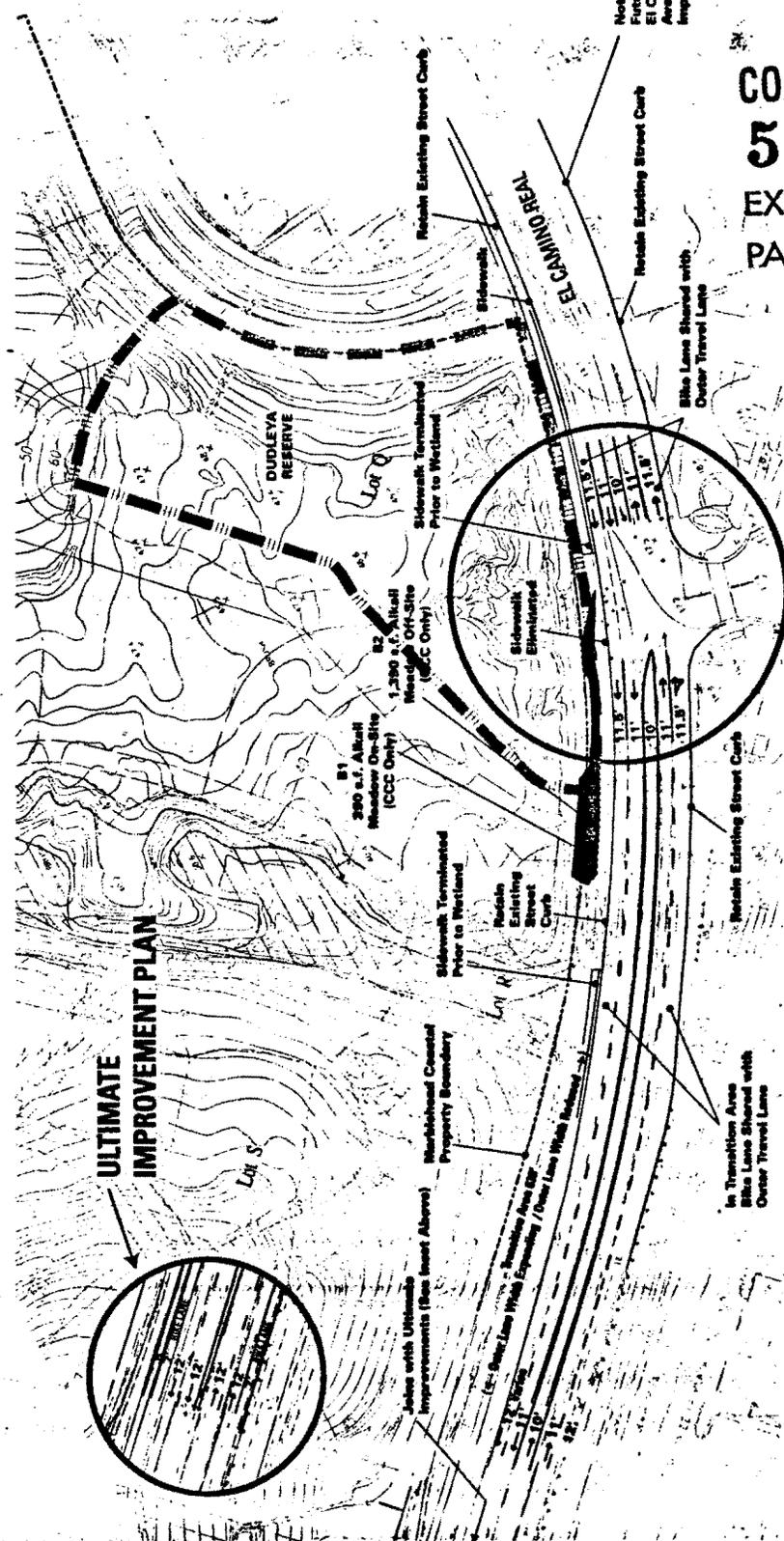
PAGE 1 OF 2

1,782 s.f. of Additional Right-of-Way Required with Wetland Avoidance Alternative



RBF
 CONSULTING

AVENIDA PICO



Note: City of San Clemente Future Improvements with El Camino Real and Avenida Pico Intersection Improvements

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South Coast Region
DEC 14 2000
CALIFORNIA
COASTAL COMMISSION

CITY OF SAN CLEMENTE
MARBLEHEAD COASTAL

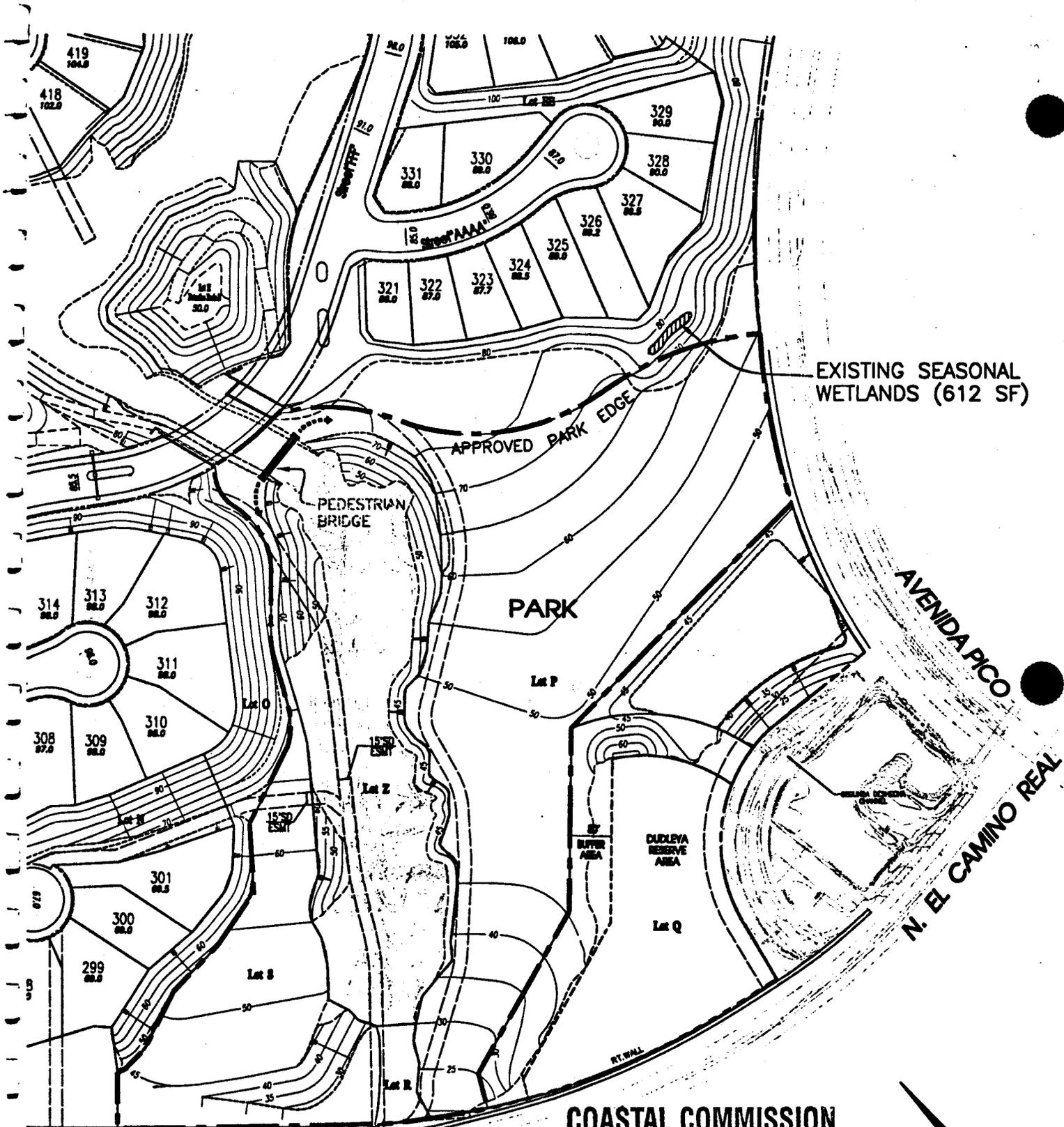
12/14/2000
North El Camino Real
Alternative 2: Wetland Avoidance
(Impact Area B1 & B2)

COASTAL COMMISSION
5-99-260
EXHIBIT # 24
PAGE 2 OF 2

DIFFERENCES FROM PROJECT PROPOSAL TO AVOID WETLANDS:

- Preserves 1,780 s.f. of existing alkali meadow wetlands adjacent to El Camino Real.
- Eliminates the need for a cut slope and retaining wall adjacent to El Camino Real.
- Creates discontinuous pedestrian walkway (300 feet eliminated) along project frontage to avoid the wetlands.
- Due to lack of sidewalk encourages pedestrian crossing on the inside of the curve.
- Creates discontinuous bike lane on both sides of road adjacent and opposite wetlands. Bicyclist will share the outside lane with vehicles.
- Provides transition area (630 ft.) with reduced travel lane widths to connect with ultimate improvement width.
- Compared to previous alternative (July 11 submittal) eliminates need to take 5,628 s.f. of right-of-way.

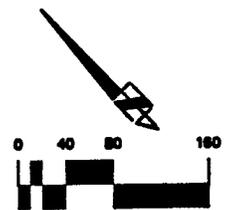




COASTAL COMMISSION
 5-99-260

EXHIBIT # 25

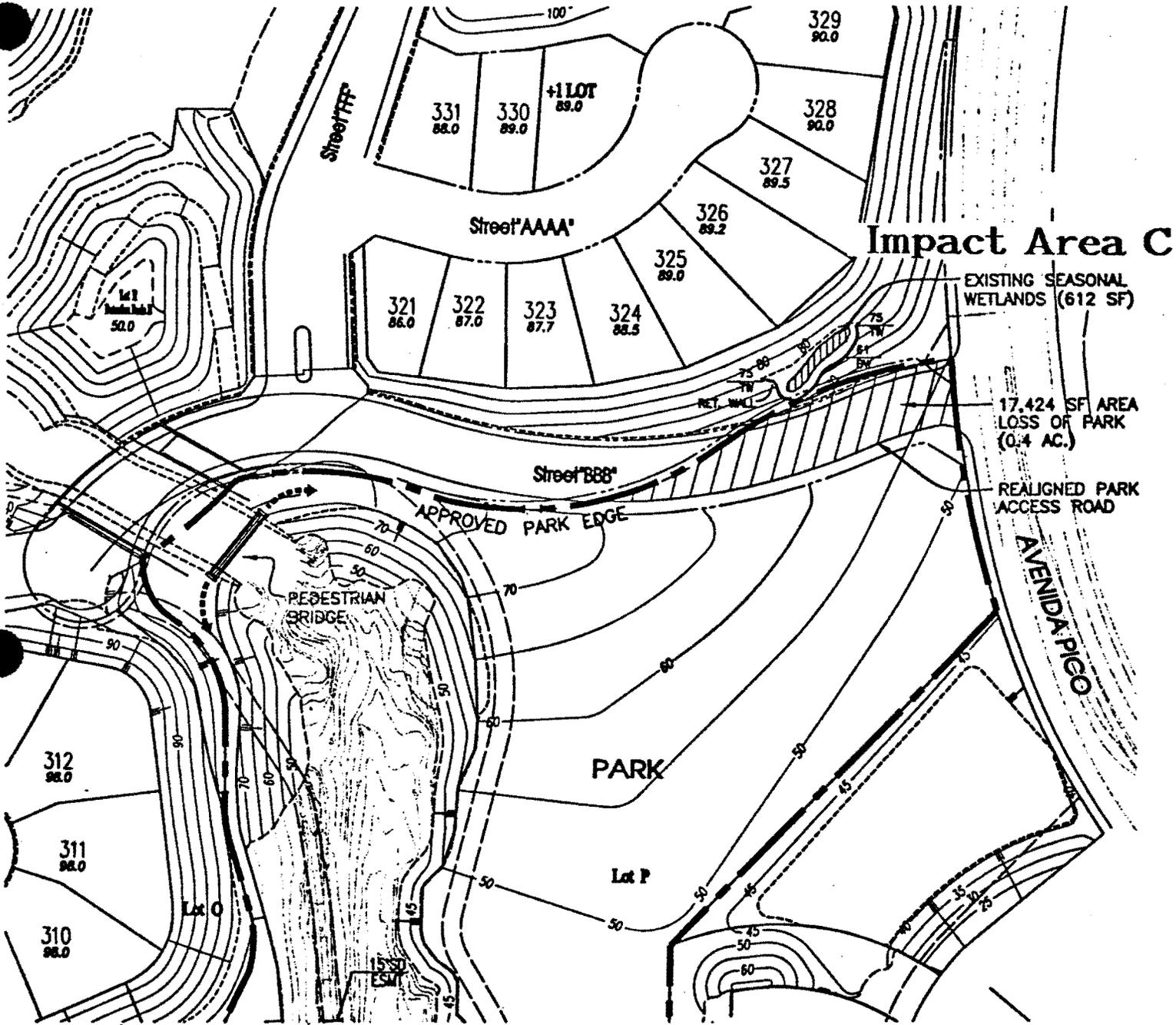
PAGE 1 OF 3



**MARBLEHEAD COASTAL
 Wetlands Avoidance Plan**

**ALTERNATIVE 1
 STREET BBB**

PARK ACCESS ROAD REMOVED

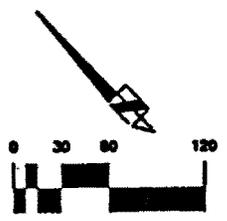


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5-99-260
 EXHIBIT # 25
 PAGE 2 OF 3

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DEC 14 2000

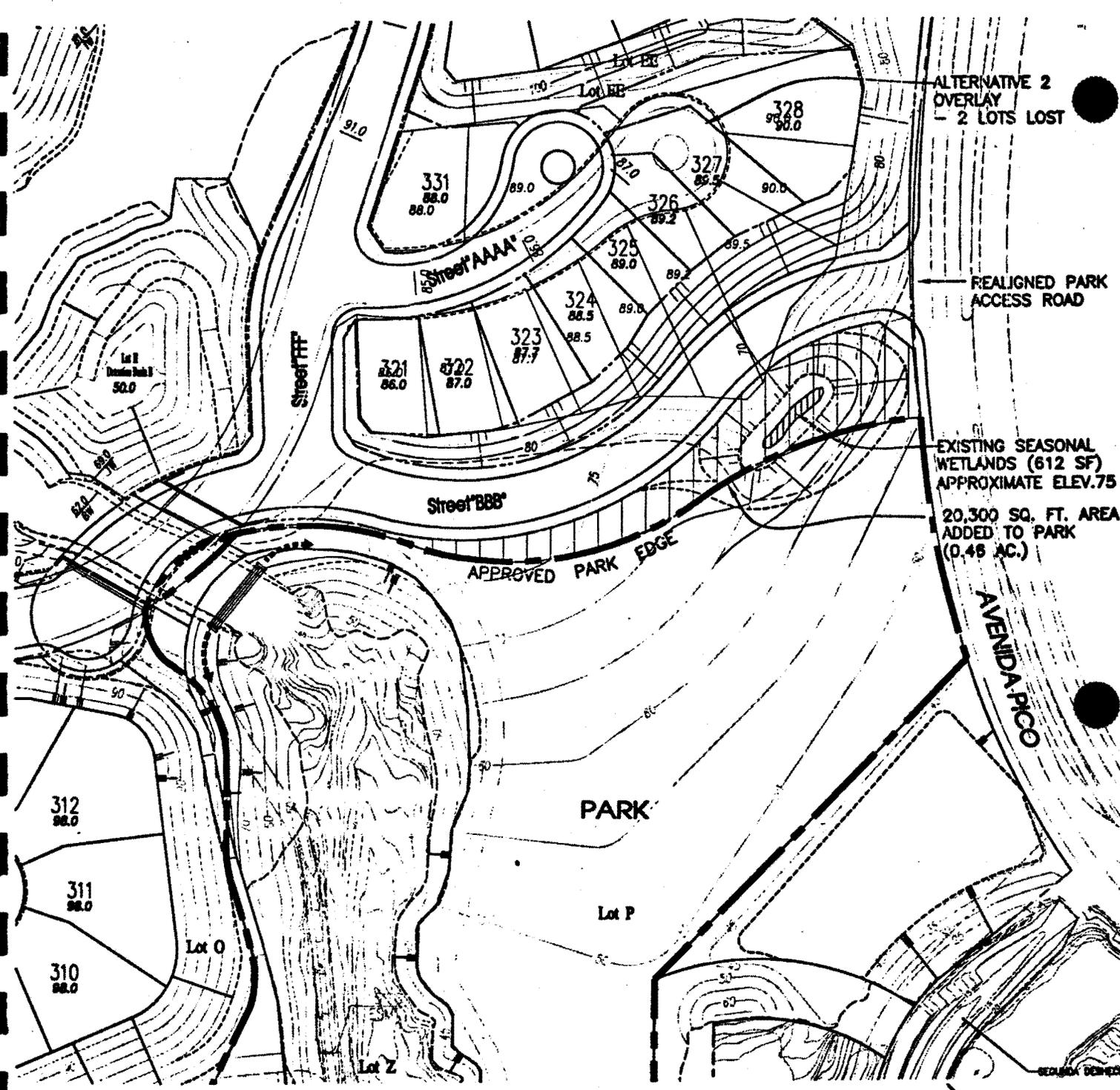
CALIFORNIA
 COASTAL COMMISSION



**MARBLEHEAD COASTAL
 Wetlands Avoidance Plan**

ALTERNATIVE 1

Re-Align STREET BBB - South



ALTERNATIVE 2
OVERLAY
- 2 LOTS LOST

REALIGNED PARK
ACCESS ROAD

EXISTING SEASONAL
WETLANDS (612 SF)
APPROXIMATE ELEV.75

20,300 SQ. FT. AREA
ADDED TO PARK
(0.46 AC.)

COASTAL COMMISSION
5-99-260

EXHIBIT # 25
PAGE 3 OF 3

**MARBLEHEAD COASTAL
Wetlands Avoidance Plan**

**ALTERNATIVE # 3
REALIGN STREET BBB-NORTH**

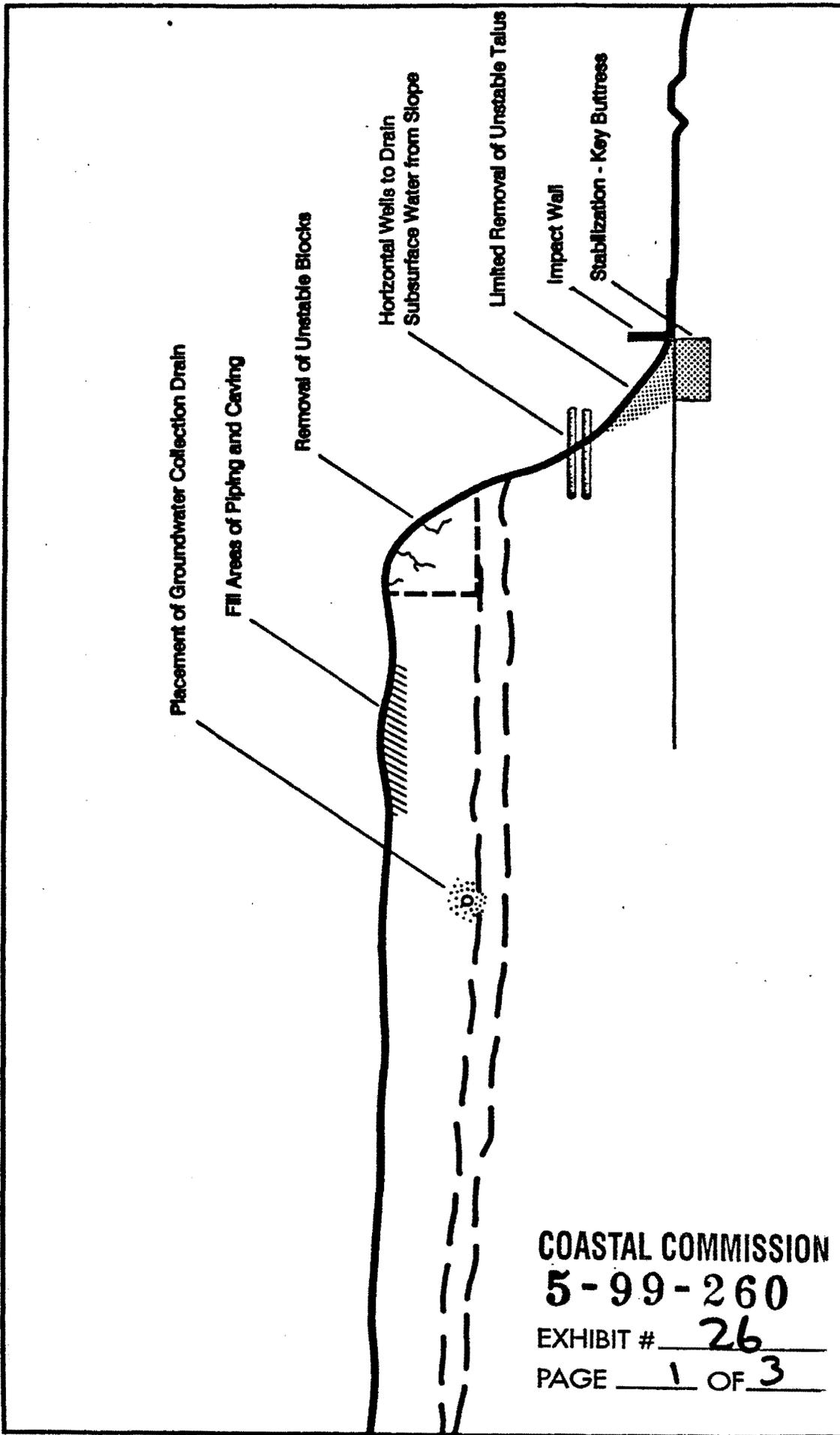


Exhibit 7-3

LIMITED GRADING ALTERNATIVE

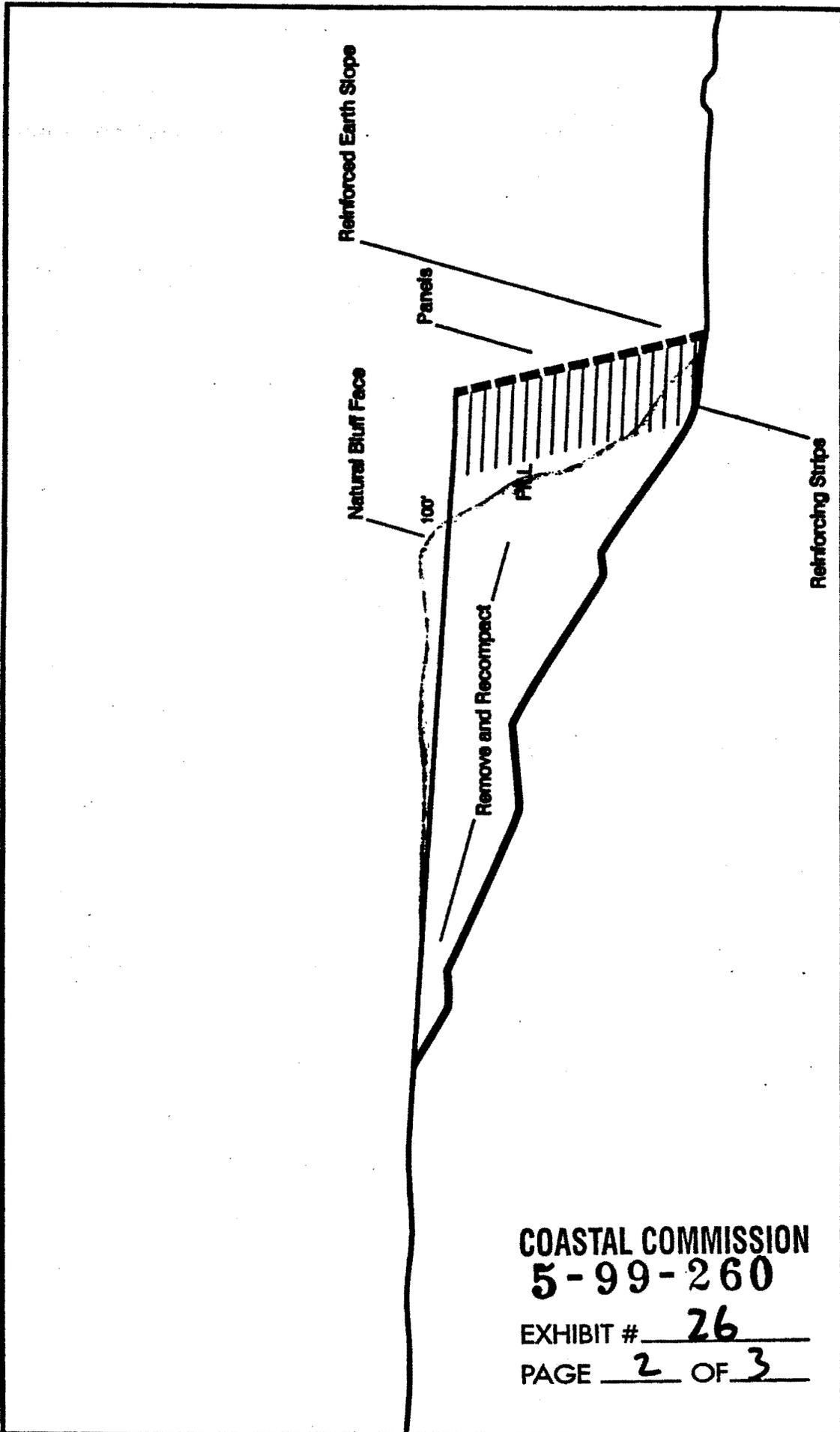
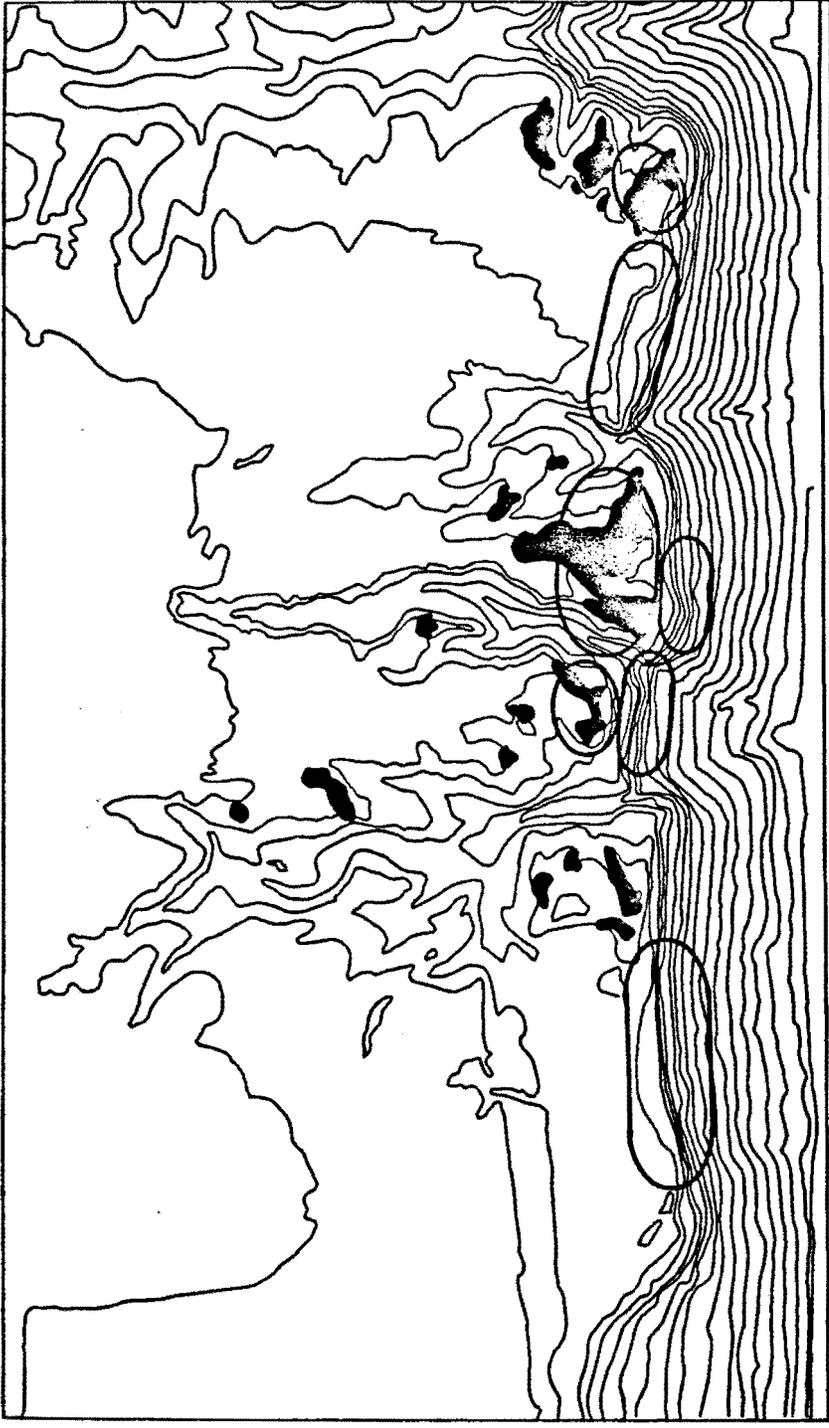


EXHIBIT 7-2

COASTAL COMMISSION
 5-99-260
 EXHIBIT # 26
 PAGE 2 OF 3

REINFORCED EARTH ALTERNATIVE



COASTAL COMMISSION
5-99-260

EXHIBIT # 26
PAGE 3 OF 3

LEGEND
 Bloodman's Durdleys
 Limited Grading Area

Exhibit 7-6

PHASE 2 TOPOGRAPHIC CONTOURS OF LIMITED GRADING ALTERNATIVE

R. J. MEADE CONSULTING

Planning and Public Policy

7910 Ivanhoe Avenue, PMB # 40
La Jolla, California 92037
Telephone (858) 456-0077
Facsimile (858) 456-0419
Email rjmeade@pacbell.net

RECEIVED
South Coast Region

NOV 30 2000

CALIFORNIA
COASTAL COMMISSION

MEMORANDUM

DATE: November 28, 2000
TO: Karl Schwing – Coastal Analyst
FROM: Rod Meade
SUBJECT: Marblehead Coastal CDP Application 5-99-260

COASTAL COMMISSION

5-99-260

EXHIBIT # 27

PAGE 1 OF 8

I am forwarding the following information for your use as you prepare the staff recommendation for the Marblehead Coastal project. This information focuses on issues relating to project impacts on coastal sage scrub (CSS) and coastal California gnatcatchers and the proposed mitigation approach. The specific purposes of this memorandum are to: 1) provide additional explanation of the rationale for the proposed mitigation approach, which involves both on-site and off-site mitigation; and 2) address the issue of whether the CSS and gnatcatchers located on-site constitute "environmentally sensitive habitat areas" (ESHAs) as defined in Section 30107.5 and applied in Section 30240 of the Coastal Act.

1. Mitigation Approach

It is important to note, at the start, that the Marblehead Coastal site was not included in either the "proposed" or "Final" Critical Habitat" designations by the U. S. Fish and Wildlife Service (Service) for the coastal California gnatcatcher. The "critical habitat designation" for the gnatcatcher was very extensive, including more acreage (517,000 acres+) than the amount of CSS habitat existing in southern California (slightly more than 400,000 acres of CSS). The critical habitat designation prepared by the Service identified "*specific areas, both occupied and unoccupied that are essential to the conservation of a listed species and may require special management considerations or protection.*" (Source: "Summary" of the Final Determination of Critical Habitat for the Coastal California Gnatcatcher)

The Service was fully aware of the fact that the Marblehead site contained both CSS and 2 or 3 pairs of gnatcatchers during the preparation of its designation of critical habitat, as evidenced by its decision to issue a Special 4(d) Take authorization for the property. Therefore, from an

ecosystem perspective, it is important to understand that the Service has already determined that existing coastal sage scrub (CSS) and gnatcatchers on the Marblehead Coastal property are not "essential to the conservation" of the gnatcatcher and not in need of "special management considerations."

The Marblehead Coastal mitigation commitment for impacts to CSS and gnatcatchers includes both on-site preservation and re-creation of CSS habitat (16.2 acres) and off-site mitigation in the form of a conservation easement covering 30 acres of CSS. In all, the mitigation package results in the preservation, creation and long-term management of more than 46 acres of CSS habitat containing at least 12 pairs of gnatcatchers. The off-site component of the CSS/gnatcatcher mitigation package alone represents a \$2.6 million investment, \$2.5 million cost for the conservation easement and \$100,000 cost for the long-term management endowment. This is a very significant mitigation commitment for impacts to 2, or at most 3 pairs of gnatcatchers and 15.4 acres of low quality CSS.

The Marblehead mitigation approach focuses on off-site mitigation for two reasons. First, because onsite preservation and long-term management of the existing CSS and gnatcatchers is not feasible. And, second, from a biological perspective, because on-site preservation may not be desirable. These issues and conclusions are explained below and contrasted with the conservation benefits provided by the proposed off-site component of the mitigation approach.

Feasibility of On-Site Preservation and Management

On site preservation is not considered "feasible" for two reasons. First, the grading concept required to achieve project objectives would not allow preservation of the scattered onsite patches of CSS vegetation. Second, under any grading alternative, the long-term prospects for persistence of gnatcatchers within Marblehead's remnant patches of CSS and coastal canyons is low due to: a) the isolation of the on-site birds by development and Interstate 5 from other significant natural habitat areas capable of supporting gnatcatchers; b) the scattered and degraded character of the CSS habitat; and c) the proximity and impacts of future urban uses on the site. These same factors, in combination with the fact that this site does not provide a "linkage" or "connectivity" function, explain why Marblehead was not identified as "critical habitat" by the Service in either the proposed or Final designations.

Desirability of On-Site Preservation – Creation of Biological "Sources" and "Sinks"

Although not addressed by the 4(d) Permit directly, from a species conservation perspective, the concept of population "sources" and "sinks" is important to understand. In written comments to the Service on its proposed critical habitat designation for the gnatcatcher (see Exhibit A), Dr. Dennis Murphy, formerly the Chair of the state's Scientific Review Panel for the NCCP program, cited the National Academy of Sciences Committee on Science and the Endangered Species Act in their report *Science and the Endangered Species Act* (National Research Council, 1995). Dr. Murphy, who also served on the NAS Committee, cited the

report's warning that "simple occurrence of a species within habitat does not necessarily mean the habitat is required by the or the amount and quantity of habitat might be considered 'critical'." (pp. 75, 76) In his letter, Dr. Murphy expanded on this statement with the following discussion:

That observation is drawn from a technical discussion elsewhere in the volume describing "source-sink" population structure, the prevalent manifestation of metapopulation dynamics exhibited most species. 'In natural populations, individuals reside in habitat patches of differing quality. Individuals in highly productive habitats can be expected to be more successful in producing offspring than those in poor habitats, which can be expected suffer poor reproductive success or survival. This concept has its own nomenclature.' Terms are defined. 'Sources are areas where local reproductive success is greater than local mortality. Populations in source habitats produce an excess of individuals, which disperse outside their natal habitat patch to find a place to settle and to breed. In contrast, sinks are habitat areas where local productivity is less than local mortality; in the absence of immigration from source areas, populations in sink habitats decline toward extinction' (p. 98). The report goes on to note that 'source' habitats could easily be overlooked if conservation efforts concentrate only on habitats where a species is most common, rather than where it is most productive. If source habitats are not protected by conservation plans, an entire metapopulation could be threatened' (p. 99). (see Exhibit A, p. 2)

Dr. Murphy was involved in surveying the Marblehead Coastal site for possible occurrence of another endangered species which was not found on-site. Based on his site visits to the Marblehead property, Dr. Murphy verbally indicated that because of the degraded and fragmented condition of the existing habitat, its isolation from other populations of gnatcatchers, and its low prospects for species persistence on-site, it would fall into the "sink" category using the above nomenclature. Accordingly, he supported a strong off-site mitigation component that focuses on preservation and management of habitat located within a "core population" of gnatcatchers that would serve as a "source" population over the long term. Dr. Murphy will be providing written confirmation of these statements and I will forward his letter to you as soon as it is available.

Benefits of the Off-Site Mitigation Component

The mitigation required as part of the 4(d) Permit involves the purchase of a conservation easement covering 50 acres of land owned by Rancho Mission Viejo within southern Orange County. The 50-acre conservation easement has several important attributes that makes it exceptional mitigation for the impacts to the gnatcatchers and remnant CSS on the Marblehead Coastal property.

- First, the mitigation site contains 12 pair of gnatcatchers and 30 acres of high quality CSS habitat (see Figure 1).

- Second, this site is located in a large “source” population of gnatcatchers (see Figure 2)
- Third, the site is located immediately adjacent to or in close proximity to areas that already are existing dedicated open space and contain more than 150 pairs of gnatcatchers (see Figure 3).
- Fourth, the mitigation plan includes a \$100,000 “management endowment” that both state and federal wildlife agencies agree is sufficient to assure long-term management of the easement.
- Finally, DFG will accept the conservation easement and be responsible for allocating management endowment funds to maintain biological values on the easement area over the long term.

Based on the benefits described above, it is clear that the long-term value of the proposed CSS/gnatcatcher mitigation site does not rely on completion of the subregional NCCP/HCP. Accordingly, the Coastal Commission is not being asked to rely on the terms of a future NCCP/HCP in order to determine the value of proposed mitigation for CSS and gnatcatcher impacts associated with this project. Sufficient information is available for the Commission to make a determination of adequacy at the time the permit is acted upon.

- **Relation to Designation of ESHAs by the Coastal Commission**

During your review of the Marblehead CDP application and as part of your recommendation to the Commission, you will consider whether to recommend that the Marblehead Coastal CSS and related coastal California gnatcatcher occupied areas should be designated as an ESHA.

When you consider whether the occupied habitat/CSS on this property constitute an ESHA, my hope is that you will consider the above discussion of “sources and sinks” and the findings and decisions of the CDFG and Service in the context of Section 30107.5 of the Act. Section 30107.5 defines “environmentally sensitive area” as:

... any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and development. (Emphasis added)

As noted earlier, the Marblehead site is not included in the “critical habitat designation” for the gnatcatcher and, under the ecosystem-based NCCP/HCP program and as part of NCCP’s Section 4(d) Interim Take permitting process. Under the Special 4(d) Rule, CDFG and the Service jointly determined that it was appropriate to address the long-term survival of the coastal California gnatcatcher and its habitat by allowing “Take” of the Marblehead Coastal gnatcatcher pairs and loss of on-site CSS in exchange for the acquisition and long-term management of the mitigation site located in the heart of a “source population” of gnatcatchers.

Therefore, based on the findings and actions of both CDFG and the Service in regards to the Marblehead Coastal property, it does not make sense to designate the CSS and occupied gnatcatcher habitat located on the Marblehead site as an ESHA.

- It is not "critical habitat" under the Final Service designation, nor was it ever proposed for designation as critical habitat.
- It is not considered an important site for habitat reserve design purposes (no core populations and no connectivity value).
- Its degraded and fragmented condition and isolated location away from other significant populations indicates that it would continue to function as a "sink" area.
- The best way to contribute, on an ecosystem level, to conservation of the gnatcatcher species is to encourage acquisition and long-term management of "source" areas such as the 50-acre parcel of land included in Marblehead Coastal's proposed CSS and gnatcatcher mitigation component.

3. Conclusion

For all of the above reasons, it is our opinion that the Coastal Commission should support the CSS/gnatcatcher mitigation commitments already approved by CDFG and the Service and outlined in the CDP application. In addition, we believe that the unoccupied and occupied CSS habitat located on the Marblehead Coastal property should not be designated as an ESHA.

Thank you for your consideration. After you have an opportunity to review this material please call so that we can discuss any questions that you may have. I have copied John Dixon so that he will have the same information in case you wish to discuss it with him.

cc. Deborah Lee – South Coast Region
John Dixon – San Francisco Staff
Jim Johnson – MT NO.1, LLC
Mike Burke – RBF
Dr. Dennis Murphy – University of Nevada, Reno



Biological Resources Research Center
Department of Biology/314
Reno, Nevada 89557-0015, USA
Phone: (775) 784-4565
FAX: (775) 784-1369

04 April 2000

Mr. Ken Berg
Field Supervisor
Carlsbad Fish and Wildlife Office
2730 Loker Avenue West
Carlsbad CA 92008

COASTAL COMMISSION
5-99-260

EXHIBIT # 27

PAGE 6 OF 8

Dear Mr. Berg,

I write this comment on the recently published draft Critical Habitat Designation for the threatened California gnatcatcher. I note to reviewers that I chaired the Scientific Review Panel for the nation's first Natural Communities Conservation Planning (NCCP) effort that focused on the gnatcatcher and the coastal sage scrub community that supports it in southern California, and was chief architect of the original conservation guidelines to that program. The NCCP guidelines anticipated regional landscape-level conservation planning efforts that would obviate the need for formal Critical Habitat designations for listed species in the planning areas, although that exception was never explicitly stated. Importantly though, regional planning efforts were expected to be sufficiently ambitious to incorporate lands well beyond those necessary to support the survival of the species, the traditional target of a Critical Habitat Designation.

Other interested parties will comment on the draft designation, noting that the Endangered Species Act definitions of critical habitat and its legislative history differentiates between habitat that might provide some resources or be occupied at certain times by the species, and habitat that is truly essential to species survival and recovery may require special management considerations and protection. Because Critical Habitat designations are important tools in the conservation of imperiled species and because those designations are viewed by many as impacting land use opportunities, determination of the location and extent of critical habitat for any listed species demands both reliable technical information and circumspection.

I want those at the Fish and Wildlife Service who have developed the current draft designation for the California gnatcatcher to consider the measured assessment of the relationship between population biology and critical habitat described by the National Academy of Science's Committee on Science and the Endangered Species Act in their report *Science and the Endangered Species Act* (National Research Council, 1995). I served on that committee and drafted portions of the report that describe the concept of critical habitat as "a valid biological concept," noting, importantly, that critical habitat "corresponds to the understanding of conservation biology that certain habitat is

Exhibit A

essential for species survival" (p.75). The report warns that "simple occurrence of a species within habitat does not necessarily mean the habitat is required by the species or that the amount and quantity of habitat might be considered 'critical'." (p.75-76). That observation is drawn from a technical discussion elsewhere in the volume describing "source-sink" population structure, the prevalent manifestation of metapopulation dynamics exhibited most species. "In natural populations, individuals reside in habitat patches of differing quality. Individuals in highly productive habitats can be expected to be more successful in producing offspring than those in poor habitats, which can be expected to suffer poor reproductive success or survival. This concept has its own nomenclature." Terms are defined. "Sources are areas where local reproductive success is greater than local mortality. Populations in source habitats produce an excess of individuals, which disperse outside their natal habitat patch to find a place to settle and to breed. In contrast, sinks are habitat areas where local productivity is less than local mortality; in the absence of immigration from source areas, populations in sink habitats decline toward extinction"(p.98). The report goes on to note that "source habitats could easily be overlooked if conservation efforts concentrate only on habitats where a species is most common, rather than where it is most productive. If source habitats are not protected by conservation plans, an entire metapopulation could be threatened"(p.99).

The National Academy report clearly recognizes that if good science is not used to distinguish habitat areas of varying quality, especially to differentiate between areas that are truly critical to species survival and those that allow an excess of mortality, conservation efforts can be expected to fail. Not all habitats that will be included in a final Critical Habitat Designation for the California gnatcatcher will be conserved and managed in perpetuity. A designation that is so expansive as to include the most marginally occupiable landscape areas, even areas that currently do not support resources required by the species, will provide no reliable guidance to conservation planners seeking to prioritize land acquisition and management actions. Critical habitats then, rather providing a safety net for the imperiled bird, becomes redundant with regional multiple species planning boundaries, and of no useful decision-making purpose. (And, unfortunately, becomes yet one more ready target for those who contend the Endangered Species Act is a land grab.)

COASTAL COMMISSION
 5-99-260
 EXHIBIT # 27
 PAGE 7 OF 8

The draft designation, as it appears from the attached maps, includes not only currently occupied habitat, but also landscape areas that are currently unoccupied yet have some resources that can be used by the California gnatcatcher, open space landscape linkages that may serve as corridors for dispersal, and landscape areas that might be restored in the future to one of the above conditions. My recommendation is for a substantially more conservative treatment, consistent with what I believe to be statutory intent; a treatment that designates habitat that is truly "critical" to the persistence of the California gnatcatcher. That habitat would include areas that support the highest current bird population densities, areas supporting the most stable local populations, and direct-line landscape linkages that support natural (native) vegetation. Excluded would be areas outside of the known range of the listed species, habitats on which populations are small and/or densities are low, fragmented or otherwise remnant habitat

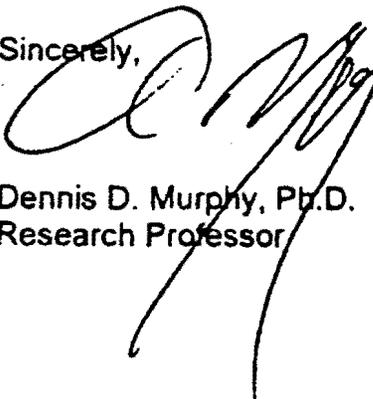
patches in largely developed matrices within the current species range, and lands that currently do not support natural vegetation.

As the Service is aware, the draft Critical Habitat Designation has created quite a furor among members of the regulated community, who believe that the footprint of the designation is excessive. The traditional biological view is that a larger footprint is better than a smaller one. But in this case, a larger footprint that includes ten of thousands of acres of marginal or possible sink habitat will not inform conservation planning efforts or promote the survival and recovery of the species.

The Endangered Species Act ultimately is only operational with the blessing of the public. Regulatory actions that are particularly likely to incite public backlash must be given special consideration and must above all meet both the intent and letter of the statute. I think that the draft Critical Habitat Designation for the California gnatcatcher is, indeed, too expansive, ignoring both precedence and available science in its breadth of included lands. Further, I think that a reevaluation of the designation in light of the guidance in the National Academy report, especially noting the linkage between source-sink metapopulation dynamics and the concept of critical habitat, would go far to assuage current discomfort with the draft. Ironically, a more circumspect Critical Habitat Designation, more trim in area and tight in boundary, may provide more reliable conservation guidance to future planning than an expansive designation that effectively confuses essential landscape areas with non-essential ones.

Thank you for considering these observations.

Sincerely,


Dennis D. Murphy, Ph.D.
Research Professor

COASTAL COMMISSION

5-99-260

EXHIBIT # 21

PAGE 8 OF 8

Exhibit A

5-99-260 (MT No. 1 LLC)
Marblehead Coastal

Exhibit 28

**Letters of Objection to the
Proposed Project Received as of
12/20/2000**

May 21, 1999

Coastal Commission
200 OceanGate, No. 1000
Long Beach, CA 90802

Attention: Ms. Teresa Henry or Ms. Deborah Lee

Regarding: **Marblehead Coastal Project, San Clemente**

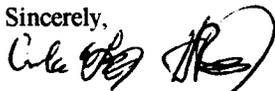
Dear Coastal Commission:

I have been following the development of plans for the Marblehead Project for some time. I am now informed that a final decision on this project rests with the Coastal Commission.

I would like to express my concern that this rare and beautiful piece of coastal land, the last undeveloped ocean-close hill in San Clemente, is about to be relegated mostly to relatively unexceptional medium-density housing. It has been amazing to me that a lengthy and arduous series of public forums has been conducted by the City regarding what is to be built on the freeway end of the property while the plans for the bulk of the property seemed to be of little concern. Clearly, this is an instance where the Coastal Commission's input is sorely needed and should not be restrained by anything significant that has gone on before.

I would hope that the Coastal Commission will make an important input to the project, where the City has apparently failed, by requiring that this developer, Lusk, in this one instance, depart from the "row-house" aesthetics that he has amply demonstrated on other beautiful San Clemente hills. Whereas some may see San Clemente as a hopeless case of an old city in which virtually all the coastal land was allowed to be overdeveloped, this project should set the standard for redevelopment of these coastal tracts, which will surely occur in decades to come.

Sincerely,



Indai and Howard Lange
233 Via Socorro
San Clemente, CA 92672-3715
949-361-3837 (3877 fax)

RECEIVED
South Coast Region

MAY 24 1999

CALIFORNIA
COASTAL COMMISSION

KSe

Robert Johnston
24962 Calle Aragon Apt C102
Laguna Hills CA 92653-3881

11/19/99

Dear Ms Teresa Henry:

Being a native Californian and a geologist, I have seen the beauty of our coast disappear bit by bit over the past years.

I urge you to oppose any development in the Marblehead area of San Clemente.

Sincerely
Robert Johnston

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South Coast Region
NOV 22 1999
CALIFORNIA
COMMISSION

- Save the natural vegetation and wild life habitats - don't replace them with greenbelts.
- Save the unique, rare and disappearing alkaline wetlands and the Vernal Pond.

STATUS REPORT: Developer's application for a coastal permit is incomplete. The Coastal Commission and the resource agencies require more information for analysis and evaluation.

If you want to learn more or help our cause, please contact George Hubner at 366-3423, or E-mail georgehubner@home.com or write us at P.O. Box 6074, San Clemente, CA 92674

**Save Our
Canyons and Keep Our
Coastal Waters
Clean**

**SIERRA SAGE
Marblehead Coastal Task Force
P.O. Box 307
Laguna Beach, CA 92652**

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Mission Viejo, CA
Permit No. 814

*Marblehead
Coastal
Bulletin:*

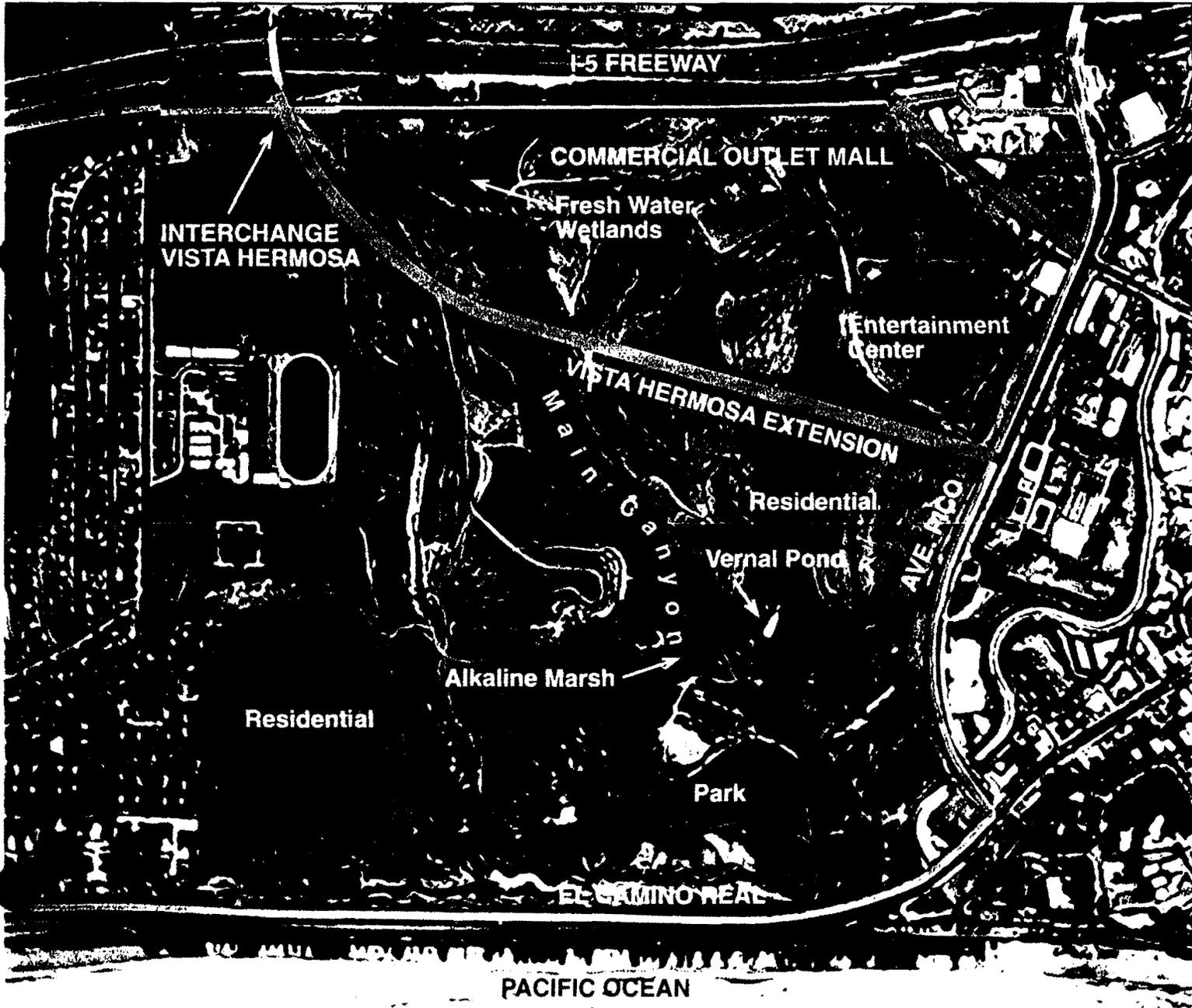
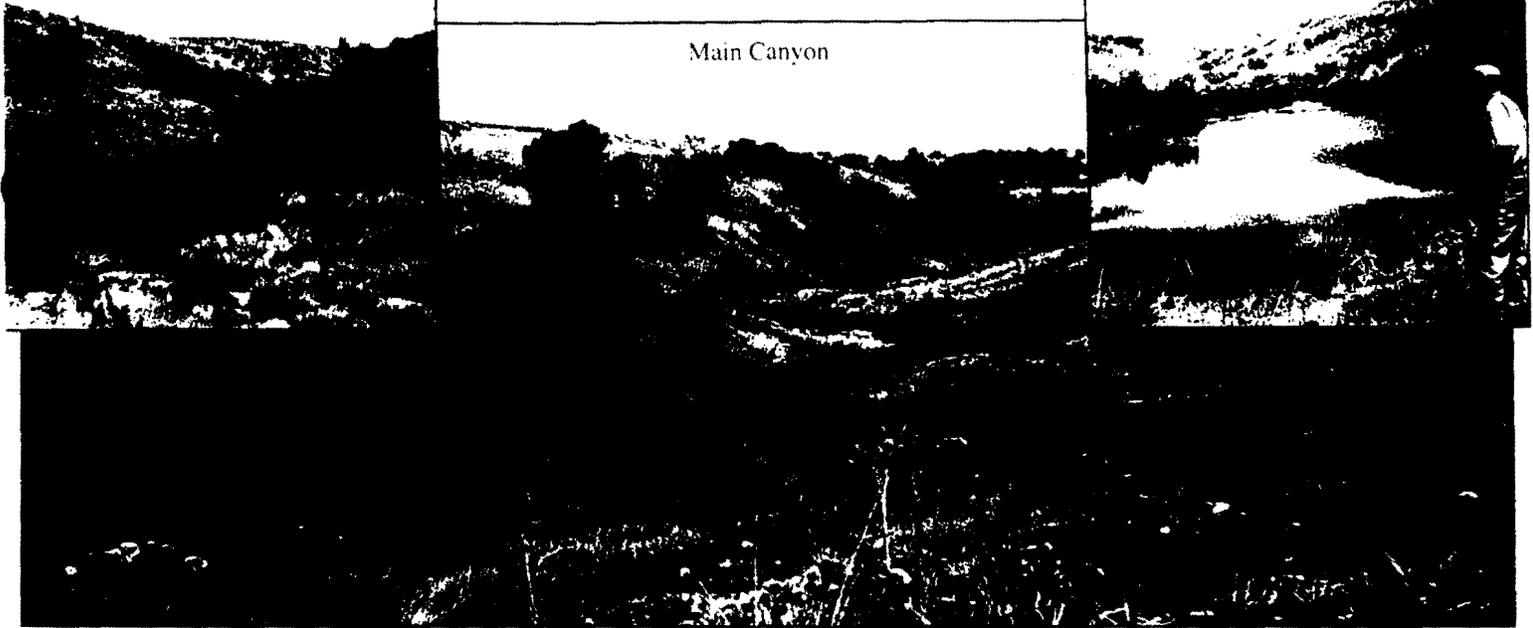
June 2000

Alkaline Marsh

MARBLEHEAD COASTAL SITE

Vernal Pond

Main Canyon



SAN CLEMENTE CITIZENS
FOR
RESPONSIBLE DEVELOPMENT
P.O.Box 6074, San Clemente, CA. 92674
Phone 949-366-3423
Fax 949-498-6606

July 21, 2000.

RECEIVED
JUL 25 2000

Mr. Charles Damm,
California Coastal Commission,
200 Oceangate, Suite 1000,
Long Beach, CA. 90802-4302.

CALIFORNIA
COASTAL COMMISSION

Dear Mr. Damm,

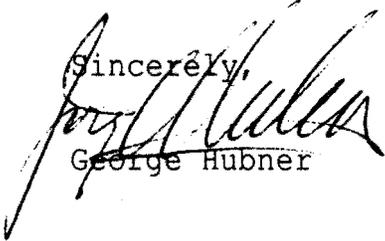
Marblehead Coastal Project.

This project is a cause of great concern for many of the citizens of San Clemente and the recent revelations of the Ballard Duplex and the involvement of 2 members of the city planning commission (one resigned but stated not because of Ballard) adds fuel to the distrust and incompetence of our city government that a great many people share as shown in the attached clippings from the Sun Post News, our local newspaper published by the Register.

To transfer authority from the Coastal Commission to our city government to protect and preserve our coastal canyons, habitats and wetlands and to keep our coastal waters clean would be a grave and devastating error and, we are certain, destroy what is left of the coastal resources in Orange County.

Representatives of our group - we are now a task force of the Sierra Club - would appreciate the opportunity to meet with you, explain our position and look over your files on Marblehead Coastal.

Sincerely,


George Hubner

Copy: David Zoutendyk
Fish & Wildlife Service.

Bill Tippets,
California Dept. Fish & Game.

Fari Tabatabai
US Army Corps of Engineers

Teresa Henry, Steve Rynas, Karl Schwing ✓
California Coastal Commission

June 29/08

Keep watching Marblehead

On June 6, San Clemente Citizens for Responsible Development/Sierra Sage Marblehead Task Force, of which I am a member, mailed out a flier to some 2,500 households in San Clemente showing where and what the Marblehead Coastal project is, mentioning that permits from the various federal and state resource agencies have not yet been obtained and that further changes to the developer's current plan will be required.

From the many responses we received we were surprised to learn that many people thought the development was a done deal. Nothing could be further from the truth. On May 17, in response to the developer's latest revised plan the Coastal Commission wrote a nine page letter asking for clarification

on 22 points. As of June 21 the developers have not responded. Some of the other resource agencies are looking over the plan and have not yet reacted and some agencies have not received any plan yet.

This is the time of year when our city makes up the budget for the coming fiscal year which starts July 1. From what we read and hear, the city is counting heavily on the millions of dollars in fees it expects to collect from the Marblehead Coastal Project. Isn't that putting the cart before the horse? No fees are payable before the project gets the green light from the Coastal Commission, and that is far from a done deal. In the meantime the Talgea project is funding what Marblehead owes and will owe the city when and if the necessary permits are issued.

As we have said so often before, we do not dispute the developer's right to develop the property. Our contention is that it has to be responsible development that preserves our canyons, wetlands, natural habitats and keep our coastal waters clean. The current plan, although a marked improvement over the previous plans, does not meet these goals.

We will keep you posted on developments.

George Hubner
San Clemente

Marblehead Coastal still seeking agency OK

A year after city approval, Lusk still awaits a Coastal Commission hearing

By FRED SWEGLES
SUN POST NEWS

This Friday, it'll be exactly a year since the City Council approved a developer's plan to build a designer outlet mall, two parks, a canyon preserve and more than 400 homes on the 250-acre Marblehead Coastal property.

Partners in the project are still waiting for the California Coastal Commission to schedule a hearing date. They can't build anything until the Coastal Commission issues a permit. Most of the project lies within California's designated coastal zone.

The Lusk Company submitted a development application to the Coastal Commission last July. In August the commission's staff ruled the application incomplete, asking for more detailed information. Lusk responded with more information, but the commission staff still raised numerous questions in a January letter, ruling the application incomplete.

In March, Lusk won the City Council's approval of a redesigned plan that increased the size of the canyon preserves and reduced the number of proposed homes from 434 to 424.

In order to preserve more wetlands at minimal cost in number of homes built, Lusk decided to line certain wetlands with textured, landscaped walls. Lusk also proposed a first-of-its-kind drainage system to control and divert Marblehead's urban runoff so it doesn't reach San Clemente's beaches.

The redesigned plan, when submitted to the Coastal Commission staff in April, generated still more questions and requests for documentation. This week, Lusk is preparing to respond to those questions with a new package, hoping that the Marblehead Coastal application finally will be declared complete, so a hearing date can be scheduled.

1/2/00

"Hopefully the third time will be the charm," said Jim Holloway, San Clemente's community development director.

Jim Johnson, Lusk's chief executive officer, said the new documentation should be ready to submit Friday or Monday. Karl Schweng, the Coastal Commission staffer handling the Marblehead Coastal application, said no

hearing date can be set until pertinent questions are answered.

City officials are counting on the Marblehead Coastal's commercial development to help build San Clemente's sales tax base, which a 1999 survey listed as one of the weakest per-capita among all cities in Orange County.

In 1999, when Lusk originally sought council approval of a plan for 434 homes and a retail center anchored by a Target store, a citizens' group fought the plan, arguing that a shopping center was poor use for the last big piece of vacant coastal land left in San Clemente.

The council approved that plan - minus the Target store - on a series of split votes. Then the group San Clemente Citizens for Responsible Development gathered more than 5,000 signatures on petitions calling for an election on the future of Marblehead. City Clerk Myrna Erway dis-

qualified the petitions after finding errors in the petition process.

Later, when commercial developer Steve Craig dramatically revised the plan and made it a plaza-style outlet center, council members embraced the new plan on a unanimous vote. Since then, SCCRD has declared that it will not oppose the shopping center but wants Lusk to do more to save habitats.

George Hubner, a leader with SCCRD, said Lusk's new plan addresses some habitat concerns, "but not enough." He said the "concrete block walls" that Lusk wants to use to line wetland areas are not good and natural contours should be preserved.

Johnson said Lusk already has worked hard to satisfy the Coastal Commission staff's questions and concerns and hopes the new submittal will at last lead to a hearing before the commission.

GEORGE HUBNER
304 CALLE CHUECA
SAN CLEMENTE, CA. 92673

July 19, 2000.

Mr. Fred Swegles,
Sun Post News,
95 Ave. Del Mar.
San Clemente, CA. 92672.

Dear Fred,

I read with interest your article in the Sun Post issue of July 6 regarding Marblehead Coastal. It is correct up to a point, but for the uninitiated citizens it left the impression that Lusk was being unfairly treated by the Coastal Commission. I don't believe that is the case. The facts are as follows:

7/19/99. Lusk files an application with the Coastal Commission[CC] for a Coastal Development Permit (CDP)

8/16/99. CC answers in a 9 page letter asking clarifications of numerous items and declaring application incomplete.

12/10/99. Lusk answers and files a revised plan for a CDP.

1/8/00. CC answers in a 7 page letter citing numerous items needing clarification saying application still incomplete.

4/17/00. Lusk files 3rd application for a CDP.

5/17/00. CC answers in a 9 page letter citing 22 items needing elaboration/clarification saying application still incomplete.

7/10-11/00. Lusk files 4th application for a CDP. CC has 30 days to respond.

As is clear from the above, the Coastal Commission has followed the law and responded to all Lusk's applications within the required 30 days. It has taken Lusk between 2 and 4 months to respond to Coastal Commission questions. As Mr. Jim Johnson, CEO of the Lusk Co. himself stated at one of the public hearings with our City Council - "the Coastal Commission is asking for more than we expected" - thank God it is, otherwise we would have been saddled with a monstrosity on Marblehead Coastal.

I would appreciate if you could write a piece correcting the impression that I believe your story conveyed. Thanks a lot.

Regards,

GEORGE ZELESKI



Not interested in pier hike

No Mr. Haroldson, we are not going to take a two-mile hike on a short pier. We are going to continue to monitor future projects in the Pier Bowl area.

Why was it not disclosed that Mr. Haroldson is a San Clemente city planning commissioner? It is a lack of disclosures, such as this, that underscores the need for citizens to look for all the facts.

Gary Button
San Clemente

Protect city from government

Marblehead. The Pier Bowl duplex. La Pata. The beach trail. Topics that shake the faith of any thinking citizen. And this is just a short list - 24 months' worth.

Time and again this city has placed the interest of business over that of its residents. Quality of life cannot be measured in an account. It pays no fees, signs no contract, therefore it doesn't count.

Oh, look: bulldozers are scraping around where the developer showed you hillside. You should have read the fine print. Surprise, there's a duplex in your ocean view. Call the Coastal Commission - while you still can. And, haven't you heard, city staff has decided you don't need La Pata: You should have to pay a toll to avoid all the new traffic that they've approved.

It's painful to watch San Clemente residents lose their innocence, but at least four numbers are growing. The reality is, if you love San Clemente you must protect it

from the city government. They will consistently place developers' profits and the political coin of other agencies above your interests. What can you do?

First as Ron Wilson suggested (Viewpoints, June 29), write and ask the Coastal Commission to deny San Clemente's request to manage the coastal zone. Our city is incompetent to do so. Second, join a group of like-minded malcontents. All these groups are united by San Clemente's appalling lack of vision: Marblehead, 498-3201; La Pata, 498-5844; Restore the Shore, 369-1295. Third, take an active role in the city elections this fall.

Only citizen oversight keeps City Hall from turning San Clemente into West Covina. Remaining aloof is not cool, it's foolish.

Pete van Nuys
San Clemente

7/13/00

Commissioner should have been identified

Frank M. Haroldson's letter "Leave Ballard duplex alone," in the Sun Post News of July 6, brings up several good points.

First of all, Mr. Haroldson should have properly identified himself as a member of the Planning Commission. The same Planning Commission that so conveniently stuck their heads in the sand when the blatant violation of the coastal act first arose. As appointed officials they have a public trust and oversight obligation and need to be accountable to the public instead of defending their chairman of the Planning Commission, Mr. Frank Montesinos, who resigned shortly after this gross violation was made public.

What is really troubling about the letter to the editor is the inference of residents who have voiced their opposition and Mr. Haroldson's comments about the hike they can take off the end of the pier. For a public official to voice this attitude flies in the face of the democratic process and the right of the public to express their views about a decision so contrary to the coastal act.

Does anyone really think the Coastal Commission will let the city manage its own coastal resources when a development only three blocks from the beach is not brought before the Coastal Commission for review?

In the future, public officials need to properly identify themselves when writing letters to the editor. And Mr. Haroldson needs to carefully consider whether his tenure on the Planning Commission is in the best interest of this community when he is attempting to stifle public comment.

Patrick Graves
San Clemente

7/6/00

Leave Ballard duplex alone

If I read or hear one more comment about the Ballard duplex, the architect, the inept city staff, I believe I will excuse myself and throw up. Come on people, give it a rest. We are one of the finest cities in Orange County if not in the entire country, with a hard working professional staff and committed to our General Plan, balanced growth and the needs and concerns of the community and its residents. We have been a shining star in Orange County with our forward planning, budgeting, permit processing, design review and have received national recognition for those efforts. However, mistakes can and do occur and we are not perfect.

Unfortunately, we like other cities have the Monday morning quarterbacks, cherry pickers and naysayers who appear before community committee meetings and City Council meetings to protest and challenge each and every issue on the agenda. It has been suggested that a good antidote for chronic complainers is exercise so I would like to

suggest that those individuals take a hike in a westerly direction on our pier for two miles and although the pier is not that long and since they think they walk on water the two miles will suffice to hopefully reduce their redundant and boring comments to bubbles into the briny deep.

The circumstances of the Ballard duplex have been investigated, reviewed and repeatedly presented to the community and it's time to move forward. The Pier Bowl residents are to be congratulated for their initiative and the city that stopped work and took another look at the project and accepted their responsibility in the matter. The Coastal Commission's decision was appropriate but their additional editorial comments by at least one of their representatives were self serving, political and very unprofessional. Also, since there seems to be so much recognition provided to the Coastal Commission in this matter, the complainers might want to check the record and note the numerous mistakes the commission has made in the processing of coastal applications. It is well known and certainly there is substance and support within most cities and at all levels of government to decentralize the Coastal Commission's permitting process. The change in having our city review its own coastal permits with proper oversight would only improve the process.

Our beautiful city currently has many critical issues and fortunately we have an abundance of volunteers and citizens who work positively in an attempt to assist our staff in fulfilling our mission statement and addressing our vision for the future. Let's keep our forward focus and support our community, our excellent elected officials, commissioners and the professional city staff that takes care of our daily business and helps us plan our future.

Frank M. Haroldson
San Clemente

*TB the Marblehead file
(interested persons)*

RECEIVED
South Coast Region

MAY 26 1999

CALIFORNIA
COASTAL COMMISSION

Ms. Teresa Henry
Coastal Commission

Let Us reason together..

I am John Lilly an investment real Estate broker..The Gobar Report has selected 5 Outlet Centers in California as a base for its forecast of sales at Marbelhead. Desert Hills, Barstow, Lake Elsinore, and Lancaster . Their average sales per square foot for the first quarter of 1998 was \$257 per square foot. Most of these stores have been in business for 3 years.

THE INTERNATIONAL COUNCIL OF SHOPPING CENTERS , publishes the VALUE RETAIL NEWS, This magazine is the industry magazine for factory outlet stores. And reports on 67 Outlet chains in 381 locations in the country. They report sales have been down every month for the last six months ending October of 1998. The average sales for the last 12 months ending October 98 was only \$232 Per.Sq. Ft.

Growing competition from Walmart, Costco, Home Base , and the Internet where we all do our major shopping will not allow the \$305 Per Sq. Ft of sales forecasted in the Gobar report .

Gobar is forecasting Rents for Marbelhead at \$2.70 per Square Ft. per month . Speery Van Ness Mgt.a large lease manager in San Clemente who has a 40% vacancy factor in San Clemente now is quoting rents of \$1.75 to \$2.00 a square foot .

Do you believe we can beat average sales of 5 established outlet stores in California by \$73 per square foot when the market is turning away from outlet Malls.

Do you believe we can charge \$2.70 a square foot for rent when the going rate is only \$2.00 all over town...

Finally do you really believe our market limited by the mountains, camp pendelton , the ocean and 7,174,296 Sq. Ft. of Malls to the North of us can sustain 675,000 Sq. Ft. of additional retail stores ,another theater , a100,000 Square foot Walmart, a New Lucky, and another SavOn at Pacific Plaza without affecting our local shopping.

Submitted by: John Lilly
2107 Oliva
San Clemente, California 92673

RECEIVED
South Coast Region

MAY 26 1999

Ms. Teresa Henry
Coastal Commission

CALIFORNIA
COASTAL COMMISSION

San Clemente is a unique community. I don't know about you , but when I drove into San Clemente behind the moving van 10 years ago. I breathed a sigh of relief , I felt I was in the country beside the sea.

I have had a chance to analyze that feeling as a resident and owner of investment property during the last 10 years. Approaching San Clemente on the 5 throughout Orange County you now have masses of concert stores, office buildings, plastic glowing signs, and parking lots filled with cars that about your route. Much of it is treeless and flat.

Then at Camino De Estrella I breath a sigh of relief. I am home . Rolling wooded hills that reach the sky. Trees that obscure the buildings. Forever canyons that flow to the Ocean. A living green against the forever blue. This will always remain I thought.

It is hard to imagine that 675,000 square feet of black top accomplished by massive grading, parking lots and lights, roof tops loaded with air conditioners, and a shopping mall loading deck will not destroy the first view of our unique San Clemente.

Unfortunately we have gone too far down the road for alternatives in spite of 5,100 signatures.

Now , we must create a community center that has an affinity for our city by the sea. It must fit in with Mediterranean red tile roofs, individualistic stores, subdued lighting, and unobtrusive signs. A designer mall. Uniqueness also sells .

We have defeated the big boxes , an 11 screen theater, and a 5 story parking lot. Lets move on to making Marbelhead Shops by the Sea ,ecologically friendly, preserve the vistas of canyons and ocean, approve signs that complement rather than compete with the environment.

Words, and thematic stores will not be successful if it is too large for the market. Our City Manager agrees we are approaching build out with the Sea to the west,Camp Pendelton to the south, and the Santa Ana Mountains to the East.

The developer would have us ignore or even have us believe we can pull; against our desires shoppers through crowded freeways past thousands of new stores, and competing malls to the North We must scale back 675,000 Sq.Ft. of shopping mall planned to at least the size of the eventual Carlesbad Stores 300,000 Sq. Ft. and find a place for a Hotel, A community center, an expanded park, a senior center, a time share, a par 4 or other facility that would enhance instead engulf the community .

Submitted by: John Lilly
2107 Oliva
San Clemente, California 92637

June 16, 1998

Project No. 98-001

Mr. Gene Habich
San Clemente Citizens for Responsible Development
2151 Camino Laurei
San Clemente, CA 92673

SUBJECT: Review of the Draft EIR for Marblehead Coastal Specific Plan

Dear Mr. Habich:

Environmental Audit, Inc. (EAI) has reviewed the Draft Environmental Impact Report (EIR) for the Marblehead Coastal Specific Plan on behalf of the San Clemente Citizens for Responsible Development (SCCFD). This letter summarizes the results of our review.

Several issues require clarification. First, we reviewed the Draft EIR dated January 28, 1998. Second, we attempted to obtain the Final EIR, Responses to Comments, Statement of Findings, and Statement of Overriding Considerations from the City of San Clemente (City). It is our understanding that these documents will be available on June 17, 1998.

We offer the following comments on the Draft EIR.

PROJECT OBJECTIVES

All of the major project objectives involve the generation of revenue to the City (see page 3-10) and are summarized as follows:

- ...generate significant new tax revenue for city;
- ...to generate significant sales tax revenue to address long-term fiscal needs of the City;
- ...to provide a source of revenue adequate to fund the construction of major coastal access improvements;
- ...to provide for new residential development...through payment of fees...;
- ...to fund long-term management of reserved and restored on-site habitat resources;
- ...to provide long-term funding sources for management and enhancement of protected and restored habitat resources;
- ...to assure long-term funding for the on-site habitat resources throughout the property;
- ...to provide off-site restoration funding for wetlands and sage scrub habitat.

In general, the objectives should be those that are a benefit from a public perspective. Some of the identified project objectives are not really "objectives" but impacts from the proposed project, e.g., to provide off-site restoration funding for wetlands and sage scrub habitats. These are not project objectives but a requirement because of project development. Note that since that main objectives of the project are to provide a source of revenue, there are numerous alternatives that may be feasible to generate additional money.

G. Habien
 June 16, 1998
 Page 2

TRANSPORTATION/CIRCULATION

The Draft EIR dismisses the potential impacts of the proposed project on local traffic during the construction phase with no analysis. In order to determine the level of construction traffic impacts, a traffic analysis (similar to the one completed for the operational phase that includes estimates of construction traffic and modeling to determine the level of service) must be completed. The same significance criteria that apply to the operational phase should apply to the construction phase. Traffic impacts during the construction period are potentially significant since hundreds of workers and various heavy equipment would be required. Further, the traffic improvements described for the proposed project that mitigate traffic impacts would not be installed during the construction phase. The impacts during the construction phase could be significant and mitigation measures must be developed.

NOISE

The noise section provides a detailed discussion on the noise impacts related to the additional traffic associated with the proposed development. However, the noise analysis ignores several issues. The noise section does not address construction noise impacts to the middle school and church adjacent to the western portion of the project site. One mitigation measure indicates that "no combustion equipment such as pumps or generators shall be allowed to operate within 500 feet of any occupied residence from 7 a.m. to 7 p.m." By inference, construction activities will primarily occur during the daytime and during the time that children are in school. Therefore, the Draft/Final EIR should address the noise impacts and related mitigation measures. In fact, the construction noise impact discussion is altogether minimal.

The Draft EIR discusses the operational impacts to the "Marblehead Coastal project residents" but does not address the noise impacts to existing residents and sensitive receptors.

AIR QUALITY

The air quality analysis provides a detailed evaluation of the proposed project and its related air emissions. However, only one mitigation measure (residential electric vehicle charger installation) is listed for the significant operational impacts. The majority of operational emissions would reportedly result from mobile sources, therefore the Draft EIR focused on vehicular contribution and reduction. Additional mitigation measures are required to reduce the significant air quality impacts. The South Coast Air Quality Management District (SCAQMD) CEQA Guidelines list many operational mitigation measures for residential and commercial land uses. These additional mitigation measures are identified below. Although stationary source emissions are minimal compared to mobile sources, mitigation measures that could reduce emissions from any type of source should be implemented. More mitigation measures must be included in the Draft/Final EIR to reduce the significant adverse operational emission impacts from both mobile and stationary sources. The following outlines measures to reduce overall air quality impacts related to residential/commercial development.

1. Construct on-site or off-site bus turnouts, passenger benches and shelters.
2. Provide shuttles to major rail transit centers or multi-modal stations.
3. Synchronize traffic lights on streets impacted by development.
4. Construct, contribute, or dedicate land for the provision of off-site bicycle trails linking the facility to designated bicycle commuting routes.
5. Use solar or low-emission water heaters.
6. Use central water heating systems.
7. Use built-in energy-efficient appliances.

G. Harsh
June 16, 1998
Page 3

8. Provide shade trees to reduce building heating/cooling needs.
9. Use energy-efficient and automated controls for air conditioners.
10. Use double-glass paned window.
11. Use energy-efficient low-sodium parking lot lights.
12. Use lighting controls and energy-efficient lighting.
13. Use fuel cells in residential subdivisions to produce heat and electricity.
14. Orient buildings to the north for natural cooling and include passive solar design.
15. Use light-colored roof materials to reflect heat.
16. Increase walls and attic insulation beyond California Code of Regulation Title 24 requirements.
17. Require retail facilities or special event centers to offer travel incentives such as discounts on purchases for transit riders.
18. Include bicycle parking facilities, such as bicycle lockers and racks.
19. Schedule truck deliveries and pickups for off-peak hours.

One assumption that is made in the air quality section as well as throughout the Draft EIR is that the project would reduce miles travelled because currently residents have to drive to the Irvine Spectrum to take advantage of the entertainment/restaurant uses proposed in the project. There is no data to support this statement and it is not necessary correct as there are plenty of theaters and restaurants in southern Orange County. Also, the Kaleidoscope, an entertainment complex similar to the one in the proposed project is currently under construction in southern Mission Viejo at the Crown Valley/I-5 Freeway exit. This new complex is scheduled to open 8/98, and is much closer to San Clemente (approximately 10 miles) than Irvine.

The Draft/Final EIR should note that the proposed project could just as easily increase air emissions by providing housing in southern Orange County when most of the major employment areas are near the Irvine area. Therefore, new residents to Marblehead may actual drive further on a day to day basis if they work in or near the Irvine area. The major point is that without data to support the assumption that residents will not drive to the Spectrum, the statement is purely speculative and should be removed in this and other sections of the Draft EIR.

SOILS AND GEOLOGY

The geological conditions at the project site have been a concern due to unstable bluffs and other issues. The Draft EIR considers impacts less than significant after mitigation. A Marblehead Coastal Geotechnical Report is to serve as the definitive guide to specific site planning, geotechnical engineering techniques, and mitigation measures for the proposed project. Although this report is referenced, the mitigation measures and other details are not stated in the Draft EIR. Therefore, specific enforceable mitigation measures should be outlined in the Draft/Final EIR.

The Draft EIR shows a fault on Map 4.5-2, Regional Fault Map, Cristianitos Fault, which appears to be close to the site, and is not discussed any further in the Draft EIR. The potential impacts of this fault should be addressed in the Final EIR.

WATER FACILITIES AND SERVICE

A water supply plan (as required in CEQA Guidelines Section 15083.5, adopted 5/97) has not been included in the Draft EIR. The plan must show the availability of water based on a long range Master Plan. It is not clear that any of the studies identified in the Draft EIR evaluates

G. Habten
June 16, 1998
Page 4

the long term availability of water supplies (including cumulative projects) as opposed to water transport facilities.

CUMULATIVE

We believe that the cumulative analysis is generally inadequate, with the exception of traffic impacts. For the other environmental issues, there is virtually no analysis of the cumulative impacts of the various projects. For example, the discussion under cumulative noise impacts provides no analysis of the impact of the cumulative projects on total noise in the area, e.g., on traffic related noise. The Draft EIR only indicates that future development must meet all City noise standards and individual project mitigation will serve to reduce cumulative noise impacts. There is no way to demonstrate that the cumulative impacts are less than significant without any analysis and, therefore, the conclusion that the cumulative noise impacts are less than significant is not appropriate. This comment also applies to the other environmental

With respect to cumulative air quality impacts, please see the above comment under Air Quality related to potential emission reductions. We believe that this conclusion is inappropriate as it is just as likely that there will be increased emissions.

ALTERNATIVES

The objectives of the proposed project primarily focus on increasing revenues to the City. There are numerous alternatives to the proposed project that could and should be evaluated in the Draft/Final EIR that could generate increased revenues to the City. Some of those alternatives would involve development, as the proposed project, and some would not, e.g., raising revenues through increases in taxes or other services.

Virtually every alternative evaluated in the Draft EIR was considered to be infeasible for economic considerations, i.e., the alternative would not generate sufficient revenues. Because increased revenues are the primary concern of the City with respect to development, a detailed economic analysis must be provided in the Draft/Final EIR for the proposed project and the project alternatives. Other alternatives that could generate increased revenues to the City also must be evaluated. The economic analysis must provide a basis for the expected development costs and estimates of increased revenue to the City. The assumptions used to develop the costs and revenue estimates must be provided and based on industry standards and not just a single developer's estimate. The economic analysis must also evaluate the potential impact on downtown businesses due to the proposed project. Finally, it should be noted that the alternative that produces the greatest revenue should not necessarily be the chosen alternative (i.e., the proposed project).

The residential only project was identified as the environmentally superior alternative. The Draft EIR indicates that this alternative could result in a net negative fiscal impact without providing any analysis or reason for this conclusion.

SAN CLEMENTE CITIZENS
FOR
RESPONSIBLE DEVELOPMENT
P.O. BOX 6074
SAN CLEMENTE, CA. 92674

March 25, 2000

RECEIVED
MAR 28 2000

CALIFORNIA
COASTAL COMMISSION

Mr. Karl Schwing,
California Coastal Commission,
Fax 562-590-5084.

Dear Karl,

MARBLEHEAD COASTAL.

On March 1 San Clemente City Council held a public meeting where the Lusk Company presented their third, revised plan for the above project. Mr. Johnson, president of the Lusk Company, said that within the next week or so he would present/file this new plan to you and the California Dept. of Fish and Game, the California Coastal Commission, the US Army Corps of Engineers and the Regional Water Quality Control Board.

We would appreciate your advising us if the revised plan has in fact been filed with you, in which case we would like to have the opportunity to review the plan prior to any public hearings. We would also appreciate receiving a copy of your response to the Lusk company.

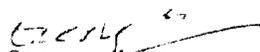
This revised plan contains several important issues that have not been addressed by Lusk, in particular:

- 1: Preservation of the Canyons.
 - a: Non-marine alkaline wetlands
 - b: Freshwater wetlands/riparian habitat.
- 2: Alteration of the natural landforms.
 - a: Re-contouring of the canyons.
 - b: streambed alterations.
 - c: Filling of various wetlands locations.
- 3: Water Quality.
 - a: On-site drainage.
- 4: Land use.
 - a: residential versus low cost public recreation.
- 5: Improper public notice and hearing procedures.
The modified landuse plan was not noticed and did not have a public hearing.

We are not the experts, you are, and we look forward to your comments and rulings on the above points and others that you may wish to address.

You can contact us at the above address or via fax 949-498-6606 or phone 949-366-3423 or by e-mail georgehubner@home.com.

We look forward to meet with you about this very important issue, not only for San Clemente but for California's precious coastal waters, wetlands, canyons and habitats.

Very truly yours,

George Hubner
Member SCCRD.

RECEIVED

JAN 21 2000

CALIFORNIA
COASTAL COMMISSION

Dear Ms. Teresa Henry,

I am writing to ask you to stop the Marblehead coastal Development in San Clemente. Orange county needs to preserve this area as open space which all can enjoy including the animals and nature that is there now!

Please preserve this area

Diana Rodgers
26731 Via Mananita
Mission Viejo Ca 92690

RECEIVED
JAN 19 2000

CALIFORNIA
COASTAL COMMISSION

2838 Riachuelo
San Clemente, CA 92673
January 17, 2000

Coastal Commission
200 Oceangate #1000
Long Beach, CA 90802

To: Ms. Teresa Henry
Ms. Deborah Lee

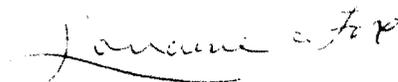
I am writing to express my strong opposition to the proposed Marblehead Coastal development here in San Clemente. I have been a resident for over sixteen years, and used to live very close to the wonderful property on Pico and PCH. I still drive by there every day I am in town, and my stomach turns to think of it turned into huge development of malls and homes.

It's enough that we're pushing out all of the wildlife in the east country.
Please spare the coast!

I also want to express my dismay at the overturning of the voter initiative on a technicality.

Please add my voice to those wishing - begging - to save the character of our town!

Sincerely,



Lorraine E. Fox

FOR KARL SCHWING Coastal Commission Analyst on permit application 5-99-260

FROM LYN HARRIS HICKS

Karl, when I talked with you about the Marblehead project I did not have specific questions, but I have now several.

What is the smallest land parcel required to preserve the wetland viability of the commercial acres main canyon?

What portion of the side slopes of that area could be graded away and still leave an adequate percolation area for the drainage from the immediate slopes? and from the land above the freeway?

What modifications would be required in diversion pipes and drain pipes carrying the above and below ground drain water to the ocean?

We are exploring conservation groups to acquire a conservancy which would accept a two or three acre parcel for our fund drive. Please provide the above answers as soon as you complete the part of your analysis that is applicable

Thank you. Lyn Harris Hicks 949-492-5078 FAX is same number

Enclosed for you info: our request to city council which was not accepted because Craig did not accede tit, and Coalition list, which will be expanded before we advance much further.



COALITION REQUEST TO CITY COUNCIL

Our citizen coalition requests San Clemente City Council participation in a combined effort by city, developer Steve Craig and our Coalition to develop an agreement to save a portion of the 19 acre canyon wetland on the commercial designated land of Marblehead, to diminish the volume of outlet store footage in the proposed second stage of development three to four years from now, to increase the footage allocated to potential hotel use, and write in to any development proposal approval, designation of the northwest corner of the site, conference hotel as an approved and preferred site use., to express dissatisfaction with the development proposal to fill the canyon and build outlet stores on it.

We propose a coalition fund drive to raise money to purchase a portion of the canyon through a conservancy group to donate to the hotel site enlargement and beautification. Mr. Craig wants His development as he is now proposing, but he has indicated a \$million per acre price, and the possibility of rearranging his second stage outlets to build them away from over a filled canyon.

We need at least a City Council condition of disapproval of siting outlet stores on filled canyon, to make possible our hope to develop an agreement. We have been advised by staff that an "insignificant departure from flat top grading, if it is for landscape features would not occasion a new grading agreement. We ask the council to preserve the canyon contour to the extent that it could be deemed insignificant as a departure from grading agreements.

We have the choice of creating an image for San Clemente as the coastal city of the outlet mall across our front, or, an image of the city with a beautiful upscale hotel with a landscaped canyon amenity offering views down the canyon to the ocean and view from the hotel world class restaurants in garden setting on the mall side of the canyon, also with eating decks viewing down the canyon to the ocean. San Clemente can be a destination for travelers and for vacationers who would plan their stays in this delightful amenity.

Pg 1 of 2

We are a coalition of individual citizens, not speaking for our organizations and business associations.

We introduce ourselves as follows to indicate that we are a broad spectrum of the concerns and interest of San Clemente in proposing a compromise to the development proposals before you... a compromise which would be of benefit to all.

WE ARE;

1. Truman Benedict, former mayor of San Clemente and many decades resident
2. Ray Benedictus, president of the San Clemente Historical Society
3. Wanda Clough, San Clemente business owner (Wanda's Interiors)
4. Donis Davey, Capistrano Bay Woman of Distinction in Environment Achievement
5. Beth Eagleson, attorney, Soroptimist International of Capistrano Bay
6. Sharon Faucette, past president of American Association of University Women, San Clemente, Capistrano Bay Branch
7. Sally Jeisey, San Clemente business owner, (Guinevere's) past president of San Clemente Chamber of Commerce.
8. Bill Hart, chair of city ad hoc beach committee
9. Lyn Harris Hicks, past environment chair for Soroptimist International of Capistrano Bay
10. Margaret Hoffman, Capistrano Bay Woman of Distinction for communit service achievements through many organizations
11. Wendy Morris, San Clemente City Railroad Corridor Safety and Education Committee
12. Rod Rojas, downtown business owner and activist
13. Lee Steelman, founder of South County Community Services Council and member of San Clemente City Human Affairs Committee

Pj 2 of 2

CODY CAMMBELL

406-C Arenoso Lane, San Clemente, CA 92672

Phone:(949)498-5789

FAX: (949)366-9169

November 26, 1999

NOV 30 1999

CALIFORNIA
COASTAL COMMISSION

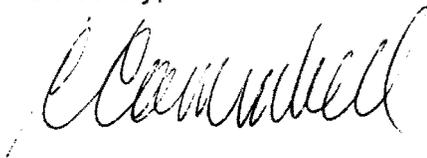
Coastal Commission
200 OceanGate #1000
Long Beach, CA 90802

Attn: Ms Teresa Henry

Dear Madam or Sir:

I am a San Clemente citizen who is against the San Clemente City Council's approval of the Marblehead Coastal Specific Plan. I join with with other 5,000 plus citizens of this town who have expressed their objections to this Plan.

Sincerely,



November 4, 1999

RECEIVED
NOV 09 1999

Coastal Commission
200 Ocean Gate #1000
Long Beach, CA 90802

CALIFORNIA
COASTAL COMMISSION

Attention: Ms Teresa Henry
Ms Deborah Lee

We are writing to urge you to turn down the proposed plan now being considered for the Marblehead Coastal Project.

There is a tremendous amount of traffic on the San Diego Freeway now between Estrella and Pico. To build on a prime piece of land outlet stores, theatres, restaurants, etc. is a crime.

This land overlooks the Pacific ocean and all natural canyons, ponds, wetlands and special rare coastal habitats. This will disrupt the natural drainage system. The traffic will be even worse.

In Carlsbad one-half hour from here is an outlet already with all the things this Marblehead Project proposes. Does it really make sense to duplicate something that close?

Please give this your consideration. One beautiful hotel and golf course would be a far wiser choice with less congestion and a beautiful view of the Pacific Ocean.

Yours truly,

Frank and Betty Venclik

Frank and Betty Venclik
2508 Calle Jade
San Clemente, CA 92673

CITY DENIES SAN CLEMENTE CITIZENS A VOTE ON THE MARBLEHEAD COASTAL DEVELOPMENT

RECEIVED
NOV 09 1999
CALIFORNIA
COASTAL COMMISSION

A voter initiative signed by more than 5,000 San Clemente citizens, requesting their right to vote on the proposed Marblehead Coastal development, was turned down by the city in July 1999 on a technicality. Marblehead Coastal is the 250-acre expanse of open land west of I-5, north of the Pico exit, with its commanding ocean views stretching from the Dana Point Headlands to Catalina Island. It has a 90 feet deep natural canyon running the entire length of the property plus several smaller canyons. **Within the canyons are a pond, fresh water wetlands, riparian habitat and an alkaline marsh connected by an intermittent stream. Located along the bluffs and in the canyons are stands of endangered Coastal Sage Scrub and riparian vegetation that supports small mammals, California gnatcatchers, and Brockman's dudleya and native grasses.** Marblehead is one of the last open coastal bluff sites in Orange County.

The City of San Clemente has approved plans for the site that include the construction of 434 homes, 700,000 sq. ft. of outlet stores, an 8,000-seat movie complex and a large parking structure with additional asphalt parking for 4,700 cars. The development will require the excavation of 3,000,000 cubic yards of earth that will fill the canyons, eliminate the ponds, wetlands, and special rare coastal habitats as well as disrupt the natural drainage system. The developer, on July 19, filed an application with the Coastal Commission for a coastal development permit (CDP). On August 16 the commission returned the application as incomplete and so far the developer has not filed an amendment. **EARLIER THIS YEAR CALIFORNIA COURTS HAVE RULED THAT WETLANDS ARE PROTECTED FROM HOUSING CONSTRUCTION.**

We need your help now to save this area and to stop this massive development with its attendant traffic, air and water pollution. Ocean water quality will be diminished by the increased run-off from the developed areas. The existing storm-water flow that is filtered through natural canyon aquifers **will be replaced by a subterranean concrete box storm-drain system that will discharge directly to the Pacific ocean at North Beach.**

The goal of the Marblehead Coastal Task Force of the Sierra Club is to preserve and to enhance the coastal resources on the bluffs and within the canyons, to balance the scenic beauty and recreational opportunities of the community, and to prevent the elimination of wetlands and special rare coastal habitats.

-----Cut and return-----

I would like to join the Marblehead Coastal task force

I would like to be on the mailing list

I would like to volunteer to:

Write letters Telephone Mobilize a group Other

Name _____ Home phone _____

Address _____ Work phone _____

City/Zip _____ email _____

Do something NOW to preserve San Clemente's last open coastal bluff site!

Please return this coupon to:

SCCRD
P.O. Box 6074
San Clemente, CA 92674

NOV 01 1999

CALIFORNIA
COASTAL COMMISSION

October 29, 1999

Coastal Commission
2000ceangate # 1000
Long Beach, CA 90802

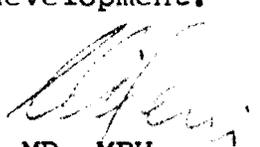
Gentlemen:

I would like to register an objection to your granting a coastal development permit for the proposed Marblehead Coastal development on the bluff in San Clemente.

As it is structured now it will obliterate two canyons, ponds and wetlands by disrupting the natural drainage system of the area.

Alternatives exist that will allow development and preservation of the ecosystem at the same time. The law specifically protects wetlands from housing development.

Thank you.


Flavio Ciferri, MD, MPH
126 Calle Patricia 6
San Clemente, CA 92672

George Hubner

From: "ALT" <z3wanabe@pacbell.net>
To: <georgehubner@home.com>
Sent: Thursday, June 08, 2000 5:38 PM
Subject: San Clemente

We recieved your bulletin regarding possible development in San Clemente. We're concerned about the safety of canyons and water here as well and are interested in information on what can be done to help this cause. Please send any information you have.
Thanks, the Thurstons

RECEIVED
JUN 16 2000
CALIFORNIA
COASTAL COMMISSION

George Hubner

From: "M. Lazarus" <lazarus4@home.com>
To: <georgehubner@home.com>
Sent: Friday, June 09, 2000 5:03 PM
Subject: No subject was specified.

Dear Mr. Hubner,

We are residents of Marblehead and are concerned about what will happen to this special unreplaceable piece of land. Please keep us up to date on this matter. We would be happy to assist the task force. Please call upon us.

Thank You,

Stephen & Mollie Lazarus

George Hubner

From: "Lisa Benson" <cpmm mediaservices@home.com>
To: <georgehubner@home.com>
Sent: Friday, June 09, 2000 5:58 PM
Subject: Marblehead Coastal

Mr. Hubner,

Have you spoken with a member of the Coastal Commission to find out what types of land are actually protected from development? Does this land fall in a "grey area" or do we really have nothing to worry about. What really are our chances of stopping this "low-end eyesore" from being the first impression everyone traveling South on the 5 has of our community.

I don't look forward to telling my friends to exit at the outlet mall.

Lisa Benson

George Hubner

From: "Wyatt Brigham" <padcommander@yahoo.com>
To: <georgehubner@home.com>
Sent: Saturday, June 10, 2000 11:48 AM
Subject: San Clemente Marblehead Coastal Site

Dear Mr. Hubner,

We recently received a flyer in the mail regarding potential development plans for the Marblehead Coastal Site. We would like to let you know that we feel the site should remain undeveloped. San Clemente doesn't need development in this area; there's plenty currently going on in the Talega area.

If we can help, please let us know. Thanks!

Wyatt Brigham of the Brigham Family

Do Not Reply

George Hubner

From: "Julia Dewees" <deweefamily@home.com>
To: <georgehubner@home.com>
Sent: Sunday, June 11, 2000 3:30 PM
Subject: marblehead

Just a note to tell you that the flyer that came out this week was terrific. I'm really impressed with the simplicity of the aerial view and its effect. As you know, I'm really involved in stopping the toll road, but I'm just as concerned about Marblehead. I think that the way you are informing people is excellent. Too many people think that it is a "done deal", which according to your flyer isn't true. Thanks for the status report!

Julia Dewees

George Hubner

From: "Jim" <parcreate@home.com>
To: <georgehubner@home.com>
Sent: Monday, June 12, 2000 11:58 AM
Subject: Marblehead...

Dear George,

I just received your mailer, or Coastal Bulletin. I found it to be very informative and right to the point.

I live in San Clemente and had created a little direct mail piece about 3 years ago for a little grass roots organization here. I would like to know more about how I can help your cause. I must tell you, though, that I tend to get very busy as I am a freelance Art Director for ad agencies throughout Orange County. Nevertheless, I would be glad to help out any way I can.

Good Luck!

Jim Deakins

George Hubner

From: <Stephen.Burgess@fhs.com>
To: <Georgehubner@home.com>
Sent: Monday, June 12, 2000 3:12 PM
Subject: Marblehead

Hi George, please keep me informed of any developments re the Marblehead Coastal site. I would personally like the whole piece to remain untouched. I guess that's not going to happen so I would like to support the least disruptive ideas.

**Melvin
Denny
Ako**

Date: 10/24/00

Visual Concept Design, Architectural Models and Rendering
23471 Via Alondra, Coto de Caza, CA 92679, USA
Tel: (949)459-2603 Fax: (949)459-2334
Email: mda1@home.com

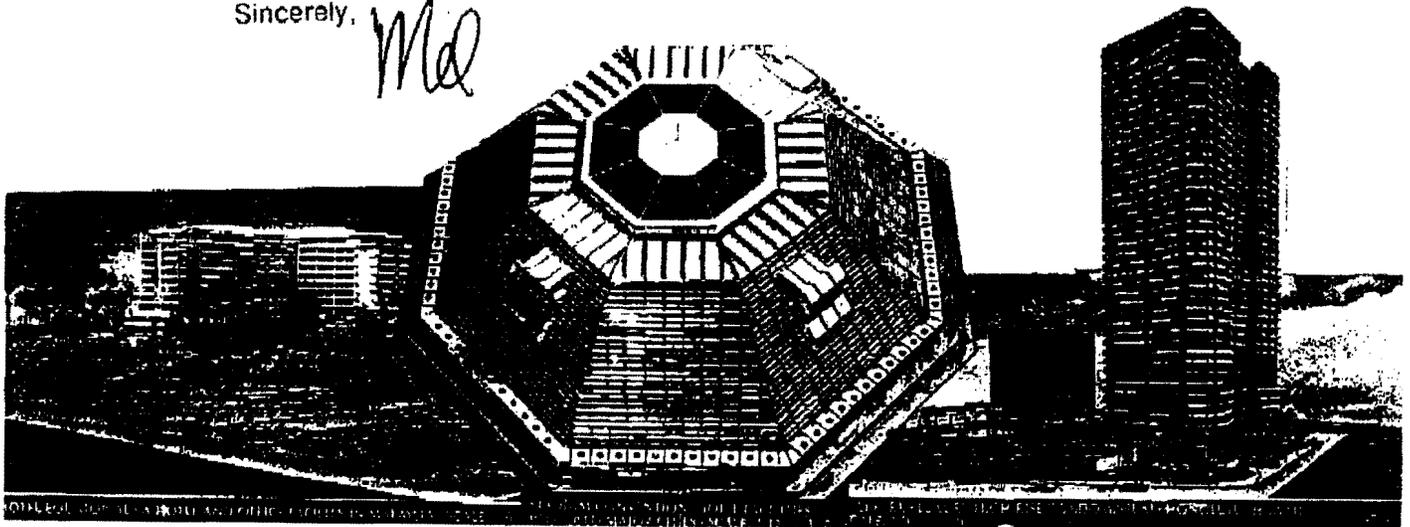
Project No: _____

Project Name: Martinezhead @
San Clemente

Company: Calif Coastal Commission
Fax No: 562-590-5084 Ph: 562-590-5071
Attention: Carl Swiney Subject: Business Ethics
From: Mel Ako
No of Pages: 8
(Including header)

Dear Carl, Enclosed letters from developer on how he does business. He wouldn't pay me unless I signed his letter so I refused! He won a small claims against me because of my refusal to sign letter and do additional work! This is how small guys get screwed by slick Steve.

Sincerely, *Mel*



**Melvin
Denny
Ako**

23471 Via Alondra
Costa Mesa, CA 92629
United States of America

Tel: 949-359-2003
Fax: 949-469-2334
E-mail: mda1@home.com

October 23, 2000

TO WHOM IT MAY CONCERN:

I am writing this letter to illustrate how the " MARBLEHEAD @ SAN CLEMENTE" project does business. Enclosed is a letter on the last paragraph of how they do business in which if I signed would get me paid. I refused to sign this letter & it was not even in my original contract. If he is doing this type of business, what is he telling others? I now plan to be an activist against this project because of dealings with this developer, and now will inform the newsmedia, public officials, Calif Coastal Commission & others of how he operates!

My company was instrumental in producing a scale model of the project. I am now going to oppose this developer based on business practices, & point out the negatives to the community, environment & businesses.

I will not let anyone tell me what I should do, say or contact based on our freedom of speech, especially if its the truth!

the developers. I oppose to:

CRAIG REALTY GROUP
1500 Quail St. Suite 100
Newport Beach, CA. 92660
1-949- 224-4100
Steve L. Craig

Sincerely,



MELVIN AKO
7372 Walnut Ave . suite N
Buena Park, CA 90620
(714) 522-6510
fax 522-6220



CRAIG REALTY GROUP

August 21, 2000

Via Facsimile
Via Hard Copy by Mail

Mr. Melvin Denny Ako
23471 Via Alondra
Coto de Caza, CA 92679

Dear Mel:

As you are aware from our recent telephone conversation, I was quite disappointed by the quality of the model base your firm provided in connection with your proposal, which I signed on October 5, 1999. Adding to my dissatisfaction was the fact that the base was delivered seven (7) weeks late!

It wasn't late, he didn't have a place to put it!

After we were first introduced, last fall, you and I had the ^{meeting} opportunity to visit the Newport Coast Exhibit, Fashion Island. As you may recall, it was the quality of the two (2) models and model bases on display that was to be the ^{what?} standard for the San Clemente model. While I believe you and your team did a ^{brilliant} nice job on the model itself, the display base leaves a great deal to be desired and is nowhere close to the quality of the model bases at Newport Coast. *Dreaming on your budget!*

In an attempt to find a fair and reasonable resolution to this, I propose the following:

Upon receiving your written agreement to "thicken" and re-finish the upper counter of the model, to a more substantial counter with a "furniture quality finish", we will pay you the balance which we owe you, \$3,040.00. Please see your sketch, dated May 18, 2000, (copy enclosed) which depicts a thicker counter top. Furthermore, you would agree to complete such work within thirty (30) days of the date which you receive our final payment.

Blackmail freedom of speech.

→ You shall further agree to not appear at any public or private hearings, or meetings, regarding our project and shall cease all contact with public officials (i.e. San Clemente City Counselor) regarding our project.

This was not in my original contract! Is this how he gets rid of his opposition?

1500 Quail Street, Suite 100, Newport Beach, California 92660
949. 224-4100 Fax: 949. 224-4101
www.craigrealtygroup.com

August 21, 2000

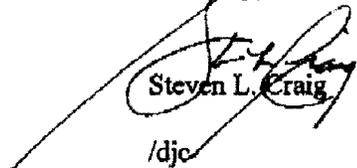
Page two

Lastly, any legal fees incurred with respect to enforcement of this memorandum shall be borne by the losing party.

If you are in agreement with the above proposal, please execute where provided below.

Hopefully, you will find the above outlined proposal acceptable. I look forward to hearing from you.

Sincerely,



Steven L. Craig

/djc

Enclosure

I hereby agree to the above terms and conditions:

Melvin Denny Ako

Date

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, HARBOR JUSTICE CENTER
4601 Jamboree Road, Suite 107, Newport Beach, CA 92660-2595
SMALL CLAIMS NO.:**

00HS03099

00HS03099

**— NOTICE TO DEFENDANT —
YOU ARE BEING SUED BY PLAINTIFF**

To protect your rights, you must appear in this court on the trial date shown in the table below. You may lose the case if you do not appear. The court may award the plaintiff the amount of the claim and the costs. Your wages, money, and property may be taken without further warning from the court.

**— AVISO AL DEMANDADO —
A USTED LO ESTAN DEMANDANDO**

Para proteger sus derechos, usted debe presentarse ante esta corte en la fecha del juicio indicada en el cuadro que aparece a continuación. Si no se presenta, puede perder el caso. La corte puede decidir en favor del demandante por la cantidad del reclamo y los costos. A usted le pueden quitar su salario, su dinero, y otras cosas de su propiedad, sin aviso adicional por parte de esta corte.

PLAINTIFF/DEMANDANTE (Name, street address, and telephone number of each):
AKO, MELVIN DENNY
DBA: MELVIN DENNY AKO
23471 VIA ALONDRA
TRABUCO CANYON, CA 92679

PLAINTIFF/DEMANDANTE (Name, street address, and telephone number of each):
Telephone No: 949-459-2603
DEFENDANT/DEMANDADO
CRAIG REALTY GROUP, A CORP.
1590 QUAIL ST, SUITE 100
NEWPORT BEACH, CA 92660

Telephone No: 949-224-4100
Fict. Bus. Name Stmt. No. Expires: See attached sheet for additional plaintiffs and defendants.

Telephone No:
DEFENDANT/DEMANDADO

Telephone No: 949-224-4100
Fict. Bus. Name Stmt. No. Expires: See attached sheet for additional plaintiffs and defendants.

Telephone No:
DEFENDANT/DEMANDADO

- PLAINTIFF'S CLAIM**
- a. Defendant owes me the sum of \$ 4000.00, not including court costs, because (describe claim and date):
Past due invoice. 6/30/00
 - b. I have had an arbitration of an attorney-client fee dispute. (Attach Attorney-Client Fee Dispute form (see form SC-101).)
 - This claim is against a government agency, and I filed a claim with the agency. My claim was denied by the agency, or the agency did not act on my claim before the legal deadline. (See form SC-150).
 - a. I have asked defendant to pay this money, but it has not been paid.
b. I have NOT asked defendant to pay this money because (explain):
 - This court is the proper court for the trial because A (In the box at the left, insert one of the letters from the list called "Venue Table" on the back of this sheet. If you select D, E, or F, specify additional facts in this space):
 - I have have not filed more than one other small claims action anywhere in California during this calendar year in which the amount demanded is more than \$2,500.
 - I have have not filed more than 12 small claims, including this claim, during the previous 12 months.
 - I understand that
 - I may talk to an attorney about this claim, but I cannot be represented by an attorney at the trial in the small claims court.
 - I must appear at the time and place of trial and bring all witnesses, books, receipts, and other papers or things to prove my case.
 - I have no right of appeal on my claim, but I may appeal a claim filed by the defendant in this case.
 - If I cannot afford to pay the fees for filing or service by a sheriff, marshal, or constable, I may ask that the fees be waived.
 - I have received and read the information sheet explaining some important rights of plaintiffs in the small claims court.
 - No defendant is in the military service except (name):
- I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- Date: 09/12/2000 MELVIN DENNY AKO SIGNATURE ON FILE
- (TYPE OR PRINT NAME) (SIGNATURE OF PLAINTIFF)

ORDER TO DEFENDANT

You must appear in this court on the trial date and at the time LAST SHOWN IN THE BOX BELOW if you do not agree with the plaintiff's claim. Bring all witnesses, books, receipts, and other papers or things with you to support your case.

TRIAL DATE	DATE	DAY	TIME	PLACE	COURT USE
FECHA DEL JUICIO	1. 10/23/2000	MON	08:30 AM	Department H11 - second floor of the above entitled Court	
	2.			Department - second floor of the above entitled Court	
	3.			Department - second floor of the above entitled Court	

Filed on (date): 09/12/2000 Alan Slater, Clerk, by S. AXTELL, Deputy

— The county provides small claims advisor services free of charge. Read the information on the reverse. —

**— NOTICE TO PLAINTIFF —
 YOU ARE BEING SUED BY DEFENDANT**

To protect your rights, you must appear in this court on the trial date shown in the table below. You may lose the case if you do not appear. The court may award the defendant the amount of the claim and the costs. Your wages, money, and property may be taken without further warning from the court.

**— AVISO AL DEMANDANTE —
 A USTED LO ESTA DEMANDANDO EL**

Para proteger sus derechos, usted debe presentarse ante esta corte en la fecha del juicio indicada en el cuadro que aparece a continuación. Si no se presenta, puede perder el caso. La corte puede decidir en favor del demandado por la cantidad del reclamo y los costos. A usted le pueden quitar su salario, su dinero, y otras cosas de su propiedad, sin aviso adicional por parte de esta corte.

PLAINTIFF/DEMANDANTE (Name, address, and telephone number of each):
AKO, MELVIN DENNY
 DBA: MELVIN DENNY AKO
 23471 VIA ALONDRA
 TRABUCO CANYON, CA 92679
 Telephone No.: 949-459-2603

DEFENDANT/DEMANDADO (Name, address, and telephone number of each):
CRAIG REALTY GROUP, A CORP.
 1500 QUAIL ST., SUITE 100
 NEWPORT BEACH, CA 92660
 Telephone No.: 949-224-4100

FILED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF ORANGE
 HARBOR JUSTICE CENTER

OCT 12 2000

ALAN SLATER, Clerk of the Court

Telephone No.: _____

Telephone No.: _____

Fict. Bus. Name Stmt. No. _____ Expires: / / See attached statement for additional plaintiffs and defendants.

DEFENDANT'S CLAIM

- Plaintiff owes me the sum of: \$ 5000.00, not including court costs, because (describe claim and date):
 Plaintiff was to have provided a product that was comparable in quality to a similar product on display; inferior product delivered. 6-29-00
- a. I have asked plaintiff to pay this money, but it has not been paid.
 b. I have NOT asked plaintiff to pay this money because (explain):
- I have have not filed more than one other small claims action anywhere in California during this calendar year in which the amount demanded is more than \$2,500.
- I understand that
 - I may talk to an attorney about this claim, but I cannot be represented by an attorney at the trial in the small claims court.
 - I must appear at the time and place of trial and bring all witnesses, books, receipts, and other papers or things to prove my case.
 - I have no right of appeal on my claim, but I may appeal a claim filed by the plaintiff in this case.
 - If I cannot afford to pay the fees for filing or service by a sheriff or marshal, I may ask that the fees be waived.
- I have received and read the information sheet explaining some important rights of defendants in the small claims court.
- No plaintiff is in the military service except (name):

00 OCT 12 AM 11:15
 RECEIVED
 COUNTY OF ORANGE
 HARBOR JUSTICE CENTER

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 10/12/2000
 STEVEN L. CRAIG
 (TYPE OR PRINT NAME)

ORIGINAL SIGNATURE ON FILE
 (SIGNATURE OF DEFENDANT)

ORDER TO PLAINTIFF

You must appear in this court on the trial date and at the time LAST SHOWN IN THE BOX BELOW if you do not agree with the defendant's claim. Bring all witnesses, books, receipts, and other papers or things with you to support your case.

TRIAL DATE	DATE	DAY	TIME	PLACE	COURT USE
FECHA DEL JUICIO	1. 10/23/2000	MON	08:30AM	Department H11, Second floor of the above entitled Court	
	2.			Department, Second floor of the above entitled Court	
	3.			Department, Second floor of the above entitled Court	
	4.			Department, Second floor of the above entitled Court	

Filed on (date): 10/12/2000 Alan Slater, Clerk, by E. BUTLER, Deputy

— The county provides small claims advisor services free of charge. (Advisor phone number: (800) 963-7717)—

**Melvin
Denny
Ako**

23471 Via Alendra
Coto de Caza, CA 92675
United States of America

Tel: 949.459.2603
Fax: 949.459.2334
E-mail: mda1@home.com

August 29, 2000

Craig Realty Group
1500 Quail Street Suite 100
Newport Beach, CA. 92660
Attn: Steve Craig
Sub: Past Due Invoice

Dear Steve,

As you are aware from our recent conversation, I am disappointed by having to trust you would pay us & would want us to make you a Rolls Royce with less than a Ford budget! In fact, the cost of the model should have been borne percentage wise by your Co., 70% & Lusk should have paid only 30% judged by our timesheets.

As for the base items you wanted us to do, that was being picky, but you still chose to not pay us in good faith! We can no longer trust, that you would pay us at all, therefore, we will waste your time in court, leave with bad feelings as you wish.

I am appalled you would tell me not to appear in any public or private hearings, or meetings regarding your project and cease contact with public officials (i.e.) San Clemente City Counselor & have me sign such a improper way of doing business. I'm sure the news media would love to see this letter you wrote, as well as your partners the Lusk Co. with whom I happen to like. In any case, I think you owe us an apology on the way you have handled this! This will become public record as we filed this in court! The money doesn't mean anything to me now, it's the principle.

Regretfully,



Mel Ako

**Melvin
Denny
Ako**

23471 Via Alameda
Coto de Caza, CA 92679
United States of America

Tel: 949.459.2003
Fax: 949.459.2034
E-mail: mda1@home.com

INVOICE

Invoice Number: 20013/99032

Date: 6/30/00

Our Job Number:

Client Name: THE PROMENADE AT SAN CLEMENTE *STACRAK*

Company: CRAIG REALTY GROUP
Address: 1500 Quail Street Suite 100
Newport Beach, CA. 92660

Attn: NINA

Project Name: The Promenade At San Clemente

Client Job Number: 20013/99032

Description:		
Borders Book Store Addition		\$ 1,190.-
Lusk Additions		\$ 4,200.-
Changes on Shopping Center		\$ 1,850.-
		<hr/>
	TOTAL DUE	\$ 7,240.-

Please Call When Check is Ready!

BASE IS COMPLETED!!!!

Mel

Project Total:
Deposit:
Balance Due:

Thank You, Melvin Ako

*PAID \$4200-
BAL \$3,040-*

1 1/2% INTEREST 45.60

*faxed 8/10/00 TOTAL DUE \$ 3,085.60
TO DATE*

*+ interest cost
cost \$4500*

Payment Terms: If within thirty (30) days final payment is not received, interest will be charged at a rate of 1.5% per month. If payment is not received within terms, there shall be no alternative but to proceed with legal action. All court costs and attorney fees relevant to collection of this invoice will be paid by the Invoiced.

SAN CLEMENTE CITIZENS
FOR
RESPONSIBLE DEVELOPMENT
P.O. BOX 6074
SAN CLEMENTE, CA. 92674

RECEIVED
MAY 22 2000

CALIFORNIA
COASTAL COMMISSION

May 17, 2000

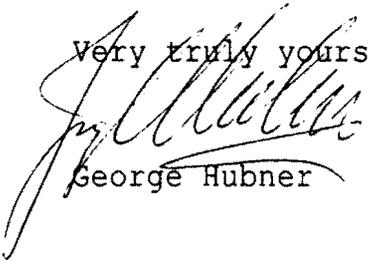
Mr. Karl Schwing,
California Coastal Commission,
200 Oceangate, Suite 1000
Long Beach, CA. 90802-4302

Daer Mr. Schwing,

We enclose copy of letter from biologist Fred Roberts concerning the Marblehead Coastal site in San Clemente.

We believe you will find Mr. Robert's comments of interest when you evaluate the latest, revised plan and application from the Lusk Company, developers of the Marblehead Coastal project.

Very truly yours,


George Hubner

F.M. Roberts, Jr.
722 Point Arguello
Oceanside, CA 92054

29 February 2000

RECEIVED
MAY 22 2000
CALIFORNIA
COASTAL COMMISSION

Mary Dunlap
San Clemente Citizens for Responsible Development
2447 Ave. Mastil
San Clemente, CA 92673

Re: Alkali Wetlands within the Marblehead Development Project

Dear Ms. Dunlap:

As per your request, I am commenting on the significance of the alkali wetlands within the Marblehead project site in northern San Clemente, California. The alkali wetlands are found primarily within two drainages within the Marblehead project site. It is my opinion that these wetlands are important and unique in southern California and that every effort should be made to preserve them and their source waters. Palustrine emergent alkali wetlands and marshes such as those within the Marblehead may represent crucial habitat for rare plants and they are significant in their own right. They are also disappearing at an alarming rate despite recent recognition as important and unique wetland forms.

I have been in the process of preparing a flora for Orange County for the last 15 years. In order to prepare this work, I have conducted extensive field surveys throughout Orange County in order to better understand the diversity and distribution of plant species in Orange County. During the course of this research, my work with the Museum of Systematic Biology at the University of California (1982-1991), and working with the U.S. Fish and Wildlife Service (1991-1999), I have become very familiar with the plant communities and rare plants, particularly in southern Orange County, including those Marblehead project site. My primary concern with the Marblehead project has been the distribution of, and potential impacts to the rare plant: Blochmann's dudleya (*Dudleya blochmaniae* ssp. *blochmaniae*). However, in the last few years I have become equally concerned with the distribution, diversity, and decline of alkali wetlands in southern California.

According to the draft Environmental Impact Report of January 1998, as reviewed by the U.S. Fish and Wildlife Service and California Department of Fish and Game (Jim Bartei and Gail Presley, *in litt.*, March 20, 1998), about 6.5 acres of the Marblehead project supports wetlands. The majority of these wetlands are situated in a central drainage and consist of emergent palustrine alkali wetlands, including alkali marsh. These alkali wetlands are characterized by a shallow, broad drainage within a small canyon, and are dominated by alkali bulrush (*Scirpus palustris*), common woody pickleweed (*Salicornia virginica*), saltgrass (*Distichlis spicata*), and alkali heath (*Frankenia salina*). Additional less common species include salt heliotrope (*Heliotropium curassavicum*), Coast goosefoot (*Chenopodium macrospermum* var. *halophilum*), and alkali weed (*Cressa truxillensis*). Adequate surveys for rare plants have not been conducted within this drainage to my knowledge.

It is important to note that non-marine alkali wetlands are not common in southern California, and are primarily associated with southern Orange County and the Perris Basin of western Riverside County. The alkali wetlands in southern Orange County are very distinct from the evaporate flood plain alkali wetlands in Riverside County. However, both areas have undergone significant

impacts and are at extreme risk from channelization, urban development, and other activities that may alter the hydrology and composition of these habitats. Alkali wetland habitats have been recently recognized as vital primarily for their significance as rare plant habitat. In Orange County, several species of plants listed within the California Native Plant Society's Inventory of Rare and Endangered Plants of California as category 1B (rare or endangered in California) are dependent on, or largely dependent on alkali wetlands. These include southern tarplant (*Hemizonia parryi* ssp. *australis*), Coulter's saltbush (*Atriplex coulteri*), Davidson's saltbush (*At. serrenana* var. *davidsonii*), Parish's saltbush (*A. parishii*), and Coulter's daisy (*Lasthenia glabrata* var. *coulteri*). All these species have declined significantly within Orange County. The alkali wetlands within the Marblehead project site are suitable habitat for all five species.

The alkali wetlands of southern Orange County have been recognized as significant in their own right as indicated by comment letters by the U.S. Army Corps of Engineers and U.S. Fish and Wildlife Service regarding the Chiquita High School site and the Ladera Planned Community within Rancho Mission Viejo and Forester Ranch of San Clemente.

In 1991, eight areas in central and southern Orange County were recognized as supporting significant palustrine alkali wetlands: the southern fringes of the University of California, Irvine Campus, Canada Chiquita, Canada Gobernadora, and Horno Creek of Rancho Mission Viejo, Forester Ranch, upper Canada Deschecha, and the Marblehead project site. Four of seven (60 percent) of these alkali wetlands have been significantly reduced since that time. The alkali wetlands within Canada Chiquita have been impacted by pipelines, roads, a school, and agricultural activities reducing them by perhaps as much as 60 percent. The remaining wetlands are threatened by a golf course project and the foothill transportation corridor. The UCI wetlands have been seriously degraded by the San Joaquin Transportation Corridor and various University of California projects. Eighty percent of the Horno Creek wetlands have been eliminated by the Ladera Planned Community in order to reconstruct the drainage. Recent agreements preserved the majority of the alkali wetlands within the Forester Ranch project and within the immediate drainage downstream, however, the primary water source, a spring situated within a landslide, was not, and therefore the alkali wetlands may diminish with time. Some of these impacts are or will be mitigated offsite, however, restoration-creation projects may not offset loss of diversity. Two additional sites (about 30 percent) that contain significant alkali wetlands are within proposed development projects within the city of San Clemente: upper Canada Deschecha (Talega Planned Development) and Marblehead. Only the Canada Gobernadora wetlands appear relatively undamaged and are likely to improve as of a result of restoration/creation actions.

Thus the Marblehead alkali wetlands are becoming increasingly significant both for supporting suitable rare plant habitat, and representing one of the last sites in Orange County that supports relatively undisturbed alkali wetlands.

The Marblehead alkali wetlands are primarily associated with the sites central drainage. Although this site has been isolated from the broader open spaces of southern Orange County for at least 15 years, the wetlands have persisted in relatively good condition. This is principally because the water source for alkali wetlands appears to be within the project site. The interior end of the canyon is dominated by a more typical wetland composed of willows, mulefat, and various exotics. This wetland may in part be reliant upon urban runoff off site. However, the alkali/freshwater transition is abrupt and easily identified about two-thirds up the canyon. From this point until the surface water disappears underground near the Pacific Coast Highway, the vegetation relies, at least in part, on a different source emerging from the clay soil remaining. As with the nearby seep at Forester Ranch, this source supplies enough water to keep the surface soils damp or even wet during the summer. It is critical that this source is protected in order to allow this unique habitat to persist.

As currently proposed, the Marblehead commercial/residential project will fill in the upper portions of the central drainage. The fill will apparently cover the source site for alkali waters that feed this unique wetland. Excess water from surrounding development may allow water to flow in the drainage after construction, however, the alkali character will be lost to probable habitat type conversion. The project should be redesigned to avoid the alkaline water source. Even though the wetlands would be isolated, it is one of the last remaining examples of this rare vegetation association to remain. With clever design and limited management, urban runoff could be limited and the alkali wetlands and marsh would likely persist on site.

Alternatively, any direct or indirect impacts to the alkali wetlands at Marblehead should be mitigated by establishing comparable alkali wetlands at another locality on site at 3:1 (a ratio comparable to other alkali wetland impacts in southern Orange County), or 5:1 offsite such as within Canada Gobernadora. The Marblehead wetlands represents one of the last opportunities to preserve a unique southern California plant community that is critical for several species of plants that will otherwise be facing extinction as early as 2010.

If you have any questions, I may be reached at 760-439-6244.

Sincerely,

Fred M. Roberts, Jr.

Fred M. Roberts, Jr.
Botanist

RECEIVED
DEC 06 2000
CALIFORNIA
COASTAL COMMISSION

cc:
Subject: Marblehead Coastal

San Clemente Citizens for Responsible Development SCCRD is primarily concerned with two coastal issues in regard to the proposed plan: 1., neglect of the Local Coastal Planning process (LCP) and the Coastal Act Policies; and 2., disregard of the coastal resources onsite.

The Marblehead Parcel is an area of deferred certification (white hole). As designated, the site has never been evaluated by the Coastal Act Policies or included in the city's LCP land use plan. Its importance as a key parcel in the community and its resources have never been carefully considered in relationship to the coastal zone and the surrounding city. Although the main canyon, one mile in length, contains a stream, a fresh water wetlands and alkaline marsh and coastal sage scrub vegetation, it has not been identified as an ESHA like the other canyons in the city.

The SCCRD campaign: as outlined in our petition of 5000+ signatures objecting to the Amended GP and Spec Plan calls for

1. the plan to be denied without prejudice and returned to the city
2. the site to be planned with Coastal Act Policies and be included as a part of the LCP
3. identify the coastal resources as ESHA, so they can be preserved and protected
4. and create a land use mix consistent with coastal dependent uses and reflect connectivity with the community

The Marblehead Coastal Site is too important to have a plan and development decided through the permit process. It is the city's only open coastal space, it is strategically situated as the city's gateway. Its value and importance are the onsite natural resources, its location at Norht Beach for recreation, transportation and visitor serving land uses. The SCCRD wants the city to carry out a formal planning process, to appoint a citizens group and charge them with the task to plan using the Coastal Act policies and then fold it into the the LCP. Marblehead Coastal should not be planned by permit.

Ca Coastal Plan 1975 (the Red, White and Blue Book)

Regional Summaries Section: presents an overview of each Region, illustrates major resources, and boundary lines. The Regional Summaries were prepared by the Region Commissions to summarize the extent of critical resources, major local plans, development trends, environmental problems, and economic and social concerns and to describe specific conservation and development proposals. They were intended to guide further planning as necessary by government agencies and property owners.

Ca Coastal Plan SUBREGION 13 plan proposals affecting this site:

1. substantial portion of remaining road capacity shall be reserved for recreational use
2. lower elevations might be appropriate to accommodate residential and commercial uses in planned clusters retaining maximum open space. Undeveloped land above and immediately adjoining coastal bluffs should be limited in accordance with Plan policies and where possible to open space uses for public recreation and view corridors. Grading should be allowed only in accordance with Coastal Plan design guidelines.
3. San Clemente Palisades. **Acquire this 153 acre coastal terrace parcel for general recreational support facilities.**

City of San Clemente General Plan EIR 1993:

1. identifies Coastal Canyons on the 250 acre Marblehead Coastal Site
2. illustrates the approximate location and size of the Canyons
3. identifies the General Plan Policies which encourage the preservation of the Canyons and resources

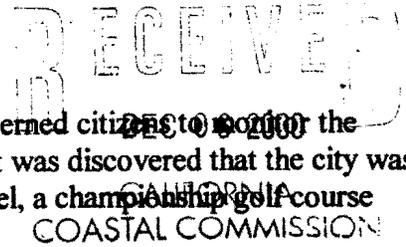
Coastal Commission Staff Report Synopsis:

1. refers to site as an area of deferred certification and owner is working with city on a specific plan.
2. neglects to identify the 250 acre as an ESHA containing significant coastal canyons, wetlands, coastal sage scrub and bluffs

Current City Planning Activity:

1. Amends General Plan to limited L U of residential and commercial
2. specific plan is not protective of Canyons , wetlands or bluffs - mitigation is not related to impacts
3. development is not coastal related and lacks connectivity to community
4. city Ad Hoc Citizens Committee recommendations approved and implemented - create a citizens committee to overview and advise staff and council on coastal activities, place a coastal planner on staff,

History of Marblehead Coastal



SCCRD was formed in October 1997 by a small group of concerned citizens to oppose the development of the 250 acres Marblehead Coastal property, when it was discovered that the city was planning to alter the General Plan which called for a destination hotel, a championship golf course and a maximum of 300 homes.

Beginning in March of 1998 a number of public hearings were held which culminated in the City changing the general plan allowing the developer (The Lusk Company) to build 522 homes on 117 acres and a 60 plus acres commercial development with multi-story commercial buildings which would include a supermarket, a Target store, a drugstore, a 22 screen multiplex cinema, 4700 outdoor parking spaces and numerous outlet stores akin to the development in Carlsbad. The builder's plan called for filling in the canyons, destroying the natural habitats, wetlands and contributing to massive urban run-offs directly into the ocean.

From March until June 1998 public hearings were held and much opposition was expressed before the planning commission. Before each of these meetings Lusk was entertaining groups of citizens to get their support for their plan and instructed them how to speak at the public hearings, in some cases even distributing forms to have their supporters speak first at the hearings.

Alarmed by this development our grassroots group was formed and collected 2,000 signatures in opposition to the Lusk plan which called for the City's General Plan to be amended. Despite this opposition the Planning Commission, on June 22, 1998, forged ahead with their recommendation that the Lusk plan be adopted as presented (over the objection of city staff who opposed the large "boxes", or Target, Longs and Albertsons) City Council approved the Lusk plan without any boxes and sent it back to the Planning Commission.

August 5, 1998 Lusk submitted the identical plan saying that without the "boxes" their plan was economically unworkable. At the same time the City Council approved, with a 3 to 2 vote, the General Plan Amendment which meant no hotel and no golf course but sent the 60 acre commercial portion back for a redesign.

Shortly thereafter the SCCRD mounted an initiative and started a signature gathering effort which resulted in over 5,100 signatures which were presented to the city in March 1999. Hiding behind some dubious legal technicalities, our initiative was rejected by the City. The cost of the initiative depleted our funds preventing our appeal despite advice that we could win.

Eventually the City approved the commercial 62 acres plus portion of the Lusk project, allowing for 750,000 square feet of factory outlet stores, 4,700 parking spaces, 22 screen movie complex and restaurants. Without these items Lusk maintained the project was not economically feasible. The SCCRD, the Surfriders organization and De-Rail the Trail all presented arguments against the project because of the gross destruction to the environment as Lusk's plan calls for filling in the canyons and wetlands. As a token compromise Lusk agreed to a special drainage system. The SCCRD does not believe that this system and the cement block retaining walls in the canyons will prevent the ecological destruction of the property but rather the opposite. Also, this drainage system has not been tested anywhere and no one knows what cataclysmic results could occur as a result of large rainstorms.

Since then Lusk has submitted the City approved plan to the Coastal Commission 4 times as the Commission each time needed further information and documentation. On Sept. 5, 2000 the Commission advised Lusk that all the necessary information/documentation had been submitted and the Commission now has 180 days to make a ruling; but first a public hearing must be held before that 180 day deadline. The possible hearing dates are: Jan. 9-12 in Los Angeles, Feb. 13-16 San Luis Obispo, or March 13-16 in San Diego. Please refer to our website regularly for updates and notification.



5-99-260 (MT No. 1 LLC)
Marblehead Coastal

Exhibit 29

**Letters in Support of the
Proposed Project Received as of
12/20/2000**

12/14/00

Ms. Sam Wan
Chair
California Coastal Commission
22350 Carbon Mesa Rd
Malibu, CA 90265

Dear Ms. Wan:

As a resident of San Clemente for the past 12 years, I have become accustomed to using public transit. The Marblehead Coastal project will provide plenty of access for member of the community that utilize the bus system.

This project will ease congestion in the downtown area by moving a retail center to the outskirts of town. I think this will greatly increase traffic flow in our city.

Please vote to approve the Marblehead Coastal project.

Thank you,
Velma Knapp

CC: Coastal Commission Staff

RECEIVED
South Coast Region

DEC 15 2000

CALIFORNIA
COASTAL COMMISSION

12/15/00

Ms. Sara Van
California Coastal Commission
22350 Canton Mesa Rd
Narbonne, Ca 90265

Dear Ms. Van,

As a senior resident of
San Clemente I feel it would
be an advantage to me &
those of us who no longer dream
to have a shopping center so
convenient to us.

In addition, it will
beautify the field. I hope
you will O.B. the project so we
can get on with the building
before it's too late to regret
with appreciation

Agnes Heath
CC Coastal Commission Staff

RECEIVED
South Coast Region

DEC 15 2000

CALIFORNIA
COASTAL COMMISSION

December 14, 2000

Ms. Sara Wan, Chair
California Coastal Commission
22350 Carbon Mesa Rd.
Malibu, CA 90265

Dear Chairperson Wan:

I am writing to ask that you and your fellow California Coastal Commission Members vote to approve the Marblehead Coastal project.

As a senior, I find this project extremely accessible from the proposed addition of the Senior Center. I find it exhausting to travel around the city to run errands. This project will provide convenience for those who prefer not to drive.

Please vote in favor of the Marblehead Coastal project in January.

Sincerely,
Mary Campbell

Mary Campbell

Cc: Coastal Commission Staff

RECEIVED
South Coast Region
DEC 15 2000
CALIFORNIA
COASTAL COMMISSION

MICHAEL W. LOMBARDI
254 AVENIDA, MONTALVO, #C
SAN CLEMENTE, CA 92672

DEC. 14, 2000

MS. SARA WAN, CHAIR
CALIFORNIA COASTAL COMMISSION
22350 CARBON MESA RD.
MALIBU, CA 90265

RECEIVED
South Coast
DEC 15 2000
CALIFORNIA
COASTAL COMMISSION

DEAR MS. WAN:

THIS LETTER IS TO EXPRESS MY SUPPORT FOR THE MARBLEHEAD COASTAL PROJECT. I HAVE MADE MYSELF AWARE OF THE PROJECT FROM ITS INCEPTION. I ATTENDED MOST OF THE HEARINGS AND PRESENTATIONS WHICH THE DEVELOPERS SUBMITTED TO GOVERNING AUTHORITIES AND THE PUBLIC.

I AM A LICENSED ARCHITECT IN CALIFORNIA & COLORADO. I AM ALSO A PLANNER. I HAVE OVER THIRTY FIVE YEARS OF EXPERIENCE IN THE PLANNING AND DEVELOPMENT OF COMMERCIAL PROJECTS.

I FEEL THAT THE DEVELOPERS AND THEIR PROFESSIONALS HAVE DONE AN EXCELLANT JOB IN WHAT THEY HAVE PROPOSED FOR THIS PROJECT

DO NOT MISS THIS CHANCE, VOTE IN SUPPORT OF THIS PROPOSED PROJECT.

SINCERELY,
Michael W. Lombardi

CC: COASTAL COMMISSION STAFF

December 14, 2000

Ms. Sara Wan
Chair
California Coastal Commission
22350 Carbon Mesa Road
Malibu, Ca 90265

Subject: Marblehead Development in San Clemente

RECEIVED
South Coast Region
DEC 15 2000
CALIFORNIA
COASTAL COMMISSION

Dear Ms. Wan,

I am pleased to provide you with the following comments regarding this outstanding project. I served as a Council Member for the City of San Clemente from 1994 through 1998. I am very familiar with this development and was one of the original council members who approved the project. I watched how it evolved over the years prior to my term in office, during my term and how it improved even more after our original council determination. I am very impressed with how responsive the developer has been to the needs of the various interested groups. Every step of the way they have worked to make this a quality project which will benefit our community for many years to come.

There are many obvious benefits which flow from this project. They include improved traffic, infrastructure improvements, quality shopping and entertainment, community financial contributions, tremendous fiscal revenue opportunities for the city, and the list goes on and on.

Rather than address the above noted improvements in detail, I would like to focus on the quality of life and environmental issues addressed by the developer. The project includes many ocean viewing locations in the village. This is important because the community deserves the opportunity to take in the beauty this site provides on a daily basis. The dedicated park land and sports park further contribute to this community viewing opportunity.

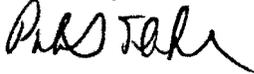
With regard to the environment, this project more than adequately pulls its weight with regard to preserving delicate and needed environmental resources. There is a \$100,000 contribution to local wetlands and biological resources management. The state of the art water reclamation system will help ensure our beaches do not become spoiled by run-off from the project site. The creation of 16.5 acres of new Coastal Sage habitat and 20.7 acre Nature Park clearly show the lengths which the developer will go to preserving the environmental quality we all expect in our community. I especially like the proposed sand replenishment program. As you know, San Clemente, like other coastal communities, faces constant erosion problems and is striving to take steps to protect this valuable asset.

All of these benefits must be compared with what the developer seeks in return. The developer is not proposing the massive amount of home construction which was originally included in plans for the site as a location for the Nixon Library. On the contrary, the amount of homes do not even exceed 500. While it is readily apparent that this site could accommodate

many more housing units, the developer has chosen not to do this. That decision provides our community with an outstanding project geared towards preserving the quality of the site and open access to all. It is extremely important our coastal sites are developed in a manner which preserves the environment as much as possible. This project does just that and more so than would normally be required of a private developer.

I join with other leaders in my community and ask that you approve this outstanding project. Should you have any questions, please feel free to call me at home at 949 366-2690 or at work at 714 870-8200. Thank you for your time and consideration.

Sincerely,



Patrick M. Ahle
Former Mayor of San Clemente

cc: Coastal Commission Staff

12/14/00

Ms Sara Wan
Chair
Calif Coastal Comm.
22350 Calhoun Mesa Rd.
Malibu, Ca 90265

Dear Chairperson

I am writing to ask that you and fellow members vote to approve Malibu Coast project.

We need the commercial center to ease the congestion on the Downtown area. This area would easily accessible to all residents, this will also draw tourism for the area. It will also bring jobs to the locals.

Sincerely
Florence Maguel

cc Coastal Comm. Staff

RECEIVED
South Coast Region
DEC 15 2000
CALIFORNIA
COASTAL COMM.

14 Dec, 00

Mrs. Sara Wan
Chair
Calif. Coastal Commission
22350 Carbon Mesa Rd
Malibu, Ca 90265

RECEIVED
South Coast Region
DEC 15 2000
CALIFORNIA
COASTAL COMMISSION

Dear Champion Wan.

- I would like to express strong support for the marshland coastal project & sincerely request that you do the same. It is a well developed, well rounded plan that has been "fine tuned" to the "nth" degree.
- Everyone in the area has had various levels of input that have explained the local objectives.
- The benefits to the community have been compounded to unbelievable limits - too numerous to itemize here.
- Shopping & traffic will be the most visible, & needed, improvements - both urgent needs!
- Please do your part in this - that is - get it into the "real world" - not just paper.

Many thanks

Leon N. Aldrich
40 MIRRA LAS OLAS
SAN CLEMENTE CA
92673

C.C. Coastal Commission

December 14, 2000

RECEIVED
South Coast Region
DEC 15 2000
CALIFORNIA
COASTAL COMMISSION

Ms. Cynthia McClain-Hill
California Coastal Commission
McClain-Hill Associates
526 West Sixth Street, Suite 1128
Los Angeles, CA 90014

Dear Commissioner McClain-Hill:

As a nine-year resident and business manager in the City of San Clemente, I am writing to ask that you and your fellow California Coastal Commissioners vote to approve the Marblehead Coastal project when it comes before you in January.

This well-balanced plan respects the environment by preserving the wetlands, open space and canyons. Three-acres of Coastal Sage Scrub habitat will be preserved by Marblehead Coastal, while another 16.5 acres of habitat will be created to assist with the regeneration of the plant.

The project is also environmentally responsible in its efforts to preserve the habitat of Blochman's Dudleya. This native plant is rapidly disappearing from our coastline. The Marblehead Coastal plan is proposing a 2-acre Dudleya reserve to initiate a Dudleya translocation and enhancement program. This program is the only successful translocation project for Dudleya in the nation.

Marblehead Coastal will provide a destination that the community will be proud of while serving to protect the environment. Please show that you respect the landowner's well thought out plans as well as the city's approval and vote in favor of the Marblehead Coastal project.

Sincerely,



Ken Nishikawa
612 Avenida Acapulco
San Clemente, CA 92672

c: Ms. Sara Wan, Commission Chair
Coastal Commission Staff

The
GIBBS

LAW FIRM

RECEIVED
DEC 14 2000

December 13, 2000

CALIFORNIA
COASTAL COMMISSION

Gerald R. Gibbs

Timothy J. Gibbs

David L. Gibbs

Sara Wan
California Coastal Commission
22350 Carbon Mesa Rd.
Malibu, CA 90265

**Re: California Coastal Commission Consideration
Of Marblehead Coastal, San Clemente, CA**

Dear Ms. Wan and fellow Commissioners:

As a resident of San Clemente for close to 40 years, I have watched the many and varied applications for use of the "Lusk" property come and go. As a local business person for more than 25 years, I waited eagerly for a master plan for Marblehead Coastal which made economic sense as well as served our overall community needs as an affluent, yet tax poor coastal community.

We as residents of San Clemente are blessed with a coastline that we wish to protect for the benefit of all of our residents and those from other areas who wish to enjoy the beach and the ocean. We are proud of our community and our efforts to protect the environment.

We are also mindful of the cost of being a beach community with an asset we must protect for all Californians. That burden, however, must be met with our own resources and local tax basis. No one is willing to hand San Clemente dollars to protect our environment. We must do that ourselves.

After a great deal of time and effort, the city staff has affected an agreement with the developer of Marblehead Coastal which seems to cover both our environmental concerns as well as our economic needs.

I am sure you will be plagued with appeals to restrict the use of the Lusk property in ways that are many and varied, most of which do not consider the economic needs of the community or the very practical aspects of where the property is actually located.

In its wisdom, a number of years ago the city chose to utilize property which Marblehead overlooks, to build a sewer plant. In addition to that boundary, the north eastern side of the property abuts the very noisy freeway. To the ocean side (south) of the property, we have the Pacific Coast Highway, active railroad tracks and a mobilehome park, in that order. Although a large site, this property is not "ideal" nor is it pristine. Part of the property contains the remains of the original sewer plant. In spite of this, the developer has provided a park which overlooks the ocean, a small public beach, a portion of a new (and

Sara Wan, Chair
California Coastal Commission
December 13, 2000
Page 2

The
GIBBS

LAW FIRM

badly needed) freeway interchange, as well as fees for low income housing, a substantial contribution to the downtown business development and a new senior center.

From an environmental stand point, the water reclamation system is outstanding as is the treatment of the questionable waterways or wetlands located on the property. This will be the first project in our community which recognizes and resolves the run off from its own product. We will also receive replacement sand for the beaches, a dudleya enhancement program and coastal sage scrub habitat. These mitigation efforts will leave the results much better than they would be if the land were left vacant and the present runoff allowed to continue. The property is presently an eyesore and used mainly for neighbors to run their animals and allow unchecked dumping of animal wastes.

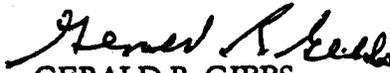
The economic effect of the project cannot be overlooked, as it will provide badly needed tax revenue to allow us to continue to protect and enhance our coastline for the use of San Clemente and residents of California and the nation. There are also direct dollar contributions to the community which I have mentioned briefly above.

My appeal is to not allow the project to stagnate for another indeterminable time period. San Clemente and all of its visitors will benefit from this project. It is well designed, as a result of a great deal of pressure by the city staff and with the ultimate cooperation of the developers.

We hope you will favorably consider this project.

Very truly yours,

THE GIBBS LAW FIRM


GERALD R. GIBBS

GRG:lc

cc: Coastal Commission Staff
Ms. Anne Kramer



CITY OF SAN CLEMENTE

Office of Mayor and City Councilmembers

Phone: (949) 361-8322 Fax: (949) 361-8283

E-mail: CityCouncil@san-clemente.org

SCOTT L. DAHL, Mayor

Jim Dahl, Mayor Pro Tem

Stephanie Dorey, Councilmember

G. Wayne Eggleston, Councilmember

Susan Ritschel, Councilmember

Mike Parness, City Manager

December 15, 2000

Ms. Sara Wan, Chair
California Coastal Commission
22350 Carbon Mesa Road
Malibu, CA 90265

RECEIVED
DEC 19 2000

CALIFORNIA
COASTAL COMMISSION

Dear Ms. Wan:

I would like to encourage you to vote in favor of the Marblehead Coastal project during the January Coastal Commission meeting. This plan meets the important needs of San Clemente in many ways.

The creation of the project's local shopping and dining center will produce much needed sales tax revenue for the City and provides a means of supporting maintenance funds for the local park system. Funding from development helps maintain public access to the beaches and parks. The City's general plan anticipates additional parks and facilities coming on line. The revenue generated from the commercial village will support the parks and recreation programs. Without this revenue, the City would have to eliminate facilities and parks maintenance.

This development plan will provide many improvements to the City's transportation infrastructure. By taking on the task of constructing a new interchange for the Interstate 5 freeway at Avenida Vista Hermosa and making improvements to our surface streets, San Clemente will save millions in much needed infrastructure expenditures.

Marblehead Coastal will also dedicate several million dollars in local area improvements, including \$1.5 million for the City's North Beach improvement program, \$1 million in downtown area improvements, \$1 million for a new senior center and \$250,000 donation to a local library program.

Our City's master revenue plan depends on a project of this quality. Please show your support by voting in favor of the Marblehead Coastal project.

Sincerely,

Jim Dahl
Councilmember

cc: Coastal Commission Staff
City Council
Mike Parness, City Manager



CITY OF SAN CLEMENTE

Office of Mayor and City Councilmembers

Phone: (949) 361-8322 Fax: (949) 361-8283

E-mail: CityCouncil@san-clemente.org

Scott Diehl, *Mayor*
Jim Dahl, *Mayor Pro Tem*
Stephanie Dorey, *Councilmember*
G. Wayne Eggleston, *Councilmember*
Susan Ritschel, *Councilmember*

Mike Parness, *City Manager*

December 13, 2000

Ms. Sara Wan, Chair
California Coastal Commission
22350 Carbon Mesa Road
Malibu, CA 90265

RECEIVED
DEC 19 2000

CALIFORNIA
COASTAL COMMISSION

Dear Ms. Wan:

As a member of the San Clemente City Council, I rarely see projects that fit into the vision of our seaside community. The consensus among residents and City planners is that the Marblehead Coastal project suits our vision perfectly.

Marblehead Coastal has offered to purchase 1.1 acres of private beach and dedicate this property for public coastal access. At a cost of \$2.4 million, that is a very committed gift to our City. This gift will not just benefit a select few, but provide beach access for all residents to use and enjoy.

We have seen many evolutions of this plan and we think that we have achieved the optimum fit for our residents and visitors alike. Please support the Marblehead Coastal plan.

Best regards,

Susan Ritschel
Councilmember

cc: Coastal Commission Staff
City Council
Mike Parness, City Manager



CITY OF SAN CLEMENTE

Office of Mayor and City Councilmembers

Phone: (949) 361-8322 Fax: (949) 361-8283

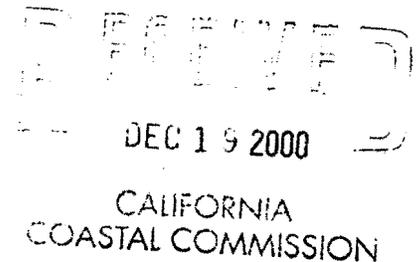
E-mail: CityCouncil@san-clemente.org

Scott Diehl, *Mayor*
Jim Dahl, *Mayor Pro Tem*
Stephanie Dorey, *Councilmember*
G. Wayne Eggleston, *Councilmember*
Susan Ritschel, *Councilmember*

Mike Parness, *City Manager*

December 13, 2000

Ms. Sara Wan, Chair
California Coastal Commission
22350 Carbon Mesa Road
Malibu, CA 90265



Dear Ms. Wan:

I am a member of the San Clemente City Council, but more importantly, I am a concerned resident of San Clemente. I am concerned about the progress of our City and the traffic impacts that accompany growth. After significant public review, our City has approved a Marblehead Coastal project that has actually addressed these concerns and proposed solutions.

This plan offers many infrastructure enhancements that will benefit all residents and visitors to our community. Traffic flow will become infinitely more efficient with the proposed construction of a new interchange to Interstate 5 at Avenida Vista Hermosa. Traffic congestion will ease in central San Clemente after the suggested surface street improvements and the creation of a new arterial road are made in association with the Marblehead Coastal project.

Another key element of this plan is the construction of a regional trail system that will provide the entire City with opportunities to view the panoramic beauty of our City from land that is currently closed to the public. This is land that should be open to and enjoyed by all.

This is a project that has been reviewed and refined with San Clemente's best interests in mind. Please show your support by voting to approve the Marblehead Coastal project.

Sincerely,

Scott Diehl
Mayor

cc: Coastal Commission Staff
City Council
Mike Parness, City Manager



DECEMBER 15, 2000
CALIFORNIA
**CITY OF COASTAL COMMISSION
SAN CLEMENTE**

Office of the City Manager
Phone: (949) 361-8322 Fax: (949) 361-8283
E-mail: CityManager@san-clemente.org

Scott Diehl, Mayor
Jim Dahl, Mayor Pro Tem
Stephanie Dorey, Councilmember
G. Wayne Eggleston, Councilmember
Susan Ritschel, Councilmember

Mike Parness, City Manager

December 15, 2000

Ms. Sara Wan, Chair
California Coastal Commission
22350 Carbon Mesa Road
Malibu, CA 90265

Dear Ms. Wan:

As the City Manager of San Clemente, I would strongly recommend that you vote to approve the Marblehead Coastal project for these reasons:

- A new, state-of-the art water quality run-off management system, which will improve the quality of run-off water flowing into the ocean.
- Improved traffic flow from the construction of a new interchange to Interstate 5 at Avenida Vista Hermosa. Traffic congestion will ease in San Clemente after the suggested surface street improvements and the creation of a new arterial road associated with this project are in place.
- A \$100,000 endowment from the landowner toward the long-term management of local wetlands and biological resources. The creation of 16.5 acres of Coastal Sage Scrub habitat to accompany three existing acres of habitat and a two-acre Blochman's Dudleya reserve.
- Much needed sales tax revenue for the City that will provide a means of support for City facilities and parks maintenance.
- Marblehead Coastal will also dedicate several million dollars in local area improvements, including \$1.5 million for the City's North Beach improvement program, \$1 million in downtown area improvements, \$1 million for a new senior center and \$250,000 donation to a local library program.

This program is very beneficial to the residents of San Clemente. Marblehead Coastal deserves your seal of approval.

Sincerely,

Mike Parness
City Manager

cc: **Coastal Commission Staff**
City Council



CITY OF SAN CLEMENTE

Office of Mayor and City Councilmembers

Phone: (949) 361-8322 Fax: (949) 361-8283

E-mail: CityCouncil@san-clemente.org

Stephanie ...
G. Wayne Eggleston, Councilmember
Susan Ritschel, Councilmember

Mike Parness, City Manager

December 13, 2000

Ms. Sara Wan, Chair
California Coastal Commission
22350 Carbon Mesa Road
Malibu, CA 90265

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DEC 19 2000

CALIFORNIA
COASTAL COMMISSION

Dear Ms. Wan:

As a member of the San Clemente City Council, I am proud to say that I support the Marblehead Coastal project. With your approval of Marblehead Coastal, our City will have an environmentally responsible new addition to the community and a new, state-of-the-art water quality system/runoff management system, which will improve the quality of run-off water reaching the ocean.

Water from the north, near the freeway, currently flows unchecked to the ocean. With the new system, low flow from the project will be diverted to the San Clemente City Water Reclamation Plant. In addition, the project will provide a first flush underground storage system to also enable diversion of off-site residential and Interstate 5 freeway run-off to the reclamation plant; this will ensure that 85% of all water will pass through this treatment plant.

The water going to the ocean and wetlands will be much cleaner than it is today and the Regional Water Quality Board has approved this water reclamation system.

As residents of this beautiful seaside community, we fully support this project and encourage you to do the same. Please vote in favor of the Marblehead Coastal project.

Thank you,

G. Wayne Eggleston
Councilmember

cc: Coastal Commission Staff
City Council
Mike Parness, City Manager



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South Coast Region

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**CITY OF
SAN CLEMENTE**

CALIFORNIA
COASTAL COMMISSION

Public Works and Economic Development Department

David N. Lund, Director

Phone: (949) 361-8391 Fax: (949) 361-8281

E-mail: PublicWorks@san-clemente.org

December 15, 2000

Ms. Sara Wan, Chairperson
California Coastal Commission
22350 Carbon Mesa Road
Malibu, CA 90265

Subject: Marblehead Coastal Project, San Clemente, California

Dear Ms. Wan:

As the Director of Public Works and Economic Development for the City of San Clemente, I have had the opportunity to carefully evaluate the impacts the Marblehead Coastal project would have on our community. In my professional judgement, this is an exemplary and model project.

Aside from the many fiscal and economic benefits that Marblehead Coastal brings to San Clemente, I am particularly pleased with the environmental mitigation in its development design. Without question, this is the first major coastal development project that contains vastly improved "state of the art" water quality and water runoff engineering applications. I am both hopeful and confident that your Commission's approval of this project will send a message to other developers that this is a worthwhile and necessary environmental enhancement that should be part of all future coastal projects.

Marblehead Coastal offers many other environmentally related benefits as well. These benefits include the creation of a 16.5 acre Coastal Sage habitat, the dedication of a 20.7 acre park, and a valuable sand replenishment program for our beaches. Of particular significance to your Commission Board, this project will not have a single direct impact on any wetlands.

Marblehead Coastal is a carefully designed and well thought out project that sets new standards for future coastal development. I respectfully request that you approve Marblehead Coastal for the benefit of our many regional visitors and community residents.

Sincerely,

David N. Lund
Director, Public Works & Economic Development

c: ✓ Anne Kramer, California Coastal Commission
Honorable Mayor and City Council
Mike Parness, City Manager

JOHN T. EZELL

207 Via San Andreas • San Clemente • California 92672 • (714) 498-1958

December 15, 2000

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CALIFORNIA
COASTAL COMMISSION

Ms. Anne Kramer
California Coastal Commission
200 OceanGate
10th Floor
Suite 1000
Long Beach, CA 90802

RE: Marblehead Coastal Proposal for the City of San Clemente

Dear Ms. Wan and Commission Members,

My family and I have lived for the last 25 years in the Shorecliffs community adjacent to the 250 acre Marblehead Coastal parcel (formerly known as the Reeves Ranch, or the "tomato fields" to the neighborhood children). The first public hearing I attended on the development of this land was in late 1975, and I have attended virtually every one since that time. The proposals over the years have ranged from "marginal" to "downright objectionable". The current proposal, however, is absolutely "marvelous"!

The proposal, as presented to you today, is the culmination of years of fine-tuning done in concert with the developer, the city staff and the San Clemente citizenry. This proposal accommodates literally every neighbor request, in addition to addressing a dozen citywide problems with substantial grants for improvements (downtown redevelopment, library expansion, new senior center, etc.)

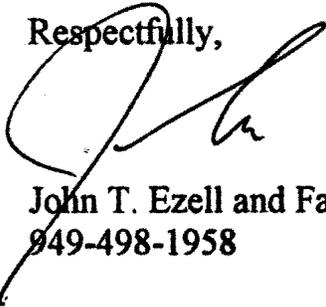
The Shorecliffs community is particularly excited about the "no thru vehicular traffic" design featuring a newly created park area adjacent to the Middle School with desperately needed public sports fields and a rear

vehicular access for the school buses to relieve the congestion on the existing residential streets. Also, we have anxiously awaited a convenient pedestrian access for the Shorecliffs and Colony Cove residents to get to shopping, retail, and the North Beach recreation area (other than walking on PCH). The proposed trails and open spaces (natural & landscaped) are both beautiful and functional. (This is a vast improvement over the former trash strewn canyon with sewage catch basins!)

My family and I have been active in San Clemente for many many years. I am a member of The Surfrider Foundation, Rotary International, and proudly served as president of both the Boys & Girls Clubs of South Orange County Board of Directors, and the Shorecliffs Beach Club Association Board of Directors. Obviously, I can not speak for all my neighbors, but I know that I do speak for the "silent majority" who has waited these many years for the "right" Marblehead Coastal proposal to be created. That proposal is before you today, and we strongly urge you to approve it so the project can move forward.

Thank you for considering our requests favorably.

Respectfully,



John T. Ezell and Family
949-498-1958

cc: Coastal Commission Staff

Ms. Dee Hamilton
27106 Calle Real
Capistrano Beach, CA. 92624

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CALIFORNIA
COASTAL COMMISSION

December 14, 2000

Ms. Cynthia McClain-Hill
California Coastal Commission
McClain-Hill Associates
523 West Sixth St., 1128
Los Angeles, CA. 90014

Dear Commissioner McClain-Hill:

As an area resident, I am asking you and your fellow California Coastal Commissioners to vote to approve the Marblehead Coastal project in January.

The project is environmentally sensitive in its plans to preserve the habitat of Blochman's Dudleya – a native plant that is rapidly disappearing from our coastline. The Marblehead Coastal plan proposes a 2-acre Dudleya reserve to initiate a transplantation and enhancement program of the plant. This program is the only successful translocation project of this kind in the entire nation.

This well-balanced plan also respects the environment by preserving wetlands, open space and canyons. Marblehead Coastal will preserve three-acres of Coastal Sage Scrub habitat, while another 16.5 acres of habitat will be produced to assist with the regeneration of the plant.

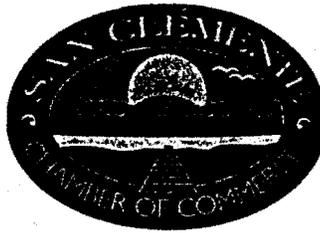
With Marblehead Coastal, the community will have a destination that it can be proud of while it protects the environment. Please vote to approve the Marblehead Coastal project.

Best wishes,

Dee Hamilton

Ms. Dee Hamilton

Cc: Coastal Commission Staff



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CALIFORNIA
COASTAL COMMISSION

December 14, 2000

Ms. Sara Wan, Chair
California Coastal Commission
22350 Carbon Mesa Rd.
Malibu, CA. 90265

Dear Ms. Wan:

Please vote in favor of the Marblehead Coastal project during the January Coastal Commission meeting. This plan meets the important needs of San Clemente in many ways.

The creation of the project's local shopping and dining center will produce much needed sales tax revenue to the City and provides a means for supporting maintenance funds for the local park system.

The steps that this plan will use to solve our city's traffic concerns are immense. By taking on the task of constructing a new interchange for the 5 freeway at Avenida Vista Hermosa and making improvements to our surface streets, San Clemente will save millions in much needed infrastructure expenditures.

Marblehead Coastal will also dedicate several million dollars in local area improvements, including \$1.5 million for the City's North Beach improvement program, \$1 million in downtown area improvements, \$1 million for a new senior center and \$250,000 donation to a local library program.

Our city's master revenue plan depends on a project of this quality. Please show your support by voting in favor of the Marblehead Coastal project.

Sincerely,

Alex Haynes
President

Cc: Coastal Commission Staff ✓

LAW OFFICES OF BERNARD A. ALLEN

A Professional Corporation

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P.O. Box 548

San Clemente, CA 92674-0548

December 14, 2000

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South Coast Region

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CALIFORNIA
COASTAL COMMISSION

Ms. Sara Wan
Chair
22350 Carbon Mesa Road
Malibu, CA 90265

Dear Ms. Wan,

As a life-long resident of San Clemente, I have a vested interest in the well being of this community. I have watched the city grow for many years, and value our unique architecture, the downtown boulevards, and most importantly, the beautiful natural resources that clearly enhance the quality of our lives.

As a member of the Chamber of Commerce, I am sensitive to environmental concerns in our city. Thus, I am particularly excited about the Marblehead Coastal project, and encourage you to approve it.

A key benefit brought to the community via this project is the provision of public access to a hitherto private beach, as well as the enhancement of that beach through an important sand replenishment program.

A revolutionary pioneer, the landowner of Marblehead Coastal implemented a revolutionary new advanced water reclamation system that will improve the quality of water run off which would otherwise contaminate our ocean water. I hope this project is approved and able to serve as an encouragement to other developers to follow Marblehead's example.

I have seen dramatic improvements to this project since it was first brought to the commission, including a significant scaling down in the number of homes from what had previously been approved in the city's general plan. Currently, this is an excellent project that will provide a wide variety of environmental and community benefits, city wide. I urge you...please approve Marblehead Coastal!

Sincerely,

Bernie Allen

Cc: Coastal Commission Staff ✓

