

CALIFORNIA COASTAL COMMISSION

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 Commission Action:

RECORD PACKET COPY**Item Mon 9e****STAFF REPORT: PERMIT AMENDMENT**

APPLICATION NUMBER: A-5-LGB-00-079-A1

APPLICANTS: Five Star Resort, LLC and City of Laguna Beach

PROJECT LOCATION: 30801 S. Coast Highway, Laguna Beach, Orange County

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Development of a 275-room resort, 14 condominiums and public park areas (including an ADA compliant accessway to the beach from the Blufftop Park walkway) for the Treasure Island Destination Resort Community Project.

DESCRIPTION OF PROPOSED AMENDMENT: Relocation of the approved ADA accessway from the blufftop to the sandy beach approximately 300 feet upcoast.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends **APPROVAL** of the proposed development subject to six (6) special conditions. Special Condition No. 1 requires conformance with recommendations contained in the geotechnical report. Special Condition No. 2 requires recordation of an assumption of risk deed restriction by the property owner (Five Star Resort, LLC) and an agreement to assume the risk associated with development by the City of Laguna Beach. Special Condition No. 3 requires relocation of the ADA accessway if threatened by hazards such as bluff erosion. Special Condition No. 4 requires submittal of a revegetation plan for the bluff slope after construction of the ADA accessway. Special Condition No. 5 highlights that all prior conditions imposed by coastal development permit A-5-LGB-00-079 remain in effect. Special Condition No. 6 requires the applicant to submit a signage plan for the intersection of the ADA ramp and the emergency vehicle ramp to warn of potential pedestrian/vehicle conflict.

The primary issues of the originally approved development were blufftop grading and landform alteration, marine resources, water quality and public access. Issues raised by the current amendment include landform alteration, public access and scenic resources.

At the time of this staff report, the applicants are in agreement with the staff recommendation and conditions of approval. There is no known opposition to the proposed amendment.

LOCAL APPROVALS RECEIVED: City of Laguna Beach Coastal Development Permits Nos. 99-75 and 99-76.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit Appeal Nos. A-5-LGB-00-078 and A-5-LGB-00-079; City of Laguna Beach Local Coastal Program (LCP) for Treasure Island Resort and Destination Community Project; Final Program Environmental Impact Report (FEIR) and Mitigation Monitoring Program for the LCP and Treasure Island Specific Plan adopted June 8, 1998; FEIR Addendum dated September 29, 1999; City of Laguna Beach Administrative Record for Coastal Development Permits Nos. 99-75, 99-76, 99-78 and 99-79; California Coastal Commission Adopted Revised Findings on the City of Laguna Beach Local Coastal Program amendment 1-98 for the Treasure Island Area of Deferred Certification as Approved by the Commission on August 13, 1998 (Revised Findings adopted November 6, 1998).

PROCEDURAL NOTE:

Coastal Development Permit Amendments

The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

The amendment request involves relocation of the ADA accessway approved by the Commission as part of the Treasure Island Resort Development Project. The subject application is being forwarded to the Commission because the Executive Director has determined that the proposed amendment is a material change and affects conditions required for the purposes of protecting coastal resources or coastal access.

Section 13166 of the Commission Regulations also calls for the Executive Director to require a permit amendment request if it would lessen the intent of the previously approved permit. The proposed amendment to relocate the accessway would not lessen the intended affect of A-5-LGB-00-079 because the project provides comparable ADA access to that which was approved pursuant to the original permit. Therefore, the Executive Director accepted the amendment request for filing.

I. STAFF RECOMMENDATION, MOTION AND RESOLUTION OF APPROVAL

Staff recommends that the Commission make the following motion and adopt the following resolution to APPROVE the amendment application with special conditions.

MOTION

I move that the Commission approve CDP Amendment #A-5-LGB-00-079-A1 pursuant to the staff recommendation.

Staff recommends a **YES** vote. This will result in approval of the permit amendment as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION OF APPROVAL WITH CONDITIONS

The Commission hereby **APPROVES** the amendment to Coastal Development Permit A-5-LGB-00-079, subject to the conditions below, for the proposed development on the grounds that the development would be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, would not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and would not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. SPECIAL CONDITIONS:

1. Conformance of Design and Construction Plans to Geotechnical Report

- A. All final design and construction plans, including foundation, grading and drainage plans, shall be consistent with all recommendations contained in the *Supplemental Consultation, Relocation of ADA Walkway, Treasure Island Redevelopment Project, 30801 South Pacific Coast Highway, Laguna Beach, CA (Project 70131-0-0029/70144-0-0339.0001.2000)* prepared by Law Crandall dated August 9, 2001, as supplemented by *Response to California Coastal Commission Comments, Treasure Island Redevelopment Project, 30801 South Pacific Coast Highway, Laguna Beach, CA (Project 70131-0-0029/70144-0-0339.0001.2000)* prepared by Law Crandall dated September 12, 2001.
- B. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the above-referenced geologic evaluation approved by the California Coastal Commission for the project site.
- C. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Assumption of Risk

- A. By acceptance of this permit amendment, the applicants acknowledge and agree (i) that the site may be subject to hazards from waves, bluff retreat and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, Five Star Resort, LLC shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.
- C. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the City of Laguna Beach shall submit a written agreement in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

3. Relocation of ADA Accessway

- A. By acceptance of this permit, the applicants further agree, on behalf of themselves and all other successors and assigns, that the landowner shall remove and relocate the ADA accessway in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions or other natural hazards in the future. Such relocation shall require a coastal development permit. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, Five Star Resort, LLC shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

- C. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the City of Laguna Beach shall submit a written agreement in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

4. Revegetation of Slope

- A. Upon completion of ADA ramp construction, the applicant shall revegetate the slope for erosion control and protection of scenic resources. In addition, the applicant shall comply with the following provisions:
- (a) All planting shall provide 90 percent coverage within 90 days and shall be repeated if necessary to provide such coverage;
 - (b) All plantings shall be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the planting plan;
 - (d) Native, drought-tolerant vegetation shall be utilized to screen the above-grade footings of the ADA ramp along the bluff face; and
- B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.
- C. Five years from the date of issuance of Coastal Development Permit No. A-5-LGB-00-079-A1, the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed landscape architect or qualified resource specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this special condition. The monitoring report shall include photographic documentation of plant species, plant coverage, and an evaluation of the conformance of the landscaping with the requirements of this special condition.

If the landscape monitoring report indicates the revegetation effort is not in conformance with or has failed to meet the performance standards specified in the slope revegetation plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised vegetation plan must be prepared by a licensed landscape architect or a qualified resource specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the originally approved plan.

5. Prior Conditions

Unless specifically altered by this amendment, all standard and special conditions attached to Coastal Development Permit A-5-LGB-00-079 remain in effect.

6. Signage Plan for ADA Walkway

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, a signage plan for the ADA accessway, which demonstrates the following.

1. At the point of intersection between the ADA ramp and the emergency access road, signage shall be erected to warn of the potential pedestrian/vehicle conflict;
2. Signs shall be designed to be clearly visible to drivers on the emergency vehicle road traveling in either direction (up-slope and down-slope); and
3. Signs shall be designed to be clearly visible to users of the ADA ramp traveling in either direction (up-slope and down-slope).

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

III. **FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

A. **Project Location, Background, Previously Approved Project Description and Proposed Amendment**

Project Location

The Treasure Island project site is located in the southern portion of the City of Laguna Beach on the seaward side of Pacific Coast Highway just north of Aliso Beach, Orange County (Exhibits 1 and 2). The approximately 30-acre oceanfront property was previously used as a private 268-space trailer park. As part of the approved project, nearly half of the 30-acre site will be dedicated to the public as parkland, beaches, the Coast Highway scenic corridor, and open space easements. The ADA ramp is included in the portion of the public amenities to be dedicated to the City of Laguna Beach upon project completion.

Background

On August 13, 1998, the Coastal Commission approved the Treasure Island Local Coastal Program (LCP) as a project specific amendment to the City of Laguna Beach Local Coastal Program. The site was previously an Area of Deferred Certification pending the resolution of public access concerns. The certified LCP allows for development of the site with a resort complex consisting of a resort center on 10.63 acres with 200-275 visitor-serving accommodations provided in a hotel, resort villas, and residence villas (condominiums). The certified LCP also allows for future residential development of up to 18 single-family residences and provides public benefits, including the dedication of nearly 14 acres to public use (such as the sandy beach, marine reserve, blufftop park and public parking) and the enhancement of public access throughout the site.

Pursuant to the certified LCP, the applicants submitted coastal development permit applications for the subject development to the City of Laguna Beach in September 1999. The City held multiple public hearings between September 1999 and February 2000 prior to project approval. By February 16, 2000, the City of Laguna Beach had conditionally approved Coastal Development Permits Nos. 99-75, 99-76, 99-78 and 99-79 pertaining to the Treasure Island Resort Development.

By March 3, 2000, within ten working days of receipt of the notices of final action, five (5) parties appealed two of the four local actions on the grounds that the approved project did not conform to the requirements of the certified LCP. Appellants included Village Laguna, South Laguna Civic Association, Orange County CoastKeeper, John Gabriels and Eugene R. Atherton. The two appealed local actions were CDPs 99-75 and 99-76.

On April 11, 2000, the Commission determined that a substantial issue existed with respect to the local government's approvals of the proposed development on the grounds that the approvals did not conform to the Treasure Island certified LCP. On June 14, 2000, the Coastal Commission approved, with eleven (11) special conditions, Coastal Development Permits A-5-LGB-00-078 and A-5-LGB-00-079 for 1) subdivision of a 30-acre coastal blufftop lot, construction of master utilities and backbone infrastructure (City CDP # 99-75) and 2) development of a 275-room resort, 14 condominiums and public park areas for the Treasure Island Destination Resort Community Project (City CDP # 99-76).

Previously Approved Project Description

The subject of the current amendment request is CDP #A-5-LGB-00-079, which involves construction-level detail for the resort and its associated residential and public uses, including a 275-room resort, 14 condominiums, 17 single-family residential lots, and establishment of public park areas at the Treasure Island Resort Development. A component of the public park facilities approved by this permit is a new ADA accessible ramp that is to traverse the bluff face from the Blufftop Park to the sandy beach below (Exhibit 3). The ADA ramp is described in the City of Laguna Beach Coastal Development Permit #99-76, Section 2.4.4 #4 and shown in Figure 2.13 (Exhibit 4).

Section 2.4.4 states,

4. *New Handicapped Accessible Ramp*

In order to provide handicapped access to the large beach at the south end of the site, a 5-foot-wide ramp will traverse the bluff, terminating at the existing concrete platform of the south ramp. The natural wood ramp will be constructed above the existing grades of the bluff on wooden piers.

The Commission's appeal and subsequent approval of the Treasure Island Resort Development Project through CDP #A-5-LGB-00-079 did not affect or modify the City-approved ADA ramp along the bluff face. Therefore, the Commission-issued permit currently allows for construction of the ADA ramp in the location and configuration along the bluff face originally approved by the City of Laguna Beach through CDP # 99-76, as shown in Exhibit 3. Unless specifically altered by the current amendment, all prior conditions imposed by CDP #A-5-LGB-00-079 remain in effect.

Proposed Amendment

The resort developer and the City of Laguna Beach propose to realign and relocate the ADA access ramp from its currently approved location to a new location approximately 300 feet to the north (upcoast), as shown in Exhibits 5 & 6. The City joined the developer as a co-applicant in the current amendment request due to their future interest in the subject property. As stated previously, the ADA ramp will be included in property dedicated to the City upon completion of the public improvements.

The ADA ramp was approved in concept and location by Commission-approved permit #A-5-LGB-00-079. During the construction of three storm drain lines at the subject site, a trenching method was used. A significant amount of bluff disruption was necessary for the installation of the 24- and 48-inch diameter storm drain lines. The developer estimates that the projected construction techniques for building the ADA ramp in its originally approved location would disturb approximately 350 linear feet of existing, undisturbed bluff face. As stated by the applicant after detailed investigation of existing bluff conditions, *"the only viable technique would require the drilling of twenty-one 24 inch to 36 inch columns along this 630 foot long ramp."* Due to this heavily disruptive construction method, the developer and City evaluated the possibility of redesigning the ramp to another segment of the bluff. In an effort to minimize adverse impacts anticipated to result from ADA ramp construction, the developer and City selected an alternative location for the ramp.

The new location chosen for the ADA access ramp will be within a previously disturbed bluff area, recently rebuilt after construction of one of the three storm drain lines. As shown in Exhibit 5, the new ramp will be 430 feet long, located within approximately 100 linear feet of previously disturbed bluff area along the mid-section of the site. The proposed ADA ramp will switch back across the bluff face, converging at points with the existing LCP required 10-foot wide pedestrian and emergency access ramp. Similar to the approved plan for the ADA ramp, a stairway is also proposed at the south side of this new ramp, creating a shorter distance down the bluff for the ambulatory public. This stairway will start at the top of the bluff, meet the first ADA ramp switch back, continue through the area previously disturbed by the old (now abandoned) storm drain pipe that drained Pacific Coast Highway and the shopping center across the street, and then land on the existing concrete platform near the base of the bluff. The landing point is the same as that of the originally approved ADA ramp. The new ramp will descend to the landing platform from the north, while the originally approved ramp descended from the south. The amendment incorporates the construction of a stairway into the ramp design, similar to the originally approved project.

B. Standard of Review

The Commission's standard of review for the proposed development is the certified Treasure Island LCP. The certified Treasure Island LCP is comprised of the certified Land Use Plan (LUP) and the certified Implementation Actions Program (IAP).

Additionally, Section 30604 (c) of the Coastal Act requires that every coastal development permit issued for any development between the nearest public road and the sea shall include a specific finding that the development is in conformity with the public access policies of Chapter 3 of the Coastal Act.

C. Geologic Hazards

The Commission must determine whether the proposed amendment is consistent with the grading and landform alteration policies approved by the Commission under the Treasure Island certified LCP. The following LCP policies pertaining to grading and landform alteration are used as the standard of review in the current analysis.

Section 3.2 (Physical Resources Policies) of the Treasure Island certified LCP sets forth geotechnical policies and includes technical information related to mitigation of geologic hazards and implementation of the Land Use Plan. The policies address soil conditions, existing artificial fill on the site and the stability of bluffs within and adjacent to the LCP area.

LCP policies 3.2.2-1 through 3.2.2-10 address required blufftop setbacks, remediation of areas of artificial fill and recontouring/revegetation of the bluff. Those LCP policies that relate to the current amendment include:

Policy 3.2.2-4 Development above the coastal bluff shall be engineered to ensure that surface/subsurface drainage does not contribute to erosion or adversely affect the stability of the bluff. Any minor residual effects related to storm drainage improvements shall be mitigated by recontouring and revegetating to obtain a natural landform appearance.

Policy 3.2.2-5 Any bluff areas requiring landform and remedial grading and/or slope stabilization (e.g., to provide ADA-compliant coastal access that is safe for the disabled) shall be recontoured and revegetated with native and drought-tolerant plant material to obtain a natural landform appearance.

Policy 3.2.2-6 Development, including Bluff-top Park improvements adjacent to the bluff, shall be located and designed to minimize the alteration of the existing landform and the construction of artificial devices that, except during the demolition of the existing trailer park and initial mass and/or remedial grading, would substantially alter existing landforms, and to avoid and discourage people from leaving designated areas and paths to climb on the bluffs.

Chapter 9 (Resource Management Program) of the LCP outlines objectives and criteria to implement the policies contained in Chapter 3 (Resource Protection Policies) discussed above. The Resource Management Program, or RMP, provides requirements and regulations to serve as the Implementing Actions Program (IAP) for the Land Use Plan (LUP). The following RMP provision discusses grading activities:

Section 9.3.1-1a Grading—Grading activities within the coastal bluff shall be limited to that which is necessary to implement the Specific Plan, to remove the existing trailer park, to restore and protect a natural landform appearance within the disturbed area, to provide coastal access improvements as set forth in Section 11.6, to install required drainage and other backbone infrastructure improvements as set forth in Section 10.6, and to undertake a minimal amount of remedial grading necessary to undertake the above-referenced restoration/protection, public access ramp construction, and drainage

improvements in such a way that will minimize the visual effect on the existing bluff landform.

The permit for the Treasure Island project, as approved by the Commission in June 2000, involves development on the bluff face for public access purposes. The permit currently allows for the construction of an ADA access ramp along the eastern portion of the bluff face, supported on drilled piles (Exhibits 3 & 4). With this design, however, the applicant anticipates substantial disturbance to the bluff to allow access of construction equipment for pile installation. Due to the potential bluff disturbance, the applicant proposes to amend the permit to allow relocation of the ADA accessway. The relocated ADA ramp will be located toward the mid-section of the site, along a portion of the bluff that has been previously disturbed for installation of one of the three storm drain lines. The proposed relocation and realignment will result in a narrower swath of disturbance. The proposed ramp will be 430 feet long within an approximately 150 foot wide area, whereas the previously approved ramp would be 630 feet long within an approximately 350 foot wide area. As currently proposed, the bluff along the mid-section of the site will be reconstructed as a geogrid-reinforced slope after construction of the ADA accessway.

The Commission's technical staff has evaluated the current amendment proposal in light of previously approved development at the subject site. The Commission's Senior Geologist and Senior Engineer have reviewed the project plans and the *"Supplemental Consultation, Relocation of ADA Walkway"* prepared by Law Crandall dated August 9, 2001. Initially, technical staff had questions regarding slope stability and drainage. The applicant submitted additional information in response to questions raised. This included a letter from the engineering consultant, The Keith Companies, and a document prepared by Law Crandall entitled *"Response to California Coastal Commission Comments"*. Technical staff has reviewed the supplemental information and all issues have now been resolved, provided the consultants' recommendations are incorporated into the final project design and construction.

Conformance with Geotechnical Recommendations

The Law Crandall submittals indicate that construction of the proposed ADA ramp is feasible provided the applicant complies with the recommendations contained in the report and supplemental letters. As described by the consultant, the Supplemental Consultation dated August 9, 2001 includes *"recommendations for the ADA walkway at the new location, in particular recommendations for the reconstruction of the geogrid-reinforced slope."* These include the following:

- *Where the slope inclination does not exceed 1 ½: 1 (horizontal to vertical) in cut slopes and 2:1 in fill slopes, the soil may be placed back as properly compacted fill. Surface erosion protection should be provided using jute matting or geosynthetic fabric as previously discussed.*
- *Where the slope inclination will be between 1 ½:1 and 1:1 in cut slope and between 2:1 and 1:1 in fill slopes: geosynthetic reinforcement consisting of geogrid or geotextile should be used to assist in rebuilding of the slope. Surface erosion protection should be provided using jute matting or a geosynthetic fabric as previously discussed.*
- *Where the slope inclination exceeds 1:1 (horizontal to vertical: use a strengthened soil mixture for the facing material instead of a matting or fabric.*

The applicant's engineering consultant has also addressed drainage issues in response to questions from technical staff. As stated by the consultant in a letter dated September 12, 2001,

"All uncontrolled drainage at the top of the bluff is channeled away from the bluff face and collected into the storm drain systems that carry water down and out to the beach. Also, midway down the bluff at the access ramp, all water from the upper portion of the bluff is being intercepted and directed away from the lower half of the bluff face. The lower portion of the bluff will naturally drain down to the beach."

The engineering consultant states that the reconstructed bluff face will be restored to a condition similar to that of the existing storm drain outfalls recently constructed to the north and south. As such, the bluff will be reinforced per the directions of the Soils Engineer and planted and seeded with native plant material per the requirements of the approved permit. The incorporation of appropriate drainage measures and specific design criteria for reconstruction of the bluff will minimize and avoid geologic hazards. These measures also serve to minimize alteration of the landform consistent with the Treasure Island certified LCP.

Since the recommendations provided by the geotechnical and engineering consultants include measures to mitigate any adverse geologic effects, the Commission finds that Special Condition 1 ensures that the consulting geotechnical expert has reviewed the final development plans and verified their conformance with the geotechnical recommendations. The condition requires the applicant to submit two (2) full-size copies of the project plans that have been reviewed and approved by the geotechnical consultant prior to issuance of the coastal development permit amendment. As such, Special Condition 1 guarantees that all final development plans are consistent with Section 30253 of the Coastal Act.

Assumption of Risk

Although the proposed project will be constructed in conformance with the geologic recommendations, risk from development on a coastal bluff is not eliminated entirely. Development on a coastal bluff is inherently risky. While the project as conditioned will minimize any potential hazard, future protection and repair may be required as subsurface conditions change. Therefore, the standard waiver of liability condition has been attached through Special Condition 2. By this means, the applicants acknowledge that the ADA ramp is being built in an area that is potentially subject to geologic hazard, assume the risks of the hazards and waive any claim of liability on the part of the Commission. The condition also requires the applicants to indemnify the Commission in the event third parties bring an action against the Commission. Because the restriction is recorded against the property, future owners are also notified that the Commission is not liable for damage as a result of approving the permit for development. The condition requires the developer (Five Star Resort, LLC), as owner, to record a deed restriction and the City of Laguna Beach, as a future interest holder, to submit a written statement agreeing to the restrictions specified in the condition. The special condition ensures that all owners of the property will be informed of the risks, the Commission's immunity for liability and the indemnity afforded the Commission.

Relocation of Accessway

The Commission originally approved the construction of an ADA ramp approximately 300 feet downcoast after careful consideration of slope stability. As noted in the Commission's findings of approval of Coastal Development Permit A-5-LGB-00-079, the stability of the ADA walkway along the bluff face was addressed as follows.

"The piles required to support the proposed accessway and ramp extend to a depth of 10 feet into the bluff. This need for such extensive engineering of the pedestrian walkway raises questions about its long-term stability. However, after subsequent consultation with the applicant's consultants, the Commission's technical staff accepted the siting and engineering of the ramp, so long as a condition is incorporated which requires its relocation if necessary.

The Commission's technical staff has evaluated the proposed relocation of the ADA ramp and again accepts the siting and engineering of the ramp. Although not anticipated, in the event that the subterranean structural supports of the realigned ADA ramp are exposed, the accessway would present a potential hazard, as well as negative visual impacts from the shoreline. In order to be consistent with the original permit, the current amendment requires a new recordation requiring relocation of the accessway in the event that it is threatened or damaged. Therefore, the Commission imposes Special Condition No. 3 requiring the applicant to obtain a coastal development permit for and to remove and relocate the accessway further inland if necessary. The condition also requires the applicant to remove part or all of the accessway debris if necessary.

Conclusion

The Commission finds the proposed amendment, as conditioned for conformance with geotechnical recommendations, recordation of an assumption of risk deed restriction, and relocation of the accessway, consistent with the geologic hazard policies of the Treasure Island certified LCP.

D. Public Access

Section 30604(c) of the Coastal Act requires that every coastal development permit issued for any development between the nearest public road and the sea include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3. The proposed amendment involves development located between the sea and the nearest public road. Additionally, the Commission must evaluate the project's consistency with the public access and recreation policies of the certified LCP.

Section 30210 of the Coastal Act states, in pertinent part:

...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 30213 of the Coastal Act states, in pertinent part:

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

Section 30214 of the Coastal Act states, in pertinent part:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public

access depending on the facts and circumstances in each case including, but not limited to, the following:

- (1) *Topographic and geologic site characteristics.*
 - (2) *The capacity of the site to sustain use and at what level of intensity.*
 - (3) *The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.*
 - (4) *The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.*
- (b) *It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.*
- (c) *In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.*

As they apply to the current project, the Treasure Island LCP contains the following policies related to public access and recreation:

- Policy 4.2.1-1 Lateral and vertical public coastal access and recreational opportunities shall be established within the resort development area and on open space, conservation, and recreation lands proposed for dedication to the public, including the Bluff-top Park, Sand Beach, and Marine Reserve.*
- Policy 4.2.1-6 Lower cost recreational uses, visitor-serving uses, and public access opportunities have priority over private residential uses.*
- Policy 4.2.2-1 Continuous opportunities for public upcoast and downcoast observation shall be provided by a continuous walkway and appropriately located overlook within the Bluff-top Park, along the new southerly ramp down to the Sand Beach, along the existing northerly ramp and stairway down to the Marine Reserve, and from various public areas within the Resort Center.*

The certified LCP also provides the following circulation policy, which addresses the public pedestrian walkway along the bluff edge:

Policy 5.2.2-6 A public pedestrian walkway shall be improved to connect the new public pedestrian walkway adjacent to Coast Highway and the new public parking spaces within the south end of the Bluff-top Park/Resort Center to the oceanfront walkways and major landscaped areas of the Bluff-top Park and, via a new ramp, down to the Sand Beach.

Policy 5.2.2-7 The walkway described in (6) above shall be designed so as to:

- a) be usable by City and/or County beach maintenance and emergency access vehicles, and*
- b) be usable, either by itself and/or in conjunction with a parallel wheelchair ramp of reduced slope, to provide disabled persons...access to the Sand Beach.*

The Commission previously found that the project is consistent with the public access provisions of both the certified LCP and the Coastal Act, as it provides an appropriate distribution of lower cost recreation and visitor serving commercial uses at a site that was previously inaccessible to the public. Additionally, the amenities provided in the project were found to be in conformance with the Public Access and Recreation Plan illustrated in Figure 10.2-2 of the LCP and outlined in the LCP policies. The Treasure Island development provides public park land, public parking facilities and a resort hotel (including guest rooms, ballrooms, function rooms and meeting facilities), and conveys a fee interest in a privately owned sandy beach to the public.

The proposed amendment involves relocation of the previously approved ADA accessway ramp approximately 300 feet upcoast from its previously approved alignment. The ramp will begin at the center of the Blufftop Park walkway and traverse the bluff face in a switch back pattern to the base of the bluff. The relocated accessway will land in the same location as the approved accessway—on the existing concrete platform adjacent to the sandy beach. As such, the ramp will provide comparable access to disabled members of the public wishing to access the sandy beach. In addition, the ramp will be shorter in length, thereby lessening the amount of time it takes to reach the beach from the blufftop. A stairway will also be provided which connects to the ADA ramp in order to provide access for non-disabled members of the public.

At approximately the 29-foot contour of the bluff, the proposed ADA ramp will cross the existing 10-foot wide emergency vehicle ramp. While emergency vehicle crossings may pose an impediment to disabled access along the ADA ramp, those instances are considered rare and temporary because the ramp is only to be used in case of emergency by the fire department or for beach maintenance activities. However, to ensure safe public access consistent with Section 30214 of the Coastal Act and to minimize potential conflicts, the Commission imposes Special Condition No 6. Special Condition No. 6 requires the applicant to submit a signage plan for the ADA ramp/emergency vehicle ramp intersection to alleviate safety concerns associated with the crossing. With the placement of informative signage, the newly aligned ADA ramp will provide safe, continuous access to the sandy beach, consistent with the policies and standards set forth in both the certified LCP and the Coastal Act. Therefore, the Commission finds the proposed amendment, as conditioned, consistent with Treasure Island LCP policies related to public access and recreation and Sections 30210, 30212, 30213, 30214 and 30252(6) of the Coastal Act.

E. Scenic and Visual Resources

Section 3.4 of the Treasure Island LCP Resource Protection Policies addresses protection and enhancement of visual resources.

Policy 3.4.2.1 states,

The significant 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 areas, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degrade areas. The purpose of this policy is to protect significant existing views of the coastal from public areas.

The proposed amendment involves relocation of the ADA accessway to a portion of the bluff further upcoast than originally approved. Due to the undulating nature of the bluffs in this location, the proposed siting will not be visibly intrusive. Particularly when traveling north along Pacific Coast Highway, a designated scenic route, the newly aligned ramp will be virtually hidden as relocated. While the approved ramp location would be visible from the highway, the relocated ramp will be tucked behind protruding land features.

As viewed from the beach, the relocated ramp will also be less visually intrusive than the approved ramp, as the ramp will take up less linear feet, or a narrower swath of land. The ramp will be 430 long within an approximately 150 linear foot wide swath, whereas the approved ramp was designed to be 630 feet long within an approximately 350 linear foot wide swath. Nonetheless, the proposed amendment involves the installation of a new ramp and reconstruction of a geogrid-reinforced slope in an area that is currently being revegetated after construction of the storm drain line. To ensure that the project site is properly revegetated and that the footings of the proposed ramp are screened, the Commission imposes Special Condition No. 4, which requires submittal of a revegetation plan and 5-year monitoring of the revegetation efforts. The plan must demonstrate that native, drought tolerant plant species be planted along the reconstructed slope. The condition requires that the plantings be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan. These requirements are necessary to protect scenic resources and to minimize erosion from uncontrolled site runoff.

The Commission finds the proposed project, as conditioned for submittal of a revegetation plan, to be consistent with the visual and scenic resources protection policies of the Treasure Island certified LCP.

F. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development 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 the Chapter 3 policies of the Coastal Act.

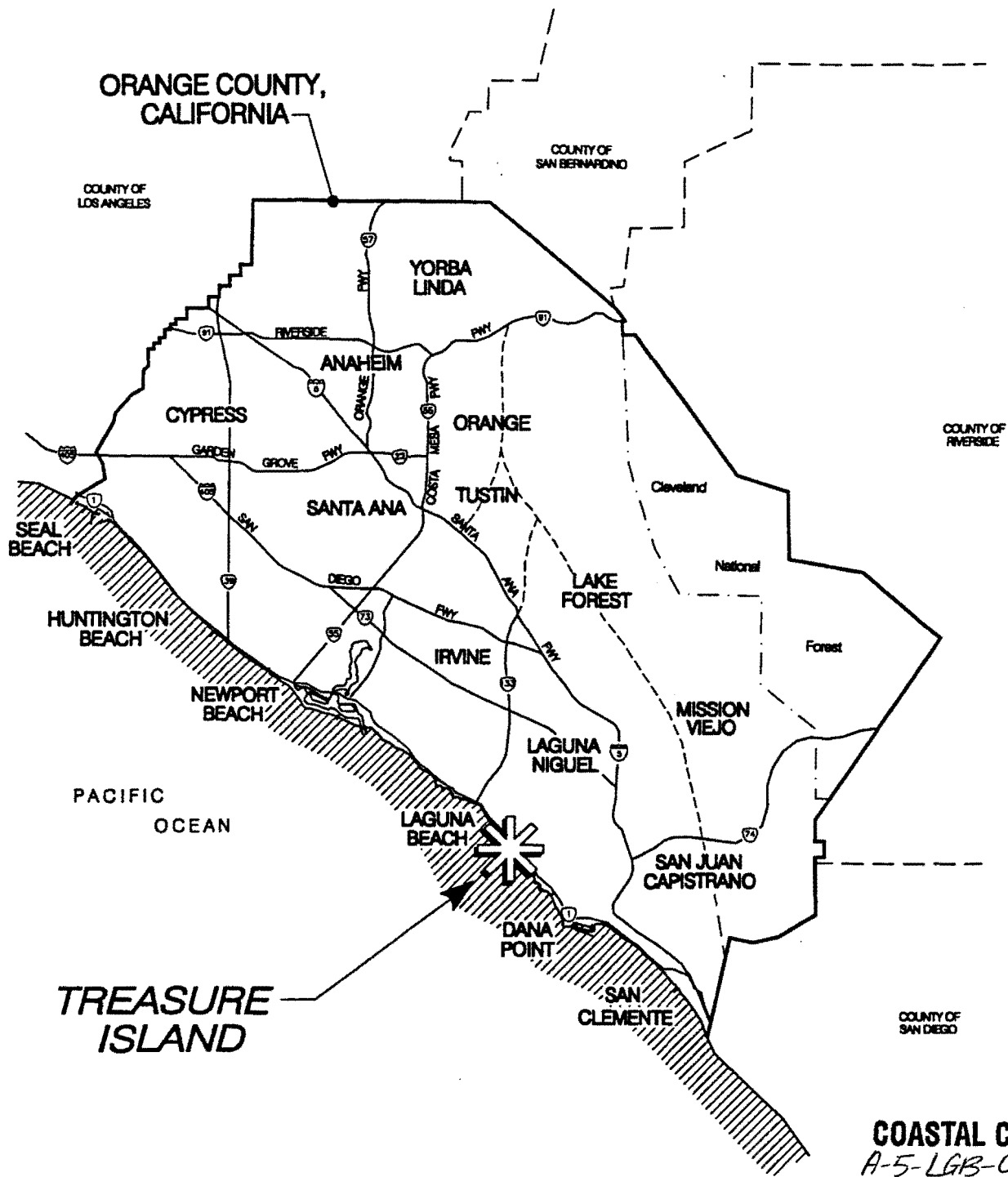
On August 13, 1998, the Treasure Island Local Coastal Program (LCP) was approved as a project specific amendment to the City of Laguna Beach Local Coastal Program. The site was previously an Area of Deferred Certification pending the resolution of public access concerns.

Local approval of the Treasure Island Resort Development project was appealed. The Commission found substantial issue with the City's approval of the project in April 2001 and issued de novo coastal development permits for the development in June 2001. As such, the Commission retains permit-issuing authority for any development that would affect the Commission's prior approval.

G. California Environmental Quality Act (CEQA)

Section 13096 of the Commission's regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, 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.

The Commission incorporates its findings on Coastal Act and LCP consistency at this point as if set forth in full. The proposed project has been conditioned in order to be found consistent with the applicable policies of the Treasure Island certified LCP and the public access policies of the Coastal Act: As conditioned to require 1) conformance with recommendations contained in the geotechnical report; 2) recordation of an assumption of risk deed restriction by the property owner (Five Star Resort, LLC) and an agreement to assume the risk associated with development by the City of Laguna Beach, 3) relocation of the ADA accessway if threatened by hazards such as bluff erosion; 4) submittal of a revegetation plan for the bluff slope after construction of the ADA accessway; 5) establishes that all prior conditions imposed by coastal development permit A-5-LGB-00-079 remain in effect and 6) submittal of a signage plan for the ADA ramp and emergency vehicle intersection, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, can be found consistent with the requirements of the Coastal Act to conform to CEQA.



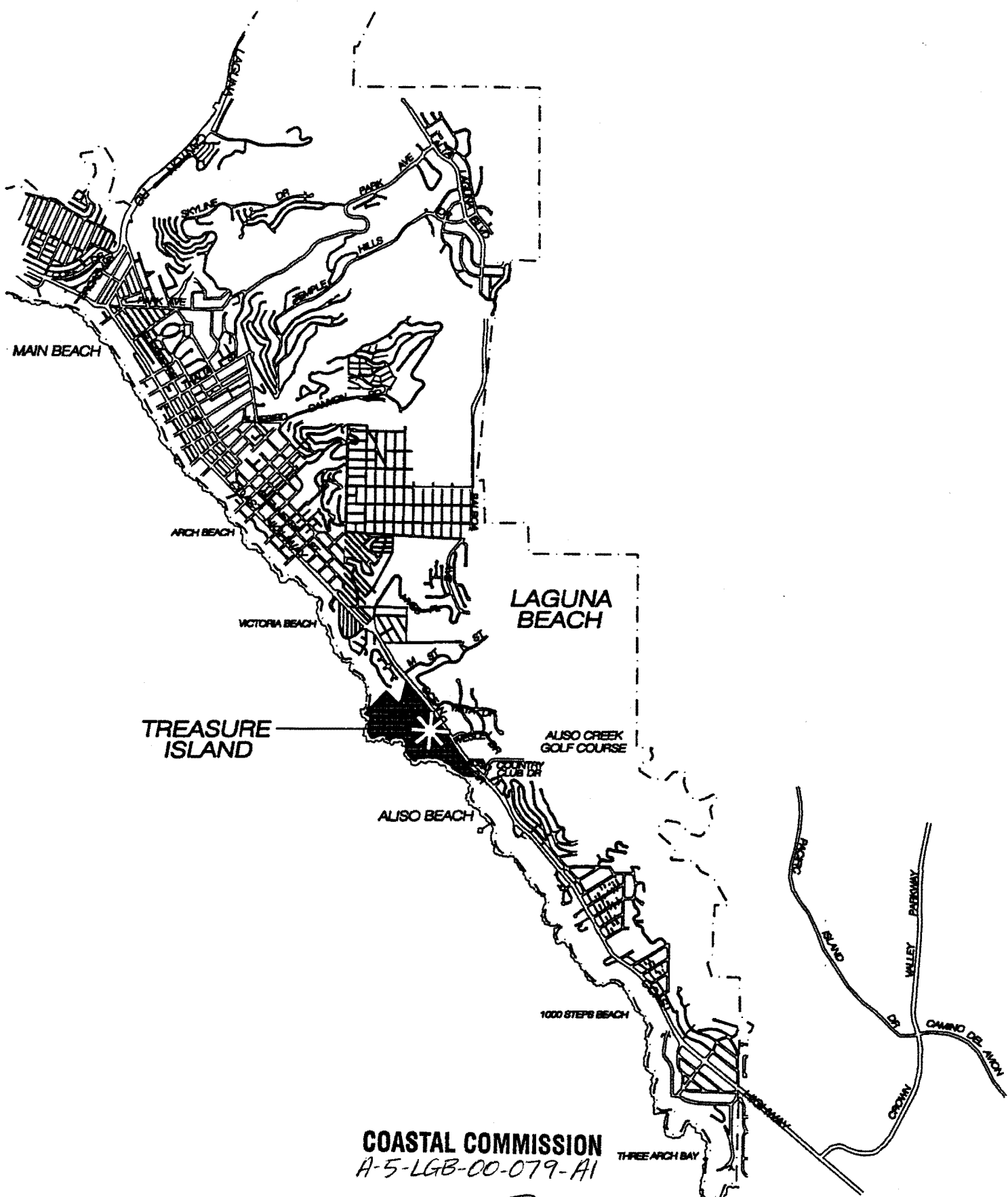
COASTAL COMMISSION
A-5-LGB-00-079-A1

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Treasure Island
LAGUNA BEACH, CALIFORNIA

Figure 1.1-1
REGIONAL LOCATION MAP

Local Coastal Program

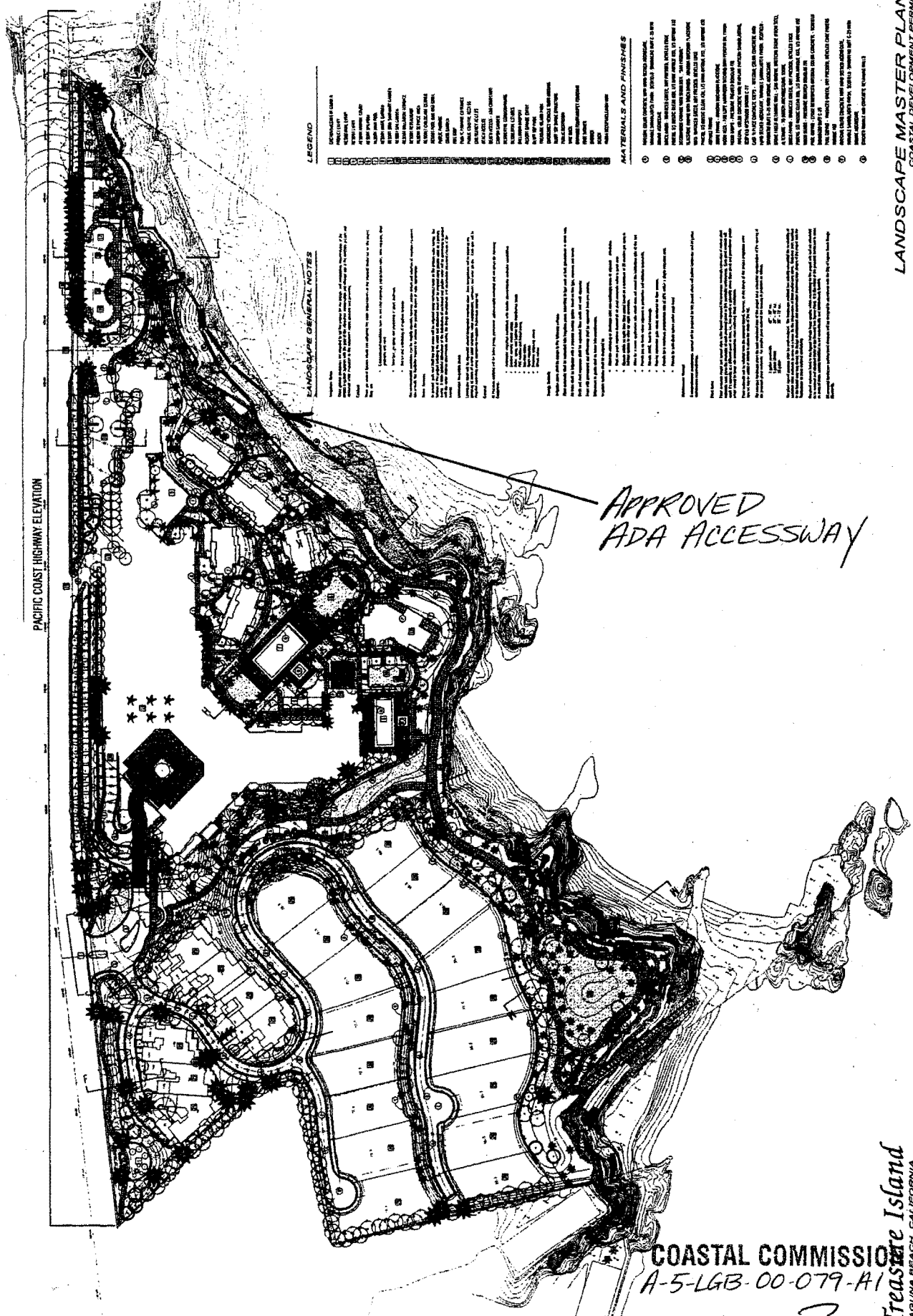


COASTAL COMMISSION
 A-5-LGB-00-079-A1

EXHIBIT # 2
 PAGE 1 OF 1

Treasure Island
 LAGUNA BEACH, CALIFORNIA

Figure 1.1-3
VICINITY MAP



PACIFIC COAST HIGHWAY ELEVATION

LANDSCAPE GENERAL NOTES

1. All plantings shall be installed in accordance with the following specifications:
 a. Plantings shall be installed in accordance with the following specifications:
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 w. Plantings shall be installed in accordance with the following specifications:
 x. Plantings shall be installed in accordance with the following specifications:
 y. Plantings shall be installed in accordance with the following specifications:
 z. Plantings shall be installed in accordance with the following specifications:

LEGEND

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APPROVED
ADA ACCESSWAY

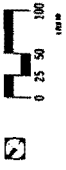
COASTAL COMMISSION
A-5-LGB-00-079-A1

EXHIBIT # 3
PAGE 1 OF 2

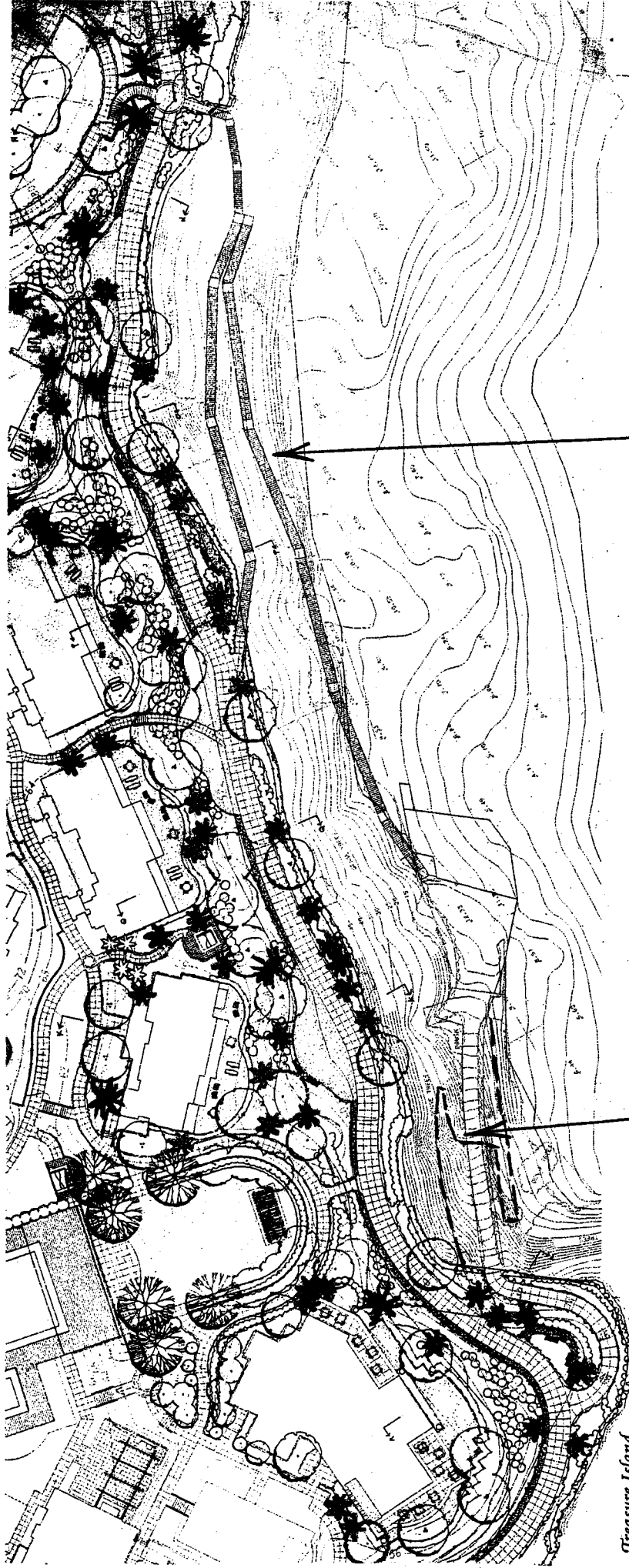
Treasure Island
LAGUNA BEACH, CALIFORNIA

The Athens Group

LANDSCAPE MASTER PLAN
COASTAL DEVELOPMENT PERMIT
BURTON ASSOCIATES LANDSCAPE ARCHITECTURE AND PLANNING



1/8" = 1'



ZONE B - BLUFF TOP PAR
WITH MINIMUM 10% SLOPE

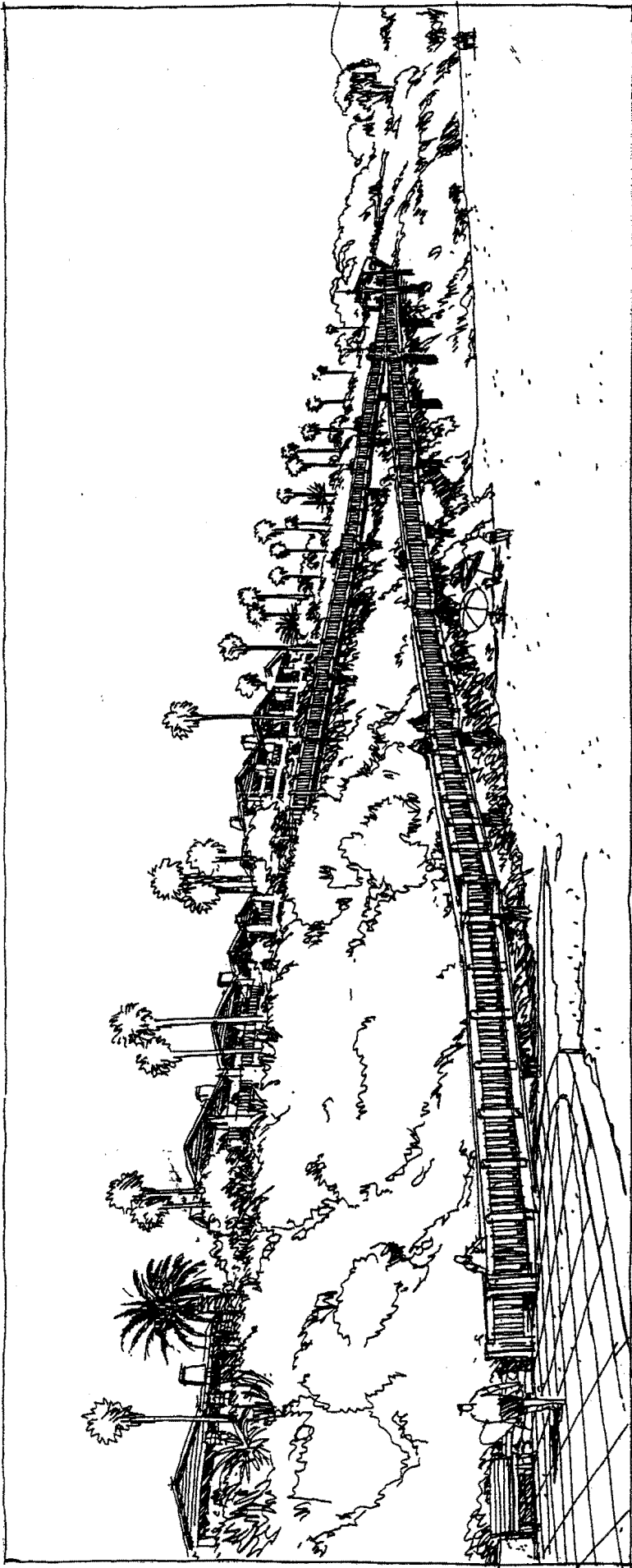
APPROVED ADA
ACCESSWAY

PROPOSED
LOCATION OF
ADA ACCESSWAY (NTS)

Treasure Island
LANDING BEACH, CALIFORNIA
The Ritz-Carlton Group

COASTAL COMMISSION
A-5-LGB-00-079-A1

EXHIBIT # 3
PAGE 2 OF 2



*BEACH ACCESS RAMP
FUTURE DEVELOPMENT AREA.*

Figure 2.13
BEACH ACCESS RAMP
COASTAL DEVELOPMENT PERMIT

DATE: 10/10/08
DRAWN BY: JORNA

Treasure Island
LAGUNA BEACH, CALIFORNIA

The City of Laguna Beach
COASTAL COMMISSION
5-LGB-00-079-A1
EXHIBIT # 4
PAGE 1 OF 1

UNDERGROUND STRUCTURES:

All underground structures are indicated on this plan. It is the responsibility of the contractor to verify the location and depth of these structures by means of a utility locate service. The contractor shall be responsible for any damage to these structures caused by the proposed work. The contractor shall be responsible for any damage to these structures caused by the proposed work.

PRIVATE ENGINEER'S NOTICE TO CONTRACTOR:

The contractor shall be responsible for verifying the location and depth of all underground structures by means of a utility locate service. The contractor shall be responsible for any damage to these structures caused by the proposed work. The contractor shall be responsible for any damage to these structures caused by the proposed work.

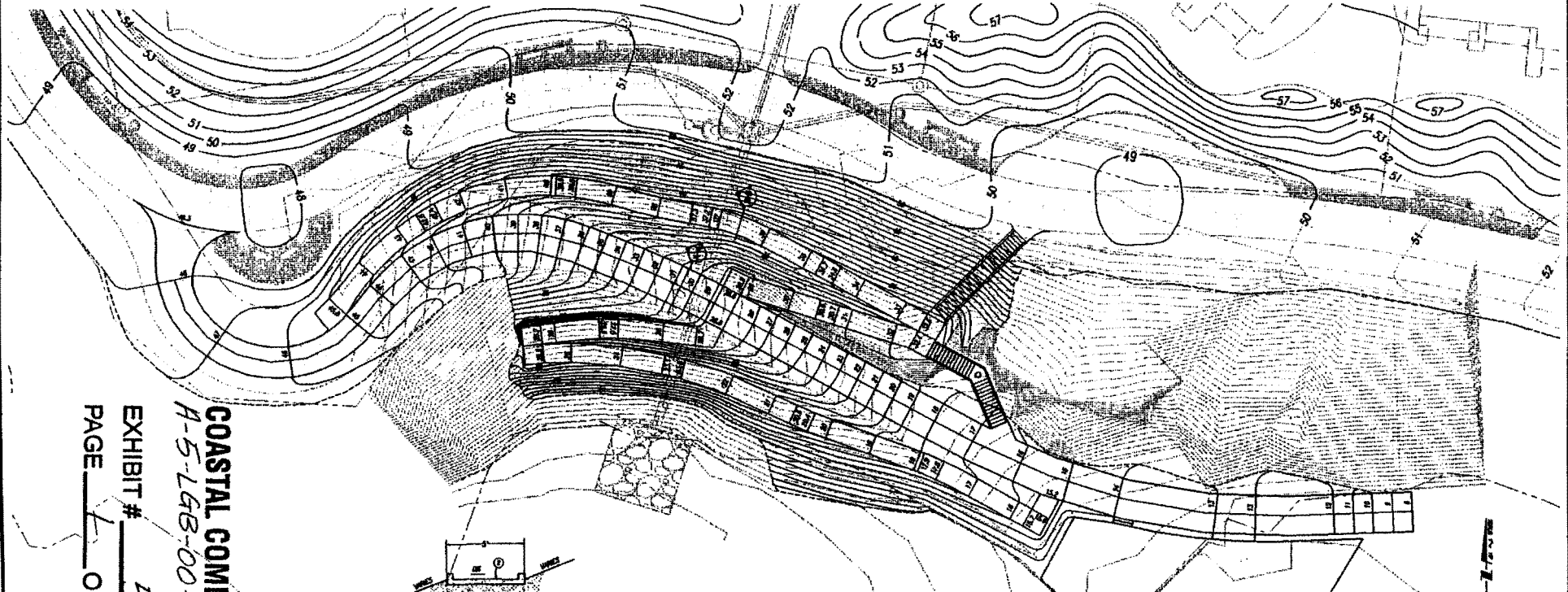
DESIGN RESPONSIBILITY:

The engineer is responsible for the design of the proposed work. The contractor shall be responsible for the construction and installation of the proposed work. The contractor shall be responsible for the construction and installation of the proposed work.

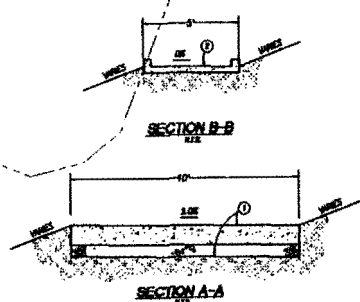
UNAUTHORIZED CHANGES AND USES:

The contractor shall be responsible for any unauthorized changes and uses of the proposed work. The contractor shall be responsible for any unauthorized changes and uses of the proposed work.

PRECISE GRADING PLANS FOR PUBLIC BEACH ACCESS RAMP AND BEACH PLATFORM TREASURE ISLAND 30801 COAST HIGHWAY TENTATIVE TRACT NO. 15497 CITY OF LAGUNA BEACH COUNTY OF ORANGE, CALIFORNIA



COASTAL COMMISSION
EXHIBIT # 5
PAGE 1 OF 1
A-5-LGB-00-079-A1



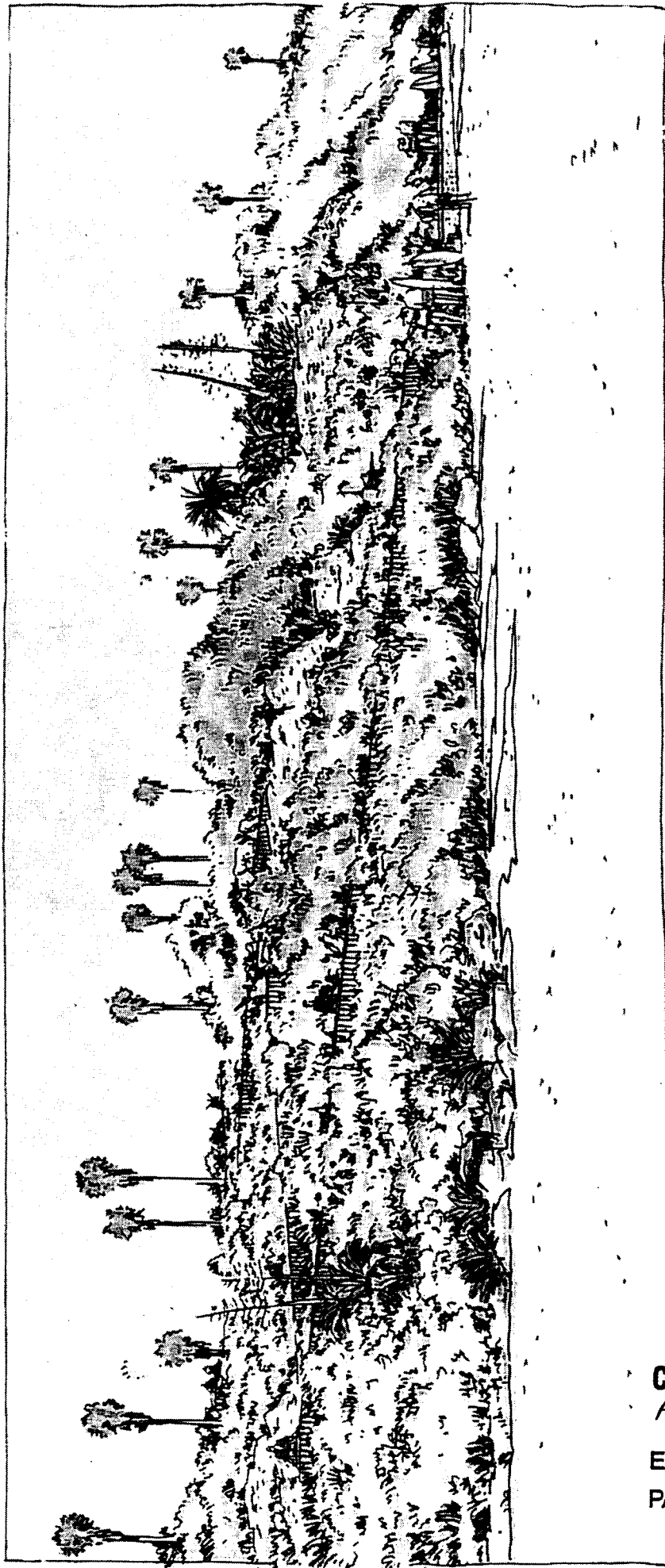
- CONSTRUCTION NOTES**
- 1. EXISTING 12" DIAMETER RAMP SHALL BE REMOVED AND REPLACED WITH 18" DIAMETER RAMP.
 - 2. EXISTING 12" DIAMETER RAMP SHALL BE REMOVED AND REPLACED WITH 18" DIAMETER RAMP.
 - 3. EXISTING 12" DIAMETER RAMP SHALL BE REMOVED AND REPLACED WITH 18" DIAMETER RAMP.

SOIL ENGINEER/REGISTERED: LAGUNA BEACH
DATE: 1/20/2020
BY: [Signature]

NOTE: **
THE UPPER 10' OF THE BEACH PROFILE SHALL BE THE PROPERTY OF THE CITY OF LAGUNA BEACH.



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| <p>LEGAL DESCRIPTION</p> <p>LAJUNA BEACH TRACT NO. 15497, PART OF TRACT NO. 15497, AS SHOWN ON THE MAPS ON FILE WITH THE COUNTY CLERK OF ORANGE COUNTY, CALIFORNIA.</p> | <p>APPROVED BY: [Signature]</p> <p>TITLE: [Title]</p> <p>DATE: [Date]</p> | <p>CITY OF LAGUNA BEACH</p> <p>APPROVED BY: [Signature]</p> <p>TITLE: [Title]</p> <p>DATE: [Date]</p> | <p>THE KELSH COMPANY</p> <p>TKC</p> <p>REGISTERED PROFESSIONAL ENGINEER</p> <p>NO. 15250</p> <p>EXPIRES 12/31/2021</p> | <p>PROJECT: [Project Name]</p> <p>DATE: [Date]</p> <p>BY: [Name]</p> | <p>SCALE: [Scale]</p> <p>DATE: [Date]</p> | <p>PROJECT NO.: [Project No.]</p> <p>DATE: [Date]</p> | <p>DATE: [Date]</p> <p>BY: [Name]</p> |
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PROPOSED ADA RAMP
LANDSCAPE RENDERING
September 2001

RECEIVED
South Coast Region
SEP 13 2001
CALIFORNIA
COASTAL COMMISSION

COASTAL COMMISSION
A-5-LGB-00-079-A1

EXHIBIT # 6
PAGE 1 OF 1

