

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200  
FAX (415) 904-5400

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Appeal Filed: June 29, 2000  
49th Day: Waived  
Staff : VAE - SF  
Staff Report: March 22, 2001  
Hearing Date: April 12, 2001

**APPEAL STAFF REPORT**  
**SUBSTANTIAL ISSUE DETERMINATION**  
**DE NOVO HEARING**

**APPLICATION FILE NO.:** A-2-PAC-00-020

**LOCAL GOVERNMENT:** City of Pacifica

**LOCAL DECISION:** Approved with conditions

**LOCAL PERMIT NO.:** CDP-174-00

**APPLICANTS:** Art Balsamo and Michael Cohn

**AGENT:** Javier Chavarria, JC Engineering

**PROJECT LOCATION:** 310 Esplanade Drive, Pacifica, San Mateo County, APN 009-413-010 (Exhibit 1, Regional Map)

**PROJECT DESCRIPTION:** Construction of 140-foot-long concrete drainage swale and 20-foot-long keystone retaining wall on blufftop.

**APPELLANTS:** Coastal Commissioners Wan and Woolley

**SUBSTANTIVE FILE DOCUMENTS:** See Appendix A.

**STAFF RECOMMENDATION:** Substantial Issue Exists; Approval with Conditions

## **SUMMARY OF STAFF RECOMMENDATION**

### **STAFF NOTE**

The project is located on the top of a coastal bluff and is within the permitting jurisdiction of the City of Pacifica (City). The City's local coastal program (LCP) is therefore the standard of review for the project. Because the project is located between the first public road and the sea, the standard of review is also the public access policies of the Coastal Act.

### **SUBSTANTIAL ISSUE**

The staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeal has been filed, and that the Commission hold a de novo hearing because the appeal raises a substantial issue with the local government's action and its consistency with the policies of the certified LCP.

The City of Pacifica approved a coastal development permit for construction of a 140-foot-long concrete swale and 20-foot-long keystone retaining wall on a blufftop parcel. The City imposed three conditions to require the construction of the development in accordance with the original plans, the use of decorative material for the retaining wall, the removal of debris from the swale, and an annual maintenance inspection. The appellants contend that the project as approved by the City is inconsistent with the geologic stability and hazards, shoreline protection, and visual resources policies of the City's LCP.

The Commission staff analysis indicates that the appeal raises significant questions regarding whether the swale and retaining wall, as approved by the City, would minimize risks to life and property in a geologically hazardous area, prevent additional geologic instability and erosion, protect the quality of coastal waters, and be sited and designed to protect coastal views in the manner required by the policies of the certified LCP. The staff recommends that the Commission find that the project, as approved by the City, raises a substantial issue with regard to conformance of the approved project with the geologic stability and hazards, shoreline protection, and visual resources policies of the City's LCP.

The Motion to adopt the Staff Recommendation of Substantial Issue is found in Part 1, Section 1.0 on Page 3.

### **COASTAL PERMIT APPLICATION: APPROVAL WITH CONDITIONS**

The staff recommends that the Commission approve the coastal development permit with the conditions specified in Part 2, Sections 1.1 and 1.2 below. The conditions of approval require the applicants to assume the risk of injury and damage from hazards related to the permitted development and waive all claims against and indemnify the Commission, revise the engineering plans to relocate the swale landward and eliminate the need for the retaining wall, monitor and maintain the swale to ensure its proper function, and record a deed restriction to prohibit future shoreline protection projects designed to protect the drainage swale. As conditioned, the staff recommends that the Commission find the development consistent with the geologic stability and hazards, shoreline protection, and visual resources policies of the City's LCP.

The Motion to adopt the Staff Recommendation of Approval is found in Part 2, Section 1.0 on Page 9.

## PART 1 - SUBSTANTIAL ISSUE

### 1.0 STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

Pursuant to Section 30603(b) of the Coastal Act and as discussed in the findings below, the staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeals have been filed. The proper motion is:

#### **MOTION**

*I move that the Commission determine that Appeal No. A-2-PAC-00-020 raises NO substantial issue as to conformity with the certified Local Coastal Program with respect to the grounds on which an appeal has been filed pursuant to Section 30603 of the Coastal Act.*

#### **STAFF RECOMMENDATION**

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

#### **RESOLUTION TO FIND SUBSTANTIAL ISSUE**

The Commission hereby finds that Appeal No. A-2-PAC-00-020 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access policies of the Coastal Act.

### 2.0 FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

#### **2.1 Local Government Action**

On June 5, 2000, the City of Pacifica approved Coastal Development Permit CDP-174-00 to allow the construction of an approximately 140-foot-long concrete drainage swale along the bluff at 310 Esplanade Drive. The City imposed three conditions of approval on the permit requiring that: 1) the development be in accord with the plans submitted to the City on April 10, 2000, 2) the retaining wall be constructed with a decorative material such as keystone as approved by the City Planner and the Building Official, and 3) the applicants keep the swale free of debris and have a qualified professional inspect the swale annually. The local appeal period ended on June 15, 2000. There were no local appeals.

#### **2.2 Filing of Appeal**

The Commission received the Notice of Final Local Action for the City's approval of the project on June 12, 2000, and the Commission's appeal period began on June 16, 2000, the next working

day following the receipt by the Commission of the Notice of Final Local Action. In accordance with Section 13110 of the Commission's regulations, the ten-working-day appeal period ran through June 30, 2000. The appellants (Commissioners Sara Wan and John Woolley) timely filed an appeal to the Commission on June 29, 2000, within the ten-working-day appeal period. On July 6, 2000, the Commission sent a Notice of Appeal to the City of Pacifica. Pursuant to Section 30261 of the Coastal Act, the appeal hearing must be set within 49 days from the date an appeal of a locally issued coastal development permit is filed. The applicants waived their right to a hearing to be set within 49 days of the filing of the appeal on July 24, 2000 in order to pursue further discussions between the applicants and Commission staff.

In accordance with Section 13112 of the Commission's regulations, the City must provide to the Executive Director of the Commission a copy of the file containing all relevant documents and materials regarding the subject permit. On July 17, 2000, City staff confirmed with Commission staff that all of the relevant documents and materials regarding the City's permit had been sent to the Commission.

### **2.3 Appellants' Contentions**

Commissioners Sara Wan and John Woolley appealed the City's decision to approve the project. The appellants contend that the project is inconsistent with the geologic stability and hazards, shoreline protection, and visual resources policies of the City's LCP. The full text of the appellants' contentions is included in **Exhibit 4**.

### **2.4 Appeal Process**

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

The approved project is located between the sea and the first public road paralleling the sea (Esplanade Drive) and within 300 feet of the inland extent of the beach, and is thus appealable pursuant to Section 30603(a)(1) and (a)(2) of the Coastal Act.

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

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

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

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

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

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

## 2.5 Project Location and Site Description

The project is located on the top of a coastal bluff west of an apartment building on 310 Esplanade Drive in the City of Pacifica, in San Mateo County (**Exhibits 2 and 3**). The Assessor Parcel Number of the property is 009-413-010. The project is located within the City of Pacifica's coastal development permit jurisdiction and, as described above, within the Commission's appeal jurisdiction.

The apartment building on the project parcel is generally at grade with Esplanade Drive. West of the building, the property slopes westward at a 2:1 (2 horizontal to 1 vertical) slope with a vertical difference of 20 feet, flattens slightly, then drops about 65 feet to the City beach below. The horizontal distance from the top of the bluff to the building is about 60 to 70 feet. The

blufftop is vegetated with iceplant. The approved swale is proposed to be located on the flattened portion of the property at the edge of the bluff.

The parcel is designated as High Density Residential under the Land Use Plan. The Zoning Map designates the parcel as Multiple-Family Residential (R-3) and Coastal Zone Combining District (CZ). The property is surrounded by existing multiple-family residential development (apartments) to the east and south, an open grassy area with a wooden stairway for vertical access from Esplanade Drive to the beach maintained by the Lands End Apartment complex to the north, and a City-owned beach and Pacific Ocean to the west.

## **2.6 Project Description**

The development approved by the City consists of an approximately 140-foot-long concrete swale to be located on the top of a coastal bluff. The swale is designed to carry surface runoff away from the property, thereby decreasing or eliminating the amount of surface runoff over the bluff at the project site. The rectangular-shaped swale is approximately four feet wide and has six-inch-tall curbs along both sides running the length of the swale (**Exhibit 5**). The swale is designed to follow an existing dirt depression on the edge of the bluff. The depression ends at the edge of the bluff so that surface runoff currently discharges off the bluff at this point. The project includes construction of an approximately 20-foot-long portion of the approved new swale over the edge of the bluff (where the existing depression ends) and requires the construction of a three-foot-tall retaining wall to support that section. The approved swale would connect to an existing concrete swale to the south, approximately 30 feet of which is located on the subject parcel. The existing swale extends south approximately 400 feet along the edge of the bluff west of the apartments to 360 Esplanade. At that point, the surface runoff from the Esplanade Drive properties enters a drain and 12-inch diameter pipe that discharges to the bluff and an existing revetment about 20 feet above the base of the bluff.

## **2.7 Substantial Issue Analysis**

### **2.7.1 Geologic Stability and Hazards**

#### ***Contention***

The appellants contend that the location of the approved project, at the edge of the blufftop, may contribute to erosion and increased instability of the bluff. The appellants further assert that the portion of the swale extending beyond the bluff edge and the retaining wall required to support it would create risks to life and property, inconsistent with the certified LCP, because failure of the bluff or the project may result in hazards to people or property either on the blufftop or on the beach.

#### ***LCP Policy***

Land Use Plan (LUP) Policy 26 in part prohibits new development from creating or contributing to erosion, geologic instability or destruction of the site or surrounding area. The policy also requires that new development must assure stability and structural integrity and minimize risks to life and property in areas of high geologic hazard.

### ***Analysis and Conclusion***

The bluffs along the coast of Pacifica have a history of erosion. Storm waves and surface and sub-surface drainage have contributed to landslides, bluff erosion, and other geologically unstable conditions in the area. For instance, El Niño storms and subsurface drainage caused 40 to 60 feet of coastal bluff to erode approximately 1,500 feet south of this project, at 528-572 Esplanade Drive, in 1998. Bluff erosion further prompted the Coastal Commission to issue emergency permits for the construction of rock revetments on the face and base of the bluff at 360 and 380 Esplanade, approximately 400 feet from the subject parcel, in December, 1998 and January, 1999.

As described, the approved project would be located at the edge of a coastal bluff in an area of documented geologic instability. The swale and retaining wall may pose hazards to beach users below and to people on the blufftop if the approved development or the bluff failed and collapsed onto the beach below the bluff. Therefore, the Commission finds that the appeal raises a substantial issue of conformance of the approved project with the portion of LCP Policy 26 that requires new development to minimize risks to life and property in areas of high geologic hazard.

The applicants state that the purpose of the drainage swale is to prevent erosion of the bluff at the site from surface runoff. The materials contained in the local record for the City's action approving the project do not demonstrate that the swale is designed to convey high stormwater flows along the blufftop in a controlled manner. Runoff conveyed in the approved swale may overtop the swale at low points and discharge over the bluff, increasing the potential for erosion of the bluff. Furthermore, the City's findings do not show that the applicants' engineer evaluated the concrete sack underpinning and the retaining wall and found them to be structurally sound. The City's findings are not supported by evidence that the location of the swale at the edge of the bluff will be stable. Thus, Commission finds that the appeal raises a substantial issue of the approved development's conformance with LUP Policy 26, which requires new development to assure stability and structural integrity and prohibits the project from creating or contributing to erosion, geologic instability, or destruction of the site and surrounding properties.

### **2.7.2 Shoreline Protection**

#### ***Contention***

The appellants contend that the project as approved by the City allows the construction of a retaining wall to support and protect a drainage swale that does not already exist, inconsistent with the LCP policy permitting cliff retaining walls when necessary to protect existing structures. The appellants also point out that the project is inconsistent with the LCP policy that prohibits new development from requiring protective devices that alter the bluff because the swale requires the construction of a retaining wall.

#### ***LCP Policies***

Policy 16 of the LUP states that construction of cliff retaining walls shall only be permitted when necessary to protect existing structures.

Policy 26 of the LUP requires in part that new development shall not require the construction of protective devices that would alter bluffs and cliffs.

***Analysis and Conclusion***

A 20-foot-long portion of the approved swale extends beyond the edge of the bluff and requires concrete-filled burlap sacks held in place by geogrid and a retaining wall of decorative material such as concrete keystone to support it (Exhibit 5). As approved, the retaining wall and concrete-filled sacks are designed to protect a swale that would be constructed as part of the approved project. The Commission therefore finds that the appeal raises a substantial issue of the approved project's conformance with LCP Policy 16, since the policy allows the construction of a cliff retaining wall only when necessary for the protection of an *existing* structure, and as approved, the swale will not exist prior to the construction of the retaining wall. Furthermore, because the construction of the retaining wall on the edge of the bluff would alter the natural landform, the Commission finds that the appeal raises a substantial issue of conformance regarding the approved development's conformance with Policy 26 of the LCP, which prohibits new development from requiring bluff-altering protective devices.

**2.7.3 Visual Resources**

***Contention***

The appellants contend that the portion of the approved project to be built at the edge of the coastal bluff will be visible from the public beach.

***LCP Policies***

LUP Policy 24 states in part that development must be sited and designed to protect views to and along the ocean and scenic coastal areas and to minimize the alteration of natural landforms.

Zoning Code 9-4.4409 requires structures in coastal view corridors to be sited to minimize alteration of landforms and to be on the least visible area of the property. The code also requires development to blend into the project area's natural setting.

***Analysis and Conclusion***

As described in Section 2.7.2 above, a 20-foot-long portion of the approved swale extends beyond the edge of the blufftop. To support the swale, the natural landform would be altered by the construction of a retaining wall on the face of the bluff. As approved, the retaining wall would be visible from the City beach at the base of the bluff and would stand out from the bluff around the development.

The local record for the approved development documents that the approved swale follows an existing dirt depression. However, the record does not evidence that the swale is sited and designed to be located in the least visible area, to protect views along the ocean, or to minimize the alteration of the natural landform. Therefore, the Commission finds that the appeal raises a substantial issue of the approved development's conformance with LUP Policy 24 and Zoning Code 9-4.4409.



## PART 2 – DE NOVO REVIEW

### 1.0 STAFF RECOMMENDATION ON DE NOVO REVIEW

The staff recommends that the Commission approve Coastal Development Permit No. A-2-PAC-00-020 subject to the conditions in Sections 2.1 and 2.2 below.

***Motion:***

I move that the Commission approve Coastal Development Permit No. A-2-PAC-00-020 subject to conditions pursuant to the staff recommendation.

***Staff Recommendation of Approval:***

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit 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 to Approve the Permit:***

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of the City of Pacifica certified Local Coastal Program and with the public access and public recreation policies of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

#### 1.1 Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittees or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittees to bind all future owners and possessors of the subject property to the terms and conditions.

## 1.2 Special Conditions

### 1. Assumption of Risk, Waiver of Liability and Indemnity.

- A. By acceptance of this permit, the applicants acknowledge and agree:
1. that the site may be subject to hazards from seismic activity and bluff retreat;
  2. to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development;
  3. 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
  4. 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 amount paid in settlement arising from any injury or damage due to such hazards.
- B. *Prior to the issuance of the coastal development permit*, the applicants 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 applicants' 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.

### 2. Revised Plan.

- A. *Prior to the issuance of the coastal development permit*, the applicants shall submit, for the review and approval by the Executive Director, revised plans for the proposed project. The plans shall conform to the Geological Hazard Assessment dated April 1999 by United Soil Engineering, Inc., except that they shall demonstrate that:
1. the proposed drainage swale shall be flush with the natural grade and have no curb along the length of the eastern side;
  2. the proposed drainage swale shall be located as far landward as feasible but in no case shall be located on the edge of the bluff; and
  3. no retaining wall or other structures are permitted.
- B. The applicants shall undertake development in accordance with the approved final plans. 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 legally required.

### 3. Limitation on Use of Mechanized or Heavy Equipment on Blufftop.

By acceptance of this permit, the applicants agree that no mechanized or heavy equipment shall be allowed on the top of the bluff for the purposes of constructing and/or maintaining the swale, including the removal of debris generated by the failure of the swale.

4. Maintenance and Monitoring

A. By May 1 of every year for the life of the structure, the permittees shall submit a monitoring report prepared by a licensed geologist, or civil or geotechnical engineer.

1. Each monitoring report shall contain the following:
  - a. An evaluation of the condition and performance of the approved drainage swale, including an assessment of whether any weathering or damage has occurred that could adversely impact future performance of the swale;
  - b. An analysis of erosion trends, annual retreat, or rate of retreat of the bluff based upon measurements and in conformance with the approved monitoring plan; and
  - c. Recommendations for repair, maintenance, modifications, or other work to the swale.
2. If a monitoring report contains recommendations for repair, maintenance, or other work, the permittees shall contact the Coastal Commission District Office to determine whether such work requires a coastal development permit.
3. If a report concludes that the swale or any portion of the swale is unsafe for use, the permittees shall, within 90 days of submitting the report, apply for an amendment to this coastal development permit to remedy the hazard, which may include removal of the threatened portion of the swale.

B.

1. The permittees shall inspect the swale and bluff area after every major storm and remove any debris or material from the swale as soon as possible after such deposition occurs. The permittees shall contact the Coastal Commission District Office immediately to determine whether such activities require a coastal development permit.
2. The permittees shall remove all portions of the development that fall to the beach in accordance with **Special Condition 5.A.2** of this permit.

5. No Future Bluff or Cliff Protective Device.

A.

1. By acceptance of this permit, the applicants agree, on behalf of themselves and all successors and assigns, that no protective device(s) that would alter the natural landforms of bluffs or cliffs shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. A-2-PAC-00-020, including, but not limited to, the swale and any future improvements to such, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future. For purposes of this condition, bluff shall be defined as set forth in Title 14, Section 13577 of the California Code of Regulations. By acceptance of this permit, the applicants

hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under LCP Policy 16.

2. By acceptance of this permit, the applicants further agree, on behalf of themselves and all successors and assigns, that the landowner shall remove the development authorized by this permit if any government agency has ordered that the structures be abandoned or removed due to any of the hazards identified above. 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. Such removal shall require a coastal development permit or other authorization under the Coastal Act.

**B. Prior to the issuance of the coastal development permit**, the applicants shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the above restrictions on development. The deed restriction shall include a legal description of the applicants' 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.

## 2.0 FINDINGS AND DECLARATIONS

The staff report hereby incorporates the findings on substantial issue as if set forth in full.

### 2.1 Geologic Stability and Hazards

#### *Issue Summary*

The proposed swale and retaining wall would be located on the top of a coastal bluff in an area of high geologic hazard. The proposed swale would be sited and designed on the bluff edge such that it would require a retaining wall and may significantly contribute to further geologic instability of the bluff. Potential failure of the development or of the bluff caused by such instability is a danger to life and property in this geologically hazardous area. As proposed, the swale and retaining wall is inconsistent with LUP Policy 26 prohibiting new development from creating or contributing to erosion and geologic stability and requiring development to minimize risks to life and property in areas of high geologic hazard.

Although the project site is inherently dangerous, the Commission recognizes that drainage of storm runoff is necessary at the site. Therefore, the Commission imposes **Special Condition 1** to require the applicants to assume the risks from hazards in connection with the permitted development, waive any claim of liability against the Commission for such losses, and indemnify and hold harmless the Commission if third parties bring an action against the Commission as a result of the failure of the development to withstand hazards. To minimize the development's risks to life and property, the Commission further imposes **Special Condition 2** to require the applicants to revise the plans and relocate the swale away from the bluff as far landward as feasible. **Special Condition 2** also requires the applicants to modify the plans to remove the

curb along the eastern length of the swale to allow for better drainage of the project site and remove the proposed retaining wall. To prevent further instability, the Commission imposes **Special Conditions 3 and 4** to prohibit mechanized and heavy equipment on the blufftop and to establish measures for regular monitoring and maintenance. As conditioned, the development is consistent with the LCP's policies for geologic stability and hazards.

***Relevant LCP Policies***

Policy 26 of the LUP in part prohibits new development from creating or contributing to erosion, geologic instability or destruction of the site or surrounding area, and requires new development to assure stability and structural integrity and minimize risks to life and property in areas of high geologic hazard.

***Discussion***

The applicants propose the construction of a 140-foot-long concrete swale on the edge of the bluff (**Exhibit 5**). The swale's proposed location follows a pre-existing depression in the soil along the bluff edge. This dirt depression currently conveys surface runoff over the bluff at the project site. To maintain the swale in the location of the dirt depression, the applicants propose to construct the swale beyond the bluff edge supported by a concrete retaining wall on the bluff face. The swale is intended to convey surface runoff from the uphill portion of the property as well as runoff from the residential development on the project site entering the swale via two eight-inch pipes.

As described in Part 1, Section 2.7.1 above, the proposed project is located in a geologically active region of the coast. Episodes of bluff retreat due to storm waves and surface and subsurface bluff drainage have posed risks to life and property in the past and are not uncommon in the area.

The applicants' engineering consultant prepared a geological hazard assessment for 310 and 320 Esplanade Drive in April, 1999. The assessment cites Lajoie and Mathieson's estimate of 10 inches per year as the average bluff retreat rate for the project area. The assessment also states that the close proximity of four faults to the project site poses a significant potential seismic hazard. The San Andreas Fault is located about one mile east of the project site, the northwest end of the Serra Fault zone approximately 2.5 miles east of the project site, the San Bruno Fault around 2.7 miles northeast of the project site, and the Pilarcitos Fault about 4 miles south of the project site. The assessment states that the primary effect of seismic activity (that is, ground shaking) may produce secondary effects such as landslides. However, evidence of landsliding has not been observed on undeveloped property in the area around the project site, and based on the site conditions, the potential for landslides due to seismic activity is low.

Because the swale and retaining wall would be sited at the edge of the bluff, the risks of injury or death or property damage due to failure of the development or the bluff increases by virtue of the development's location. Given the location of the proposed development and the inherently hazardous nature of this lot, the Commission finds it is necessary to impose **Special Condition 1**. **Special Condition 1** requires the landowner to assume the risks of any losses associated with the proposed development due to seismic, geologic, and geotechnical hazards of the property, waive any claim of liability on the part of the Commission for such losses, and indemnify the Commission in the event that third parties bring an action against the Commission as a result of

the failure of the development to withstand hazards. **Special Condition 1** also requires the applicants to record a deed restriction incorporating all of the terms listed above.

The Commission finds that **Special Condition 1** is required because the applicants have voluntarily chosen to implement the project despite the risk of hazards. Recordation of the deed restriction will additionally provide notice of potential hazards of the property and eliminate false expectations of potential buyers of the property, lending institutions, and insurance agencies that the property is safe for an indefinite period of time and for further development indefinitely into the future. In addition, the condition ensures that future owners will be informed of the Commission's immunity from liability and the indemnity afforded the Commission.

The geologic hazard assessment for the project area concludes that the existing slope and bluff on the site will remain stable if the recommendations for slope erosion protection and drainage in the assessment are followed. The assessment recommends repair of the existing concrete swale in the southern portion of 310 Esplanade Drive and on 320 Esplanade, and the prevention of surface runoff over the blufftop. The assessment also suggests the addition of a curb on the seaward side of the existing concrete swale and maintenance to allow proper conveyance of runoff within the swale. The assessment further makes recommendations to prevent surface water from collecting near the apartment buildings and to keep moisture caused by the installation of utility lines from intruding under building slabs or footings.

After a Commission staff site visit with the applicants and their geotechnical engineers and consultants on February 6, 2001, the Commission's engineer concluded that drainage of storm runoff is necessary at this site to prevent runoff from discharging from the existing dirt depression off the bluff edge. This conclusion is consistent with the geologic hazard assessment's recommendation to avert surface runoff from overflowing the blufftop. The staff engineer further noted upon inspection of the project site and review of the proposed plans that the project engineer adequately designed the proposed four-foot-wide, six-inch-tall swale to carry stormwater flows from the subject parcel. The irrigated lawn directly north of the subject parcel does not produce enough runoff to substantially contribute to flows in the swale. However, although the staff engineer observed that a swale is an appropriate device to convey storm runoff from the project site, the location of the proposed swale on the edge of the bluff would increase the possibility of erosion and geologic instability. Furthermore, the geological hazard assessment identifies the potential occurrence of minor cracks and separations in concrete slab-on-grade, asphalt concrete pavement, and/or curb and gutter constructed adjacent to the blufftop that would contribute to concentrated surface runoff over the bluff. The proposed development is therefore inconsistent with LUP Policy 26, which requires new development to minimize risks to life and property in areas of high geologic hazard and not create or contribute significantly to erosion or geologic instability.

Therefore, to reduce the potential for erosion and geologic instability, the staff engineer recommends that the applicants relocate the proposed swale further east and away from the bluff. Relocating the proposed swale is feasible and would eliminate the need to construct a retaining wall. The removal of the swale from the bluff edge and the elimination of the retaining wall reduces the risks to life and property on or below the bluff posed by the potential failure of the development. The staff engineer further recommends that the curb along the eastern length of the swale be modified to allow surface runoff from the project site to enter the swale more easily and reduce potential ponding and erosion on the top of the curb. In addition, use of mechanized and heavy equipment on the bluff for construction or

maintenance of the proposed swale may create or contribute to geologic instability. Therefore, the staff engineer recommends that no mechanized and/or heavy equipment be allowed on the blufftop for the construction or maintenance of the swale or the cleanup of fallen debris on the beach.

To ensure that the project will not substantially create or contribute to erosion or geologic instability consistent with LUP Policy 26, the Commission imposes **Special Condition 2** to require the applicants to revise the plans to demonstrate that the proposed drainage swale shall be located as far landward as feasible and that the proposed retaining wall shall be eliminated. **Special Condition 2** also requires the applicants to revise the plans to demonstrate that the eastern length of the swale shall be flush with the natural grade and have no curb. The Commission further imposes **Special Condition 3** to prohibit mechanized and heavy equipment on the top of the bluff. As conditioned, the development would not create or contribute significantly to erosion or geologic instability and would minimize risks to life and property in an area of high geologic hazard, consistent with LUP Policy 26.

While the proposed project is intended to convey storm runoff from the project site in a controlled manner, regular monitoring and maintenance is necessary to ensure that the swale does not fill with debris, become damaged, or cause damage to the bluff and result in erosion and geologic instability. To reduce the potential for swale failure, the Commission therefore imposes **Special Condition 4** to require the applicants to monitor and maintain the swale. **Special Condition 4** requires the submission of an annual monitoring report by a licensed geologist, or civil or geotechnical engineer that evaluates the condition and performance of the swale and includes recommendations for repairs or modifications to the swale as needed. The condition also requires the applicants to inspect the swale after major storms and remove any debris or material from the swale or from the beach in the event of swale failure as soon as possible. As conditioned, the swale does not create or contribute significantly to erosion or geologic instability and is consistent with LUP Policy 26.

**Conclusion**

As proposed, the location of the development on the edge and face of the bluff may contribute to geologic instability and creates risks to life and property in an area of high geologic hazard. To reduce the project's potential to contribute to erosion and geologic instability at the project site, the Commission imposes conditions requiring the applicants to revise the plans to relocate the swale further landward, remove the curb on the eastern length of the swale, prohibit mechanized and heavy equipment on the blufftop, and monitor and maintain the swale. The applicants must also assume risk and waive liability for damages and/or injury associated with the project because the development is located on an inherently dangerous site. As conditioned, the swale would not create or contribute significantly to erosion, geologic instability or destruction of the site or surrounding area, and would minimize risks to life and property in areas of high geologic hazard, consistent with LUP Policy 26. As conditioned, the proposed project conforms with the requirement of LUP Policy 26 to minimize risks to life and property in areas of high geologic hazard, assure stability and neither create nor contribute to erosion or geologic instability on the project site or its vicinity.

## 2.2 Shoreline protection

### *Issue Summary*

A 20-foot-long portion of the proposed swale would extend beyond the edge of the bluff and would require support from concrete-filled burlap sacks held in place by geogrid and a retaining wall. As proposed, the retaining wall is designed to protect a swale that would be constructed as part of the project and does not currently exist. The proposed project is therefore inconsistent with LCP Policy 16, which permits the construction of a cliff retaining wall only when necessary for the protection of an *existing* structure. In addition, the proposed retaining wall is inconsistent with LUP Policy 26, which prohibits new development from requiring bluff-altering protective devices, because the proposed swale would require the construction of the retaining wall that alters the edge and face of the coastal bluff. To ensure that the proposed development does not require the construction of a protective device that would alter bluffs and that cliff retaining walls are only permitted as necessary to protect existing structures, the Commission imposes **Special Condition 2** to require the applicants to relocate the proposed swale landward, thereby eliminating the construction of the retaining wall on the bluff edge and preventing alteration of the bluff. The Commission also imposes **Special Condition 5**, to prohibit protective devices that would alter the natural landforms of the bluff. As conditioned, the Commission finds that the swale is consistent with the shoreline protection policies of the certified LCP.

### *Relevant LCP Policies*

Policy 16 of the LUP states that construction of cliff retaining walls shall be permitted when necessary to protect existing structures.

Policy 26 of the LUP requires in part that new development must not require the construction of protective devices that would alter bluffs and cliffs.

### *Discussion*

A 20-foot-long portion of the proposed swale would extend beyond the edge of the bluff and would require the placement of concrete-filled burlap sacks and a retaining wall to support it. Because the proposed swale is not a pre-existing structure, the retaining wall may not be permitted to protect the swale. The proposed project is therefore inconsistent with LUP Policy 16, which allows the construction of a cliff retaining wall only when necessary for the protection of an existing structure. Furthermore, because the swale as proposed would require the construction of a retaining wall beyond the existing edge of the bluff, the project would alter the natural landform of the bluff. In addition, the proposed project is inconsistent with Policy 26 of the LUP, which prohibits new development from requiring protective devices which alter bluffs.

As discussed in Section 2.1 above, to reduce the swale's potential contribution to bluff erosion and geologic instability, the Commission imposes **Special Condition 2** to require the applicants to revise the project plans to relocate the swale away from the bluff and eliminate the proposed retaining wall. Because the relocation of the swale under **Special Condition 2** would eliminate the need for a retaining wall on the bluff face to support it, the project as conditioned is accordingly consistent with LCP Policy 16, which states that cliff retaining walls may only be permitted when necessary to protect existing structures. The project as conditioned is also consistent with LCP Policy 26 because the swale no longer requires the construction of a retaining wall that would alter the bluff at this time.



However, past geologic events on the Pacific coast demonstrate that conditions such as high tides and heavier-than-normal rainfall of El Niño storms may produce significant bluff erosion that may impact the swale over the life of the project. The geological hazard assessment for the project site states that the potential for slope movement due to seismic shaking is low, but that wave action and surface runoff have caused moderate bluff erosion on the blufftop and bluff toe. Consequently, the applicants or their successor(s) in the future may wish to construct a protective device on the bluff or shoreline to maintain the swale. However, the construction of protective devices that substantially alter natural landforms along bluffs and cliffs is prohibited by LCP Policy 26.

In the Commission's experience, geologists have no way of absolutely predicting if or when bluff erosion on a particular site will take place, and cannot predict if or when a structure or property may become endangered. Geologic hazards are episodic, and bluffs that may seem stable now may not be so in the future. Therefore, the Commission finds that the proposed new development is subject to geologic hazards and could someday require a bluff or shoreline protective device, inconsistent with LCP Policy 26.

The Commission finds that the proposed swale is consistent with the certified LCP only if it is conditioned to provide that shoreline protection will not be constructed. Thus, the Commission further finds that due to the inherently hazardous nature of the project site, the fact that the approved development and its maintenance may cause future problems that were not anticipated, and because new development shall not engender the need for shoreline protective devices, it is necessary to impose **Special Condition 5** to prohibit the construction of shoreline protective devices.

As noted above, some risks of an unforeseen natural disaster, such as an unexpected landslide, massive slope failure, or erosion could result in destruction or partial destruction of the swale as approved by the Commission under this permit. In addition, the development itself and its maintenance may cause unanticipated future problems. When such an event takes place, public funds are often sought for the cleanup of structural debris that falls to the beach or on an adjacent property. As a precaution, in case such an unexpected event occurs on the subject property, the Commission also imposes **Special Condition 5** to require the landowners to accept sole responsibility for the removal of any structural debris resulting from landslides, slope failures, or erosion on the site, and agree to remove the swale should the bluff retreat reach the point where a government agency has ordered that the swale be abandoned or removed.

The requirements of **Special Condition 5** are consistent with LCP Policy 26, which states that new development shall minimize risk to life and property in areas of high geologic, flood, and fire hazard, assure structural integrity and stability, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The Commission finds that the proposed development would not be consistent with LCP Policy 26 if bluff retreat would affect the proposed project and necessitate construction of a bluff or cliff protective device to protect it. In addition, LCP Policy 16 allows the construction of shoreline protective devices only for the protection of *existing* development. The policy, however, does not permit the construction of shoreline protective devices to protect *new* development as proposed under this permit. Therefore, as conditioned to prohibit the construction of shoreline protective devices to protect the new swale, the project is consistent with LCP Policies 16 and 26.

### ***Conclusion***

As proposed, the swale would be located at the edge of the coastal bluff, necessitating the construction of a retaining wall for support. However, the proposed retaining wall is inconsistent with the shoreline protection policies of the Pacifica LCP requiring the construction of cliff retaining walls only when necessary to protect existing structures, and prohibiting new development from requiring the construction of protective devices that would alter bluffs and cliffs. The Commission imposes a condition to relocate the swale inland and away from the bluff, thereby eliminating the need for a retaining wall to support the swale on the edge of the bluff. Additionally, the Commission imposes a condition to prohibit the construction of shoreline protective devices to protect the swale and to require the landowners to accept sole responsibility for the removal of any structural debris resulting from failure on the site, and agree to remove the swale should the bluff retreat reach the point where a government agency has ordered that the swale be abandoned or removed. As conditioned, the project is consistent with the LCP's shoreline protection policies.

## **2.3 Visual Resources**

### ***Issue Summary***

As proposed, a section of the swale would extend beyond the edge of the bluff and would require the construction of a retaining wall to support the swale. The swale and retaining wall constitute an alteration of the natural landform that would not blend into the natural setting of the bluff. Although the project site can accommodate the swale so that the swale is not visible from public view, the proposed development would be sited where it is plainly visible from the City beach, inconsistent with the LCP policies to protect public views along the ocean. To ensure that the development protects views along the ocean, minimizes bluff alteration, and is located in the least visible area of the site, the Commission imposes **Special Condition 2** to require the applicants to revise the engineering plan to move the proposed swale further landward and eliminate the proposed retaining wall. The relocation of the swale away from the bluff edge eliminates the need for the construction of the retaining wall. As a result, the structure would no longer be visible from the beach and would not adversely impact the visual resources from a public area. As conditioned, the proposed development is consistent with the visual resource policies of the LCP.

### ***Relevant LCP Policies***

Policy 24 of the LUP states in part that development must be sited and designed to protect views to and along the ocean and scenic coastal areas and to minimize the alteration of natural landforms.

Section 9-4.4408 of the Zoning Code, like LUP Policy 24, requires structures to be sited to minimize alteration of natural landforms and additionally requires structures to be sited in the least visible area of the property and blend into the natural setting.

### ***Discussion***

The project as proposed would include construction of an approximately 3-foot-tall, 20-foot-long retaining wall to support the swale at the bluff edge. The retaining wall and the top of the swale's western curb would be visible from the City beach below the bluff. During the February 6, 2001 site visit, Commission staff observed that the swale could feasibly be moved from its

proposed location several feet eastward. Thus, although sufficient area exists onsite away from the bluff edge to accommodate the proposed swale, the applicants propose to construct the swale to follow the existing dirt depression onsite at the bluff edge. Consequently, the proposed project is inconsistent with LCP Policy 24, which requires development to be sited and designed to protect views to and along the ocean and to minimize the alteration of natural landforms. The project is also inconsistent with Zoning Code 9-4.4408, which also requires development to minimize landform alteration and in addition, be sited in the least visible area of the property and blend into the natural surrounding. Since the swale can be located in less visible areas on the property, the swale is not sited or designed to protect views along the ocean or be in the least visible area of the property. Furthermore, the proposed retaining wall would alter the natural landform and is not proposed to blend in with the bluffs.

The Commission therefore imposes **Special Condition 2** to require the applicants to revise the project plans to relocate the swale landward and eliminate the proposed retaining wall. As conditioned, the swale would be relocated away from the bluff, in the least visible portion of the property, and would no longer require a retaining wall to support it. The project, as conditioned, is therefore consistent with the visual resources policies of the LCP.

### ***Conclusion***

The proposed swale and retaining wall are not sited and designed to protect views along the ocean, minimize natural landform alternation, or be in the least visible area of the property and blend into the site, inconsistent with the visual resource policies of the City's LCP. The Commission therefore imposes **Special Condition 2** to require the applicants to revise the plans for the project to relocate the swale landward, eliminating the need for the proposed retaining wall and removing the impact of the swale on public views along the coast. As conditioned, the Commission finds that the proposed project minimizes the alteration of natural landforms, protects views along the ocean, and is sited in the least visible area of the property, consistent with Policy 24 of the LUP and Section 9-4.4408 of the Zoning Code.

## **2.4 Public Access and Public Recreation**

### ***Relevant LCP Policy***

Section 30604(c) of the Coastal Act requires that coastal development permits for development between the first public road and the sea contain a finding that the proposed development conforms with the public access and public recreation policies of the Coastal Act.

### ***Discussion and Conclusion***

In its application of these policies, the Commission is limited by the need to show that any denial of a permit application based on these sections, or any decision to grant a permit subject to special conditions requiring public access, is necessary to offset a project's adverse impact on existing or potential public access.

The proposed project would be located between Esplanade Drive, the first public road, and the sea. As proposed, the swale would be located on a private property that does not currently provide public access or public recreation opportunities. Furthermore, the property owners prohibit any access to the seaward portion of the project site for safety reasons. In addition, vertical public access to the public beach from Esplanade Drive is maintained by the Lands End Apartment complex on the parcel immediately north of the project site.

Since the proposed development will not increase the demand for public access to the shoreline and will have no other significant adverse impacts on existing or potential public access, the Commission finds that the proposed project is consistent with the public access and public recreation policies of the Coastal Act.

### **3.0 CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 13096 of the California Code of 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 effects which the activity may have on the environment.

The Commission incorporates its findings on Local Coastal Program consistency at this point as if set forth in full. As discussed above, as conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impacts which the development may have on the environment. Therefore, the Commission finds that the proposed project has been conditioned to mitigate the identified impacts and can be found consistent with Coastal Act requirements to conform to CEQA.

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#### Exhibits

1. Regional map
2. Vicinity map
3. Assessor parcel map
4. Appeal by Commissioners Wan and Woolley
5. Detail and site plan

#### Appendices

Appendix A – Substantive File Documents

Appendix B – Relevant Policies of the City of Pacifica Local Coastal Program

**APPENDIX A: SUBSTANTIVE FILE DOCUMENTS**

City of Pacifica. Planning Commission Minutes for CDP-174-00, June 5, 2000.

City of Pacifica. Project Summary/Recommendation and Findings for CDP-174-00, June 5, 2000.

JC Engineering. Drainage Improvements, 310-320 Esplanade Drive, Pacifica, CA. April 10, 2000.

United Soil Engineering, Inc. *Geologic Hazard Assessment, Existing Apartment Buildings, 310-320 Esplanade Drive, Pacifica, California.* April, 1999.

**APPENDIX B: RELEVANT POLICIES OF THE CITY OF PACIFICA LOCAL COASTAL PROGRAM**

**Local Coastal Program Policies:**

**Land Use Plan (LUP):**

**LUP Policy 16**

*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.*

**LUP Policy 24**

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

**LUP Policy 26**

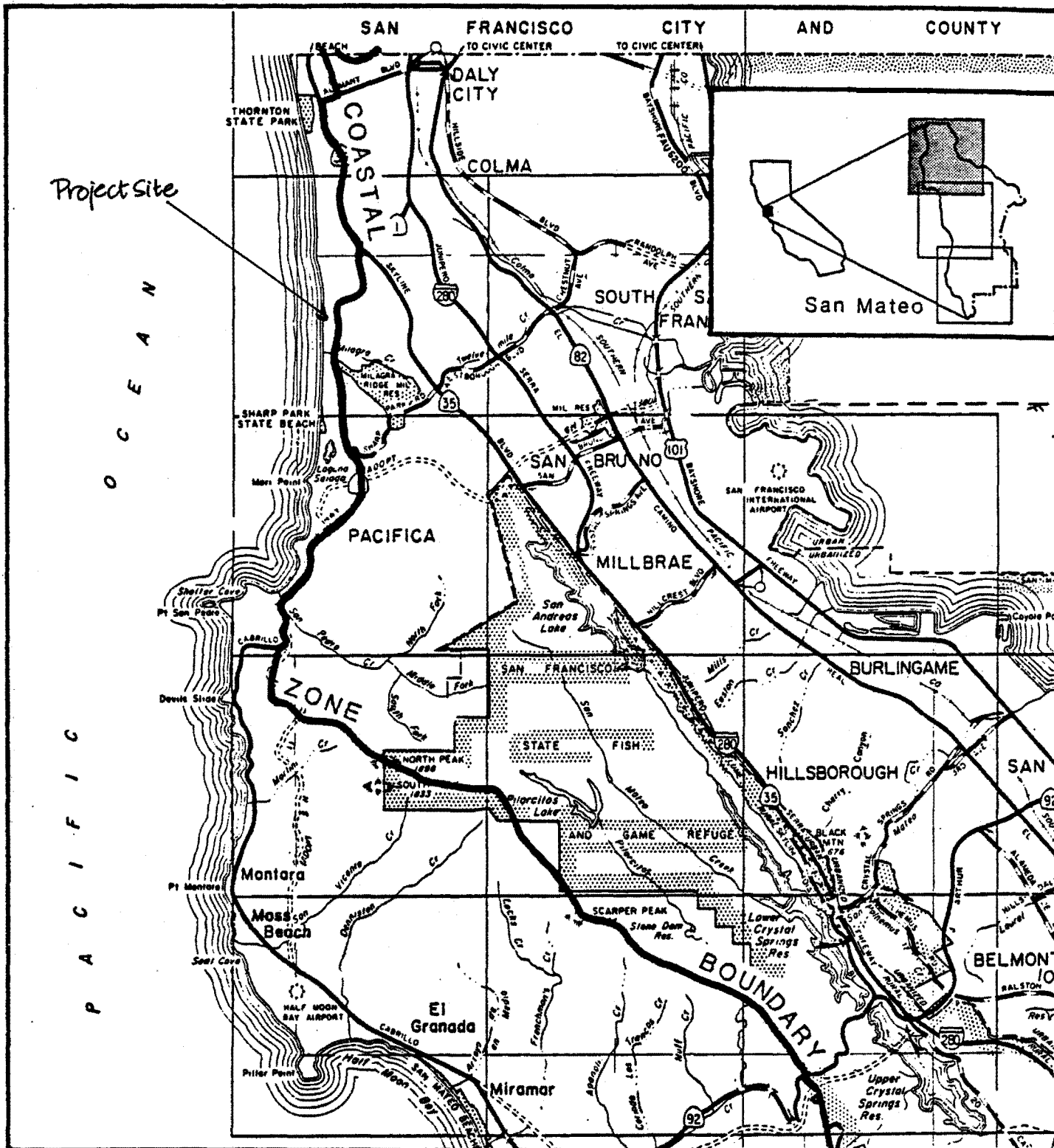
*New development shall:*

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

**Zoning Ordinance:**

**9-4.4408 Coastal View Corridors**

- (b) *Development standards. The following standards shall apply to new development within coastal view corridors.*
- (1) *structures shall be sited in order to minimize alteration of natural topography and landforms, tree removal, and grading only to the extent necessary to construct buildings and access roads;*
  - (2) *structures shall be sited on the least visible area of the property and screened from public view using native vegetation, as feasible;*
  - (3) *structures shall incorporate natural materials and otherwise shall blend into the natural setting;*
  - (4) *new development shall be consolidated or clustered within the slopes of the natural topography, as feasible;*
  - (5) *landscape screening and restoration shall be required to minimize the visual impact of new development; and*
  - (6) *new utility and transmission lines shall be placed underground. Development of overhead lines will be considered only if such undergrounding is determined to be infeasible and is approved by the Planning Commission.*



California Coastal Commission

LOI

County of San Mateo

EXHIBIT NO. 1  
 APPLICATION NO.  
 A-2-PAC-00-020  
 BALSAMO AND  
 COHN  
 REGIONAL MAP

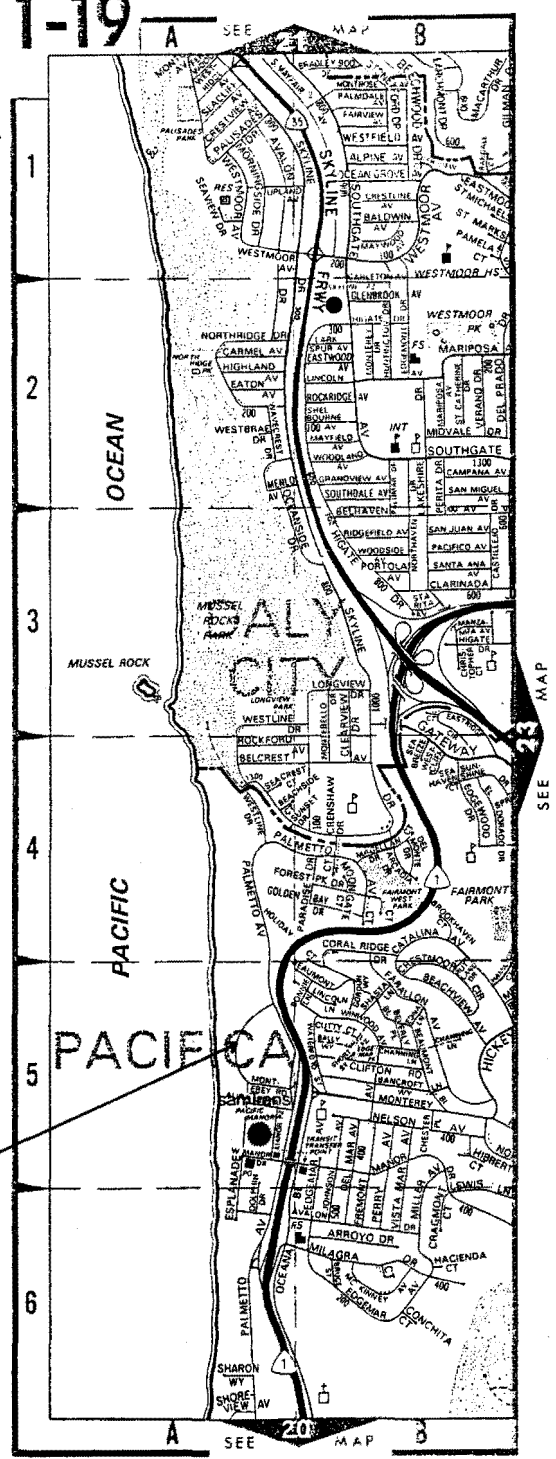


Sheet 1 of 3



1-19

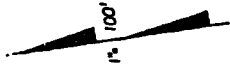
COPYRIGHT, © 1992 BY Thomas Bros. Maps®



Project Site

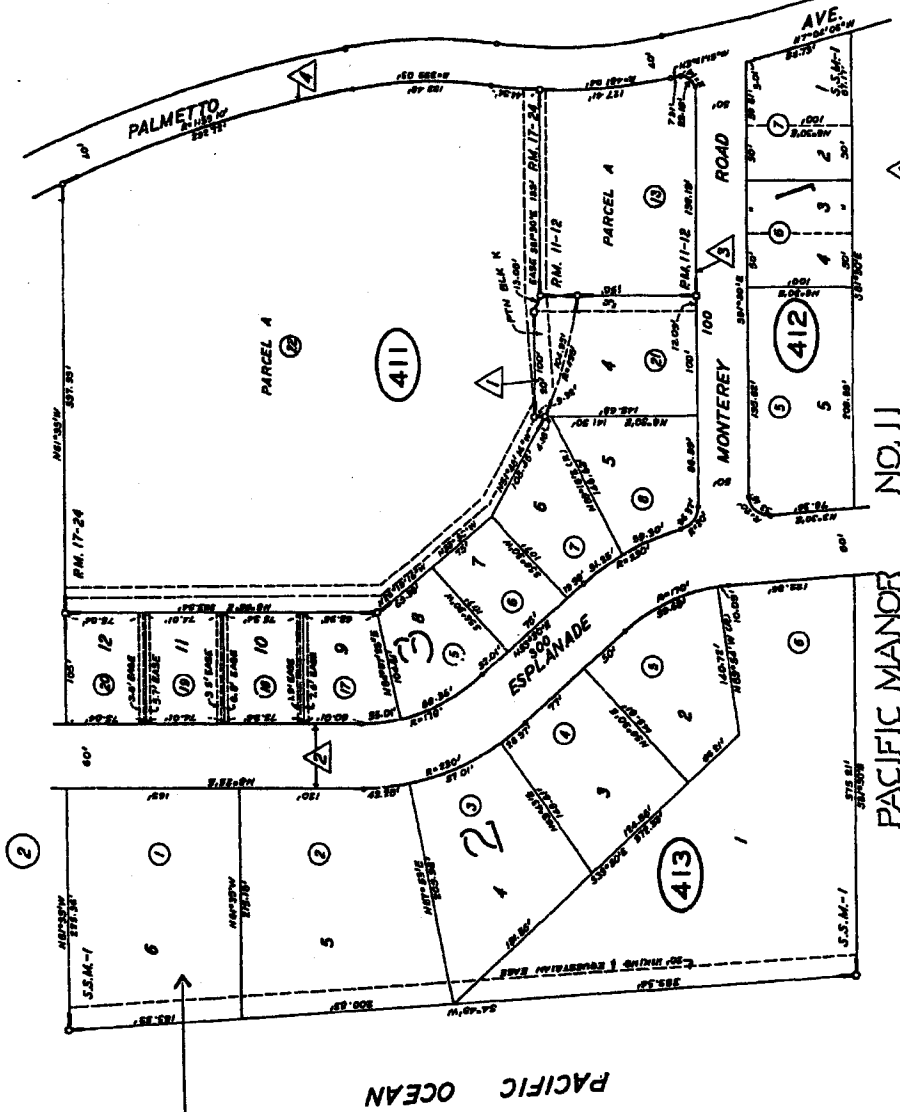
|                                   |
|-----------------------------------|
| EXHIBIT NO. 2                     |
| APPLICATION NO.<br>A-2-PAC-00-020 |
| BALSAMO AND COHN                  |
| VICINITY MAP                      |

9-41



COAST HIGHWAY

TAX CODE AREA



- ▲ EDGEMAR SUB. 1 RSM 5/28
- ▲ SURF-SIDE MANOR NO. 1 RSM 54/40
- ▲ PARCEL MAP VOL. 11/12
- ▲ PARCEL MAP VOL. 17/24

NO. 11

PACIFIC MANORS

Project Site

|                                   |
|-----------------------------------|
| EXHIBIT NO. 3                     |
| APPLICATION NO.<br>A-2-PAC-00-020 |
| BALSAMO & COHN                    |
| ASSESSOR PARCEL<br>MAP            |

ASSESSOR'S MAP COUNTY OF SAN MATEO, CALIF.

D.M.

## CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
 SAN FRANCISCO, CA 94105-2219  
 VOICE AND TDD (415) 904-5200  
 FAX (415) 904-5400



APPEAL FROM COASTAL PERMIT  
 DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing  
 This Form.

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Commissioners Sara Wan and John Woolley

c/o California Coastal Commission

45 Fremont Street, Suite 2000

S.F., CA

Zip 94105

(415) 904-5200

Area Code

Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port  
 government: City of Pacifica

2. Brief description of development being  
 appealed: 140-foot-long concrete drainage swale

3. Development's location (street address, assessor's parcel  
 no., cross street, etc.): 310 Esplanade Drive, Pacifica  
APN 009-413-010

4. Description of decision being appealed:

a. Approval; no special conditions: \_\_\_\_\_

b. Approval with special conditions: xx

c. Denial: \_\_\_\_\_

Note: For jurisdictions with a total LCP, denial  
 decisions by a local government cannot be appealed unless  
 the development is a major energy or public works project.  
 Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-2-PAC-00-020

DATE FILED: 7/6/88 6/29/88

DISTRICT: North Central Coast

H5: 4/88

|  |
|--|
| EXHIBIT NO. 4  |
| APPLICATION NO.<br>A-2-PAC-00-020                    |
| BALSAMO AND COHN                                     |
| APPEAL BY COMMISSIONERS<br>WAN AND WOOLLEY (7 pages) |

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- a.    Planning Director/Zoning Administrator      c. xx Planning Commission  
b.    City Council/Board of Supervisors      d.    Other \_\_\_\_\_

6. Date of local government's decision: June 5, 2000

7. Local government's file number (if any): CDP-174-00

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:  
Javier Chavarria  
JC Engineering  
225 Rockaway Beach Ave.  
Pacifica, CA 94044

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

- (1) Michael Cohn  
Oxford Properties  
P.O. Box 5027  
San Mateo, CA 94402
- (2) Jim Ferris #5 391 4220  
750 Battery Street  
San Francisco, CA 94111
- (3) Art Balsamo  
3555 Highland Avenue  
Redwood City, CA 94062
- (4) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

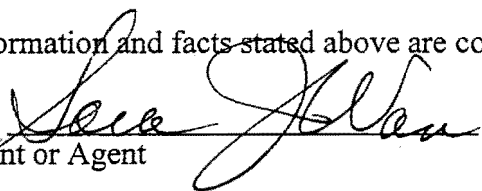
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

see attached letter

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

SECTION V. Certification

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

Signed:   
Appellant or Agent

Date: June 29, 2000

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

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

see attached letter

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

SECTION V. Certification

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

  
\_\_\_\_\_  
Signature of Appellant(s) or  
Authorized Agent

Date June 29, 2000

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

Section VI. Agent Authorization

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

\_\_\_\_\_  
Signature of Appellant(s)

Date \_\_\_\_\_

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200  
FAX (415) 904-5400



June 29, 2000

TO: Peter Douglas, Executive Director

FROM: Sara Wan, Chair  
John Woolley, Commissioner

**SUBJECT: Appeal of City of Pacifica Local Coastal Permit CDP-174-00  
310 Esplanade Drive, Pacifica**

### **1.0 LOCAL APPROVAL**

Commissioners Wan and Woolley are appealing the City of Pacifica's approval of Local Coastal Development Permit CDP-174-00. On June 5, 2000, the City of Pacifica approved with conditions Coastal Development Permit CDP-174-00 to allow the construction of an approximately 140-foot-long concrete drainage swale along the bluff at 310 Esplanade Drive.

### **2.0 BACKGROUND**

The applicant states that the purpose of the approved development is to prevent erosion of the bluff at the site from surface runoff. The approved development consists of an approximately 140-foot-long concrete swale on 310 Esplanade, a blufftop parcel. The swale will collect and carry surface runoff from the property and the property to the north offsite, decreasing the amount of surface runoff over the bluff at the project site. An approximately 20-foot-long portion of the approved new swale extends beyond the edge of the bluff and requires the construction of a retaining wall to support that section. The approved new development would connect to an existing concrete swale at its southern end. Approximately 30 feet of the existing swale is located on 310 Esplanade, and runs for approximately 180 feet along the edge of the bluff on 320 Esplanade, the parcel adjacent to and directly south of 310 Esplanade. The existing swale extends south for another approximately 200 feet on neighboring parcels to 360 Esplanade. The existing swale receives surface runoff from 320 to 360 Esplanade and discharge from surface pipes located on 320 Esplanade and an underground pipe on the neighboring property to the south.

### **3.0 REASONS FOR APPEAL**

The approved development raises an issue of conformance with the policies of the certified City of Pacifica Local Coastal Program (LCP) concerning geologic stability, shoreline protection, hazards, and visual resources.

#### **3.1 Geologic Stability**

Policy 26 of the LCP in part prohibits new development from creating or contributing to erosion, geologic instability or destruction of the site or surrounding area.

The bluffs along the coast of Pacifica have a history of erosion. Storm waves and surface and sub-surface drainage have contributed to landslides, bluff erosion, and other geologically unstable conditions in the area. For instance, El Niño storms and subsurface drainage caused 40

to 60 feet of coastal bluff to erode approximately 1,500 feet south of this project, at 528-572 Esplanade Drive, in 1998. Bluff erosion further prompted the Coastal Commission to issue emergency permits for the construction of a rock revetment on the face and base of the bluff at 360 and 380 Esplanade in December, 1998 and January, 1999. Similar geologic conditions warranting shoreline protection devices may exist at this site.

The property directly north of the subject parcel has an irrigated lawn at a higher grade than the subject parcel, and drainage from this property flows onto the project site. The swale as approved ends abruptly at the boundary between the subject parcel and the property to the north. As stated above, the existing swale ends at the southern boundary of 360 Esplanade. The approved and existing swale directs runoff to and along the edge of the bluff. Runoff in the swale enters a drain at a low point in the swale at 360 Esplanade. The drain connects to a 12-inch diameter pipe which discharges onto the revetment and bluff face about 20 feet from the base of the bluff. Runoff from the swale may contribute to erosion of the bluff in this area. Furthermore, runoff conveyed in the approved swale may increase the amount of flow in the existing swale. The increased runoff may concentrate and overtop the swale at low points, at locations where the shape of the swale will not contain the runoff, and at unmaintained spots. This runoff may discharge over the bluff at these points, increasing the erosion potential of the bluff on neighboring properties. These concerns raise an issue of conformance with LCP Policy 26, which prohibits the project from creating or contributing to erosion, geologic instability, or destruction of the site and surrounding properties.

### **3.2 Shoreline Protection**

Policy 16 of the LCP states that construction of cliff retaining walls may only be permitted when necessary to protect existing structures.

Policy 26 of the LCP requires in part that new development must assure stability and structural integrity and not require the construction of protective devices that would alter bluffs and cliffs.

A 20-foot-long portion of the approved swale is at or extends beyond the edge of the bluff and requires the placement of concrete-filled burlap sacks and a retaining wall to support it. The sacks are proposed to be held in place by a concrete keystone retaining wall. The purpose of the retaining wall and concrete-filled sacks is to support the approved swale, which is not an existing structure. The City's findings do not demonstrate that the retaining wall is necessary to protect the existing apartment building. Therefore, the project raises an issue of conformance with LCP Policy 16, which allows the construction of a cliff retaining wall only when necessary for the protection of an existing structure. Furthermore, because the swale as approved requires the construction of a retaining wall beyond the existing edge of the bluff, the project would alter the natural landform of the bluff. The approved project therefore raises an issue of conformance with Policy 26 of the LCP, which prohibits new development from requiring protective devices which alter bluffs.

The City's findings do not show that the applicant's engineer evaluated the concrete sack underpinning and the retaining wall and found them to be structurally sound. The City's findings also do not contain evidence that the location of the swale at the edge of the bluff will be stable. These points raise issues of conformance with LCP Policy 26, which requires new development to assure stability and structural integrity.



### **3.3 Hazards**

The approved project is located at the edge of a coastal bluff in an area of documented geologic instability. The surface drainage improvements and upper blufftop stabilization may pose hazards to beach users below and to people on the blufftop if the approved development or the bluff failed and collapsed onto the beach below the bluff. The project raises an issue under Policy 26 of the LCP, which requires in part that new development must minimize risks to life and property in areas of high geologic hazard.

### **3.4 Visual Resources**

Policy 24 of the LCP states in part that development must be designed to protect views to and along the ocean and scenic coastal areas and to minimize the alteration of natural landforms. The retaining wall and swale will alter the face of the bluff and will be visible from the public beach at the base of the bluff. For these reasons, the approved project raises an issue of conformance with LCP Policy 24.

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MAR 21 2001

CALIFORNIA  
COASTAL COMMISSION

# DRAINAGE IMPROVEMENTS

310-320 ESPLANADE DRIVE  
PACIFICA, CA.

JC  
ENGINEERING

1718 PILGRIM RD  
PACIFICA, CA 94044  
CIVIL ENGINEER

DRAINAGE IMPROVEMENTS  
310-320 ESPLANADE DRIVE  
PACIFICA, CA.

COVER SHEET AND  
PROJECT INFORMATION

| DATE        | ISSUED FOR |
|-------------|------------|
| 12/15/00    | REVISED    |
| 12/15/00    | REVISED    |
| 12/15/00    | REVISED    |
|             |            |
|             |            |
|             |            |
| Drawn by:   | J.A.       |
| Checked by: | J.A.       |

P:2

TO: 14159045400

MAR-21-2001 10:01A FROM:

### INDEX OF DRAWINGS

- COVER SHEET PROJECT DATA AND INDEX
- SITE PLAN
- NOTES AND DETAILS

|                                |                |
|--------------------------------|----------------|
| EXHIBIT NO.                    | 5              |
| APPLICATION NO.                | A-2-PAC-00-020 |
| BALSAMO AND COHN               |                |
| DETAIL AND SITE PLAN (3 pages) |                |

### PROJECT INFORMATION

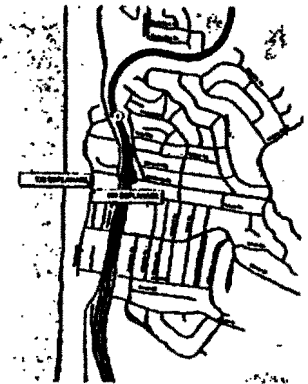
OWNER: COHN & ASSOCIATES  
BALSAMO & ASSOCIATES

ADDRESS: 147 ARROYO COURT  
SAN MATEO CA. 94402

SCOPE OF WORK

SWALE REPAIR AT INDICATED AREAS  
SWALE EXTENSION AS SHOWN  
SWALE SHORING AND PROTECTION  
EROSION CONTROL SYSTEM

### VICINITY MAP



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MAR 21 2001

CALIFORNIA  
COASTAL COMMISSION

TO: 14159045400

P: 3

J.C.  
ENGINEERING  
225 HOOVERWAY SUITE 100  
PACIFICA, CA 94041  
TEL: 650-799-1100  
FAX: 650-799-1101  
CIVIL AND STRUCTURAL ENGINEERING

DRAINAGE IMPROVEMENTS  
310-320 ESPLANADE DRIVE  
PACIFICA, CA

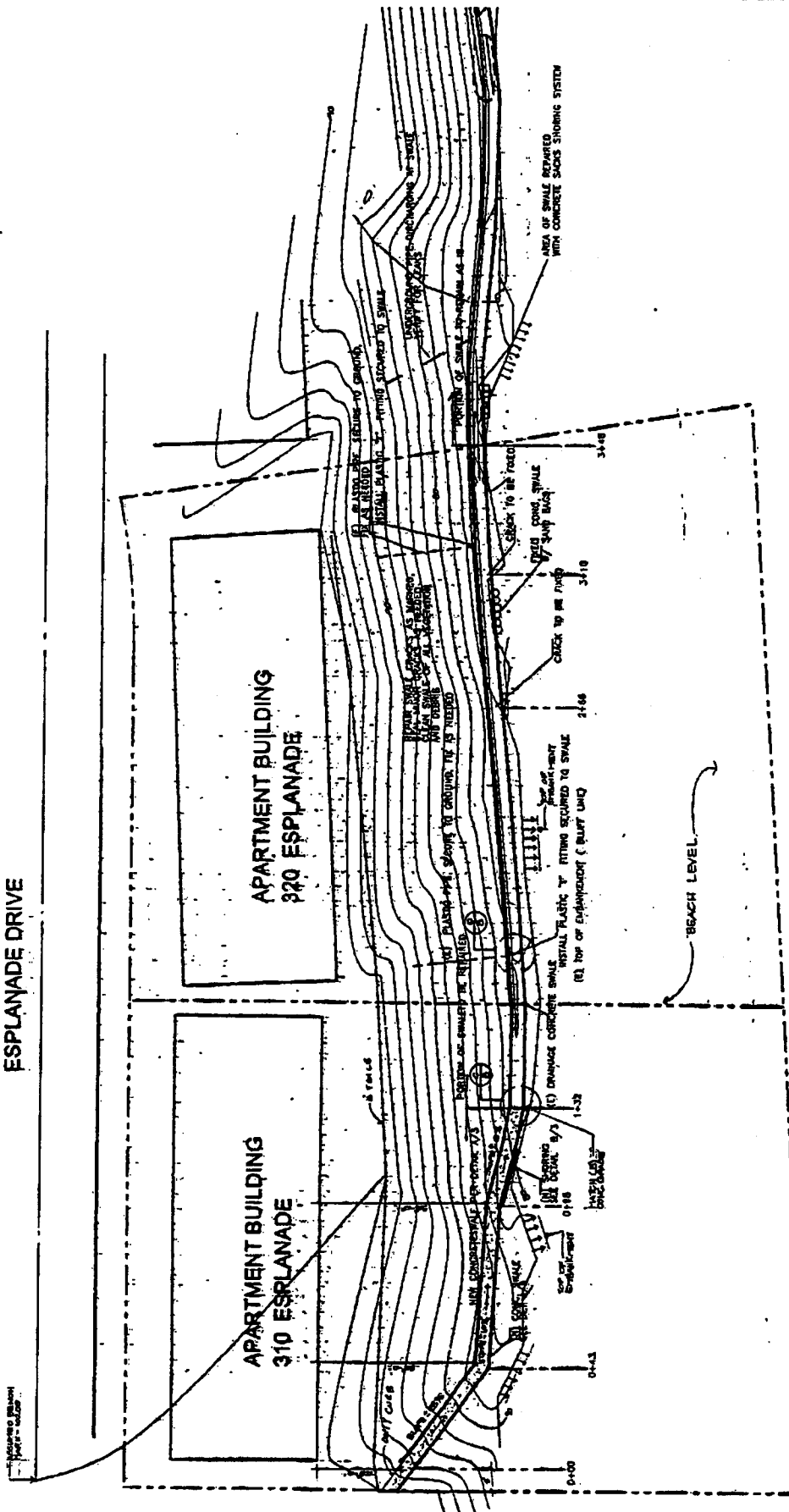
SITE PLAN  
DATE: 01/10/01  
DRAWN BY: J.C.  
CHECKED BY: J.C.  
SCALE: AS SHOWN



ESPLANADE DRIVE

APARTMENT BUILDING  
310 ESPLANADE

APARTMENT BUILDING  
320 ESPLANADE



SITE PLAN  
SCALE: AS SHOWN

NOTES:  
1. ALL WORK TO BE COMPLETED WITHIN THE PERMIT TERM.  
2. ALL WORK TO BE COMPLETED WITHIN THE PERMIT TERM.  
3. ALL WORK TO BE COMPLETED WITHIN THE PERMIT TERM.  
4. ALL WORK TO BE COMPLETED WITHIN THE PERMIT TERM.

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