

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

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Filed: February 13, 2001
 49th Day: Waived
 Staff: DL-SD
 Staff Report: March 22, 2001
 Hearing Date: April 10-13, 2001

STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL GOVERNMENT: City of Imperial Beach

DECISION: Approval with Special Conditions

APPEAL NO.: A-6-IMB-00-187

APPLICANT: Robert & Joyce Shepard

PROJECT DESCRIPTION: Construction of a 934 sq.ft. first story addition and an 837 sq.ft. second story addition to an existing approximately 1,728 sq.ft. two-story single-family residence on an oceanfront lot with an existing rock revetment on the seaward portion of the site extending onto the public beach. Project includes a seaward addition to the oceanfront residence.

PROJECT LOCATION: 1404 Seacoast Drive, Imperial Beach. APN 632-030-02

APPELLANTS: Commissioners Sara Wan and Pedro Nava

SUMMARY OF STAFF RECOMMENDATION:

The report consists of two sections: first, a recommendation on the substantial issue question. The motion and the findings on the substantial issue are located on page 3. Second, the report contains a recommendation of approval with conditions for the entire project, assuming that substantial issue is found. This recommendation begins on page 7.

The staff recommends that the Commission, after public hearing, determine that substantial issue exists with respect to the grounds on which the appeal has been filed: that the proposed development, as approved by the local government, is inconsistent with the shoreline development, public access and public recreation provisions of the certified LCP

Staff also recommends on de novo that the Commission approve the proposed request subject to several special conditions. The issue raised by the project is whether or not the addition will require the construction of additional shoreline protection, and, if not, whether allowing the addition to proceed at this time would preclude the option of

relocating the existing shoreline protection on private property in the future. An engineering study submitted by the applicant and reviewed by the Commission's engineer demonstrates that the addition will be safe, and will not preclude the ability of the revetment on the site to be relocated or replaced with shoreline protection located entirely on private property. The status of the revetment will be addressed through a separate enforcement action.

SUBSTANTIVE FILE DOCUMENTS: "Wave Runup & Coastal Engineering Study" by Skelly Engineering, February 2001; Letter from David Skelly dated 2/12/01; City of Imperial Beach certified Local Coastal Program (LCP); City of Imperial Beach Staff Resolution 2000-5343.

I. Appellants Contend That:

The proposed development as approved is inconsistent with the policies of the certified LCP pertaining to the completion of geotechnical studies on shoreline development, construction on beaches, and setbacks from beaches. In addition, the project as approved is inconsistent with public access and recreation policies of the Coastal Act because the project has the potential to result in the need for additional shoreline protection on the public beach to protect the proposed addition. Additional shoreline protection, if it extended seaward of the existing rock would directly impact public access and recreational opportunities, as well as increase sand scour in front of the subject site. An alternative form of protection, such as a vertical seawall or realignment of the rock further inland could reduce such impacts (see Appeal Application attached as Exhibit #7).

II. Local Government Action.

The Imperial Beach Design Review Board approved the project on September 25, 2000. On November 1, 2000, the City Council approved the Coastal Development Permit with conditions requiring erosion control and water quality Best Management Practices.

III. Appeal Procedures.

After certification of a Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Projects within cities and counties may be appealed if they are located within mapped appealable areas. The grounds for appeal are limited to the assertion that "development does not conform to the certified local coastal program." Where the project is located between the first public road and the sea or within 300 ft. of the mean high tide line, the grounds of appeal are limited to those contained in Section 30603(b) of the Coastal Act. Those grounds are that the development does not conform

to the standards set forth in the certified local coastal program or the access policies set forth in the Coastal Act.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless it determines that no substantial issue is raised by the appeal. If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to a de novo hearing on the merits of the project.

If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project. If the Commission conducts a de novo hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Sec. 30604(c) of the Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3. In other words, in regard to public access questions, the Commission is required to consider not only the certified LCP, but also Chapter 3 policies when reviewing a project on appeal.

The only persons qualified to testify before the Commission at the "substantial issue" stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. At the time of the de novo hearing, any person may testify.

IV. Staff Recommendation On Substantial Issue.

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission determine that Appeal No. A-6-IMB-00-187 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 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-6-IMB-00-187* presents a substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

V. Findings and Declarations.

1. Project Description. The proposed project is construction of a 934 sq.ft. first story addition and an 837 sq.ft. second story addition to an existing approximately 1,728 sq.ft. two-story single-family residence on an oceanfront lot at 1404 Seacoast Drive in the City of Imperial Beach. Approximately 357 sq.ft. of the first story addition with a second story deck would be located seaward of the existing structure, resulting in the structure being located 12 feet closer to the western property line. The new structure would have a 35-foot setback, with a new patio set back 30 feet.

The site is located on the southernmost part of Imperial Beach, approximately four blocks south of Imperial Beach Boulevard. There is an existing, un-engineered revetment on the western portion of the site that extends across the entire ocean frontage of the lot (approximately 40 feet).

2. Public Access, Recreation, and Shoreline Processes. The following policies of the certified City of Imperial Beach apply to the proposed project:

CO-1 The Beach

Imperial Beach has few industries and must, therefore, rely on the attraction of tourists for economic development. The beach area is most critical and the City should:

1. Designate the beach as open space.
2. Retain public ownership of the beaches.
3. Insure continued public access to beaches and, where possible, provide additional access, as well as increased public parking opportunities in the beach area (see Parks, Recreation and Access Element).
4. Require landscaping of properties near the beach area to attain a pleasant visual image.
5. Assure continued replenishment of sand.

P-1 Opportunities For All Ages, Incomes, and Life Styles

To fully utilize the natural advantages of Imperial Beach's location and climate, a variety of park and recreational opportunities for residents and visitors shall be provided for all ages, incomes and life styles.

This means that:

- a. The beach shall be free to the public.
- b. Recreational needs of children, teens, adults, persons with disabilities, elderly, visitors and others shall be accommodated to the extent resources and feasibility permit.
- c. City residents need mini-parks, neighborhood parks, community parks, activity centers, special use and all-purpose parks.
- d. The City should pursue increased recreational opportunities for the general public in the Tijuana Estuary, Borderfield State Park, the beach and the South San Diego Bayfront.

P-2 Ocean and Beach Are The Principal Resources

The ocean, beach and their environment are, and should continue to be, the principal recreation and visitor-serving feature in Imperial Beach. Oceanfront land shall be used for recreational and recreation-related uses whenever feasible.

GOAL 14 SHORELINE ACCESS

To provide physical and visual access in the City's five coastal resource areas for all segments of the population without creating a public safety concern, overburdening the City's public improvements, or causing substantial adverse impacts to adjacent private property owners.

GOAL 16 SHORELINE PROTECTION

To manage the City's shoreline in a way which enhances the shoreline environment while also providing recreational opportunities and property protection.

S-1 Technical Studies

No development should proceed until geo-technical investigations and recommendations are completed concerning potential soils, geologic, seismic and/or flood hazards and to determine which land uses (if any) are appropriate for the site, and to determine what measures could be undertaken to reduce risks to life and property.

S-10 Regulate Shoreline Land Use and Development

The City should regulate shoreline land use and development by:

- a) Minimizing construction on beaches and in front of seacliffs.
- b) Require setbacks from beaches and low-lying coastal areas.
- c) Regulate sand mining if some were to occur.

S-11 Storm Waves, Flooding and Seacliff Erosion

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, shoreline protection devices and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing principal structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Prior to completion of a comprehensive shoreline protection plan designed for the area, interim protection devices may be allowed provided such devices do not encroach seaward of a string line of similar devices. [...]

In addition, the following Coastal Act policies are applicable to the subject proposal, and state:

Section 30210

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

Section 30211

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

Section 30213

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

Section 30220

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

The need for shoreline protection has been well established along the shoreline in Imperial Beach, and rock revetment has been the established form of protection for existing structures in the southern portion of Imperial Beach for many years. However,

when reviewing projects for new development or additional riprap, the Commission has reviewed the need for any new rock, the impacts that new rock might have on public access and recreation, and potential alternatives to rock. In general, new development cannot be found consistent with the certified LCP or the public access and recreation policies of the Coastal Act if it would require the construction of shoreline protective devices of any form that would impact public beach access and recreation. Specifically, new development should not require the construction of shoreline protective devices on public beach. Additionally, all shoreline protection must be designed to have the least environmental impact and with any necessary mitigation provided.

The proposed project could adversely impact public beach access in several ways. The site is currently protected by an un-engineered revetment, a portion of which is located seaward of the western property line on public beach. The seaward addition could require additional rock located on public beach. Even if the existing revetment were adequate, the addition would reduce the amount of private area available to relocate the revetment or an alternative form of shoreline protection. However, the approved permit does not address the adequacy of the revetment to protect the existing structure or addition, or whether the addition might require additional rock on public beach. Nor does the approved permit address how the addition might effect the ability to relocate the revetment on private property in the future. Thus, construction of a seaward addition may not be consistent with the policies of the certified LCP and the public access and recreation policies of Chapter 3 of the Coastal Act.

Therefore, the Commission finds that that a substantial issue exists with respect to the project's consistency with the City's certified Local Coastal Program.

STAFF RECOMMENDATION ON THE COASTAL PERMIT

I. The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. A-6-IMB-00-187 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 certified Local Coastal Program and with the public access and 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.

II. Standard Conditions.

See attached page.

III. Special Conditions.

1. Final Surveyed Revetment Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT the applicant shall submit to the Executive Director for review and written approval, final revetment plans for the project site. Said plans shall be in substantial conformance with the site plan prepared by Algert Engineering, Inc., date stamped received 1/24/2001 and the revetment survey from 12/28/00 and Wave Runoff & Coastal Engineering Study by Skelly Engineering dated February 2001. The plans shall identify permanent bench marks from the property line or another fixed reference point from which the elevation and seaward limit of the revetment can be referenced for measurements in the future, and shall indicate the following:

- a. the seaward toe of the existing revetment at approximately 10 feet west of the eastern property line at an elevation of +6 feet Mean Sea Level (MSL);
- b. the top of the revetment at elevation +16.9 feet MSL.

2. Long-Term Monitoring Program. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director, a long-term monitoring plan for the existing shoreline protection. The purpose of the plan is to monitor and identify damage/changes to the revetment such that repair and maintenance is completed in a timely manner to avoid further encroachment of the revetment on the beach. The monitoring plan shall incorporate, but not be limited to,

- a. An evaluation of the current condition and performance of the revetment, addressing any migration or movement of rock which may have occurred on the site and any significant weathering or damage to the revetment that may adversely impact its future performance.
- b. Measurements taken from the benchmarks established in the survey as required in Special Condition #1 of CDP #A-6-IMB-00-187 to determine settling or seaward movement of the revetment and changes in the beach profile fronting the site.

- c. Recommendations on any necessary maintenance needs, changes or modifications to the revetment to assure its continued function and to assure no encroachment beyond the existing toe.

The above-cited monitoring information shall be summarized in a report prepared by a licensed engineer familiar with shoreline processes and submitted to the Executive Director for review and written approval. The report shall be submitted to the Executive Director and the City of Imperial Beach Engineering Department after each winter storm season but prior to May 1st of each year starting with May 1, 2002. Monitoring shall continue throughout the life of the revetment or until the revetment is removed or replaced under a separate coastal development permit.

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

3. Maintenance Activities. The permittee shall be responsible for the maintenance of the existing riprap revetment in its approved state, until such time as the revetment is relocated or removed under an approved coastal development permit. Based on the information and recommendations contained in the monitoring report required in Special Condition #3 of CDP #A-6-IMB-00-187 above, any stones or materials that become dislodged or any portion of the revetment that is determined to extend beyond the approved toe shall be removed from the beach. However, if it is determined that repair and/or maintenance to the revetment is necessary, the permittee shall contact the Commission office to determine whether an amendment to this permit is necessary.

4. Assumption of Risk. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, each applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that each applicant understands that the site may be subject to extraordinary hazard from bluff collapse and erosion and the applicant assumes the liability from such hazards; and (b) each applicant unconditionally waives any claim of liability on the part of the Commission or its successors in interest for damage from such hazards and agrees to indemnify and hold harmless the Commission, its officers, agents, and employees relative to the Commission's approval of the project for any damage due to natural hazards. 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 Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. Conditions Imposed By Local Government. This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act.

IV. Findings and Declarations

The Commission finds and declares as follows:

1. Project Description. The proposed project is construction of a 934 sq.ft. first story addition and an 837 sq.ft. second story addition to an existing approximately 1,728 sq.ft. two-story single-family residence on an oceanfront lot at 1404 Seacoast Drive in the City of Imperial Beach. Approximately 357 sq.ft. of the first story addition with a second story deck would be located seaward of the existing structure, resulting in the structure being located 12 feet closer to the western property line. The new structure would have a 35-foot setback, with a new patio set back 30 feet.

The site is located on the southernmost part of Imperial Beach, approximately four blocks south of Imperial Beach Boulevard. There is an existing, un-engineered revetment on the western portion of the site that extends across the entire ocean frontage of the lot (approximately 40 feet). The revetment also extends across the ocean frontage of the lots on the neighboring lots north and south of the subject site. A survey done on the revetment in December 2000 determined that the revetment extends approximately 10 feet west of the western property line onto public sandy beach, although some of the rock in this area is buried under sand much of the year.

After the City approved the project, the applicant had a wave runup and engineering study conducted for the site, at the Commission's request. The engineering survey performed on the site found that the rock is un-engineered, not locked-in-place, and lacks any kind of a geotextile filter fabric backing. The rock is estimated to have been in place for at least two decades. Commission records indicate that in 1986, violation files were opened on the subject site and the lot to the north and south, in response to the unpermitted placement of rock on the beach. The files indicate that the rock was most likely placed some years prior to that. Due to staffing limitations, the violations were placed on hold to be resolved at a future date or when the sites were redeveloped, and the rock has remained on the beach since then.

It appears at this time that all or some of the riprap on the site may have been placed without the benefit of a coastal development permit. Pending further investigation, the revetment may require a coastal development permit; relocation of the revetment onto private property would require a coastal development permit. The status of the revetment will be addressed under a separate enforcement action. Approval of the proposed development will not waive or in any way prejudice the Commission's ability to pursue enforcement action relating to unpermitted development on the site.

2. Shoreline Hazards/Public Access. As noted in the above findings for substantial issue, there are numerous policies in the certified LCP and the Coastal Act regarding the protection of public beaches and public access and recreation, which are herein incorporated by reference. In addition, Section 30604(c) of the Coastal Act requires that a specific access finding be made in conjunction with any development located between the sea and the first public roadway, indicating that the development is in conformity with the public access and public recreation policies of Chapter 3. In this case, such a finding can be made.

Construction of the proposed addition would not directly impact public beach; the engineering study done on the site determined that the existing revetment would be adequate to protect both the existing structure and the proposed addition without the revetment requiring any seaward supplementation.

However, the revetment is currently located partially on public beach, and, as noted above, it appears that all or some of the riprap on the site was placed without the benefit of a coastal development permit. The revetment may require a coastal development permit; and through this process, the revetment may be required to be relocated or replaced with a structure located entirely on private property. A seaward addition, therefore, could potentially limit the available area in which the revetment or other form of protection (such as a vertical seawall) could be relocated on the site.

It is difficult to address the revetment with this application, because the revetment functions as a single structure protecting not only the subject site but also adjacent lots to the north and south. Thus, any changes made to the revetment on the subject site could impact the adjacent properties. For example, if the revetment were relocated on the subject site only, the engineering study done on the site indicates that wave reflection could adversely impact the adjacent sites.

Addressing the revetment as a whole (by moving it inland or replacing it with a vertical seawall) would require joint action by all three property owners protected by the revetment, and obtaining a permit from the City of Imperial Beach. Therefore, the Commission is faced with delaying the subject application until the entire revetment on the site is addressed as a whole, or allowing the addition go forward, thereby potentially limiting the options for future relocation of the shoreline protection.

However, in the case of the proposed project, the Commission feels there is adequate assurance that the addition will not limit or constrain the future relocation or redesign of the shoreline protection, and that the revetment could be relocated. The applicant's engineer has submitted a sketch demonstrating that an engineered revetment could in fact be accommodated on the subject site with the proposed addition (Exhibit #6). There would be more than adequate room to construct a vertical seawall. The Commission's engineer has reviewed the sketch and engineering drawing and concurs that there is adequate space on the site to accommodate a revetment even with the proposed addition. Thus, in this particular case, allowing the addition to go forward would *not* preclude the relocation of shoreline protection on private property in the future.

In addition, the City of Imperial Beach is currently undertaking a study assessing the current state and need of shoreline protection along its entire coastline. The City anticipates that the study will lead to the adoption of a variety of policies regarding future and current shoreline protection that may include encouraging or requiring the relocation/replacement of unpermitted structures on public property to private property. Thus, it is likely that both the City and the Commission will be able to jointly address the status of the riprap at this site and others on Imperial Beach's shoreline in the near future.

Although the addition will not limit the options for relocating the shoreline protection in the future, the addition, like the existing residence, does currently depend on the existing revetment for storm protection. The engineering study submitted documents that the existing revetment is currently adequate to protect the proposed addition, and that no further seaward encroachment will be required in order to protect the addition. Thus, Special Conditions #1 and #2 have been added to ensure that the revetment does not migrate further onto public beach. Special Condition #1 requires the applicant to submit final plans documenting the height and extent of the revetment as tied into identified, stable monuments. With these plans, long-term annual monitoring required by Special Condition #2 will assess whether any additional beach encroachment occurs in the future. The monitoring will identify damage or changes to the revetment such that repair and maintenance can be completed in a timely manner to avoid further encroachment of the revetment on the beach. Special Condition #3 requires that the applicants maintain the existing revetment in its approved state, until the revetment can be removed or relocated under an approved coastal development permit.

Although the engineering study found that the existing revetment would protect the proposed addition, Special Condition #4 requires the applicant to execute an assumption of risk document, providing that the applicant understands the site is subject to hazards based on its location on the coast and that the applicant assumes the risk of developing the property. Special Condition #5 states that the conditions placed on the project by the City of Imperial Beach pursuant to an authority other than the Coastal Act remain in full force and effect.

In summary, the proposed addition would rely on an existing revetment, a portion of which is currently located on public property. However, the applicants have demonstrated that nothing in the proposed project to add on to the existing residence would preclude the replacement or relocation of the existing shoreline protection on the site. The revetment is adequate to protect the existing structure and the proposed addition. The Commission will continue to investigate the status of the revetment through a separate enforcement action. As conditioned to require annual monitoring and maintenance of the existing revetment, the proposed residential addition will not adversely impact public access or recreation. Therefore, as conditioned, the Commission finds the project consistent with the City of Imperial Beach Local Coastal Program and the public access and recreation policies of the Coastal Act.

3. No Waiver of Violation. Although some development may have taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the certified Local Coastal Program policies and the public access and recreation policies of the Coastal Act. Approval of the permit does not constitute a waiver of any legal action with regard to this violation of the Coastal Act that may have occurred; nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

4. California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, 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.

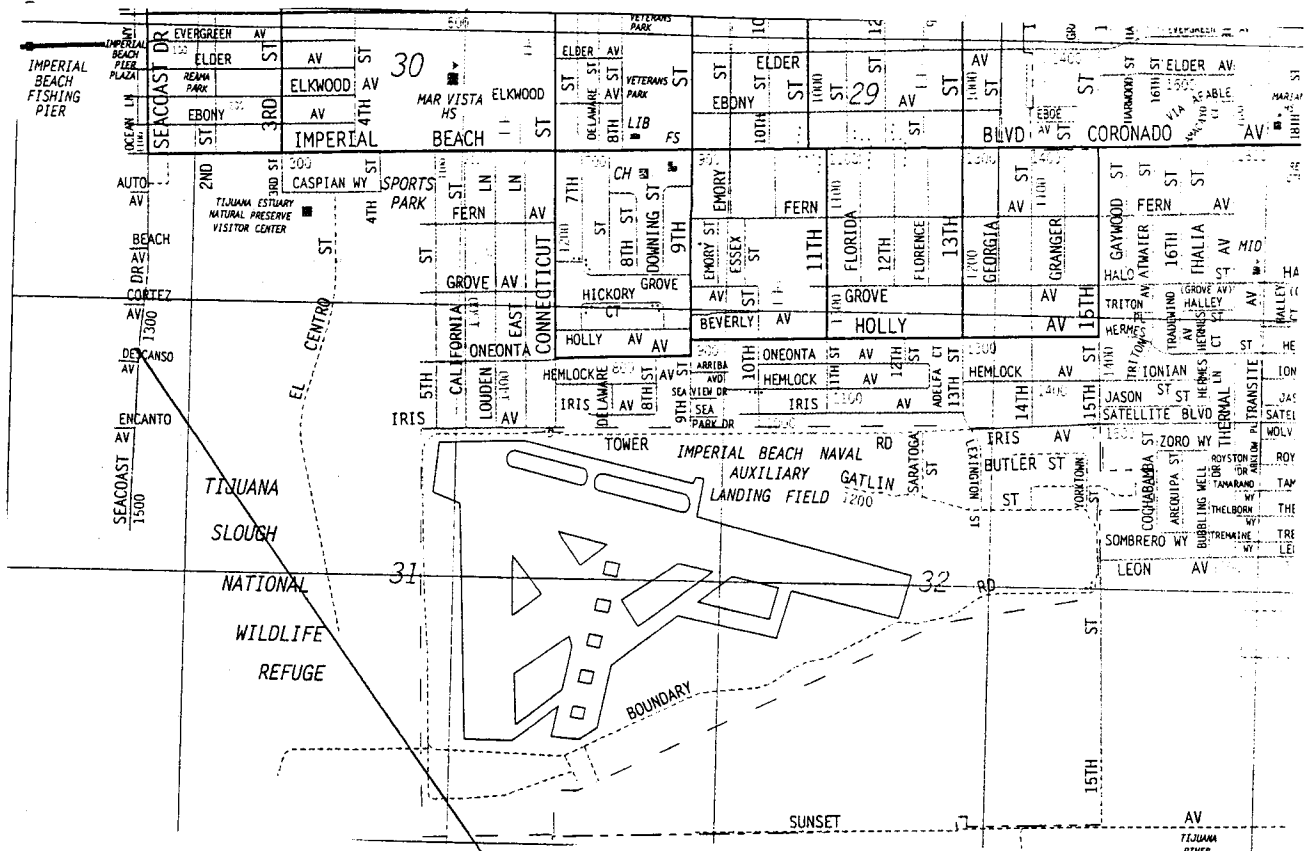
The proposed project has been conditioned in order to be found consistent with the shoreline protection and public access and recreation policies of the Coastal Act and the City of Imperial Beach certified LCP. Mitigation measures, including conditions requiring annual monitoring and maintenance of the revetment, will minimize all adverse environmental impacts. As conditioned, 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 is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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 permittee 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 or 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 permittee to bind all future owners and possessors of the subject property to the terms and conditions.

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Project Site

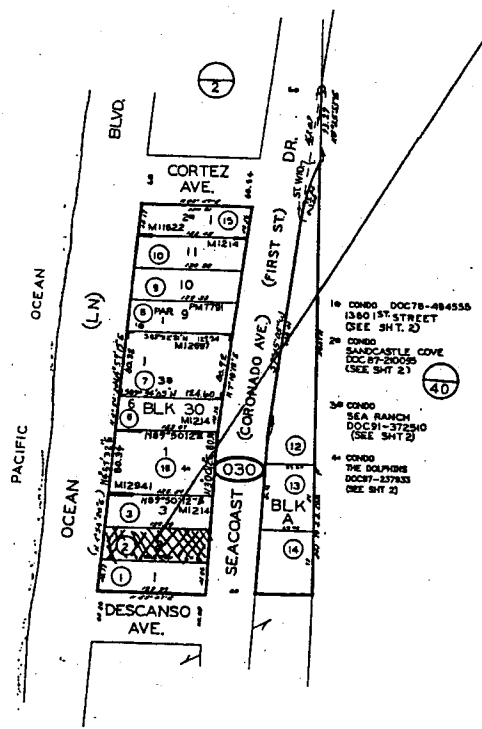


EXHIBIT NO. 1
 APPLICATION NO.
6-IMB-00-187
 Location Map

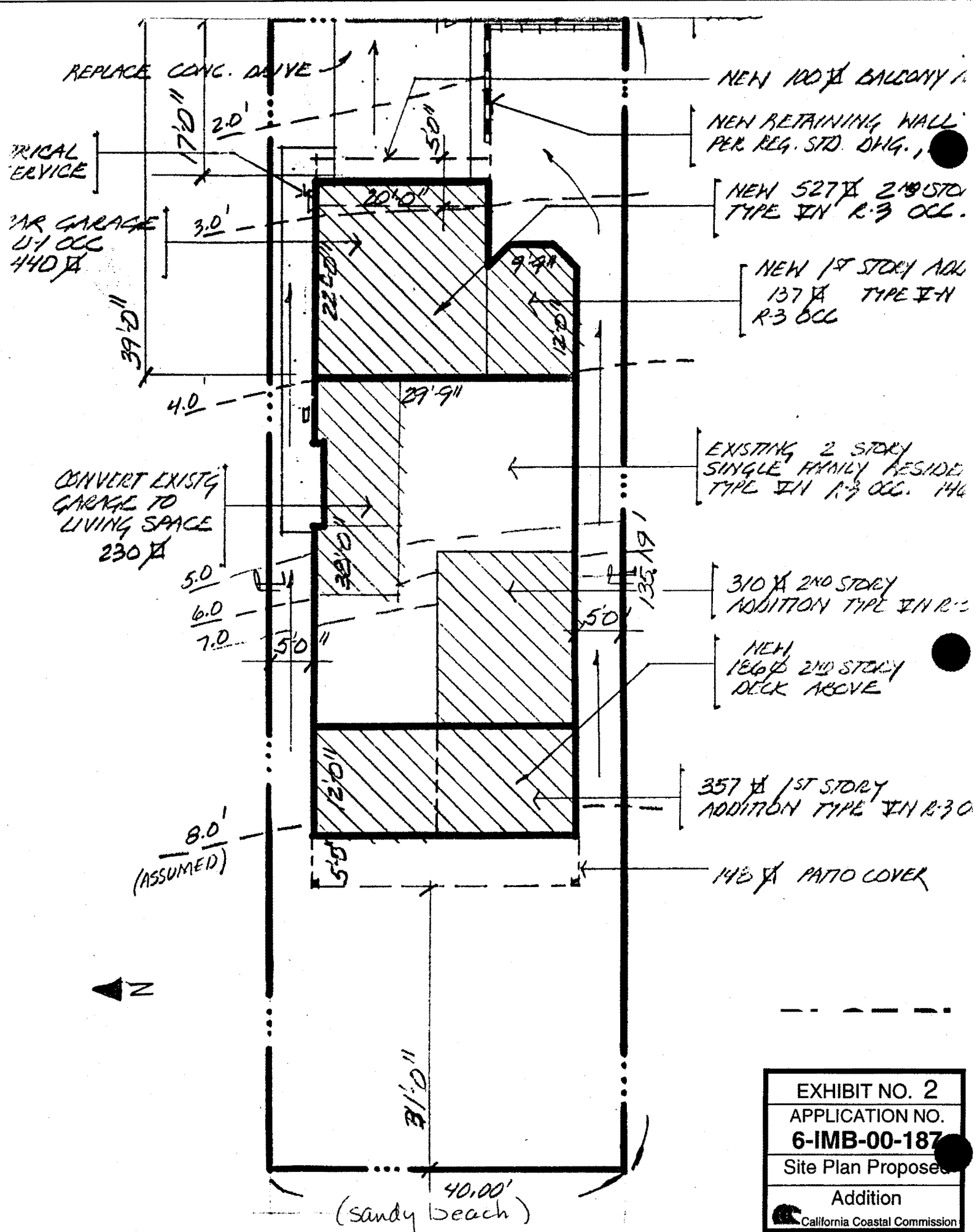


EXHIBIT NO. 2
 APPLICATION NO.
6-IMB-00-187
 Site Plan Proposed
 Addition
 California Coastal Commission



EXIST. 2-STORY
STUCCO APARTMENTS
CONDO
F.F. = 14.48

PATIO

38.3'

REVEMENT
(TCE)

SAND

EXISTING
BOULDERS

EXIST
WOOD DECK

ROOF OVERMAN
16' x 16'

EXIST. CONCRETE
PATIO

EXIST. 2-STORY
WOOD HOUSE
F.F. = 15.68

5'
12'
ROOF.
16' x 16'
ADDITION
PROPOSED

WALK

BRICK

WALK

SIDEWALK
CURB

41.1'

3.47

EXIST. 2-STORY
WOOD & STUCCO
APARTMENT/CONDO
F.F. = 14.35

WOOD
DECK

FH

WM


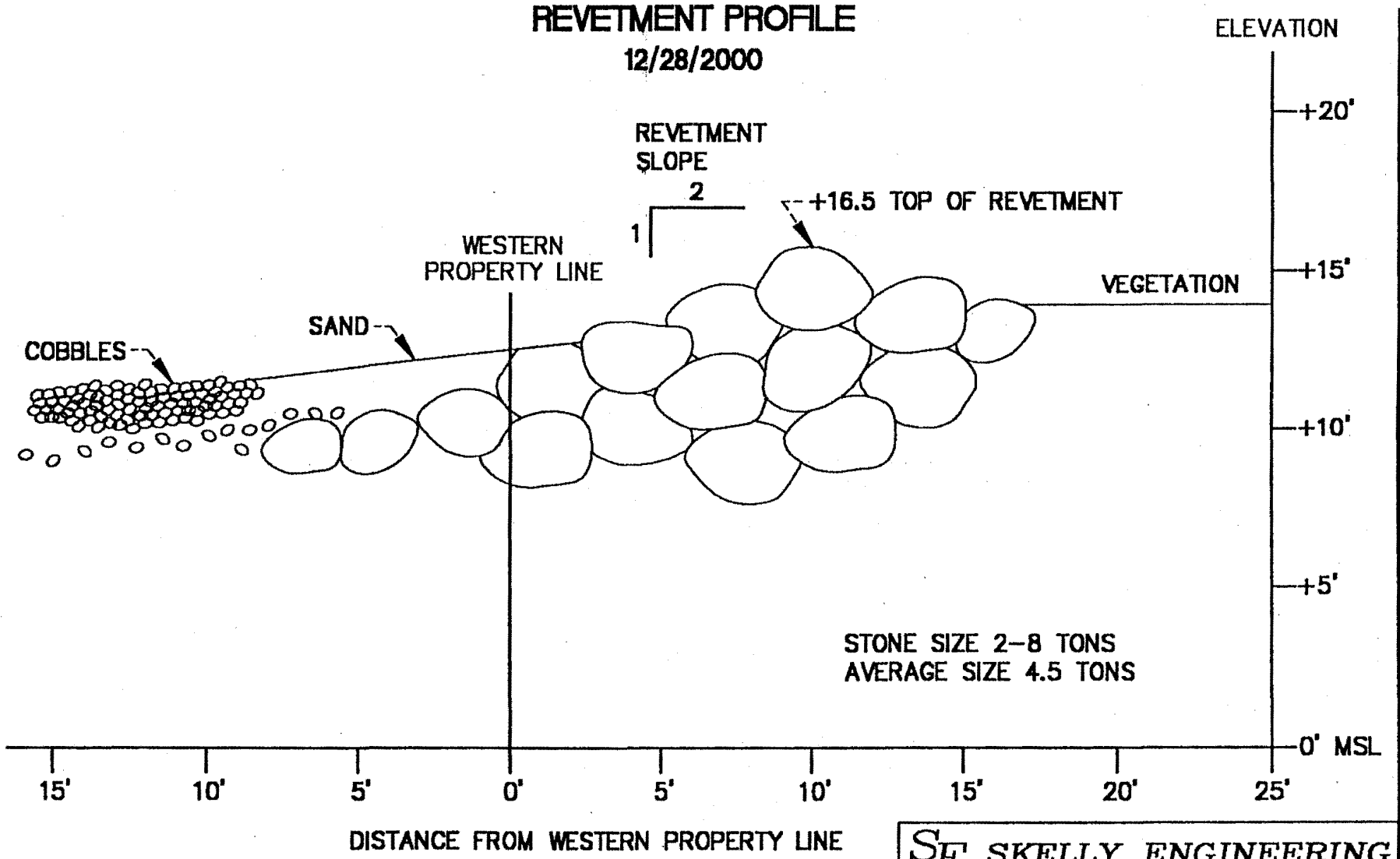
	EXHIBIT NO. 3
	APPLICATION NO.
	6-IMB-00-187
	Site Plan w/Existing
Revetment	
California Coastal Commission	

EXHIBIT NO. 4
 APPLICATION NO.
6-IMB-00-187
 Existing Revetment
 Cross-Section
 California Coastal Commission

FIGURE 1
1404 SEACOAST DRIVE
REVETMENT PROFILE
 12/28/2000



NOTE: DISTANCE AND ELEVATIONS BASED UPON SITE SURVEY BY

SE SKELLY ENGINEERING
 David W. Skelly MS, PE

(760) 942-8379 PHONE/FAX
 610 South Wilson Avenue, Suite 214B

RESOLUTION NO. 2000-5343

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA APPROVING DESIGN REVIEW (DRC 00-15) AND REGULAR COASTAL DEVELOPMENT PERMIT (CP 00-11) FOR THE REMODEL AND CONSTRUCTION OF A 2,200 SQUARE FOOT ADDITION TO AN EXISTING 1,728 SQUARE FOOT SINGLE-FAMILY DWELLING UNIT ON A 5,426 SQUARE FOOT PARCEL. THE PROJECT SITE IS LOCATED AT 1404 SEACOAST DRIVE BETWEEN DESCANSO AVENUE AND CORTEZ AVENUE IN THE R-1500 HIGH DENSITY RESIDENTIAL ZONE. LOCATION: 1404 SEACOAST DRIVE.

APPLICANT: ROBERT AND JOYCE SHEPARD

WHEREAS, on November 1, 2000, the City Council of the City of Imperial Beach held a duly noticed public meeting to consider the merits of approving or denying an application for Design Review (DRC 00-15) and Regular Coastal Development Permit (CP 00-11), for the remodel and construction of a 2,200 square foot addition to an existing 1,728 square foot single-family dwelling unit on a 5,426 square foot parcel. The project site is located at 1404 Seacoast Drive between Descanso Avenue and Cortez Avenue in the R-1500 High Density Residential Zone; and

WHEREAS, this project is subject to Design Review (DRC 00-15) pursuant to Section 19.83.020.A.1.f of the City of Imperial Beach Municipal Code; and

WHEREAS, on September 25, 2000, the Design Review Board reviewed and adopted DRB Resolution No. 00-14 approving the project design subject to conditions of approval included herein by reference; and

WHEREAS, this project requires a Regular Coastal Development Permit (CP 00-11) because the project is located within the established coastal zone in Imperial Beach, in accordance with Section 19.87.010; and

WHEREAS, pursuant to an initial environmental assessment per the requirements of the California Environmental Quality Act (CEQA), it was determined that the project is exempt from CEQA provisions because the project is considered a new construction or conversion of a small structure in accordance with CEQA Guidelines section 15303; and

WHEREAS, at the close of said meeting on November 1, 2000, a motion was duly made and seconded to approve an application for Design Review (DRC 00-15) and Regular Coastal Development Permit (CP 00-11), for the remodel and construction of a 2,200 square foot addition to an existing 1,728 square foot single-family dwelling unit on a 5,426 square foot parcel. The project site is located on at 1404 Seacoast Drive between Descanso Avenue and Cortez Avenue in the R-1500 High Density Residential Zone.

EXHIBIT NO. 5
APPLICATION NO.
6-IMB-00-187
City Resolution
Of Approval
 California Coastal Commission

Coastal Permit Findings

1. The proposed development conforms to the Certified Local Coastal Plan including Coastal Land Use Policies.

The project is subject to compliance with the zoning standards per Section 19.17 of the City of Imperial Beach Municipal Code, titled "R-1500 High Density Residential Zone" which provides for the development of "detached and attached single-family and multi-family dwellings in an intense residential living environment." The project meets all of the development standards in the R-1500 including floor-area ratio (63%) and lot coverage (37%) and "average of the block" front yard setback per Section 19.54.060 of the Zoning Code. The project does not impact any beach lands nor does impact any public beach access or scenic views beyond impacts of the existing home.

This project does not impact any existing or planned vertical or lateral beach access. The City of Imperial Beach has approximately 17,600 feet of shoreline, approximately 12,000 feet or 68% of which is either publicly owned or has direct vertical or lateral access. This includes 6,000 linear feet of sandy beach owned by the State of California within the Border Field State Park in the extreme southwest corner of the City. In addition, there are 11 beach street ends that have been or will be re-surfaced and enhanced. The view of beach from Seacoast Drive will not be significantly altered by the project because it is an addition to an existing structure and it meets the setback and height restrictions in the Code.

2. For all development seaward of the nearest public highway to the shoreline, the proposed development meets standards for public access and recreation of Chapter Three of the 1976 Coastal Act and regulations promulgated thereunder.

The subject site is located between the ocean and the first public road, which, in this case, is Seacoast Drive. The project is in conformity with the public access in the certified Local Coastal Program and Chapter 3 of the Coastal Act as stated above in Finding #1.

3. The proposed development meets the minimum relevant criteria set forth in Title 19, Zoning.

The project is subject to compliance with the zoning standards per Section 19.17 of the City of Imperial Beach Municipal Code, titled "R-1500 High Density Residential Zone" which provides for the development of "detached and attached single-family and multi-family dwellings in an intense residential living environment." The project meets all of the development standards in the R-1500 including floor-area ratio (63%) and lot coverage (37%) and "average of the block" front yard setback per Section 19.54.060 of the Zoning Code. This section allows the mean average of existing setbacks for all developed lots on the block to be used in lieu of the required

20-foot garage setback. There are several properties on the block between Descanso Avenue and Cortez Avenue with a front setback of less than 20 feet. The mean average of front setback on the block is just below 13 feet, and the improvements on the immediately adjacent properties are set back 12'-5" and 22', respectively, to the north and south. This project, which proposes a setback of 17.0 feet, conforms to this requirement. This approval is conditioned that alteration of this structure in the future will require removal of that portion that is set back less than 20 feet.

4. **For all development involving the construction of a shoreline protective device, a mitigation fee shall be collected which shall be used for beach sand replenishment purposes. The mitigation fee shall be deposited in an interest bearing account designated by the Executive Director of the California Coastal Commission and the City Manager of the City of Imperial Beach in lieu of providing sand to replace the sand and beach area that would be lost due to the impacts of any protective structures.**

The project does not include the construction of a seawall or shoreline protective device.

Design Review:

The project is consistent with the Design Element and Design Review Guidelines per Design Review Board Resolution No. 00-13, adopted by the Design Review Board of the City of Imperial Beach on September 25, 2000, and which findings and conditions of approval are incorporated by reference herein.

CONDITIONS OF APPROVAL

SITE DEVELOPMENT

1. Reduction of the front yard setback for the garage is approved. This approval is limited to the garage as proposed in this application. Future demolition of the garage, or alteration of the garage or conversion to a different use will invalidate this approval and those portions of the structure that is set back less than 20 feet from Seacoast Drive shall be removed.
2. The existing wood fence in the front yard shall be replaced with a decorative fence with transparent panels in conformance with current fence height standards.
3. The site shall be developed in accordance with the approved site plans on file in the Community Development Department and the conditions contained herein.
4. Building permit plans shall specify the location and type of all exterior lighting, and shall conform to the requirements of Chapter 19.56 of the Municipal Code.
5. Mechanical equipment, including solar collectors and panels or other utility hardware on the

roof, ground, or buildings shall be screened from public view with materials harmonious with the building, and shall be located so as not to be visible from any public way. (19.83)

6. The applicant shall pay development fees at the established rate prior to the issuance of building permits. Such fees may include but not be limited to:
 - Permit and Plan Checking Fees
 - School Fees
 - Water Fees
 - Construction fees
7. The applicant shall, during construction, store any roll-off bins on the site. If this is not possible, an Encroachment Permit shall be obtained from the Building Division prior to the issuance of a building permit, to place any roll-off bins in the public right-of-way. The Encroachment Permit will contain the following conditions:
 - The roll-off bin shall not contain debris past the rim, and shall be emptied regularly to prevent this.
 - The area around the bin shall be kept free and clear of debris.
 - The bin shall have reflectors for observation at night.
9. Prior to the issuance of a building permit, a soils report shall be prepared by a qualified engineer licensed by the State of California to perform such work.
10. Construct driveway approach on Seacoast Drive in accordance with Regional Standard Drawings G-14A attached. Current driveway is not compliant with Regional Standard Drawings.
11. For any work to be performed in the street or alley, submit a traffic control plan for approval by Public Works Director a minimum of 5 working days in advance of street work. Traffic control plan is to be per CALTRANS Traffic Manual.
12. All street work construction requires a Class B contractor to perform the work. Street repairs must achieve 90% sub soil compaction. Asphalt repair must be a minimum of four- (4) inch thick asphalt to be placed at street trench. Asphalt shall be AR4000 ½ mix (hot).
13. Require the building foundation elevation be at least 1 foot above curb line to minimize flooding during storm conditions.
14. Install survey monument on southeast property line in sidewalk. Record same with county office of records.
15. Recommend all utilities be located underground in accordance with I.B.M.C. 13.08.060.
16. Ensure construction design includes adequate storage (out of the front yard setback) for 3 trash barrels for each unit (regular trash, recycled waste, and green waste).

17. Advise the property owner that he/she must institute "Best Management Practices" to prevent contamination of storm drains and/or ground water. These practices include but are not limited to:
- ◆ Contain all construction water used in conjunction with the construction. Contained construction water is to be properly disposed in accordance with Federal, State and City statutes, regulations and ordinances.
 - ◆ All recyclable construction waste must be properly recycled and not disposed in the landfill.
 - ◆ Water used on site must be prevented from entering the storm drain conveyance system (i.e. streets, gutters, alley, storm drain ditches, storm drain pipes).
 - ◆ All wastewater resulting from cleaning construction tools and equipment must be contained on site and properly disposed in accordance with Federal, State, and City statutes, regulations, and ordinances.
 - ◆ Erosion control - All sediment on the construction site must be contained on the construction site and not permitted to enter the storm drain conveyance system.
18. Advise the property owner that any disposal/transportation of solid waste / construction waste in roll off containers must be contracted through EDCO Disposal Corporation unless the hauling capability exists integral to the prime contractor performing the work.

MISCELLANEOUS

19. The applicant shall obtain all necessary easements prior to construction.
20. The applicant has determined that alteration or improvements to the existing shore protection are not necessary. The applicant shall not object in the future to the creation of an assessment district in the future for the purpose of construction of shore protection improvements.
21. Approval of Design Review (DRC 00-15) and Regular Coastal Permit (CP 00-11) for the remodel and construction of a 2,200 square foot addition to an existing 1,728 square foot single-family dwelling unit located at 1404 Seacoast Drive between Descanso Avenue and Cortez Avenue in the R-1500 High Density Residential Zone is hereby valid one year from the date of final action, to expire on November 1, 2001, unless an appeal is filed to or by the California Coastal Commission. Any such appeal will stay the expiration date until the case is resolved. In the event that no appeal is filed, conditions of approval must be satisfied, building permits issued, and substantial construction must have commenced prior to November 1, 2001.
22. The applicant or applicant's representative shall read, understand, and accept the conditions listed herein and shall, within 30 days, return a signed statement accepting said conditions.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Imperial Beach that Design Review (DRC 00-15) and Regular Coastal Permit (CP 00-11) for the remodel and construction of a 2,200 square foot addition to an existing 1,728 square foot single-family dwelling located on at 1404 Seacoast Drive between Descanso Avenue and Cortez Avenue in the R-1500 High Density Residential Zone is hereby approved, and directs the City Clerk to record the

Resolution with the County Recorder following the expiration of the California Coastal Commission's appeal period if no appeal is filed.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Imperial Beach at its regular meeting held this 1st day of November 2000, by the following roll call vote:

AYES: COUNCILMEMBERS: ROSE, WINTER, BENDA, MALCOLM, MCCOY
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

Diane Rose
DIANE ROSE, MAYOR

ATTEST:

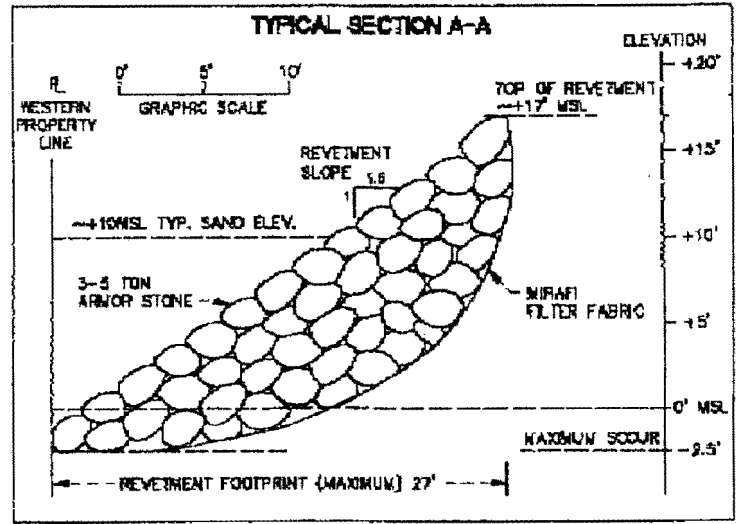
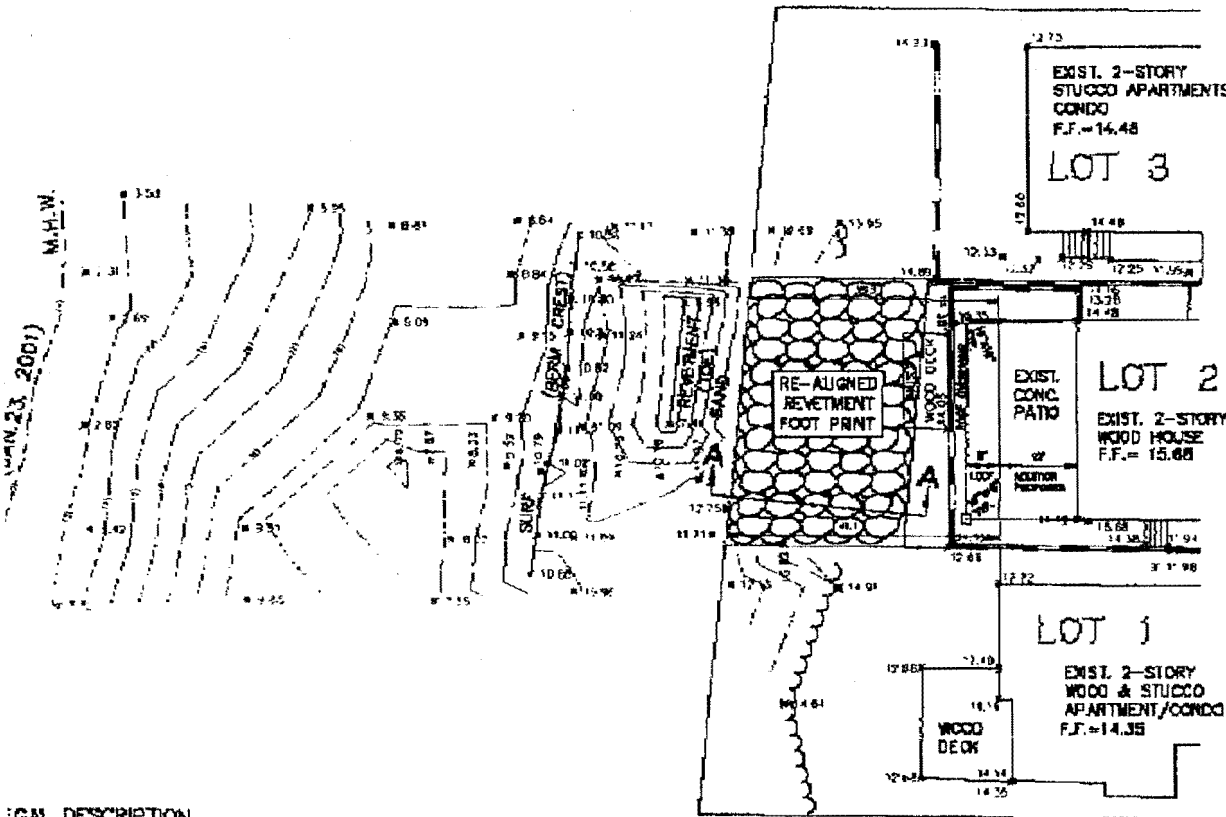
Linda Troyan
LINDA A. TROYAN,
CITY CLERK

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be a true and exact copy of Resolution No. 2000-5211, APPROVING SITE PLAN REVIEW (SPR 99-07), DESIGN REVIEW (DRC 99-11), REGULAR COASTAL DEVELOPMENT PERMIT (CP 99-08), NEGATIVE DECLARATION (EIA 99-15) AND TENTATIVE MAP/SUBDIVISION MAP (TM/SUB 99-01) FOR THE CONSTRUCTION OF A SIX-UNIT RESIDENTIAL CONDOMINIUM BUILDING COMPRISED OF TWO STORIES ABOVE SUBTERRANEAN GARAGE PARKING FOR TWELVE CARS, WITH VERTICAL SHORE PROTECTION ON A 9,000 SQUARE FOOT OCEANFRONT SITE LOCATED AT 1014-1024 OCEAN LANE, IN THE HIGH DENSITY RESIDENTIAL/MIXED-USE OVERLAY (R-1500/MU-2) ZONE.

Linda Troyan
CITY CLERK

11-3-00
DATE

EXHIBIT NO. 6
APPLICATION NO.
6-IMB-00-187
 Revetment Relocated
 On Private Property
 California Coastal Commission

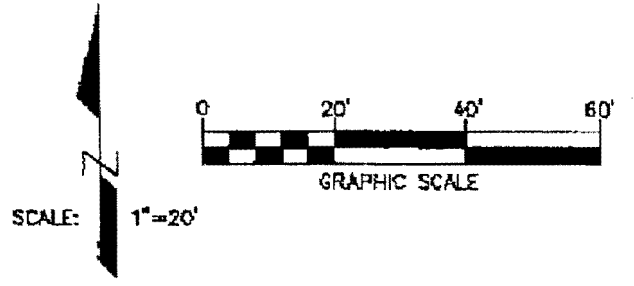


SE SKELLY ENGINEERING
 David W. Skelly MS, PE
 This schematic has been prepared in express response to California Coastal Commission staff's advice that the permit review (SA-9-IMB-00-187) will not go forward without it. The schematic is not intended for use in any other permit appeal or enforcement proceeding. This schematic is not suitable for construction.

GENERAL DESCRIPTION
 LOT 2, BLOCK 30, MAP 1214, IMPERIAL BEACH EXTENSION NO. 1, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON JULY 9, 1998.

OWNER
 28 SHEPARD
 28 THIRD AVENUE S-305
 ALA VISTA, CA 91910

DESIGN PREPARED BY
ALBERT ENGINEERING, INC.
 600 UNIVERSITY
 OAKLAND, CA 94612
 TEL: (916) 434-4000
 FAX: (916) 434-4100



1404 SEACOAST DRIVE
REALIGNED REVETMENT

SE SKELLY ENGINEERING
 David W. Skelly MS, PE
 Coastal Engineer
 (760) 942-8379
 PHONE/FAX
 619 South Nixon Avenue, Suite 214B
 Encinitas, CA 92024



CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Commissioner Sara Wan
Mailing Address: 22350 Carbon Mesa Road
Malibu, CA 90265
Phone Number: (310) 456-6605

SECTION II. Decision Being Appealed

1. Name of local/port government: Imperial Beach
2. Brief description of development being appealed: Construction of a 934 sq.ft. first story addition and a 837 sq.ft. second story addition to an existing approximately 1,728 sq.ft. two-story single-family residence on an oceanfront lot. Project includes a seaward addition to the existing structure.
3. Development's location (street address, assessor's parcel no., cross street, etc.):
1404 Seacoast Drive, Imperial Beach. APN 632-030-02
4. Description of decision being appealed:
 - a. Approval; no special conditions:
 - b. Approval with special conditions:
 - 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-6-IMB-00-187DATE FILED: November 29, 2000DISTRICT: San Diego

EXHIBIT NO. 7
APPLICATION NO. 6-00-IMB-187
Commission
Appeals
California Coastal Commission

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. Planning Commission
- b. City Council/Board of Supervisors d. Other

Date of local government's decision: November 1, 2000

Local government's file number (if any): CP 00-11

SECTION III. Identification of Other Interested Persons

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

Name and mailing address of permit applicant:

Robert and Joyce Shepard
5 Spinnaker Way
Coronado, CA 92118

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.

Don Hall
709 Seacoast Drive #3
Imperial Beach, CA 91932

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 Appendix A, attached

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: *Lois Allen*
Appellant or Agent

Date: 11/29/00

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

Signed: _____

Date: _____

Shepard Appeal
Appendix A

The coastal development permit approved by the City of Imperial Beach allows for construction of a 934 sq.ft. first story addition and an 837 sq.ft. second story addition to an existing approximately 1,728 sq.ft. two-story single-family residence on an oceanfront lot at 1404 Seacoast Drive. Approximately 357 sq.ft. of the first story addition with a second story deck would be located seaward of the existing structure, resulting in the structure being located 12 feet closer to the western property line. The new structure would have a 45-foot setback, with a new patio setback 40 feet.

As approved, the project appears to be inconsistent with several policies of the certified Local Coastal Program (LCP), as well as with the public access and recreation policies of the Coastal Act.

Policy S-1 states that "No development should proceed until geo-technical investigations and recommendations are completed concerning potential...geologic...and/or flood hazards and to determine which land uses (if any) are appropriate for the site, and to determine what measures could be undertaken to reduce risks to life and property."

There is currently riprap located seaward of the existing structure. However, the City did not review the legality of the existing shoreline protection on the site, and did not require a geotechnical investigation of the adequacy of the existing riprap to protect the existing structure, or the potential need to supplement the riprap to protect the proposed addition, inconsistent with Policy S-1. Additionally, the City did not examine the location and seaward extent of the existing rock in relation to the western property line.

Policy S-10 states that:

The City should regulate shoreline land use and development by:

- a) Minimizing construction on beaches and in front of seacliffs.
- b) Require setbacks from beaches and low lying coastal areas.

[...]

The City did not assess the adequacy of the existing or the proposed setback from the sandy beach currently used by the public. The setback should be sufficient either to avoid the need for additional rock or to accommodate alternative protection which would reduce beach encroachment.

The project is potentially inconsistent with the public access and recreation policies of the Coastal Act because the project could result in the need for additional shoreline protection on the public beach to protect the proposed addition. Additional shoreline protection, if it extended seaward of the existing rock would directly impact public access and recreational opportunities, as well as increase sand scour in front of the subject site. An alternative form of protection, such as a vertical seawall, realignment of the rock further inland could reduce such impacts. A geotechnical investigation is required by the LCP to assess present and future requirements for shoreline protection for both the existing structure and proposed improvements.

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Commissioner Pedro Nava
Mailing Address: Huskinson, Brown & Nava
1231 State Street, Suite 200
Santa Barbara, CA 93101
Phone Number: (805) 966-7223

SECTION II. Decision Being Appealed

1. Name of local/port government: Imperial Beach
2. Brief description of development being appealed: Construction of a 934 sq.ft. first story addition and a 837 sq.ft. second story addition to an existing approximately 1,728 sq.ft. two-story single-family residence on an oceanfront lot. Project includes a seaward addition to the existing structure.
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TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-IMB-00-187

DATE FILED: November 29, 2000

DISTRICT: San Diego

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 2

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

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- b. City Council/Board of Supervisors
- c. Planning Commission
- d. Other

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

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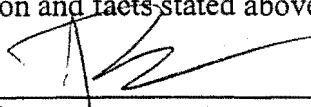
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The information and facts stated above are correct to the best of my/our knowledge.

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Appellant or Agent

Date: 11/29/00

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

Signed: _____

Date: _____

Shepard Appeal
Appendix A

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[...]

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The project is potentially inconsistent with the public access and recreation policies of the Coastal Act because the project could result in the need for additional shoreline protection on the public beach to protect the proposed addition. Additional shoreline protection, if it extended seaward of the existing rock would directly impact public access and recreational opportunities, as well as increase sand scour in front of the subject site. An alternative form of protection, such as a vertical seawall, realignment of the rock further inland could reduce such impacts. A geotechnical investigation is required by the LCP to assess present and future requirements for shoreline protection for both the existing structure and proposed improvements.

