

Item Fr 8g

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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VENTURA, CA 93001
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STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-00-241

APPLICANT: Suncal Mandalay LLC **AGENT:** Culbertson, Adams & Assoc.

PROJECT LOCATION: South of Wooley Road and east of Reliant Energy Canal,
Oxnard, Ventura County

PROJECT DESCRIPTION: Improvements to approximately 1,020 linear feet of the Reliant Energy Canal and to an existing tributary east-west channel to provide for navigation and boating facilities, including removal of temporary earthen dike, creation of entrance channel, construction of boat turning basin, riprap slope protection, bulkheads, storm drain energy dissipator, 51,800 cu. yds. of wet excavation, removal of 0.24-acres of mudflat habitat and 0.11-acres of saltmarsh, and implementation of mitigation plan including 0.48-acres of created mudflat and 0.44-acres of enhanced/restored saltmarsh.

LOCAL APPROVALS RECEIVED: City of Oxnard Coastal Development Permit PZ 99-5-61

SUBSTANTIVE FILE DOCUMENTS: City of Oxnard Local Coastal Program, City of Oxnard Coastal Development Permit PZ 99-5-61 and Tentative Subdivision Map PZ 99-5-62, Permit A-4-OXN-00-172 (Suncal), Geotechnical Site Investigation, dated 3/16/99, prepared by Gorian and Associates, Inc., Draft Index of Habitat Quality, Draft On-site Mitigation Plan, both dated December 2000, prepared by Impact Sciences, Inc.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the proposed project with Special Conditions regarding the preparation and implementation of a wetland mitigation plan, geologic consultant's review and approval of final plans, and water quality management plan. The proposed project includes dredging in wetlands and open coastal waters. The project is consistent with the allowable uses for such areas, and includes mitigation measures to minimize adverse environmental effects, as required by Section 30233 of the Coastal Act. As conditioned, the proposed project will minimize impacts to water quality, consistent with Section 30231 of the Coastal Act. Finally, the project will minimize hazards, as required by Section 30253 of the Coastal Act, as conditioned.

STAFF RECOMMENDATION:

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-00-241 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 Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. 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

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.

III. Special Conditions

1. Mitigation Plan.

The applicant shall implement all restoration measures necessary to create and/or enhance 0.48-acre of mudflat habitat and 0.44-acre of saltmarsh habitat, as enumerated in the On-site Mitigation Plan, prepared by Impact Sciences, Inc., dated December 2000.

Prior to issuance of the permit, the applicant shall submit, for the review and approval of the Executive Director, a planting plan, prepared by a qualified biologist or resource specialist, showing details regarding the types, sizes, and location of plants to be placed within the mitigation area. The plantings shall be sufficient to establish ninety (90) percent cover within five (5) years.

The applicant shall retain a qualified biologist, or other resource specialist to monitor the mudflat and saltmarsh restoration for a period of five (5) years minimum. An annual monitoring report on the restoration area shall be submitted for the review and approval of the Executive Director for each of the five years. If replacement plantings are required, the applicant shall submit, for the review and approval of the Executive Director, a replacement planting program, prepared by a qualified biologist, or other resource specialist, which specifies replacement plant locations, size, planting specifications, and a monitoring program to ensure that the replacement planting program is successful

2. Construction Phase Erosion and Sediment Runoff Control Plan.

The applicant shall implement the Storm Water Pollution Prevention Plan for Site General Construction, prepared by Jensen Design and Survey, Inc., dated July 2001. All provisions and measures contained in this plan shall be implemented on the project site throughout the construction of the project.

3. Water Quality Management Plan.

The applicant shall implement the Water Quality Management Plan, prepared by Jensen Design and Survey, dated May 2001. The applicant, or his successors or assigns shall distribute the Water Quality Management Plan to all purchasers of lots or homes with boat dock easement rights, as well as to all lessees of public boat docks. The plan shall also be made available to transient users of the public boat docks. Informative signage describing and/or depicting Best Management Practices for

maintenance of boats & boating facilities consistent with those specified herein shall be posted conspicuously.

4. Plans Conforming to Geologic Recommendations.

- (a) All recommendations contained in the Geotechnical Site Investigation, dated 3/16/99, prepared by Gorian and Associates, Inc. shall be incorporated into all final design and construction including recommendations concerning site preparation, grading, subdrainage, foundations, retaining walls, bulkheads, revetments, and drainage. All plans must be reviewed and approved by the geotechnical consultants. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval of the Executive Director, evidence of the consultants' review and approval of all project plans. Such evidence shall include affixation of the consulting geologists' stamp and signature to the final project plans and designs.
- (b) The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal permit. The Executive Director shall determine whether required changes are "substantial."

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description.

The proposed project site is located within and adjacent to the Reliant Energy Canal (formally the Edison Canal), a man-made waterway that extends from the ocean, through Channel Islands Harbor northward to the Reliant Energy Plant at Mandalay Beach, providing the cooling water intake for the plant (Exhibit 1). The applicant proposes improvements to approximately 1,020 linear feet of the Reliant Energy Canal and to an existing tributary east-west channel to provide for navigation and boating facilities. As described in greater detail below, the improvements proposed herein are part of a larger project previously approved by the Commission on appeal of a City of Oxnard coastal development permit [4-OXN-00-172 (SuncaI)]. The proposed project area is subject to the retained permit jurisdiction of the Commission given its location on tidelands, submerged lands, or public trust lands (§30519b).

The subject project includes the removal of a temporary earthen dike (38,130 cu. yds. of wet excavation) that forms the northern bank of the existing east-west trending "Harbour Island" channel and an approximately 180-foot long portion of the existing Reliant Energy Canal bank (along the eastern bank). The unnamed channel was

created to provide boating access for the "Harbour Island" condominium development (existing just south of the project site).

The Commission has previously approved in Permit A-4-00-172 (Suncal) the dry excavation of a channel parallel to the "Harbour Island" channel on the subject site. With the removal of the temporary dike and Reliant Energy Canal bank proposed herein, the channel would be effectively doubled in width to provide access to the approved boating facilities. Rip-rap slope protection will be used to retain the northern bank of this larger channel.

Additionally, the proposed development includes the removal of a portion of the eastern bank of the Reliant Energy Canal (13, 670 cu. yds. of wet excavation), and placement of vertical bulkheads to create a boat turning basin accessed from the Reliant Energy Canal. The Commission has previously approved in Permit A-4-00-172 (Suncal) the dry excavation and construction of bulkheads on the upper area of the boat turning basin as well as the creation of up to seven private boat docks serving adjacent single family residences.

An existing trashrack which spans the canal is proposed to be relocated north from its existing location near the intersection of the Reliant Energy Canal and the tributary canal to a new location north of the proposed boat turning basin. A riprap energy dissipator is proposed to be installed on the slope of the canal where a storm drain will exit the project near the northern edge of the development.

The applicant proposes, as part of the project, to provide mitigation for the loss of mudflat (0.24-acre) and saltmarsh (0.11-acre) habitat areas resulting from the proposed modifications to the Reliant Energy Canal. A 400-foot long mudflat habitat area is proposed to be created just north of the proposed boat basin, utilizing riprap slope protection to create mudflat. Additionally, saltmarsh habitat is proposed to be enhanced or created along the remainder of the east bank of the canal that fronts the applicant's property (approximately 1,364 feet). The applicant's mitigation plan proposes the removal of non-native vegetation and seed-bank along the canal, planting pickleweed within the saltmarsh areas, and planting appropriate upland scrub species above the saltmarsh areas of the slope. Finally, the applicant proposes to create a small mudflat area within the park located at the northwest corner of the site. The total mitigation area will encompass 0.48-acre of mudflat habitat and 0.44-acre of salt marsh habitat.

The proposed project site consists of a portion of three parcels (totaling 58.3-acres) owned by the applicant, as well a portion of a parcel (canal) owned by the Reliant Energy Company. The applicant has submitted evidence of an agreement with Reliant Energy to provide an easement that allows the development of the proposed project on those areas not owned by the applicant. Additionally, Reliant Energy has submitted a letter declining to be a co-applicant on the permit application considered herein.

The Westport project, including the modifications to the Reliant Energy Canal, has received approval from the Regional Water Quality Control Board, California Department of Fish and Game, and a permit is pending from the U. S. Army Corps of Engineers. Additionally, the project has been reviewed by the State Lands Commission and it does not assert title interests.

B. Background.

The proposed project site is the subject of recent Commission action. The majority of the project site is within the permit jurisdiction of the City of Oxnard. On July 18, 2000, the Oxnard City Council approved a coastal development permit (PZ 99-5-61) and an associated tentative subdivision map (PZ 99-5-62) for development of the Westport at Mandalay Bay project. Commissioners Wan and Estolano filed an appeal of the City's action, during the appeal period, on August 1, 2000. On November 16, 2000, the Commission found that Appeal No. A-4-OXN-00-172 presented a substantial issue with respect to the grounds on which the appeal was filed. On April 12, 2001, the Commission considered the project (as revised by the applicant subsequent to the City's permit) de novo, approving the permit subject to 15 special conditions. The approved project includes:

- Removal of 132,390 cu. yds. of prime agricultural soil from the project site; transfer of this soil to an approved recipient site, and implementation of an Agricultural Monitoring Program for a period of ten years to monitor success of prime soil transfer;
- Creation of channels and waterways and construction of pads and roads , including the following quantities of grading:

Channel Excavation cut: wet 257,000 cu. yds., and dry 225,000 cu. yds.
Site fill (to replace agricultural soil transfer): 142,000 cu. yds.

- Land division of three existing parcels (45.28-acres, 8.2-acres, and 5.02-acres) into 116 lots (95 single family lots, 17 duplex lots, 2 townhouse lots, and 2 "mixed use" lots);
- Construction of 96 single family residences (82 with private boat dock easements), 34 residential duplex units, 88 townhouses;
- Construction of a mixed-use development with 88 multi-family residential units, 22,000 sq. ft. of commercial uses, and 382 parking spaces; and
- Development of 8.16-acres of public park with trail system.

The subject development is adjacent to and integral to the project approved under Permit A-4-OXN-00-172, but falls under the original permit jurisdiction of the Commission.

C. Wetlands.

Section 30233 of the Coastal Act states that:

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

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

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

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

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

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

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

(7) Restoration purposes.

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

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of

Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

For the purposes of this section, "commercial fishing facilities in Bodega Bay" means that not less than 80 percent of all boating facilities proposed to be developed or improved, where such improvement would create additional berths in Bodega Bay, shall be designed and used for commercial fishing activities.

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

The applicant proposes improvements to approximately 1,020 linear feet of the Reliant Energy Canal and to an existing tributary east-west channel to provide for navigation and boating facilities. These channels and the areas proposed to be developed in this permit are shown on Exhibit 2 (3 Pages).

The subject project includes the removal of a temporary earthen dike (38,130 cu. yds. of wet excavation) that forms the northern bank of the existing east-west trending "Harbour Island" channel and an approximately 180-foot long portion of the existing Reliant Energy Canal bank. The unnamed channel was created to provide boating access for the existing "Harbour Island" condominium development. The Commission has previously approved in Permit A-4-00-172 (Suncal) the dry excavation of a channel parallel to the "Harbour Island" channel on the subject site. With the removal of the temporary dike and Reliant Energy Canal bank proposed herein, the channel would be effectively doubled in width to provide access to the approved boating facilities. Rip-rap protection will be used to retain the northern bank of this larger channel.

Additionally, the proposed development includes the removal of a portion of the eastern bank of the Reliant Energy Canal (13,670 cu. yds. of wet excavation), and placement of vertical bulkheads to create a boat turning basin accessed from the Reliant Energy Canal. This boat basin will provide area for up to seven private boat docks (approved in Permit A-4-00-172) as well as provide area for other boats to turn around. No navigational access would be provided in the Reliant Energy canal north of this point.

Finally, an existing trashrack which spans the canal is proposed to be relocated north from its existing location near the intersection of the Reliant Energy Canal and the tributary canal to a new location north of the proposed boat turning basin. A riprap

energy dissipator is proposed to be installed on the slope of the canal where a storm drain will exit the project near the northern edge of the development.

Allowable Uses.

The proposed project includes development in both wetland areas and open water areas to create boating facilities. The project will remove wetland area to create an entrance channel to the boating facilities approved in project 4-OXN-00-172 (SuncaI). Additionally, the project includes the creation of a boat turning basin and access to private boat docks. Section 30233 provides that entrance channels for new or expanded boating facilities is an allowable use in wetland areas. Further, new or expanded boating facilities are allowable in open coastal waters. The proposed project is consistent with these allowable uses.

Wetland Impacts and Mitigation.

The existing earthen dike that forms the north bank of the channel between the project site and the "Harbour Island" development does not support wetland vegetation. The eastern bank of the Reliant Energy Canal does contain habitat areas in three general zones. There are mudflats in the lowest elevations of the bank that are tidally influenced. Above the mudflat areas, there is a zone of saltmarsh of varying widths. Vegetation in the saltmarsh areas include pickleweed, Jaumea and alkali heath. Upland scrub vegetation occurs upslope and consists of both native and non-native vegetation. Within the upland areas, there are extensive areas of Myoporum, a non-native invasive plant. The Myoporum plants along the eastern bank are quite large and tree-like, extending to the water-line in places. The applicant's biologists found that the areas where the Myoporum is well developed, saltmarsh vegetation is not present, probably because of shading effects. By contrast, the western bank of the Reliant Energy Canal in the same area is dominated by the native coyote bush, which does not have as large a canopy. The upland coyote bush allows for a more extensive area of saltmarsh habitat on the western bank of the canal.

The proposed project would result in the permanent loss of approximately 0.24-acres of mudflat habitat and 0.11-acres of saltmarsh habitat. These impacts will occur along the eastern bank of the canal, from its intersection with the "Harbour Island" channel north, to the northern edge of the proposed boat turning basin. As noted above, an approximately 180-foot long portion of the canal bank will be removed to widen the "Harbour Island" channel. North of this area, rip-rap slope protection will be placed along the canal bank. Finally, the proposed development includes the removal of a portion of the eastern bank of the Reliant Energy Canal (13, 670 cu. yds. of wet excavation), and placement of vertical bulkheads to create a boat turning basin. The existing mudflat and saltmarsh habitat found in these three areas would be permanently lost. The applicant does not propose to revegetate any of these areas.

Rather, the mitigation plan proposed as part of the project includes the creation of a 400-foot long mudflat habitat area just north of the proposed boat basin, utilizing riprap slope protection to create mudflat (Exhibit 2). Additionally, saltmarsh habitat is proposed to be enhanced or created along the remainder of the east bank of the canal that fronts the applicant's property (approximately 1,364 feet). The applicant's mitigation plan proposes the removal of non-native vegetation and seed-bank along the canal, planting pickleweed within the saltmarsh areas, and planting appropriate upland scrub species above the saltmarsh areas of the slope.

The Commission biologist, Dr. Jon Allen, has reviewed the proposed project, and the proposed mitigation plan. Based on this review and a site inspection, Jon Allen has concluded that the on-site habitat creation and enhancement areas proposed by the applicant, if successful, will adequately mitigate the impacts of the proposed project. In order to ensure successful mitigation, Dr. Allen has recommended that mudflat habitat be created at a 2:1 ratio and that saltmarsh habitat be created or enhanced at a 4:1 ratio.

The applicant's original mitigation plan proposed to create mudflat at a 1:1 ratio and to create or enhance saltmarsh habitat at a 2.27:1 ratio. In order to create sufficient area to provide for 2:1 mitigation (.48-acre) for the permanent loss of mudflat habitat, and 4:1 mitigation (.44-acre) for the loss of saltmarsh habitat, the applicant has proposed an additional mitigation area within the park located in the northwest corner of the project site. This area would consist of a created intertidal basin. The elevation of this area will be reduced and a cut created in the canal bank so that the area would be subject to tidal action. This would form an additional 0.24-acre of intertidal mudflat habitat. Around this basin, the applicant proposes to plant saltmarsh plant species in order to create or enhance an additional 0.15-acre of saltmarsh habitat.

If successful, the proposed creation and enhancement of mudflat and saltmarsh habitat would provide adequate mitigation for the permanent loss of mudflat and saltmarsh resulting from the construction of the proposed project. The applicant's biologist has prepared a Mitigation Plan (On-site Mitigation Plan, prepared by Impact Sciences, Inc., dated December 2000) for the project that details site preparation measures, planting guidelines, and maintenance and monitoring provisions necessary to carry out the project. Non-native vegetation would be removed from the bank area, with on-going removal of germinating weeds. The area immediately upslope from the mudflat areas will be planted with pickleweed cuttings. The areas further up the bank would be planted with native species, both with container stock and hydroseeding. It is necessary to require the applicant to submit a final planting plan for the mitigation area showing the location of all plants to be placed in accordance with the Mitigation Plan.

Additionally, the mitigation areas must be monitored in order to ensure success. The applicant's Mitigation Plan includes a monitoring plan that sets forth the methods for collecting information, criteria for determining successful restoration, and corrective actions to be taken if warranted. The Commission finds it necessary to require the

applicant to implement the proposed Mitigation Plan, and to monitor the site for a period of no less than five years, providing an annual report to staff on the success of the restoration. This is required in Condition No. 1.

Dredge Spoils.

As described above, the proposed project includes dredging or wet excavation in and along the Reliant Energy Canal. The applicant proposes to dewater and utilize this material in the development of the approved Westport at Mandalay Bay project [4-OXN-00-172 (Suncal)].

§30233(b) requires that dredge spoils suitable for beach replenishment should be transported to appropriate beaches or into suitable long shore current systems. The applicant's consulting geologist analyzed samples of the materials to be dredged from the project site for grain size and compared them to samples from the nearest beach area in order to determine the suitability of on-site materials for beach replenishment. The consultant's report states that: "The sediment cores reveal the predominant sediment types beneath the site are silty clay and clayey silt. Interbedded with the clay and silt are lenticular sand deposits". The grain size analysis testing indicated that the on-site material is composed of 80% clay and silt sized particles, while the beach samples are nearly 100 % medium to fine sand sized particles. Based on this analysis, the geologist's report concludes that the on-site materials are not suitable for beach replenishment. The Commission finds, that based on the geologic consultant's analysis, the dredge material would not be suitable for beach replenishment.

Conclusion.

As described above, the proposed development includes the construction of an entrance channel to boating facilities previously approved by the Commission, as well as the construction of a boat turning basin. The project involves work in wetland and open coastal water areas. The proposed uses are consistent with the allowable uses described in Section 30233 of the Coastal Act. The dredge spoils are not consistent with the type or size of material found on nearby beach areas, so the material is not suitable for beach replenishment.

The project will result in the permanent loss of 0.24-acre of mudflat habitat and 0.11-acre of saltmarsh habitat area. The applicant proposes to implement a mitigation plan (On-site Mitigation Plan, prepared by Impact Sciences, Inc., dated December 2000) to create and enhance mudflat and saltmarsh habitat at a ratio of 2:1 for the mudflat habitat and 4:1 for the saltmarsh habitat. As conditioned (Condition No. 1) to implement the Mitigation Plan, prepare and implement a planting plan for the mitigation area, and to monitor the creation and enhancement areas, the impacts of the proposed project on wetland areas will be mitigated, as required by Section 30233. As so conditioned, the Commission finds that the proposed project is consistent with Section 30233 of the Coastal Act.

D. Geologic Stability.

The Oxnard LCP identifies the whole coastal zone area as having a high liquefaction potential given the high water table. It further states that the coastal zone is also within the tsunami hazard area given that the flat Oxnard Plain creates no obstacles to tsunami wave run-up. Finally, enclosed water bodies such as Channel Islands Harbor and the Inland Waterway are identified as vulnerable to a seiche which could be set in motion by a major earthquake. (Staff would note that a seiche is an oscillation of an enclosed water body)

The applicant submitted a Geotechnical Site Investigation, dated 3/16/99, prepared by Gorian and Associates, Inc. for the Westport project site. The report states that the site is underlain by alluvium. The report addresses the various hazards that could affect the project site. In particular, the report concludes that severe ground shaking at the site could cause material on the site to liquefy. With mitigation measures designed to minimize the effects of hazards on the site, the geologic consultants conclude that the stability can be assured for the site. The report states that:

The site may be developed as proposed provided our geotechnical recommendations are followed and incorporated in the design and construction of the project. Site preparation and grading recommendations as well as mitigation measures to reduce the potential for liquefaction and associated hazards at the site are provided in later sections of this report.

The geologic consultants make recommendations for development of the site with regard to site preparation and grading, and seawall and rip-rap slope design.

Based on the applicant's geologic review, the proposed project will be located in an area subject to a variety of hazards. Based on the recommendations of the consulting geologist, the Commission finds that the proposed development is consistent with §30253 of the Coastal Act so long as the geologist's recommendations are incorporated into the project design. Therefore, to ensure that the recommendations of the geologic consultant are incorporated into the proposed development, Condition No. 4 requires the applicant to submit project plans certified by the consulting geologist as conforming to the recommendations contained within his report. The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to site preparation, grading, bulkheads, and revetments. Any substantial changes to the proposed development approved by the Commission which may be recommended by the consultant shall require an amendment to the permit or a new coastal permit. The Commission finds that the proposed project, as conditioned to incorporate the recommendations of the geologic consultants, is consistent with §30253 of the Coastal Act.

E. Water Quality.

Section 30231 of the Coastal Act states that:

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

The proposed project has the potential to adversely impact water quality during construction. The project includes the construction of new waterways. Wet excavation of the temporary earthen dike along the tributary channel and the wet excavation of the Reliant Energy Canal bank to create the boat turning basin and the entrance channel could have temporary adverse impacts to water quality during construction. The proposed excavation would result in a substantial increase in turbidity in the main channel and tributary channels.

As part of the project, the applicant has proposed to install a turbidity curtain, consisting of filter fabric, weighted to the bottom of the canal with floats at the water surface. This turbidity curtain will be placed around the entrance to the marina, surrounding the entire construction area. This measure will contain the increased turbidity within the construction area. The turbidity curtain will be maintained throughout construction and until the turbidity levels in the construction area have reduced to a level equal or below the surrounding area in the channel. This measure will ensure that turbidity impacts to the Reliant Energy Canal and tributary channels are minimized.

A Storm Water Pollution Prevention Plan (SWPPP) implemented during construction incorporating other best management practices for construction activities, including management of construction materials and debris, will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction. The Commission finds that it is necessary to require the implementation of a SWPPP for the project site during the construction phase to ensure the proposed development will not adversely impact water quality or coastal resources. The applicant has prepared a SWPPP for construction of the Westport at Mandalay Bay project as previously required in Condition No. 11 of Permit 4-OXN-00-172 (SuncaI). The applicant has prepared and submitted this plan which addresses construction of the entire project, including the development proposed in this application. Condition No. 2 of this permit requires that the applicant implement the SWPPP, dated July 2001, during the construction approved herein.

Finally, pollutants generated from boat maintenance activities, such as boat cleaning and hull scraping, on land and in the water may threaten the health of aquatic systems and pose other environmental hazards. The purpose of anti-fouling paints is to keep boat hulls free of barnacles, oysters, mussels, shipworms, algae and other forms of aquatic life. Typical anti-fouling hull paints used today contain copper which if leached into the water column is toxic to aquatic life (kills mussel larvae at a concentration of 10 ppb total dissolved Cu). These copper-based paints are less expensive than their non-toxic counterparts and are considered relatively easy to apply and maintain. Regular in-water cleaning takes place generally on a monthly basis depending on the temperature of the water and how the boat is operated. Copper also can slough off if abrasive paints are used or be scraped off of the boat bottoms during in-water cleaning. Through the physical release of copper to the boat harbors over time, copper can accumulate in the sediments and result in contaminated sediments that require special handling and result in an increased disposal cost to marinas, ports, cities, etc.

As such, it is necessary to employ best management practices to minimize water quality impacts from boat maintenance and cleaning. The applicant has indicated that, through an agreement with the Channel Islands Harbor District, facilities for boat pump-out, maintenance, and cleaning will be expanded in the existing harbor area such that they can accommodate the boats proposed in this project. As such, major boat cleaning and maintenance would be undertaken at existing or expanded harbor facilities. However, there may still be instances where private dock owners clean or perform routine maintenance on their boats at their own dock within the project area. In order to ensure that water quality impacts from boating in the area are minimized, the Commission finds it necessary to require the applicant to develop a Water Quality Management Plan incorporating best management practices, and to ensure it is distributed to all owners with boat dock easements and to public boaters. Such a plan was required as Condition No. 13 of Permit 4-OXN-00-172 to apply to the boating facilities approved in that permit. The applicant has prepared and submitted this plan which addresses best management practices for boats and boating facilities. Condition No. 3 of this permit requires that the applicant implement the Water Quality Management Plan, dated May 2001, for the boating facilities approved herein.

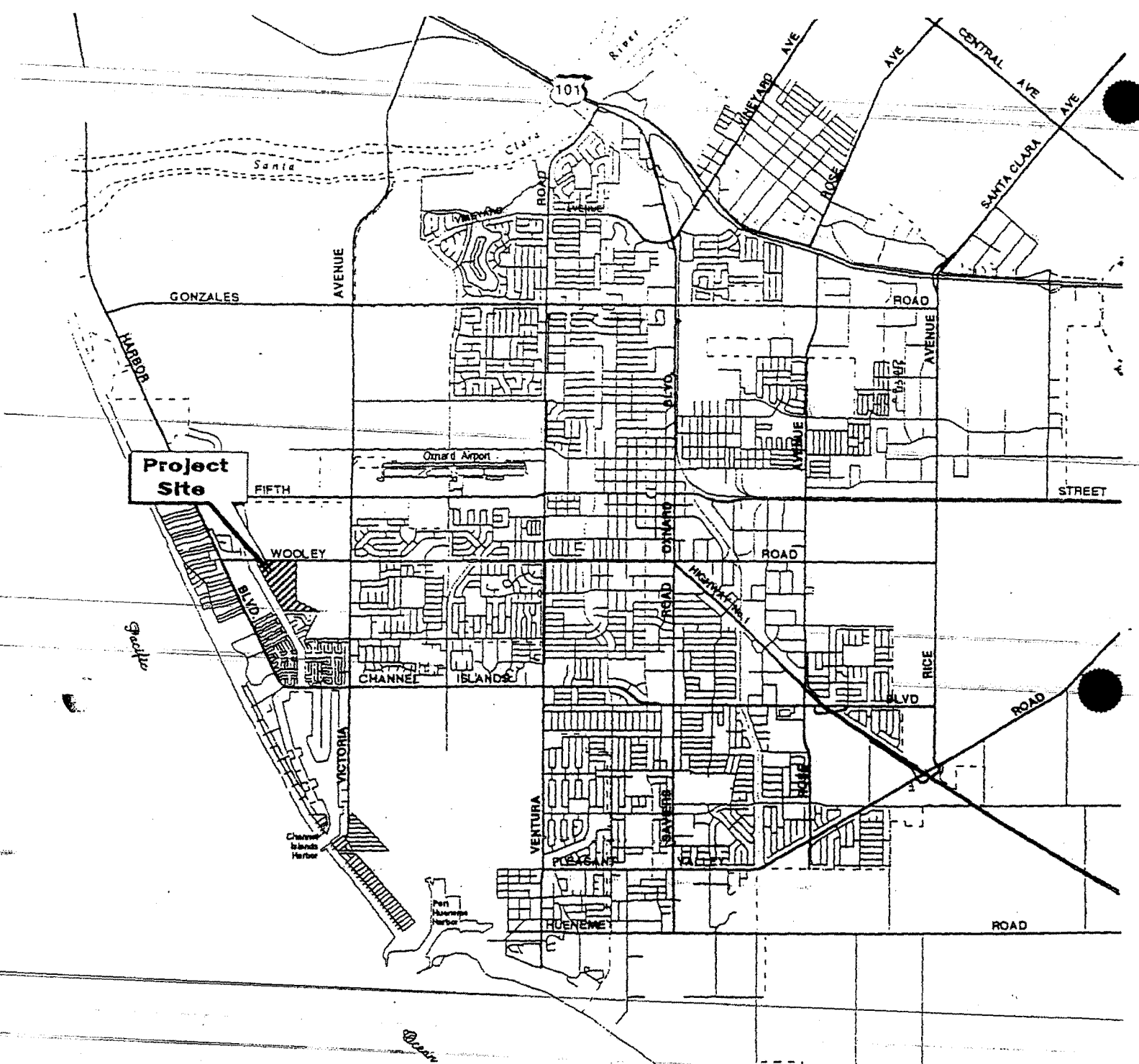
As described above, Condition No. 2 has been imposed to require the applicant to implement the Storm Water Pollution Prevention Plan (SWPPP) in order to minimize water quality impacts resulting from the construction of the proposed development. Condition No. 3 requires the implementation of the Water Quality Management Plan to minimize impacts from boating within the project area. The Commission finds that, as conditioned, the proposed project is consistent with Section 30231 of the Coastal Act.

F. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent

with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission finds that, the proposed project, as conditioned will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.



Project Site

OXNARD CITY LIMITS
 Area — 25.693 sq.mi. (Jan. 2000)
 Population — 158,250 (Jan. 1999)

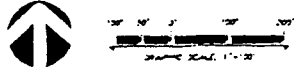
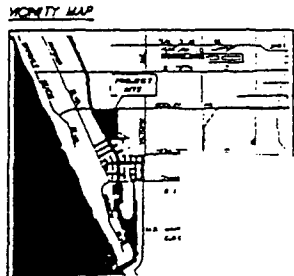
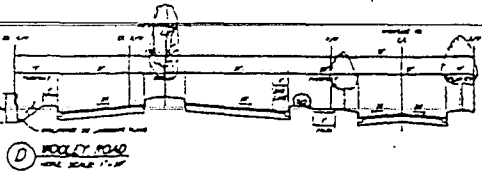
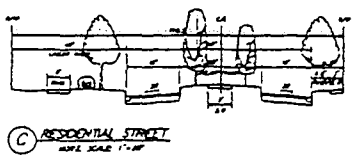
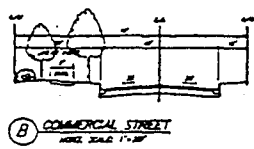
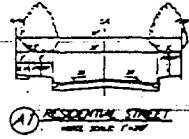
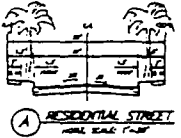
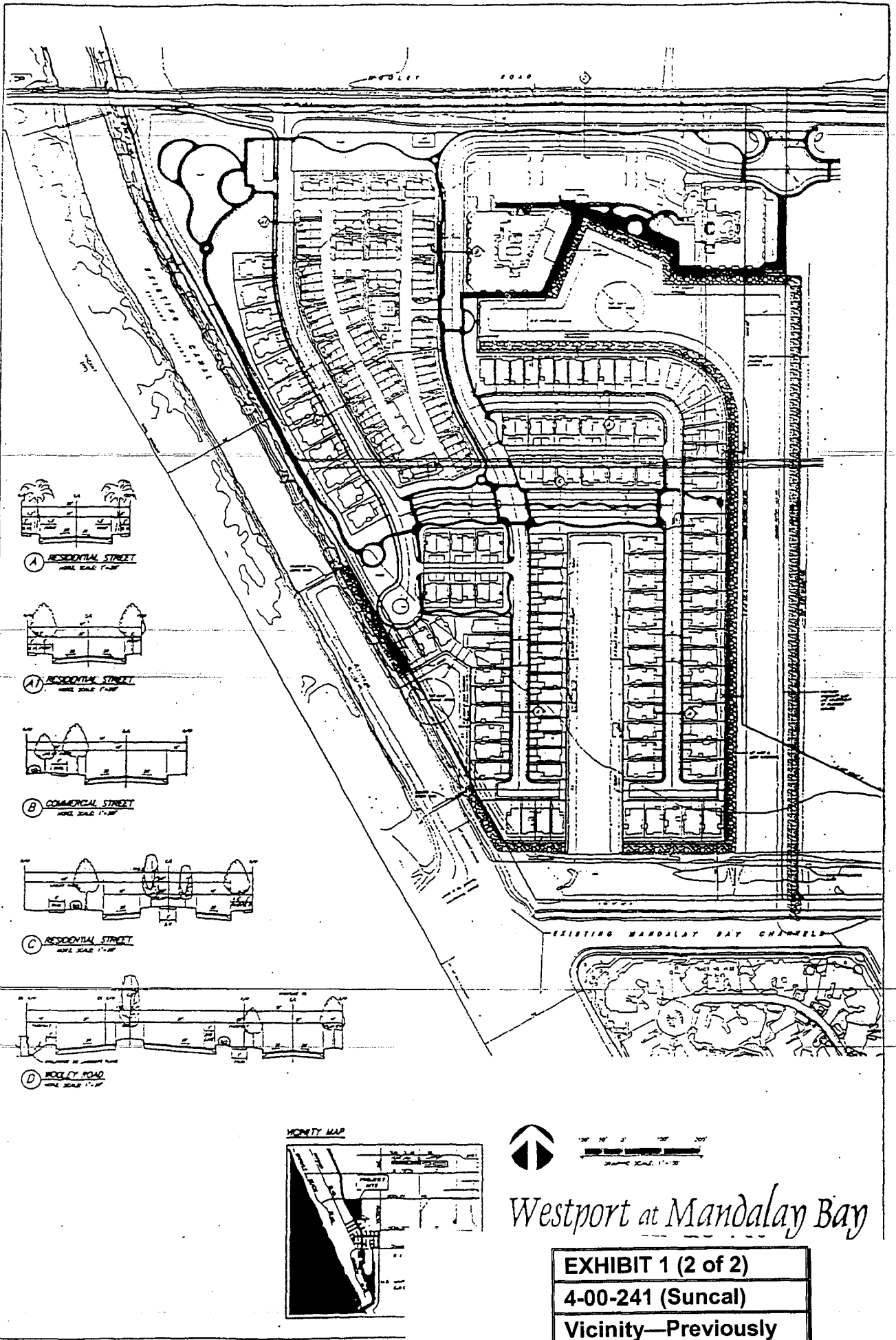
City of **Oxnard**
PLANNING AND ENVIRONMENTAL SERVICES

File No.
PZ 9

Date: **05-27-99**

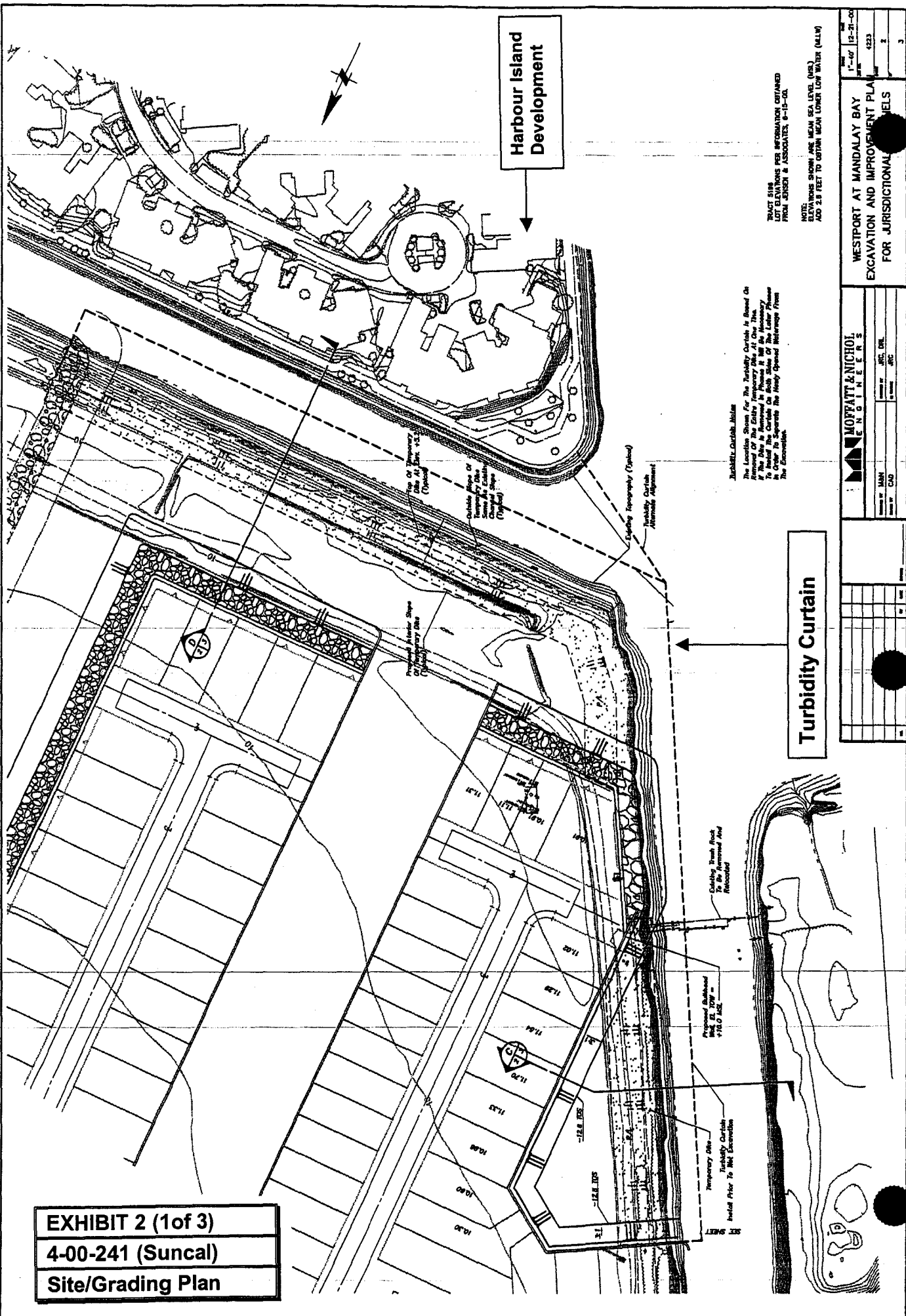


EXHIBIT 1 (1 of 2)
4-00-241 (Suncal)
Vicinity



Westport at Mandalay Bay

EXHIBIT 1 (2 of 2)
4-00-241 (Suncal)
Vicinity—Previously
Approved Project



Harbour Island Development

Turbidity Curtain

EXHIBIT 2 (1 of 3)
 4-00-241 (Suncal)
 Site/Grading Plan

Jackie L. Curtis, J.D.
 The Location Shown For The Turbidity Curtain Is Based On
 A Review Of The Entire Temporary Site At One Time
 To Allow For The Turbidity Curtain To Be Located At The
 Location Shown In Order To Separate The Newly Graded
 Excavation From The Excavation.

TRACE 518
 LOT ELEVATIONS PER INFORMATION OBTAINED
 FROM JENSEN & ASSOCIATES, 8-15-00.

NOTE:
 ELEVATIONS SHOWN ARE MEAN SEA LEVEL (MSL).
 ADD 2.8 FEET TO OBTAIN MEAN LOWER LOW WATER (MLLW)

MOFFATT & NICHOL ENGINEERS		DATE: 12-21-00
PROJECT: WESTPORT AT MANDALAY BAY	SCALE: 1"=40'	NO. 4223
DESIGNED BY: JCN	CHECKED BY: JCN	SHEET NO. 2
DRAWN BY: CND	APPROVED BY: JCN	TOTAL SHEETS 3

4223 (SUNCAL) (SUNCAL) (SUNCAL) (SUNCAL) (SUNCAL)

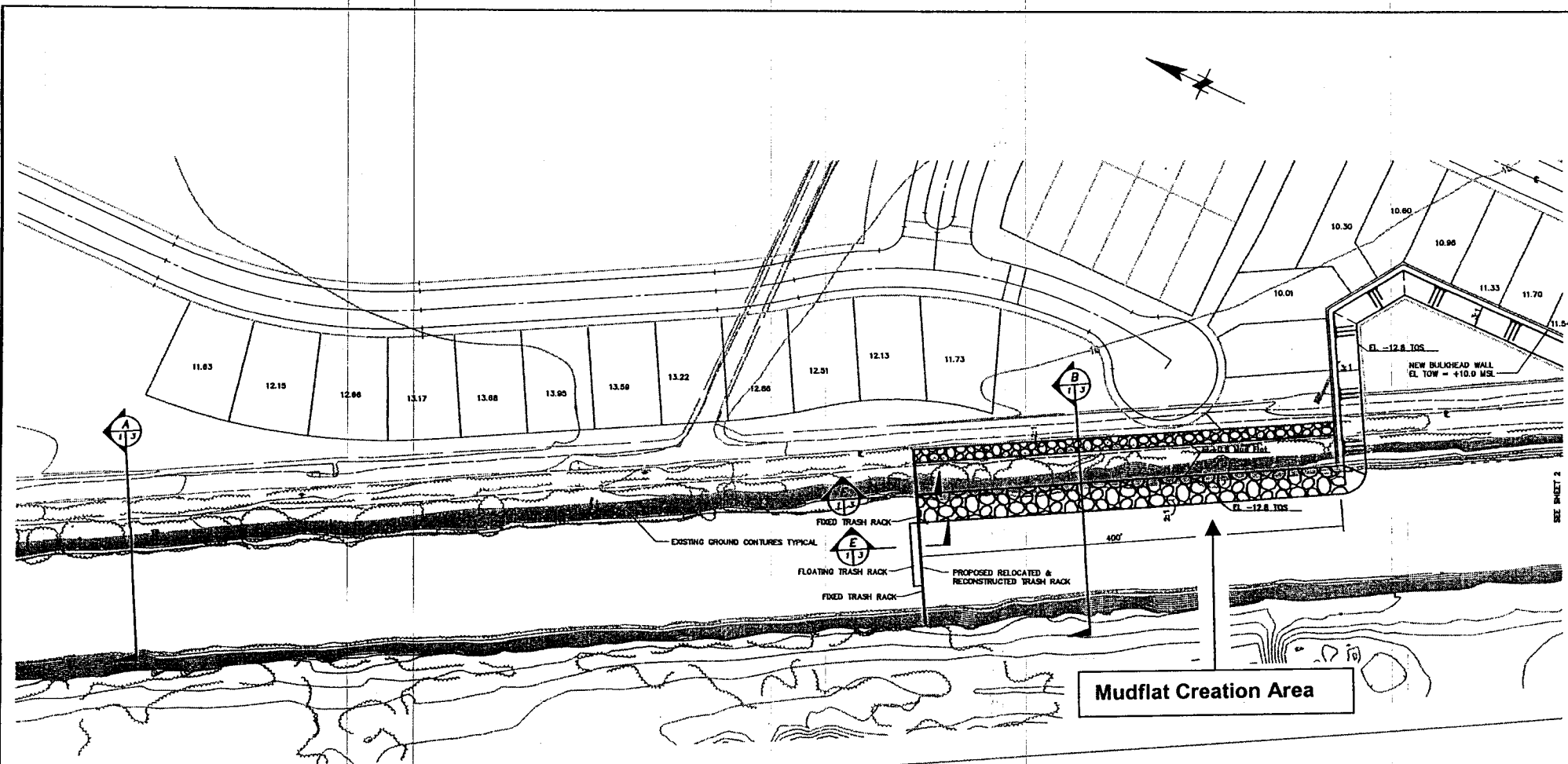


EXHIBIT 2 (2 of 3)
 4-00-241 (Sunca)
 Site/Grading Plan

Mudflat Creation Area

ABBREVIATIONS
 TOW = Top Of Wall
 TORN = Top Of Rip Rap
 TOS = Toe Of Slope

TRACT 5198
 LOT ELEVATIONS PER INFORMATION OBTAINED
 FROM JENSEN & ASSOCIATES, 8-15-00.

NOTE:
 ELEVATIONS SHOWN ARE MEAN SEA LEVEL (MSL)
 ADD 2.8 FEET TO OBTAIN MEAN LOWER LOW WATER (MLLW)

MOFFATT & NICHOL
 ENGINEERS

DESIGNED BY M&N DRAWN BY JRC, DBL
 CHECKED BY CAD IN CHARGE JRC

WESTPORT AT MANDALAY BAY
 EXCAVATION AND IMPROVEMENT PLAN
 FOR JURISDICTIONAL CHANNELS

DATE	12-21-00
SCALE	1"=40'
PROJECT NO.	4223
SHEET NO.	1
TOTAL SHEETS	3

EX. TELEPHONE AND TV
CABLE ON POLES 21'
N/O EX. CENTERLINE

S 89° 59' 40" E

Mudflat Creation Area

EXISTING
(RELIANT ENERGY) CANAL

PARCEL A

PARK (A)

200
BUIL

PAR

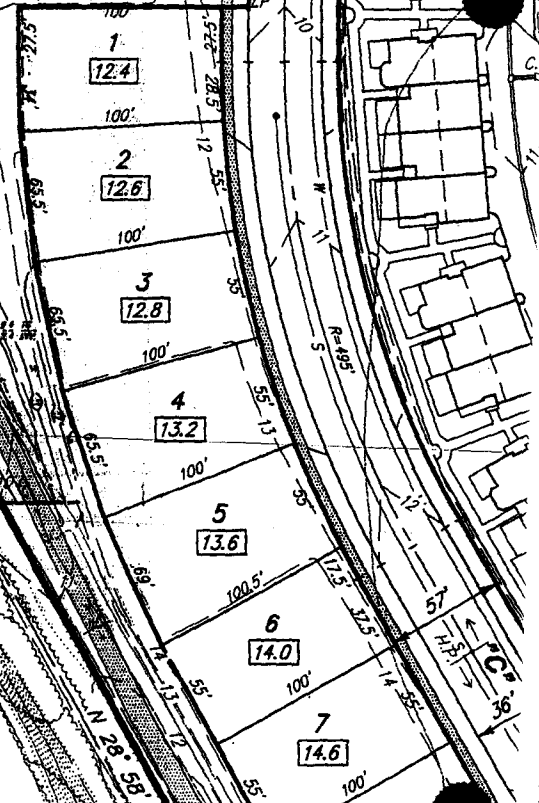
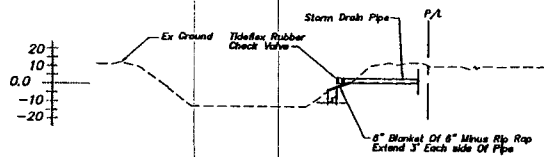
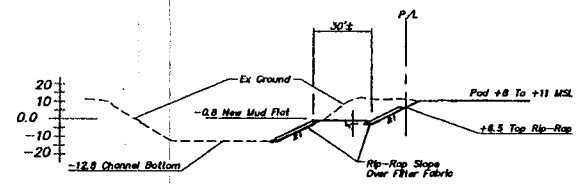


EXHIBIT 2 (3 of 3)
4-00-241 (Sunca)
Site/Grading Plan

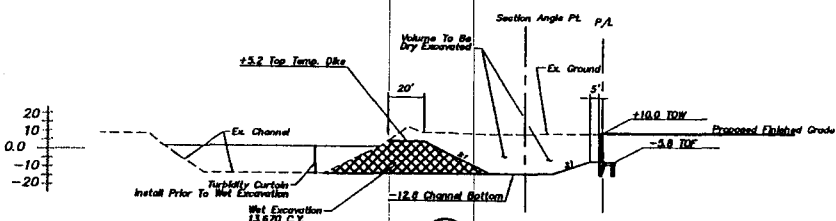


STORM DRAIN AT EXISTING SLOPE

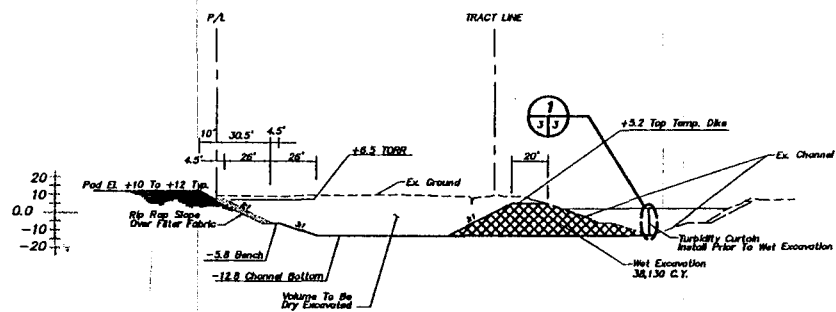
SECTION (A)
1"=30'



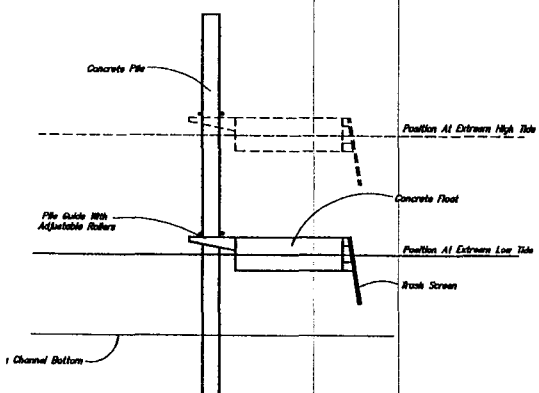
SECTION (B)
1"=30'



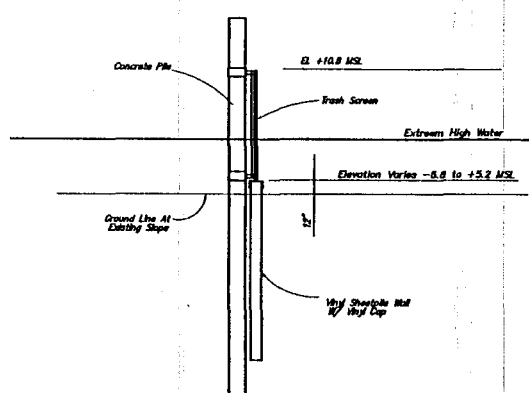
SECTION (C)
1"=30'



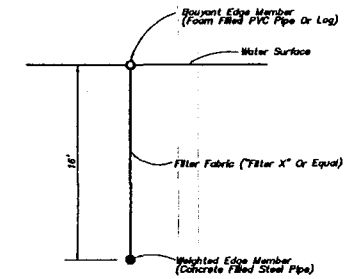
SECTION (D)
1"=30'



SECTION (E)
1/4"=1'-0"



SECTION (F)
1/4"=1'-0"



TURBIDITY CURTAIN DETAIL
1/4"=1'-0"

NOTES:
TOTAL ESTIMATED WET EXCAVATION VOLUME
ESTIMATED AT 51,800 CUBIC YARDS
ELEVATIONS SHOWN ARE MEAN SEA LEVEL (M.S.L.)
ADD 2.8 FEET TO OBTAIN MEAN LOWER LOW WATER (MLLW)

DWG. CROSS SECTIONS

EXHIBIT 3
4-00-241 (Suncaal)
Cross Sections

		WESTPORT AT MANDALAY BAY EXCAVATION AND IMPROVEMENT PLANS FOR JURISDICTIONAL CHANNELS		SHEET NO. 4223	DATE 12-21-00
DRAWN BY MASH	CHECKED BY JRC, DRL	DESIGNED BY CAD	DATE JRC	NO. OF SHEETS 3	TOTAL SHEETS 3

