CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103





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Staff Report: Hearing Date:

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REGULAR CALENDAR STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-01-67

Applicant:

Mr. and Mrs. Samuel Goldwyn Jr.

Agent: Skelly Engineering

Description:

Increase height of existing 80-foot long seawall by approximately 2'6" to

match height of neighboring seawall to the north and install drainage improvements behind seawall on a 10,223 sq.ft. beachfront lot containing an existing 4,240 sq.ft. single family residence and a 533 sq.ft. garage.

Site:

302 Vista de la Playa, La Jolla, San Diego, San Diego County.

APN 351-132-02

Substantive File Documents: Certified La Jolla-La Jolla Shores LCP Addendum;

CDP #6-87-371; Letters from Skelly Engineering dated 2/20/01; 6/13/01 and 7/2/01; GeoSoils, Inc. Geotechnical Update and Reonnaissance Report

dated 4/23/01.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the subject project with special conditions. The subject development proposed to increase the height of an existing (pre-Coastal Act) seawall to reduce the potential for overtopping. The proposal will <u>not</u> result in an increase in the footprint of the existing wall, nor will any other maintenance be performed on the wall. The applicant has submitted information from an engineer which suggests that other than the height and drainage, the wall is functioning properly and is in good condition.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:



MOTION:

I move that the Commission approve Coastal Development Permit No. 6-01-67 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.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

- 1. Assumption of Risk.
- A. By acceptance of this permit, the applicants, on behalf of themselves and their successors and assigns, acknowledge and agree (i) that the site may be subject to hazards from flooding and wave uprush; (ii) to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicants' entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.
- 2. Future Maintenance/Debris Removal. Within 15 days of completion of construction of seawall height extension the permittees shall remove all debris deposited on the beach or in the water as a result of the construction. The permittees shall also be responsible for the removal of debris resulting from failure of, or damage to, the shoreline protective device in the future. In addition, the permittees shall maintain the seawall in its approved state. Any change in the design of the project or future additions/reinforcement of the seawall beyond exempt maintenance as defined in Section 13252 of the California Code of Regulations, will require a coastal development permit. However, in all cases, if after inspection, it is apparent that repair and maintenance is necessary, the permittees shall contact the Commission office to determine whether permits are necessary, and, if necessary, shall subsequently apply for a coastal development permit for the required maintenance.
- 3. <u>Public Rights</u>. By acceptance of this permit, the applicants acknowledge, on behalf of themselves and their successors in interest, that issuance of the permit shall not constitute a waiver of any public rights which may exist on the property. The applicants shall also acknowledge that issuance of the permit and construction of the permitted development will not be used or construed to interfere with any public prescriptive or public trust rights that may exist on the property.
- 4. <u>Construction Activities</u>. If during construction, site conditions warrant changes to the approved plans (i.e., damage to or failure of existing seawall), the San Diego District office of the Coastal Commission shall be contacted immediately, prior to any changes to the project in the field.
- 5. <u>As-Built Plans</u>. Within 60 days following completion of the project, the permittees shall submit as-built plans of the approved seawall modifications. In addition, within 60 days following completion of the project, the permittees shall submit certification by a registered civil engineer, acceptable to the Executive Director, verifying that the increase in height to the seawall and drainage improvements behind it have been constructed in conformance with the approved plans for the project.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. Proposed is the increase in height by 2 ½ ft. of an existing approximately 80-foot long seawall (currently ranging in height from +6.15 MSL to +13.0 MSL) to match height of neighboring seawall to the north and south. Also proposed are drainage improvements inland of the seawall consisting of installing a "burrito" style drain (i.e., gravel wrapped in geotextile fabric) behind (inland of) the existing seawall (ref. Exhibit #2). Also, two new drain holes are recommended to be drilled into the wall and the existing drain hole cleared. The subject site is a 10,223 sq.ft. beachfront lot containing an existing 4,240 sq.ft. residence and a 533 sq.ft. garage.

The subject residential site is located adjacent to Wind and Sea Shoreline Park in the community of La Jolla in the City of San Diego. The shoreline area is largely characterized by sandstone shelves and sandy beach. The subject site is located immediately adjacent to, and west of, the cul-de-sac of Vista de la Playa. An existing public vertical access easement is located just north of the cul-de-sac, one lot north of the subject site.

Although the City of San Diego has a certified LCP, the subject project is located within the Commission's area of original jurisdiction. As such, the standard of review is the Chapter 3 policies of the Coastal Act with the LCP used as guidance.

2. <u>Seawall/Shoreline Protective Devices/Geologic Hazards</u>. Section 30235 of the Coastal Act states, in part:

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

In addition, Section 30253 of the Coastal Act states, in part:

New development shall:

- (l) Minimize risks to life and property in areas of high geologic, flood, and fire hazard;
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...

The Commission has traditionally been concerned with the siting of new development directly along the shoreline in terms of both its encroachment onto public sandy beach as well as visual impacts. The existing seawall on the subject site was constructed prior to the passage of the Coastal Act. The Coastal Act Section 30235 acknowledges that seawalls, revetments, cliff retaining walls, groins and other such structural or "hard" solutions alter natural shoreline processes. Thus, such devices are required to be approved only when necessary to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local sand supply. The Coastal Act does not require the Commission to approve shoreline altering devices to protect vacant land or in connection with requests to construct new development. A shoreline protective device proposed in those situations is likely to be inconsistent with various Coastal Act policies. For example, Section 30253 addresses new development and requires that it be sited and designed to avoid the need for protective devices that would substantially alter natural landforms along bluffs and cliffs.

In the case of the proposed development, the applicants are requesting to increase the height of an existing seawall by approximately 2½ feet. The existing concrete vertical seawall is approximately 80-feet long (ranging in height from +6.15 MSL to +13.0 MSL). No repairs, alterations or changes to the footprint of the existing seawall are proposed other than simply raising its height by 2½ feet and making drainage improvements. The seawall was constructed prior to the Coastal Act to protect three contiguous properties including the subject site.

The purpose of the proposed height increase to the existing seawall is to prevent wave overtopping that has occurred on the site which the applicant has indicated has subjected the existing residence to threat from erosion. According to the applicant's engineer, during the 1982-83 El Nino winter, the northwest corner of the house was undermined. Undermining of the house foundation also occurred during the 1997-98 El Nino. The seawall was again overtopped by waves in early January of this year as well, which prompted the subject proposal.

Engineering and geotechnical reports have been submitted by Skelly Engineering, the applicant's coastal engineer, as well as GeoSoils, Inc. The Skelly reports address wave overtopping and the need for the seawall. The conclusions and recommendations of these reports include:

The wall is in good to fair condition based upon visual observations. However, the drains in the wall are not functioning well and the wall is not high enough to prevent overtopping even during moderately high waves and high tide. Overtopping of the seawall has resulted in scour to the soils and damage to the patio flat work between the wall and the residence, as show as shown in Figure 1. Severe overtopping will result in further damage to the patio, loss of site soils, and ultimately damage to the foundation of the residence.

As noted, the engineer has submitted photographs that illustrate cracked flatwork, scouring in the rear yard of the subject residence and other overtopping damage to the back yard. It is the recommendation of the engineer that to mitigate for the overtopping

that the wall be increased by 2 ½ feet. In addition, repairs to the wall drainage system should also be performed to address inadequate drainage behind the wall that could eventually lead to failure of the wall. This would include excavating behind the seawall and placing a "burrito" style drain (i.e., gravel wrapped in geotextile fabric) behind (inland of) the existing seawall (ref. Exhibit #2). Also, two new drain holes are recommended to be drilled into the wall and the existing drain hole cleared.

A report by GeoSoils, Inc., also concurs with the information provided by Skelly Engineering. In particular, the conclusions of the GeoSoils report state:

...it is our opinion that the project site needs the existing seawall, and the seawall should be extended in height to mitigate overtopping. From a geotechnical viewpoint, the seawall is needed to protect the site, and is optimally located. Because damage to the improvements which jeopardize the house foundation have occurred in previous storm events, the current seawall height is inadequate. It is a geologic certainty that should the shore protection not be extended, that the subject site would be compromised by seaward erosion, from a geotechnical engineering and geologic viewpoint...

The Commission's coastal engineer has reviewed the proposed project and has concurred that the work is necessary and that it is also the <u>minimal</u> amount of work necessary to correct the problem and protect the existing residence.

The additions and modifications to the existing wall are necessary to protect the existing structure and are the least environmentally-damaging alternative. In determining whether shoreline protection is required to protect existing structures, the Commission considers all possible alternatives for protection of the structures, including modifications to the structures. In this case, such alternatives have been considered and the applicant has documented that shoreline protection is necessary to protect the existing structure.

Specifically, the alternatives that were considered and addressed by the applicant's engineer included beach nourishment, increasing the height of the seawall and doing no work at all. With regard to the first alternative, according to the engineer, the shoreline is characterized by pocket beaches with coarse sand. The beach profile is very steep with deep water close to the shore. The engineer has stated that beach nourishment at this location would not be effective due to the steep beach profile. Also, due to the coarseness of the sand, it would be hard to find a natural source of sand to match this sand unless removed from another beach which, of course, is not permitted. Also, due to the steepness of the profile, sands placed in front of the site would wash away during the first storm and leave the seawall vulnerable to wave overtopping. As such, this alternative was not viable.

The second alternative was to raise the height of the seawall to an elevation of +20.0 MSL. A wave overtopping analysis concluded that this height would eliminate overtopping completely. However, this would raise the wall such that it would be two or three feet higher than the seawalls on the adjacent properties. As such, this alternative

would not represent the minimal amount of work necessary to protect the home nor the least environmentally damaging alternative.

A last alternative was to do nothing. However, this alternative will not protect the existing residence. As such, the applicants chose a modification to the second alternative by increasing the height of the seawall, but to a lesser degree (2 ½ feet vs. 3 to 4 ft. higher) which would result in the wall being the same height as the seawall immediately north of the site as opposed to being higher than the neighboring wall. In this way, the potential for wave overtopping is reduced. This, coupled with the improved drainage, will significantly decrease the potential of erosion and thus limit the threat to the home.

It is not known when the height of the seawalls to the immediate north and south were extended as no permit history with the Commission could be found. In addition, the Commission has also approved a past coastal development permit (CDP# 6-87-371) to increase the height of an existing seawall at 308 Vista de la Playa which is two lots immediately north of the subject site. In that permit action, the height of the wall was increased approximately four feet, in addition to construction of a new footing, etc. However, in this particular case, no changes to the foundation of the seawall or any other work is proposed to the structural components of the seawall itself other than the proposed drainage improvements behind the wall. The drainage improvements will further improve the drainage behind the seawall such that water will be properly drained thus avoiding further damage to the subject property. Again, these latter improvements will occur on the inland side of the wall and will facilitate drainage in a better manner without any adverse impacts to the adjacent beach (ref. Exhibit No. 3).

As noted above, the Commission finds that the extension of the height of the seawall is necessary to protect the existing residence. Although the Commission finds that the proposed seawall has been designed to minimize the risks associated with its implementation, the Commission also recognizes the inherent risk of shoreline development. The seawall will be subject to wave action. Thus, there is a risk of damage to the seawall or damage to property as a result of wave action. Given that the applicants have chosen to construct the seawall despite these risks, the applicants must assume the risks. Accordingly, Special Condition #1 requires that the applicants record a deed restriction that evidences their acknowledgement of the risks and that indemnifies the Commission against claims for damages that may be brought by third parties against the Commission as a result of its approval of this permit. In addition, Special Condition #4 requires that if during the construction any damage or failure to the wall occurs, all construction work must cease and the applicant must contact the Commission to determine if additional permits are necessary for repairs of any damage. Per Special Condition #4, the applicant is also required to contact the Commission's San Diego District Office if any damage to or failure of the seawall occurs during contruction of the proposed improvements (i.e., increase in height to wall and installation of drainage improvements behind it). In so doing, it can be assured that no further work occurs to the site until the property has been inspected in the field by Commission staff. Special Condition #5 also addresses this concern and requires the applicant to submit as-built plans within 60 days of construction of the proposed development to assure that the

increase in height of the seawall and the proposed drainage improvements to the seawall have been constructed according to the approved plans.

In summary, the Commission finds that the applicants have demonstrated that the existing residence is subject to threat from wave overtopping and erosion. Therefore, the Commission finds that since the proposed modification to the existing seawall is necessary to protect an existing residence, the project, as conditioned, is consistent with Sections 30235 and 30253 of the Coastal Act. Additionally, the proposed development will not increase the impact of the structure on shoreline sand supply to any greater degree than the existing seawall that was constructed prior to the Coastal Act.

3. <u>Public Views.</u> Section 30251 of the Coastal Act is applicable to the subject project and states, in part:

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

In addition, the certified La Jolla-La Jolla Shores LCP Addendum also contains policies addressing the protection of visual resources including the protection of public views to the ocean. The certified LCP also calls for enhancing public views in the sideyards of existing development and the use of open materials for preventing a "walled off" effect.

Due to the presence of the existing single family residence, there are presently no ocean horizon views looking across the site. The subject site is not located within a designated public view corridor nor are views across the subject site visible from any public roadway looking west. The site is situated at the end of a cul-de-sac one block west of the first public road in the area, Monte Vista Drive. The proposed development consisting of increasing the height of an existing concrete vertical seawall by 2 ½ feet, will not impact public views adjacent to or along, the public beach. While standing on the beach south of the existing seawall, the height of the wall and elevation of the rear patio already impedes any views looking northwest. It isn't until one steps out seaward of the seawall that there are ocean views looking north, west and south along this area of shoreline. Public views towards the ocean and north and south along the shoreline will remain unimpeded by the proposed increase in height of the seawall. As such, the proposed increase in height of the seawall will not have any adverse impact on public views at this location.

In addition, in order to mitigate for the adverse visual impacts associated with seawalls, the Commission has typically required that any new shoreline protection device or improvements to existing structures located on the coastal bluffs or sandy beach areas use colored concrete and texturing to blend in with the natural surrounding area, consistent with Section 30251 of the Act. However, in this particular case, the shoreline consists of sandy beach area next to a wall of armoring consisting of other gray-colored seawalls

both to the north and south located seaward of existing residential structures. Since the seawall is not on, or adjacent to, coastal bluffs, where the setting and surrounding area is more "natural" in appearance, the use of texturing and coloring is not necessary at this location as it would have no effect on the visual quality of the area. In addition, by adding color and texture to the existing seawall, it would result in further seaward encroachment at this location. Therefore, the proposed development is consistent with Section 30251 of the Coastal Act.

4. <u>Public Access/Recreation</u>. Both the certified LCP and the Coastal Act contain policies protecting physical access to the beach and ocean. Specifically, the Coastal Act states the following:

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 30212

- (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:
 - (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
 - (2) adequate access exists nearby, or,
 - (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway....

Section 30221

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

The subject site is located between the first public roadway and the sea. The beach area located west of the site is very popular (Windansea), a stretch of shoreline in the southern part of La Jolla. The area seaward of the seawall on the subject site consists of a sandy white beach that is used by residents and beach-goers alike for strolling and other recreational activities. There is an existing improved vertical access easement one lot to

the north at the cul de sac of Vista de la Playa that provides access to this area of beach. The shoreline consists of both sandy beach area as well as sandstone shelves.

Section 30604(c) of the Act requires that specific access findings be made for any project located between the first coastal roadway and the sea. The project site is located between the ocean and the first coastal roadway (Monte Vista Avenue). As noted above, there is an existing dedicated concrete vertical public access easement located one lot to the north of the site which is used to gain access to the beach. The site is located about ¾ miles from an existing public parking lot adjacent to Windansea Beach. This parking lot is 3 ½ blocks to the south of the site between Nautilus and Bonair Streets, where unlimited access to the shoreline is provided. However, inasmuch as the proposed development involves improvements to an existing seawall without any expansion to its footprint or seaward encroachment onto the public beach, the proposed project will not result in any adverse impacts to physical public access.

Furthermore, as required in Section 30604(a) for development between the first public road and the sea, the project, as conditioned, is consistent with all other public access and recreation policies of the Coastal Act. Special Condition #3 has been attached which serves notice to the applicant that by acceptance of the permit, the applicant acknowledges that issuance of the permit does not waive any public rights which may exist on the sandy beach area of the property and that the Commission's approval of the project may not be used or construed to interfere with any kind of public rights, including prescriptive or public trust rights.

In summary, given that the increase in height to the seawall and the proposed drainage improvements behind it will not result in an increase in the footprint or the seawall or further encroachment seaward, the proposed improvements will not result in any adverse impacts on coastal access at this location. As such, the proposed project, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act.

5. <u>Local Coastal Planning</u>. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, as conditioned, such a finding can be made.

The subject site is zoned R-1-5000 and is designated for residential use. The proposed modifications to an existing seawall will not affect the project's continued consistency with that zone and designation. The certified La Jolla-La Jolla Shores LCP Addendum contains policies which call the proper siting of shoreline protective devices and their visual compatibily with the surrounding area. Since the proposed improvements to the existing seawall will not result in any further encroachment onto the beach and the seawall represents pre-existing shoreline protection, the proposed development is consistent with the certified La Jolla-la Jolla Shores LCP Addendum with all applicable Chapter 3 policies of the Coastal Act. The Commission finds that project approval, as

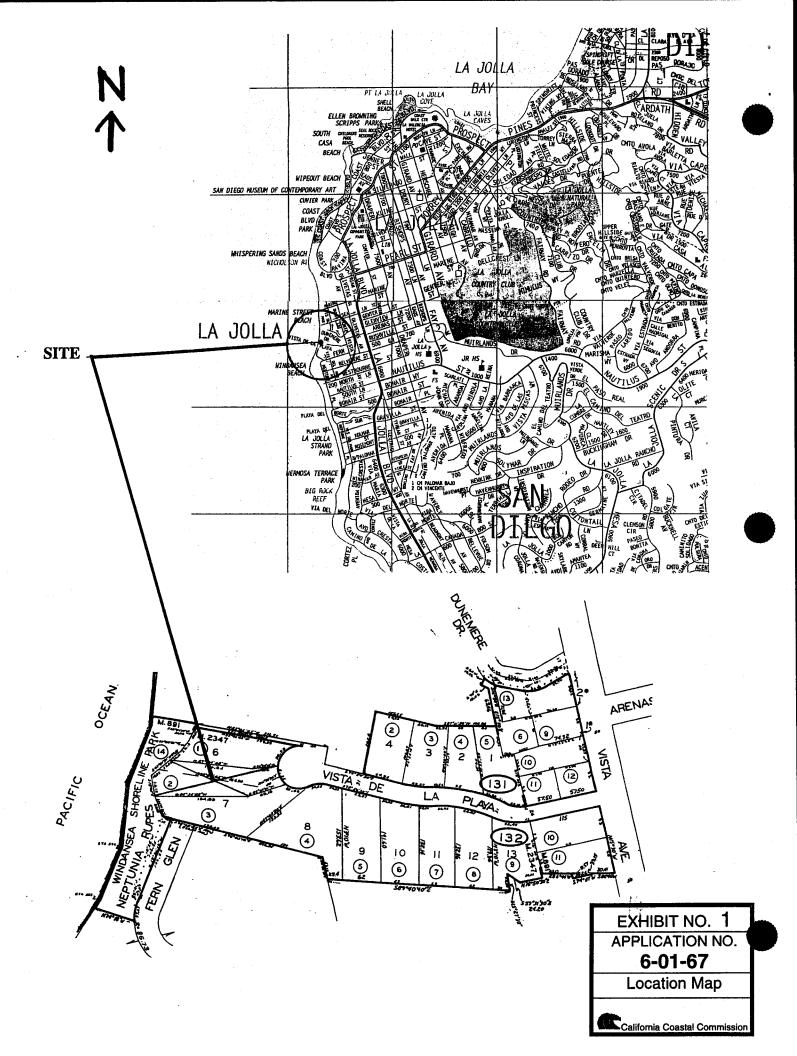
conditioned, will not prejudice the ability of the City of San Diego to continue to implement its certified LCP for the La Jolla area.

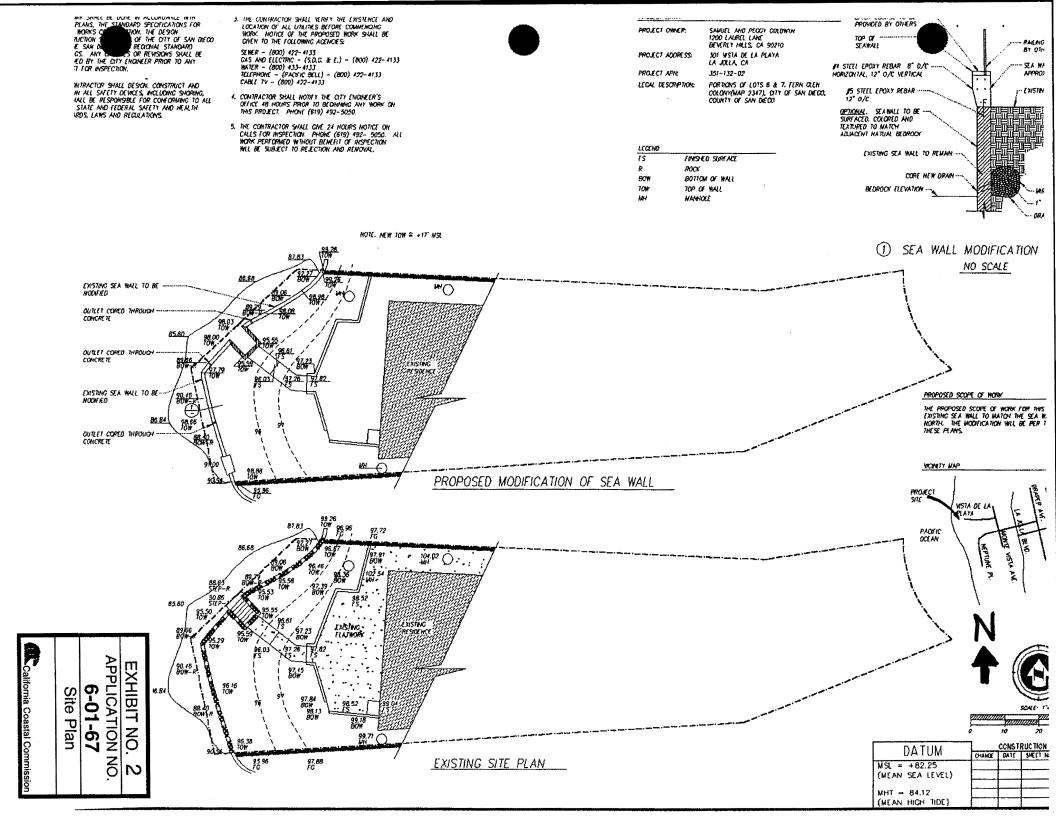
6. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of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

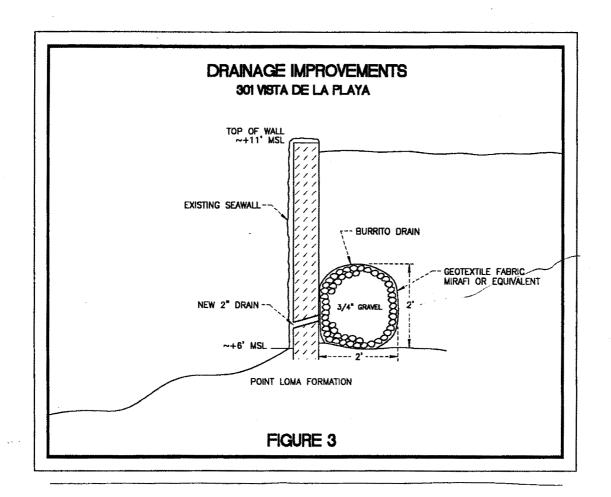
The proposal to increase the height of an existing seawall has been conditioned in order to be found consistent with the shoreline hazard policies of the Coastal Act. The proposed conditions addressing assumption of risk and future maintenance will minimize all adverse environmental impacts. As conditioned, 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 is consistent with the requirements of the Coastal Act to conform to CEQA.

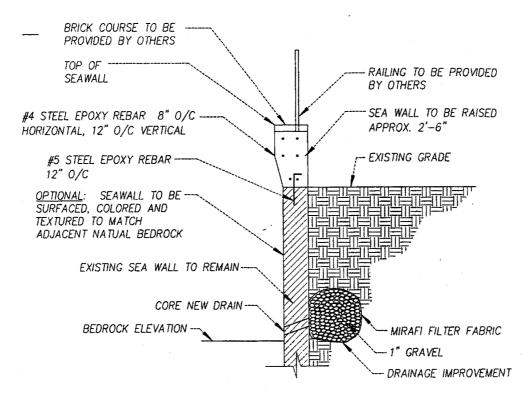
STANDARD CONDITIONS:

- 1. <u>Notice of Receipt and Acknowledgment</u>. 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. <u>Expiration</u>. 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. <u>Interpretation</u>. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. <u>Assignment</u>. 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. <u>Terms and Conditions Run with the Land</u>. 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.









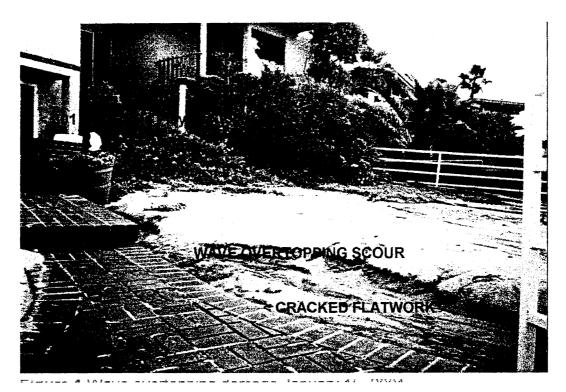
1) SEA WALL MODIFICATION SECTION NO SCALE

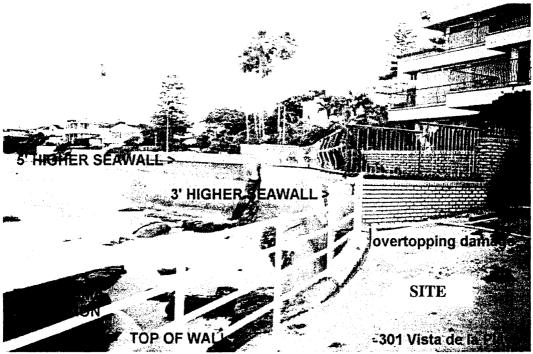
EXHIBIT NO. 3

APPLICATION NO.
6-01-67

Drainage
Improvements/
Seawall Modification

California Coastal Commission





APPLICATION NO. 6-01-67
Photographs

California Coastal Commission