

**Fri 4a-b**

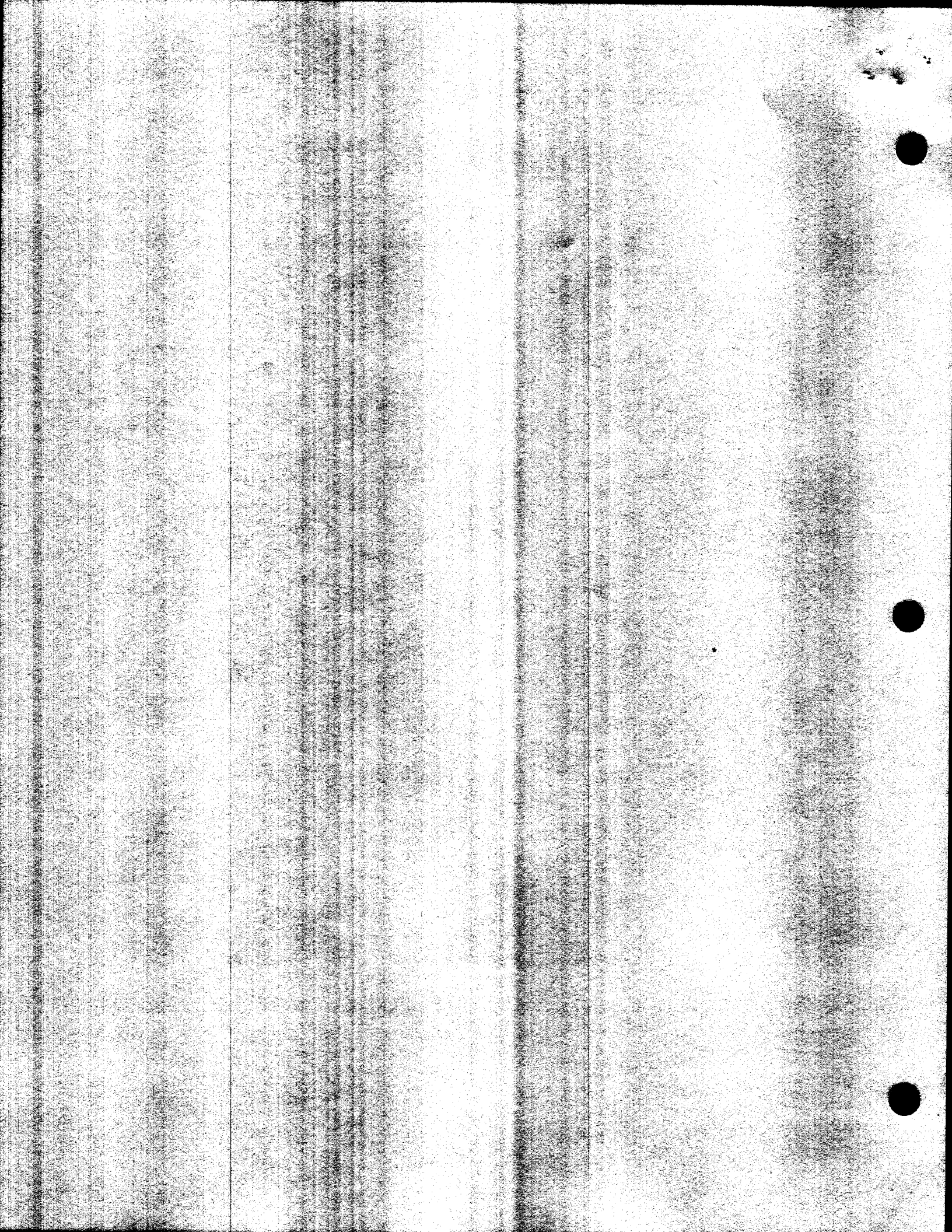
**San Diego Coast District**

**CONSENT CALENDAR**

**Friday, June 14, 2002**

**6-02-056**

**6-02-061**



## CALIFORNIA COASTAL COMMISSION

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

## RECORD PACKET COPY



# Fri 4a

Filed: 3/29/02  
49th Day: 5/17/02  
180th Day: 9/25/02  
Staff: DS-SD  
Staff Report: 5/10/02  
Hearing Date: 6/10-14/02

## STAFF REPORT: CONSENT CALENDAR

Application No.: 6-02-56

Applicant: H. Barden Wellcome

Description: Construction of a new 36" high, approximately 6" wide, 60' long privacy wall extending into the 3' landscaped buffer area within public right-of-way, adjacent to and east of, the planned widened Ocean Front Walk, on a site containing an existing single-family home.

Site: 3887 Ocean Front Walk, Mission Beach, San Diego, San Diego County  
APN: 423-559-11.

Substantive File Documents: Certified Mission Beach Precise Plan and Planned District Ordinance; Certified City of San Diego LCP Implementing Ordinances; CDP No.s #6-99-90, 6-99-145, 6-00-123, 6-00-01; 6-01-29; and 6-02-37; 6-02-040; 6-02-047. Waiver from Coastal Development Permit #s 6-02-1-W, 6-02-10-W, 6-02-12-W, 6-02-25-W, 6-02-33-W and 6-02-34-W; Final EIR SCH No. 97011080 - 5/11/98; Encroachment Maintenance and Removal Agreement No. 02-006 recorded 3/22/02.

### I. STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

**MOTION:** *I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

### STAFF RECOMMENDATION TO ADOPT CONSENT CALENDAR:

Staff recommends a YES vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

## II. Standard Conditions.

See attached page.

## III. Special Conditions.

The permit is subject to the following conditions:

1. Final Plans/Storage and Staging Areas. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit final site plans to the Executive Director for review and written approval. The plans shall substantially conform to the draft site plan submitted on 3/29/02 by the applicant. The plans shall clearly indicate that the wall approved by Coastal Development Permit No. 6-02-56 is located no further west than the 3-foot wide landscaped buffer area, and does not encroach into the planned widened public boardwalk (Ocean Front Walk). The plans shall indicate the distance between the development authorized by this permit and the public right-of-way easement. In addition, said plans shall include written notes stating the following:

- a. No construction staging or storage shall occur on the existing boardwalk, and construction activities shall not impede or block access on the existing boardwalk in any way.

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

2. Future Removal of Permitted Encroachment. If the existing structure along the boardwalk is substantially altered such that 50% or more of the existing walls are demolished or removed, the development authorized by this permit shall be removed in its entirety.

## IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/Permit History. Proposed is the construction of a 3-ft. high, approximately 60 linear-foot long, concrete block privacy wall extending into the 3' wide landscaped buffer area of the public right-of-way inland of the Ocean Front public boardwalk and parallel to the entire length of the western property line on an approximately 1,500 sq. ft. beachfront site containing an existing one-story single-family residence. The proposed concrete masonry wall is proposed to be constructed within the public right-of-way 3 ft. west of the western property line.

The Ocean Front Walk boardwalk was originally constructed in 1928, and runs along the western side of Mission Beach from the South Mission Beach Jetty north approximately 2.36 miles to Thomas Avenue in the community of Pacific Beach. The existing concrete walkway east of the project location is approximately 11 feet wide, with a seawall/bulkhead on the seaward side, and a 12-foot wide right-of-way easement inland of the walkway. West of the seawall is sandy beach. Historically, there have been a variety of privately maintained fences, walls, decks, landscaping, and patio improvements located within the 12-foot wide public easement.

In August 1999, the Commission approved a permit for the City of San Diego to remove the private encroachments in the right-of-way at the project site from Ventura Place to Santa Barbara Place (#6-99-90). In addition, in February of 1999, the Commission approved a permit for the reconstruction of private improvements such as walls and patios east of the right-of-way on private property (#6-99-145). In January 2000 the Commission approved the companion permit to CDP #6-99-90 for the widening of the boardwalk between Ventura Place north to Santa Barbara Place (#6-00-1). In October 2000, the Commission approved a permit for the removal of the private encroachments between Santa Barbara Place north to Santa Rita Place (#6-00-123) and in April 2001, a subsequent permit for the widening of the boardwalk within this same area (#6-01-29).

The boardwalk widening between Ventura Place and Santa Barbara Place as well as the installation of a landscape buffer strip has already been completed pursuant to CDP #6-00-1. In addition, all of the private encroachments between Santa Barbara Place north to Santa Rita Place have recently been removed and the City will soon pour the concrete resulting in the widened boardwalk at this location. Specifically, the existing approximately 11-foot wide boardwalk was permitted to be expanded by approximately 9 feet with an additional 3-foot wide landscape buffer area on the inland side of the improved boardwalk. Thus, the overall improved width of the boardwalk upon completion of the remainder of the widening will be approximately 20 feet. The expanded boardwalk will separate wheeled traffic from pedestrian traffic and will consist of an 8-foot wide walking lane on the west side of the boardwalk, a 12-foot 3-inch wide two-way bicycle/skateboard lane east of that, and a 3-foot wide landscape buffer along the inland side of the expanded boardwalk, thus using the remaining portion of the public easement. The purpose of the 3-foot wide landscape strip is to serve as a buffer between the residential properties and businesses and the public boardwalk. The City is responsible for maintenance of the landscape buffer.

Most recently, the Commission approved CDP No.'s 6-02-9, 6-02-37, 6-02-40, and 6-02-47 for the construction of a 3' high privacy wall within the public right-of-way, similar to the proposed development.

The project requires a coastal development permit because it involves the construction of a significant, non-attached structure on property located between the sea and the first public road. The boardwalk is located in an area designated as an historic mean high tide

line and, as such, is in an area of the Commission's permit jurisdiction. Therefore, Chapter 3 of the Coastal Act is the standard of review.

2. Public Access/Recreation. Sections 30210, 30212, 30214(b) 30221, and 30222 of the Coastal Act address public access and recreation by protecting public rights and access to the shoreline and gives favor to public needs over private uses, and can be found applicable to the project proposal.

The proposed privacy wall will be located on the east side of the proposed expansion of the Ocean Front Walk boardwalk. The boardwalk is a heavily used recreational facility frequented by pedestrians, bicyclists, skaters, skateboarders, runners, and persons in wheelchairs. The walkway is accessible from the east/west streets off of Mission Boulevard, and provides access to the sandy beach at stairways located at various points along the seawall. The City has for many years contemplated expansion of the boardwalk, and thus, has required property owners adjacent to the boardwalk to obtain encroachment removal agreements for the improvements in the easement which state that the property owner must remove or relocate the encroachments within 30 days of notice by the City.

In reviewing new development adjacent to the boardwalk, the Commission has been similarly concerned with the potential for the elimination of right-of-way area available for any future expansion of the boardwalk. Therefore, the Commission has approved numerous permits for new development along Ocean Front Walk in the past only with the finding that the development would not impact public access because either: 1) no improvements in the easement were proposed, or 2) an encroachment removal agreement was obtained from the City (CDP #6-98-26; #6-97-76; #6-94-138; #6-94-115; #6-91-214; #6-91-89; #6-89-343).

Individual property owners are presently submitting applications to construct privacy walls and fences on private property to replace those removed from the public right-of-way pursuant to CDP #6-99-90 and #6-00-123. As part of the boardwalk widening pursuant to these latter permits, the City has designed a 3-foot wide landscape buffer strip just inland of the expanded boardwalk. Additionally, because encroachments into the public right-of-way would impede expansion of the boardwalk in the future, rebuilt walls and fences must normally be located inland of the planned landscaped buffer strip.

However, there are 26 homes and businesses that presently either do not have a setback from their western property line or are within one foot of the western property line. Approximately 20 of the existing residences and businesses fronting on the boardwalk presently have no setback from the public right-of-way easement, such as the existing development on the subject site. The City has anticipated the need for these homes and businesses to create a buffer between the boardwalk and private property, and has made it clear that permits will be issued to these landowners for the encroachment into the landscaped buffer area. Specifically, these property owners legally built the structures or businesses on the "zero lot line" such that the western walls of their structures are directly

on the property line and abut the landscaped buffer portion of the public right-of-way. In these situations, it would not be possible to construct a private wall/fence in front of these structures without encroaching into the landscape buffer area. In the case of the subject permit application, the existing residence is located on the western property line and was legally built at a time when no setback was required. As such, the proposed privacy wall is proposed to be located approximately 2'10" west of the existing structure in the 3-ft. wide landscape buffer strip.

It should be noted that when the City began the program to widen the boardwalk, it was anticipated that there would be a need to provide for special provisions for these 26 (legal/non-conforming) homes to allow for a privacy buffer between the planned expanded boardwalk and the existing homes located at or near the western property boundary. In addition, when approving the coastal development permits for the Boardwalk expansion, the Commission was also aware of these 26 homes and the need to provide special provisions to address privacy walls. The City has decided that for the 20 houses/businesses that are built on the zero lot line or within one foot of the zero lot line, if the structure was built at a time when it was legal not to have a setback, they will be permitted to use up to the full three ft. width of the area designated for a landscape buffer for purposes of building a private wall or fence. In these cases, the privacy wall would abut the improved portion of the boardwalk and there would not be a buffer area between the boardwalk and the privacy wall. In addition, for the approximately six houses/businesses that have less than a three-foot setback from the zero lot line, the City will permit some of the landscape buffer area to be used for the construction of a privacy wall. These 26 residences/businesses are permitted to encroach into the landscaped buffer area to allow structures that were legally built at a time when there was no required setback from the property line to have privacy walls or fences. As such, the 3-foot landscaped strip will serve as a physical barrier between the public boardwalk and the privacy walls. As noted previously, the public boardwalk is a heavily used recreational amenity which becomes very crowded during the peak summer season. A physical barrier is both desired by the adjacent homeowners and necessary. However, prior to authorization for such privacy walls, the City is requiring that these proposed developments must first obtain an encroachment removal agreement.

In the case of the subject project, the applicant has obtained an Encroachment Removal Agreement for the proposed construction of the privacy wall within the City's right-of-way easement (i.e., landscape buffer strip). The encroachment removal agreement consists of a one-page form letter and attached resolution with findings for approval of the agreement (Exhibit 3). These documents have already been recorded against the subject property and provide several stipulations. The resolution associated with the encroachment removal agreement clearly indicates that the applicant may construct and maintain a 3'0" wall encroaching "up to three feet" into the public right-of-way of Ocean Front Walk. The resolution also provides that the wall shall be smooth surfaced and round capped with rounded corners to prevent injuries to the public that uses the boardwalk for recreation type purposes. The encroachment maintenance and removal agreement contains several specific provisions, one of which requires that the property



owner must remove, relocate or restore the encroachment as directed by the City Engineer within 30 days after notice by the City Manager's Representative (CMR), or, in the case of an emergency, the CMR may require that the work be done immediately or within less than 30 days notice. If the properties owners fail to remove relocate or restore the encroachment, the City manager's representative may cause such work to be done, and the costs shall consist of a lien against the subject property.

As noted previously, the structures located on the zero lot line are legal non-conforming structures such that they were built at a time when a setback from the property line was not required. However, the Commission has a potential concern with regard to bringing these structures into conformity in the future should these properties ever be redeveloped or substantially improved. For this particular property, along with the other 25 residences/businesses which are located on the zero-lot line, should the property ever be redeveloped, the new structure would need to be brought into conformity with current zoning and observe the current required building setbacks (10'0" from the western property line). In the event this were to occur, the privacy walls that are allowed to encroach into the public right-of-way, such as in the subject permit, should also have to be removed. However, the Encroachment Maintenance and Removal Agreement does not specifically state that such permitted encroachment shall be removed in connection with redevelopment of the site or modifications to the structure such that a greater setback would be provided thus no longer requiring the permitted encroachment into the 3'0" landscaped buffer area. Specifically, if the existing structure along the boardwalk were substantially altered to the degree that it would essentially consist of "new development", the wall permitted herein would need to be removed. As such, Special Condition #2 requires the applicant to remove the permitted encroachment (i.e., privacy wall) if the structure is substantially altered such as 50% or more of the existing walls are demolished or removed.

In addition, Special Condition #1 requires the submittal of final construction plans that clearly indicate the location of the proposed improvements in relationship to the right-of-way easement. Such plans must demonstrate that all improvements will be constructed no further west than the 3-foot wide landscaped buffer area; no improvement or portion of any improvement shall be located in the planned widened public boardwalk. In order to prevent construction activity from adversely affecting the public's use of the boardwalk, Special Condition #1 also prohibits any staging and storage for the development from occurring on the existing boardwalk and prohibits any closure of the boardwalk or public area for construction activities.

As conditioned, the new wall will not obstruct planned expansion of the boardwalk and is not expected to have any adverse impacts on public recreation or access. Pursuant to Section 30214(b), encroachment of the wall into the landscaped buffer, subject to the requirements for removal in the event the boardwalk is widened or the subject property is redeveloped, is an appropriate accommodation of the applicant's privacy. However, because the site is used so heavily, particularly in the summer months, construction activity that impeded use of the boardwalk could have a significant adverse impact on



public access and recreation. Given the nature of the proposed improvements (concrete masonry wall) it is not anticipated that a substantial area would be required for construction activities or staging and storage. Typically, the Commission restricts work on public recreational areas to outside the summer season, to avoid impacts to the public during the time of highest demand for recreation and public beach access. However, in the case of the proposed project, since, as conditioned, neither access to the boardwalk nor any other public area would be impacted by construction of the improvements, there is no need to restrict the timing of the work.

In summary, the proposed project involves the construction of a wall within the public right-of-way east of the existing boardwalk. The proposed development is consistent with the planned expansion of the existing boardwalk, a public recreational amenity. As conditioned, no short or long-term impacts to coastal resources are anticipated. Therefore, the proposed project is consistent with the public access and recreation policies of the Coastal Act.

3. Visual Quality. Section 30251 of the Coastal Act requires, in part, that permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, and to be visually compatible with the character of surrounding areas.

The existing residences along the boardwalk vary widely in architectural style and appearance; the proposed development will consist of a concrete masonry wall. The project site is not adjacent to a lagoon or natural park area of the type where the Commission typically requires development to be of colors or designs compatible with or subordinate to the character of the surrounding natural environmental. Moreover, development along the entire length of the boardwalk from Mission Beach to Pacific Beach is highly varied, and the proposed 3-foot high wall is not expected to have an adverse impact on the visual quality of the neighborhood. In addition, the proposed privacy wall meets the City's standards and will not block any views toward the ocean. Therefore, the Commission finds the proposed development consistent with the visual protection policies of the Coastal Act.

4. Local Coastal Planning. 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, such a finding can be made.

The subject site is located in an area of original jurisdiction, where the Commission retains permanent permit authority. Section 103.0538 of the certified Planned District Ordinance (PDO) for Mission Beach requires that development or redevelopment of any lot abutting the Ocean Front Walk public right-of-way obtain an encroachment permit for any existing or proposed encroachments into the public right-of-way. The subject permit would involve constructing a wall 3' west of the western property line into the City's

right-of-way and proposed 3-foot wide landscape buffer strip inland of the planned expanded public boardwalk. Inasmuch as the applicant has obtained an Encroachment Maintenance and Removal Agreement, the proposed project is consistent with the certified Mission Beach PDO. The project is consistent with the certified Mission Beach Precise Plan and all applicable Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the proposed development will not prejudice the ability of the City of San Diego to implement its certified LCP for the Mission Beach community.

5. 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 proposed project has been conditioned so that it is consistent with the public access policies of the Coastal Act. Mitigation measures, including conditions requiring that construction activities take place on private property, and that any future redevelopment of the site requires the permitted encroachment herein be removed, ensures that all adverse environmental impacts are minimized. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact that 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.

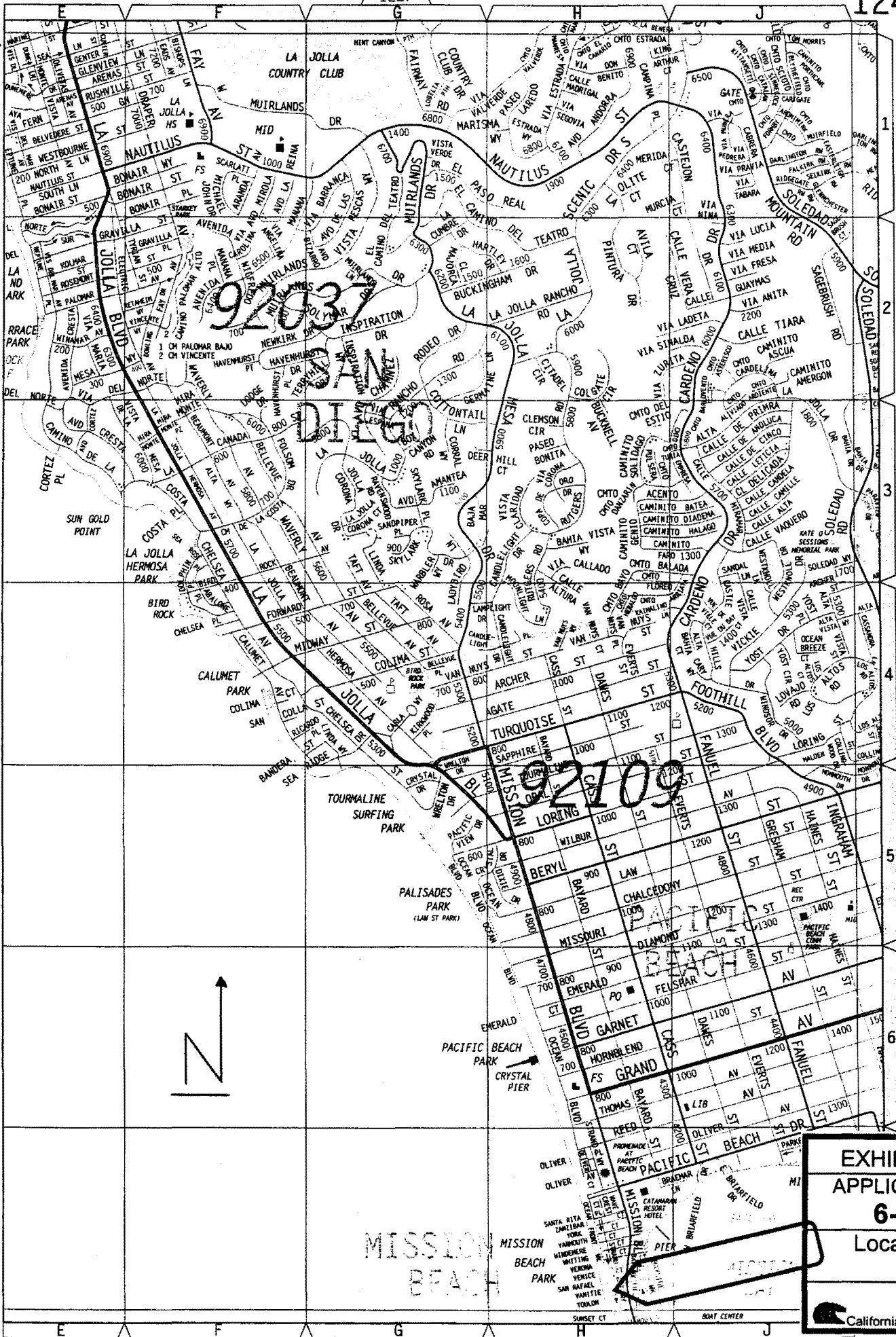
STANDARD CONDITIONS:

1. 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.

(G:\San Diego\Reports\2002\6-02-056 Wellcome stfprt.doc)

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SAN DIEGO CO.

SEE 1248 MAP

EXHIBIT NO. 1
APPLICATION NO.
<b>6-02-56</b>
Location Map

California Coastal Commission

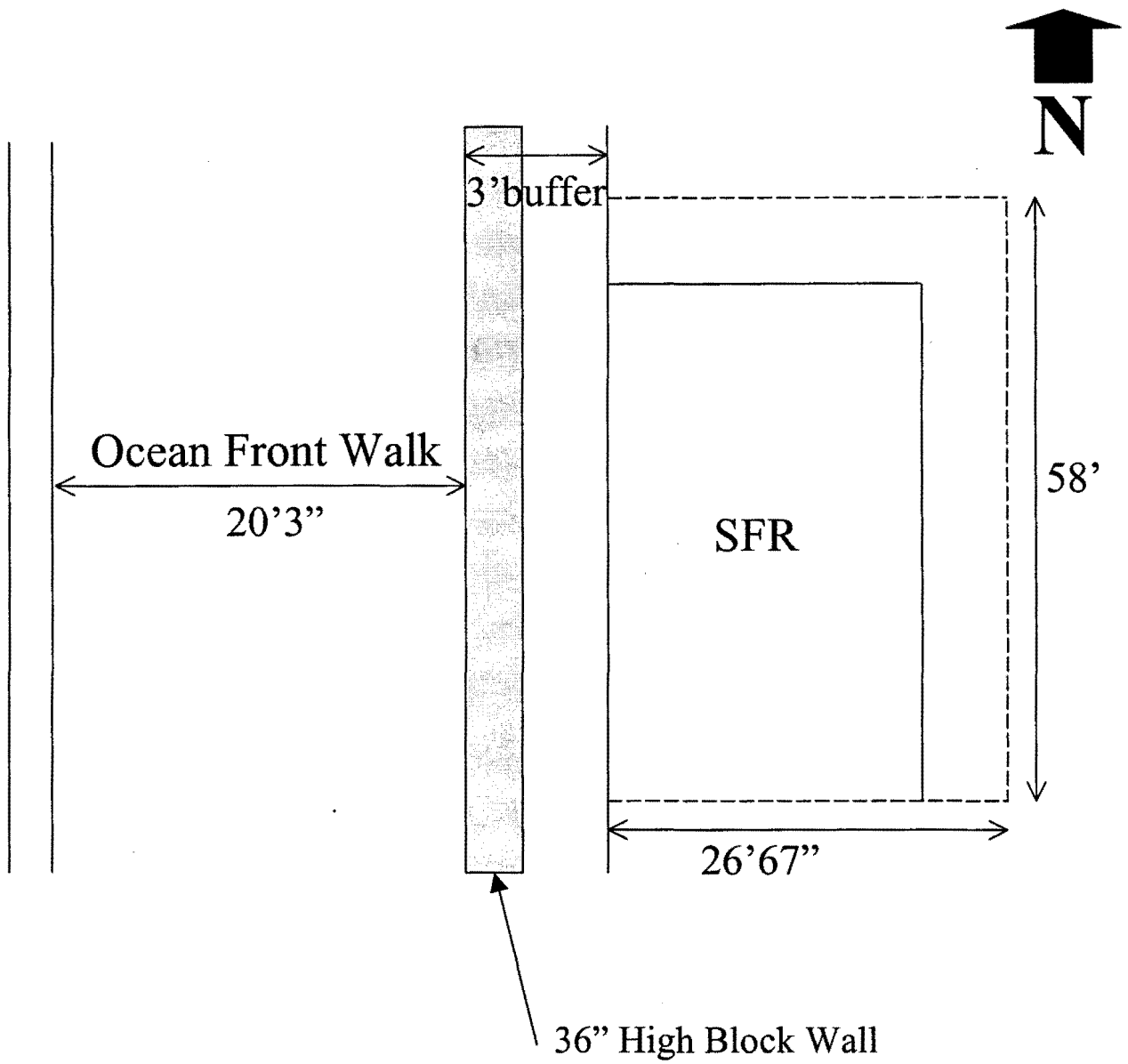



EXHIBIT NO. 2
APPLICATION NO.
<b>6-02-56</b>
Site Plan
 California Coastal Commission



RECEIVED

RECORDING REQUESTED BY:

City of San Diego

APR 26 2002

AND WHEN RECORDED MAIL TO CALIFORNIA COASTAL COMMISSION SAN DIEGO COAST DISTRICT

THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT Land Development Review Division 1222 First Avenue, M.S. 502 San Diego, CA 92101-4155

THE ORIGINAL OF THIS DOCUMENT WAS RECORDED ON MAR 22, 2002 DOCUMENT NUMBER 2002-0243480 GREGORY J. SMITH, COUNTY RECORDER SAN DIEGO COUNTY RECORDER'S OFFICE TIME: 4:06 PM

(THIS SPACE FOR RECORDER'S USE ONLY)

Encroachment Maintenance and Removal Agreement

W.O. NO. 02-006

COORD. NO.

In accordance with the provisions of Section 62.0302 of the San Diego Municipal Code, the undersigned, the owner of Lots E and F Block 222 Map 1809

(Legal Description)

in the City of San Diego, County of San Diego, State of California, in consideration of the grant of permission by the City of San Diego to install and maintain the improvements Ocean front seawall and two small connecting end walls, all 36" high for the use and benefit to the owner's property, over, under and across the property located at 3887 Ocean Front Walk

covenants, and agrees with the City of San Diego as follows:

- (a) This agreement shall run with the land and the encroachment shall be installed and maintained or replaced in a safe and sanitary condition at the sole cost, risk and responsibility of the owner and successors in interest.
(b) The property owner shall agree to at all times defend, indemnify and save the City free and harmless from and pay in full, any and all claims, demands, losses, damages or expenses that the City may sustain or incur in any manner resulting from the construction, maintenance, state of use, repair or presence of the improvement installed pursuant to this agreement, including any and all injuries (including personal injury, disability, dismemberment, and death), illness losses, loss of or damage to property, damages, claims, liabilities or expenses of any kind or nature to any person that causes or alleged to be caused in whole or in part by the negligent act or acts or omissions by the City, its contractors, officers, agents or employees.
(c) The property owner must remove, relocate or restore the encroachment as directed by the City Engineer within 30 days after notice by the City Manager's Representative [CMR] or, in case of an emergency, the CMR may require that the work be done immediately or within less than 30 days notice. If the property owner(s) fail(s) to remove, relocate or restore the encroachment, the City Manager's Representative may cause such work to be done, and the costs thereof shall be a lien against the property.
(d) For structures encroaching over or under a public facility within a right-of-way or easement, the owner agrees to provide an alternate right-of-way and to relocate said public facility to a new alignment, all without cost or expense to the City, whenever it is determined by the City Manager's Representative that the City Facility cannot be economically placed, replaced, or maintained due to the presence of the encroaching improvement(s).
(e) Whatever rights and obligations were acquired by the City with respect to the rights-of-way or ownership shall remain and continue in full force and effect and shall in no way be affected by the City's grant of permission to construct and maintain the encroachment improvement(s).
(f) The property owner shall maintain a policy of liability insurance, with the City also named, in an amount approved by the City Engineer, which will protect the City from any potential claims which may arise from the encroachments.

Jan 31, 2002

H. Borden Wellcome

H. Borden Wellcome

(Print Name & Title)

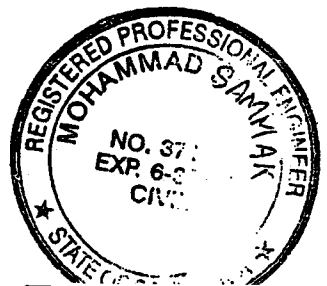
(Company)

SEE ATTACHED EXHIBITS

See Dwg. Nos: Construction Plan

For City Engineer APPROVED:

By: [Signature] Deputy



NOTE: NOTARY ACKNOWLEDGMENTS (FOR ALL SIGNATURES) MUST BE ATTACHED, PER CIVIL CODE

To request this information in formats for persons with disabilities, call (619) 446-5446 or (800) 735-DS- 3237 Revised 10/10/01

EXHIBIT NO. APPLICATION 6-02-56 Encroachment Removal Agreement

## CALIFORNIA COASTAL COMMISSION

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

## RECORD PACKET COPY



# Fri 4b

Filed: 4/8/02  
49th Day: 5/27/02  
180th Day: 10/5/02  
Staff: DS-SD  
Staff Report: 5/9/02  
Hearing Date: 6/10-14/02

## STAFF REPORT: CONSENT CALENDAR

Application No.: 6-02-61

Applicant: University of California, San Diego

Description: Improvements to an existing 54,915 sq. ft. academic courtyard, including the construction of three rows of curvilinear bench seating, a 14,000 sq. ft. deck, landscaping and drainage improvements, on a site surrounded by four existing buildings at the Scripps Institution of Oceanography.

Lot Area	54,915 sq. ft.
Pavement Coverage	29,150 sq. ft. (53%)
Landscape Coverage	25,765sq. ft. (47%)
Plan Designation	Academic

Site: South end of Discovery Way, Scripps Institution of Oceanography, UCSD, La Jolla, San Diego, San Diego County. APN 344-090-07.

Substantive File Documents: 1989 Revised Long Range Development Plan; Certified La Jolla - La Jolla Shore LCP Segment.

### I. STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

**MOTION:** *I move that the Commission approve the coastal development permit applications included on the consent calendar in accordance with the staff recommendations.*

### STAFF RECOMMENDATION TO ADOPT CONSENT CALENDAR:



Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

## II. Standard Conditions.

See attached page.

## IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The project proposes to demolish existing concrete walkways and construct hardscape and landscape improvements within an existing 54,915 sq. ft. academic green. The proposal includes the construction of three rows of curvilinear benches within a grassy area, a 14,000 sq. ft. deck, and approximately 30,000 sq. ft. of landscaping. The project is located at Pawka Green at Scripps Institution of Oceanography, at the south end of Discovery Way, on the western edge of the UCSD campus. The site is located in an open square, surrounded by buildings on four sides; Old Ritter Hall is to the north, the Francis Sumner Auditorium lies to the east, Sverdrup Hall is to the south, and Old Scripps building sits to the west. The project area will be used as an open-air community gathering space for students, faculty, and visitors from the surrounding buildings and auditorium.

The project site is within the Commission's area of permit jurisdiction. Thus, the standard of review is Chapter 3 policies of the Coastal Act.

2. Water Quality. Sections 30230 and 30231 address water quality and states, in part:

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, ....

The proposed project involves hardscape improvements consisting of the construction of approximately 2,700 sq. ft. of decomposed granite benches, paved walkways, and a 14,000 sq. ft. concrete deck. The proposal will replace approximately 3,000 sq. ft. of existing concrete and asphalt, and represents an increase in the amount of impervious surface on the site. The proposed 14,000 sq. ft. deck, however, will cover an existing approximately 9,000 sq. ft. concrete pad that covers an existing maintenance tunnel running beneath the southern portion of the project site. Thus, only approximately 5,000 sq. ft. of the proposed 14,000 sq. ft. deck improvement will constitute new impervious surface. Moreover, the project also includes approximately 30,000 sq. ft. of landscaping

improvements that include a large grassy area as well as approximately 25 specimen-sized trees. The applicant has submitted a detailed drainage plan that indicates all run-off from the proposed hardscape will be routed through vegetated area before being collected and routed through existing storm-drains on the site. Directing runoff through landscaping for filtration of on-site runoff in this fashion is a well-established Best Management Practice for treating runoff from development such as the subject proposal. In these ways, potential problems are treated at the source such that most pollutants never enter the storm water system. Directing runoff towards landscaped areas of the site will reduce the potential water quality impacts resulting from the proposed development to the maximum extent feasible. Therefore, the Commission finds the proposed development consistent with the water and marine resource policies of the Coastal Act.

3. Visual Impacts. Section 30251 of the Act provides for the protection of scenic coastal resources 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.

UCSD is a very large campus that is located within the geographic area of the community of La Jolla. While some portions of the campus are located near shore (i.e., the Scripps Institution of Oceanography), other portions are located much further inland. For those areas of the campus that are near shore, potential impacts on scenic views of the ocean are a concern. In addition, several of the streets that the campus adjoins are major coastal access routes and/or scenic roadways (as designated in the La Jolla-La Jolla Shores LCP Land Use Plan). In this particular case, the improvements are proposed to be located within an existing campus, surrounded by existing multi-story buildings. As such, the proposed improvements will not be visible from any major coastal access route or public beach.

The proposed development involves the construction of hardscape and landscape improvements that will be located on an existing open area within the Scripps Institution complex. The proposed curvilinear, decomposed granite benches, are the highest of the proposed improvements, and will be approximately 3 ft. high. The benches will be much lower in height and scale than all of the other surrounding buildings and they will not block any existing views. Thus, the proposed improvements will not impact any existing scenic areas nor will they be visible from any public road or beach, and the project is consistent with Section 30251 of the Act

4. Public Access. Section 30252 of the Coastal Act states, in part:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2)

providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation...

The project site is located within the Scripps Institution of Oceanography campus, located between the first coastal roadway (La Jolla Shores Drive) and the sea. The Commission has taken the position that on-campus parking problems on the UCSD campus are not a Coastal Act issue unless they result in spillover effects within the surrounding off-campus area, particularly North Torrey Pines Road and La Jolla Shores Drive, which serve as major coastal access routes. In the case of the project development, the proposed improvements will not have any such spillover effect because the academic green will be used for students, faculty, and visitors already on campus for classes or special events, and will not create any increase in demand for onsite parking. The proposed development will not adversely affect public access or traffic circulation in the area because the project does not change the intensity or current use of the site, and the Commission finds the proposed development consistent with the Chapter 3 policies of the Coastal Act addressing protection of public access.

5. Local Coastal Planning. 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. The University of California campus is not subject to the City of San Diego's certified Local Coastal program (LCP), although geographically the Scripps Institution of Oceanography (SIO) campus is within the La Jolla Shores segment or the City's LCP. UCSD does, however, have the option of submitting an LRDP for Commission review and certification.

While UCSD has submitted a draft LRDP, its EIR and topographic maps to the Commission staff informally, as an aid in analyzing development proposals, the Coastal Commission has not yet formally reviewed the LRDP, and the University has not indicated any intention of submitting the LRDP for formal Commission review in the future. The proposed structure is consistent with the University's draft LRDP to accommodate campus growth.

As stated previously, Chapter 3 policies of the Coastal Act are the standard of review for UCSD projects, in the absence of a certified LRDP. Since the proposed development, as conditioned, has been found consistent with all applicable Chapter 3 policies, the Commission finds that approval of the proposed project will not prejudice the ability of UCSD to prepare a certifiable Long-Range Development Plan for its campus.

6. 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

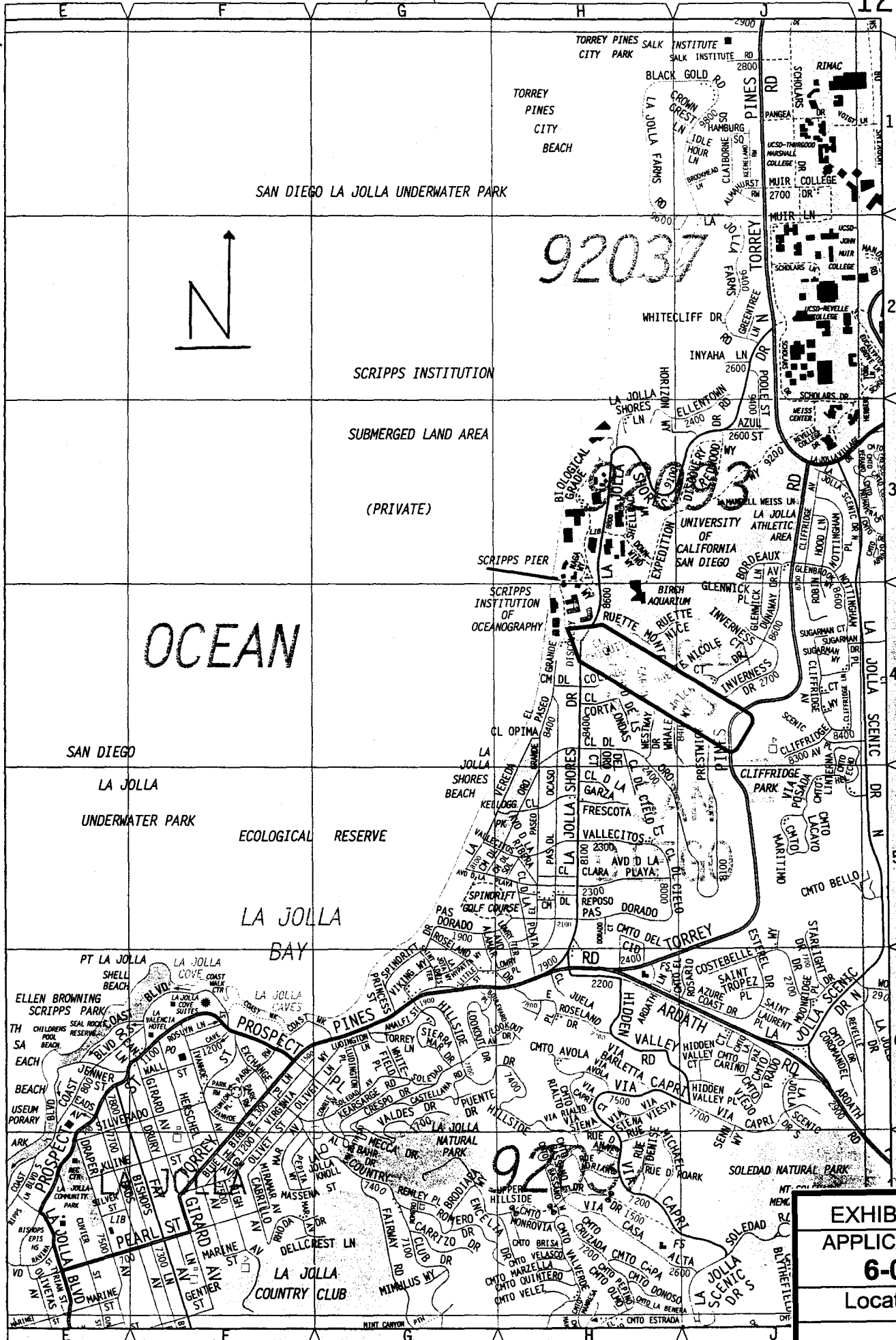
be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant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

The proposed project is consistent with the water quality and visual resource policies of the Coastal Act. Mitigation measures, including conditions addressing landscaping inclusive of planting of substantial tree elements to visually buffer the proposed development and installation of buffer strips to filter runoff, 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 that 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. 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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OCEAN

SAN DIEGO  
LA JOLLA  
UNDERWATER PARK

ECOLOGICAL RESERVE

LA JOLLA BAY

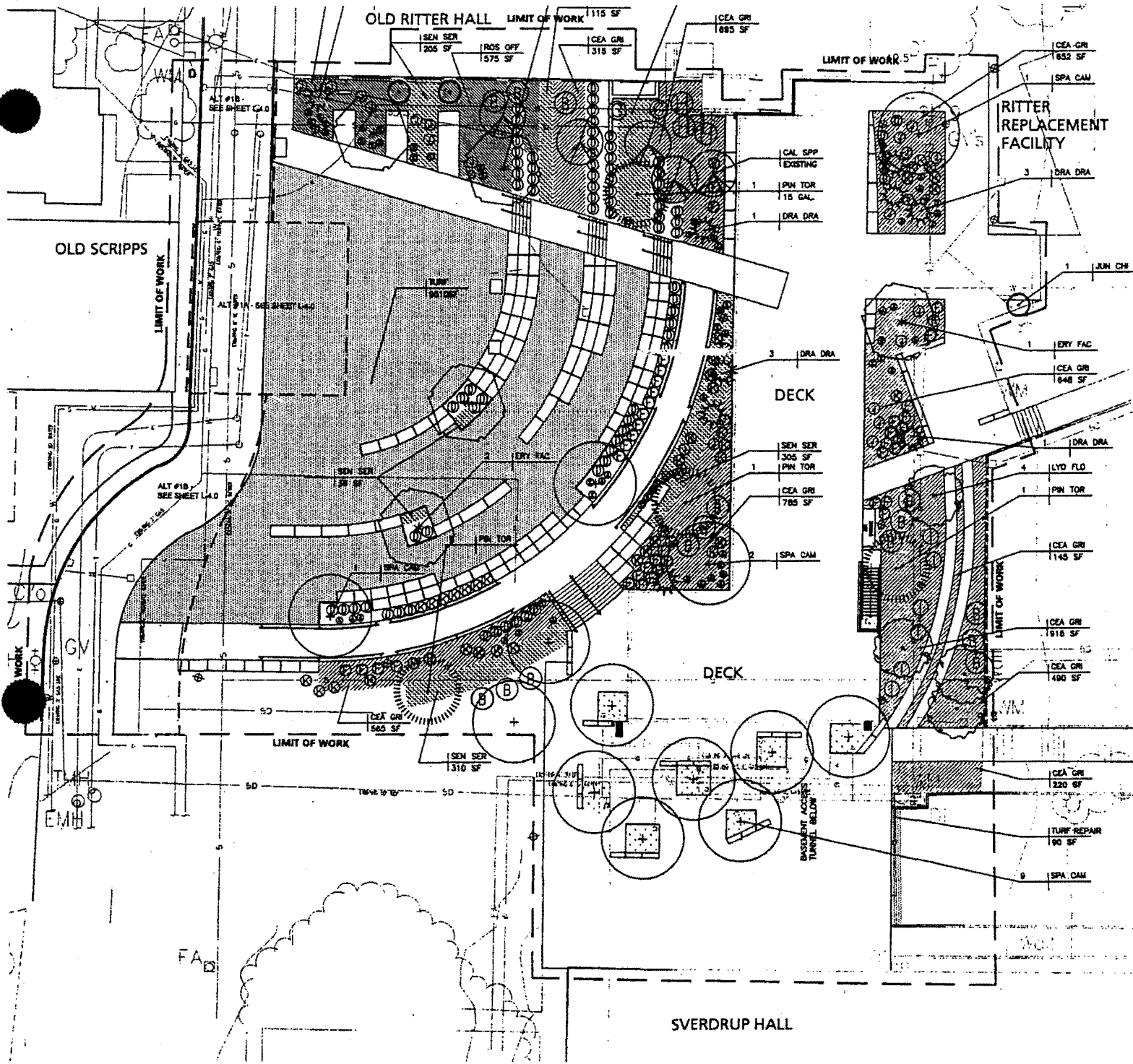
PROSPECT

LA JOLLA COUNTRY CLUB

92037

**EXHIBIT NO. 1**  
**APPLICATION NO.**  
**6-02-61**  
**Location Map**

SAN DIEGO CO.



NOTES:  
 1. DO NOT DRIVE OR LOAD EQUIPMENT ON THE DECK.

EXHIBIT NO. 2  
 APPLICATION NO.  
 6-02-61  
 Site Plan

