

## CALIFORNIA COASTAL COMMISSION

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# Wed 17b

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## STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL GOVERNMENT: City of Imperial Beach

DECISION: Approved with Conditions

APPEAL NO.: A-6-IMB-03-96

APPLICANT: City of Imperial Beach and Port of San Diego

PROJECT DESCRIPTION: Renovation and enhancement of public accessways and view corridors for the Palm Avenue and Carnation Avenue street ends.

PROJECT LOCATION: Western termini of Palm Avenue and Carnation Avenue where these street ends intersect with the beach, Imperial Beach, San Diego County.

APPELLANTS: Nancy Schmidt

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### SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed. Consistent with the certified LCP and the public access and recreation policies of Chapter 3 of the Coastal Act, the portion of the project that is before the Commission will improve public access and recreational opportunities at Palm Avenue while preserving public views and minimizing encroachment on the beach.

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SUBSTANTIVE FILE DOCUMENTS: Certified Imperial Beach Community Plan and Local Coastal Land Use Plan; Appeal Forms; and, City of Imperial Beach Staff Report dated 8/6/03; A-6-IMB-00-186; CDP Permit Application #6-00-95; Draft Environmental Impact Report dated October 2002; Final Environmental Impact Report dated May 2003; "Geotechnical Investigation and Shoreline Protection Study for Palm Avenue and Carnation Avenue Street End Improvements Imperial Beach" dated December 1, 2000.

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### I. Appellants Contend That:

The proposed development is inconsistent with the policies of the certified LCP which pertain to shoreline hazards, public view protection and environmentally sensitive wildlife. Specifically, the appellants asserts that the Palm Avenue proposal violates the LCP because it calls for excessive seawall construction; there is inadequate mitigation for sand loss; and the ramp location violates established limits. The appellant also states that the Palm Avenue proposal violates the LCP policies against blocking the view corridor. Lastly, the appellant asserts that significant impacts to sensitive wildlife as a result of both the Palm Avenue and Carnation Avenue street ends have still not been mitigated (ref. Exhibit No. 9).

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### II. Local Government Action:

The coastal development permit was approved by the City Council on August 6, 2003. The conditions of approval address, in part, the following: construction access and staging, drainage and water quality, State Lands Commission approval and compliance with Mitigation Monitoring and Reporting Program.

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### III. Appeal Procedures/Substantial Issue Analysis.

After certification of a Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Projects within cities and counties may be appealed if they are located within mapped appealable areas.

Section 30603(b)(1) of the Coastal Act states:

*The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.*

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

*With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.*

If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to a de novo hearing on the merits of the project. If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, certain proponents and opponents (as indicated

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

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3.

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

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs. title. 14 section 13155(b)). In previous decisions on appeals, the Commission has been guided by the following factors:

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

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to the Code of Civil Procedure, section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development approved by the City of Imperial Beach

does not raise a substantial issue with regard to the appellants' contentions regarding coastal resources.

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#### IV. Staff Recommendation On Substantial Issue.

The staff recommends the Commission adopt the following resolution:

**MOTION:**     *I move that the Commission determine that Appeal No. A-6-IMB-03-96 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

#### **STAFF RECOMMENDATION OF NO SUBSTANTIAL ISSUE:**

Staff recommends a YES vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

#### **RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:**

The Commission finds that Appeal No. A-6-IMB-03-96 does not present a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

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#### V. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History/Detailed Project Description. The proposed project involves the renovation and enhancement of both the Palm Avenue and Carnation Avenue street ends through the provision of improved public coastal accessways and view corridors. Both the Palm Avenue and Carnation Avenue street end projects are portions of a larger project involving the renovation of the western portions of several other east-west streets in Imperial Beach that are located between Seacoast Drive west to the beach. Only the portion of the project within the Ocean Lane public right-of-way (the ramps and the westernmost portion of the plaza/overlook) is within the City's coastal permit jurisdiction and covered by the subject appeal (ref. Exhibit No. 2). The upland portion east of the Ocean Lane paper street is within the Port of San Diego's jurisdiction and was approved by the Port District on 6/3/03 (CDP #2003-002). Specifically, the overall street improvements project includes the following:

Palm Avenue – Improvements to this street end consist of a beach overlook and public access improvements to the beach to enhance access for both the disabled and safety personnel. The public access improvements include a 60-foot long concrete access ramp on the north and a 42-foot long sand access ramp on the south. Approximately 500 sq. ft. of grouted toe stone would be buried at the end of the north access ramp to help prevent scour and undermining of the access ramp. Both access ramps will be protected with a vertical sheetpile seawall driven to a depth ranging from -12.5 to -16.2 feet MLLW.. Also proposed is textured paving and decorative sidewalks, on-street parking (16 spaces), improved storm drain facilities including a low-flow urban runoff diverter to the sanitary sewer, undergrounding of an existing above-ground sewer pump station at the street end, decorative lighting, landscape improvements, public art and 8,000 cy. of beach sand nourishment.

Palm Avenue is approximately four blocks south of the City of Imperial Beach's northern limits. Currently, the area consists of unimproved sandy beach and an existing rock groin extending from the end of the street into the water. The groin was constructed in 1961 by the Army Corps of Engineers (ACOE), and was intended to be part of an offshore breakwater. The ACOE determined that the groin was ineffective in retaining sand and the project was never completed. A concrete platform extending approximately 65 feet west of the street end has been laid over the groin and is used by lifeguards and the public because of the unobstructed views from the platform. Presently, beach sand covers most of the concrete platform so it appears as though the groin actually begins at the edge of the water and extends seaward. Randomly placed armor stones are scattered around the main groin area as well as at the street end of Palm Avenue, along its north end.

The western portion of the Palm Avenue street end project is located within the City of Imperial Beach's permit jurisdiction and the Coastal Commission's area of appeal jurisdiction. As a point of clarification, the Port District has coastal permit jurisdiction for the improvements occurring within the rights-of-way for both Palm Avenue and Carnation Avenue between Ocean Lane and Seacoast Drive pursuant to agreements and easements executed in 1993 and 1997. The City of Imperial Beach has coastal permit jurisdiction for the improvements occurring within the Ocean Lane right-of-way (public beach) east of the Mean High Tide Line which includes a small portion of the western end of the street. The overall street improvements project involves the renovation of the entire street between Seacoast Drive and the beach including creation of a decorative concrete plaza, landscaping, public art, lighting, seating and parking. As described earlier, an existing pump station in the middle of Palm Avenue would be relocated slightly to the north and placed underground and a low flow diversion system installed.

The proposed project was the subject of a former appeal and coastal development permit application in 2000. The portion of the project which includes the Palm Avenue street end was appealed to the Commission in 2000 by both Nancy Schmidt and the Surfrider Foundation (ref. A-6-IMB-00-186). On 3/13/01, the Coastal Commission determined that no substantial issue existed with respect to the grounds on which the appeal was filed. Subsequently, a legal challenge was filed by the appellant against the City of Imperial Beach and the San Diego Unified Port District. The Superior Court's order

required the City and Port to “suspend all further project approvals” until the City complied with the CEQA. The prohibition is in an order dated 10/18/01. As noted by the City, the court granted the petitioner’s writ of mandate and determined that a fair argument had been raised that the Mitigated Negative Declaration for the project had not adequately addressed the potential significant environmental effects that could result from the project including potentially significant cumulative effects on the Western snowy plover. An EIR was thus required to be prepared pursuant to CEQA. A Negative Declaration for the Carnation Avenue street end project was prepared in March, 2001 for the project and circulated for public review. An EIR was also required to be prepared. Meanwhile, the City had also submitted a coastal development permit application (CDP# 6-00-95) for the Carnation Avenue street end project. However, in light of the impending court case, the City withdrew this latter permit application on 8/23/01. A draft EIR was also prepared and circulated for public review.

At this time, the City has indicated that the writ has been returned and the court has signed off on the City’s and Port’s CEQA compliance as adequate and released them from its jurisdiction and from the prohibition in the court order.

Carnation Avenue – Proposed is shoreline protection in the form a of a vertical sheetpile seawall, textured paving and decorative sidewalks, parking for the disabled, decorative lighting, landscape improvements, interpretive/educational kiosk and 1,000 cy. of beach sand nourishment, at the western termini of Carnation Avenue where the street end intersects with the beach. More specifically, the existing street end consists of an 18-foot wide, single-lane paved street that extends from Seacoast Drive to Ocean Lane, a paper street that runs north and south along the beach. There is buried revetment across the width of Carnation Avenue as well as above-sand elevation rip rap on the beach. The northwest edge of the project site consists of deteriorated steel sheet-piling seawall. The steel sheet-piling fronts on land that is owned by the U.S. Navy, Naval Radio Receiving Facility Imperial Beach (NRRF) within the limits of the City of Coronado. This area is currently leased by the YMCA for use as a camp known as Camp Surf. The NRRF is zoned Military Zone (MZ) with a “Wildlife Preservation Zone” overlay.

Access to the beach is currently available from the Carnation Avenue street end, but as noted in the City staff report, it is “crudely developed”. Timber pilings and rip rap rocks exist on the west end of the street end. There is a gradual slope down to the beach elevation from the street end but the access path to the beach/ocean is not free and clear due to a scattering of rocks and timber, as described above. The public right-of-way west of Ocean Lane consists of beach sand and east of Ocean Lane is consists of paved surfacing. A fence borders the northern part of the Carnation Avenue right-of-way where the YMCA Camp Surf Camp is located on land leased from the U.S. Navy which lies within the City limits of the City of Coronado.

Carnation Avenue is located within the City of Imperial Beach’s permit jurisdiction and the Coastal Commission’s area of appeal jurisdiction; however, the proposed expansion of this street end to the north lies within federal land and is within the City of Coronado.

A 20-foot wide easement from the U.S. Navy will need to be obtained in order to accommodate the landscaped pedestrian path portion of the project. A separate coastal development permit (from the Coastal Commission) will be processed for that portion of the project. Therefore, the subject of this appeal only addresses the portion of the Carnation Avenue street end that is within the City of Imperial Beach's permit jurisdiction (the existing public right-of-way). As a point of clarification, the Port District has coastal permit jurisdiction for the portions of the improvements occurring within the rights-of-way for both Palm Avenue and Carnation Avenue between Ocean Lane and Seacoast Drive pursuant to agreements and easements executed in 1993 and 1997 (ref. Exhibit No. 6). The City of Imperial Beach has coastal permit jurisdiction for the improvements occurring within the Ocean Lane right-of-way (public beach) east of the Mean High Tide Line.

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

**CO-1 The Beach**

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

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

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

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

This means that:

- a. The beach shall be free to the public.
- b. Recreational needs of children, teens, adults, persons with disabilities, elderly, visitors and others shall be accommodated to the extent resources and feasibility permit.
- c. City residents need mini-parks, neighborhood parks, community parks, activity centers, special use and all-purpose parks.

- d. The City should pursue increased recreational opportunities for the general public in the Tijuana Estuary, Borderfield State Park, the beach and the South San Diego Bayfront.

### **P-2 Ocean and Beach Are The Principal Resources**

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

### **GOAL 14 SHORELINE ACCESS**

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

#### **P-13 Improving Access-ways**

Priority shall be given to gaining and improving access-ways located in proximity to public parking areas and public transportation routes. The use of these access-ways shall be encouraged through the installation of appropriate signage. Said signage shall indicate, where applicable, the existence and location of nearby public parking areas. In the unimproved right-of-way of Ocean Lane north of Imperial Beach Lane, the City may construct improvements that provide, preserve or enhance public access at the street ends and parks, whether vertical or lateral or both, and which will continue to allow access for equipment for emergency and maintenance purposes.

#### **P-14 Retain Existing Street Ends**

All existing street ends under City ownership that provide public access to coastal resources, including bays, shall be retained for streets, open space or other public use. View corridors shall be protected and in no case shall buildings be permitted on or bridging the streets. The City shall approve detailed design plans for each street end.

### **GOAL 16 SHORELINE PROTECTION**

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

#### **S-1 Technical Studies**

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



**S-10 Regulate Shoreline Land Use and Development**

The City should regulate shoreline land use and development by:

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

**S-11 Storm Waves, Flooding and Seacliff Erosion**

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

New development fronting on Ocean Lane north of Imperial Beach Lane shall incorporate an engineered vertical seawall in its design if it is determined that shoreline protection is necessary. Such a seawall shall, except for required toe protection, be located within the private property of the development and shall be sufficient to protect the development from flooding during combined design storm and high tide events. Public improvements shall be designed to avoid shoreline protection, if possible. Any necessary protection shall be the minimum necessary and shall not extend onto the beach further seaward than the authorized vertical shoreline protection on either side of the access improvements; or, in the absence of contiguous shoreline protection, the alignment cannot extend further seaward than the inland extent of Ocean Lane right-of-way. An exception may be made for necessary protection associated with public improvements at the Palm Avenue street end, which may extend seaward a sufficient distance to accommodate a transition to the existing groin. All improvements shall be designed to minimize impacts to shoreline sand supply.

In addition, the following Coastal Act policies addressing protection of public access are applicable to the proposed project, as well:

Section 30210 of the Coastal Act states:

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

Section 30212 of the Act states, in part:

(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 states:

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.

Section 30222 states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Access to the beach is currently available from the Palm Avenue street end, but is often difficult as the sand level drops significantly in the winter and people must traverse the groin and riprap to get to beach level. Vehicle access over the groin can also be problematic, and the City typically pushes up sand around at least one side of the groin to create sand ramps to allow lifeguard vehicles to reach the beach as well as to be able to traverse the southern portions of the beach and get to the northern portions of the beach (south and north of the groin). Access to the north is particularly difficult from the street end, and typically, pedestrians get to the sand north of Palm Avenue across the currently vacant private lot adjacent to the street end. This property is zoned Residential R-1500, which would allow multi-family residential development up to 21 dwelling units per net acre, which would, if constructed, preclude pedestrian access across the site. The City has just recently indicated that a coastal development permit has been approved for a four-unit condominium development on the subject site. When that development is constructed, the public will no longer be able to walk across the site to get to the beach.

The proposed project is intended to provide visual and physical access to the beach and establish year-round lateral beach access including handicapped access and lifeguard and emergency vehicle access by providing a permanent transition from the groin/street end to the beach. The project involves either removing the loose riprap around the site or incorporating it into the toestone at the proposed northern access ramp. The semi-circular public overlook area created at the street end will cover the portion of the existing concrete slab just west of the street end. The southern ramp surface will consist of sand, while the northern ramp will be paved to provide a wheelchair-friendly surface. A seasonal lifeguard tower will be located on the southern side of the overlook so direct access to the beach from a ladder over the groin will be available, and so the tower does not block views down the street end.

The line of private property on the north side of Palm Avenue is offset such that the seaward edge of the private lot is located approximately 20 feet seaward of the private property line south of the street end. So that the north and south ramps would line up, the City obtained an easement from the northern property owner that allows the majority of the northern ramp to be constructed on private property. The only portion of the northern ramp on the public beach would be a portion of the proposed seawall (see Exhibit No 3).

Historically, the Commission has recognized that shoreline development in Imperial Beach is subject to wave action and damage and requires protections. South of Imperial Beach Lane, the established form of protection has been rock revetment, although ideally this will be gradually converted to vertical seawalls over time. North of Imperial Beach Lane, the LPC generally requires that any required shoreline protection to protect private structures be in the form of vertical seawalls located on private property.

Shoreline protection in front of the developed sites to north and south of the street generally consist of vertical seawalls fronted by riprap, much of which appears unengineered and may be unpermitted. The two lots immediately north of the Palm Avenue street end are vacant and do not have any shoreline protection.

On February 18, 2000, the Commission approved an amendment to the City's Local Coastal Program (LCP) pertaining the construction of public access improvements in Ocean Lane. Policies P-13 and S-11 were amended to specifically allow for the construction of public access improvements such as the proposed project in the unimproved right-of-way of Ocean Lane north of Imperial Beach Lane. In general, shoreline protection associated with these public improvements may not extend onto the beach further seaward than the authorized vertical shoreline protection on either side of the access improvements; or, in the absence of contiguous shoreline protection, the alignment cannot extend further seaward than the inland extent of Ocean Lane right-of-way.

However, the Commission recognized at the time the above cited LCP amendment was approved, that public access improvements at the Palm Avenue street end would necessarily have to extend further onto the beach than the inland extent of Ocean Lane due to the presence of the existing groin. As noted previously, the groin currently

impedes access to and along the beach, and any new accessways must be able to accommodate access from the street end, over the groin, and down onto the beach. Thus, the language in the approved LCP allows shoreline protection associated with the improvements to extend seaward a sufficient distance to accommodate a transition from the existing groin to the sandy beach. The improvements must still be the minimum necessary, and designed to minimize impacts to sand supply.

The appellant's first contention is that the Palm Avenue street end proposal "...violates the LCP because it calls for excessive seawall construction; there is inadequate mitigation of sand loss; and ramp location violates established limits." In response to these allegations, the City of Imperial Beach has addressed these points in a letter dated 10/1/03 (ref. Exhibit No. 10). In addition, the Commission has also evaluated these contentions and has determined that the proposed development meets all of the LCP requirements. The proposed project does involve the construction of public improvements including vertical shoreline protection and toestone on public beach, and the protection would encroach further onto the beach than the inland extent of Ocean Lane. However, the site-specific geotechnical report for the project has determined that shoreline protection is necessary for the project. Furthermore, it has been documented that the proposed seawalls are the minimum necessary to provide protection of the proposed accessways, as set forth in the certified LCP. The City reviewed a wide range of alternatives in developing the proposed project design. Alternative 1 (Revised) is the proposed project for the Palm Avenue street end. The proposed sheetpile seawalls have been designed to be the minimum necessary in order to protect the proposed street end improvements for both Palm and Carnation Avenues. This alternative has the least amount of rock revetment (small amount of grouted toe stone below grade at the end of the northern access ramp), the least amount of seawall structure and the least amount of encroachment on the beach while still meeting the project objectives. It is important to note that the LCP does allow vertical shoreline protection (in lieu of rip rap) which results in less encroachment onto the public beach. In this case, the project incorporates such a design consistent with these policies. In addition, the proposed seawalls are also designed to be located no farther seaward than is necessary to accommodate a transition to the existing groin, consistent with the certified LCP. As such, the proposed seawalls are not excessive in their design, as the appellant suggests.

Regarding the appellant's second contention regarding inadequate mitigation for sand loss resulting from the proposed seawall for the Palm Avenue street end, as noted in the project EIR, it was concluded that there would be no significant impact to either active or passive shoreline erosion. The final EIR specifically states the following with regard to geotechnical and coastal processes:

"The cumulative projects either have no impact on coastal erosion or sand depletion, or include sand nourishment and provide a potentially positive impact on coastal erosion and sand depletion. In addition, the proposed projects will contribute a sand mitigation fee, as required by the City of Imperial Beach Zoning Ordinance 19.87.050. Payment of the mitigation fee reduces any potential adverse impacts, resulting from the construction of seawalls, to below the level of

significance. The proposed project will contribute to the beneficial cumulative impacts to beach erosion and sand depletion presented by the cumulative projects identified.”

As noted in the project description, while no additional mitigation measures are required through the EIR, the proposed project will include 8,000 cubic yards of sand to be deposited in front of the completed Palm Avenue street end which includes 3,000 cubic yards to the south of the groin and 5,000 cubic yards to the north of the groin. Therefore the appellants contentions that the project will result in inadequate mitigation for sand loss are unsubstantiated. The Carnation Avenue also proposes sand mitigation; however, it was not raised as a concern by the appellant and staff has found it to be consistent with the certified LCP.

The appellant's last contention for this policy group is that “the ramp locations are inconsistent with established limits” is unclear but appears to imply that the ramps are located outside of the public right-of-way and extend further onto the beach than other improvements in the area. However, this is not accurate. The proposed northern ramp is not proposed to be located within the Ocean Lane public right-of-way; however, the proposed shoreline protection will be situated right along the eastern boundary of the right-of-way. As discussed below, alternatives thoroughly evaluated different ramp lengths, etc. The appellant contends that the proposed northern ramp could be decreased in length and still meet ADA requirements. As noted in the City's letter dated 10/1/03, the City thoroughly evaluated the length of the ramps as they relate to ADA requirements. However, per regulations, they designed the ramp to meet the requirement that states “The least possible slope shall be used for any ramp”. The City also indicated that one of the alternatives (alternative “D” included a 5% slope which would have slightly reduced the northern ramp length; but that the community supported the preferred project alternative. In any case, the difference in ramp length between the alternatives is minor. A ramp with a lesser grade is more accessible to persons in wheelchairs and the Commission finds that the selected alternative is acceptable in this case.

In the appellant's contentions, it is asserted that the proposed ramp will be in an inappropriate location, because they are located outside of the Ocean Lane right-of-way. However, Policy S-11 cited above clearly states that the alignment of proposed shoreline protection cannot extend further seaward than the inland extent of Ocean Lane right-of-way with the *exception of* necessary protection associated with public improvements at the Palm Avenue street end, which are expressly permitted to extend seaward a sufficient distance to accommodate a transition to the existing groin. The appellant believes that the access improvements should be realigned within the existing right-of-way without any further encroachment onto the sandy beach. However, this statement is confusing because the existing right-of-way (Ocean Lane paper street) does consist of sandy beach. The proposed northern ramp will be located just outside and east of the Ocean Lane right-of-way in an area of private property. The appellant also states that if the north ramp were located on the private easement as proposed, it would be necessary for vehicles using that ramp to unlawfully cross private property at the north end. The appellant goes

on to state that the access improvements should be realigned within the existing right-of-way. However, as indicated by the City, with the easement that the City has obtained from the property owner immediately north of the Palm Avenue street end, the vehicles will be allowed permission to cross over the property and, as such, it will not be a problem as suggested by the appellant. In addition, if the alternative cited by the appellant were to be used this would mean the ramp would actually be constructed further west in the public right-of-way of Ocean Lane which would be further west than the proposed alignment. This would result in further encroachment onto the public beach and is not the least environmentally damaging alternative.

Specifically, designs were evaluated that would limit the encroachment on the beach, while still maximizing public access, and maintaining and improving lifeguard access. The design of any access improvement project at Palm Avenue is constrained by the need to provide both vehicle access and handicapped access, which dictate both the width and steepness of any access ramps, among other things. For example, stairs would not be a feasible alternative, even though stairways would likely not encroach as much on the sandy beach as ramps would.

The City's proposed alternative was redesigned several times before the plan was finalized. Because of the presence of the jetty, most of the scour occurs on the north side of groin, while sand tends to accumulate on the south. Originally, both the northern and the southern ramp would have been approximately 100 feet in length. In this design, the northern ramp would have gradually sloped (according to ADA requirements) down from the plaza until it reached the beach at the lower scour elevation, approximately elevation 0 feet MLLW. At this point, the end of the ramp would rest on the beach even during the winter when sand levels are fairly low. However, in order to reduce the amount of beach encroachment, the project was redesigned so that the southern ramp is only 42 feet long which is long enough to reach the typical beach elevation on the south of the jetty, and the northern ramp is 60 feet long, at the same steepness, such that the ramp terminates at elevation +8 MLLW. In the summer, this is contiguous with beach elevation, but in winter storm conditions, the beach level gets much lower. Thus, a grouted rock revetment has been proposed at the terminus of the northern ramp. The revetment will prevent undercutting of the ramp, reduce scour, and allow ADA access to the beach even when sand levels drop (the revetment will be rough but traversable). However, the City has indicated that they will maintain the sand around the ramp such that revetment will be buried at almost all times.

It is important to note that the slope of any access ramps must be fairly gradual in order to meet ADA requirements. Other alternatives the City looked at included lowering the elevation of the overlook, and/or locating the ramps within the plaza area, in order to reduce the amount of the ramp that would be located on the beach. These alternatives would variously reduce the viability of the overlook for the public and for the lifeguards, create a lowered "well" within the plaza, disrupting the plaza and creating an area where water and debris could pool, and raising safety concerns, since people on the ramp would not be visible from surrounding areas.

Several other alternatives were analyzed and rejected due to a number of factors which included projects that would: result in more seaward encroachment onto the beach; inadequate turning radius for lifeguard vehicles, designs which included ramps that would not provide adequate lateral access; designs that would require that the temporary lifeguard tower be placed in the middle of the street end, rather than on the southern side, as proposed which would eliminated pedestrian overlooks and conflict with access for a seasonal lifeguard tower. (Eventually, a temporary tower may be located on the north side of the overlook as well).

In summary, the City is proposing a project in the unimproved right-of-way of Ocean Lane, to improve public access, consistent with Policy P-13 of the certified LCP. The view corridor at Palm Avenue will be protected, as required by Policy P-14. The project will involve some encroachment of shoreline protection on sandy beach. The Commission previously acknowledged in approving Policy S-11, that given the presence of the existing groin, gaining year-round public vehicle and pedestrian access from the street end over the groin to the beach may require some beach encroachment.

The City performed an extensive alternatives analysis looking at ways in which beach encroachment could be reduced and necessary protection minimized. The proposed project was redesigned to shorten the access ramps so beach encroachment was reduced. Because sand accumulates on the south of the jetty, the project was designed such that the southern ramp is sand only, which minimizes encroachment, and does not require any riprap protection. An easement was obtained from the private property owner north of Palm Avenue such that the entire ramp is on private property, and only a small portion of the vertical protection is located on public beach. There is no other alternative that improves public access and recreation and reduces encroachment on the beach.

Thus, consistent with Policy S-11, the proposed public improvements have been designed to avoid shoreline protection where possible (i.e., no riprap is proposed to protect the sandy southern ramp). The project involves the minimum shoreline protection necessary, and only encroaches on to the beach the minimum amount necessary to accommodate a transition to the existing groin. The buried toestone at the northern ramp will minimize scour and impacts to shoreline sand supply. Therefore, the Commission finds the development consistent with the shoreline protection policies of the certified Imperial Beach LCP, and as such, does not raise a substantial issue with consistency with the certified LCP. The Carnation Avenue portion of the project also includes the construction of a vertical sheetpile seawall; however, it was not raised as a concern by the appellant and staff has found it to be consistent with the certified LCP.

3. Public Views. The certified Imperial Beach LUP contains the following goal for visual quality:

**Goal 4 Visual quality is important**

The visual quality of the City's environment shall be preserved and enhanced for the aesthetic enjoyment of both residents and visitors and the economic well-being

of the community. Development of neighborhoods, streets and individual properties should be pleasing to the eye, rich in variety, and harmonious with existing development. The feeling of being near the ocean and bay should be emphasized even when the water is not visible. Designs reflective of a traditional California seaside community should be encouraged.”

In addition, the following policy earlier cited in this staff report also pertains to view corridors, in part:

**P-14 Retain Existing Street Ends**

[...]View corridors shall be protected and in no case shall buildings be permitted on or bridging the streets. [...]

The appellant contends that the proposed project will include the construction of seawalls for the emergency access vehicles ramps that will be 3 feet high and that this will block views of the ocean from nearby benches, etc. To the contrary, the proposed improvements will actually enhance public views of the ocean. Palm Avenue slopes upward going west from Seacoast Drive such that there are no ocean views available from Seacoast Drive across Palm Avenue. Views to the ocean become available from about halfway up Palm Avenue from Seacoast Drive. From this point on, Palm Avenue provides, to a large extent, an unobstructed view towards the water. These conditions will not change as a result of the proposed project. There is an existing above-ground sewer pump station located in the middle of the street end which is proposed to be demolished through the subject proposal and will be replaced with a new sewer pump station underground, further improving views of the ocean. A lifeguard tower station used to be situated at the street end and was recently demolished. Palm Avenue is a protected view corridor in the certified LCP. Public parking is provided at the street end. Presently, views of the ocean become visible about halfway between Seacoast Drive to the street end and the proposed three-foot high seawalls will not obstruct these views.

The appellant also contends that a statue of a man that is proposed to be installed in the street end will block public views to the ocean. However, the statue is proposed to be located in the island of the Palm Avenue right-of-way which is in the Port's jurisdiction where the Port has already approved authorization for their non-appealable coastal development permit. As such, it does not fall under the purview of the subject appeal.

The appellant also states that a proposed condominium building to the north of the Palm Avenue street end will impede public views to the ocean as well, coupled with the proposed statue. However, the proposed development to the north is not the subject of this appeal. The proposed street improvements will be a tremendous asset to the community as they will enhance physical access to the beach, especially through the provision of access ramps when the sand elevation is low and when access to the beach is difficult. In addition, in the future when the vacant lot to the north is developed, although the public can now cross this lot to gain access to the beach, this will not be possible when developed. This makes the construction of the ramps to facilitate public access at the street end even more critical. In addition it should be noted that upon a recent staff



site inspection of the proposed project, it could be seen that the street end is subject to periodic flooding as a result from wave activity. Through the proposed construction of the street end improvements, drainage will be improved in this area which will further minimize any adverse impacts to public access. Therefore, in summary, the Commission finds that the proposed development is consistent with the visual resource policies of the certified LCP.

4. Sensitive Resources. The following policies of the certified City of Imperial Beach apply to the proposed project:

## **GOAL 2 NATURAL RESOURCES - KEY FOUNDATION OF THE CITY**

**The ocean, beach, bay, estuary, weather and related ecosystems set much of the image of Imperial Beach. Conservation and protection of these resources shall be a key focus of the General Plan. The unique physiographic characteristics of Imperial Beach are recognized as the foundation for all other aspects of the community. These characteristics enhance the quality of life of residents and visitors and shall not be wasted, destroyed, or neglected. They are generally nonrenewable and provide many of the scenic, historic, economic, recreation, open space and ecological values for the community.**

### **P- 12 Maintain Environmental Quality**

The environmental integrity of all beach areas shall be maintained and enhanced.

The appellant contends that the project will have an adverse impact on sensitive wildlife in the area and this has not been mitigated. The appellant does not feel that the mitigation measures proposed which include installation of two interpretive signs and suspension of beach raking when grunion are present, is adequate. The appellant also states that the critical habitat of the endangered snowy plover is bounded by Carnation Avenue and the project will directly encroach into the protected area as identified in the EIR.

When the subject project was in the planning and environmental review stage, the California Department of Fish and Game (DFG) and the U.S. Fish and Wildlife Service (USFWS) expressed concerns that the placement of additional concrete on the beach could have adverse impacts on the California grunion by reducing spawning area, and that the increased number of people and pets that would be accessing the beach at this area could impact western snowy plovers, which are found to the north and south of the project site.

The beach at the project site is backed by high-density residential development, and is currently heavily used by the public. Improved access at these locations will likely result in increased use of these areas by the public. Although no direct impacts to sensitive bird species will result from the proposed project, the EIR does identify potential significant impacts to the pismo clam and grunion. The EIR recommends mitigation measures which will reduce these impacts to below a level of significance. These measures

include monitoring the beaches for spawning grunion from late February through early September and that all beach raking be suspended for a minimum of 17 days whenever spawning grunion are observed.

With regard to the sensitive bird species, the habitat area of the western snowy plover is located on Navy property approximately 3,000 feet north of the Carnation Avenue street end. The property immediately north of the street end is presently developed as the YMCA's Camp Surf which is leased from the Navy. The updated EIR also concludes that there will be no impacts to these sensitive bird species and specifically states, in part:

"No adult or juvenile least tern or snowy plover were observed on site. In addition, no nests were detected. These species are not expected to occur on site due to heavy recreational use by humans and dogs. Residential development neighboring the area and Camp Surf creates an additional deterrent for potentially nesting species."

However, to address indirect impacts the proposed project will include the installation of information signage kiosks at the Carnation Avenue street end that will include information about the bird species and their habitat. In addition, no trespassing signs will be posted on the pier pilings on the beach. To respond to concerns from resource agencies about how the proposed improvements to the public access along Carnation Avenue would affect the sensitive bird species through increased pedestrian activity in this area, the City revised the beach access at this location. Specifically, at the City's June 24, 2000 public hearing, based on a recommendation by USFWS, the project was revised such that the pedestrian walkway will be re-oriented toward the south in order to not encourage beachgoers to travel north toward the seasonal nesting areas of the protected Western snowy plovers. This reduced the area footprint of the proposed project from 0.14 acres to 0.08 acres of sand area to be covered with concrete for purposes of improving the street end for public access improvements (See full context in Exhibit No. 7 of the final EIR).

In addition to the above measures, the City of Imperial Beach will maintain its current animal control and lifeguard patrols along the beach, will initiate a public education/outreach program whereby lifeguard and sheriff personnel will advise the beach-going public about restricted areas, leash laws and sensitive species and habitat, interpretive signage at both street ends that will educate the public about sensitive species (i.e., that they are a federally listed threatened species) and habitat as well as advising the public about the importance of keeping dogs leashed, and signage to advise the public about restricted beach areas north of Imperial Beach (i.e., "no trespassing signs" specifically stating that the land north of the street end is Federal property and no open to public use). The City has coordinated these efforts very well with the Navy, Port District and resource agencies. In addition, upon a staff site inspection of the property, it was noted that there is a second groin north of the street end of Carnation Avenue on which the words are painted, "Camp Surf" (on federal property). The City has indicated that the Navy will remove this sign in the future as a means to discourage people from walking onto the beach out of curiosity about the surf camp. No fencing is proposed.

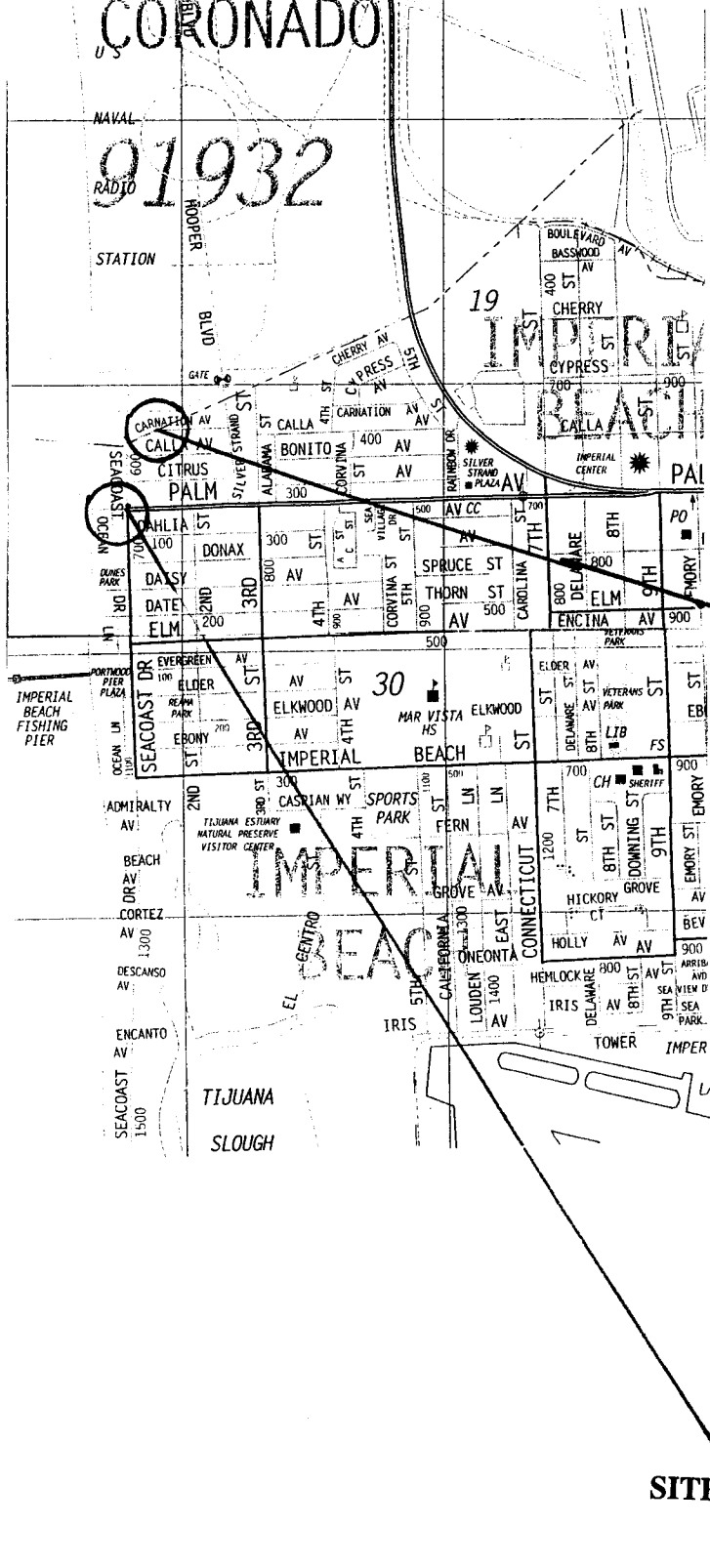
Therefore, in summary, CDF&G and USFWS have reviewed the City's permit conditions and agree that the conditions adequately address the potential impacts to sensitive biological species. No other impacts to biological resources have been identified. Therefore, the Commission finds the development consistent with the environmental protection policies of the certified Imperial Beach LCP, and as such, does not raise a substantial issue with regard to compliance with the certified LCP.

#### 5. Substantial Issue Factors

As discussed above, there is strong factual and legal support for the City's determination that the proposed development is consistent with the certified LCP. The other factors that the Commission normally considers when evaluating whether a local government's action raises a substantial issue also support a finding of no substantial issue. The proposed access improvements are a substantial development, but the project was anticipated and has been provided in the certified LCP. The development will significantly enhance public access to the beach and the City has minimized the use of shoreline protective devices in an area of the coast that is already substantially armored. The decision of the City will have little precedential value for future interpretations of the LCP because the certified LCP contains specific exceptions that pertain only to this project. The project will have a positive regional impact on coastal access, and the objections to the project do not raise any substantial issues of regional or statewide significance.

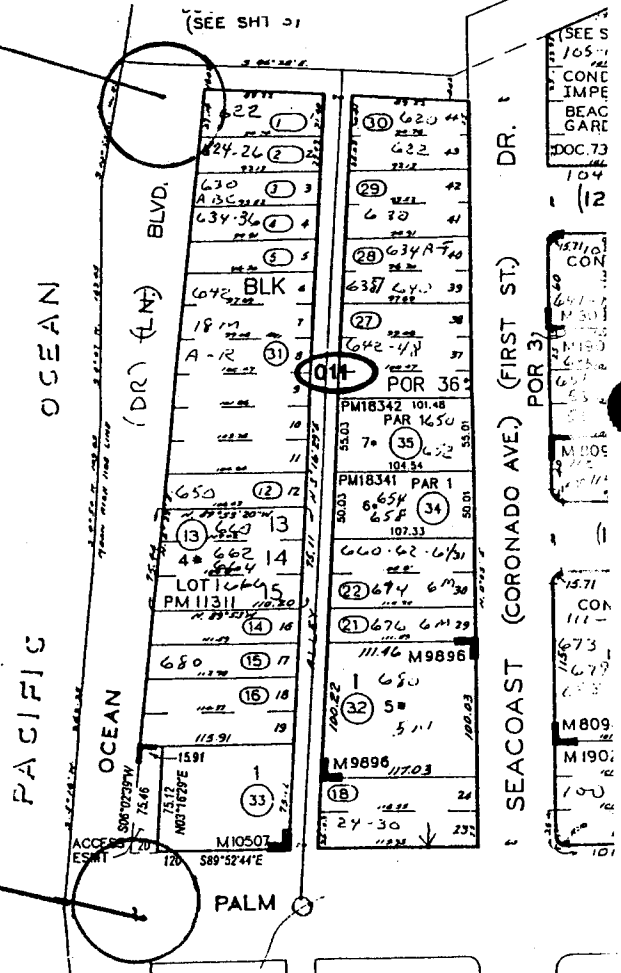
# CORONADO

NAVAL  
91932  
RADIO  
STATION



SITE

(SEE SH1 01)



SITE

EXHIBIT NO. 1  
APPLICATION NO.  
**A-6-IMB-03-9**  
Location Map

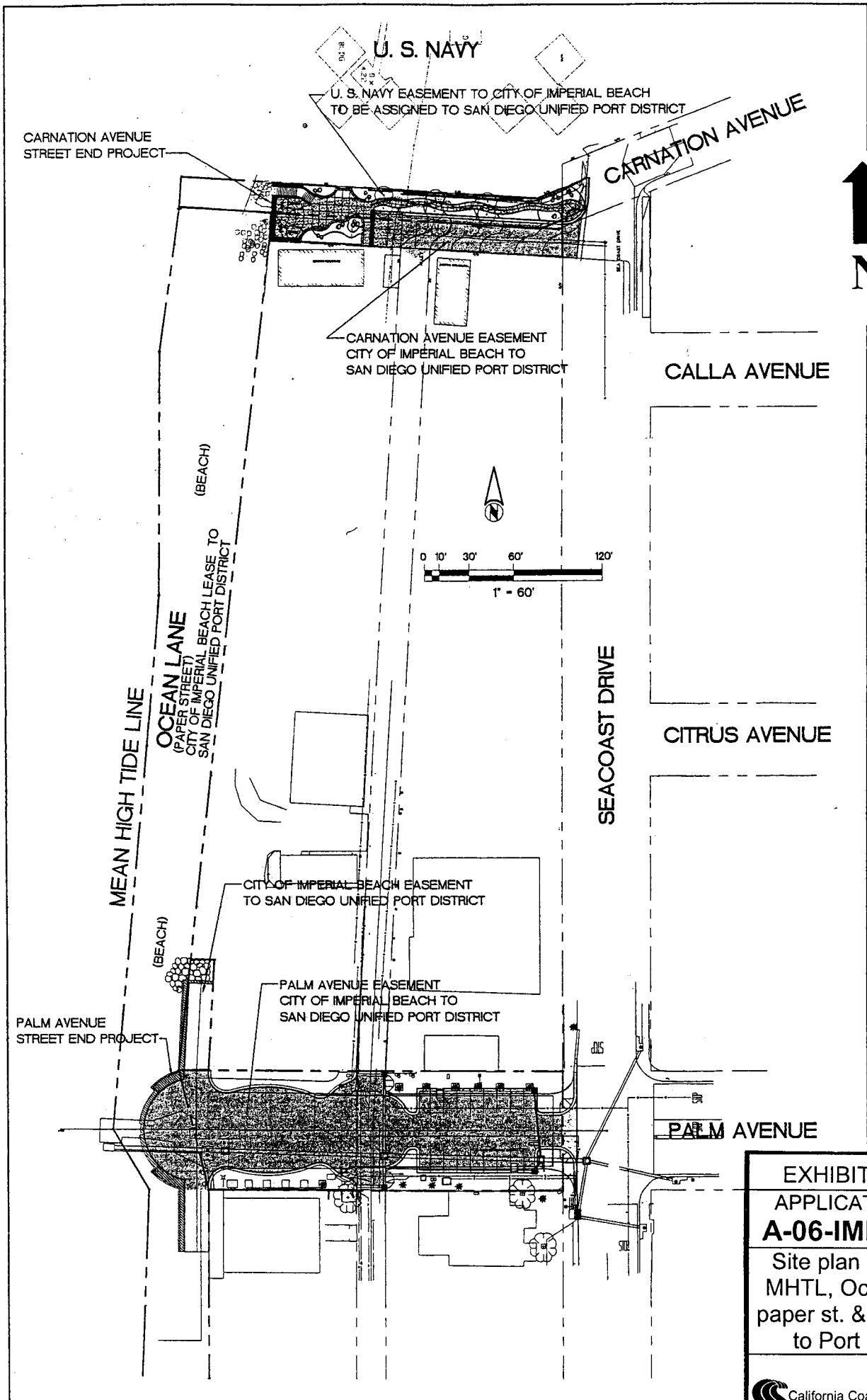
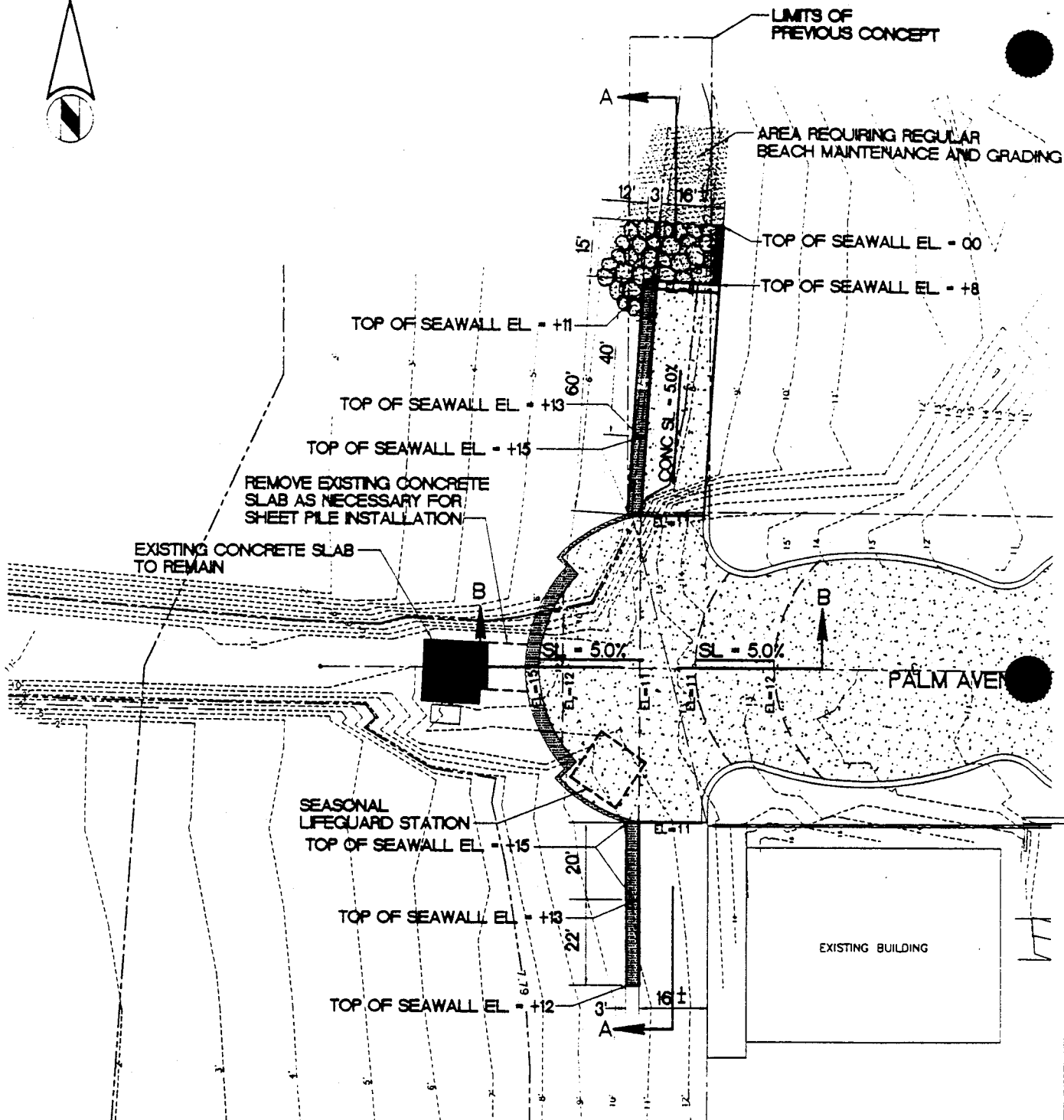


EXHIBIT NO. 2  
 APPLICATION NO.  
**A-06-IMB-03-96**  
 Site plan depicting  
 MHTL, Ocean Lane  
 paper st. & easement  
 to Port District



**SITE PLAN**  
SCALE: AS SHOWN

**SAN DIEGO UNIFIED PORT DISTRICT**  
3185 PACIFIC HIGHWAY  
SAN DIEGO, CA, 92101

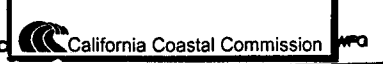
**STREET END IMPROVEMENTS**  
IMPERIAL BEACH, CALIFORNIA

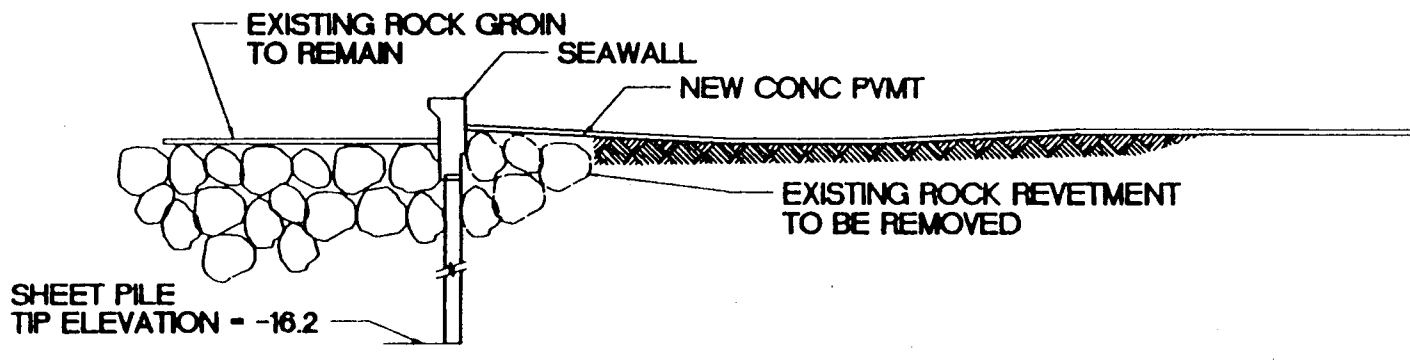
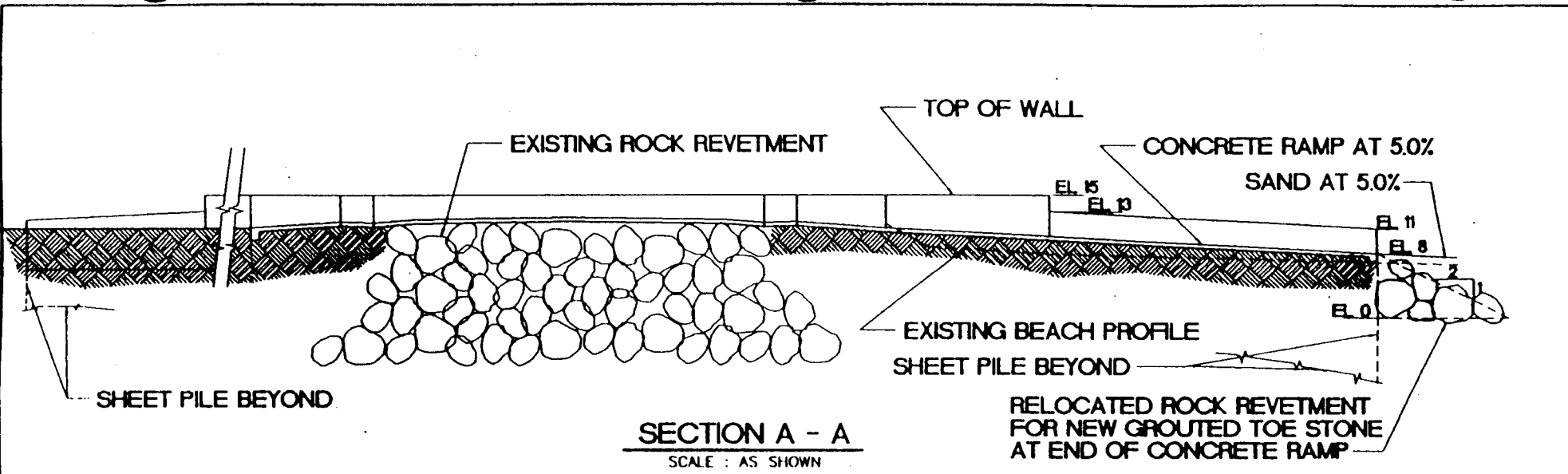
PURPOSE:  
INSTALL EROSION PROTECTION  
FOR STREET ENDS AND PROVIDE  
ADA ACCESS TO BEACH


DATUM: M.L.L.W.      DATE: 8-9-00

**EXHIBIT NO. 3**  
**APPLICATION NO.**  
**A-6-IMB-03-96**

Site Plan for Palm  
Ave. street end





  
 California Coastal Commission  
 EXHIBIT NO. 4  
 APPLICATION NO.  
**A-6-IMB-03-96**  
 Section for seawall  
 for Palm Ave. St. end

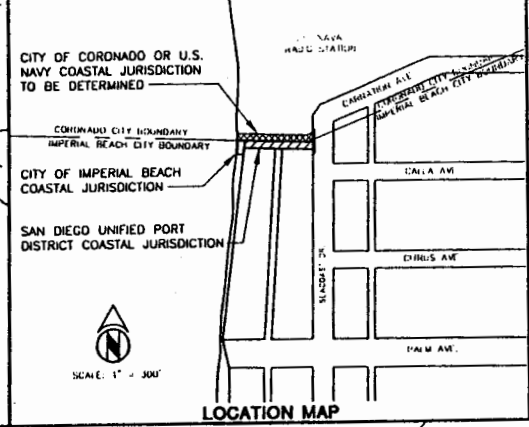
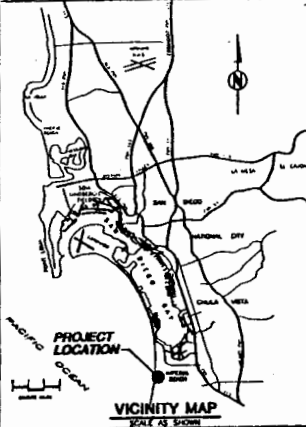
**SAN DIEGO UNIFIED PORT DISTRICT**  
 3165 PACIFIC HIGHWAY  
 SAN DIEGO, CA, 92101  
**STREET END IMPROVEMENTS**  
 IMPERIAL BEACH, CALIFORNIA

PURPOSE :  
 INSTALL EROSION PROTECTION  
 FOR STREET ENDS AND PROVIDE  
 ADA ACCESS TO BEACH

DATUM : M.L.L.W.      DATE : 8-9-00

**EXHIBIT**  
**PALM AVENUE**  
**COASTAL IMPROVEMENTS**  
 SHEET 1 OF 1  
 DRAWN BY: JPM      CHECKED BY: WPG

# STREET END IMPROVEMENTS IMPERIAL BEACH, CALIFORNIA



- LEGEND**
- COLORED PCC PAVING & BASE
  - DECORATIVE PCC PAVING PER

- GENERAL NOTES**
1. SEE CONCEPTUAL PLANS FOR HARDSCAPE, LANDSCAPE, AND SITE FURNITURE DETAILS.
  2. DATUM MLLW = 0.0 ELEV

- IMPROVEMENT NOTES**
- ① SEAWALL
  - ② REMOVABLE BOLLARDS & PLUGS
  - ③ REPLACE EXISTING CURB WITH 6" CURB PER RSD G-1 MATCH EXISTING CURB AND SIDEWALK GRADE.
  - ④ MATCH EXISTING PAVING. PROVIDE SMOOTH TRANSITION.
  - ⑤ SOUNDWALL
  - ⑥ FENCE
  - ⑦ PEDESTRIAN RAMP PER RSD G-27
  - ⑧ CONCRETE STEPS (4" RISERS 13" TREADS).
  - ⑨ RELOCATE EXISTING WATER METER BEHIND NEW CURB. RECONNECT EXIST. WATER SERVICE TO NORTH.
  - ⑩ NEW 1" WATER SERVICE FOR IRRIGATION.
  - ⑪ SCREEN WALL
  - ⑫ RETAINING WALL PER SDRSD C-5
  - ⑬ REPLACE EXIST ROCK TO PROTECT EXIST AND NEW SHEET PILES.
- DEMOLITION NOTES**
- 1 RETAINING WALL PER SDRSD C-5
  - 2 REPLACE EXIST ROCK TO PROTECT EXIST AND NEW SHEET PILES.

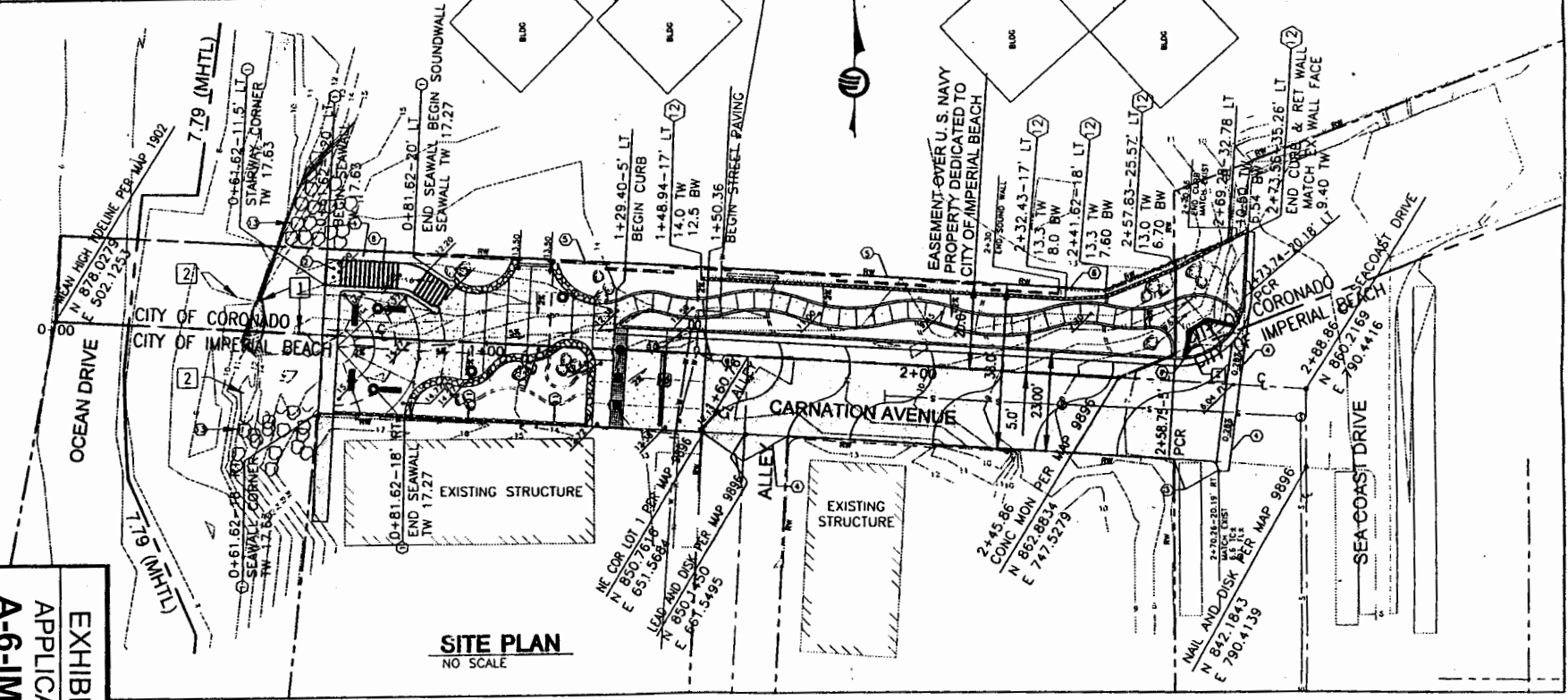
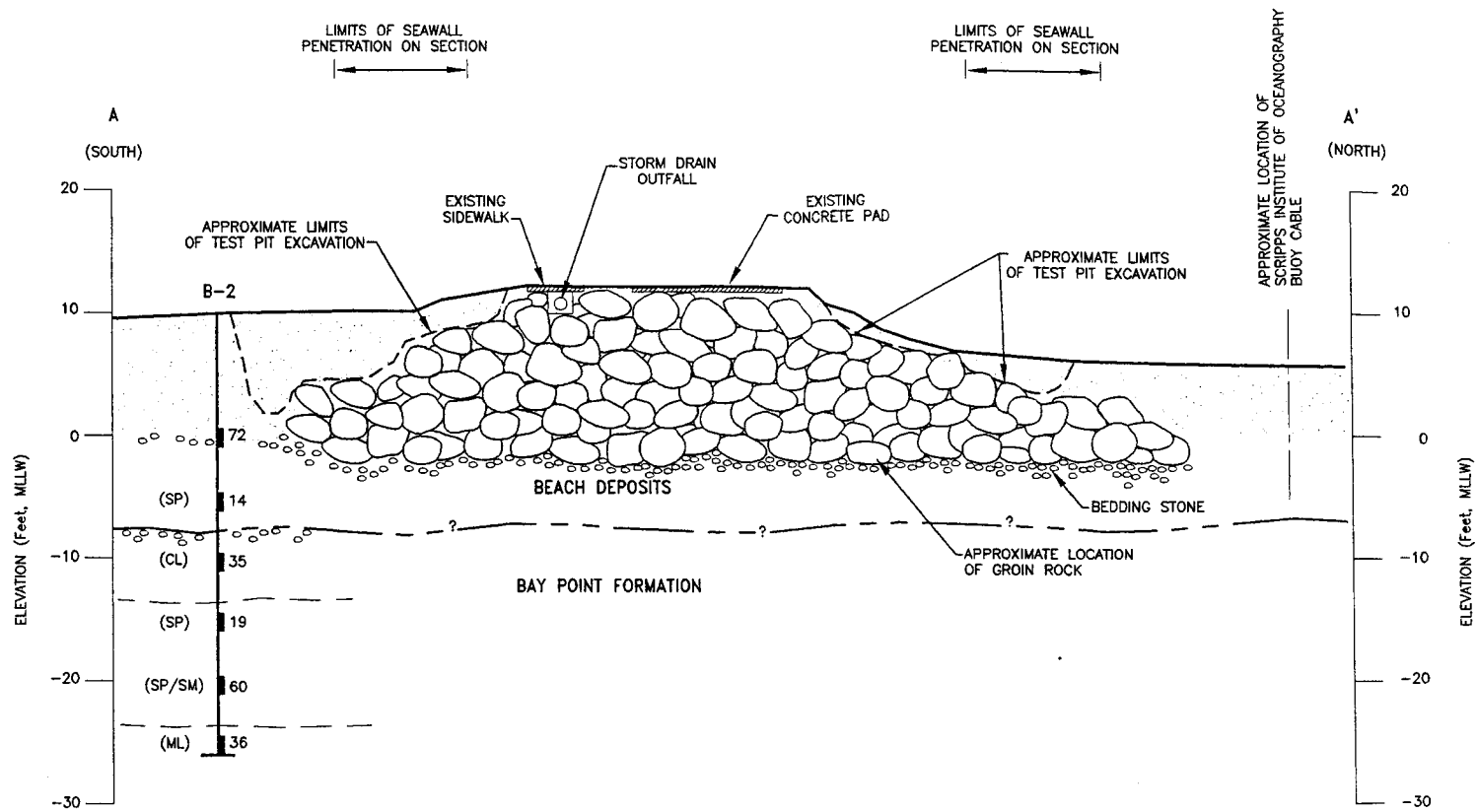


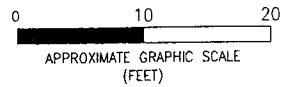
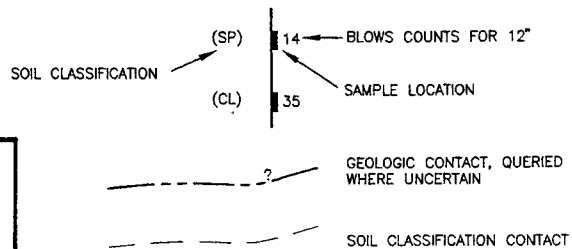
EXHIBIT NO. 5  
APPLICATION NO.  
**A-6-IMB-03-96**  
Site Plan for  
Carnation Ave. street  
end

California Coastal Commission





**LEGEND**



GENERALIZED GEOLGIC CROSS SECTION A-A'			
PALM AVENUE STREET END			
IMPERIAL BEACH SEAWALLS			
FN: SECTS	PM: MA	CHECKED BY: <i>MD</i>	DATE: 10-4-99
PROJECT NO: 58-9651042A.00-OCOS1			FIGURE NO: 5

**EXHIBIT NO. 6**  
 APPLICATION NO.  
**A-6-IMB-03-96**  
 Section for seawall  
 for Carnation Ave.  
 Street end



United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Ecological Services  
Carlsbad Fish and Wildlife Office  
6010 Hidden Valley Road  
Carlsbad, California 92009



*faxed received  
12/2/02*

NOV 27 2002

In Reply Refer To:  
FWS-SDG-3240.1

Melissa A. Mailander  
Environmental Review Coordinator  
Port of San Diego  
P.O. Box 120488  
San Diego, California 92112-0488

Re: Review of Draft Environmental Impact Report Palm and Carnation Avenues Street  
End Improvement Project, Imperial Beach, California  
(UPD #83356-EIR-545; SCH #2002031106)

Dear Ms. Mailander:

The U.S. Fish and Wildlife Service (Service) has reviewed the Draft Environmental Impact Report (EIR) dated October 2002, concerning the renovation and enhancement of public coastal access ways and view corridors for the western termini of Palm and Carnation Avenues, where these street ends intersect with the beach and the Pacific Ocean. The project is intended to provide improved public safety and access, particularly for the disabled, and to improve emergency vehicle access.

The Service has previously commented on this project in letters to Paul Benton, Community Development Director, City of Imperial Beach dated November 23, 1999, and Colonel John P. Carroll, District Engineer, U.S. Army Corps of Engineers, Los Angeles District, dated February 3, 2000, (copies attached). The Service's comments and technical assistance on this project are provided under the authority of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), section 404 of the Clean Water Act (33 U.S.C. 1344), the Endangered Species Act of 1972, as amended, and other authorities mandating Department of the Interior concern for environmental values.

The Palm Avenue portion of the project would result in the construction of the following project features: (a) a semicircular public overlook at western terminus of the street; (b) a northern concrete access ramp with grouted toe stone; (c) a southern sand access ramp; (d) interlocking vertical sheetpile encased in concrete placed seaward of the ramp; (e) placement of 3,000 cubic yards of sand along the southern portion of the overlook; (f) placement of 5,000 cubic yards of sand along the northern portion of the overlook; and (g) installation of a pump station to divert low flows to a sanitary sewer. The Carnation Avenue portion of the project would result in the construction of the following project features: (a) increasing the width of the public right-of-way access along the entire northern footprint of Carnation Avenue; (b) replacing the existing asphalt

EXHIBIT NO. 7

APPLICATION NO.

A-6-IMB-03-9

Excerpts from final  
EIR (dated May 03)

Page 1 of 3

California Coastal Commission

Melissa Mailander FWS-SDG-3240.1

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paving with decorative roadway material; (c) creating a small plaza and overlook with benches, lighting, planters, and bollards; (d) installation of a masonry sound wall; (e) placing a stairway to the beach; (f) rehabilitating a seawall; and (g) placing 1,000 cubic yards of sand in front of the seawall. The proposed increased of a public access right-of-way along the northern boundary of Carnation Avenue would require the San Diego Unified Port District to obtain a 20-foot wide easement from the U.S. Navy.

The Draft EIR, Section 1.4 Plan Alternatives, identified alternatives to the proposed Palm and Carnation Avenues Street End Project including the No Project Alternative, Design Alternatives, and Reduced Project Alternative. This latter alternative would eliminate the Carnation Avenue portion of the project. The Service recommends that the Reduced Project Alternative be adopted as the preferred project alternative, as it would eliminate the northern access point and reduce potentially significant impacts to the western snowy plover (*Charadrius alexandrinus nivosus*), a Federally threatened species. The basis for this recommendation is discussed below.

The Service's chief concern with the proposed project is increased public access to the beach areas north and south of the City of Imperial Beach that are being used by the western snowy plover as nesting habitat and have been designated by the Service as critical habitat for this species. In addition, the beach area of Tijuana Slough National Wildlife Refuge located south of Seacoast Drive is a major nesting site for Federal and State endangered California least tern (*Sterna antillarum browni*). In 2002, the U.S. Navy documented the presence of 13 western snowy plover nests on the beach opposite the Naval Radio Receiving Facility (Tamara Conkle, personnel communication). This beach area is immediately north of the proposed Carnation Avenue Street End Improvement Project. In 2002, Robert Patton, a biological monitor for the Service, documented the presence of 61 California least tern nests and 6 western snowy plover nests between Seacoast Drive and the mouth of the Tijuana River (Brian Collins, personnel communication). The Draft EIR failed to acknowledge either of these bird species or potential significant impacts to these species in Section 1.0 Executive Summary, Table 1.5-1. Summary of Impacts and Mitigation Measures. Given the occurrence of western snowy plover nests at the Radio Receiving Facility in 2002, it is apparent that the biological surveys conducted for this species by Tierra Environmental Services, referenced in Section 4.5 Marine Biological Resources, were not extensive enough to detect the presence of nesting western snowy plovers. No survey information was presented in the Draft EIR for the California least tern.

The Draft EIR also incorrectly concludes in Section 4.5 Marine Biological Resources, Marine Birds, page 25, that the placement of a minimum of two interpretive signs that identify means available to the public to avoid impacts to the western snowy plover and the California least tern as adequate compensation to achieve less than significant impacts to these two ground nesting colonial bird species. The signs alone, without adequate supervision of the public's recreational use of the beach, control of pets, or protection of nesting areas will be relatively ineffective. The Final EIR must include additional measures that would provide effective mitigation to avoid and minimize impacts to the western snowy plover and the California least tern.

1. There is not substantial evidence that the Carnation Street End Project would result in potential significant adverse impacts to the western snowy plover. Existing conditions at the project site include public access to the beach over unsafe and unengineered revetment and on-going unauthorized human and animal intrusion onto the beach at the Navy Radio Receiving Facility (NRRF). The Carnation Street End Project does not propose additional means of public access to the beach which would increase existing public access to the beach or increase existing unauthorized human and animal intrusion onto the NRRF beach. Instead, the project proposes only to address public safety concerns by replacing the existing unsafe and unengineered access to the beach with stairs and to install one handicapped parking space. The disabled access to the beach required by federal and state law will be provided at the Palm Avenue Street End and not at the Carnation Street End. Accordingly, the proposed project is not expected to result in potential significant impacts to the western snowy plover or habitat on the NRRF beach.

The control of physical access to the NRRF is within the responsibility and jurisdiction of the Navy and not the Port District or the City of Imperial Beach (City.) Nonetheless, the proposed project will address the existing public safety and sensitive species/habitat concerns at the NRRF by requiring the City (1) to provide signs and brochures to inform the public of the restricted access to the NRRF and to alert the public to sensitive species/habitat and public safety issues, (2) to incorporate a component regarding restricting access to the NRRF into current lifeguard employee training procedures (both orientation for new/seasonal employees as well as current full-time employees), and (3) to pursue a combined effort with the Navy to develop additional measures to address issues regarding unauthorized public access and sensitive species/habitat issues at the NRRF. These measures are explained in greater detail in the "Imperial Beach Street End Public Access Educational Outreach Program" (see Attachment 1) and have been incorporated into the Mitigation Monitoring & Reporting Program.

The Port acknowledges the recommendation that the Reduced Project Alternative be adopted. The Port District acknowledges the comment, which will be taken into consideration by the Board of Port Commissioners as it makes its determination regarding the proposed project.

Letter of Comment

Response to Comment

Melissa Mailander FWS-SDG-3240.1

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Furthermore, the Service does not concur with the Analysis of Cumulative Impacts provided in the Draft EIR. Section 5.0 Cumulative Projects and Impacts, page 29, identifies seven additional street ends (e.g., Dahlia, Date, Elkwood, Ebony, Admiralty, Descanso, and Encanto Avenues) that will be renovated and improved in the future. The Draft EIR fails to analyze the cumulative affects of these future actions even though the Draft EIR acknowledges the improved access points of Palm and Carnation Avenues by themselves may result in an indirect effect on the western snowy plover. We anticipate that the improved access will result in greater numbers of people using the beaches of the City of Imperial Beach, and also adjacent beaches managed by the U.S. Navy and Service personnel responsible for Tijuana Slough National Wildlife Refuge.

*The Western Snowy Plover Pacific Coast Population Draft Recovery Plan* (U.S. Fish and Wildlife Service 2001) identified natural and manmade factors affecting this species including large storm events, human recreation, dogs, motorized vehicles, and beach cleaning. The increasing level of human recreation was cited as a major threat to the breeding success of the Pacific coast population of the western snowy plover (U.S. Fish and Wildlife Service 1993). Pedestrians (e.g., beach walkers and joggers) can cause both direct mortality and harassment of snowy plovers. Pedestrians on beaches may crush eggs or chicks and force snowy plovers off their nests. Separation of snowy plover adults from nests and broods can cause mortality through exposure of eggs or chicks to heat, cold, blowing sand, and/or predators. People may cause broods of snowy plovers to run away from favored feeding areas. Trash left on the beach by recreational beach users can attract predators of snowy plovers.

There have been several studies documenting the adverse affect of people on this species. At South Beach, Oregon, the number of snowy plovers declined from 25 in 1969 to 5 in 1979 to 0 by 1981 when a new park was constructed next to the beach and the adjacent habitat became more accessible to vehicles and people (Hoffman 1972 in Oregon Department of Fish and Wildlife 1994). At Vandenberg Air Force Base, snowy plover monitoring during 1993 at South Beach (where recreational use was high) and North Beach (where recreational use was low) found the rate of nest loss caused by humans differed markedly: 24.3 percent of South Beach nests were lost compared to only 3.0 percent of North Beach nests (Persons 1994). Loss of snowy plover chicks also may occur because of human activities. The number of young produced per nesting attempt increased from 0.75 in disturbed habitat to 2.0 for nests free of disturbance at Willapa National Wildlife Refuge, Washington (Saul 1982). At Vandenberg Air Force Base, the 1977 fledging success of snowy plovers was 33 to 34 percent on North Beach where recreational activity is restricted and only 12 percent on South Beach where recreational use is high (Persons and Applegate 1997). In 2002, Elizabeth Copper, a biological consultant to the U.S. Navy, monitored the beach area adjacent to the Naval Radio Receiving Facility. Thirteen snowy plover nests were found at this facility during the 2002 nesting season. Of those, only five nests survived to hatch young. Of the 36 eggs laid, 22 were lost to human disturbance/predators, 13 hatched and one was incubated to term but failed to hatch. It was noted by a biological monitor that on April 25, 2002, four of five active snowy plover nests were found empty (e.g., eggs missing). While predation may have been the cause of the missing eggs, there had been persistent human activity in the immediate area of the nests including evidence of a

2. The biological surveys conducted by Tierra Environmental Services were based upon the biologist's estimation of an approximate distance that a project user might travel in either northern or southern direction. No least tern nests were located within the survey area. However, it is our understanding under the Naval Base Coronado Integrated Natural Resources Management Plan (INRMP) dated May 2001, (finalized December 2002), prepared by the Navy, there were 13 western snowy plover and 61 California least tern nests identified within the entire beach area of NRRF. Only 1 nesting area was identified within 2,950 feet of the Carnation Street end during the 2002 nesting season. No direct impacts to either species are anticipated by the proposed project, however, page 4.5-26 of the Final EIR describes the education outreach program that will be implemented, which shall include training of the City of Imperial Beach Lifeguards and other city employees so that they can properly educate the public to the presence of restricted Navy property and sensitive habitat and bird species to the north of Imperial Beach (i.e., north of Carnation Avenue) and south of Seacoast Drive. In addition, the impacts and mitigation measures as outlined in the Draft EIR have been included in Section 1.0 Executive Summary of the Draft EIR. 2.
3. The selection of program considerations and mitigation measures were based upon previous correspondence with the U.S. Fish and Wildlife Service and the Department of Fish and Game which suggested the two interpretive signs. In addition, page 4.5-26 of the Final EIR describes the education outreach program that will be implemented, which shall include training of the City of Imperial Beach Lifeguards and other city employees so that they can properly educate the public to the presence of restricted Navy property and sensitive habitat and bird species to the north of Imperial Beach (i.e., north of Carnation Avenue) and south of Seacoast Drive.
4. As described in the Draft EIR, the "Other Street End Projects" are part of a previously prepared Port Master Plan Amendment that addresses the ultimate enhancement of 13 street ends. However, the seven street ends that have not yet been completed are not currently being proposed, as there is no funding for them. If and when the future projects are funded, site designs will be prepared to determine the extent of the improvements and will be subject to further environmental review. At this time, not enough site specific design information is available to assess specific potential impacts to snowy plover or any other impact.
5. Comment noted. Please see Response to Comment #1.

Melissa Mailander FWS-SDG-3240.1

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person approaching posted snowy plover nests and going inside the marked off areas. On May 20, 2002, four separate nests were found empty with human tracks near each of the nests. All evidence of human disturbance to snowy plover nests appeared to be from non-military personnel based on the shoe prints left in the sand. Tierra Environmental Services, who also conducted biological monitoring of the beach for snowy plovers in 2002, documented the presence of people on two separate occasions within areas that had been posted to protect snowy plover nests.

Dogs on beaches can pose a serious threat to snowy plovers during both the breeding and nonbreeding seasons. Unleashed dogs can chase snowy plovers and destroy nests. Repeated disturbances by dogs can interrupt brooding, incubating, and foraging behavior of adult plovers and cause chicks to become separated from their parents. Pet owners frequently allow their dogs to run off-leash even on beaches where it clearly signed that dogs are not permitted or are only permitted if on a leash. Enforcement of pet regulations on beaches by the managing agencies is often lax or nonexistent (U.S. Fish and Wildlife Service 2001). Dogs on the Naval Radio Receiving Facility beaches are clearly a problem, as documented by Tierra Environmental Services in 2002 when their biological monitor observed a man throwing a ball into a designated nesting area for his dog to retrieve.

In summary, the Service is opposed to the Carnation Avenue Street End Improvement Project due to the anticipated increase of public access to the beach areas of the Naval Radio Receiving Station that are occupied by the western snowy plover. In addition, prior to release of the Final EIR, we recommend that additional measures be incorporated into the project to minimize and avoid significant impacts to the western snowy plover. If these measures are not incorporated into the project design, it is the opinion of the Service that this project will result in significant, unmitigated impact to this species. Measures that need to be evaluated, in addition to the informational signs concerning the western snowy plover that are proposed to be placed at the northern and southern boundaries of the City of Imperial Beach, include: (a) using of fences, posts, signs, and enclosures to exclude or reduce numbers of beach users from entering occupied nesting and rearing snowy plover habitat; (b) developing and implementing local ordinances to address unauthorized public entry and of people and their pets into posted snowy plover nesting and rearing sites; (c) identifying individuals and agencies responsible for educating and regulating public use of beaches occupied by snowy plovers; (d) increasing the presence of animal control personnel to address unleashed dogs; and (e) developing a means to implement and enforce pet restrictions. Since these measures would affect the U.S. Navy, Service, California Department of Fish and Game, City of Imperial Beach, Port of San Diego, and the California Coastal Commission, a meeting(s) should be held to develop these measures in a cooperative manner.

We concur with the proposed mitigation measures identified for minimizing and avoiding impacts to pismo clam and grunion that were identified in Section 4.5 Marine Biological Resources, page 25. The Port of San Diego should ensure these measures are incorporated into any construction contracts written for Palm Avenue improvements.

6. Comment noted. The Navy property at NRRF is not within the responsibility or jurisdiction of the City of Imperial Beach and the Port District. The City now enforces and will continue to enforce all applicable animal control laws within its jurisdiction.
7. The Port acknowledges the opposition of the Carnation Avenue portion of the proposed project. While there is no direct, specific evidence that suggests the Carnation Street End Project would increase human activity within habitat on Navy property, particularly since beach access currently exists at this street end, the project will work cooperatively with the adjacent Department of Navy to ensure that human and pet disruption of sensitive habitats is kept to a minimum. The City of Imperial Beach will continue efforts through an educational program, as outlined in Attachment 1, that directs beach users away from Department of Navy property, will alert beach users to sensitive species/habitat, will provide signage to this effect, and will continue with enforcement of animal control citations (under Ordinance 513 § 1, 1980; Ord. 354 § 3 (oart), 1974; Ord. 286 § 1, 1971; prior code Am. No. 76 § 1, 1971; Ord. 67 § 5, 1957; prior code § 7711.7, Section 12.60.080 of the Imperial Beach Municipal Code). In addition, the INRMP cites specific measures to aid in the protection of potentially affected western snowy plover. To ensure that continued protection of the western snowy plover occurs, the Imperial Beach Streetend Public Access Educational Outreach Mitigation Program will be incorporated into the Mitigation Monitoring and Reporting Program.
8. The mitigation measures identified for minimizing and avoiding impacts to pismo clam and grunion will be incorporated into any construction contracts written for the project.

Letter of Comment


Response to Comment

Melissa Mailander FWS-SDG-3240.1

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If you have any questions regarding this letter please contact Martin Kenney of my staff at (760) 431-9440 extension 252. We look forward to working on the issues we have identified.

Sincerely,



Susan Wynn  
Acting Assistant Field Supervisor

cc:

California Coastal Commission, San Diego, CA (Attention: Sherilyn Sarb)  
California Department of Fish and Game, San Diego, CA (Attention: Marilyn Fluharty & Libby Lucas)  
U. S. Fish and Wildlife Service, Tijuana Slough National Wildlife Refuge, Imperial Beach, CA (Attention: Tom Reed)  
City of Imperial Beach, Imperial Beach, CA (Attention: James Nakagawa)  
U.S. Navy, San Diego, CA (Attention: Jan Larson & Tamara Conkle)

Melissa Mailander FWS-SDG-3240.1

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LITERATURE CITED:

Oregon Department of Fish and Wildlife. 1994. Final Draft. Oregon conservation program for the western snowy plover (*Charadrius alexandrinus nivosus*). Portland, OR. 56pp.

Persons, P.E. 1994. Western snowy plover monitoring in 1993 at Vandenberg Air Force Base, California. Unpublished report of U.S. Fish and Wildlife Service, Ventura, CA. 22pp.

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Saul, S.M. 1982. Clam diggers and snowy plovers. *Washington Wildlife* 32(1):28-30.

U.S. Fish and Wildlife Service. 1993. Endangered and threatened wildlife and plants; determination of threatened status for the Pacific coast population of the western snowy plover; final rule. *Federal Register* 58(42):12864-12874.

U.S. Fish and Wildlife Service. 2001. Western Snowy Plover (*Charadrius alexandrinus nivosus*) Pacific coast Population Draft Recovery Plan. Portland, OR. xix + 630pp.



## United States Department of the Interior

## FISH AND WILDLIFE SERVICE

Ecological Services  
 Carlsbad Fish and Wildlife Office  
 2730 Loker Avenue West  
 Carlsbad, California 92008



FEB 03 2000

Colonel John P. Carroll  
 District Engineer  
 U. S. Army Corps of Engineers, Los Angeles District  
 P.O. Box 532711  
 Los Angeles, CA 90053-2325

Attention: Mr. Mark Tucker

Re: Review of Public Notice/Application No. 200000242-MAT: Palm Avenue Beach  
 Overlook and Access Ramps, City of Imperial Beach, California

Colonel Carroll:

The U.S. Fish and Wildlife Service (Service) has reviewed the Public Notice, received January 10 2000, concerning the construction of the proposed beach overlook and beach access ramps at the western end of Palm Avenue. The proposed beach access improvements would consist of a broad, decorative concrete walkway terminating in a semi-circular overlook, flanked by two ramps perpendicular to the walkway (parallel to the beach) extending approximately 100 feet on either side of the overlook. Construction of this facility would allow the public better access to the beach. In addition to the project description provided in the Public Notice, the Service utilized information contained in the Draft Negative Declaration (EIA 99-11, state clearinghouse No. 9111068) for the proposed project. These comments have been prepared under the authority and in accordance with the provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344), the Endangered Species Act of 1972, as amended, and other authorities mandating Department of the Interior concern for environmental values.

It has come to the Service's attention that the proposed project is part of a larger effort to improve beach access in the City of Imperial Beach. At least five street ends (at Palm, Carnation, Date, Elkwood, and Ebony Avenues) would be improved to allow greater access to the beaches. We anticipate that the improved access will result in greater numbers of people using the beaches of the City of Imperial Beach, and also adjacent beaches managed by the U.S. Navy and Service personnel responsible for Tijuana Slough National Wildlife Refuge.

The Service does not concur with the City of Imperial Beach's finding (stated in the Negative Declaration of Environmental Impact, Case No. EIA 99-11) that the project will have no potential to affect fish or wildlife species, plants, or plant communities. We have reached this conclusion based on potential impacts to the western snowy plover (*Charadrius alexandrinus*

9. Please see Response to Comment #1.

10. This letter, dated February 3, 2000, was submitted prior to the preparation of a Draft Environmental Impact Report. The comment suggests that a Negative Declaration was not a sufficient environmental document. Based upon this letter, and others, an EIR was prepared. This comment is no longer applicable to the proposed project.



Colonel Carroll

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0 nt. *nivosus*) resulting from improved beach access, the proposed covering of beach sand areas with concrete within the Corps of Engineers' jurisdiction limits, and raking of beach sand during the grunion (*Leuresthes tenuis*) spawning season. These issues are addressed below.

1 The immediate area in which the work will be conducted is characterized by residential development adjacent to the high water line, and frequent and heavy recreational use of beach area between the houses and the mean low water level. While the beach area adjacent to Palm Avenue receives limited shorebird use, the shoreline areas to the north and south of this site are regularly utilized by shorebirds, including the federally listed western snowy plover. We are concerned that encouraging recreational access to the beach at Palm and Carnation Avenues could significantly affect shorebird use of the adjacent ocean beach area. Nesting of western snowy plovers was documented near the Naval Radio Receiving Facility (NRRF), approximately 900 meters north of Carnation Avenue, on several occasions from 1994 to the present. The areas beginning at the border between Imperial Beach and NRRF (immediately adjacent to the proposed Carnation Avenue beach access development) and extending northward 1.5 kilometers, and extending south from the south end of First Street (about 1.9 kilometers south of Palm Avenue) to the U.S.- Mexican international boundary have been designated as Critical Habitat for the western snowy plover (Federal Register 64: 234, 7 Dec. 1999). Human disturbance on these beaches should be avoided to the greatest extent practicable during the nesting season of the western snowy plover (i.e., March 1 to September 15).

2 We are concerned that the proposed Palm Avenue development, in conjunction with the other four proposed beach access enhancements, may have a cumulative, indirect, yet severe deleterious effect on western snowy plovers nesting to the north of the proposed developments, in the area of the NRRF, and to the south at Tijuana Estuary. The proposed beach access enhancements are intended to, and probably will, allow increased recreational use of the beach. With this increase in recreational activity on the developed portion of the beach, we predict an increase in recreational use of the undeveloped beaches on the U.S. Navy property immediately to the north, and on Service property to the south. Disturbance by people and pets recreating on nesting beaches and urban development are thought to be two major causes of decline of western snowy plover.

3 Deleterious effects of recreational beach use by people and pets is well-documented for snowy plovers and the ecologically very similar piping plover (*Charadrius melodus*) (Warriner *et al* 1986, Flemming *et al* 1988, Chase and Gore 1989, Melvin *et al* 1994, Burger 1994, Stans and Burger 1994, Copper 1997, Copper 1998). Chase and Gore (1989) documented trampling of eggs by people and pets. Berger (1994) showed that piping plovers select foraging sites with fewer people, and that as the number of people in the area increased, time spent foraging decreased. Flemming *et al* (1988) found that in areas with more human activity, plover chicks were less likely to live to an age of 17 days than were chicks in areas of low human activity. Chicks in areas of high human activity also fed less frequently and at a reduced rate, brooded less frequently, and spent more time in vigilant behavior relative to chicks in areas of low human activity. Copper (1997) found that human disturbance negatively affected breeding distribution,

11. Please see Response to Comment #1.

12. Please see Response to Comment #4.

13. Please see Response to Comment #1.

Letter of Comment

Response to Comment

Colonel Carroll

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and documented disturbance of snowy plovers by humans and dogs at Naval Amphibious Base, Coronado. She stated in her report on snowy plover status at the Naval Radio Receiving Facility at Imperial Beach (Copper 1998), that "Human use of the beach is significant and is one of the primary deterrents to successful nesting or roosting by plovers", and "The ocean beach is open to public access and receives regular use". Management recommendations in her report include "Reduce or eliminate the recreational use of the beach during the breeding season, particularly by people using the upper dunes. Human use is likely to be a factor in discouraging use of NRRF by snowy plovers" and "Require that any dogs on the beach be leashed". Based on this information we believe that informational kiosks should be erected by the City at the northern and southern boundaries informing beach users of ways to avoid impacts to the western snowy plover. Martin Kenney and John Martin of my staff met with the City of Imperial Beach on January 14, 2000 to discuss this issue. Paul Benton, Community Development Director of the City of Imperial Beach made a commitment to place signs on the beach informing the public of the status of the western snowy plover and means to avoid impacting this species. This avoidance and minimization measure to protect the western snowy plover is addressed in recommended Special Condition Number 1 below. We are also working with the City of Imperial Beach to explore available means to control dogs on City beaches.

A second issue of concern to the Service with the proposed beach access improvements is the permanent coverage of approximately 0.14 acre of sand beach with concrete. We are concerned with the hardscaping of intertidal sand beach. Paving of sand beaches has a deleterious effect on shorebird resting and foraging habitat, grunion spawning habitat, and other intertidal organisms. Cumulatively, these effects have severely curtailed habitat for these animals in southern California. We believe this small impact could be avoided with a re-design of the access improvements. This is addressed in recommended special condition number 2.

A final subject of concern is beach raking. Beaches under the jurisdiction of the Cities of Imperial Beach and Coronado are frequently raked, to clear them of kelp deposited by surf. We anticipate that greater public use of the beaches, provided by the improved access at Palm Avenue and elsewhere, will increase pressure to continue raking the beaches, to the detriment of wildlife. Current raking policy entails daily raking of beaches in summer (roughly from Memorial Day through Labor Day), and weekly raking during the rest of the year. Public Works personnel operating the rake avoid raking the sand within the U.S. Army Corps of Engineers' jurisdiction (i.e., below 7.79 feet above mean lower low water) by estimating the location of the line separating Imperial Beach jurisdiction from that of U.S. Army Corps of Engineers, and remaining east of it.

Grunion (*Leuresthes tenuis*) are known to spawn on these same beaches. Grunion spawn by emerging from the surf at night on exceptionally high tides, and burying their eggs in the sand in the surf zone, which may extend above the line separating the Corps of Engineers' jurisdiction from that of the City of Imperial Beach. Thus the beach rake may dig up grunion eggs, exposing them to the air and killing them. Over time, this can result in a decline in local grunion populations. Protection of grunion in Corps of Engineers jurisdictional areas is addressed in recommended Special Conditions Numbers 3 and 4 below.

14. The project at the May 17, 2000, City of Imperial Beach public hearing included 100 feet north and south access routes. The widths were proposed as 20 feet. As a result of public input, additional project alternatives were presented at the June 24, 2000 public hearing. The community supported the preferred project alternative. The widths have been reduced from 20 feet to 16 feet. The north access route is now 60 feet in length with grouted toe stone at the end. The south access route has been reduced to 42 feet in length and is now proposed as sand. This alternative meets the project objectives and minimizes impact to the back beach area. The total area impacted has been reduced from 0.14 acres to .08 acres. Additionally, this area is currently occupied in part by a concrete pad/structure and mosaic wall on top of the existing groin/revetment. It should also be noted that the northerly access ramp will occupy an easement over private property -- no public beach.

15. Please see Response to Comment #8. Again, there is no evidence to suggest that increased activity will result from this project. Existing access will simply be improved.

Colonel Carroll

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Based on the concerns addressed above, the Service recommends the Corps of Engineers incorporate the following Special Conditions into any permit issued to the San Diego Unified Port District relative to the proposed and ongoing activities in the City of Imperial Beach, identified in the Public Notice. These Special Conditions are:

1. The permittee shall erect as part of the overall project a minimum of two signs which identify the western snowy plover as a federally listed threatened species and identify means available to the public utilizing the beaches of the City of Imperial Beach to avoid impacting this species. One sign shall be placed at the northern boundary of the City's property and the other shall be placed at the southern boundary of the City's property. Installation of the signs shall be concurrent with the City's beach access improvement project.
2. The permittee shall re-design the beach access improvement to eliminate the permanent coverage of 0.14 acre of intertidal sand habitat with concrete.
3. The permittee shall monitor the beaches for spawning grunion late February through early September. Monitors shall walk the beaches with a flashlight on nights when the California Department of Fish and Game forecasts grunion runs. Monitoring shall occur throughout the potential spawning season during full and new moon tidal series. The perimeter of the areas used by spawning grunion shall be carefully delineated. When monitors detect spawning grunion, all beach raking shall cease in areas used by spawning grunion for a minimum of 17 days in order to allow eggs to remain in the sand for their entire 15-day incubation period. Raking may be resumed in these areas after this 17-day period, if no additional spawning grunion have been observed in this period.
4. The permittee shall notify the Service, National Marine Fisheries Service, and California Department of Fish and Game when grunion spawning occurs within City of Imperial Beach jurisdiction.

If you or your staff have any questions regarding our comments on the specific wording of our recommended Special Conditions please contact John Martin at (760) 431-9440.

Sincerely,

*Martin J. Kenney*  
for Nancy Gilbert  
Assistant Field Supervisor

cc:

San Diego Unified Port District  
San Diego, CA  
attention: Bill Gibson, Project Manager

16. The Draft EIR specifically requires the condition to erect two signs which identify the western snowy plover as a federally listed threatened species and identify means available to the public to avoid impacting the species, as described in this comment.
17. At the June 24, 2000 public hearing, project alternatives were presented to the public. The public supported the preferred alternative that now reduces the area impacting the back beach from 0.14 acres to .08 acres. See Response to Comment #14.
18. The Draft EIR specifically requires the condition to monitor the beaches for spawning grunion as described in this comment.
19. The Draft EIR specifically requires the permittee to notify the necessary agencies of when grunion spawning occurs within the City of Imperial Beach jurisdiction.

CALIFORNIA COASTAL COMMISSION

SAN DIEGO COAST DISTRICT  
575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108-4421  
(619) 767-2370  
www.coastal.ca.gov



NOTIFICATION OF APPEAL PERIOD

DATE: September 11, 2003  
TO: Jim Nakagawa, City Planner  
City of Imperial Beach  
825 Imperial Beach Blvd.  
Imperial Beach, CA 91932  
FROM: Laurinda Owens, Coastal Program Analyst  
RE: Application No. 6-IMB-03-336

Please be advised that on September 9, 2003 our office received notice of local action on the coastal development permit described below:

Local Permit #: 02-01  
Applicant(s): City of Imperial Beach, Attn: James Nakagawa; San Diego Unified Port District  
Description: Renovation and enhancement of public coastal accessways and view corridors for the Palm Avenue and Carnation Avenue Streets Ends.  
Location: The western termini of Palm Avenue and Carnation Avenue where these street ends intersect with the beach, Imperial Beach (San Diego County)

Unless an appeal is filed with the Coastal Commission, the action will become final at the end of the Commission appeal period. The appeal period will end at 5:00 PM on September 23, 2003.

Our office will notify you if an appeal is filed.

If you have any questions, please contact me at the address and telephone number shown above.

cc: City of Imperial Beach, Attn: James Nakagawa  
San Diego Unified Port District

California Coastal Commission	EXHIBIT NO. 8
	APPLICATION NO.
	A-6-IMB-03
	Notice of Final Action/City of IB CDP No. 02-01

CALIFORNIA COASTAL COMMISSION

The City of  
Imperial  
Beach

SEP 09 2003  
CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

6-IMB-03-336

(619) 628-1356  
FAX: (619) 429-9770

COMMUNITY DEVELOPMENT DEPARTMENT  
825 IMPERIAL BEACH BOULEVARD • IMPERIAL BEACH, CALIFORNIA 91932

To: California Coastal Commission  
Diana Lilly, Coastal Program Analyst  
7575 Metropolitan Drive, Suite 103  
San Diego, CA 92108-1735



REGULAR COASTAL DEVELOPMENT PERMIT  
NOTICE OF FINAL ACTION

September 8, 2003

The following project is located within the City of Imperial Beach coastal zone. A coastal permit application for the project has been acted upon.

APPLICANT/ADDRESS: City of Imperial Beach, 825 Imperial Beach Blvd., Imperial Beach, CA 91932 and the San Diego Unified Port District, P.O. Box 120488, San Diego, CA 92112-0488

ACTION:  Approved  
 Approved with conditions  
 Denied

APPLICATION: Regular Coastal Development Permit (CP 02-01), MF 573, for the renovation and enhancement of public coastal accessways and view corridors for the Palm Avenue and Carnation Avenue Street Ends.

ASSESSOR'S PARCEL NO: NA

PROPERTY LOCATION: the western termini of Palm Avenue and Carnation Avenue where these street ends intersect with the beach.

CONDITIONS OF APPROVAL: See attached City Council Resolution No. 2003-5818

FINDINGS: See attached City Council Resolution No. 2003-5818

Not appealable to the Coastal Commission  
 Appealable to the Coastal Commission pursuant to Coastal Act Section 30603. An aggrieved person may appeal this decision to the Coastal Commission within 10 working days following Coastal Commission receipt of this notice. Applicants will be notified by the Coastal Commission as to the date the Commission's appeal period will conclude. Appeals must be in writing to the appropriate Coastal Commission office.

Attachments: City Council resolution, environmental documents (Notice of Determination; Environmental Impact Report transmitted under separate cover), hearing notice, mailing list, maps, staff report, plans, minutes, powerpoint presentation, San Diego Unified Port District staff report, correspondence

c: file (MF 573), City Clerk, San Diego Unified Port District, City Attorney, City Manager

Z:\Community Development\common\Master Files\MF 573 Street Ends\MF573 Street Ends NFA.doc

## RESOLUTION NO. 2003-5818

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, APPROVING REGULAR COASTAL DEVELOPMENT PERMIT (CP 02-01), ENVIRONMENTAL IMPACT REPORT (EIR 02-01), SITE PLAN REVIEW (SPR 99-05 AND SPR 99-04) AND DESIGN REVIEW (DRC 99-08 AND DRC 99-07) FOR THE PALM AVENUE AND CARNATION AVENUE STREET ENDS PROJECT WITH VERTICAL SHORE PROTECTION, IN THE PF (PUBLIC FACILITY) AND R-1500 (HIGH DENSITY RESIDENTIAL) ZONES. MF 573

APPLICANTS: CITY OF IMPERIAL BEACH AND THE SAN DIEGO UNIFIED PORT DISTRICT

WHEREAS, on August 6, 2003, the City Council of the City of Imperial Beach held a duly noticed public hearing to consider the merits of approving or denying an application for Regular Coastal Development Permit (CP 02-01), Environmental Impact Report (EIR 02-01), Site Plan Review (SPR 99-05 and SPR 99-04) and Design Review (DRC 99-08 and DRC 99-07) for the Palm Avenue and Carnation Avenue Street Ends Project with Vertical Shore Protection as shown on San Diego Unified Port District Drawing No. 2408 dated July 12, 2001, in the PF (Public Facility) and R-1500 (High Density Residential) Zones, MF 573; and

WHEREAS, on May 3, 1999, the Tidelands Advisory Committee reviewed and recommended approval of the project design previously to the City Council; and

WHEREAS, on May 25, 1999, the Design Review Board previously reviewed and adopted Resolution No. DRB 99-08 approving the project design subject to conditions of approval included herein by reference; and

WHEREAS, the City Council finds that this street end project is consistent with the General Plan/Local Coastal Plan, which promotes increased coastal access and shore protection; and

WHEREAS, this project complies with the requirements of the California Environmental Quality (CEQA) as the City Council, pursuant to CEQA Guidelines Section 15096, has considered the Final Environmental Impact Report (SCH#2002031106) prepared by the lead agency, the Unified Port District of San Diego; and the City Council, pursuant to CEQA Guidelines Section 15091, hereby adopts by reference the Findings of Fact (Exhibit A of San Diego Unified Port District Resolution 2003-105); and

WHEREAS, the City Council adopts the following findings in support of this resolution:

Site Plan Review Findings

1. The proposed use does not have a detrimental effect upon the general health, welfare, safety and convenience of persons residing or working in the neighborhood, and is not detrimental or injurious to the value of property and improvements in the neighborhood.

*if possible. Any necessary protection shall be the minimum necessary and shall not extend onto the beach further seaward than the authorized vertical shoreline protection on either side of the access improvements; or, in the absence of contiguous shoreline protection, the alignment cannot extend further seaward than the inland extent of Ocean Boulevard right-of-way. An exception may be made for necessary protection associated with public improvements at the Palm Avenue street end, which may extend seaward a sufficient distance to accommodate a transition to the existing groin. All improvements shall be designed to minimize impacts to shoreline sand supply."*

The project is designed to minimize beach encroachment relative to the north access route by acquiring private easements for placement of the access route.

Policy P-13 of the Parks, Recreation and Access Element states in part "In the unimproved right-of-way of Ocean Boulevard north of Imperial Beach Boulevard, the City may construct improvements that provide, preserve, or enhance public access at the street ends and parks, whether vertical or lateral, or both, and which will continue to allow access for equipment for emergency and maintenance purposes."

The proposed Palm Avenue access routes will establish a clearly defined path of travel for emergency vehicles and beach goers. Moreover, the access routes will establish a reliable year-round access-way that will be wide enough to accommodate the transport of portable lifeguard towers. The Carnation Avenue improvements will provide a safer point of access to the beach where it currently consists of boulders and sand. Additionally, the environmental kiosk will serve to educate the public about protecting threatened or endangered species.

The General Plan/Local Coastal Program contains several goals and policies that support the project. The City shall emphasize the aesthetic qualities of all streets (Circulation Element Goal 1.e); the City shall ensure continued public access to beaches, and, where possible, provide additional access, as well as increased public parking opportunities in the beach area (Conservation and Open Space Element, Policy CO-1); natural scenic amenities such as views shall be incorporated in the design (Design Element, Policy D-8); the project will establish a park-like amenity at the beach that may be enjoyed by all ages, income levels and lifestyles (Parks, Recreation and Access Element, Policy P-1).

The need for shore protection is documented in "Geotechnical Investigation and Shoreline Protection Study Palm Avenue and Carnation Avenue Street End Improvements Imperial Beach, California, dated October 11, 1999" prepared by URS Greiner Woodward Clyde. The report identifies Imperial Beach as an actively eroding beach, and the vertical sheet pile shore protection will be driven to a depth ranging from -12.5 feet MLLW to -16.2 feet MLLW, well below scour depth (0 feet MLLW). The project is conditioned to submit design drawings for the transition areas at the end of the vertical sheet pile system where properties to the south are protected by a vertical timber bulkhead, while properties abutting the access route to the north have no shore protection.

3. The proposed use is compatible with other existing and proposed uses in the neighborhood.

The proposed Palm Avenue overlook with side access routes represent enhancement of

development standards for development in this zone, requiring that the proposed development be compatible with surrounding land uses per Site Plan Review findings stated herein.

#### Coastal Permit Findings

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

##### *Shore Processes and Shore Protection*

The subject site is situated within the Silver Strand Littoral Cell (SSLC), representing a coastal compartment which contains a complete cycle of littoral (beach) sedimentation, including sand sources, transport pathways and sediment sinks. Recent Army Corps of Engineers studies indicate that erosion problems are most noticeable in Imperial Beach and at Playas de Tijuana. A detailed description of coastal conditions and processes is provided in the URS Greiner Woodward Clyde geotechnical report dated October 11, 1999.

The City of Imperial Beach has approximately 17,600 lineal feet of shoreline, approximately 12,000 feet or 68% of which is either publicly owned or has direct vertical or lateral access. This includes 6,000 linear feet of sandy beach owned by the State of California within the Border Field State Park in the extreme southwest corner of the City.

The project represents one of 11 beach street ends that have been or will be re-surfaced and enhanced. In February of 2000, the City processed an amendment to its Local Coastal Program that clarified shore protection policies (S-11 and P-13). The project, as designed and revised, is consistent with these policies (refer to Site Plan Review findings).

##### **Public Access**

The subject site is a beachfront site situated west of the currently improved Palm Avenue beach street end. Palm Avenue is a designated active vertical access-way to the public beach (Table P-2, Parks, Recreation and Access Element). The certified Local Coastal Program contains policies that address street-end improvement standards designed to facilitate beach access. Specifically, Policy P-13 Improving Access-ways states in part that "Priority shall be given to gaining and improving access-ways located in proximity to public parking areas and public transportation routes. The use of these access-ways shall be encouraged through the installation of appropriate signage. Said signage shall indicate, where applicable, the existence and location of nearby public parking areas." The Palm Avenue overlook and access routes will be situated within 100 feet of street parking (16 spaces) and the bus stops north and south bound on Seacoast Drive are within 200 feet of the street end.

The project is in conformity with the public access and public recreation policies in the certified Local Coastal Program and Chapter 3 of the Coastal Act, commencing with Section 30200, because:

- It will improve vertical and lateral beach access;

- It is designed so as to limit seaward encroachment on public beach wherever feasible, by constructing the north access route on private property granted to the City of Imperial Beach for public purposes;
- It will provide year-round access over the groin for beach users and emergency

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

Refer to Site Plan Review finding No.7.

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

The project includes the construction of a vertical seawall. Public projects are exempt from the sand mitigation fee per precedent (Pier Plaza, Safety Center and Dunes Park projects). 9,000 cubic yards of total sand replenishment is nevertheless being provided as a part of this project.

#### **DESIGN REVIEW:**

The project is consistent with the Design Element and Design Review Guidelines per Design Review Board Resolution No. 99-08, adopted by the Design Review Board of the City of Imperial Beach on May 25, 1999, and which findings and conditions of approval are incorporated by reference herein.

**NOW, THEREFORE, BE IT RESOLVED**, that Regular Coastal Development Permit (CP 02-01), Environmental Impact Report (EIR 02-01), Site Plan Review (SPR 99-05 and SPR 99-04) and Design Review (DRC 99-08 and DRC 99-07) for the Palm Avenue and Camation Avenue Street Ends Project with Vertical Shore Protection as shown on San Diego Unified Port District Drawing No. 2408 dated July 12, 2001, in the PF (Public Facility) and R-1500 (High Density Residential) Zones, is hereby **approved** by the City Council of the City of Imperial Beach subject to the following:

#### CONDITIONS OF APPROVAL

##### **SITE DEVELOPMENT**

1. The site shall be developed in accordance with the approved San Diego Unified Port District plans Drawing No. 2408 dated July 12, 2001 on file in the Community Development Department or as may need to be amended in order to accommodate the environmental mitigation measures required herein and any State or Regional Water Quality Control Board requirements applicable to this project and the conditions herein.
2. Approval of this request shall not waive compliance with any portion of the Uniform Building Code and Municipal Code in effect at the time a building permit is issued.

where is said mitigation?

Unified Port District Resolution 2003-105) is hereby adopted and incorporated as conditions of this permit by reference.

**STREETS, SIDEWALKS AND ALLEYS**

1. Prior to any work being performed in the public right-of-way, a temporary encroachment permit shall be obtained from the Building Division and appropriate fees paid.
2. A traffic control plan shall be submitted to the Public Works Department prior to commencement of work that maintains vehicular access along Ocean Lane during construction at least 10 days prior to construction. Said plan shall be reviewed and approved by the Director of Public Works.

**DRAINAGE AND FLOOD CONTROL:**

1. Concentrated flows in excess of one cubic foot per second across driveways and/or the sidewalk shall not be permitted.
2. The applicant shall include a Best Management Practices (BMP) plan to prevent contamination of storm drains and/or groundwater, in compliance with the Clean Water Act, to the Building Division of the Community Development Department, prior to the issuance of building permits. This plan shall be subject to the review and approval of the Storm Water Program Manager prior to building permit issuance. The BMP include but are not limited to the following:
  - a. Containment of all construction water used in conjunction with the construction activities. Contained construction water is to be properly disposed in accordance with federal, state, and city statutes, regulations and ordinances. Call Hank Levien at (619) 628-1369 for requirements.
  - b. All recyclable construction waste must be properly recycled and not disposed in a landfill.
  - c. Water used on site must be prevented from entering the storm drain conveyance system (i.e. streets, gutters, alley, storm drain ditches and pipes).
  - d. All wastewater resulting from cleaning construction tools and equipment must be contained on site and properly disposed in accordance with federal, state, and city statutes, regulations and ordinances.
  - e. All sediment on the construction site must be contained on the site and is not permitted to enter the storm drain conveyance system.
3. Storm water and urban runoff flows shall be in compliance with the Mitigation and Monitoring Reporting Program and in compliance with the State Water Resources Control Board Order No. 99-08-DWQ and Regional Water Quality Control Board Order No. 2001-01.

**GENERAL REQUIREMENTS AND APPROVALS**

1. The applicant shall, during construction, store any roll-off bins on the site. If this is not possible, an Encroachment Permit shall be obtained from the Building Division prior to

**Appeal Process under the California Code of Civil Procedure (CCP):** The time within which judicial review of a City Council decision must be sought is governed by Section 1094.6 of the CCP. A right to appeal a City Council decision is governed by CCP Section 1094.5 and Chapter 1.18 of the Imperial Beach Municipal Code.

**PROTEST PROVISION:** The 90-day period in which any party may file a protest, pursuant to Government Code Section 66020, of the fees, dedications or exactions imposed on this development project begins on the date of the final decision.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Imperial Beach at its regular meeting held on the 6<sup>th</sup> day of August, 2003, by the following roll call vote:

**AYES:** COUNCILMEMBERS: JANNEY, ROGERS, ROSE  
**NOES:** COUNCILMEMBERS: NONE  
**DISQUALIFIED:** COUNCILMEMBERS: WINTER, MCCOY (DUE TO A POTENTIAL CONFLICT OF INTEREST)

*Diane Rose*

DIANE ROSE, MAYOR

ATTEST:

*Jacqueline M. Hald*

JACQUELINE M. HALD, CITY CLERK

APPROVED AS TO FORM:

*Lynn R. McDougal*

LYNN R. MCDUGAL, CITY ATTORNEY

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be a true and exact copy of Resolution No. 2003-5818- A Resolution of the City of Imperial Beach approving an application for Regular Coastal Development Permit (CP 02-01), Environmental Impact Report (EIR 02-01), Site Plan Review (SPR 99-05 and SPR 99-04) and Design Review (DRC 99-08 and DRC 99-07) for the Palm Avenue and Carnation Avenue Street Ends Project with Vertical Shore Protection as shown on San Diego Unified Port District Drawing No. 2408 dated July 12, 2001, in the PF (Public Facility) and R-1500 (High Density Residential) Zones. MF 573.

*Jacqueline M. Hald*  
CITY CLERK

8/14/03  
DATE

CALIFORNIA COASTAL COMMISSION

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

RECEIVED



AUG 19 2003

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant

Name, mailing address and telephone number of appellant:

NANCY SCHMIDT  
P.O. Box 52  
LA MESA, CALIFORNIA 91944 (619) 442-1024  
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: IMPERIAL BEACH CITY COUNCIL / UNIFIED PORT DIST.

2. Brief description of development being appealed: STREET-ENDS ENHANCEMENT PROJECTS IN IMPERIAL BEACH CALIFORNIA, INCLUDING PALM and CARNATION AVENUES.

3. Development's location (street address, assessor's parcel no., cross street, etc.): WESTERN END of PALM and CARNATION AVENUES.

4. Description of decision being appealed:

- a. Approval; no special conditions: \_\_\_\_\_
- b. Approval with special conditions: X
- c. Denial: \_\_\_\_\_

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-IMB-03-96

DATE FILED: 9/10/03

DISTRICT: San Diego

EXHIBIT NO. 9
APPLICATION NO.
<b>A-6-IMB-03-96</b>
Appeal
California Coastal Commission



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

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

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

6. Date of local government's decision: AUGUST 6, 2003

7. Local government's file number (if any): \_\_\_\_\_

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

SAN DIEGO UNIFIED PORT DISTRICT - 3165 PACIFIC HIGHWAY,  
SAN DIEGO, CA 92101-1128  
CITY OF IMPERIAL BEACH 825 IMPERIAL BEACH BLVD,  
IMPERIAL BEACH, CA 91932

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

(1) NANCY SCHMIDT  
662 OCEAN LANE  
IMPERIAL BEACH, CA 91932

(2) OTHERS NOT AVAILABLE

(3) \_\_\_\_\_

(4) \_\_\_\_\_

SECTION IV. Reasons Supporting This Appeal

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

NANCY SCHMIDT

*Attorney at Law*

P. O. BOX 52 9194  
LA MESA, CA 92044-0050  
TELEPHONE (619) 442-1024  
OR 442-4245

August 18, 2003

California Coastal Commission  
San Diego Coast Area  
7575 Metropolitan Drive, Suite 103  
San Diego, CA 92108-4421

**RECEIVED**

AUG 19 2003

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

Re: Appeal of Imperial Beach Resolution No. 2003-5818

Dear Coastal Commission:

I am appealing approval and adoption on August 6, 2003, of the City of Imperial Beach/Unified Port District Regular Coastal Development Permit (CP 02-01), Environmental Impact Report (IR 02-01), Site Plan Review (SPR 99-05 and SPR 99-04) and Design Review (DRC 99-08 and DRC 9907) for the Palm Avenue and Carnation Avenue Street-Ends Projects with Vertical Shore Protection.

Although this project is called the Palm and Carnation Avenue proposals, those two projects are only the next two phases of a massive plan for development by the San Diego Unified Port District, (hereafter the "Port") for the Imperial Beach coastline. The Port's Master Plan proposes extensive development of the entire beach area including addition of a multi-level parking structure with commercial uses on the ground floor and the Imperial-Beach-Street-Ends-Enhancement-Project. The Street-Ends-Project not only includes Palm and Carnation Avenues, but includes development of every Imperial Beach street which ends at the beach. Development is also planned for Ocean Blvd., a thoroughfare which would connect the street ends and run along the mean high tide line.

In the fall of 1999, plans for the Palm Avenue part of the Street-Ends-Project were being finalized, and the City Council sought to change two policies of the LCP to conform with the project. Development of Ocean Blvd. was also expected. The Coastal Commission denied that request after finding that the proposed amendments did not meet requirements of the Coastal Act and the California Environmental Quality Act (hereafter "CEQA"). Greatly modified amendments were then submitted which required proposed projects to be designed to entirely avoid shoreline armoring if possible, (Policy S-11, p. S-17, Ordinance No. 99-936), and also specified that the unimproved right-of-way of Ocean Boulevard should be used for access improvements at Palm Avenue, (Policy P-13, p. P-18 Ordinance No. 99-936).

On November 1, 2000, the plan for Palm Avenue was approved by the City Council, but the proposal was essentially unchanged. Elimination of shoreline armoring had not even been discussed. That decision was appealed to the Coastal Commission by Surfrider Foundation and

Appellant herein.

The Coastal Commission found no significant question, but the San Diego Superior Court subsequently found in Appellant's favor and issued a Writ of Mandate enjoining the entire city-wide plan, including the Palm and Carnation Avenue projects. The Court found numerous violations of CEQA and cited specific threats to the environment including beach erosion and impacts to near-by endangered wildlife.

On June 3, 2003, the Port certified an EIR for the Palm and Carnation phases of the Street-Ends-Project, but the projects were still unchanged, and the environmental report was little more than a justification of the proposed design. Specific faults which had been cited by the Court were still not addressed, and some mitigation measures had actually been dropped.

Three different Superior Court judges have reviewed aspects of this project so far, and all three have upheld challenges to it. Still the plan remains essentially the same, and the serious environmental issues which were specified by the Court are yet to be addressed. It should be obvious by now that there are critical unresolved problems with this project, and I submit that the City should not simply forge ahead with repeated approval of the same flawed proposal. Their approval on August sixth should not be upheld.

1. The Palm Ave. proposal violates the LCP, because it calls for excessive seawall construction; there is inadequate mitigation of sand loss; and ramp location violates established limits.

The proposed Palm Avenue project would cover more than half an acre of the beach with concrete in order to create a vast pedestrian plaza with flanking vehicle ramps and seawalls. The vehicle ramps would be two lanes wide and would run perpendicular to Palm Avenue, and would serve as vehicle on/off ramps between Palm Avenue and Ocean Blvd., (currently a "paper street" identified in some drawings as Ocean Lane). About 250 feet of seawall would be built to protect the ramps and plaza. The project would require extensive filling and dredging, and 250 feet of sheetpile would be driven to a depth of -12 to -16 feet MLLW. Landscaping would be replaced with stained concrete, a pump station would be relocated, sixteen streetlights would be added and there would be increased vehicle traffic and more parking places, (EIR p. 3-3,4).

A. I believe that this oversized project includes unnecessary seawall construction and violates the LCP which mandates that "Public improvements shall be designed to avoid shoreline protection, if possible. Any necessary protection shall be the minimum necessary..."(Policy S-11 as amended in 1999).

The proposed seawall design should be evaluated in light of the Army Corp of Engineers' current sand replenishment project which is expected to produce dramatic changes in beach elevation and shoreline contour. The Palm Avenue proposal originated long before the recent federal project was even considered, and there should clearly be coordination with this recent

development before the old design is routinely approved again.

It is also important to note that even if beach conditions remained the same, the proposed ramps and seawalls could be greatly reduced in length while still meeting all project objectives. For example, proponents argue that extreme ramp length is needed for handicapped access. In reality, the proposed 5% slope of the north ramp is so nearly flat that it can not even be correctly defined as a ramp per section C-5.6.1 of the ADA Compliance Code. Furthermore, Section C-5.6.2 states that the preferred slope is between 8.33% (1:12) and 5.25%(1:16). It is therefore clear that the slope of the northern ramp could be increased within the optimum ADA preferred range, which would reduce the length of the ramp dramatically and would still be appropriate for emergency and other uses.

It should also be noted that a very narrow exception exists which would allow seawall construction if it is necessary to connect the street-end with the existing groin. The groin at Palm Avenue extends into the water from the street end, and is second in a series of similar groins which were built many years ago by the Army Corp of Engineers in a failed attempt to control erosion here. The narrow policy exception which allows the street-end to be connected with that existing groin should not be misinterpreted to justify construction of hundreds of feet of seawall to connect the street-end with the beach or with Ocean Blvd. or with anything else.

B. Policy S-11 also requires that seawalls must be “designed to eliminate or mitigate adverse impacts on local shoreline sand supply”. This restriction is necessary, because sand loss and environmental harm often result from seawall construction, (See also: PRC section 30235 and Coastal Commission BEAR Guidance Document, p. 121-123, 53-55). Court rulings have specifically highlighted this fault in the project, but it still remains essentially unchanged.

The Palm and Carnation projects are located in a complex area of heavy coastal erosion where the beach is being lost at the startling rate of six to seven feet per year, but very limited passive mitigation measures have been proposed. A small temporary sand replenishment is planned during construction, and payment of mitigation fees is proposed. The record reflects a major controversy over whether the Sand Mitigation Fee will be sufficient to mitigate the loss of sand, and I submit that erosion and sand loss from this project should be carefully addressed before we find ourselves in a natural or financial emergency.

C. The proposed design violates Policy P-13 of the LCP, because vehicle ramps are located outside the Ocean Blvd. right-of-way.

The 1999 amendment to the LCP states that “In the unimproved right-of-way of Ocean Boulevard north of Imperial Beach Boulevard, the City may construct improvements that provide....public access at the street ends...” This section gives very clear guidance as to the correct placement of street-end access, and does not specify that it can be placed anywhere else. The southern ramp appears to be properly located within the Ocean Blvd. right-of-way, but that ramp would be graded sand, and it seems illogical to build a seawall for its protection, especially

if it is true that “waves will not routinely impact” it, (EIR p. 4.6-11).

On the other hand, the northern ramp would be on an easement over private property, and not within the right-of-way as specified in the LCP. It is very important to note that if a concrete ramp were built on this private easement, it would pave over the last remaining strip of sand between the private buildings and Ocean Boulevard. Eventual development of the “paper street” would leave essentially no sandy beach at this location at all. Furthermore, if the north ramp were located on the private easement as proposed, it would be necessary for vehicles using that ramp to unlawfully cross private property at the north end.

I therefore believe it would be much wiser to follow the requirements of Policy P-13, and realign the access improvements within the existing right-of-way. We should not sacrifice any part of the sandy beach unless it has been proven to be absolutely necessary. The half acre of pavement on the beach which the Palm Avenue project would create would surely give “the appearance of a... sea of concrete or asphalt” (prohibited by LCP p. D-9), and this oversized project should be reconsidered in favor of a less intrusive and more reasonable plan.

2. The Palm Avenue proposal violates LCP policies against blocking the view corridor.

Policy P-14 requires that the “view corridor shall be protected and... the city shall approve detailed design plans for each street end”, (See also: similar Port Policies).

Palm Avenue is a protected view corridor in the certified LCP, and at the present time, beautiful ocean views can be seen from nearly half a mile away as one approaches the beach on Palm Avenue. However, if the Palm Avenue project is built as proposed, much of the dramatic view of sand and surf will be lost. It is therefore essential that this project not be approved until “detailed design plans for (the) street end” have established that ocean views will not be unnecessarily sacrificed, and access improvements can not be modified to actually improve visibility.

In the first place, the proposed vehicle ramps and seawalls which are designed to bridge the western terminus of Palm Avenue will severely block the view corridor. Plans call for the seawall to extend 3 feet above the level of the plaza (4 feet above the plaza entry). This waist-high solid obstruction would completely block the ocean view from near-by benches, and would seriously interfere with the full ocean view from the distance and from nearly every other angle.

The view corridor would also be blocked by an enormous statue of a man which is proposed for the center of the plaza and which would be two stories high (18 feet). The Port has already installed four “art” structures in this general area, and several more are currently proposed for near-by areas. The Port’s numerous public art projects (about 75 in San Diego to date) are increasingly controversial, and brought them the “onion award” last year. The colossus which is planned for Palm Avenue has never been publicly displayed, and is not even shown in any of the conceptual drawings of the project.

I submit that an alternate location should at least be considered for this gigantic structure which would block the entire middle of the view corridor. One excellent alternate site would be the open area at the south end of Seacoast Drive where it would have a beach setting, but would not obstruct the view corridor, or be close to other large similar constructions as it would be at Palm Ave. Another alternative would be the small landscaped park at the intersecting division of Palm Ave. and Route 75. In that location it would provide a landmark for outsiders who are looking for the turn-off to Imperial Beach. Alternatives, such as these, which would protect the view corridor have never been officially discussed.

Finally, the ocean view at Palm Avenue would be blocked by a two story condominium building which is going to be built just 5 feet from the north edge of the Palm Avenue plaza. Units in that building are already being offered for sale. The outside wall of that building will be so close to the edge of the Palm Avenue plaza, that it has been necessary to remove some of the planned public landscaping to accommodate it. Furthermore, the western edge of this private lot is about 20 feet seaward of other properties in the area, so that the ocean and skyline view to the north would be blocked by a two-story solid wall running the length of the north edge of the plaza.

It is therefore clear, that Palm Avenue's majestic view of surf and skyline, as it exists today, will not remain if this project is built as proposed. The colossal two-story statue placed directly in the line of sight to the ocean, and the two story building immediately adjacent to the north, and the shoulder-high armoring around the street end will leave very little of the natural beauty of this presently unspoiled place.

As the LCP observes, a "peril lies in the fragile nature of Imperial Beach's environment and in the speed with which it can be destroyed,.....and one is always aware of the setting in a way that is not true of other areas. In such a restricted and exposed environment, it takes little in the way of inappropriate buildings....and lost views to create ugliness in the place of beauty," (LCP p. D-1)

### 3. Significant impacts to sensitive wildlife have still not been mitigated.

A similar street-end project is also proposed for the west end of Carnation Avenue, and part of that project would be built on Navy property to the north, and would require appropriate easements before it could be built. The Critical Habitat of the endangered snowy plover is bounded by Carnation Ave., and there would therefore be direct encroachment into that protected area if the project were built as proposed (EIR comment 56). This area is also appropriate habitat for the endangered least tern and the endangered California brown pelican which appears seasonally in the Palm and Carnation Avenue project areas. In fact, at least twenty protected species, five of which are endangered, live in the vicinity of the proposed construction sites.

However, the wildlife analysis which is included in the EIR is very narrowly limited to consideration of species which live in the actual footprint of the Palm and Carnation projects, and

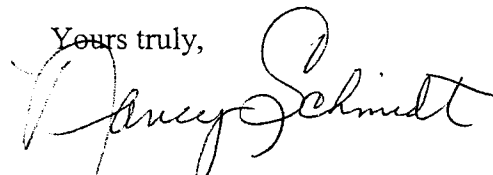
a site study of plover and least tern activity during a limited part of the nesting period. Some mitigation measures which were originally proposed have been dropped, and no specific mitigating design aspects are included as required by CEQA. The Port has suggested that significant impacts can be mitigated by posting two signs and by suspension of beach raking when grunion have been sighted, but this clearly falls far short of the statutory requirement. These are nothing more than passive measures which would be the duty of any responsible local government whether a project was proposed or not.

In conclusion, I firmly believe that the objectives of this extensive project can be achieved with much less impact to the environment, and I reaffirm the statements in my letter to the City Council dated August 2, 2003, and comments in the official record.

This is the same flawed proposal which the Court has solidly rejected, and there is no more factual or legal support for the City's approval now, than there was when it was previously proposed and rejected by the Court. If hundreds of feet of seawall are allowed to be built near the high tide line on this actively eroding beach, it will set a very dangerous precedent indeed. Furthermore, that precedent would be based on an overbroad interpretation of local policy, and would signal a very questionable direction for future development. The problems of beach scouring, sand replenishment, protection of view corridors and wildlife preservation are complex issues of regional importance, and many other beach communities are grappling with the need to provide maximum public access without destroying the very resource which the public enjoys.

I respectfully urge you to give this matter your most serious consideration. The people of Imperial Beach and everyone who enjoys having access to the ocean, deserve to have this drastic proposal fully reviewed before we risk damaging a very singular place.

Yours truly,



Nancy Schmidt

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

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

*This proposal violates local policies and state requirements which limit seawall and vehicle ramp construction (including Policy S-11 and P-13). There has not been adequate provision for mitigation of sand loss and wildlife impacts (including CEQA requirements) and the view corridor has not been protected (policy P-14). A new hearing is warranted because approval is based on an over-broad interpretation of local policy, and would set a dangerous precedent.*

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

*Now information attached.*

SECTION V. Certification

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

Signed Doreen Schmitt  
Appellant or Agent

Date August 15, 2003.

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

Signed \_\_\_\_\_  
Appellant

Date \_\_\_\_\_



The City Of  
Imperial  
Beach

(619) 628-1356  
FAX: (619) 424-4093

COMMUNITY DEVELOPMENT DEPARTMENT  
825 IMPERIAL BEACH BOULEVARD • IMPERIAL BEACH, CALIFORNIA 91932



October 1, 2003

RECEIVED

OCT 02 2003

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

Sherilyn Sarb  
District Manager  
California Coastal Commission  
7575 Metropolitan Drive, Suite 103  
San Diego, CA 92108-4402

**SUBJECT: RESPONSE TO APPEAL NO. A-6-IMB-03-096 – PALM AND  
CARNATION AVENUE STREET ENDS PROJECT**

Dear Ms. Sarb:

The City of Imperial Beach and the San Diego Unified Port District have reviewed the letter sent by Nancy Schmidt (the "Appellant") dated August 18, 2003, appealing the decision of the Imperial Beach City Council on the Palm and Carnation Avenue Street Ends Project (the "Project"). Please accept the following response to Ms. Schmidt's letter of appeal.

The Appellant in this case is a beachfront resident who resides within 200 feet of the Palm Avenue street end and within 500 feet of the Carnation Avenue street end. She has consistently opposed this project that, in addition to improving these street ends and providing necessary shoreline protection, will enhance and provide vital coastal access – both physical and visual – to residents of the City of Imperial Beach and San Diego County as well as to visitors from throughout the world. It appears, therefore, that this appeal is merely an effort to limit coastal access by a beachfront resident.

The proposed Project will provide improved coastal access, along with disabled access, emergency vehicular access, shoreline protection, public art, improved water quality through a storm water diverter system, and will improve visual access to the coast. The Project is in conformance with the City of Imperial Beach's Local Coastal Program (LCP) and complies with all local policies and state requirements. Additionally, the Environmental Impact Report (EIR) prepared for the Project and certified by the Port District's Board of Port Commissioners and approved by the Imperial Beach City

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Letter from City of IB in re: to appellant's contentions

Council has identified no significant impacts to active or passive shoreline erosion. The EIR has identified potentially significant impacts to biological resources (specifically to grunion and the pismo clam). These impacts, however, would be reduced to a level of insignificance with the mitigation measures identified in the EIR. Therefore, the Project complies with the environmental review required by the California Environmental Quality Act (CEQA).

The Appellant incorrectly claims that the Project, under the Port Master Plan, is part of a "massive plan for development... including addition of a multi-level parking structure... and... development of every street which ends at the beach." This claim grossly misinterprets the purpose of the Port District's Mater Plan. The stated purpose of the Port Master Plan is to "provide the official planning policies... for the physical development" of lands lying within its trust. Therefore, the Port Master Plan is a policy document. Although the Port Master Plan identifies the possible future improvement of 13 street ends in Imperial Beach (4 of which have already been completed), only Palm and Carnation avenues are designed, programmed and funded for improvement at this time. Additionally, Policy P-14 of the adopted LCP states that the City Council shall approve detailed design plans for each street end. Absent any action by either the Port District or the City of Imperial Beach to commence preparation of plans, arrangements for funding, nor any other such documented activities, the nature and extent of improvement of the remaining street ends is entirely speculative at this time. Nevertheless, the EIR included the remaining undesigned and unfunded street end projects in its cumulative impacts analysis.

The parking structure referred to in the Appellant's letter is also not being pursued by either the Port or the City and, in fact, lies eastward of Seacoast Drive in a non-appealable area of the Coastal Zone. Therefore, it is unclear as to why the Appellant is concerned about this speculative structure as it will have no impact whatsoever on the Project. Finally, there is currently no plan for the development of Ocean Boulevard between the Palm Avenue and Carnation Avenue street ends as the Appellant suggests as this street was vacated in 1908 and is actually an integral part of our active beach.

As you are aware, the Coastal Commission previously found no substantial issue with the Palm Avenue Street End Project when the Appellant originally appealed in November 2000. Similarly, the Coastal Commission also approved the LCP amendments that preceded the Palm Avenue street end project. These amendments, in particular the amendment to Policy S-11 (Safety Element), make it clear that an exception to avoiding shoreline protection "may be made for necessary protection associated with public improvements at the Palm Avenue street end, which may extend seaward at a sufficient distance to accommodate a transition to the existing groin." Additionally, the previously adopted portion of Policy S-11 that was not amended in 1999, states that "New Development fronting on Ocean Boulevard north of Imperial Beach Boulevard shall incorporate an engineered vertical seawall in its design if it is determined that shoreline protection is necessary."

In the case of these street ends, shoreline protection has been determined to be necessary. This was further validated by a recent shoreline protection device study that determined that the street ends were the "weak link" in the shoreline protection found along Imperial Beach (Everest 2001). The Appellant appears to be intentionally misleading the Coastal Commission by omitting important elements of the City's approved LCP in the appeal, as well as raising issues that are not pertinent to the Project and its EIR. For example, whether or not prior LCP amendments proposed by the City of Imperial Beach were unsuccessful in the past is entirely irrelevant to the current Project and its EIR.

As mentioned above, the City's decision to approve the original Palm Avenue Street End project (November 2000) also was appealed by the Appellant. Elimination of the shoreline protection proposed by the project was neither required nor is it precluded by the City's LCP. Therefore, the Coastal Commission found no significant issue with respect to the City's approval. Moreover, when the San Diego County Superior Court reviewed the matter, it did not "enjoin the entire city-wide plan" as indicated by the Appellant. Rather, the Court found that the negative declaration did not sufficiently address issues related to cumulative impacts and shoreline erosion. This was in no way an indictment of the project itself.

The Appellant argues that, on June 3, 2003, the Port District certified the EIR for the Project, "but the projects were still unchanged." While this is not entirely accurate, there was no legal requirement to change the project at all. The Court did not find "specific faults" with the project itself, but instead ruled that the project required the preparation of an EIR. That EIR has been prepared and certified. During its preparation, several meetings were conducted with all resource agencies including the Department of Fish and Game (DFG), the United States Fish and Wildlife Service (USFWS) and the California Coastal Commission to ensure the adequacy of the EIR and the protection of natural resources. As previously stated, the EIR found that potentially significant impacts to biological resources were only identified for the pismo clam and grunion. These impacts would be reduced to a level of insignificance with the implementation of mitigation measures identified in the EIR. Although no other significant impacts to biological resources were identified, the EIR adopted as part of the Project additional mitigation measures that are aimed specifically at the protection of natural resources on the Navy Property located to the north of Carnation Avenue.

1. Appellant: The Palm Ave. proposal violates the LCP because it calls for excessive seawall construction; there is inadequate mitigation of sand loss; and ramp location violates established limits.

As previously stated, the Project complies entirely with the City's adopted LCP. The LCP not only requires vertical seawalls north of Imperial Beach when shoreline protection is necessary, but it also allows specifically for the type of shoreline protection project that is proposed at the Palm Avenue Street End. With respect to sand loss, the

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EIR found that there would be no significant impact to either active or passive shoreline erosion. In analyzing the potential for active erosion due to the seawall proposed for the Palm Avenue street end, the EIR cited recent studies that clearly show that "seawalls such as the one proposed do not accelerate erosion of the fronting or adjacent beach (Griggs, 1994)." According to the EIR, impacts from the proposed Palm Avenue seawall associated with passive erosion are "expected to be minimal" and that "any residual passive erosion effects shall be reduced to a less than significant level by contributing to the sand mitigation fee." In analyzing the proposed seawall for Carnation Avenue, the EIR found that "it will be essentially impossible for the proposed seawall at Carnation Avenue to cause any active ... or passive ... erosion." While no additional mitigation measures for sand erosion are required, the project nevertheless calls for 8,000 cubic yards of sand to be deposited in front of the completed Palm Avenue street end (3,000 cubic yards to the south of the groin and 5,000 cubic yards to the north) and at least 1,000 cubic yards of sand to be deposited in front of the completed Carnation Avenue street end.

The Appellant suggests that the Project "would require extensive filling and dredging." Once again, this is inaccurate. There is no dredging proposed and the only filling expected is the sand renourishment proposed for the Project. Additionally, while some minor landscaping will be removed, the project proposes additional landscaped areas at both street ends which will result in an overall increase in total landscaping. The pump station currently located above grade in the middle of Palm Avenue is proposed to be relocated underground with a storm water diverter system added, which will enhance visual access to, and improve water quality along, the beach and ocean. With respect to vehicular traffic, the Project EIR found that there would be no significant impacts to traffic.

In stating her personal opinion regarding the Project, the Appellant again quotes Policy S-11 of the LCP saying that it mandates that "Public improvements shall be designed to avoid shoreline protection, if possible. Any necessary protection shall be the minimum necessary." Once again, however, the Appellant is misleading the Coastal Commission by only quoting a small portion of Policy S-11. As mentioned earlier, Policy S-11 also "requires a vertical seawall for property fronting on Ocean Boulevard north of Imperial Beach Boulevard if such protection is necessary." As previously stated, shoreline protection for the Project has been determined to be necessary. In discussing the allowable seaward extent of vertical seawalls, in fact, the remainder of Policy S-11 says as much by stating that "An exception can be made for necessary protection associated with public improvements at the Palm Avenue street end which may extend seaward a sufficient distance to accommodate a transition to the existing groin."

The Appellant also suggests that there should be coordination between the proposed project and the Army Corps of Engineers' Silver Strand - Imperial Beach Shoreline Sand Replenishment Project. The Appellant states that the proposed project "originated long before the recent federal project was even considered." This, too, is entirely inaccurate.

The Army Corps project was originally authorized in 1958 and has gone through several iterations since then. The Study under which the Army Corps' sand replenishment project is currently proposed, however, was initiated in 1997. The Project, therefore, has taken into consideration the Army Corps project and, in fact, discusses in some detail this proposed beach renourishment project. Though not required for mitigation, the EIR states that the proposed Army Corps project would "mitigate any potential impacts from the placement of the project's seawalls."

It is also important to note, as discussed in the EIR, that coastal erosion is a recognized citywide problem. However, the recent Army Corps study indicates erosion along the coast of Imperial Beach is due primarily to the upstream damming of the Tijuana River and the decrease in natural sediment supply rather than a result of the construction of shoreline protection devices. The City has long recognized this problem and is attempting to address this through specific and regional solutions aimed at renourishing the City of Imperial Beach's shoreline. The San Diego Association of Government's (SANDAG's) Regional Beach Sand Project (120,000 cubic yards of sand placed on the beach), the Army Corps's Silver Strand - Imperial Beach Shoreline project (over 2.3 million cubic meters of beach quality dredged sand to be placed on the beach), and the Army Corps' San Diego Harbor Deepening Project (550,000 cubic yards of dredged sand to be placed near shore off Imperial Beach) are all projects that have and will address this City-wide issue. Together, these projects are expected to adequately address coastal erosion throughout the City.

The Appellant suggests that the proposed northern ramp could be decreased in length and still meet disabled access requirements. As referenced in the EIR, the Port prepared the Imperial Beach Street Ends Improvements Americans with Disabilities Act (ADA) Study Report. Information included in the report was obtained from independent research, several meetings, site visits, and workshops with representatives of the Port District's ADA consultant, Accessible San Diego, the District ADA Task Force and Imperial Beach staff. Through this report and community input, the slopes of the ramps were developed. The slopes conform to all State and Federal ADA Regulations. Additionally, California Title 24 Accessibility Regulations Section 1007.1a state, "The least possible slope shall be used for any ramp." Furthermore, ramps with slopes greater than five percent require special consideration under the ADA and the California Accessibility Regulations. Section 1007.4a requires that ramps exceeding five percent slope must have landings at the top and bottom of each ramp and would also require an intermediate landing to be provided for the northern ramp. These landing requirements would lengthen the overall ramp system to a comparable length of the proposed ramp. Alternative Design D, as described in the EIR, was presented at the Public workshop on June 24, 2000. This alternative provides a five percent slope to conform with the ADA and also reduces the northern ramp length. Despite the shorter northern ramp length, the community strongly supported the preferred project alternative. The public has selected and supported a balanced alternative that meets the objectives of the ADA community, environmental concerns, public safety, and enhances public recreational opportunities.

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The Palm Avenue street end improvement project is explicitly provided for in the approved LCP. The exception referred to by the Appellant allows this project to connect the shoreline protection with the existing groin. The other elements of the project (i.e., the access ramps and shoreline protection) are also in compliance with all other portions of the approved LCP.

In Section B of the appeal (page 3 of Appellant's letter), the Appellant again refers to Policy S-11 stating that seawalls must be designed to eliminate or mitigate adverse impacts on the local shoreline sand supply. Again, the Project EIR found that there were no significant impacts to active beach erosion associated with the proposed seawalls and that passive erosion will be mitigated to a less than significant level by payment of the sand mitigation fee. The Appellant also makes a broad statement that "sand loss and environmental harm often result from seawall construction." The EIR for the project points out that recent studies indicate that this is not necessarily the case and again, found no significant impacts would result from the project. Finally, in a recurring theme, the Appellant incorrectly states that Court rulings have "specifically highlighted this fault in the project." To the contrary, the Court made no findings with respect to the design of, or faults with the project. Rather, the Court ruled that an EIR assessing the impacts of both the Palm and Carnation avenue street end projects needed to be prepared.

In Section 1.C (page 3) of the appeal letter, the Appellant also claims that the ramp location at the Palm Avenue street end violates established limits identified in Policy P-13 of the LCP because the ramps are located outside the Ocean Boulevard right-of-way. This is simply an incorrect statement and/or a misinterpretation of the adopted LCP. Policy P-13 of the LCP states, that "In the unimproved right-of-way of Ocean Boulevard north of Imperial Beach Boulevard, the City *may* construct improvements that provide, preserve or enhance public access at the street ends and parks, whether vertical or lateral or both, and which will continue to allow access for equipment for emergency and maintenance purposes." While the LCP does not say the City must or shall use the Ocean Boulevard for these purposes, this specifically allows for the Palm Avenue street end project to extend its shoreline protection to the existing groin as well as to provide for the southern access ramp to the coast within portions of the Ocean Boulevard right-of-way. It does not, however, mandate that the City must do so. To the north of the Palm Avenue street end, the City was granted an access easement over private property to allow for the vehicular and disabled access ramp in order to comply with Policy S-11 of the LCP which states that "any necessary [shoreline] protection shall... not extend onto the beach further seaward than the authorized vertical shoreline protection on either side of the access improvements; or, in the absence of contiguous shoreline protection, the alignment cannot extend further seaward than the inland extent of Ocean Boulevard right-of-way." Since there is no contiguous shoreline protection, these improvements, except for those permitted to connect to the groin and those otherwise permitted for coastal access, should not extend into the Ocean Boulevard right-of-way, as the Appellant seems to suggest. Indeed, her argument actually speaks in favor of the proposed northern access ramp

location which pushes the ramp as far from the sandy beach as possible and west of the Ocean Boulevard right-of-way would be in direct conflict with Policy S-11 of the LCP.

Once again, the Appellant's characterization of Ocean Boulevard as a potentially developable "paper street" is simply inaccurate and misleading as there is no intention or proposal to develop this right-of-way. In fact, the approval and construction of the Palm Avenue street end portion of the project would render Policy P-13 obsolete as the desired public and emergency vehicle access which this policy promotes will already be in place within the access easement over private property. The use of Ocean Boulevard for this purpose at this location, therefore, would no longer be necessary.

2. The Palm Avenue proposal violates LCP policies against blocking view corridor.

To suggest that the Palm Avenue Street End Improvements will block a view corridor is, once again, totally inaccurate and entirely misleading. The Palm Avenue street end was previously developed with the main lifeguard station for the City of Imperial Beach. This structure was demolished in the year 2000, in part, to make way for the very street end improvements that are the subject of this appeal. The former lifeguard facility was three stories in height, contained parking for emergency vehicles, an outdoor basketball court, first aid and lifeguard observation facilities and included the existing pump station that still sits above grade within the Palm Avenue right-of-way today. The replacement of this lifeguard facility with an open space plaza and coastal overlook, enhanced pedestrian, disabled and emergency vehicle access, additional landscaping, an art sculpture and the relocation of the pump station below grade will greatly improve and enhance the view corridor and visual access to ocean and beach from all inland vantage points. With respect to maintaining and enhancing visual access to the coast, the Project not only complies with the adopted LCP, but it was also designed to provide visual access where, previously, there was none. To suggest otherwise is, in our opinion, a willful misrepresentation of the facts in an attempt to purposefully mislead the Coastal Commission and to obfuscate the benefits and merits of the project in the Appellant's over-zealous efforts to prevent its construction.

With respect to proposed private development to the north of the Palm Avenue street end, this project will be subject to its own environmental review and should not be included in the discussion of view corridor impacts as there is nothing in the LCP that precludes the development of private property as long as it meets the requirements of CEQA, other State Law, the LCP, and the Imperial Beach Municipal Code.

3. Significant impacts to sensitive wildlife have still not been mitigated.

The land to the north of the Carnation Avenue street end is Navy property currently under lease and developed by the YMCA's Camp Surf. The snowy plover and least tern habitat referred to by the Appellant actually begins some 3,000 feet north of the Carnation Avenue street end. The EIR prepared for the Street Ends Project identifies no significant

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impacts to snowy plover or the least tern. However, the EIR did identify potentially significant impacts to the pismo clam and grunion. Again, these impacts would be reduced to a level of insignificance by the implementation of mitigation measures identified in the EIR. As previously mentioned, City of Imperial Beach and Port District staff met several times with the USFWS, the DFG, Coastal Commission staff and the United States Navy to discuss and propose project elements that would address concerns regarding the intrusion of pedestrians into sensitive habitat and their possible impacts to sensitive species. The beach area to the north of Carnation Avenue lies within the jurisdiction of the federal government. Therefore, there are no mitigation measures that could be legally implemented or enforced by the City of Imperial Beach or the Port District on this property. Because of this fact, the City of Imperial Beach and the Port District agreed to several project components that will assist in limiting the amount of people who trespass onto Navy property. These project components include informational signage kiosks at the Carnation Avenue street end regarding sensitive species and sensitive habitat, no trespassing signs to be posted on pier pilings on the beach at the City of Imperial Beach's northern city boundary, and an Educational Outreach Program to be implemented by City Lifeguard, County Sheriff and Animal Control personnel regarding the location and protection of sensitive species and sensitive habitat.

Finally, while the Appellant continually suggests that the Court rejected the previously proposed Palm Avenue Street End Project as "flawed", it bears repeating that this is a misrepresentation of the facts. The Court simply ruled that both the Palm and Carnation avenue street end projects must be analyzed under an EIR while specifically addressing cumulative impacts and the potential impacts to coastal erosion. The Port and the City have complied with this ruling.

If you have any questions regarding this information, I would be happy to discuss them with you. I can be reached at 619-628-1354 or at [gwade@cityofib.org](mailto:gwade@cityofib.org).

Sincerely,



Gregory Wade  
Community Development Director

C: Lauren Wasserman, Interim City Manager  
Tom Ritter, Assistant City Manager  
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