

CALIFORNIA COASTAL COMMISSION

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 49th Day: January 7, 2003
 180th Day: May 18, 2003
 Staff: FSY-LB FSY
 Staff Report: March 20, 2003
 Hearing Date: April 8-11, 2003
 Commission Action:

**TU 9f****STAFF REPORT: REGULAR CALENDAR**

APPLICATION NUMBER: 5-02-342 **RECORD PACKET COPY**

APPLICANT: City of Newport Beach, Department of Public Works, Attn: Lloyd Dalton

PROJECT LOCATION: Balboa Peninsula, City of Newport Beach, County of Orange

PROJECT DESCRIPTION: Construction of four (4) beach public walkways on the beach toward the ocean from existing accessible locations in four separate locations near the Newport Pier and Balboa Pier. Approximately 100 cubic yards of grading will be performed for purposes of recompaction and will be balanced on site.

SUMMARY OF STAFF RECOMMENDATION:

The proposed development involves construction of four (4) beach public walkways on the beach toward the ocean from existing accessible locations in four separate locations near the Newport Pier and Balboa Pier. The major issues before the Commission relate to hazards, water quality, and public access. Staff recommends the Commission **APPROVE** the proposed development with five (5) special conditions.

To assure that these issues are addressed, the Commission imposed **five (5) Special Conditions**. The **Special Conditions** address **1)** assumption of risk, waiver of liability and indemnification agreement; **2)** no future shoreline protective device; **3)** future development; **4)** storage of construction materials, mechanized equipment and removal of construction debris; and **5)** timing of construction.

LOCAL APPROVALS RECEIVED: City of Newport Beach Approval-in-Concept # 2269-2002 dated October 1, 2002.

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach certified Land Use Plan; Coastal Development Permit #5-95-265 (City of Newport Beach); Letter from Staff dated October 31, 2002; Letter from Lloyd Dalton dated November 15, 2002; Letter from Staff dated February 28, 2003 and Letter from Lloyd Dalton Dated March 5, 2003.

EXHIBITS

1. Vicinity Maps
2. Project Plans

STAFF RECOMMENDATION:

Staff recommends that the Commission adopt the following motion and resolution:

MOTION:

“I move that the Commission approve Coastal Development Permit No. 5-02-342 pursuant to the staff recommendation.”

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

I. APPROVAL WITH CONDITIONS

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Assumption of Risk, Waiver of Liability and Indemnification Agreement

- (A) By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from storm events, flooding, and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defiance of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- (B) Prior to any conveyance of the property that is the subject of this coastal development permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of subsection (A) of this condition. The restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.
- (C) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a written agreement in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

2. No Future Shoreline Protective Device

- (A)1 By acceptance of this permit, the applicant agrees that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-02-342 including future improvements, in the event that the property is threatened with damage or destruction from waves, erosion, storm conditions or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives any rights to construct such devices that may exist under Public Resources Code Section 30235.
- (A)2 By acceptance of this permit, the applicant further agrees that the landowner shall remove the development authorized by this permit, including the accessways, if any government agency has ordered that the structure is not to be occupied due to any of the hazards identified above. In the event that any portion of the development is

destroyed, the permittee shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

- (B) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a written agreement in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

3. **Future Development**

- (A) This permit is only for the development described in coastal development permit No. 5-02-342. Pursuant to Title 14 California Code of Regulations section 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610 (b) shall not apply to the development governed by the coastal development permit No. 5-02-342. Accordingly, any future improvements to the structure authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), shall require an amendment to Permit No. 5-02-342 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

4. **Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris**

The permittee shall comply with the following construction-related requirements:

- (A) No construction materials, debris, or waste shall be placed or stored where it may be subject to wave, wind, rain, or tidal erosion and dispersion;
- (B) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
- (C) Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters;
- (D) All mechanized machinery shall be removed from the beach at the end of the working day. No storage of mechanized equipment is allowed on the beach;
- (E) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into Lower Newport Bay.
- (F) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

5. Timing of Construction

Construction activities shall not take place for the period starting the day before the Memorial Day weekend and ending the day after the Labor Day weekend of any year.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT LOCATION AND DESCRIPTION

The project area is located along the Balboa Peninsula in the City of Newport Beach. More specifically, the project will occur near the Newport Pier and Balboa Pier (Exhibit #1). The Balboa Peninsula is an area consisting of many uses such as residential, commercial, visitor-oriented and neighborhood retail and service use areas, and low cost visitor and recreational facilities. The project sites are near the Newport Pier and Balboa Pier, which serve as popular destination points for the public to come and enjoy the low cost visitor and recreational facilities since it is easily accessible for those people going to the beach and are adjacent to Oceanfront, which serves as a major pedestrian path for the public along the peninsula.

The proposed project will consist of construction of four (4) beach public walkways/accessways on the beach toward the ocean from existing accessible locations in four separate locations near the Newport Pier and Balboa Pier (Exhibit #1). The sides of the proposed walkways will be sloped down and at the ends of the walkways will be a 38 foot wide circular pad which will provide sufficient room for wheelchairs to turn around and maneuver. These walkways will be built in public beach areas that have high levels of public use and also are sites where maximum benefit will be provided to disabled persons. The 1st walkway will be located adjacent to the Lifeguard Headquarters and Newport Pier and the total length of the walkway will be approximately 120 feet, while the walkway will be 14 feet wide terminating in a 38 foot wide circular pad. The 2nd walkway will be located adjacent to the Balboa Pier Parking Lot and the Balboa Pier and the total length of the walkway will be approximately 59 feet, while the walkway will be 22 feet wide terminating in a 38 foot wide circular pad. The 3rd walkway will also be located adjacent to the Balboa Pier and a public restroom and the total length of the walkway will be approximately 109 feet, while the walkway will be 22 feet wide terminating in a 38 foot wide circular pad. The 4th and final walkway will be located adjacent to the Peninsula Park Parking Area near the Balboa Pier and the total length of the walkway will be approximately 139 feet in length, while the walkway will be 22 feet wide terminating in a 38 foot wide circular pad. The walkways will have a 4 inch thick asphalt surface over an 9 inch asphalt base and be composed of asphalt concrete and will be colored to match the color of the beach sand. In addition, approximately 100 cubic yards of grading will be performed for purposes of recompaction and will be balanced on site. These walkways will not only provide ocean front access to the general public, but will also make the oceanfront more accessible to disabled persons. These walkways are funded by the proceeds from the American Trader oil spill settlements, and are intended to make the oceanfront more accessible to disabled persons.

B. HAZARDS

Section 30253 of the Coastal Act states, in relevant part states:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Section 30251 of the Coastal Act states, in relevant part states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

1. Wave Uprush and Flooding Hazards

The subject sites are located on the beach located on the Balboa Peninsula near the Newport Pier and Balboa Pier. Presently, there is a wide sandy beach between the subject development and the ocean. In addition, the City has stated that the proposed walkways will be built well behind the surf zone and not subject to wave hazards. Therefore, the City states that there will be no erosion, wave attack, wave run-up or need for shoreline protective devices. However, similar to other nearby beach fronting communities such as those in Seal Beach and Hermosa Beach (Los Angeles County), the wide sandy beach is the only protection from wave hazards.

Even though wide sandy beaches afford protection of development from wave and flooding hazards, development in such areas is not immune to hazards. For example, in 1983, severe winter storms caused heavy damage to beachfront property in Surfside, which is approximately 16 miles northwest of Newport Beach. Additionally, heavy storm events such as those in 1994 and 1998 caused flooding of the Surfside community. As a result, the Commission has required assumption-of-risk deed restrictions for new development on beachfront lots throughout Orange County and southern Los Angeles County.

Section 30253 (1) states that new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard. Based on historic information and current conditions at the subject site, the proposed development appears to be sufficiently setback from potential wave hazards. There is currently a wide sandy beach in front of the

proposed development. Also, the City has stated that the proposed walkways will be built well behind the surf zone and not subject to wave hazards. In addition, the existing surrounding development, such as the parking lots, was not adversely affected by the severe storm activity, which occurred in 1983, 1994, and 1998. Though, the proposed development is further seaward of existing development except for the Newport and Balboa Piers, proposed development is not anticipated to be subject to wave hazard related damage. However, beach areas are dynamic environments, which may be subject to unforeseen changes in the future such as changes in beach width. Therefore, the presence of a wide sandy beach at this time does not preclude wave uprush damage and flooding from occurring at the subject site in the future.

2. Assumption of Risk

Given that the applicant has chosen to implement the project despite potential risks from wave attack, erosion, or flooding, the applicant must assume the risks. Therefore, the Commission imposes **Special Condition No. 1** for an assumption-of-risk agreement. In this way, the applicant is notified that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicant to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand the hazards. In addition, the condition ensures that future owners of the property will be informed of the risks and the Commission's immunity from liability. As conditioned, the Commission finds the proposed project is consistent with Section 30253 of the Coastal Act.

3. Future Shoreline Protective Devices

The Coastal Act limits construction of protective devices because they have a variety of negative impacts on coastal resources, including adverse effects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site, ultimately resulting in the loss of beach. Under Coastal Act Section 30235, a shoreline protective structure must be approved if: (1) there is an existing principal structure in imminent danger from erosion; (2) shoreline altering construction is required to protect the existing threatened structure; and (3) the required protection is designed to eliminate or mitigate the adverse impacts on shoreline sand supply.

The Commission has generally interpreted Section 30235 to require the Commission to approve shoreline protection for development only for existing principal structures. The construction of a shoreline protective device to protect new development would not be required by Section 30235 of the Coastal Act. The proposed project involves the construction of four (4) beach public walkways on the beach toward the ocean from existing accessible locations in four separate locations near the Newport Pier and Balboa Pier. The proposed walkways are new development. Allowing new development that would eventually require a shoreline protective device would conflict with Section 30251 of the Coastal Act, which states that permitted development shall minimize the alteration of natural landforms, including beaches which would be subject to increased erosion from such devices. In addition, the proposed walkways are not considered to be principal structures. Therefore, construction of a shoreline protective device to protect a non-principal structure would be inconsistent with Section 30235 of the Coastal Act.

In the case of the current project, the applicant does not propose the construction of any shoreline protective device to protect the proposed development. However, as discussed, nearby beachfront communities have experienced flooding and erosion during severe storm events, such as El Nino storms. Therefore, it is not possible to completely predict what conditions the proposed structure may be subject to in the future. Consequently, it is conceivable the proposed structure may be subject to wave uprush hazards.

Shoreline protective devices can result in a number of adverse effects on the dynamic shoreline system and the public's beach ownership interests. First, shoreline protective devices can cause changes in the shoreline profile, particularly changes in the slope of the profile resulting from a reduced beach berm width. This may alter the usable area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the actual area in which the public can pass on public property.

The second effect of a shoreline protective device on access is through a progressive loss of sand as shore material is not available to nourish the bar. The lack of an effective bar can allow high wave energy on the shoreline that materials may be lost far offshore where it is no longer available to nourish the beach. A loss of area between the mean high water line and the actual water is a significant adverse impact on public access to the beach.

Third, shoreline protective devices such as revetments and bulkheads cumulatively affect shoreline sand supply and public access by causing accelerated and increased erosion on adjacent public beaches. This effect may not become clear until such devices are constructed individually along a shoreline and they reach a public beach. As set forth in earlier discussion, this portion of Newport Beach is currently characterized as having a wide sandy beach. However, the width of the beach can vary, as demonstrated by severe storm events. The Commission notes that if a seasonal eroded beach condition occurs with greater frequency due to the placement of a shoreline protective device on the subject site, then the subject beach would also accrete at a slower rate. The Commission also notes that many studies performed on both oscillating and eroding beaches have concluded that loss of beach occurs on both types of beaches where a shoreline protective device exists.

Fourth, if not sited in a landward location that ensures that the seawall is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate the wave's energy. Finally, revetments, bulkheads, and seawalls interfere directly with public access by their occupation of beach area that will not only be unavailable during high tide and severe storm events, but also potentially throughout the winter season.

Section 30253 (2) of the Coastal Act states that new development shall neither create nor contribute to erosion or geologic instability of the project site or surrounding area. Therefore, if the proposed structure requires a protective device in the future it would be inconsistent with Section 30253 of the Coastal Act because such devices contribute to beach erosion. Also, the proposed walkways are not considered to be principal structures. Consequently, the proposed walkways would not qualify for protection under Section 30235 of the Coastal Act.

In addition, the construction of a shoreline protective device to protect new development would also conflict with Section 30251 of the Coastal Act which states that permitted development shall minimize the alteration of natural land forms. This includes sandy beach areas which would be subject to increased erosion from shoreline protective devices. The applicant is not currently proposing a protective device, such as a seawall and does not anticipate the need for one in the future. The coastal processes and physical conditions are such at this site that the project is not expected to engender the need for a seawall to protect the proposed development. There is a wide sandy beach in front of the proposed development that provides substantial protection from wave activity.

To further ensure that the proposed project is consistent with Sections 30251 and 30253 of the Coastal Act, and to ensure that the proposed project does not result in future adverse effects to coastal processes, the Commission imposes **Special Condition No. 2** which prohibits the applicant, or future land owner, from constructing a shoreline protective device for the purpose of protecting any of the development proposed as part of this application. This condition is necessary because it is impossible to completely predict what conditions the proposed structure may be subject to in the future. Consequently, as conditioned, the development can be approved subject to Section 30251 and 30253.

By imposing the “No Future Shoreline Protective Device” special condition, the Commission requires that no shoreline protective devices shall ever be constructed to protect the development approved by this permit in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions or other natural hazards in the future.

4. Future Development

As discussed previously, the project site is located on the beach, which may be subject to future flooding and wave attack as coastal conditions change. Since coastal processes are dynamic and structural development may alter the natural environment, future development adjacent to the beach could adversely affect future shoreline conditions if not properly evaluated. For this reason, the Commission is imposing **Special Condition No. 3**, which states that any future development or additions on the property, including but not limited to hardscape improvements, grading, landscaping, vegetation removal and structural improvements, requires a coastal development permit from the Commission or its successor agency. Section 13250 (b) of Title 14 of the California Code of Regulations specifically authorizes the Commission to require a permit for improvements that could involve a risk of adverse environmental effect. This condition ensures that any future development on this site that may affect shoreline processes receives review by the Commission.

5. Conclusion

The Commission finds that hazards potentially exist from wave uprush and flooding at the subject site. Therefore, to ensure that the proposed project is consistent with Sections 30251 and 30253 of the Coastal Act, and to ensure that the proposed project does not result in future adverse effects to coastal processes, **Special Conditions No. 1, 2, and 3**

have been imposed. As conditioned, the Commission finds that the proposed project is consistent with Coastal Act Sections 30251 and 30253.

C. WATER QUALITY

Section 30230 of the Coastal Act in relevant part states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act in relevant part states:

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

The project sites are located immediately adjacent to the beach and ocean. Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain, surf, or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. In addition, the use of machinery in coastal waters not designed for such use may result in the release of lubricants or oils that are toxic to marine life. Sediment discharged into coastal waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species' ability to see food in the water column. In order to avoid adverse construction-related impacts upon marine resources, **Special Condition No. 4** outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris. This condition requires the applicant to remove any and all debris resulting from construction activities within 24 hours of completion of the project. In addition, all construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

Impacts to water quality could occur as a result of construction activities. In order to avoid adverse construction-related impacts upon marine resources, the Commission imposes **Special Condition No. 4**, which outlines construction-related requirements to provide for the safe storage of construction materials. Only as conditioned does the Commission find that the proposed development is consistent with Section 30230 and 30231 of the Coastal Act.

D. PUBLIC ACCESS AND LOWER COST VISITOR RECREATIONAL FACILITIES

Section 30210 of the Coastal Act in relevant part 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 30211 of the Coastal Act in relevant part states:

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

As stated the proposed project is to provide access to general public as well as for people with limited mobility. The proposed walkways connect to existing horizontal walkways that provide horizontal public access to the beach (Exhibits #1-2). Vertical public access to the beach will be provided by the proposed walkways (Exhibits #1-2). The proposed new walkways would be located in areas where only sandy beach currently exists. Construction of the new walkways would result in coverage of the sandy beach and loss of the use of the covered beach for recreational purposes. Because the beach at this point is quite wide, the increased coverage would only amount to a small portion of the overall beach area. Thus, reductions in public recreation resulting from the increase in beach coverage would be minimal. Further, this increased beach coverage would be offset by the fact that the proposed walkways would provide enhanced public access opportunities.

However, the construction of the proposed accessways would necessitate temporary impacts on use of the sandy beach in the vicinity of these walkways. The impacts would involve the temporary occupation of sandy beach area by construction activities which prevent the public from using the occupied area of the beach. The City has stated that the walkways will be built under one construction contract which may be completed in a month. Furthermore, the City has indicated its intent to construct the walkways prior to the summer of 2003. However, it is possible that construction could be delayed for various reasons, such as the inability to find a contractor. To ensure that construction does not occur during summer peak use, **Special Condition No. 5** is necessary to prohibit construction activities during the summer season, so that summer beach use is not affected.

Therefore, as conditioned, the proposed project is consistent with Sections 30210 and 30211 of the Coastal Act.

E. LOCAL COASTAL PROGRAM

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3.

The Newport Beach Land Use Plan was effectively certified on May 19, 1982. The certified LUP was updated on January 9 1990. The City currently has no certified implementation plan. Therefore, the Commission issues CDP's within the City based on the development's conformance with the Chapter 3 policies of the Coastal Act. The LUP policies may be used for guidance in evaluating a development's consistency with Chapter 3. The City's LUP states the following:

Vertical access from the nearest public roadway to the shoreline shall be provided in new development by means of dedication of easements except where adequate access exists nearby or where provision of access is inconsistent with public safety or the protection of fragile coastal resources. Protection of fragile coastal resources means that said resources shall not be degraded either from the development of accessways themselves or from increased use of specific shoreline areas. Criteria used to evaluate the need for additional accessways and the adequacy of existing accessways include the consideration of locations for accessways in areas which would be most heavily used in light of their proximity to major concentrations of users, while considering the need to provide accessways at frequent intervals to avoid overuse at individual locations. Of equal importance is the need to avoid impacts to fragile coastal resources (bluffs, tidepools, etc.) and to utilize areas where support facilities can accommodate the accessway (available parking). Also, criteria include consideration of sites where the least amount of improvements would be required to make the access point usable, and accessways to remote sites (pocket beaches) where alternative access along the shoreline would not be available.

These walkways will be built in public beach areas that have high levels of public use and also are sites where maximum benefit will be provided to disabled persons. Fragile coastal resources are not found in the areas where the proposed accessways will be located. The walkways will connect to existing public access areas that provide horizontal public access to the beach, therefore, requiring the least amount of improvements to make the accessways usable.

The proposed development, as conditioned, is consistent with Chapter 3 policies of the Coastal Act and with the LUP. Therefore, the Commission finds that approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program (Implementation Plan) for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT

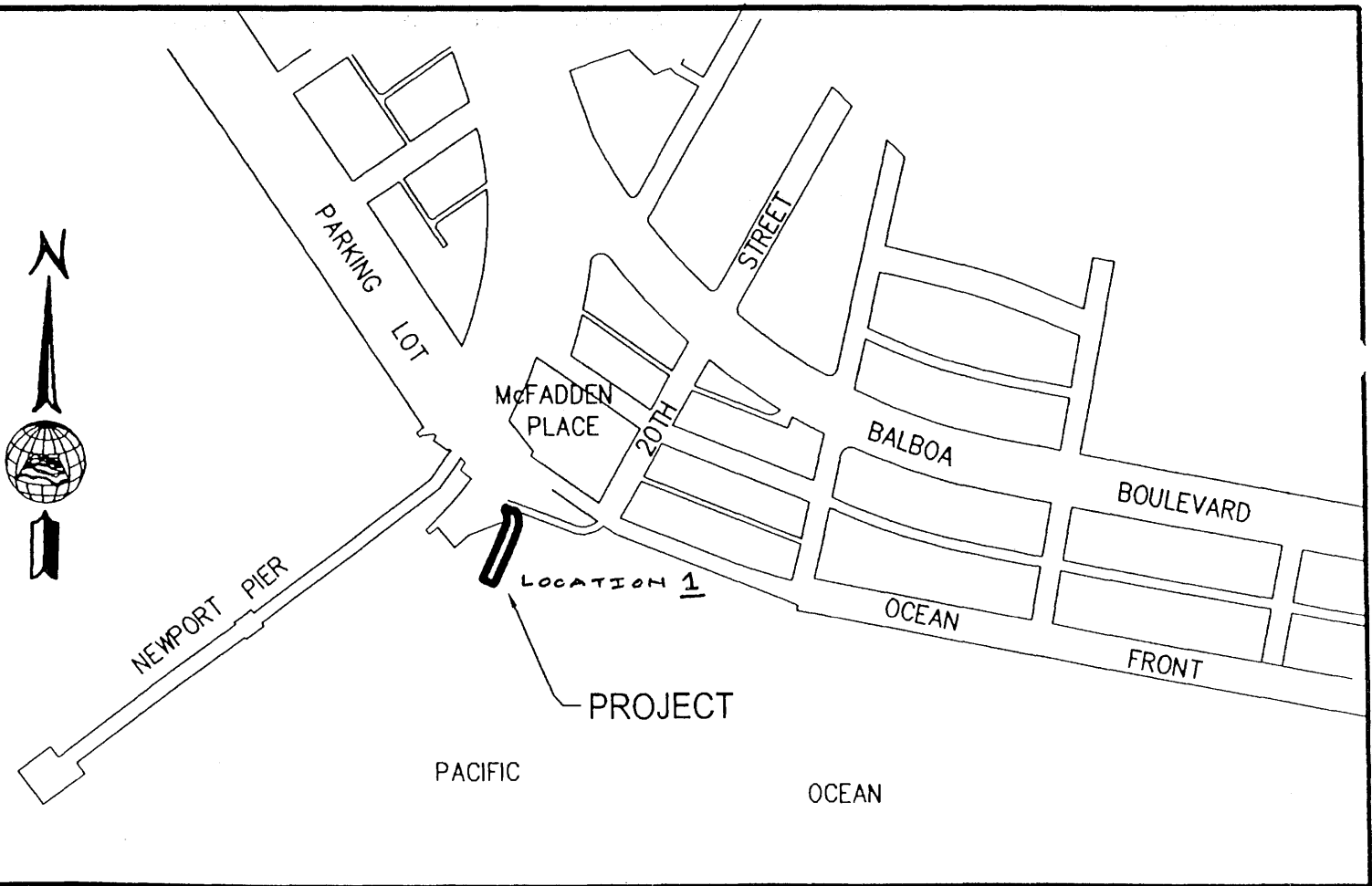
Section 13096(a) of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or further feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The project is located in an urbanized area and is an improvement and enhancement project for the area. The major issues of this staff report concern water quality, public access and hazard abatement. The proposed development, as conditioned, is consistent with the Chapter 3 policies

of the Coastal Act. The conditions also serve to mitigate significant adverse impacts under CEQA. There are five (5) Special Conditions to be imposed. The **Special Conditions** address **1)** assumption of risk, waiver of liability and indemnification agreement; **2)** no future shoreline protective device; **3)** future development; **4)** storage of construction materials, mechanized equipment and removal of construction debris; and **5)** timing of construction. There are no feasible alternatives or further mitigation measures available which will lessen any significant adverse impact the activity would have on the environment. Therefore, the Commission finds that the proposed project is consistent, as conditioned, with CEQA and the policies of the Coastal Act.

As conditioned, no feasible alternatives or further feasible mitigation measures are known, beyond those required, which would substantially lessen any identified significant effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, is the least environmentally damaging alternative and is consistent with CEQA and the policies of the Coastal Act.

Vicinity Map - Newport Pier Site



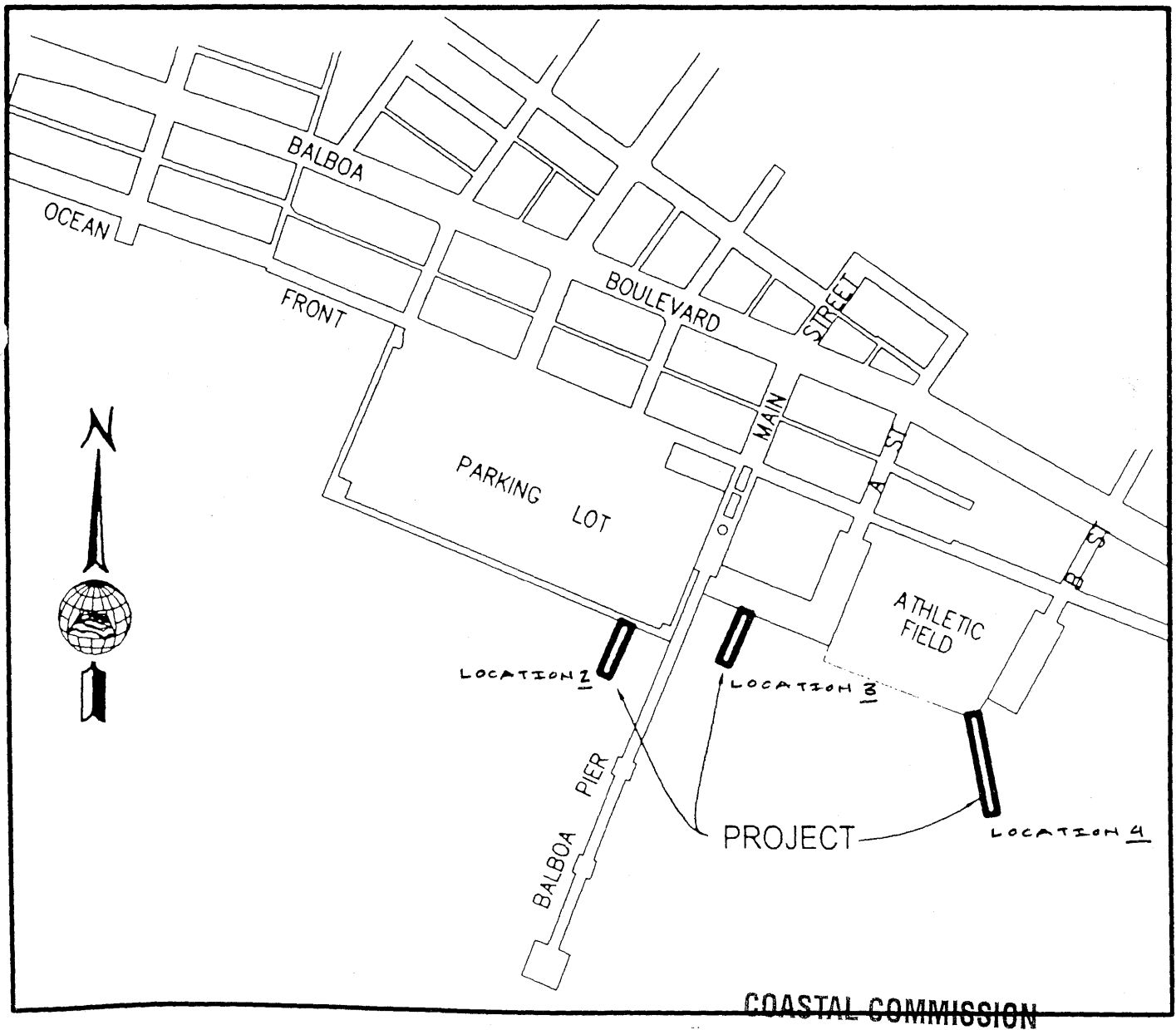
COASTAL COMMISSION

LOCATION

EXHIBIT # 1
PAGE 1 OF 2

DATE: _____

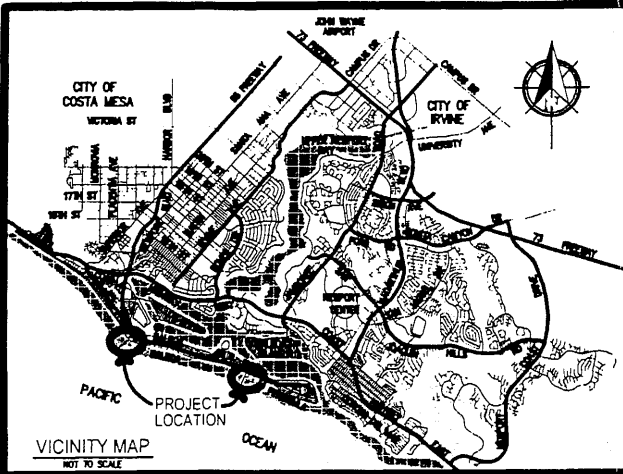
Vicinity Map - Balboa Pier Site





PUBLIC WORKS DEPARTMENT

OCEAN FRONT BEACH ACCESS WALKWAYS C-3378



GENERAL NOTES

1. ALL WORK DETAIL ON THESE PLANS TO BE PERFORMED UNDER CONTRACT SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION, 1977 EDITION AND SUPPLEMENTS TO DATE, EXCEPT AS OTHERWISE STATED IN THE CITY'S STANDARD SPECIAL PROVISIONS, OR IN THE CONTRACT'S SPECIAL PROVISIONS.
2. EXISTING UNDERGROUND UTILITIES ARE SHOWN AS FAR AVAILABLE. HOWEVER, THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE ACTUAL LOCATION AND DEPTH OF ALL UTILITIES AT THE FIELD PRIOR TO BEGINNING CONSTRUCTION.
3. PROPOSED PAVEMENT SHALL JOIN AND MATCH EXISTING PAVEMENT OF EXISTING IMPROVEMENTS.

CONSTRUCTION NOTES

- ① DENSIFY SAND TO 98% PROVE.
- ② DENSIFY TOP 1 FOOT OF EXISTING SAND TO 98% RELATIVE COMPACTION.
- ③ CONSTRUCT 2" REBAR - USE 4 FOOT MAX. CHAIR LENGTH AROUND EXISTING BARS.
- ④ CONSTRUCT 4" ASPHALT SURFACE OVER 2" ASPHALT BINDER.
- ⑤ SPREAD SAND OVER 2 FOOT REBAR AND SPREAD REMAINDER OF EACH AS DIRECTED BY ENGINEER.

APPROVED: _____ DATE: _____
DIRECTOR OF PUBLIC WORKS DEPARTMENT

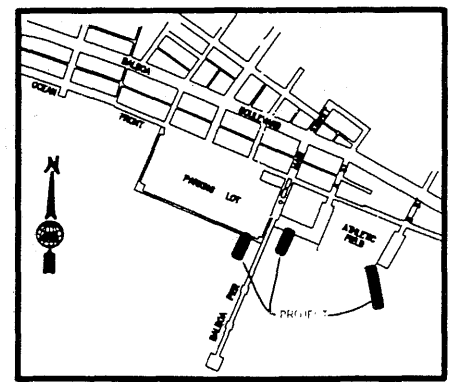
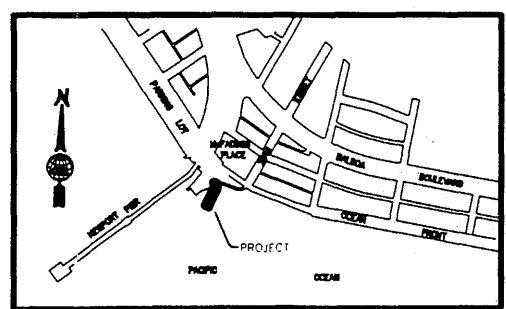
APPROVED: _____ DATE: _____
CITY ENGINEER

SYMBOL LEGEND

- POWER POLE
- SANITARY SEWER CLEANOUT
- SANITARY SEWER MANHOLE
- FIRE HYDRANT
- WATER METER BOX & SERVICE
- GAS METER
- VALVE
- POWER POLE ANCHOR
- △ MOVEMENT
- - - FENCE
- ▬ BLOCKWALL
- TREE
- SANITARY
- ▨ ASPHALT PAVEMENT
- ▨ BRICKWORK
- ▨ CONCRETE
- ▨ BUILDING
- - - EXISTING CONSTRUCTION
- - - PROPERTY LINE
- - - NEW CONSTRUCTION
- - - CENTERLINE
- - - SEWER LINE
- - - WATER LINE
- - - GAS LINE
- - - POWER LINE
- - - TELEPHONE LINE
- - - CABLEWIRE LINE
- - - SPRINKLER TRENCH
- STREET LIGHT
- SIGN
- GARAGE OPENING
- BRIDGE
- SPRINKLER

ABBREVIATIONS

- AC ASPHALT CONCRETE
- SP SCHEDULE IRON PIPE
- VCP VITRIFIED CLAY PIPE
- RVV RESILIENT RUBBER VALVE
- FE FLANGED END
- MJ MECHANICAL JOINT
- NTS NOT TO SCALE
- RT RIGHT TRAFFIC
- SL STEEL
- ABAND ABANDONED
- IPST IRON PIPE AND TIE
- MOV MOVEMENT
- CATV CABLE TV
- DRY DRAINAGE
- CO CLEANOUT (CIRCLES)
- AVV AIR RELIEF VALVE
- R/APPN BACK OF ALLEY APPROACH
- EV ELECTRICAL VALVE
- SW SWIMPLANE
- WV WELDED WIRE FABRIC
- W/APPN WELDED WIRE FABRIC COATED
- RECP REINFORCED CONCRETE STEEL CHAMBER PIPE
- P-CL CONCRETE PIPERIGHT
- MCWD MEDIA COLLECTED WATER DISTRICT



COASTAL COMMISSION

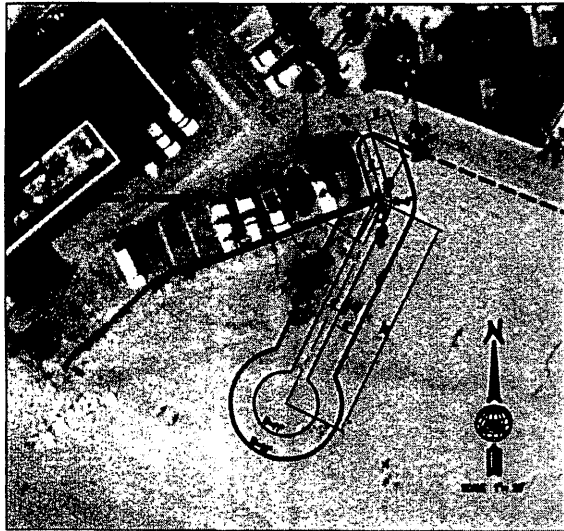
EXHIBIT # 2
PAGE 1 OF 2

EMERGENCY TELEPHONE NUMBERS

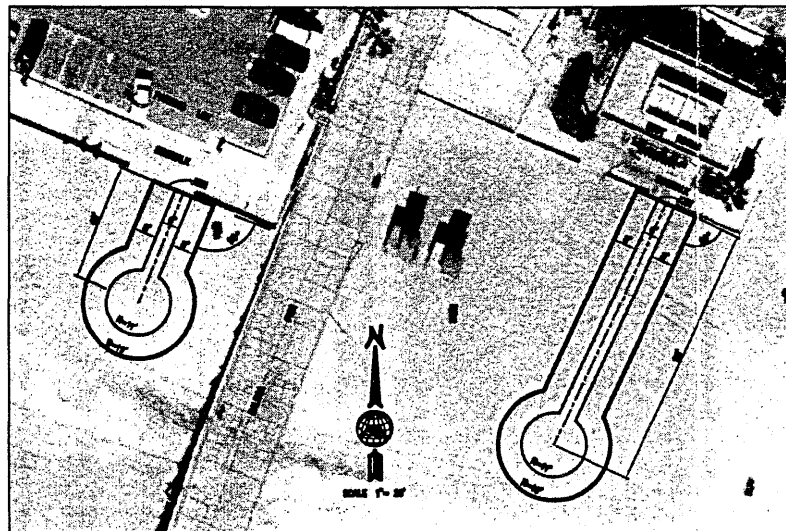
	DAY	NIGHT
SOUTHERN CALIFORNIA GAS COMPANY	(714) 444-2423	(714) 444-2423
SOUTHERN CALIFORNIA Edison COMPANY	(949) 441-8911	(949) 441-8911
PACIFIC TELEPHONE COMPANY	811	811
CITY OF NEWPORT BEACH (FIRE/EMERGENCY)	(949) 444-3371	(949) 444-3377
ORANGE COUNTY SHERIFFS DEPARTMENT	(714) 444-3471	(714) 444-3471
AMERICAN CABLE	(714) 444-8232	(714) 444-8232
METROPOLITAN SERVICE ALERT	(949) 444-4133	(949) 444-4133
MCWD	(949) 474-1000	(949) 474-1000



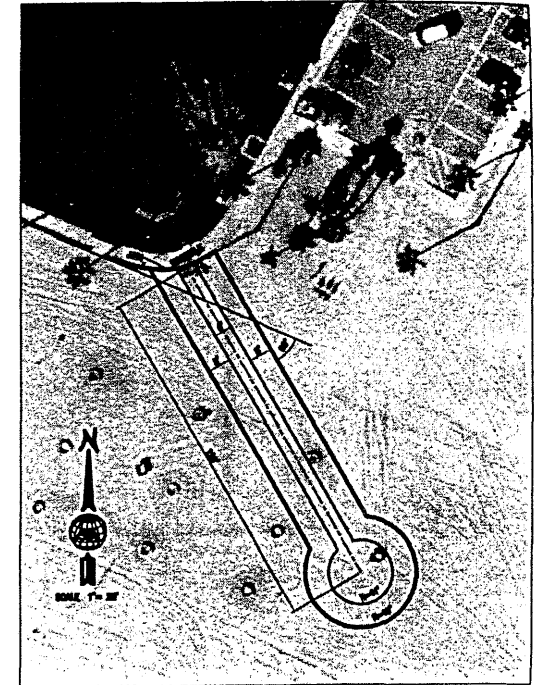
OCEAN FRONT BEACH ACCESS WALKWAYS	
CITY OF NEWPORT BEACH	M-5345-S
PUBLIC WORKS DEPARTMENT	1 of 2



LOCATION 1

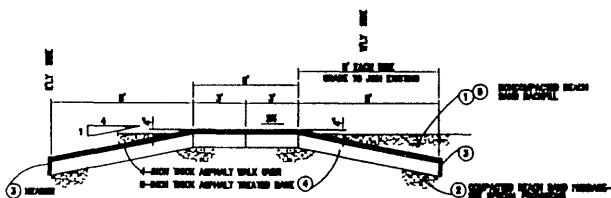


LOCATION 2

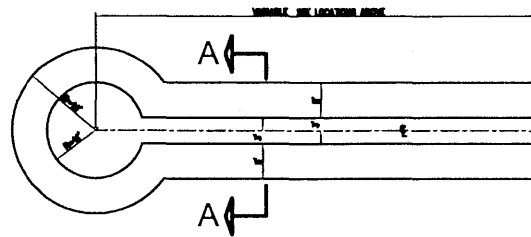


LOCATION 3

LOCATION 4



SECTION A-A



TYPICAL PLAN

CONSTRUCTION NOTES

- ① EXCHANGE SAND TO BEACH PROFILE.
- ② VERIFY TOP 1 FOOT OF BEACH SAND TO BE RELATIVE COMPACTED.
- ③ COMPACT 4" BEACH SAND - USE 4 FOOT MAX. CHISEL POINT ROLLER AND RIG.
- ④ CONSTRUCT 4" ASPHALT SURFACE OVER 4" ASPHALT BASE.
- ⑤ FINISH OVER CURB, TOP WALK AND SPECIAL FINISHES BY EACH AT LOCATIONS BY NUMBER.

COASTAL COMMISSION

EXHIBIT # 2 OF 2
PAGE 2 OF 2



DATE	BY	DESCRIPTION	APPROVED

PROJECT NO.	
DATE	

OCEAN FRONT
BEACH ACCESS WALKWAYS
CITY OF NEWPORT BEACH M-5345-S
PUBLIC WORKS DEPARTMENT 2022

C-3378

