

**CALIFORNIA COASTAL COMMISSION**

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Commission Action:

**RECORD PACKET COPY****STAFF REPORT: CONSENT CALENDAR**

**APPLICATION NO.:** 4-04-069

**APPLICANT:** City of Santa Barbara

**PROJECT LOCATION:** Leadbetter Beach, Santa Barbara (Santa Barbara County)

**PROJECT DESCRIPTION:** Annual construction, removal, and maintenance of an approximately 950 ft. long, 10 ft. high, 24 ft. wide sand berm on Leadbetter Beach involving approximately 8,400 cu. yds. of grading (4,200 cu. yds. of excavation and 4,200 cu. yds. of fill). The proposed project is for a duration of ten years and includes construction of the berm prior to each winter storm season (no sooner than November 1), maintenance of the berm during the winter, and removal of the berm each spring (no later than April 15).

**REQUIRED APPROVALS:** City of Santa Barbara Resolution No. 032-04; Applications for U.S. Army Corps of Engineers permit (Application No. 200401460-JCM) and California Regional Water Quality Control Board 401 certification have been submitted concurrently with this application.

**SUBSTANTIVE FILE DOCUMENTS:** B.E.A.C.H. Study - Santa Barbara Harbor Shoreline Protection and Land Use Alternatives Study by URS Greiner Woodward Clyde, Civitas Urban Design, and Moffatt & Nichol Engineers dated January 2000; Public Notice, Application for Permit, U.S. Army Corps of Engineers, Application No. 200401460-JCM, dated August 3, 2004; Results of Pre-Construction Grunion Surveys - 2004, Temporary Sand Berm, Leadbetter Beach by URS Corporation, dated March 26, 2004; Results of Grunion Surveys, 2003, Leadbetter Beach, Temporary Sand Berm Removal, by URS Corporation, dated March 23, 2003; Report re: Grunion Surveys by John Gray, URS Corporation, dated April 16, 2001; Biological Survey for Grunion, P.O. 355082, URS Greiner Woodward Clyde, Inc., dated March 25, 1999; Permit Compliance Report, Corps of Engineers Permit 97-50353-TS, Temporary Sand Berm, Leadbetter Beach, by Woodward-Clyde Consultants, dated May 8, 1998; Coastal Development Permit 4-00-138 (City of Santa Barbara).

## **SUMMARY OF STAFF RECOMMENDATION**

Staff recommends **approval** of the proposed project with four (4) special conditions regarding project monitoring and responsibilities, timing and duration, required approvals and assumption of risk.

### **I. STAFF RECOMMENDATION**

**MOTION:**     *I move that the Commission approve Coastal Development Permit No. 4-04-069 pursuant to the staff recommendation.*

#### **STAFF RECOMMENDATION OF APPROVAL:**

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

#### **RESOLUTION TO APPROVE THE PERMIT:**

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

### **II. STANDARD CONDITIONS**

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time.

Application for extension of the permit must be made prior to the expiration date. Other provisions affecting the permit term are set forth in **Special Condition Two (2)**.

3. **Interpretation.** Any questions of intent or interpretation of any term or 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. **Project Monitoring and Responsibilities**

Prior to the issuance of the coastal development permit, the applicant shall retain the services of a qualified biologist or environmental resource specialist with appropriate qualifications acceptable to the Executive Director. The monitor shall require the applicant to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise. All berm construction, maintenance, and demolition activity shall be carried out consistent with the following:

- (a) No overnight stockpiling or storage of dirt, construction materials, or equipment shall occur on the beach seaward of the proposed berm location;
- (b) Any and all debris that results from the construction period shall be immediately removed from the sandy beach;
- (c) The environmental resource specialist shall conduct a survey of the project site (donor site and receiver site) each day prior to commencement of any berm construction, maintenance, or demolition activity to determine whether any Western Snowy Plover, Grunion, or any other sensitive wildlife species are present. In the event that any of the above species or other sensitive wildlife species are present on the project site, the environmental resource specialist shall require the applicant to cease work and immediately notify the Executive Director to determine an appropriate strategy to minimize any potential impacts to wildlife. Work shall not recommence until the Executive Director authorizes further project activity.
- (d) In the event that construction, maintenance, and/or berm removal activity will occur during the seasonally predicted run period and egg incubation period for California grunion as identified by the California Department of Fish and Game, then the environmental resource specialist shall be present on the project site each night

from one hour before the beginning of each predicted grunion run until one hour after the end of each run to monitor the presence of any grunion present on the site. If any adult grunion are present on the project site beach, then no berm construction/removal activities shall be allowed within 100 ft. of any area (measured laterally along the beach and extending from the back of the beach to the water's edge) where grunion were observed until after the next predicted grunion run in which no adult grunion have been observed on the project site and it has been determined by the environmental resource specialist that all previously deposited grunion eggs have successfully incubated (allowing juvenile grunion to return to the ocean) or that the previously deposited eggs are no longer viable, or unless otherwise approved by the Executive Director. The environmental resource specialist will immediately notify the Executive Director after each monitored run if grunion were found to be present.

## **2. Timing and Duration**

This permit is only for the construction and maintenance of the proposed sand berm during the winter storm season, and the removal of the proposed sand berm in the spring. The applicant shall construct the proposed sand berm no sooner than November 1 each autumn and remove the proposed sand berm and restore the beach to its pre-development condition no later than April 15 each spring unless additional time is granted by the Executive Director for good cause. This permit shall remain effective until April 15, 2014.

## **3. Required Approvals**

Prior to issuance of the coastal development permit, the applicant shall provide the Executive Director of the Commission with a valid 404 Permit from the U.S. Army Corps of Engineers and a valid 401 Certification from the California Regional Water Quality Control Board for the project. The Executive Director may extend this time for good cause.

## **4. Assumption of Risk, Waiver of Liability and Indemnity Agreement**

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, which states that the applicant acknowledges and agrees (i) that the site may be subject to hazards from storm waves, surges, erosion, and flooding; (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 defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

#### **IV. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

##### **A. Project Description and Background**

The proposed project is for the annual construction, removal, and maintenance of an approximately 950 ft. long, 10 ft. high, 24 ft. wide sand berm on Leadbetter Beach involving approximately 8,400 cu. yds. of grading (4,200 cu. yds. of excavation and 4,200 cu. yds. of fill). (**Exhibit 2**). The proposed project is for a duration of ten years and includes construction of the berm prior to each winter storm season (no sooner than November 1), maintenance of the berm during the winter, and removal of the berm each spring (no later than April 15).

The project site is located at Leadbetter Beach in the City of Santa Barbara (**Exhibit 1**). The City proposes to construct the berm on the back portion of the sandy beach immediately seaward of the Harbor Commercial Area (**Exhibit 2**). To construct the berm, approximately 8,400 cu. yds. of sand would be excavated (pushed by scraper/bulldozers) from the beach seaward of the proposed berm location. Periodic maintenance would involve pushing sand from the beach back onto the berm with bulldozers. In the unlikely event that sand must be imported to rebuild the berm, the City will obtain written approval from the U.S. Army Corps of Engineers and subject the sand to grain size and chemical compatibility tests. The City proposes to remove the berm and restore the beach to its pre-development profile each spring. Berm removal would involve using a bulldozer to evenly redistribute the sand immediately seaward of the berm footprint.

The subject beach is backed by numerous commercial structures, storage yards, parking areas and other facilities that comprise the harbor commercial area (**Exhibit 3**). Wave action and flooding during the winter storm season has resulted in damage to the Harbor commercial area, most notably in 1983 when significant damage occurred to buildings, the maintenance yard, and boat yards. In most years, damage has consisted of short-term flooding of the parking lot, deposition of debris, and localized damage to paving and fences. The proposed sand berm is intended to protect the Harbor commercial area from damage from wave action during the winter storm season.

Leadbetter Beach is a broad sandy beach with a stable shoreline due to the presence of a breakwater immediately downcoast. The breakwater controls the equilibrium shoreline position by trapping the eastward transport of sand. The beach is approximately 100 feet wide and 2400 feet long (**Exhibit 4**). Public access and

recreation is available along the entire length of the beach. The beach is most heavily used for public recreational use during the summer season but remains a popular visitor destination throughout the entire year. The adjacent Harbor commercial area also contains visitor-serving uses, including a marina, boating supply stores, ocean-related shops, restaurants, a marine museum, public parking lots, and access to the breakwater walkway (**Exhibit 3**).

The project site has been subject to past Commission action. In 2000, the Commission issued Coastal Development Permit (CDP) No. 4-00-138 for the same project, for a duration of time not to exceed 5 years. CDP No. 4-00-138 was issued with special conditions regarding flooding waiver of liability, U.S. Army Corps of Engineers 404 Permit, and duration and removal of project. Previous coastal development permits were issued annually for construction of the berm beginning in 1997. The proposed project is located partially in the appealable jurisdiction of the Coastal Zone, and partly within the Commission's permit jurisdiction. The City has approved a coastal development permit (CDP2004-00003) for the portion of the project within the appealable area.

In response to a provision of its certified Harbor Master Plan (a component of the City's certified Local Coastal Program) the City initiated a study of long term beach erosion control options for the area west of the Santa Barbara Harbor breakwater (B.E.A.C.H. Study – Santa Barbara Harbor Shoreline Protection and Land Use Alternatives Study by URS Greiner Woodward Clyde, Civitas Urban Design, and Moffatt & Nichol Engineers dated January 2000). This study included an evaluation of land uses and operational practices, as well as shoreline protective measures to reduce damage to structures from periodic wave run-up. The report concluded that the temporary sand berm was the most advantageous short-term option, given its low cost, ease of construction, and minimal long-term impacts. The report favored construction of a rock revetment as a long-term solution that would better withstand heavy wave action. The City is not pursuing the recommended long-term solution at this time because it requires construction of a costly permanent structure.

## **B. Hazards and Shoreline Processes**

Section 30235 of the Coastal Act states:

*Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.*

Section 30253 of the Coastal Act states in part that 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 30235 of the Coastal Act allows for the construction of a shoreline protective device when necessary to protect existing development or to protect a coastal dependent use. In addition, Section 30253 of the Coastal Act mandates that new development provide for geologic stability and integrity and minimize risks to life and property.

The proposed project is for the annual construction, removal, and maintenance of an approximately 950 ft. long, 10 ft. high, 24 ft. wide sand berm on Leadbetter Beach involving approximately 8,400 cu. yds. of grading (4,200 cu. yds. of excavation and 4,200 cu. yds. of fill). The proposed project is for a duration of ten years and includes construction of the berm prior to each winter storm season (no sooner than November 1), maintenance of the berm during the winter, and removal of the berm each spring (no later than April 15).

The subject beach is backed by numerous commercial structures, storage yards, parking areas and other facilities that comprise the Harbor commercial area. Because of the proximity of the developed harbor area to the beach, and the low elevation of the area relative to mean sea-level, the area is subject to periodic inundation as a result of wave-run up. This condition is most likely to occur during episodes that combine high-tides with storm surges. While this condition normally only occurs during the winter months, it is exacerbated by the natural erosion of the beach profile during the winter months as a result of steeper, higher energy waves.

Wave action and flooding during the winter storm season has resulted in damage to the Harbor commercial area, most notably in 1983 when significant damage occurred to buildings, the maintenance yard, and boat yards. In most years, damage has consisted of short-term flooding of the parking lot, deposition of debris, and localized damage to paving and fences. Wave and flooding damage has necessitated periodic temporary closures of the area to public and private use, and interruption of harbor maintenance activities. The proposed sand berm is intended to protect the Harbor commercial area from damage from wave action during the winter storm season.

The Commission has approved construction of an identical seasonal sand berm on the project site in previous years. In 2000, the Commission issued Coastal Development Permit (CDP) No. 4-00-138 for the same project, for a duration of time not to exceed 5 years. CDP No. 4-00-138 was issued with special conditions regarding flooding waiver of liability, U.S. Army Corps of Engineers 404 Permit, and duration and removal of project. Previous coastal development permits were issued annually for construction of the berm beginning in 1997.

In 1997, in response to a provision of its certified Harbor Master Plan (a component of the City's certified Local Coastal Program) the City initiated a study of long term beach erosion control options for the area west of the Santa Barbara Harbor breakwater (B.E.A.C.H. Study – Santa Barbara Harbor Shoreline Protection and Land Use Alternatives Study by URS Greiner Woodward Clyde, Civitas Urban Design, and Moffatt & Nichol Engineers dated January 2000). This study, completed in January 2000, includes an evaluation of land uses and operational practices, as well as shoreline protective measures to reduce damage to structures from periodic wave run-up.

The B.E.A.C.H. Study examines nine alternatives, as follows:

- 1) *Full height rock revetment*
- 2) *Minimum height rock revetment*
- 3) *Vertical seawall*
- 4) *Hybrid seawall (incorporating a buried revetment)*
- 5) *Groin*
- 6) *Offshore breakwater*
- 7) *Temporary sand berm*
- 8) *Geotube(a sand-filled geotextile tube)*
- 9) *Vegetated sand dune*

In evaluating these alternatives, the report considers several factors, including effectiveness/level of protection, project life, maintenance, public safety, public access, impact on coastal processes, aesthetics, visual impacts, costs, and permit issues.

The report dismisses the potential for "soft" solutions other than the temporary sand berm. The report states:

*Although vegetation can assist in stabilizing slopes and preventing erosion, vegetation alone cannot prevent erosion from wave action. The useful life of an artificial dune is very short. It can be completely eroded in a short period of time by a rapid succession of severe storms...*

*Sand dunes and vegetation provide a natural protection that is aesthetically pleasing and is relatively easy to achieve. However, vegetated dunes are not an effective barrier to high waves and will require ongoing maintenance....*

*Disadvantages (of the Geotube) include its vulnerability to vandalism and damage, aesthetic impacts, visual disruption, and beach access impediments. This alternative has not been tested for its application in such an active wave environment.*



Hard solutions including construction of a groin or an offshore breakwater were also dismissed due to cost, unknown and possibly significant effects on shoreline processes, impacts to habitat and nearshore water circulation, and permitting difficulty.

The study concludes that the temporary sand berm is the most advantageous short-term option, given its low cost, ease of construction, and minimal long-term impacts. The report favors construction of a rock revetment with public walkway as a long-term solution that would better withstand heavy wave action.

Regarding the temporary sand berm alternative, the report states:

*The temporary sand berm constructed in the winter months around the project area is an effective short-term solution to the problems of wave damage and flooding in the Harbor Commercial Area. The advantages of the berm are the ease of construction and demolition and relatively low annual cost. In addition, it does not appear to have any long-term significant impacts. The key environmental impacts associated with the temporary berm are visual impacts, disruption of vertical public access to the beach from the parking lot, and construction emissions every time the berm is built or rebuilt.*

The City is seeking a ten-year permit for construction of the sand berm on an annual basis. The City is not pursuing the recommended long-term solution at this time because it requires construction of a costly permanent structure.

The proposed project will involve approximately 8,400 cu. yds. of grading and the use of construction equipment on the sandy beach. As such, the proposed project will result in the potential generation of debris and or presence of equipment and materials that could be subject to tidal action. The presence of construction equipment, building materials, and excavated materials on the subject site could pose hazards to beachgoers or swimmers if construction site materials were discharged into the marine environment or left unsafely exposed on the project site. In addition, such discharge to the marine environment could result in adverse effects to offshore habitat from increased turbidity caused by erosion and siltation of coastal waters. Therefore, in order to ensure that adverse effects to the marine environment are minimized, **Special Condition One (1)** requires the City to ensure that no stockpiling or storage of dirt, construction materials, or equipment shall occur on the beach seaward of the proposed berm location and that any and all debris that results from the construction period shall be immediately removed from the sandy beach.

The proposed development is located in an area of the Coastal Zone that has been identified as subject to potential hazards from wave action during the winter storm season. As discussed above, the Harbor commercial area has previously been subject to damage as the result of storm and flood occurrences. As such, evidence exists that the project site is subject to potential risks due to storm waves and surges, high surf conditions, erosion, and flooding.

Although the proposed sand berm will help to protect existing structures in the Harbor commercial area, the Coastal Act recognizes that certain types of development, such as

the proposed sand berm, may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to determine who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property. As such, the Commission finds that due to the unforeseen possibility of storm waves, surges, erosion, and flooding, the City shall assume these risks as a condition of approval. Therefore, **Special Condition Four (4)** requires the City to waive any claim of liability against the Commission for damage to life or property that may occur as a result of the permitted development. The City's assumption of risk will show that the City is aware of and appreciates the nature of the hazards which exist on the site, and which may adversely affect the stability or safety of the proposed development.

Therefore, the Commission finds that, for the reasons set forth above, the proposed project, as conditioned, is consistent with Coastal Act Sections 30235 and 30253.

### **C. Environmentally Sensitive Habitat and Marine Resources**

Section 30230 of the Coastal Act 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 30240 of the Coastal Acts states:

- (a) *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
- (b) *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Section 30230 requires that uses of the marine environment be carried out in a manner that will sustain the biological productivity of coastal waters for long-term commercial, recreational, scientific, and educational purposes. Section 30240 requires that environmentally sensitive habitat areas (ESHAs), as well as areas adjacent to ESHAs and parks and recreation areas, be protected from significant disruption of habitat values.

The proposed sand berm would be constructed on the far eastern end of Leadbetter Beach, which is located immediately west of Santa Barbara Harbor. The Harbor area provides seasonal habitat for sensitive species including western snowy plover (*Charadrius alexandrinus nivosus*), California least tern (*Sterna antillarum browni*), and California brown pelican (*Pelecanus occidentalis californicus*). In addition, Leadbetter Beach is a potential grunion spawning location.

The western snowy plover is a small shorebird that is federally listed as a threatened species. Santa Barbara Harbor, located immediately downcoast from the subject site, is a principal wintering locale for snowy plovers. The snowy plover's primary wintering habitat in the harbor area include a sand spit at the harbor mouth, and West Beach on the landward side of the harbor. No snowy plover have been documented on Leadbetter Beach; however, it is included within the area designated as critical habitat for the species.

The harbor area also attracts California least terns (*Sterna antillarum browni*), which are listed as endangered by both federal and state governments. Least terns visit during post-breeding season in July and August, and therefore would not be affected by berm construction or removal.

In addition, California brown pelicans (*Pelecanus occidentalis californicus*), federally listed as endangered, are year-round "residents" of the harbor area. The pelicans are known to forage in the area and to rest on beaches and structures in Santa Barbara Harbor. However, sufficient additional resting and feeding areas are available in the vicinity and the species is known to have a high tolerance of human activities. This project is not anticipated to adversely impact brown pelican habitat.

The City has submitted several reports providing results of grunion surveys conducted annually prior to removal of the berm from 1998 to 2004. A small grunion run, consisting of about 40 spawning fish, was observed on March 20, 2003. In addition, three non-spawning grunions were observed on March 23, 2004. No grunions were observed in the previous surveys.

The proposed sand berm would be constructed on the sandy beach between the back beach area and the surf zone along the eastern end of Leadbetter Beach. To construct the berm, approximately 8,400 cu. yds. of sand would be excavated (pushed by scraper/bulldozers) from the beach seaward of the proposed berm location. Periodic maintenance would involve pushing sand from the beach back onto the berm with bulldozers. Berm removal would involve using a bulldozer to evenly redistribute the sand immediately seaward of the berm footprint.

The proposed project has been previously implemented in a manner to minimize adverse effects to the sensitive beach and marine resources on the subject site. However, the proposed project may result in potential adverse effects to surrounding habitat due to unintentional disturbance from construction equipment and grading activity. Therefore, to ensure that all recommendations of the environmental consultant

are properly implemented, and to ensure that any potential adverse effects to beach and marine environment are minimized, **Special Condition One (1)** requires that a qualified environmental resource specialist shall conduct a survey of the project site (donor site and receiver site) each day prior to commencement of any berm construction, maintenance, or demolition activity to determine whether any western snowy plovers, grunion, or any other sensitive wildlife species are present. In the event that any of the above species or other sensitive wildlife species are present on the project site, the environmental resource specialist shall require the City to cease work and immediately notify the Executive Director to determine an appropriate strategy to minimize any potential impacts to wildlife. The monitor shall have the authority to require the City to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise.

As noted above, the sandy beach on the subject site has been identified as a potential grunion spawning location. Construction of the proposed berm is expected to occur outside the seasonally predicted run period and egg incubation period of the California grunion and will not result in any adverse effects to grunion spawning activities. However, maintenance activities and removal of the berm the following spring may result in potential adverse effects to grunion spawning activities on site. In order to ensure that reconstruction, maintenance, or removal of the proposed sand berm does not adversely affect grunion spawning events, **Special Condition One (1)** also requires that in the event that construction, maintenance, and/or berm removal activity will occur during the seasonally predicted run period and egg incubation period for California grunion as identified by the California Department of Fish and Game, then the environmental resource specialist shall be present on the project site each night from one hour before the beginning of each predicted grunion run until one hour after the end of each run to monitor the presence of any grunion present on the site. If any adult grunion are present on the project site beach, then no berm construction/removal activities shall be allowed within 100 ft. of any area (measured laterally along the beach and extending from the back of the beach to the water's edge) where grunion were observed until after the next predicted grunion run in which no adult grunion have been observed on the project site and it has been determined by the environmental resource specialist that all previously deposited grunion eggs have successfully incubated (allowing juvenile grunion to return to the ocean) or that the previously deposited eggs are no longer viable, or unless otherwise approved by the Executive Director. The environmental resource specialist will immediately notify the Executive Director after each monitored run if grunion were found to be present.

In addition, the Commission also notes that the proposed project will involve approximately 8,400 cu. yds. of grading and the use of construction equipment on the sandy beach. As such, the Commission further notes that the proposed project will result in the potential generation of debris and or presence of equipment and materials that could be subject to tidal action. The presence of construction equipment, building materials, and excavated materials on the subject site could pose hazards to beachgoers, swimmers, and wildlife if construction site materials were discharged into the marine environment or left unsafely exposed on the project site. In addition, such

discharge to the marine environment would result in adverse effects to offshore habitat from increased turbidity caused by erosion and siltation of coastal waters. Therefore, in order to ensure that adverse effects to the marine environment are minimized, **Special Condition One (1)** requires the City to ensure that no stockpiling or storage of dirt, construction materials, or equipment shall occur on the beach seaward of the proposed berm location and the any and all debris that results from the construction period shall be immediately removed from the sandy beach.

Finally, **Special Condition Three (3)** requires that the City provide evidence of having received a 404 permit from the U.S. Army Corps of Engineers and a 401 certification from the Regional Water Quality Control Board. This requirement will provide additional protection for marine water quality and will ensure that any federally listed threatened or endangered species that may periodically use the site will be considered through the Section 7 consultation process of the Endangered Species Act.

Therefore, for the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30230 and 30240 of the Coastal Act.

#### **D. Public Access and Visual Resources**

Coastal Act Section 30210 states that:

*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.*

Coastal Act Section 30211 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.*

In addition, Section 30251 of the Coastal Act states that:

*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 subordinated to the character of its setting.*

Coastal Act Sections 30210 and 30211 mandate that maximum public access and recreational opportunities be provided and that development not interfere with the

public's right to access the coast. In addition, Coastal Act Section 30251 requires that visual qualities of coastal areas shall be considered and protected, landform alteration shall be minimized, and where feasible, degraded areas shall be enhanced and restored.

The project site is located on the eastern end of Leadbetter Beach, immediately seaward of the Harbor Commercial Area. Public access is available along the entire approximately 950 ft. length of the project area, as well as on the remainder of the approximately 18 acre beach, which extends approximately 1500 feet further upcoast and includes public parking, restrooms, a restaurant, and a day-use picnic area.

The proposed berm will result in some limited temporary adverse effects to public access and views. Access to the stretch of beach in the project area will be closed to the public during the 2-3 day construction period, and the 1-2 day removal period. During those times, the City proposes to reroute pedestrian traffic through the commercial areas. Once constructed, the berm would occupy only the most landward extent of the sandy beach, and public access would remain available between the berm and the surf zone, except during storm events.

Public views of the beach from the Harbor Commercial Area will be limited by the proposed berm. However, views from the breakwater walkway, located immediately east of the project site, and from the remainder of the beach, located immediately west, will remain unobstructed. The temporary nature of the berm, which would be maintained only through the winter months, further lessens impacts on public views. In order to ensure that any potential adverse effects to public views and access are minimized, **Special Condition Two (2)** has been required to ensure that the berm is constructed each year, as proposed, no sooner than November 1, and removed each year no later than April 15, unless additional time is allowed by the Executive Director for good reason.

Therefore, for the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30210, 30211, and 30251 of the Coastal Act.

#### **E. CEQA**

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

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

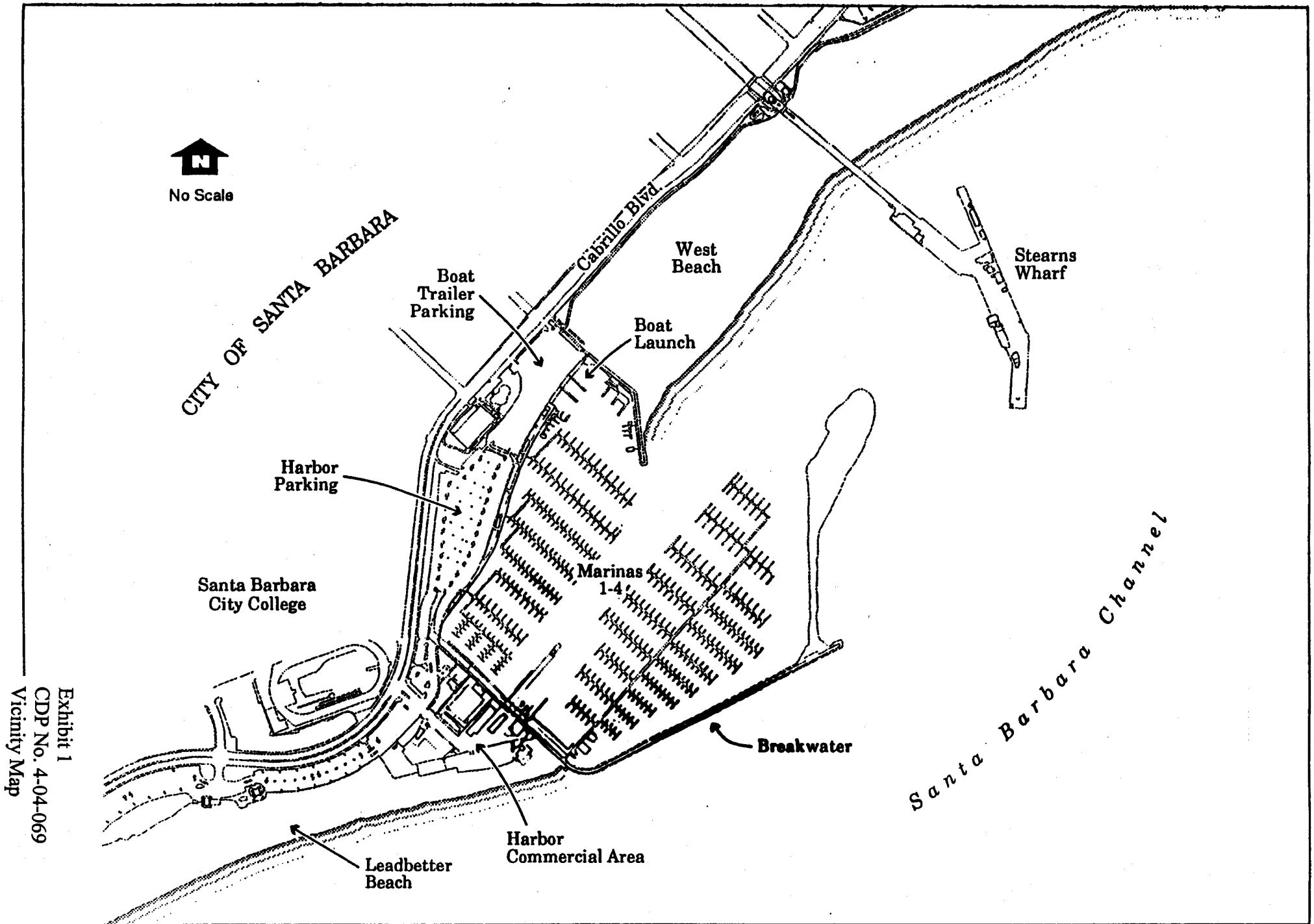


Exhibit 1  
CDP No. 4-04-069  
Vicinity Map

Figure 1. Santa Barbara Harbor and Vicinity



**PROJECT INFORMATION**  
A.P.N. 45-250-11  
ZONE HC/PR/SD-3  
LATITUDE 34° 24' 11"  
LONGITUDE 119° 41' 37"

**PROTECTIVE BERM SIZE**  
LENGTH 950 FEET  
WIDTH 24 FEET  
HEIGHT 10 FEET  
GRADING 8,400 C.Y. (CUT & FILL COMBINED)

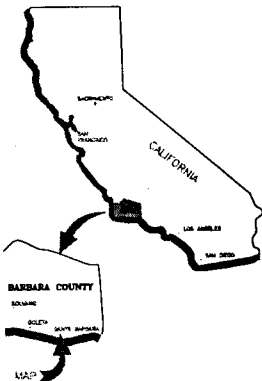
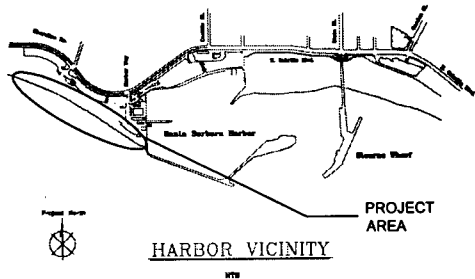
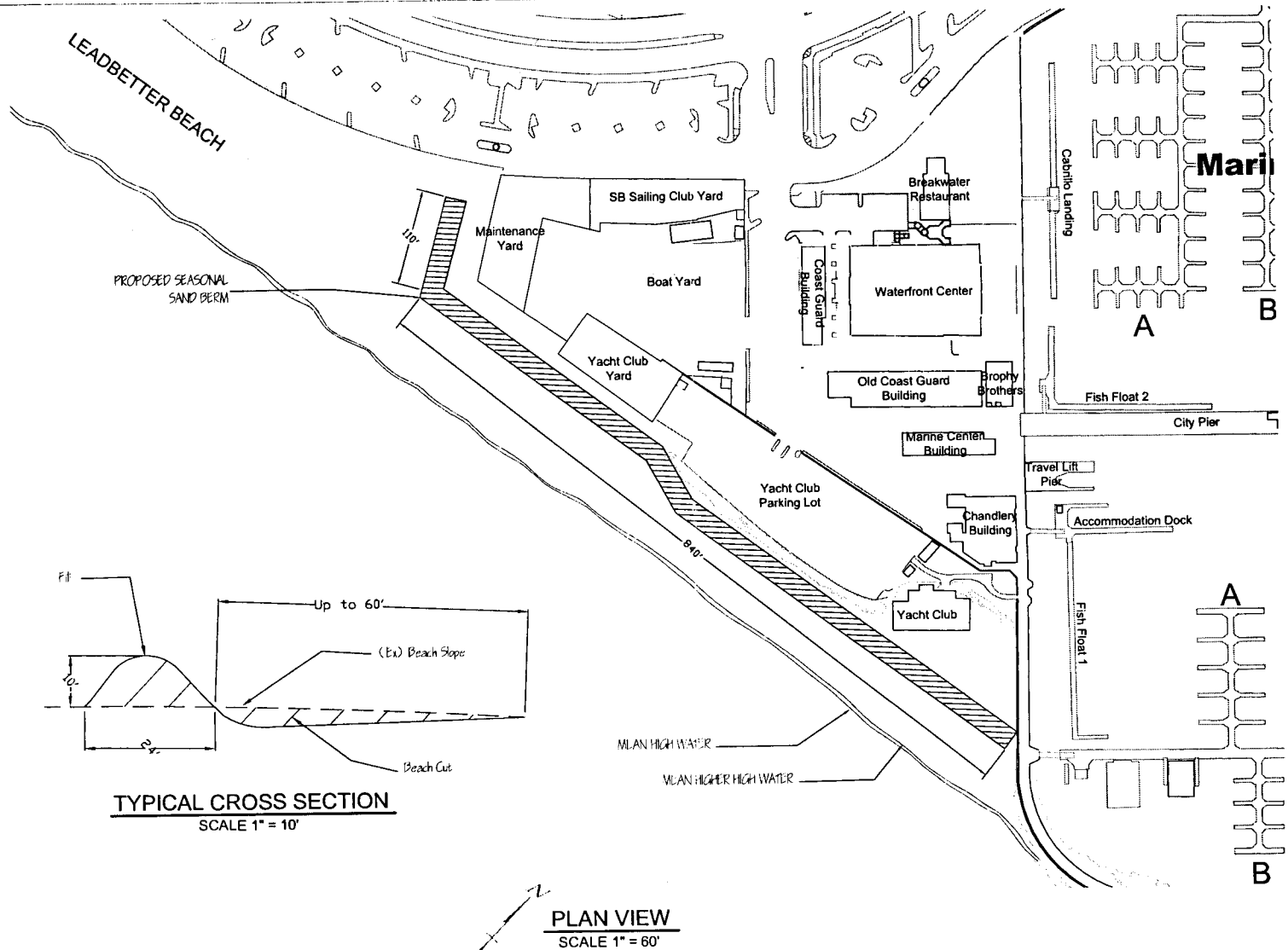


Exhibit 2  
CDP No. 4-04-069  
Site Plan / Section



Proposed Sand Berm  
Leadbetter Beach  
Santa Barbara California

|            |           |
|------------|-----------|
| DRAWN      | L. Nelson |
| DESIGNED   | L. Nelson |
| CHECKED    |           |
| PROJ. MGR. | 1/28/04   |
| DATE       |           |
| APPROVED   |           |
| REVISIONS  |           |

CITY OF SANTA BARBARA  
WATERFRONT DEPARTMENT- FACILITIES DIVISION

SCALE: Noted  
FACTOR: 1  
VERT. 1  
HOR. 1

PROJ. NO. 8824  
SHT. 1 OF 1 SHTS.  
DWG. NO. 8001-013

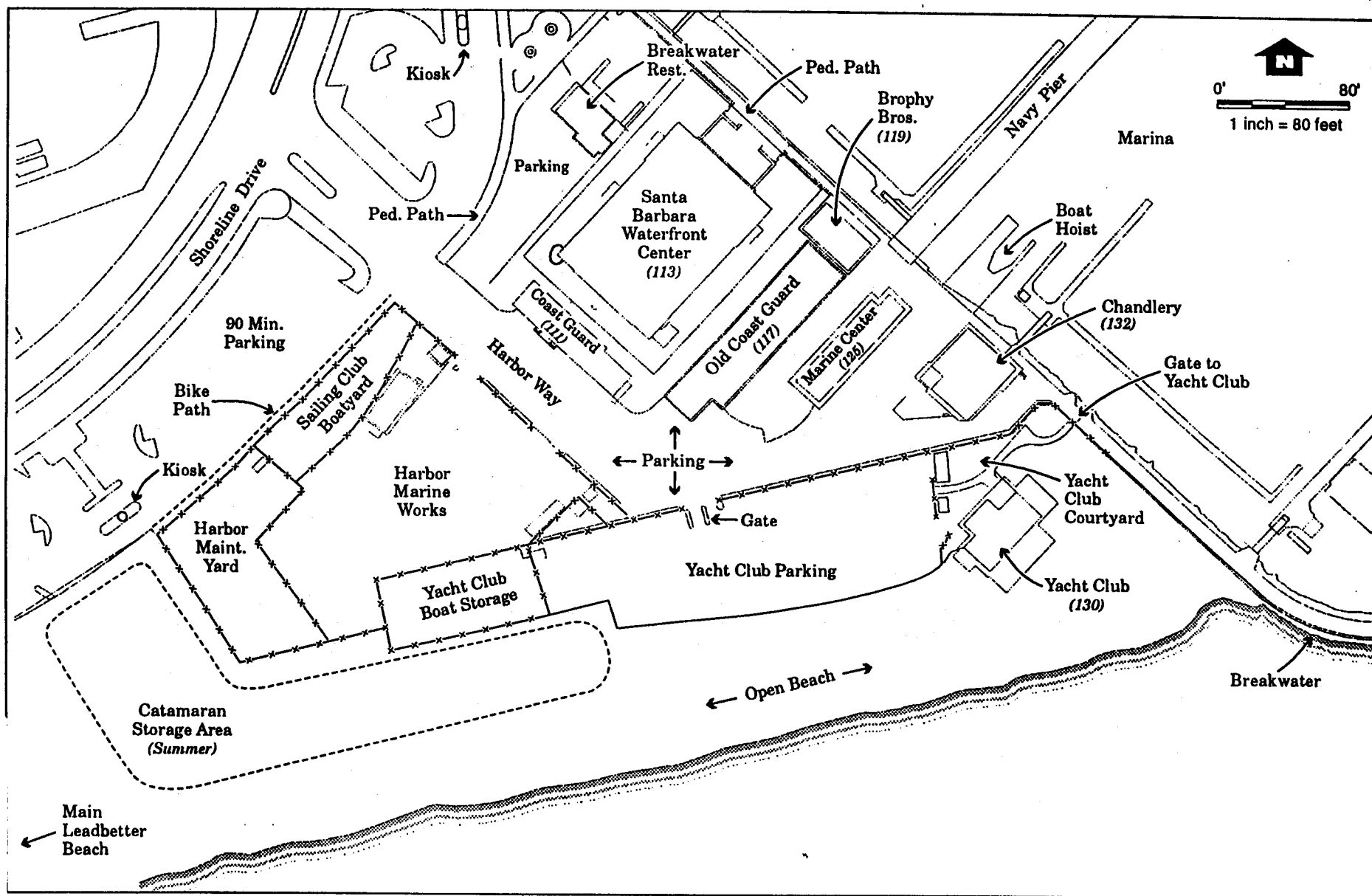
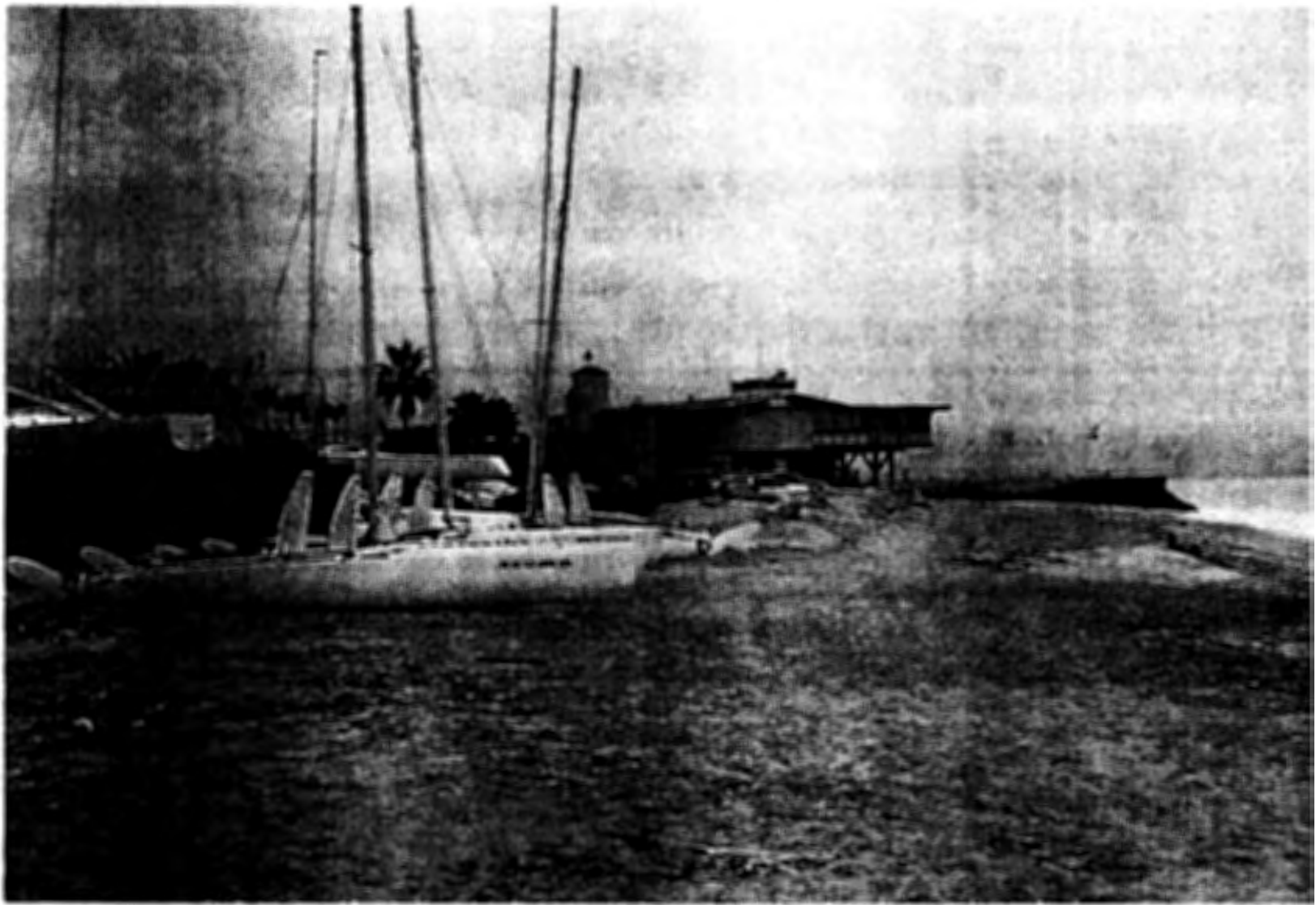


Figure 6. Land Use at the Project Area



**Photograph No. 12.** View of the beach at the project area towards the west. The Yacht Club is present in the foreground.



**Photograph No. 13.** View of the beach at the project area towards the east. Note the catamarans stored on the beach in the foreground and the Yacht Club in the background.