

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(562) 590-5071



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49th Day: February 27, 2006  
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Staff: ALB-LB  
Staff Report: March 23, 2006  
Hearing Date: April 11-14, 2006  
Commission Action:

**T9a****STAFF REPORT: MATERIAL AMENDMENT**

**AMENDMENT NUMBER:** 5-03-322-A2

**APPLICANT:** City of San Clemente

**AGENT:** Jim Pechous, Senior Planner

**PROJECT LOCATION:** Within the OCTA right-of-way along the railroad tracks at Dije, El Portal and Mariposa Point, San Clemente, Orange County

**DESCRIPTION OF PROJECT PREVIOUSLY APPROVED:** Construction of a multi-use trail consisting of lateral and vertical access improvements, including formal railroad crossings, barriers to prevent unauthorized crossings, lateral pedestrian bridges, and native landscaping located along the shoreline within the Orange County Transportation Authority (OCTA) right-of-way from North Beach to Calafia State Park, San Clemente.

**DESCRIPTION OF AMENDMENT PREVIOUSLY APPROVED (5-03-322-A1):** Request to allow temporary wetland impacts associated with construction of the San Clemente Railroad Corridor Pedestrian Beach Trail, and modification of the trail design to include an 80-foot extension of the Mariposa Point boardwalk outside of any wetland areas. The project also involves replanting of salt grass to mitigate for temporary wetland impacts.

**DESCRIPTION OF CURRENT AMENDMENT (5-03-322-A2):** Modification of approved stairway design at the Dije and El Portal at-grade vertical access points from concrete to wood and construction of a new vertical access underpass at Mariposa Point.

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**SUMMARY OF STAFF RECOMMENDATION:**

The project involves an amendment request to modify the stairway design of two at-grade railroad crossings and to add a new underpass. The proposed changes will not necessitate the construction of any new shoreline protective device(s).

Staff recommends that the Commission, after a public hearing, **approve an amendment to Coastal Development Permit 5-03-322** to allow a revised stairway design at the Dije and El Portal vertical crossings and a new underpass at Mariposa Point, subject to five (5) special conditions. The conditions would require 1) retention of the special conditions of the underlying permit not affected by the current action; 2) assumption of risk related to the new development; 3) no future protective device or enhancement of existing protective device to protect the new development; 4) submittal of an updated monitoring and maintenance plan; and 5) alternative access provided in case of flooding at the Mariposa underpass.

The City of San Clemente has a certified Land Use Plan, but no Implementation Plan. As such, the Commission retains permit authority. The standard of review is Chapter 3 of the Coastal Act.

**PROCEDURAL NOTE:**

The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

The current proposal is a material change to the underlying permit. Therefore, pursuant to Section 13166 of the Commission's regulations, the Executive Director is referring this application to the Commission.

**SUBSTANTIVE FILE DOCUMENTS:**

City of San Clemente Certified Land Use Plan (LUP); *Coastal Engineering Analysis for Coastal Trail Accessways* prepared by Coastal Frontiers dated March 2004; *Coastal Engineering Analysis at Proposed Mariposa Access Site* prepared by Coastal Frontiers dated November 2004; Group Delta Report dated December 14, 2005.

**LIST OF EXHIBITS:**

1. San Clemente Coastal Trail Map
2. Dije, El Portal and Mariposa Location Map
3. Project Plans

**I. MOTION AND RESOLUTION:**

The staff recommends that the Commission make the following motion and adopt the following resolution:

**Motion:** *I move that the Commission approve Coastal Development Permit Amendment No. 5-03-322-A2 pursuant to the staff recommendation.*

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

**Resolution to Approve Permit Amendment No. 5-03-322-A2:**

The Commission hereby approves a coastal development permit amendment 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 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 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. Prior Conditions**

Unless specifically altered by this amendment, all regular and special conditions attached to Coastal Development Permit 5-03-322, as previously amended, remain in effect. All standard and special conditions previously imposed under CDP 5-03-322, as previously amended, apply equally to this amendment.

**2. Assumption of Risk, Waiver of Liability and Indemnity**

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from flooding, wave uprush and boulder placement and/or movement; (ii) to assume the risks to the applicant and the property that is the subject of this permit amendment of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the 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. No Future Shoreline Protective Device**

- A(1). By acceptance of this Permit, the applicant agrees, on behalf of themselves and all other successors and assigns, that no new shoreline protective device(s) or enhancement of the existing protective device shall ever be constructed to protect the development approved pursuant to Coastal Development Permit Amendment No. 5-03-322-A2 in the event that the development is threatened with damage or destruction from boulder placement, waves, erosion, storm conditions or other hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of themselves and all successors and assigns, 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, on behalf of themselves and all successors and assigns, that the applicant shall remove the development authorized by this permit amendment, including the vertical and lateral access improvements, if any government agency has ordered that the structures are not to be utilized due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the applicant shall be liable for removal of all recoverable debris associated with the development from the beach and ocean and lawful disposal 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.

4. Monitoring and Maintenance

- A. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, an updated Maintenance and Monitoring Plan for the vertical and lateral access improvements that includes the new Mariposa Point underpass. The plan shall demonstrate that the new crossing structure is inspected and maintained to prevent unsafe access conditions and to ensure that any portions of the new accessway that may become damaged do not enter the beach. The plan shall include, at a minimum, the following items:
1. A schedule for inspection of the vertical and lateral access improvements by a qualified professional. In addition to periodic inspection, the inspection of the access improvements at the Mariposa Point underpass shall occur after high surf and/or railroad armoring activities and after a seismic event with a magnitude of 5.5 or greater.
  2. A contingency plan for debris removal in case of damage to access improvements.
  3. A contingency plan for immediate barrier system repair in case of damage. The plan shall include provisions for interim barriers while repairs are being undertaken.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. Alternative Access at Mariposa Point

In the event that the Mariposa Point underpass is not open for public use due to flooding, signage shall be posted on site identifying the nearest public accessway providing safe railroad crossing.

## **V. FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

### **A. Project Location, Background, and Amendment Description**

#### Location

The approved San Clemente Pedestrian Beach Trail extends from North Beach to Calafia State Park (approx. 2.37 miles) along the shoreline within the OCTA right-of-way (Exhibit 1). The sites of the proposed amendment include, from north to south, the vertical crossings at Dije, El Portal and Mariposa Point, located north of the Municipal Pier (Exhibit 2).

#### Background

In April 2004, the Commission approved CDP #5-03-322 allowing the City of San Clemente and the Orange County Transportation Authority (OCTA)<sup>1</sup> to construct a multi-use trail along the shoreline from North Beach to Calafia State Park within the railroad right-of-way. The trail consists of lateral and vertical access improvements, including formal railroad crossings, barriers to prevent unauthorized crossings, lateral pedestrian bridges, and native landscaping.

In August 2005, the Commission approved CDP #5-03-322-A1 allowing temporary wetland impacts associated with construction of the trail, and modification of the trail design to include an 80-foot extension of the Mariposa Point boardwalk outside of any wetland areas. The project also involved replanting of salt grass to mitigate for temporary wetland impacts.

The underlying permit was granted on April 23, 2004 and the first amendment was granted August 24, 2005. The trail project is currently under construction.

#### Proposed Amendment Description

Through the currently proposed amendment, the City requests to allow 1) modification of the approved stairway design for the Dije and El Portal vertical accessways and 2) construction of an underpass at Mariposa Point (Exhibit 3).

##### ▪ *Dije and El Portal Stairway Revisions*

As approved by the original permit, the stairways at Dije and El Portal were to be constructed of concrete and traverse the riprap from the seaward side of the railroad tracks to the sandy beach below. The stairway designs approved by the Commission had not been formally engineered and required subsequent design consideration. As such, the Commission imposed Special Condition 7, which required that all final plans be consistent with the coastal engineering recommendations in the Coastal Frontiers Engineering Analysis dated March 2004.

During the final design process, the applicant's design engineer determined that the stairway structures would need to be engineered to withstand a 100-year storm event to be consistent with the March 2004 report recommendations. It was determined that massive concrete stair and ramp structures would need to be constructed to resist the horizontal wave forces and uplift forces associated with the anticipated wave run-up. These structures would extend far beyond the footprint of the existing riprap. In addition, to construct the structures, portions of the existing riprap would have to be removed. According to the applicant's design engineer, this would create conditions that would jeopardize the integrity and safety of the railroad track during construction. As a result, the City claims the concrete stairs would not only be much larger than originally anticipated and extend beyond the existing footprint of the riprap, but would exceed

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<sup>1</sup> OCTA declined to be a co-applicant in the current amendment request, but supports the City's efforts.

the preliminary design cost estimate.

As such, the City redesigned the stairways to avoid the need to stabilize and protect such a large segment of the railroad tracks. The revised design for the El Portal and Dije stairways uses wood and metal instead of concrete. The new wooden stairs will still be built to span the existing riprap, extending approximately 20 feet beyond the railroad right of way. Concrete foundations at the top and toe of the sloping riprap will serve to anchor the stairway structures. The stair structures will be supported by an approximately 8' deep by 12' wide buried concrete footing, with a 4' by 6' exposed landing area. Embedment of the toe foundation is designed to meet or exceed the recommendation of the coastal engineering analysis. According to the applicant, the landing created at the top of the stairways will provide better sightline visibility along the railroad from both the pedestrians' and train engineers' vantage points.

▪ *Mariposa Underpass*

The Mariposa Point area was identified during the creation of the trail plan as the number one safety concern for the entire San Clemente railroad corridor. Due to the topographic features at this site, the trail becomes narrow as it rounds Mariposa Point and the pedestrians' line of sight is greatly impaired. As such, no vertical access was approved at Mariposa Point under the original permit. In fact, an informal at-grade crossing was eliminated to avoid safety concerns. Fencing was approved to prohibit rail crossings and pedestrians were to be directed approximately 750 feet downcoast to the alternative crossing at Linda Lane. The community objected to the vertical access closure and the City developed a vertical access design that avoided unsafe rail crossings.

The current amendment includes the construction of a new underpass beneath the railroad tracks. The underpass will be a 20' long by 7'6" wide precast box culvert that extends from a stairway on the inland side of the tracks to a stairway traversing the riprap on the seaward side.

**B. Hazards**

Section 30235 of the Coastal Act states, in pertinent part:

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

Section 30253 of the Coastal Act states in relevant part:

*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.*

*(5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

The proposed amendment involves work seaward of the railroad tracks. As such, portions of the improvements will be subject to periodic wave uprush. Development in such a location is inherently risky. When the application for the coastal trail was originally considered, the applicants submitted a report entitled *Coastal Engineering Analysis for Coastal Trail Accessways* prepared by Coastal Frontiers dated March 2004 to determine the potential hazard resulting from wave uprush. The report estimated the scour and wave loading potential at the vertical access points. The report's conclusion provided information that was used in the final structural design of the proposed vertical access improvements, including median stone weight for hydraulic stability, horizontal wave forces at the revetment, and maximum uplift forces associated with wave runup on the revetment. The Commission's Senior Coastal Engineer has reviewed the report and supports the conclusions contained therein.

The Commission previously authorized the stairways along the trail, including those at Dije and El Portal, to be *"concrete steps formed between structurally engineered boulder rip-rap."* However, the designs were only conceptual at that time and required further engineering. As modified by this amendment, the stairways will be constructed of wood with concrete landings at the railroad level and buried concrete footings at the beach level. The beach level improvements are anticipated to withstand a 100-year storm event, as recommended by the coastal engineering analysis. The stairways will be constructed such that they will in no way depend on the existing protective device for support or upon any shoreline protective device for protection.

The vertical access improvements affected by this amendment will traverse the existing riprap revetment that protects the railroad tracks. The revetment is maintained by the Southern California Regional Rail Authority (SCRRA) and the railroad right-of-way is owned by the Orange County Transportation Authority (OCTA). The railroad has a maintenance program in which additional boulders are added to the revetment to protect the track and ballast. During high surf events, the railroad also monitors the conditions of the railroad to ensure that the tracks are not flooded for safe operation of the trains.

The applicant has stated that the improvements included in this amendment would not necessitate protection from hazards such as flooding and/or wave attack now or in the future. The City is not proposing protection of the trail improvements as part of the current application. However, in hazardous circumstances the applicant could conceivably pursue protection of the structures in the future. As discussed below, a protective device, or enhancement of the existing protective device to protect the proposed development, would result in adverse effects to coastal resources.

Shoreline protective devices can result in a number of adverse effects on the dynamic shoreline system and the public's ability to utilize the beach. 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



such 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, as it results in less usable sandy beach area.

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 San Clemente is subject to severe winter erosion. The Commission notes that if a seasonally eroded beach condition occurs with greater magnitude 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 trail improvements require a protective device in the future, it would be inconsistent with Section 30253 of the Coastal Act because such devices contribute to beach erosion.

To assure that no additional protective device will be constructed in the future to protect the proposed vertical crossing improvements that are the subject of the current amendment, the Commission imposes Special Conditions 2 and 3. Since the proposed development is taking place adjacent to the ocean in an area that is potentially subject to wave uprush, the Commission is imposing its standard waiver of liability special condition (Special Condition 2). Special Condition 3 requires that the City agree that no additional future shoreline protective device shall be constructed to protect the proposed trail improvements. Through these two special conditions, the applicant is notified that the project site is in an area that is potentially subject to flooding which could damage the proposed trail improvements and that the improvements cannot be protected through a new shoreline protective device or expansion of the existing one to afford protection to the proposed development. The applicant is also notified that the Commission is not liable for such damage as a result of approving the permit for development.

Section 30235 of the Coastal Act states that an existing structure can be protected when in danger from erosion provided that the protective structure is designed to eliminate or mitigate adverse impacts on local shoreline sand supply. No work to the existing revetment is proposed. However, the stairways will traverse the revetment and extend onto the sandy beach. The stairways will function similarly to the existing revetment and will not impact shoreline sand supply. Therefore, the proposed stairways will not contribute to erosion of the site, nor place the structures at greater risk than presently exists.

To ensure the project minimizes risks to life and property, the trail crossings, including the redesigned stairways and the new underpass, must be properly maintained. As previously

imposed by the Commission, Special Condition 4 requires the submittal of an updated Maintenance and Monitoring Plan for the vertical and lateral access improvements. The plan must demonstrate that the crossing structures are inspected and maintained to prevent unsafe access conditions and to ensure that damaged portions of the vertical access improvements do not enter the beach. In addition to periodic inspection, the inspection of the access improvements at the Mariposa Point underpass shall occur after high surf and/or railroad armoring activities and after a seismic event with a magnitude of 5.5 or greater.

As conditioned for assumption of risk, no future shoreline protective device, and submittal of a monitoring and maintenance plan, the Commission finds that the proposed project is consistent with Sections 30235 and 30253 of the Coastal Act.

### **C. Public Access**

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(a)(2) of the Coastal Act states:

*(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*

Section 30213 states, in pertinent part.

*Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*

The City of San Clemente certified LUP, which serves as guidance in this area, also contains various coastal access policies pertaining to the currently proposed project, including the following:

Policy IX.1 *Improvements to beach facilities and beach access points which are administered by the City of San Clemente shall specifically be intended to provide for the maintenance and enhancement of maximum public use of the beach and ocean.*

Policy IX.7 *The City shall promote not only increased access to the shoreline, but increased safety of access. Improved access for the handicapped shall be provided at at least one of the primary access points administered by the City.*

Section 30604(c) of the Coastal Act requires that permit applications for projects between the nearest public road and the shoreline of any body of water within the coastal zone shall include a public access and recreation finding. The proposed development is located between the sea

and the first public road. In San Clemente, the railroad tracks separate the community from the shoreline. Lateral access to the Pacific Ocean and sandy beach is available immediately seaward of the railroad tracks. As described previously, the Commission approved CDP 5-03-322 in April 2004 for construction of a multi-use trail along the shoreline from North Beach to Calafia State Park. The permit was amended in August 2005 to address temporary wetland impacts. The current amendment request affects vertical access and Dije, El Portal and Mariposa Point.

The proposed amendment would allow a modified stairway design at the Dije and El Portal access points. The stairs were originally intended to be concrete and have now been designed as more temporary wooden stairs with concrete footings and landings. As proposed, the stairways have been designed to withstand anticipated wave uprush and will provide safe, durable access to the beach.

The proposed amendment would also authorize a new underpass at Mariposa Point, an area with no approved vertical access and hazardous rail crossing conditions. The underpass will provide safe vertical access at Mariposa Point and improve the accessibility of the adjacent beach area. However, the underpass is likely to become flooded during high tides and/or storm events. As such, the Commission imposes Special Condition 5, which requires the applicant to notify the public of the nearest public accessway providing safe railroad crossing in the event the underpass is flooded.

The proposed amendment involves vertical crossing improvements along the previously approved coastal trail. The crossings will be used by both tourists and local residents as a means of reaching the beach. As conditioned, the Commission finds the proposed amendment consistent with the public access and recreation policies of the Coastal Act, as well as the coastal access policies of the certified LUP.

#### **D. Local Coastal Program**

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. On April 10, 1998, the Commission certified with suggested modifications the Implementation Plan portion of the Local Coastal Program. The suggested modifications expired on October 10, 1998. The City re-submitted on June 3, 1999, but withdrew the submittal on October 5, 2000. As such, the Commission retains permit issuance authority.

The proposed development is consistent with the policies contained in the certified Land Use Plan. Moreover, as discussed herein, the development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Therefore, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program for San Clemente that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

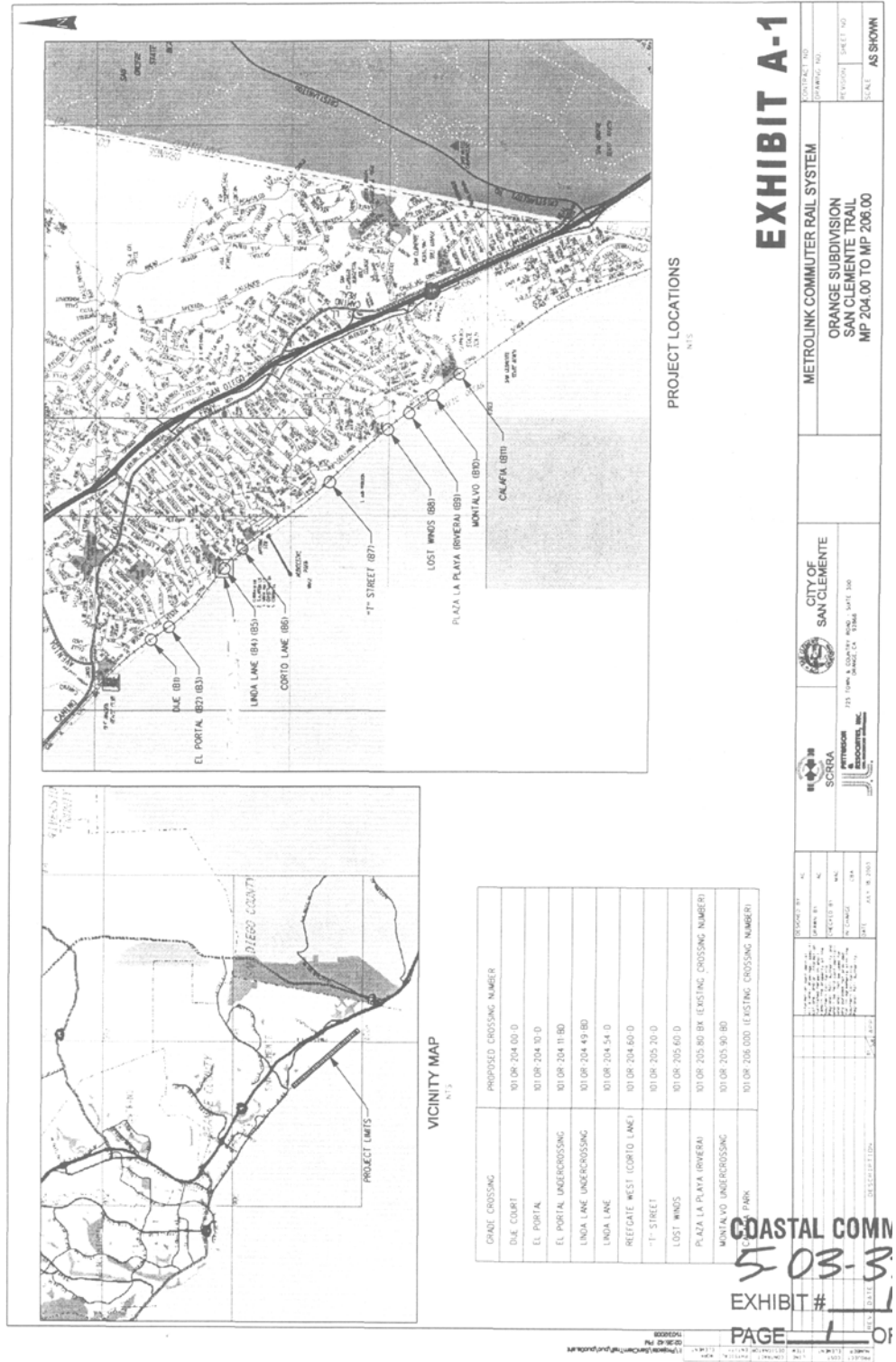
#### **E. Consistency with the California Environmental Quality Act (CEQA)**

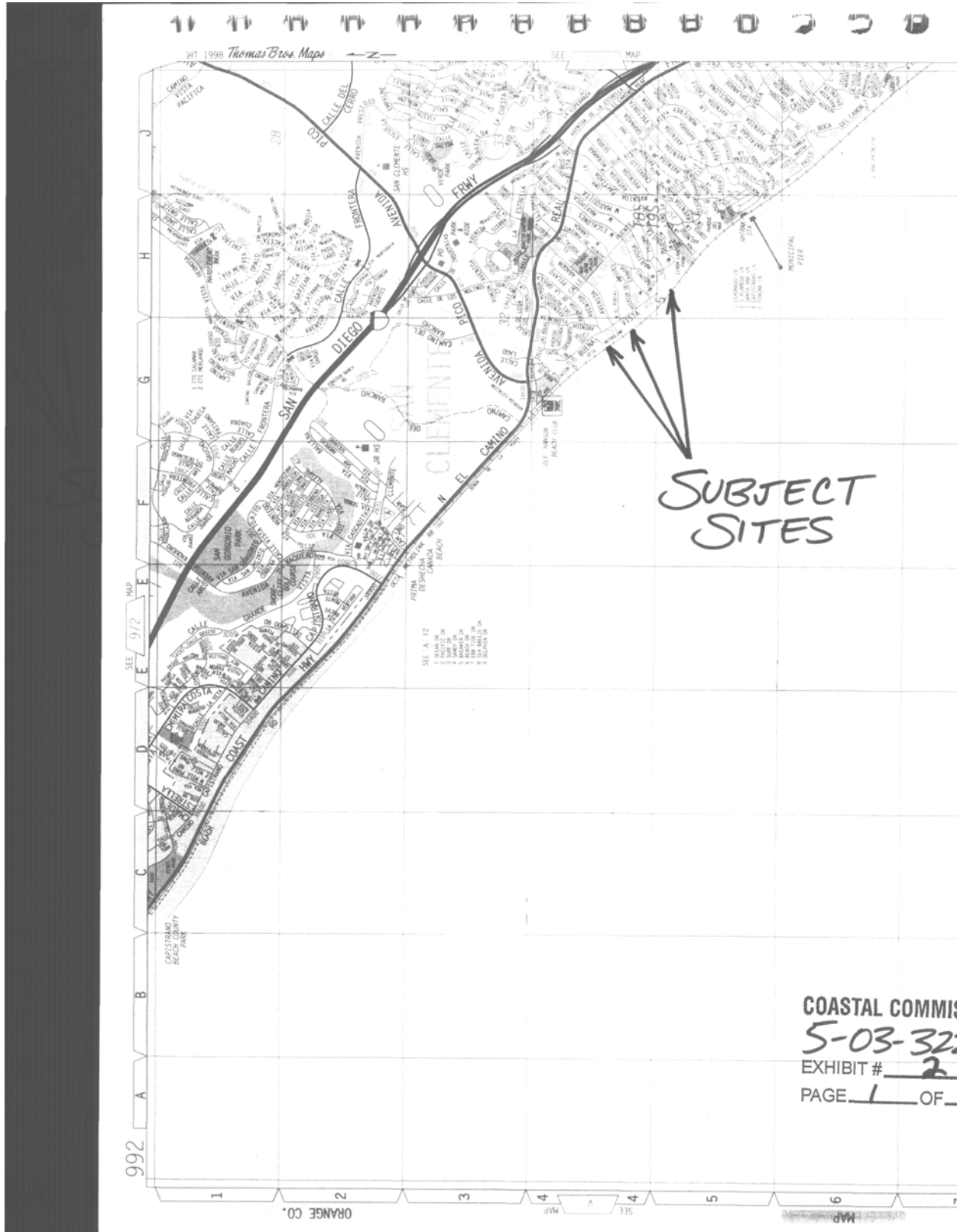
Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed

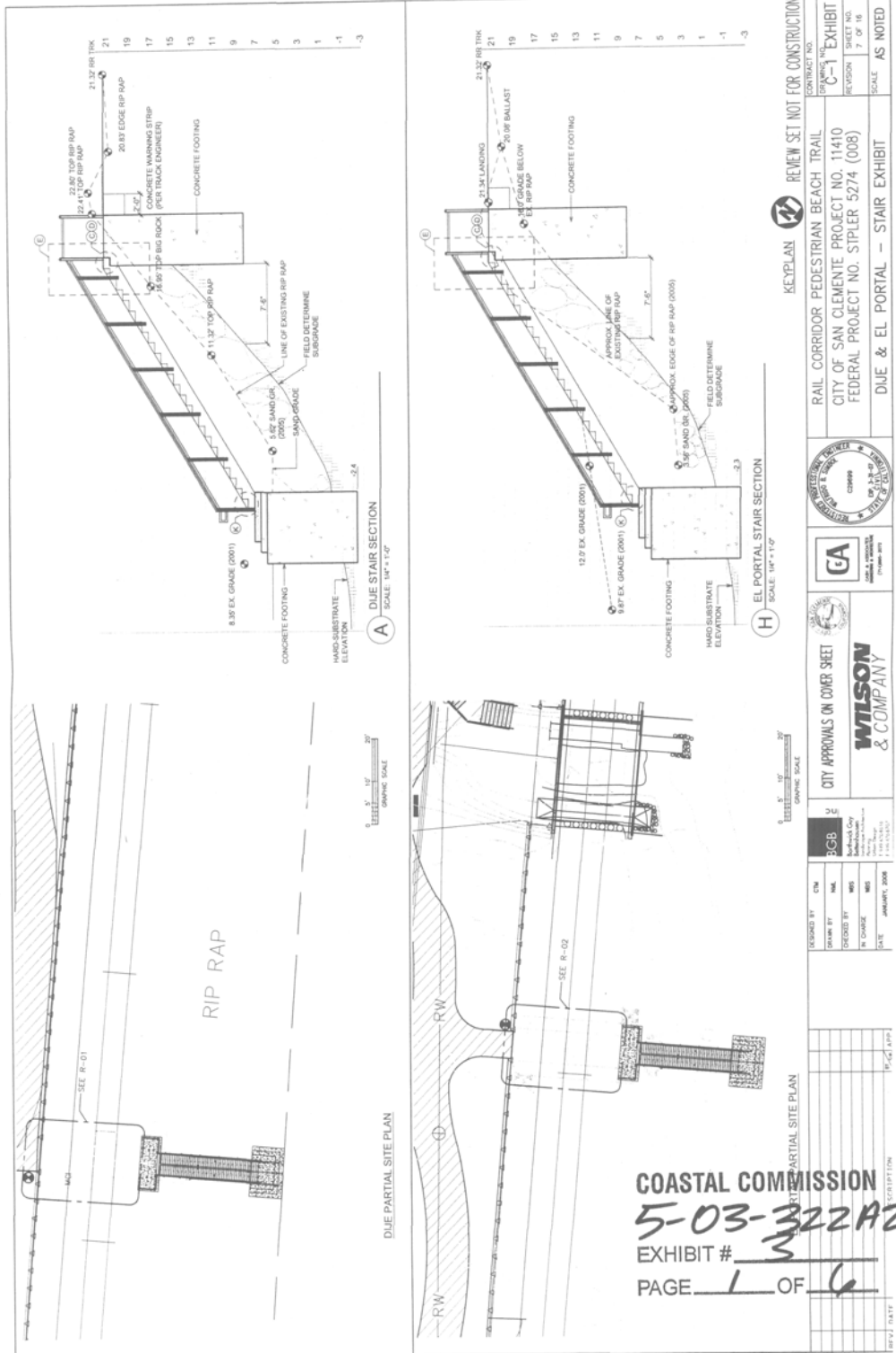
development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been found to be consistent with the public access policies of the Coastal Act. Mitigation measures, in the form of special conditions, are imposed which require 1) retention of the special conditions of the underlying permit not affected by the current action; 2) assumption of risk; 3) no future protective device or enhancement of existing protective device; 4) submittal of an updated monitoring and maintenance plan; and 5) alternative access provided in case of flooding at the Mariposa underpass.

No further alternatives, or mitigation measures, beyond those imposed by this permit amendment, would substantially lessen any significant adverse impacts which the development would have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.







<b>COASTAL COMMISSION</b> <b>5-03-322-A2</b> <b>EXHIBIT # 3</b> <b>PAGE 1 OF 6</b>		DATE: 1/11/2008 DRAWN BY: BJB CHECKED BY: MMS IN CHARGE: MMS DATE: JANUARY 2008	CITY APPROVALS ON COVER SHEET BJB Seal: [Signature] Title: [Title] Date: 1/11/2008	WILSON & COMPANY 1000 N. GARDEN ANAHEIM, CA 92815 (714) 771-1111	CA REGISTERED PROFESSIONAL ENGINEER CIVIL No. 10000 Exp. 12/31/2008	RAIL CORRIDOR PEDESTRIAN BEACH TRAIL CITY OF SAN CLEMENTE PROJECT NO. 11410 FEDERAL PROJECT NO. SIPLER 5274 (008)	REVIEW SET NOT FOR CONSTRUCTION CONTRACT NO. C-1 EXHIBIT NO. 3 SHEET NO. 15 OF 16 SCALE AS NOTED
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