

CALIFORNIA COASTAL COMMISSION

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Thu 8d

Staff: Diana Lilly-SD
Staff Report: December 19, 2006
Hearing Date: January 10-12, 2007

STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL GOVERNMENT: City of Imperial Beach

DECISION: Approval with Conditions

APPEAL NO.: A-6-IMB-06-108

APPLICANT: Lee Carver, Robert Mikolajczak, John Haskett, Kristina Perry

PROJECT DESCRIPTION: Repair of an existing, partially unpermitted riprap revetment in front of four condominiums consisting of repositioning stones that have become dislodged and rolled down onto the sandy beach, and authorizing rock placed in 1987.

PROJECT LOCATION: 1550 - 1580 Seacoast Drive, Imperial Beach, San Diego County. APN 635-010-06 through -09.

APPELLANTS: Coastal Commissioners Patrick Kruer and Meg Caldwell

STAFF NOTES:

At its October 11, 2006 hearing, the Commission found Substantial Issue exists with respect to the grounds on which the appeal was filed. This report represents the de novo staff recommendation.

Summary of Staff's Preliminary Recommendation:

Staff recommends the Commission approve the de novo permit with several special conditions. The project involves repositioning several stones that have become dislodged from an existing revetment and rolled down onto the sandy beach, and authorizing unpermitted rock that was placed on the revetment in 1987. The proposed repairs will ensure that all rock is located landward of the western property line. Although the reconstructed revetment is not proposed to encroach on public beach at this time, the Mean High Tide Line (MHTL) fluctuates over time, and at some point in the future, the revetment could be located on public lands. Because the revetment fixes the back of the beach, the sandy area upland of the revetment will never be available for public use or as part of the littoral cell sandy supply, as it eventually would be were the revetment never

constructed. Thus, in order to mitigate the impacts that the revetment will have on shoreline sand supply, staff recommends the Commission include a special condition which requires the applicant to pay an in-lieu fee, in the amount of \$25,546.09 for the 196-foot long section of revetment.

Other special conditions on the project require final plans documenting the permitted seaward extent of the revetment and requiring yearly monitoring of the revetment to ensure that no additional seaward encroachment occurs, and a requirement for maintenance of the revetment to ensure that public access and recreation are not adversely impacted in the future.

Standard of Review: Certified City of Imperial Beach LCP and the public access policies of the Coastal Act.

Substantive File Documents: Appeal Applications by Commissioners Krueger and Caldwell dated 9/5/06; Certified City of Imperial Beach Local Coastal Program (LCP); Revetment Inspection dated May 5, 2006 by GeoSoils, Inc.; Letter from Geosoils, Inc., dated November 7, 2006.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. A-6-IMB-06-108 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 the certified LCP and the public access policies of Chapter 3 of the Coastal Act. 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.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Final Surveyed Revetment Plans/Final Project Plans. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT** the applicants shall submit to the Executive Director for review and written approval final revetment plans for the proposed project that have been approved by the City of Imperial Beach. Said final building plans shall be in substantial conformance with the plans date-stamped received November 14, 2006, and dated 5/01/06 by GeoSoils, Inc. The revetment plans shall identify permanent benchmarks from the property line or another fixed reference point from which the elevation and seaward limit of the revetment can be referenced for measurements in the future, and shall specifically indicate the following:

- a. The toe of the revetment, drawn on a beach profile with cross-section that shows it extends no further seaward than the existing revetment toe, as shown on the above referenced plans.
- b. The top of the revetment shall not exceed elevation +20 feet MSL at any point.
- c. During construction of the approved development, disturbance to sand and intertidal areas shall be minimized to the maximum extent feasible. All excavated beach sand shall be redeposited on the beach. Local sand, cobbles or shoreline rocks shall not be used for backfill or for any other purpose as construction material.

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

2. Long-Term Monitoring Program. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit for review and written approval of the Executive Director a long-term monitoring plan for the proposed shoreline protection. The purpose of the plan is to monitor and identify damage or changes to the revetment such that repair and maintenance is completed in a timely manner to avoid further encroachment of the revetment on the beach. The monitoring plan shall incorporate, but not be limited to the following:

- a. An evaluation of the current condition and performance of the revetment, addressing any migration or movement of rock which may have occurred on the site and any significant weathering or damage to the revetment that may adversely impact its future performance.
- b. Measurements taken from the benchmarks established in the survey as required in Special Condition #1 of CDP #A-6-IMB-06-108 to determine settling or seaward movement of the revetment. Changes in the beach profile fronting the site shall be noted and the potential impact of these changes on the effectiveness of the revetment evaluated.
- c. Recommendations on any necessary maintenance needs, changes or modifications to the revetment to assure its continued function and to assure no encroachment beyond the permitted toe.
- d. An agreement that the permittee shall apply for a coastal development permit or amendment to this permit within 90 days of submission of the report required in subsection c. above for any necessary maintenance, repair, changes or modifications to the project recommended by the report that require a coastal development permit and implement the repairs, changes, etc. approved in any such permit.

The above-cited monitoring information shall be summarized in a report prepared by a licensed engineer familiar with shoreline processes and submitted to the Executive Director for review and written approval. The report shall be submitted to the Executive Director and the City of Imperial Beach Engineering Department after each winter storm season but prior to May 1st of each year starting with May 1, 2007. Monitoring shall continue throughout the life of the revetment or until the revetment is removed or replaced under a separate coastal development permit.

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

3. Mitigation for Impacts to Sand Supply. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall provide evidence, in a form and content acceptable to the Executive Director, that a fee of \$25,546.09 has been deposited in an interest bearing account designated by the Executive Director, in-lieu of providing the total amount of sand to replace the sand and beach area that would be lost due to the impacts of the proposed protective structure. The methodology used to determine the appropriate mitigation fee for the subject sites is that described in the staff report prepared December 2006 for Coastal Development Permit #A-6-IMB-06-108. All interest earned shall be payable to the account for the purposes stated below.

The purpose of the account shall be to establish a beach sand replenishment fund to aid SANDAG, or an Executive Director-approved alternate entity, in the restoration of the beaches within San Diego County. The funds shall solely be used to implement projects that provide sand to the region's beaches, not to fund operations, maintenance or planning studies. The funds shall be released only upon approval of an appropriate project by the Executive Director of the Coastal Commission. The funds shall be released as provided for in a MOA between SANDAG, or a Commission-approved alternate entity and the Commission, setting forth terms and conditions to assure that the in-lieu fee will be expended in the manner intended by the Commission. If the MOA is terminated, the Executive Director shall appoint an alternative entity to administer the fund.

4. Storage and Staging Areas/Access Corridors. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit to the Executive Director for review and written approval final plans indicating the location of access corridors to the construction site and staging areas. The final plans shall indicate that:

- a) No overnight storage of equipment or materials shall occur on sandy beach or public parking spaces.
- b) Access corridors shall be located in a manner that has the least impact on public access to and along the shoreline.
- c) No work shall occur on the beach between Memorial Day weekend and Labor Day of any year.
- d) The staging site shall be removed and/or restored immediately following completion of the development.

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

5. Deed Restriction: **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcels governed by this permit deed restrictions or amendments to the condominiums' codes, covenants and restrictions (CC&Rs), in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed

restrictions or CC&R amendments shall also indicate that, in the event of an extinguishment or termination of the deed restrictions or CC&R amendments for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

6. Public Rights. The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights that exist or may exist on the property. The permittees shall not use this permit as evidence of a waiver of any public rights that exist or may exist on the property.

7. Maintenance Activities. The permittees shall be responsible for the maintenance of the existing riprap revetment in its approved state, until such time as the revetment is relocated or removed under an approved coastal development permit. However, if it is determined that repair and/or maintenance to the revetment is necessary, the permittee shall contact the Commission office to determine whether an amendment to this permit is necessary. Based on the information and recommendations contained in the monitoring report required in Special Condition #2 of CDP #A-6-IMB-06-108 above, any stones or materials that become dislodged or any portion of the revetment that is determined to extend beyond the approved toe shall be removed from the beach, after authorization by the Commission.

8. Assumption of Risk, Waiver of Liability and Indemnity. By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from waves, storm waves, 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 defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

9. Other Conditions Imposed By Local Government (CP 04-116, MF 730). Except as provided by this coastal development permit, this permit has no effect on conditions imposed by the City of Imperial Beach pursuant to an authority other than the Coastal Act. The conditions contained in this coastal development permit are in addition to the conditions imposed and required by the City of Imperial Beach.

10. Other Permits. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittees shall provide to the Executive Director copies of all other required local, state or federal discretionary permits for the development authorized by CDP #A-6-IMB-06-108. The applicants shall inform the Executive Director of any changes to the project required by other local, state or federal agencies. Such changes shall not be incorporated

into the project until the applicants obtain a Commission amendment to this permit, unless the Executive Director determines that no amendment is legally required.

11. Condition Compliance. WITHIN 90 DAYS OF COMMISSION ACTION ON THIS CDP APPLICATION, or within such additional time as the Executive Director may grant for good cause, the applicants shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. Findings and Declarations.

1. Project Description/History. The proposed project is the repair of an existing, approximately 190-foot long revetment located in front of four lots with condominium buildings containing 16 residential units (total), and authorization of existing rock placed without benefit of a coastal development permit in 1987. The existing revetment is approximately 20 feet high and while located largely inland of the western property line, some rock has rolled seaward onto public beach. The repairs would consist of repositioning stones that have been dislodged back onto the existing revetment. No new rock or seaward encroachment is proposed.

The site is located on the southernmost part of Imperial Beach, on Seacoast Drive, approximately four blocks south of Imperial Beach Boulevard. The subject properties all have a distinct western boundary, which terminates at Ocean Lane, a paper street seaward of the lots. The rock in front of the site is part of a continuous revetment along the shoreline in front of the entire block.

The geotechnical report for the project states that the riprap has been in place since around 1970 and does not appear to have been constructed with filter fabric behind it. Review of historical photos from 1972 confirm that some riprap was in place at that time, prior to issuance of the Coastal Act. However, Coastal Commission records also indicate that in 1987, violations were reported at all four of the subject sites for the placement of additional riprap in front of the buildings. Records show an after-the-fact permit application submitted for the revetment and then subsequently withdrawn, and there are no records that the full extent of the existing revetment has been approved under a coastal development permit. Therefore, since no permits were approved for the unpermitted riprap, the applicants have included authorization of the entire revetment as part of the proposed permit request.

Public access to the beach in this area is available at the street end (Encanto Avenue) approximately 300 feet north of the subject site, and at the terminus of Seacoast Drive approximately 650 feet south of the site.

2. Public Access, Recreation, and Shoreline Processes. The following policies of the certified City of Imperial Beach Local Coastal Program (LCP) apply to the proposed project:

CO-1 The Beach

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

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

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

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

This means that:

- a. The beach shall be free to the public.
- b. Recreational needs of children, teens, adults, persons with disabilities, elderly, visitors and others shall be accommodated to the extent resources and feasibility permit.
- c. City residents need mini-parks, neighborhood parks, community parks, activity centers, special use and all-purpose parks.
- d. The City should pursue increased recreational opportunities for the general public in the Tijuana Estuary, Borderfield State Park, the beach and the South San Diego Bayfront.

P-2 Ocean and Beach Are The Principal Resources

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

GOAL 14 SHORELINE ACCESS

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

GOAL 16 SHORELINE PROTECTION

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

S-10 Regulate Shoreline Land Use and Development

The City should regulate shoreline land use and development by:

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

S-11 Storm Waves, Flooding and Seacliff Erosion

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

19.87.050 Criteria for granting coastal development permits.

The proposed development shall be permitted if found to satisfy the following criteria:

- A. The proposed development conforms to the certified local coastal plan including coastal land use policies;
- B. For all development seaward of the nearest public highway to the shoreline; the proposed development meets standards for public access and recreation of Chapter 3 of the 1976 Coastal Act and regulations promulgated there under;
- C. The proposed development meets minimum criteria set forth in Sections 19.81.060, 19.82.050., 19.83.120., 19.84.050., and 19.86.100., of this title for site plans, conditional use permits, design review, variances, zoning classification and rezonings; and

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

In addition, the following Coastal Act policies are applicable to the subject proposal, and state:

Section 30210

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

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.

Section 30213

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

Section 30220

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

The Commission has long recognized that shoreline protection is necessary along Imperial Beach's shoreline, and the City's certified LCP acknowledges that riprap revetment is the historical form of protection in the southern portion of Imperial Beach. However, when reviewing projects for repairs to an existing revetment, the Commission has reviewed the need for any new rock, the impacts that new rock might have on public access and recreation, and potential alternatives to rock. In general, new development cannot be found consistent with the certified LCP or the public access and recreation policies of the Coastal Act if it has not been designed to minimize the amount of construction on beaches, and to eliminate or mitigate adverse impacts on local shoreline sand supply.

A geotechnical report submitted for the proposed project states that the existing revetment is in fair to good condition, but in need of maintenance to ensure its “continued and proper performance, and to prevent further over steepening.” The approved project as described in the report is as follows:

The maintenance needed at this time is only to reposition stones that have become dislodged. It appears that there is sufficient armor stone to re-stack the revetment without importing any new stone. The stones which have rolled down the slope should be collected and placed back onto the face and locked into place...no seaward encroachment is necessary for the maintenance and proper functioning of the revetment. The revetment when properly maintained represents the minimum shore protection necessary to protect the principal structures.

The plans submitted with the application indicate that the existing revetment toe is largely inland of a fixed western property line, but there are a couple of places where rock has rolled onto the beach seaward of the revetment and property line. The proposed project would move that rock back landward of the property line. The beach in this location has historically experienced high tide and storm conditions where minimal sandy beach is present seaward of the revetment.

As noted above, the project also includes authorization of rock that was placed without benefit of a coastal development permit in 1987. Although it is not known precisely how much rock was existing prior to the Coastal Act and how much was placed later, the plans and geotechnical calculations submitted with the application include the entire existing revetment, and the impact analysis herein is based on the entire revetment.

Consistent with the certified LCP, the proposed project involves minimal construction and will not result in the loss of any additional sandy beach area. In addition, the revetment is pulled back as far inland as possible without encroaching on the existing patio improvements, and extends no further seaward than the revetments on either side of the lots. The proposed maintenance will remove the rock currently encroaching seaward of the property line, thereby increasing oceanfront land available for recreation and reducing the visual impacts of the existing revetment.

However, the Commission is concerned that the proposed repairs will extend the life of a revetment that has never been fully permitted or mitigated. Section 19.87.050 D of the certified LCP zoning code states that for “all development involving the construction of a shoreline protective device, a mitigation fee shall be collected...in lieu of providing sand to replace the sandy beach area that would be lost due to the impacts of any proposed protective structure.”

Under the City’s certified LCP, it is clear that a new revetment project or a project that involves additional encroachment on the beach would be subject to a beach sand mitigation fee to mitigate for impacts to beach sand supply resulting from the revetment on the public beach. However, at the time the original revetment was constructed, the mitigation fee was not part of the City’s LCP, and the 1987 additions were not

authorized, and as such, no mitigation has ever been received for the impacts associated with the loss of sand resulting from the revetment. The subject project would authorize the existing revetment and prolong the lifespan of a structure with adverse impacts to the public beach, and thus, it is appropriate to address the issue of a mitigation fee at this time.

Although the repaired revetment will be located inland of the private property line, the MHTL is an ambulatory line, and the area seaward of the revetment would be public trust lands at those times when the mean high tide line reaches inland to the revetment. Other times, the MHTL might be seaward of the revetment. The Commission notes that with future rising sea level and episodic storm events, the area landward of the revetment could erode significantly, resulting in essentially all of the area landward of the proposed revetment becoming public tidelands. However, regardless of the location of the MHTL at any particular time, the revetment will have adverse impacts on sand supply, which ultimately impacts public access and recreation. The subject site consists of sandy material that, in the absence of any shoreline protection, would be contributing to the shoreline sand supply. The proposed revetment will prevent this sand from entering the littoral cell.

The applicants engineer has reviewed the project and the impacts to recreation and shoreline sand supply expected from the reconstructed revetment. The applicant's engineer estimates that the surface material inland of the revetment is approximately 50% sand, the lower portion of the material inland of the revetment is all sand, and that volume of sand that would be trapped by the 196-foot long section of revetment across the site is 2,473 cubic yards. This is based on the assumptions that the sand inland of the revetment and above the bedrock layer would erode back to the seaward edge of the subterranean garage and that the base of the beach/bedrock would have rise from an elevation of approximately 0' MSL at the inland toe of the revetment to an elevation of +7' MSL at the block wall/garage wall. Thus, the revetment across the site would prevent 2,473 cubic yards of sand from being available for shoreline sand supply.

Two recently approved projects (ref A-6-OCN-06-12 & 13/Ratkowski; A-6-OCN-06-44/Margulis) determined that the cost to purchase and deliver sand to the beach can be estimated at \$10.33 per cubic yard; Thus, the value of the sand for the subject project would be \$25,546.09. Therefore, Special Condition #3 requires the applicant to deposit and in-lieu fee of \$25,546.09 (2,473 cubic yards x \$10.33), as mitigation for the indirect impacts for the proposed shoreline protective device on public access, public recreation, and beach sand supply.

The San Diego Association of Governments (SANDAG) has adopted the Shoreline Preservation Strategy for the San Diego region and is currently working on techniques toward its implementation. The Strategy considers a full range of shoreline management tactics, but emphasizes beach replenishment to preserve and enhance the environmental quality, recreational capacity, and property protection benefits of the region's shoreline. Funding from a variety of sources will be required to implement the beach replenishment and maintenance programs identified in the SANDAG Strategy. In this particular case,

SANDAG has agreed to administer a program that would identify projects that may be appropriate for support from the beach sand replenishment fund, through input from the Shoreline Erosion Committee, which is made up of representatives from all the coastal jurisdictions in San Diego County. The Shoreline Erosion Committee is currently monitoring several large-scale projects, both in and out of the coastal zone, they term "opportunistic sand projects," that will generate large quantities of beach quality material suitable for replenishing the region's beaches. The purpose of the account is to aid in the restoration of the beaches within San Diego County. One means to do this would be to provide funds necessary to get such "opportunistic" sources of sand to the shoreline.

Special Condition #3 requires the applicant to pay a fee in-lieu of directly depositing the sand on the beach, because the benefit/cost ratio of depositing sand directly in front of these properties would be too low. Many of the adverse effects of the seawall on sand supply will occur gradually. In addition, the adverse effects impact the entire littoral cell but to different degrees in different locations throughout the cell (based upon wave action, submarine canyons, etc.) Therefore, mitigation of the adverse effects on sand supply is most effective if it is part of a larger project that can take advantage of the economies of scale and result in quantities of sand at appropriate locations in the affected littoral cell in which it is located. The funds will be used only to implement projects that benefit the area where the fee was derived, and provide sand to the region's beaches, not to fund operations, maintenance or planning studies. Such a fund will aid in the long-term goal of increasing the sand supply and thereby reduce the need for additional armoring of the shoreline in the future. The fund also will insure available sandy beach for recreational uses. The methodology, as proposed, ensures that the fee is roughly proportional to the impacts to sand supply attributable to the proposed revetment. The methodology provides a means to quantify the sand and beach area that would be available for public use, were it not for the presence of the revetment.

Given the impacts to public access and recreation associated with placing rock on the public beach, the Commission finds that no further seaward encroachment of the revetment can be permitted. Should additional revetment work be proposed in the future, it must be found there is adequate area landward of it to accommodate such work. There would be approximately 15-20 feet between the inland extent of the revetment and the residences which could be used as additional area to accommodate expansion of the revetment were it necessary in the future. Thus, there is adequate area inland of the existing revetment to accommodate any future revetment maintenance.

The Commission is interested in establishing the seaward extent of shoreline protective devices in this area to preserve public access. Special Condition #1 requires that the stray revetment stones be relocated as described above, and that the surveyed toe of the revetment be shown on a final site plan to establish the seaward extent of the permitted revetment. The survey must document the buried toe of the revetment relative to a fixed reference point such as a surveyed property line or street monument. It must be drawn on a beach profile with cross-section that shows the configuration of the existing rock in relation to the current level of beach sand to determine the elevation of visible rock and

the toe of buried rock. Special Condition #1 requires the submittal of final project plans approved by the City.

Special Condition #2 requires a long-term monitoring plan to monitor and record the changes in beach profile fronting the site and to identify damage/changes to the revetment such that repair and maintenance is completed in a timely manner to avoid further encroachment of the revetment on the beach. This condition will assure revetment maintenance will occur in a timely and orderly way and without adverse impacts to public access.

To reduce the project's impacts on coastal access and limit the disruption of the recreational uses, Special Condition #4 requires the applicant to submit detailed plans identifying the specific location of staging and storage areas. Work is prohibited between Memorial Day weekend and Labor Day of any year.

Special Condition #8 provides that the permittee is responsible for removing any stones or materials that become dislodged or any portion of the revetment that is determined to extend beyond the approved toe. The permittee must first contact the Coastal Commission district office to determine if a coastal development permit amendment is necessary. If the survey indicates that rocks have fallen from the revetment seaward of its toe, then the rocks must be replaced in a location that is landward of the toe.

Although the wave uprush study finds the existing revetment would protect the proposed project, there is still a possibility of damage from wave uprush, storm surge and high tides particularly in the future as sea level continues to rise. Therefore, Special Condition #8 requires the applicant to acknowledge that the site is subject to hazards based on its location on the coast and that the applicant assumes the risk of developing the property. Special Condition #5 requires the applicants to record the permit conditions either as generic deed restrictions or as amendments to the condominiums' CC&Rs in order to cause the title to the property to reflect the obligations of the subject permit conditions. Special Condition #9 states that the conditions placed on the project by the City of Imperial Beach pursuant to an authority other than the Coastal Act remain in full force and effect. Special Condition #10 requires the applicant to submit any other discretionary permit required.

In summary, the proposed repairs would occur to an existing, partially unpermitted revetment which would be fully authorized through this action. The project would relocate existing riprap that has migrated out onto the beach, tightening up the deteriorated revetment, and reducing encroachment on the beach. Mitigation in the form of an in-lieu fee will compensate for the loss of sand to the littoral cell resulting from the revetment. Special conditions make it clear than any future maintenance must be on the landward side of the revetment and in no case shall the revetment be permitted to extend beyond the surveyed toe approved herein. Therefore, as conditioned, the Commission finds the project consistent with the City of Imperial Beach Local Coastal Program and the public access and recreation policies of the Coastal Act.

3. Unpermitted Development. Development has occurred on the subject site consisting of placement of rock without the required coastal development permits. To ensure that the unpermitted development component of this application is resolved in a timely manner, Special Condition #11 requires that the applicant satisfy all conditions of this permit that are prerequisite to the issuance of this permit within 90 days of Commission action unless additional time is granted by the Executive Director for good cause.

Although development has taken place prior to the submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to any alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit.

4. Local Coastal Planning. The beach is zoned and designated for open space use in the certified Imperial Beach Land Use Plan. The certified Imperial Beach LCP contains policies that address shoreline protective devices, the importance of recreational land, and protection and improvement of visual access to the shoreline. As described above, the repairs will bring the existing revetment into conformance with the revetment as previously approved by the City. Special Condition #5 advises the applicant that the conditions of the subject coastal development permit are in addition to the conditions required by the City of Imperial Beach and does not have any effect on conditions imposed by the City of Imperial Beach for the subject development. As conditioned, the proposed development is consistent with the public access policies of the Coastal Act and the certified LUP. Therefore, the proposed development, as conditioned, will not prejudice the ability of the City of Imperial Beach to continue to implement its fully certified LCP.

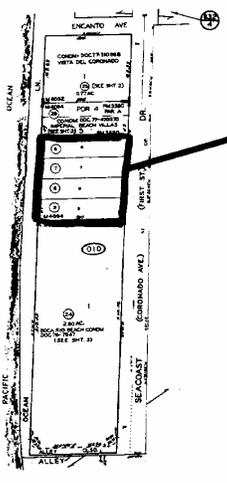
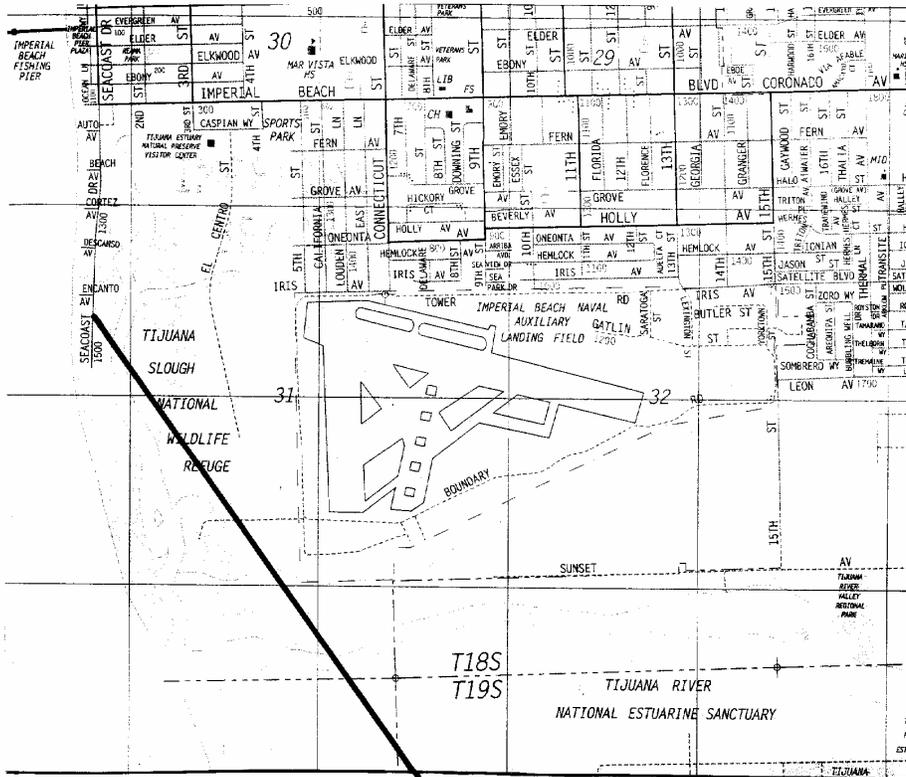
5. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of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

The proposed project has been conditioned in order to be found consistent with the shoreline protection policies of the City of Imperial Beach certified LCP and the public access and recreation policies of the Coastal Act and the City LCP. Mitigation measures, including conditions requiring a mitigation fee and annual monitoring and maintenance of the revetment, will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least

environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

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



SITE

EXHIBIT NO. 1
APPLICATION NO.
A-6-IMB-06-108
Location Map

