

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

Th3a



ADMINISTRATIVE PERMIT NUMBER 3-07-058

Applicant.....**Charles and Jacque Kessinger**

Project location.....2-2798 East Cliff Drive and adjacent back-beach area located between East Cliff Drive and the Monterey Bay at 26th Avenue Beach fronting Moran Lake in the unincorporated Live Oak area of Santa Cruz County (APNs 028-481-03 and 028-481-04) (see location map in Exhibit A and site area photos in Exhibit B).

Project description...Remove rock riprap and other development placed without benefit of a coastal development permit and restore beach and road areas; extend existing permitted revetment inland and adjacent to East Cliff Drive; perform future revetment repair and maintenance; remove invasive non-native vegetation inland of the revetment and replace it with native species in a planting strip and/or planter box (for the purpose of screening the revetment from public view); and place a 4-foot high see-through fence inland of the revetment (see project description and project plans in Exhibit C).

File documents.....Santa Cruz County certified Local Coastal Program (LCP); California Coastal Commission Monterey Bay ReCAP; California Coastal Commission coastal development permit (CDP) and emergency CDP files 3-81-063 (Formico and Poco), 3-83-051-G (Formico), 3-97-002-G (Formico), 3-97-005-DM (Williams), 3-02-033 (Williams), 3-03-001-G (Williams), 3-03-024 (Williams), 3-03-035 (Williams); Santa Cruz County CDP file 00-0189 (Williams).

NOTE: Public Resources Code Section 30624 provides that this administrative coastal development permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs. This permit will be reported to the Commission at the following time and place:

December 13, 2007, 9 AM
San Francisco City Hall, Legislative Chamber Room 250
1 Dr. Carlton B. Goodlett Place
San Francisco, CA

IMPORTANT: Before you may proceed with development, the following must occur: You must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office (Title 14, California Code of Regulations, Sections 13150(b) and 13158). Following the Commission's meeting, and once we have received the signed acknowledgment and evidence of compliance with all special conditions, if applicable, we will send you a Notice of Administrative Permit Effectiveness. **Before you can proceed with development, you must have received both your administrative permit and the notice of permit effectiveness from this office.**

PETER DOUGLAS

Executive Director

By: DAN CARL

Central Coast District Manager

EXECUTIVE DIRECTOR’S DETERMINATION: THE FINDINGS FOR THIS DETERMINATION, AND FOR ANY SPECIAL CONDITIONS, APPEAR BELOW.

ADMINISTRATIVE PERMIT CONTENTS

I. Standard Conditions.....	2
II. Special Conditions	3
III. Executive Director’s Determination	11
IV. Findings for Executive Director’s Determination.....	11
V. Acknowledgment of Permit Receipt/Acceptance of Contents.....	14
VI. Exhibits	
Exhibit A: Location Maps	
Exhibit B: Project Area Photos	
Exhibit C: Project Description and Project Plans	

I. 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.

II. SPECIAL CONDITIONS

- 1. Approved Project.** Subject to these standard and special conditions, the approved project is to remove rock and other development placed without benefit of a coastal development permit; to restore beach and road areas from which the unpermitted development is being removed; to extend a portion of the permitted revetment inland and adjacent to East Cliff Drive; to perform revetment repair and maintenance in the future subject to certain parameters described in these special conditions below; to remove invasive non-native vegetation inland of the revetment and replace it with native species in a planting strip and/or planter box for the purpose of screening the revetment from public view; and to place a 4-foot high see-through fence which is visually unobtrusive and/or vegetation inland of the revetment and planting strip/box with a gate near the steps and a gate near the parking area as described in and shown on the plans titled Revetment Relocation by Haro, Kasunich & Associates (with sheets 1, 2, and 4 dated November 6, 2007 and dated received in the Commission's Central Coast District Office November 9, 2007, and sheet 3 dated November 20, 2007 and dated received November 21, 2007; see Exhibit C) ("Project Plans").
- 2. Drainage.** All drainage from the residence and parking slab shall be directed inland to East Cliff Drive. Drainage pipes are prohibited in, under, over, or through the revetment.
- 3. Fencing.** This coastal development permit allows for the construction/installation of unobtrusive fencing along the East Cliff Drive frontage in the area between the planter box and the southeastern property line of the residential parcel and seaward of the roadway easement line provided that: (a) all such fencing shall be as unobtrusive as possible, and shall be designed to minimize public viewshed impacts to the maximum extent possible; and (b) prior to construction/installation of such fencing, the Applicant shall submit fencing plans clearly identifying all such fencing to the Executive Director for review and approval.
- 4. Construction Plan.** PRIOR TO COMMENCEMENT OF CONSTRUCTION the Applicant shall submit two sets of a Construction Plan to the Executive Director for review and approval. The Construction Plan shall, at a minimum, include the following:

 - (a) Construction Areas.** The Construction Plan shall identify the specific location of all construction areas, all staging areas, all storage areas, all construction access corridors (to the construction site and staging areas), and all public pedestrian access corridors. All such areas within which construction activities and/or staging are to take place shall be minimized to the maximum extent feasible in order to minimize construction encroachment on the beach, East Cliff Drive, and all beach access points, and to have the least impact on public access.
 - (b) Construction Methods and Timing.** The Construction Plan shall specify the construction methods to be used, including all methods to be used to keep the construction areas separated from public recreational use areas (including using the space available on the Applicant's property inland of the revetment for staging, storage, and construction activities to the maximum

extent feasible, and including using unobtrusive fencing (or equivalent measures) to delineate construction areas). All erosion control/water quality best management practices to be implemented during construction and their location shall be noted.

(c) Property Owner Consent. The Construction Plan shall be submitted with evidence indicating that the owners of any properties on which construction activities are to take place, including properties to be crossed in accessing the site, consent to such use of their properties. Such consent may be in the form of an easement or encroachment permit.

(d) Construction Requirements. The Construction Plan shall include the following construction requirements specified by written notes on the Construction Plan. Minor adjustments to the following construction requirements may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources.

- All work shall take place during daylight hours and lighting of the beach area is prohibited.
- Construction work or equipment operations shall not be conducted below the mean high water line unless tidal waters have receded from the authorized work areas.
- Grading of intertidal areas is prohibited with one exception as follows: existing rock that has migrated seaward of the revetment, that is naturally exposed, and that can be retrieved without substantial excavation of the surrounding sediments, shall be retrieved and reused or removed to an appropriate disposal site offsite. Any existing rock retrieved in this manner shall be recovered by excavation equipment positioned landward of the waterline (i.e., excavator equipment with mechanical extension arms).
- Only rubber-tired construction vehicles are allowed on the beach, except track vehicles may be used if the Executive Director agrees that they are required to safely carry out construction. When transiting on the beach, all such vehicles shall remain as high on the upper beach as possible and avoid contact with ocean waters and intertidal areas.
- All construction materials and equipment placed on the beach during daylight construction hours shall be stored beyond the reach of tidal waters. All construction materials and equipment shall be removed in their entirety from the beach area by the time work ceases on each day of construction and in no case later than by sunset each day that work occurs. The only exceptions shall be for erosion and sediment controls and/or construction area boundary fencing where such controls and/or fencing are placed as close to the toe of the revetment as possible, and are minimized in their extent and for sand and rock materials which are being relocated.
- Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside of the defined construction, staging, and storage areas.
- No work shall occur on the beach during weekends and/or the summer peak months (i.e., from the Saturday of Memorial Day weekend through Labor Day, inclusive) unless, due to

extenuating circumstances (such as tidal issues or other environmental concerns), the Executive Director authorizes such work.

- Equipment washing, refueling, and/or servicing shall not take place on the beach and such activities shall take place only on designated non-spill areas specified on the Construction Plan.
- The construction site shall maintain good construction site housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the beach; etc.).
- All erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each workday. At a minimum, silt fences, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from entering into the Pacific Ocean.
- All beach areas and all beach access points impacted by construction activities shall be restored to their pre-construction condition or better within three days of completion of construction. Any beach sand impacted shall be filtered as necessary to remove all construction debris from the beach.
- The Applicant shall notify planning staff of the Coastal Commission's Central Coast District Office at least 3 working days in advance of commencement of construction, and immediately upon completion of construction.

All requirements above and all requirements of the approved Construction Plan shall be enforceable components of this coastal development permit. The Applicant shall undertake development in accordance with the approved Construction Plan. Any proposed changes to the Construction Plan shall be reported to the Executive Director. No changes to the approved Construction Plan shall occur without a Commission amendment to this permit unless the Executive Director determines that no amendment is necessary.

5. MBNMS Review. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Applicant shall submit to the Executive Director written evidence that all necessary permits, permissions, approvals, and/or authorizations for the approved project have been granted by the Monterey Bay National Marine Sanctuary. Any changes to the approved project required by the Sanctuary shall be reported to the Executive Director. No changes to the approved project shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

6. Construction Site Documents & Construction Coordinator. DURING ALL CONSTRUCTION:

(a) Construction Site Documents. Copies of the signed coastal development permit and the approved Construction Plan shall be maintained in a conspicuous location at the construction job site at all times, and such copies shall be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the coastal

development permit and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.

(b) Construction Coordinator. A construction coordinator shall be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and their contact information (i.e., address, phone numbers, etc.) including, at a minimum, a telephone number that will be made available 24 hours a day for the duration of construction, shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the name, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.

7. Development Completion. BY OCTOBER 31, 2008, all revetment and related physical development for the relocated revetment (excluding the slumping revetment on the southwestern portion of the site) shall be constructed/completed. Completion shall be verified and confirmed by the Executive Director.

8. As-Built Plans. WITHIN THREE MONTHS OF COMPLETION OF REVETMENT CONSTRUCTION, the Applicant shall submit two sets of As-Built Plans to the Executive Director for review and approval. The plans shall clearly identify the as-built revetment and all related development, including residential development, in site plan and cross section views substantially in conformance with the Project Plans as augmented by the following:

(a) Revetment. The portion of the As-Built Plans covering the revetment shall be prepared by a licensed civil engineer or engineering geologist with experience in coastal structures and processes, and shall include all of the following as enforceable plan notes in relation to future monitoring and maintenance: (i) all revetment maintenance parameters identified under "Future Monitoring and Maintenance" below; (ii) all construction plan requirements identified under "Construction Plan" above; and (iii) all construction site document and coordinator requirements identified under "Construction Site Documents & Construction Coordinator" above.

(b) Benchmark. The As-Built Plans shall identify at least one immovable surveyed benchmark location, including its elevation, for use in future monitoring efforts.

(c) Photographs. The As-Built Plans shall include clear color photographs of the as-built revetment and all related development with the date and time of the photographs and the location of each photographic viewpoint noted on a site plan. At a minimum, the site shall be photographed from a sufficient number of viewpoints as to provide complete photographic coverage of the revetment and all related development at a scale that allows comparisons to be made with the naked eye between photographs taken in different years from the same vantage points, including at a minimum from the following locations: upcoast, seaward, and downcoast beach viewpoints; representative locations along East Cliff Drive; the beach edge of the culvert under East Cliff Drive; the Moran Lake path where it intersects the culvert; and the beach access point to the

north of the site across from the Moran Lake County Park parking lot entrance. All photographs shall be accompanied by electronic versions of the photographs in jpg format.

(d) **NGVD.** All elevations shall be described in relation to National Geodetic Vertical Datum (NGVD).

9. **Residential Parcel: Restrictions.** The Applicant acknowledges and agrees, on behalf of itself and all successors and assigns that:

(a) **East Cliff Drive Road Easement.** Residential development shall be prohibited within the East Cliff Drive road easement area (i.e., the area on that portion of the site which Applicant has indicated is to be slightly reconfigured by a lot line adjustment or similar process, currently known as APN 028-481-04 (“Residential Parcel”), that is located within 17.5 feet of said parcel’s northeastern property line). All access from East Cliff Drive to the Residential Parcel shall be configured in such a way as to avoid negative impacts to public use and enjoyment of East Cliff Drive and the road easement area to the extent feasible, including but not limited to configuring vehicular ingress, egress, and parking in such a way as to avoid conflicts with public road use and to avoid public viewshed impacts. Nothing herein shall prevent the use of the designated driveway or the parking of vehicles in the parking space slabs adjacent to the residence or under the deck adjacent to the residence, and on public streets where public parking is otherwise allowed. The designated driveway and parking areas are shown on the Project Plans. The mailbox shall be relocated as shown on the Project Plans.

(b) **Revetment Limits.** The revetment authorized by this coastal development permit is that revetment noted and labeled “Northern Revetment” and “East Cliff Drive Revetment” on the Project Plans and on the approved As-Built Plans except with respect to the southern portion of the revetment (the portion that is not being relocated as part of this current application). The southern portion of the revetment has slumped over and its toe has migrated to the west, as shown and labeled “Southern Revetment” on the Project Plans. This portion of the revetment was previously authorized by coastal development permit number 3-81-063, and its toe is only approved as far west as the current western property line of current APNs 028-481-03 and 028-481-04 as shown on the Project Plans. For the Southern Revetment, the approved configuration of the revetment is understood to be the previously approved 1.5:1 sloped revetment extending inland (to the east) from a toe no further west than the current western property lines, and no higher than +15 NGVD. Although minor rock retrieval and restacking is allowed within the current (slumped configuration) under this permit, any major repair of the southern portion of the revetment (i.e., repair work that involves 50% or more of the rock in this area) shall be required to reconfigure the revetment in this area to its approved configuration (where its approved configuration can be shifted further inland if the Applicant so desires).

(c) **Revetment Screening.** The upper one-third of the revetment (i.e., extending from roughly five vertical feet nearest East Cliff Drive to roughly ten vertical feet nearest the Monterey Bay) shall be, as reasonably feasible, completely screened from the view from the beach with non-invasive native vegetation (i.e., native to the Moran Lake bluff area) after January 1, 2010 (to allow time for initial growth following permit approval). All native plantings shall be maintained in good growing conditions and shall be replaced as necessary to maintain the required screen over the life of the revetment.

- (d) Maintenance Required.** It is the Applicant's responsibility: (i) to maintain the approved revetment and required vegetation screening in a structurally sound manner and their approved state; (ii) to retrieve rocks that move seaward of the revetment and either restack them (within the approved revetment footprint and profile) or dispose of them at a suitable inland disposal location as soon as is feasible after discovery of the rock movement; and (iii) to remove all debris that may fall from the area seaward of the residence and accumulate in or on the revetment or seaward of it.
- (e) Rodents.** If at any time evidence indicates that rodents are living in the voids within the revetment, then the Applicant shall take reasonable action to eliminate such rodent colonization consistent with generally accepted professional pest control methods that also ensure the health and safety of the public.
- (f) No Further Seaward Encroachment.** Any future development, as defined in Section 30106 ("Development") of the Coastal Act, on the Residential Parcel, including but not limited to modifications to the revetment, shall be constructed inland of, and shall be prohibited seaward of, the western (including southwestern, western, and northwestern) sloped face of the revetment with the following development excepted from this prohibition: (i) appropriately permitted construction activities associated with construction, maintenance, or repair of the revetment, drainage system, and/or landscaping approved by coastal development permit; and (ii) standard beach maintenance activities. The western face of the revetment is defined by the revetment footprint and profile as shown on the approved As-Built Plans.
- (g) Future Rip-Rap Removal.** If the revetment or portions of it are removed from the Residential Parcel and replaced by other shoreline armoring (e.g., a vertical seawall), then the area on the Residential Parcel that is on the seaward side of such replacement armoring, if there is any such area, shall be granted in fee title (or offered to grant in fee title) to a political subdivision, public agency or private association approved by the Executive Director within three months of completion of the replacement armoring project.
- (h) Future Shoreline Planning.** There may be future shoreline armoring planning efforts that involve the revetment as shown on the approved As-Built Plans. Such planning efforts may involve consideration of a shoreline armoring management entity meant to cover the larger shoreline that includes the revetment, and may involve consideration of potential modifications and/or programs designed to reduce public viewshed and beach access impacts due to shoreline armoring. The Applicant agrees to participate in such planning efforts. Agreeing to participate in no way binds the Applicant (nor any successors and assigns) to any particular outcome neither of such planning efforts nor to any financial commitment; and in no way limits his/her ability to express his/her viewpoint during the course of such planning efforts.
- (i) Public Rights.** The issuance of this coastal development permit shall not constitute a waiver of any public rights which may exist on the subject property. The Applicant shall not use such permit as evidence of a waiver of any public rights that may exist on the property.
- (j) Assumption of Risk, Waiver of Liability and Indemnity Agreement.** The Applicant acknowledges and agrees, on behalf of itself and all successors and assigns: (i) that the site is subject to extreme coastal hazards including but not limited to episodic and long-term shoreline

retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, and coastal 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; (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; and (v) that any adverse effects to property caused by the permitted project shall be fully the responsibility of the landowner.

Future Monitoring and Maintenance

10. Monitoring and Reporting. The Applicant shall ensure that the condition and performance of the approved as-built revetment is regularly monitored by a licensed civil engineer with experience in coastal structures and processes. Such monitoring evaluation shall at a minimum address whether any significant weathering or damage has occurred that would adversely impact future performance, and identify any structural damage requiring repair to maintain the approved as-built revetment profile. Monitoring reports prepared by a licensed civil engineer with experience in coastal structures and processes, and covering the above-described evaluations, shall be submitted to the Executive Director for review and approval at five year intervals by May 1st of each fifth year (with the first report due May 1, 2013, and subsequent reports due May 1, 2018, May 1, 2023, and so on) for as long as the revetment exists at this location. The reports shall identify the existing configuration and condition of the revetment, drainage system, and required landscape screening, recommend actions necessary to maintain these project elements in their approved and/or required state, and include photographs taken from each of the same vantage points required in the As-Built Plans with the date and time of the photographs and the location of each photographic viewpoint noted on a site plan.

11. Future Revetment Maintenance Authorized. This coastal development permit authorizes future revetment maintenance subject to the following:

- (a) Maintenance.** "Maintenance," as it is understood in this special condition, means development that would otherwise require a coastal development permit whose purpose is: (1) to reestablish or place rock within the permitted footprint and/or profile of the revetment structure as shown on the approved As-Built Plans; (2) to reestablish the permitted drainage, vegetation, and/or irrigation elements inland of the revetment; (3) to retrieve any rocks that move seaward of the revetment footprint and/or profile; and/or (4) to remove all debris that may fall from the area seaward of the residence and accumulate in or on the revetment or seaward of it.
- (b) Other Agency Approvals.** The Applicant acknowledges that these maintenance stipulations do not obviate the need to obtain permits from other agencies for any future maintenance and/or repair episodes.
- (c) Maintenance Notification.** At least two weeks prior to commencing any maintenance event, the Applicant shall notify, in writing, planning staff of the Coastal Commission's Central Coast District Office. The notification shall include: a detailed description of the maintenance event proposed; any plans, engineering and/or geology reports describing the event; a construction plan

that complies with all aspects of the Construction Plan described above; identification of a construction coordinator and their contact information (i.e., address, phone numbers, etc.) as described above; other agency authorizations; and any other supporting documentation (as necessary) describing the maintenance event. The maintenance event shall not commence until the Applicant has been informed by planning staff of the Coastal Commission's Central Coast District Office that the maintenance event complies with this coastal development permit. If the Applicant has not received a response within 30 days of submitting the notification, the maintenance event shall be authorized as if planning staff affirmatively indicated that the event complies with this coastal development permit. The notification shall clearly indicate that the maintenance event is proposed pursuant to this coastal development permit, and that the lack of a response to the notification within 30 days constitutes approval of it as specified in the permit. In the event of an emergency requiring immediate maintenance, the notification of such emergency episode shall be made as soon as possible, and shall (in addition to the foregoing information) clearly describe the nature of the emergency.

- (d) Maintenance Coordination.** Maintenance events shall, to the degree feasible, be coordinated with other maintenance events proposed in the immediate vicinity with the goal being to limit coastal resource impacts, including the length of time that construction occurs in and around the beach area and beach access points. As such, the Applicant shall make reasonable efforts to coordinate the Applicant's maintenance events with other adjacent events, including adjusting maintenance event scheduling as directed by planning staff of the Coastal Commission's Central Coast District Office.
- (e) Construction Site Documents and Construction Coordinator.** All requirements set forth above under "Construction Site Documents & Construction Coordinator" shall apply to any maintenance event.
- (f) Restoration.** The Applicant shall restore all beach areas and all beach access points impacted by construction activities to their pre-construction condition or better. Any beach sand impacted shall be filtered as necessary to remove all construction debris from the beach within three days of completion of construction. The Applicant shall notify planning staff of the Coastal Commission's Central Coast District Office upon completion of beach-area restoration activities to arrange for a site visit to verify that all beach-area restoration activities are complete. If planning staff should identify additional reasonable measures necessary to restore the beach and beach access points, such measures shall be implemented as quickly as reasonably possible.
- (g) Non-compliance Proviso.** If the Applicant is not in compliance with the terms and conditions of any Coastal Commission coastal development permits or other coastal authorizations that apply to the subject property at the time that a maintenance event is proposed, then the maintenance event that might otherwise be allowed by the terms of this future maintenance condition shall not be allowed by this condition until the Applicant is in full compliance with those terms and conditions.
- (h) Emergency.** In addition to the emergency provisions set forth in subsection (c) above, nothing in this condition shall serve to waive any Applicant rights that may exist in cases of emergency pursuant to Coastal Act Section 30611, Coastal Act Section 30624, and Subchapter 4 of Chapter

5 of Title 14, Division 5.5, of the California Code of Regulations (Permits for Approval of Emergency Work).

- (i) **Duration of Covered Maintenance.** Future revetment maintenance under this coastal development permit is allowed subject to the above terms until December 31, 2017. Maintenance can be carried out beyond December 31, 2017 if the Applicant requests an extension prior to December 31, 2017 and the Executive Director extends the maintenance term in writing. The intent of this permit is to regularly allow for 10-year extensions of the maintenance term unless there are changed circumstances that may affect the consistency of this revetment maintenance authorization with the policies of Chapter 3 of the Coastal Act and thus warrant a re-review of this permit.

12. Deed Restriction. WITHIN TEN (10) DAYS AFTER THE DATE THAT THIS PERMIT BECOMES EFFECTIVE, the Applicant shall submit to the Executive Director for review and approval documentation demonstrating that the Applicant has executed and recorded against the subject property governed by this permit a deed restriction, 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 Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of that property. The deed restriction shall include a legal description of the entire property governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction 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 this permit authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

III. EXECUTIVE DIRECTOR'S DETERMINATION

The Executive Director hereby determines that the proposed development is a category of development that qualifies for approval by the Executive Director through the issuance of an administrative permit (Public Resources Code Section 30624). Subject to Standard and Special Conditions as attached, said development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

IV. FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION

1. Project Location

The proposed development is located on the seaward side of East Cliff Drive fronting on the main portion of 26th Avenue Beach (also known as Moran Lake Beach) in the Live Oak area of unincorporated Santa Cruz County (see location maps and project area photos in Exhibits A and B). Moran Lake County Park is just inland of East Cliff Drive from the project site, and the Park supports beach and ocean use with a public parking lot, restrooms, showers, picnic tables, and other public access amenities. The site is developed with a two-story single-family residence (on APN 028-481-04) and is

mostly fronted by rip rap (straddling APNs 028-481-03 and 028-481-04). The beach area here is extremely popular,¹ and is a prime bodysurfing, skimboarding and surfing destination² that extends from Corcoran Lagoon upcoast to the outcroppings of Soquel Point (better known as “Pleasure Point”) about 200 yards downcoast of the project site. Offshore is the Monterey Bay National Marine Sanctuary – the largest of the twelve such federally protected marine sanctuaries in the nation.

2. Project Background

In 2003, the former owner of the subject site proposed a second single-family residence at the site, where that residence would have been located seaward and upcoast of the existing residence and sited in an area of beach and rip-rap on APN 028-481-03 (CDP application 3-03-035, E.J. Williams). That previously proposed project raised significant questions of consistency with the Coastal Act (including coastal hazard, viewshed, public access, and habitat issues), and in 2004 the then applicant withdrew his application after the staff report and recommendation for denial was distributed for hearing. Staff had also identified Coastal Act violations³ and potential prescriptive rights on the property.⁴ The current property owners purchased the site in late 2006 with full knowledge of the underlying site issues.⁵ Ultimately, the current owners proposed a project that would resolve the Coastal Act violation issues (by removing unpermitted development, relocating rock inland adjacent to the existing residence, and restoring disturbed areas), and that would ensure that there would not be a second residence at this location, but rather the subject area would be restored to beach sand and given (fee-title) to the County. In sum, the currently proposed project resolves long-standing Coastal Act issues in a manner that ensures public access and the public viewshed enhancement for the public beach/park/road area within which the site is prominently located.

3. Project Description

The proposed project would result in removal of rock and other development historically placed without benefit of a coastal development permit (i.e., rock on the beach, and fence/related development along East Cliff Drive); restoration of beach and road areas from which said unpermitted development would

¹ Historic County analyses estimated average daily use of this beach at 848 persons, showing it to be the second highest beach use area in Live Oak after Twin Lakes State Beach located upcoast near the Santa Cruz Harbor (Technical Appendix; Live Oak General Plan; Planning Analysis and EIR, October 1977). Background LCP reports completed in 1980 estimated annual visitor counts for this beach segment at 195,393 (1980 Public Access Working Paper for the County LCP). Given the doubling of the County’s population since 1970, and the increase in recreational use associated with that and population increases in surrounding areas, and the development of a parking area, restrooms, showers, and other park amenities just inland at Moran Lake County Park in the time since these surveys, these historic figures likely underestimate the current level of use at this location.

² Along with Aliso and Tenth Street Beaches in Laguna Beach, and the Wedge in Newport Beach, 26th Avenue/Moran Lake Beach is known as one of the best skimboarding and bodysurfing locations in California. Professional and amateur contests are often held here, and recreational users pack the nearshore area at the project site. It is also home to a well-known surfing break that provides a high energy, if somewhat abrupt, rolling beach break known for its Pipeline-esque (but smaller scale) barrels often delivering surfers right to the sandy shore (“26th Avenue”), as well as the break known as “Little Wind-n-Sea” just downcoast where rolling waves form off of the first outcroppings of Soquel Point (better known as “Pleasure Point”).

³ Including an area of unpermitted rock nearest East Cliff Drive (where the second residence was proposed), and a pole and metal-cable fence along East Cliff Drive in a County road easement area.

⁴ Including evidence from a Coastal Commission prescriptive rights investigation that indicated that a portion of the subject site (primarily the road, beach, and rip-rap area on the northern portion of the site on APN 028-481-03) had been used as if it were public for a variety of recreational access pursuits continuously and regularly since at least 1961.

⁵ The current property owners met with Commission staff prior to their purchase of the site and were informed regarding all site issues, including the ongoing negotiations to resolve such issues, and the potential resolution project then being considered.

be removed; extension of a small portion of the permitted revetment inland and adjacent to East Cliff Drive; revetment repair and maintenance in the future (subject to specific parameters); removal of invasive non-native vegetation inland of the revetment (e.g., iceplant) and replacement with native landscaping capable of screening it from public view; and placement of a 4-foot high see-through fence (e.g., cable rail, etc.). The proposed project also shows an adjustment of the lot lines between the two APNs as part of a transfer of ownership of the beach/road parcel to the County (to be deeded to the County by December 31, 2007). See project description and project plans in Exhibit C.

4. Coastal Act Consistency

The main issues raised by this application are consistency with the shoreline hazards, viewshed/character, public access, and recreation policies of the Coastal Act (Sections 30210-30224, 30235, 30240,⁶ and 30250-30253). The site is dynamic, founded on fill and beach sand at the ocean interface. It is also in and adjacent to a significant public beach, park, and road viewshed and access destination.⁷ East Cliff Drive (and utilities in East Cliff Drive) and the existing residence are existing structures in danger from erosion and thus are eligible for armoring under the Coastal Act. Responding to the hazard danger at this location must also take into account the special beach location so that public views and public recreational access are not adversely impacted. The Applicants proposed project strikes an appropriate balance that provides the Applicant a reconfigured revetment that is moved away from the beach and as close to East Cliff Drive and the residence as possible (where it is in line with the upper floor deck), and that restores beach and road areas for public recreational use and enjoyment, including giving the reconfigured upcoast property to the County for such purposes.⁸ Related landscaping (removal of invasives/non-natives and planting with natives), development parameters (for maintenance, screening, development prohibition areas,⁹ etc.), and construction requirements are also included in the proposed project and further ensure that development at this site will protect coastal resources consistent with the Coastal Act.

As conditioned,¹⁰ the approved project results in public access and viewshed enhancement, including by virtue of land being given to the County for this purpose, it resolves long-standing Coastal Act issues and violations at this important shoreline site, and it is consistent with the Coastal Act for these reasons.

⁶ For development adjacent to parks and recreation areas, such as Moran Lake County Park and the sandy beach.

⁷ See CDP application 3-03-035 for more information.

⁸ The County is independently pursuing a project designed to enhance Moran Lake County Park (including improved trails, parking, drainage, habitat enhancements, etc.). The land being given to the County is inextricably connected to County land on the seaward side of East Cliff Drive just upcoast of the subject site. This area is located atop the box culvert (connecting Moran Lake to the beach side of East Cliff Drive) and it is currently used as a de facto gathering location above the beach as it provides an excellent location for viewing the beach and ocean environs. The County's future Park enhancement project may include connections from the inland trail system to this area on the seaward side of the road, and may include some improvement/enhancement of this area for such use (e.g., benches, landscaping, etc.). The donated property should help facilitate enhancements on the seaward side of East Cliff Drive.

⁹ Including ensuring that residential development is not placed in the East Cliff Drive road easement area (and ensuring that residential development otherwise does not adversely impact public use and enjoyment of East Cliff Drive and the easement area), and ensuring that there is no future seaward expansion on the residential parcel past the revetment.

¹⁰ The proposed project description has been submitted in a format that is similar to Coastal Commission special conditions for projects like this one. In other words, the project as proposed includes special condition-type requirements that are necessary for finding it consistent with the Coastal Act. In order to ensure that this project description is fully implemented, and that its parameters are clearly understood as being required terms and conditions for finding this project consistent with the Coastal Act and approving this CDP, special conditions are attached that mimic the project description language.

5. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of 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 Coastal Commission’s review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. The preceding administrative coastal development permit findings discuss the relevant coastal resource issues with the proposal, and the permit conditions identify appropriate modifications to avoid and/or lessen any potential for adverse impacts to said resources. All public comments received to date have been addressed in the findings above, which are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives nor feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the proposed project, as conditioned, would have on the environment within the meaning of CEQA. Thus, if so conditioned, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

V. ACKNOWLEDGMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS

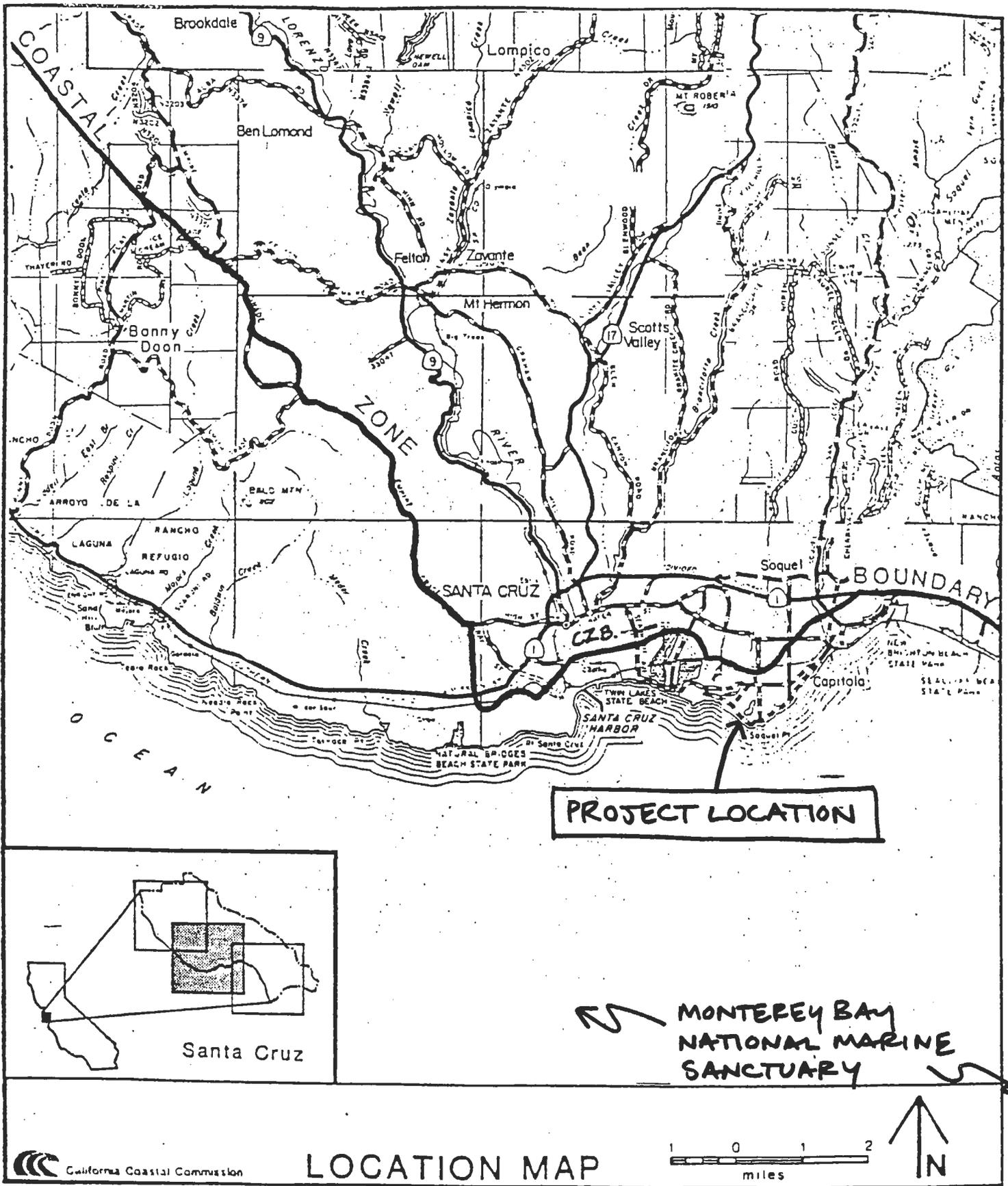
I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Signature of Applicant (Charles L. Kessinger, Jr.)

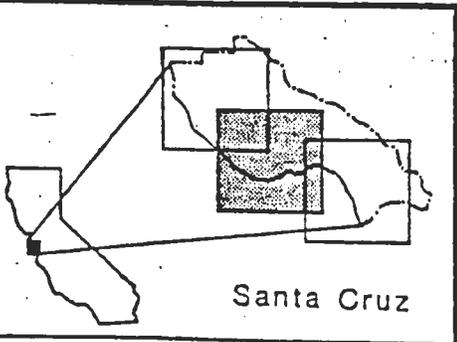
Date of signing

Signature of Applicant (Jacque L. Kessinger)

Date of signing



PROJECT LOCATION



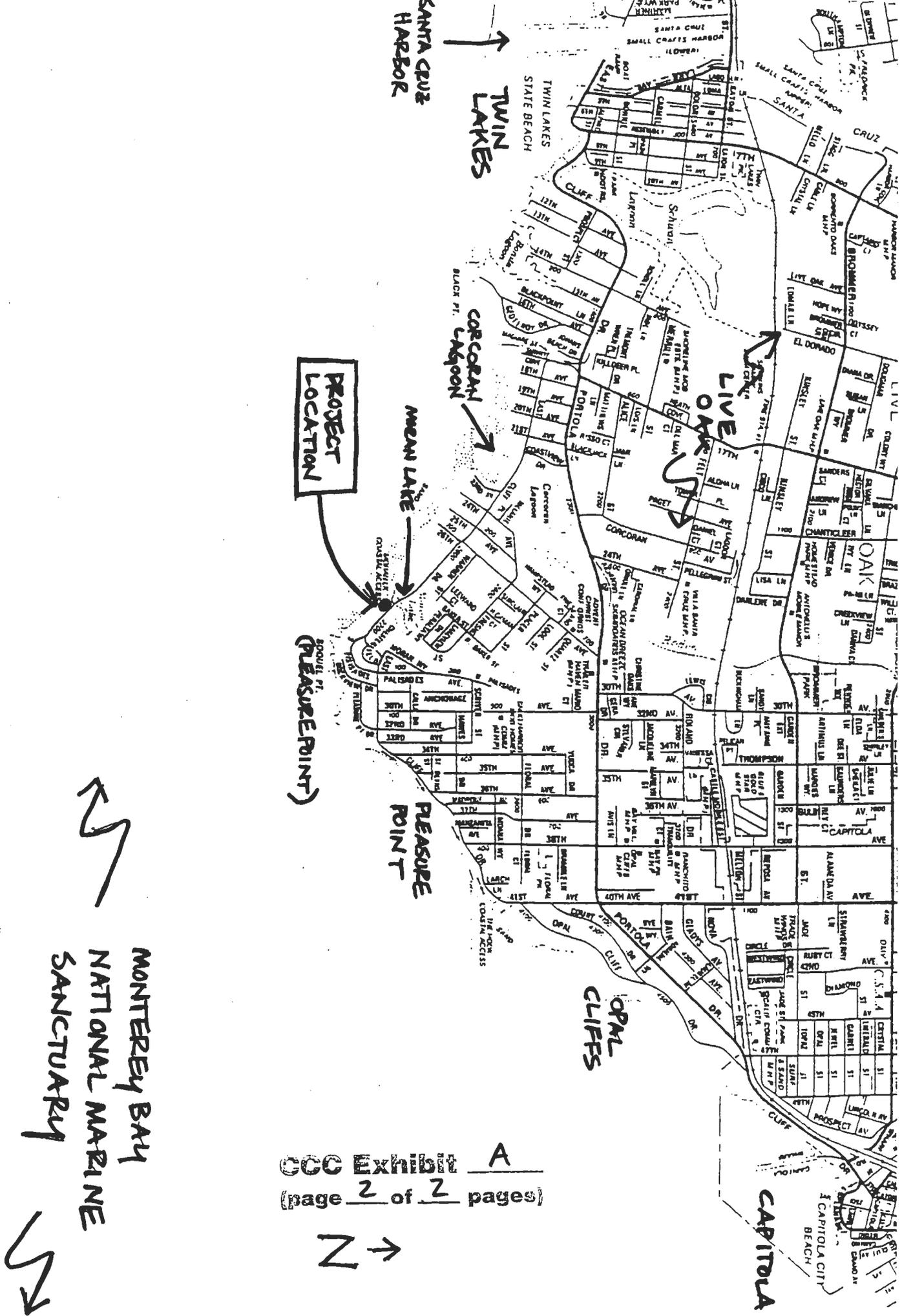
MONTEREY BAY NATIONAL MARINE SANCTUARY

California Coastal Commission

LOCATION MAP



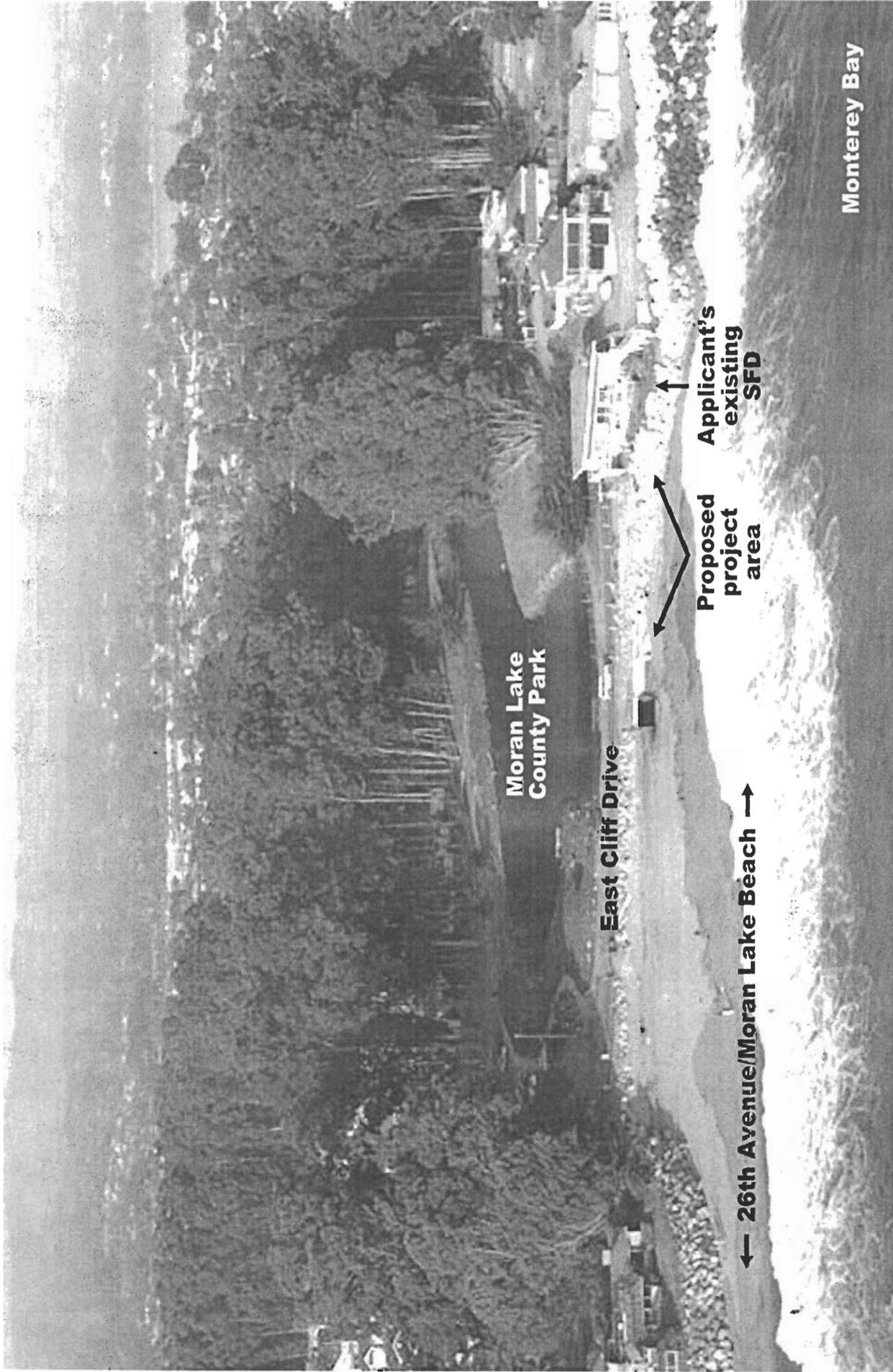
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(page 1 of 2 pages)



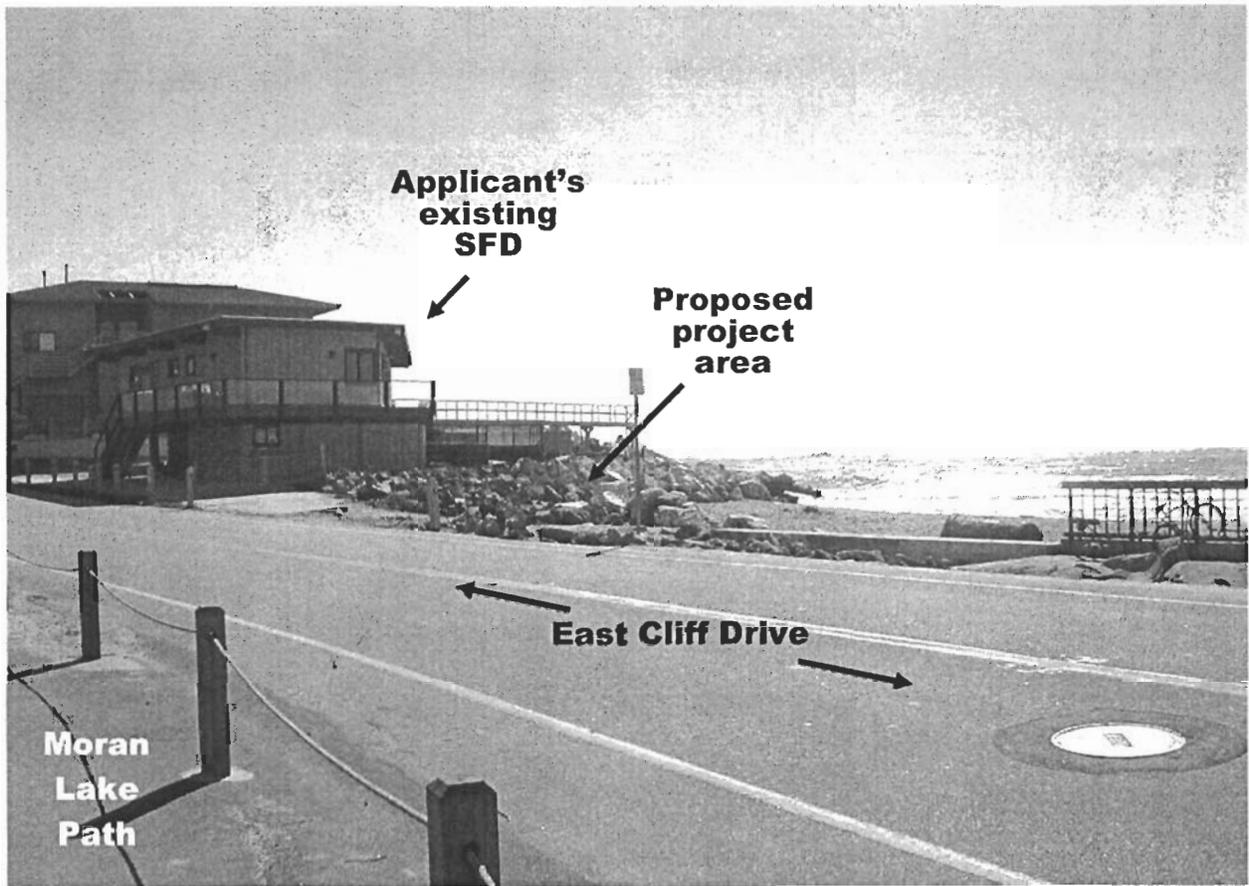
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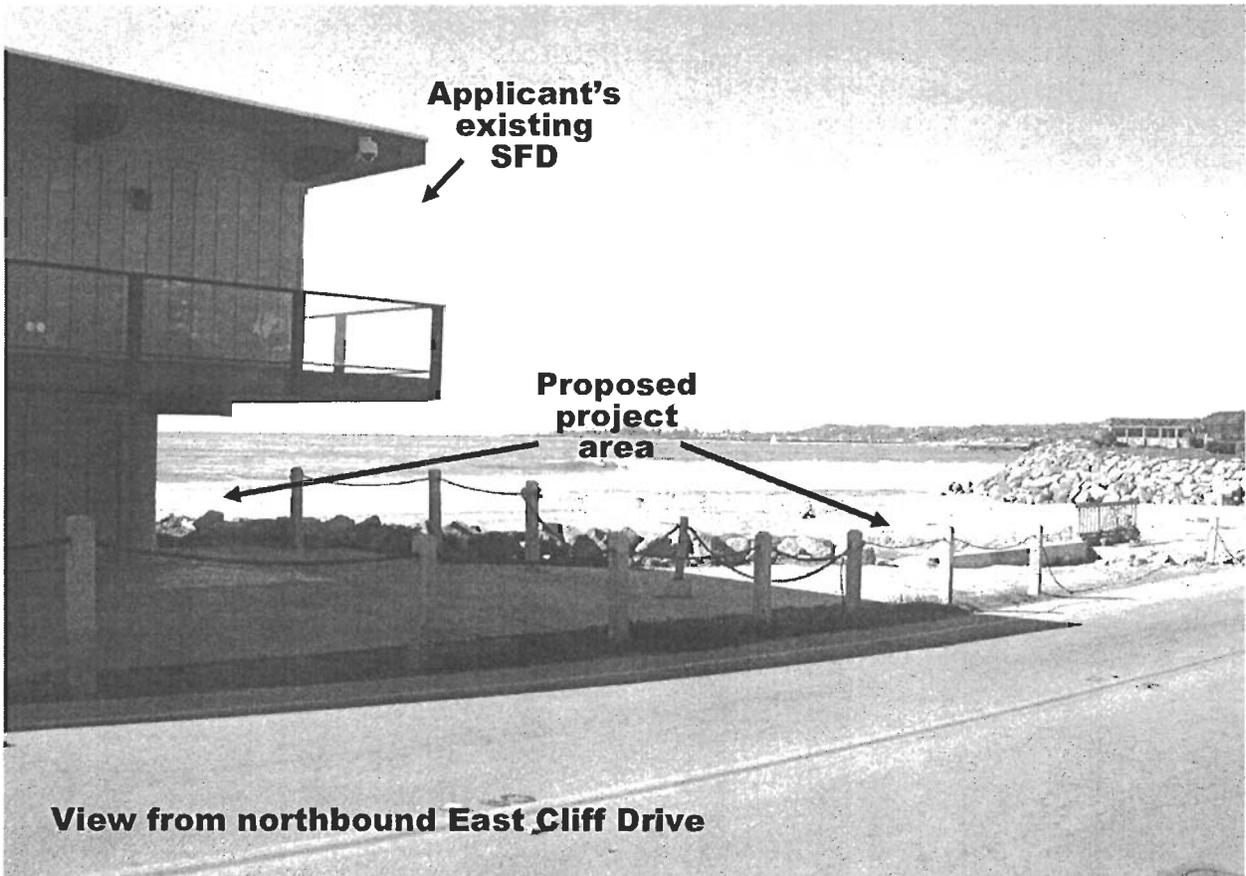
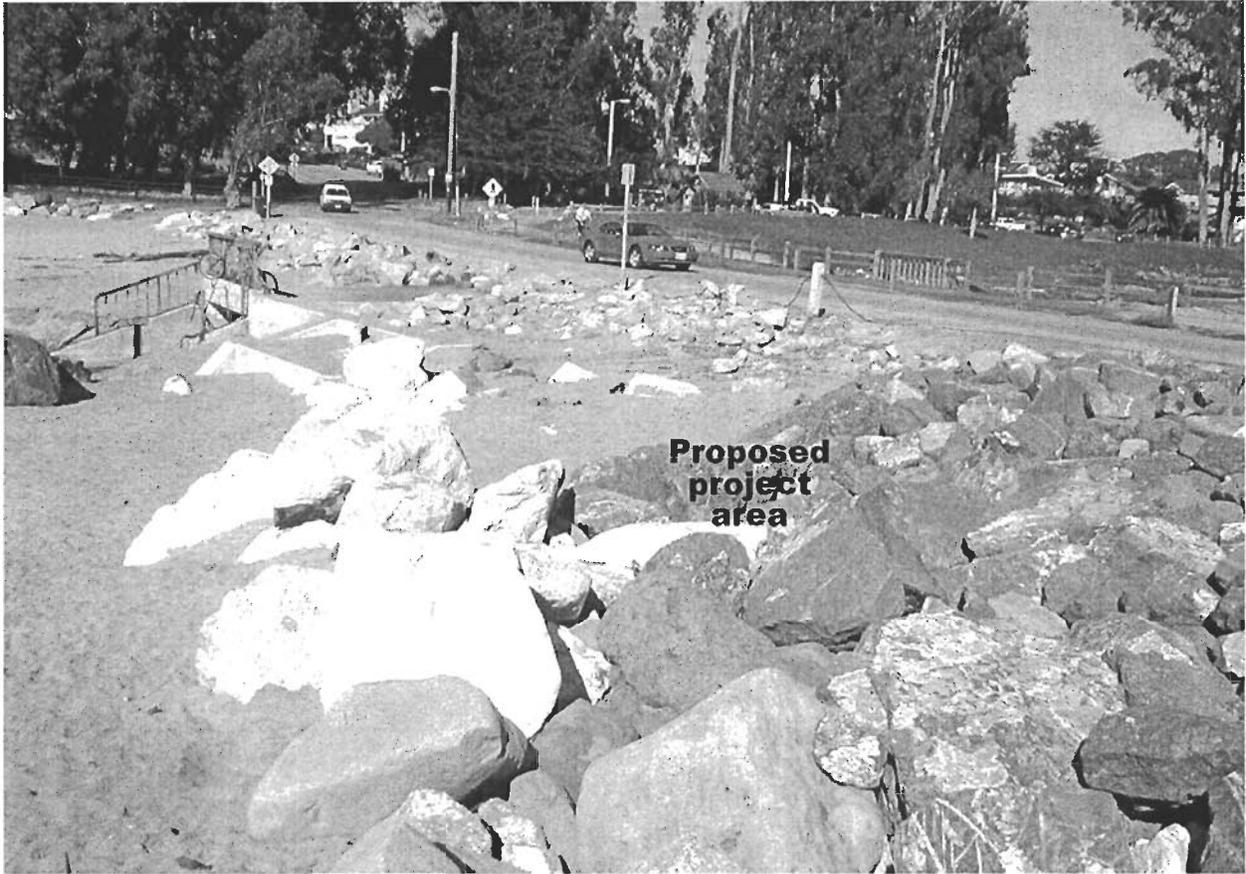
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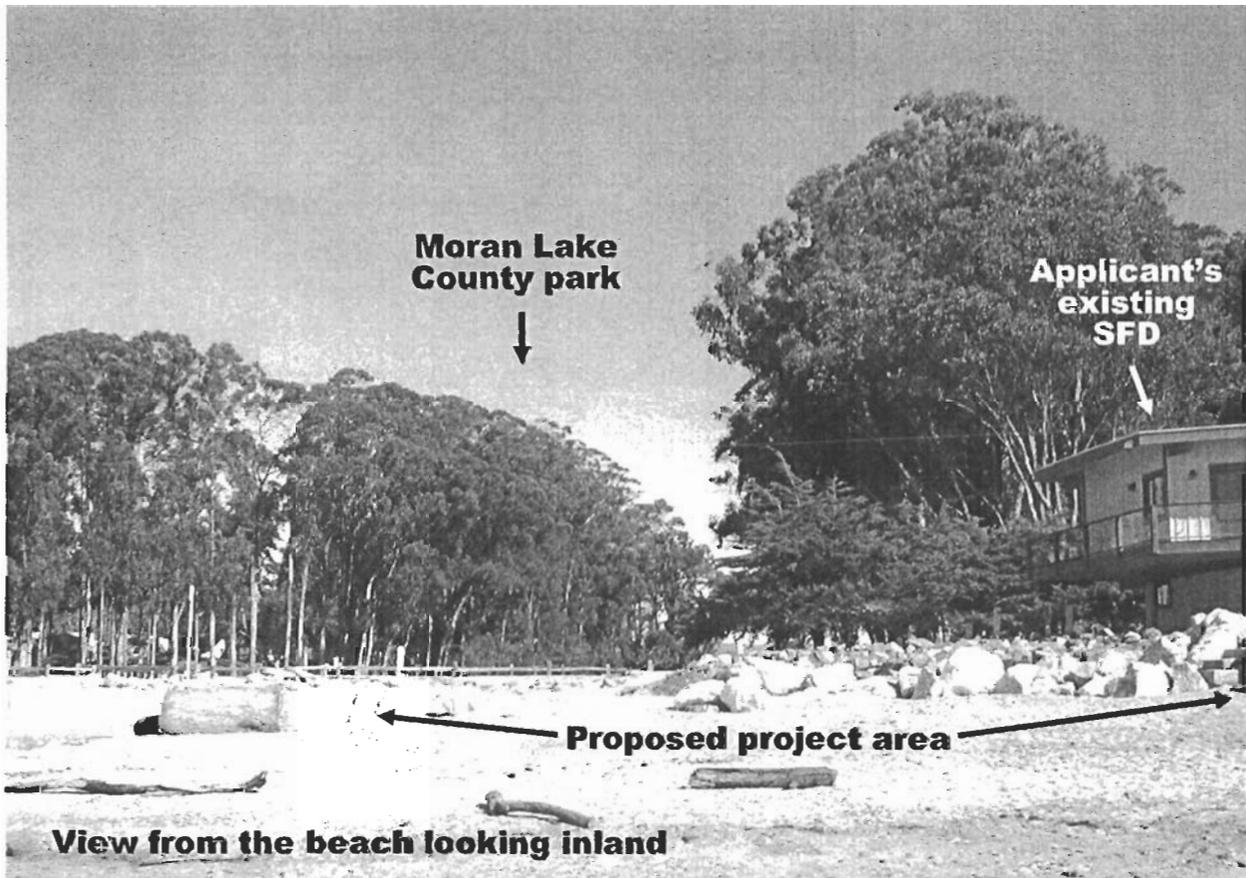




California Coastal Records Project (Photo Number 6650; September 30, 2002)







Project Description

Page 1 of 9

Project Description

The proposed project is to remove rock and other development placed without benefit of a coastal development permit; to restore beach and road areas from which said unpermitted development is being removed; to extend a portion of the permitted revetment inland and adjacent to East Cliff Drive; to perform revetment repair and maintenance of the revetment in the future subject to certain parameters described below; to remove invasive non-native vegetation inland of the revetment and replace it with native species in a planting strip and/or planter box for the purpose of screening the revetment from public view; and to place a 4 foot high see-through fence which is visually unobtrusive and/or vegetation inland of the revetment and planting strip/box with a gate near the steps and a gate near the parking area. The location of the existing rock and relocation area for the rock are described in and shown on the plans titled Revetment Relocation by Haro, Kasunich & Associates dated last revised October __, 2007 ("Project Plans") and all subject to the following:

1. **Drainage.** All drainage from the residence and parking slab shall be directed inland to East Cliff Drive. Drainage pipes are prohibited in, under, over, or through the revetment.
2. **Construction Plan.** PRIOR TO CONSTRUCTION the Applicant shall submit a Construction Plan (in full-size and 11" x 17" formats with a graphic scale (two sets of each)) to the Executive Director for review and approval. The Construction Plan shall, at a minimum, include the following:
 - (a) **Construction Areas.** The Construction Plan shall identify the specific location of all construction areas, all staging areas, all storage areas, all construction access corridors (to the construction site and staging areas), and all public pedestrian access corridors. All such areas within which construction activities and/or staging are to take place shall be minimized to the maximum extent feasible in order to minimize construction encroachment on the beach, East Cliff Drive, and all beach access points, and to have the least impact on public access.
 - (b) **Construction Methods and Timing.** The Construction Plan shall specify the construction methods to be used, including all methods to be used to keep the construction areas separated from public recreational use areas (including using the space available on the Applicant's property inland of the revetment for staging, storage, and construction activities to the maximum extent feasible, and including using unobtrusive fencing (or equivalent measures) to delineate construction areas). All erosion control/water quality best management practices to be implemented during construction and their location shall be noted.
 - (c) **Property Owner Consent.** The Construction Plan shall be submitted with evidence indicating that the owners of any properties on which construction activities are to take place, including properties to be crossed in accessing the site, consent to such use of their properties. Such consent may be in the form of an easement or encroachment permit.
 - (d) **Construction Requirements.** The Construction Plan shall include the following construction requirements specified by written notes on the Construction Plan. Minor adjustments to the following construction requirements may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources.
 - All work shall take place during daylight hours and lighting of the beach area is prohibited.

Project Description

Page 2 of 9

- Construction work or equipment operations shall not be conducted below the mean high water line unless tidal waters have receded from the authorized work areas.
- Grading of intertidal areas is prohibited with one exception as follows: existing rock that has migrated seaward of the revetment, that is naturally exposed, and that can be retrieved without substantial excavation of the surrounding sediments, shall be retrieved and reused or removed to an appropriate disposal site offsite. Any existing rock retrieved in this manner shall be recovered by excavation equipment positioned landward of the waterline (i.e., excavator equipment with mechanical extension arms).
- Only rubber-tired construction vehicles are allowed on the beach, except track vehicles may be used if the Executive Director agrees that they are required to safely carry out construction. When transiting on the beach, all such vehicles shall remain as high on the upper beach as possible and avoid contact with ocean waters and intertidal areas.
- All construction materials and equipment placed on the beach during daylight construction hours shall be stored beyond the reach of tidal waters. All construction materials and equipment shall be removed in their entirety from the beach area by the time work ceases on each day of construction and in no case later than by sunset each day that work occurs. The only exceptions shall be for erosion and sediment controls and/or construction area boundary fencing where such controls and/or fencing are placed as close to the toe of the revetment as possible, and are minimized in their extent and for sand and rock materials which are being relocated.
- Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside of the defined construction, staging, and storage areas.
- No work shall occur on the beach during weekends and/or the summer peak months (i.e., from the Saturday of Memorial Day weekend through Labor Day, inclusive) unless, due to extenuating circumstances (such as tidal issues or other environmental concerns), the Executive Director authorizes such work.
- Equipment washing, refueling, and/or servicing shall not take place on the beach and such activities shall take place only on designated non-spill areas specified on the Construction Plan.
- The construction site shall maintain good construction site housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the beach; etc.).
- All erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each workday. At a minimum, silt fences, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from entering into the Pacific Ocean.

Project Description

Page 3 of 9

- All beach areas and all beach access points impacted by construction activities shall be restored to their pre-construction condition or better within three days of completion of construction. Any beach sand impacted shall be filtered as necessary to remove all construction debris from the beach.
- The Applicant shall notify planning staff of the Coastal Commission's Central Coast District Office at least 3 working days in advance of commencement of construction, and immediately upon completion of construction.

All requirements above and all requirements of the approved Construction Plan shall be enforceable components of this coastal development permit. The Applicant shall undertake development in accordance with the approved Construction Plan. Any proposed changes to the Construction Plan shall be reported to the Executive Director. No changes to the approved Construction Plan shall occur without a Commission amendment to this permit unless the Executive Director determines that no amendment is necessary.

- 3. MBNMS Review.** PRIOR TO CONSTRUCTION, the Applicant shall submit to the Executive Director written evidence that all necessary permits, permissions, approvals, and/or authorizations for the approved project have been granted by the Monterey Bay National Marine Sanctuary. Any changes to the approved project required by the Sanctuary shall be reported to the Executive Director. No changes to the approved project shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.
- 4. Construction Site Documents & Construction Coordinator.** DURING ALL CONSTRUCTION:
 - (a) Construction Site Documents.** Copies of the signed coastal development permit and the approved Construction Plan shall be maintained in a conspicuous location at the construction job site at all times, and such copies shall be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the coastal development permit and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.
 - (b) Construction Coordinator.** A construction coordinator shall be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and their contact information (i.e., address, phone numbers, etc.) including, at a minimum, a telephone number that will be made available 24 hours a day for the duration of construction, shall be conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the name, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.
- 5. Development Completion.** BY OCTOBER 31, 2008, all revetment and related physical development for the relocated revetment (excluding the slumping revetment on the southwestern

portion of the site) shall be constructed/completed. Completion shall be verified and confirmed by the Executive Director.

6. **As-Built Plans.** WITHIN THREE MONTHS OF COMPLETION OF REVETMENT CONSTRUCTION, the Applicant shall submit As-Built Plans (in full-size and 11" x 17" formats with a graphic scale (two sets of each)) to the Executive Director for review and approval. The plans shall clearly identify the as-built revetment and all related development, including residential development, in site plan and cross section views substantially in conformance with the Project Plans as augmented by the following:

(a) **Revetment.** The portion of the As-Built Plans covering the revetment shall be prepared by a licensed civil engineer or engineering geologist with experience in coastal structures and processes, and shall include all of the following as enforceable plan notes in relation to future monitoring and maintenance: (i) all revetment maintenance parameters identified under "Future Monitoring and Maintenance" below; (ii) all construction plan requirements identified under "Construction Plan" above; and (iii) all construction site document and coordinator requirements identified under "Construction Site Documents & Construction Coordinator" above.

(b) **Benchmark.** The As-Built Plans shall identify at least one immovable surveyed benchmark location, including its elevation, for use in future monitoring efforts.

(c) **Photographs.** The As-Built Plans shall include clear color photographs of the as-built revetment and all related development with the date and time of the photographs and the location of each photographic viewpoint noted on a site plan. At a minimum, the site shall be photographed from a sufficient number of viewpoints as to provide complete photographic coverage of the revetment and all related development at a scale that allows comparisons to be made with the naked eye between photographs taken in different years from the same vantage points, including at a minimum from the following locations: upcoast, seaward, and downcoast beach viewpoints; representative locations along East Cliff Drive; the beach edge of the culvert under East Cliff Drive; the Moran Lake path where it intersects the culvert; and the beach access point to the north of the site across from the Moran Lake County Park parking lot entrance. All photographs shall be accompanied by electronic versions of the photographs in jpg format.

(d) **NGVD.** All elevations shall be described in relation to National Geodetic Vertical Datum (NGVD).

7. **Residential Parcel: Restrictions.** The Applicant acknowledges and agrees, on behalf of itself and all successors and assigns that:

(a) **East Cliff Drive Road Easement.** Residential development shall be prohibited within the East Cliff Drive road easement area (i.e., the area on that portion of the site which Applicant has indicated is to be slightly reconfigured by a lot line adjustment or similar process, currently known as APN 028-481-04 ("Residential Parcel"), that is located within 17.5 feet of said parcel's northeastern property line). All access from East Cliff Drive to the Residential Parcel shall be configured in such a way as to avoid negative impacts to public use and enjoyment of East Cliff Drive and the road easement area to the extent feasible, including but not limited to configuring vehicular ingress, egress, and parking in such a way as to avoid conflicts with public road use

and to avoid public viewshed impacts. Nothing herein shall prevent the use of the existing driveway or the parking of vehicles in the parking space slabs adjacent to the residence or under the deck adjacent to the residence and on public streets where public parking is otherwise allowed. The driveway and parking spaces are shown on the Project Plans. The mailbox shall be relocated as shown on the Project Plans.

(b) Revetment Limits. The revetment authorized by this coastal development permit is that revetment noted and labeled “Northern Revetment” on the Project Plans and on the approved As-Built Plans except with respect to the southern portion of the revetment (the portion that is not being relocated as part of this current application). The southern portion of the revetment has slumped over and its toe has migrated to the west. This portion of the revetment was previously authorized by coastal development permit number 3-81-063, and its toe is only approved as far west as the current western property line of current APNs 028-481-03 and 028-481-04 as shown and labeled on the Project Plans as “Southern Revetment”. For this southern portion of the revetment, the Southern Revetment, the approved configuration of the revetment in this area is understood to be the previously approved 1.5:1 sloped revetment extending inland (to the east) from a toe no further west than the current western property lines, and no higher than +15NGVD. Although minor rock retrieval and restacking is allowed within the current (slumped configuration) under this permit, any major repair of the southern portion of the revetment (i.e., repair work that involves 50% or more of the rock in this area) shall require configuration of the revetment in this area to its approved configuration. Pursuant to the terms and conditions contained herein, this coastal development permit authorizes repairs and maintenance of the Southern Revetment and the Northern Revetment.

(c) Revetment Screening. The upper one-third of the revetment (i.e., extending from roughly five vertical feet nearest East Cliff Drive to roughly ten vertical feet nearest the Monterey Bay) shall be as reasonably feasible completely screened from the view from the beach with non-invasive native vegetation (i.e., native to the Moran Lake bluff area) after January 1, 2010 (to allow time for initial growth following permit approval). All native plantings shall be maintained in good growing conditions and shall be replaced as necessary to maintain the required screen over the life of the revetment.

(d) Maintenance Required. It is the Applicant’s responsibility (i) to maintain the approved revetment and required vegetation screening in a structurally sound manner and their approved state; (ii) to retrieve rocks that move seaward of the revetment and either restack them (within the approved revetment footprint and profile) or dispose of them at a suitable inland disposal location as soon as is feasible after discovery of the rock movement; and (iii) to remove all debris that may fall from the area seaward of the residence and accumulate in or on the revetment or seaward of it.

(e) Rodents. If at any time evidence indicates that rodents are living in the voids within the revetment, then the Applicant shall take reasonable action to eliminate such rodent colonization consistent with generally accepted professional pest control methods that also ensure the health and safety of the public.

(f) No Further Seaward Encroachment. Any future development, as defined in Section 30106 (“Development”) of the Coastal Act, on the Residential Parcel, including but not limited to modifications to the revetment, shall be constructed inland of, and shall be prohibited seaward of, the western (including southwestern, western, and northwestern) sloped face of the revetment with the

following development excepted from this prohibition: (i) appropriately permitted construction activities associated with construction, maintenance, or repair of the revetment, drainage system, and/or landscaping approved by coastal development permit; and (ii) standard beach maintenance activities. The western face of the revetment is defined by the revetment footprint and profile as shown on the approved As-Built Plans.

(g) Future Rip-Rap Removal. If the revetment or portions of it are removed from the Residential Parcel and replaced by other shoreline armoring (e.g., a vertical seawall), then the area on the Residential Parcel that is on the seaward side of such replacement armoring, if there is any such area, shall be granted in fee title (or offered to grant in fee title) to a political subdivision, public agency or private association approved by the Executive Director within three months of completion of the replacement armoring project.

(h) Future Shoreline Planning. There may be future shoreline armoring planning efforts that involve the revetment as shown on the approved As-Built Plans. Such planning efforts may involve consideration of a shoreline armoring management entity meant to cover the larger shoreline that includes the revetment, and may involve consideration of potential modifications and/or programs designed to reduce public viewshed and beach access impacts due to shoreline armoring. The Applicant agrees to participate in such planning efforts. Agreeing to participate in no way binds the Applicant (nor any successors and assigns) to any particular outcome neither of such planning efforts nor to any financial commitment; and in no way limits his/her ability to express his/her viewpoint during the course of such planning efforts.

(i) Public Rights. The Coastal Commission's approval of a permit on this site shall not constitute a waiver of any public rights, which may exist on the subject property. The Applicant shall not use such permit as evidence of a waiver of any public rights that may exist on the property.

(j) Assumption of Risk, Waiver of Liability and Indemnity Agreement. The Applicant acknowledges and agrees, on behalf of itself and all successors and assigns: (i) that the site is subject to extreme coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, and coastal 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; (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; and (v) that any adverse effects to property caused by the permitted project shall be fully the responsibility of the landowner.

Future Monitoring and Maintenance

8. Monitoring and Reporting. The Applicant shall ensure that the condition and performance of the approved as-built revetment is regularly monitored by a licensed civil engineer with experience in coastal structures and processes. Such monitoring evaluation shall at a minimum address whether any significant weathering or damage has occurred that would adversely impact future performance,

and identify any structural damage requiring repair to maintain the approved as-built revetment profile. Monitoring reports prepared by a licensed civil engineer with experience in coastal structures and processes, and covering the above-described evaluations, shall be submitted to the Executive Director for review and approval at five year intervals by May 1st of each fifth year (with the first report due May 1, 2012, and subsequent reports due May 1, 2017, May 1, 2022, and so on) for as long as the revetment exists at this location. The reports shall identify the existing configuration and condition of the revetment, drainage system, and required landscape screening, recommend actions necessary to maintain these project elements in their approved and/or required state, and include photographs taken from each of the same vantage points required in the As-Built Plans with the date and time of the photographs and the location of each photographic viewpoint noted on a site plan.

9. Future Revetment Maintenance Authorized. This coastal development permit authorizes future revetment maintenance subject to the following:

(a) **Maintenance.** "Maintenance," as it is understood in this special condition, means development that would otherwise require a coastal development permit whose purpose is: (1) to reestablish or place rock within the permitted footprint and/or profile of the revetment structure as shown on the approved As-Built Plans; (2) to reestablish the permitted drainage, vegetation, and/or irrigation elements inland of the revetment; (3) to retrieve any rocks that move seaward of the revetment footprint and/or profile; and/or (4) to remove all debris that may fall from the area seaward of the residence and accumulate in or on the revetment or seaward of it.

(b) **Other Agency Approvals.** The Applicant acknowledges that these maintenance stipulations do not obviate the need to obtain permits from other agencies for any future maintenance and/or repair episodes.

(c) **Maintenance Notification.** At least two weeks prior to commencing any maintenance event, the Applicant shall notify, in writing, planning staff of the Coastal Commission's Central Coast District Office. The notification shall include: a detailed description of the maintenance event proposed; any plans, engineering and/or geology reports describing the event; a construction plan that complies with all aspects of the Construction Plan described above; identification of a construction coordinator and their contact information (i.e., address, phone numbers, etc.) as described above; other agency authorizations; and any other supporting documentation (as necessary) describing the maintenance event. The maintenance event shall not commence until the Applicant has been informed by planning staff of the Coastal Commission's Central Coast District Office that the maintenance event complies with this coastal development permit. If the Applicant has not received a response within 30 days of submitting the notification, the maintenance event shall be authorized as if planning staff affirmatively indicated that the event complies with this coastal development permit. The notification shall clearly indicate that the maintenance event is proposed pursuant to this coastal development permit, and that the lack of a response to the notification within 30 days constitutes approval of it as specified in the permit. In the event of an emergency requiring immediate maintenance, the notification of such emergency episode shall be made as soon as possible, and shall (in addition to the foregoing information) clearly describe the nature of the emergency.

(d) **Maintenance Coordination.** Maintenance events shall, to the degree feasible, be coordinated with other maintenance events proposed in the immediate vicinity with the goal being to limit

coastal resource impacts, including the length of time that construction occurs in and around the beach area and beach access points. As such, the Applicant shall make reasonable efforts to coordinate the Applicant's maintenance events with other adjacent events, including adjusting maintenance event scheduling as directed by planning staff of the Coastal Commission's Central Coast District Office.

- (e) **Construction Site Documents and Construction Coordinator.** All requirements set forth above under "Construction Site Documents & Construction Coordinator" shall apply to any maintenance event.
- (f) **Restoration.** The Applicant shall restore all beach areas and all beach access points impacted by construction activities to their pre-construction condition or better. Any beach sand impacted shall be filtered as necessary to remove all construction debris from the beach within three days of completion of construction. The Applicant shall notify planning staff of the Coastal Commission's Central Coast District Office upon completion of beach-area restoration activities to arrange for a site visit to verify that all beach-area restoration activities are complete. If planning staff should identify additional reasonable measures necessary to restore the beach and beach access points, such measures shall be implemented as quickly as reasonably possible.
- (g) **Non-compliance Proviso.** If the Applicant is not in compliance with the terms and conditions of any Coastal Commission coastal development permits or other coastal authorizations that apply to the subject property at the time that a maintenance event is proposed, then the maintenance event that might otherwise be allowed by the terms of this future maintenance condition shall not be allowed by this condition until the Applicant is in full compliance with those terms and conditions.
- (h) **Emergency.** In addition to the emergency provisions set forth in subsection (c) above, nothing in this condition shall serve to waive any Applicant rights that may exist in cases of emergency pursuant to Coastal Act Section 30611, Coastal Act Section 30624, and Subchapter 4 of Chapter 5 of Title 14, Division 5.5, of the California Code of Regulations (Permits for Approval of Emergency Work).
- (i) **Duration of Covered Maintenance.** Future revetment maintenance under this coastal development permit is allowed subject to the above terms until November 30, 2017. Maintenance can be carried out beyond November 30, 2017 if the Applicant requests an extension prior to November 30, 2017 and the Executive Director extends the maintenance term in writing. The intent of this permit is to regularly allow for 10-year extensions of the maintenance term unless there are changed circumstances that may affect the consistency of this revetment maintenance authorization with the policies of Chapter 3 of the Coastal Act and thus warrant a re-review of this permit.

10. Deed Restriction. WITHIN TEN (10) DAYS AFTER ISSUANCE OF THIS PERMIT, the Applicant shall submit to the Executive Director for review and approval documentation demonstrating that the Applicant has executed and recorded against the subject property governed by this permit a deed restriction, 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

Project Description

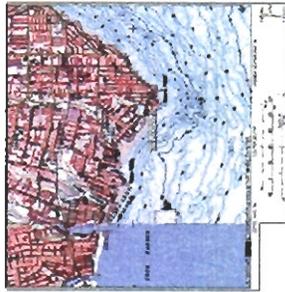
Page 9 of 9

enjoyment of that property; and (2) imposing the Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of that property. The deed restriction shall include a legal description of the entire property governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction 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 this permit authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

J:\wpdata\Charlene\Kessinger\Project Description(10-22-07).doc

CCC Exhibit C
(page 9 of 13 pages)

REVTMENT RELOCATION CHUCK KESSINGER RESIDENCE, 2-2798 EAST CLIFF DRIVE SANTA CRUZ, CA A.P.N. 028-481-03 & 04



PROJECT APPLICANT:
CHUCK KESSINGER
4820 Cherryvale Avenue
Sequel, CA

PROJECT LOCATION:
2-2798 East Cliff Drive
A.P.N. 028-481-03 & 04
Santa Cruz County, CA

PROJECT GEOTECHNICAL, COASTAL & CIVIL ENGINEERS

VICINITY MAP
SCALE AS SHOWN

Rich Parks, GE 2603
HARO, KASUNICH & ASSOCIATES, INC.
17B East Lark
Watsonville, CA 95076
(831) 722-4175
(831) 722-3202 FAX

LANDWORK QUANTITIES:

- 2603 EMERGENCY QUARRYSTONES TO BE RELOCATED = 140 TONS (88 YARDS)
- EXISTING BACKBEACH QUARRYSTONE REVTMENT TO BE RELOCATED = VOLUME NOT QUANTIFIED DUE TO PARTIAL BURIAL BY BEACH SAND
- ROCK REMOVAL AREA TO BE RESTORED USING CLEAN BEACH SAND

PROJECT SURVEYORS:
GARY ISLAND & ASSOCIATES
1100 Water Street
Santa Cruz, CA 95060
(831) 426-7997
(831) 426-8266 FAX

SHEET INDEX

- SHEET 1 REVTMENT RELOCATION TITLE SHEET
- SHEET 2 EXISTING SITE CONFIGURATION
- SHEET 3 PROPOSED LANDSCAPE AND REVTMENT PLAN
- SHEET 4 BOUNDARY CONFIGURATION PLAN

CCC Exhibit C
(page 10 of 13 pages)

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NOV 09 2007

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

REVISIONS BY

**REVTMENT RELOCATION
CHUCK KESSINGER RESIDENCE, 2-2798 EAST CLIFF DRIVE
SANTA CRUZ, CA A.P.N. 028-481-03 & 04**

HARO, KASUNICH AND ASSOCIATES, INC.
 CONSULTING CIVIL, GEOTECHNICAL & COASTAL ENGINEERS
 17B EAST LARK AVE., WATSONVILLE, CA 95076 (831) 722-4175

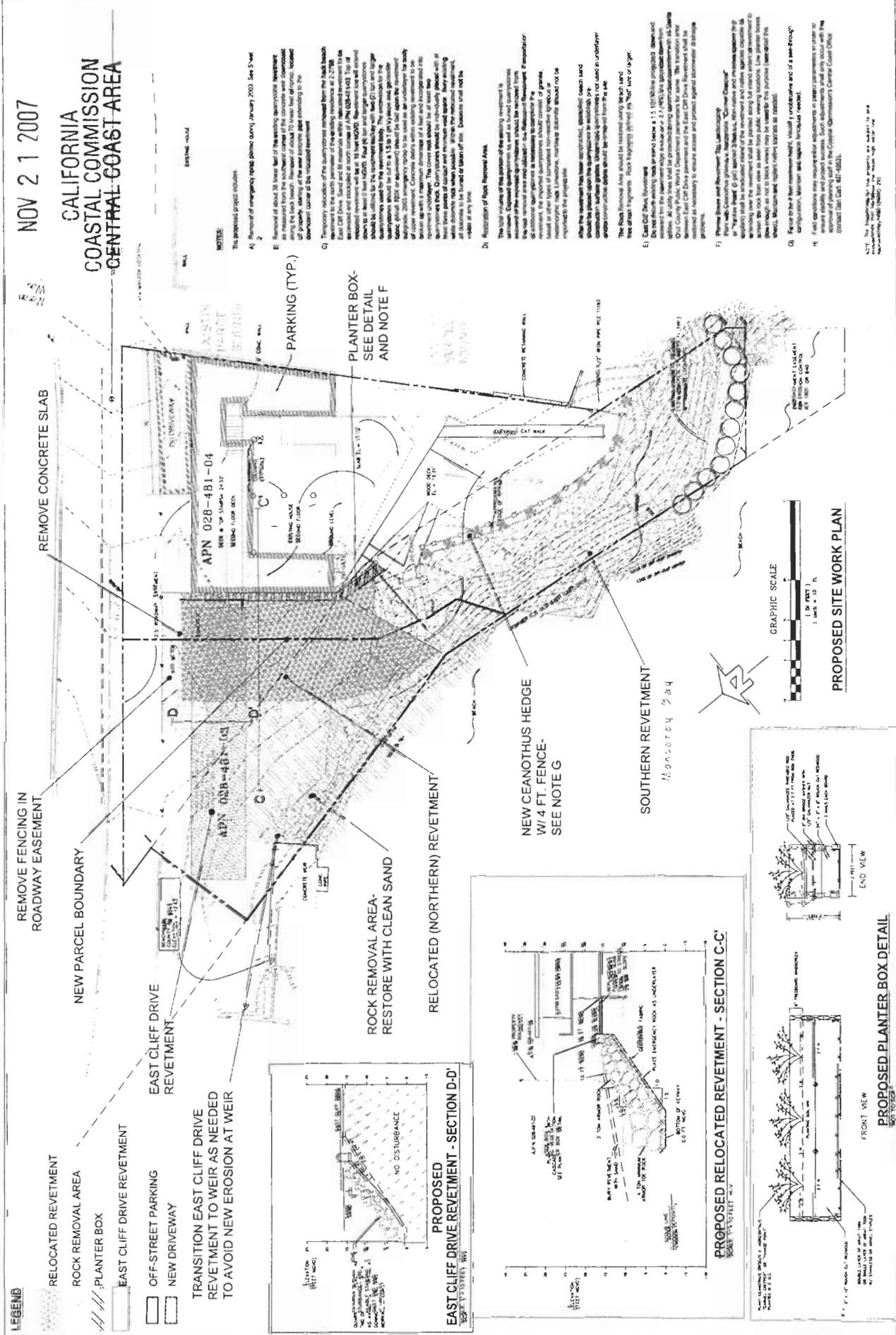
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 Scale: AS SHOWN
 Drawn: MBH
 In Charge: MBH
 Sheet: 1 of 4 Sheets

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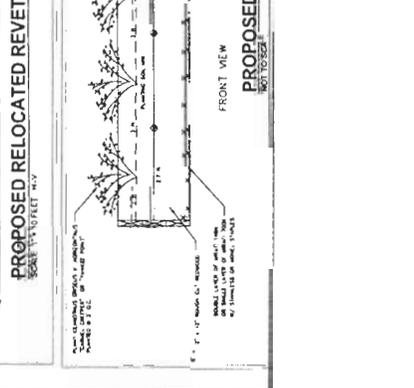
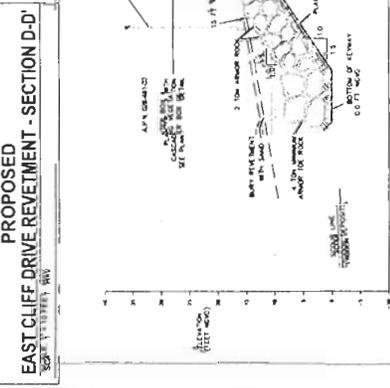
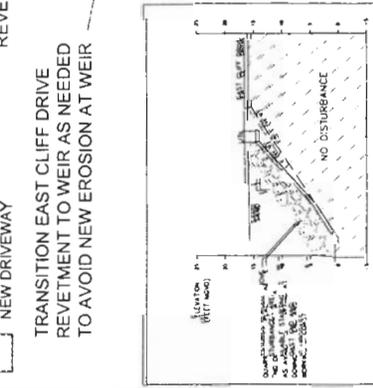
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CALIFORNIA COASTAL COMMISSION CENTRAL COAST AREA

PROPOSED LANDSCAPE AND REVEGETATION PLAN C. KESSINGER RESIDENCE, 2-2798 EAST CLIFF DRIVE SANTA CRUZ, CA APN 028-481-03 & 04



- LEGEND
RELOCATED REVETMENT
ROCK REMOVAL AREA
PLANTER BOX
EAST CLIFF DRIVE REVETMENT
OFF-STREET PARKING
NEW DRIVEWAY
TRANSITION EAST CLIFF DRIVE REVETMENT TO WEIR AS NEEDED TO AVOID NEW EROSION AT WEIR



- NOTES
1) Removal of emergency ramp plans during January 2003. See S-vee
2) The proposed project includes:
A) Removal of emergency ramp plans during January 2003. See S-vee
B) Removal of about 30 cubic feet of the existing concrete ramp...
C) Temporary relocation of the quarantine ramp from the back beach...
D) Re-vegetation of Rock Removal Area.

After the quarantine ramp is removed, the contractor shall...
The Rock Removal Area should be restored using clean sand...
Planters shall be constructed with a minimum depth of 18 inches...

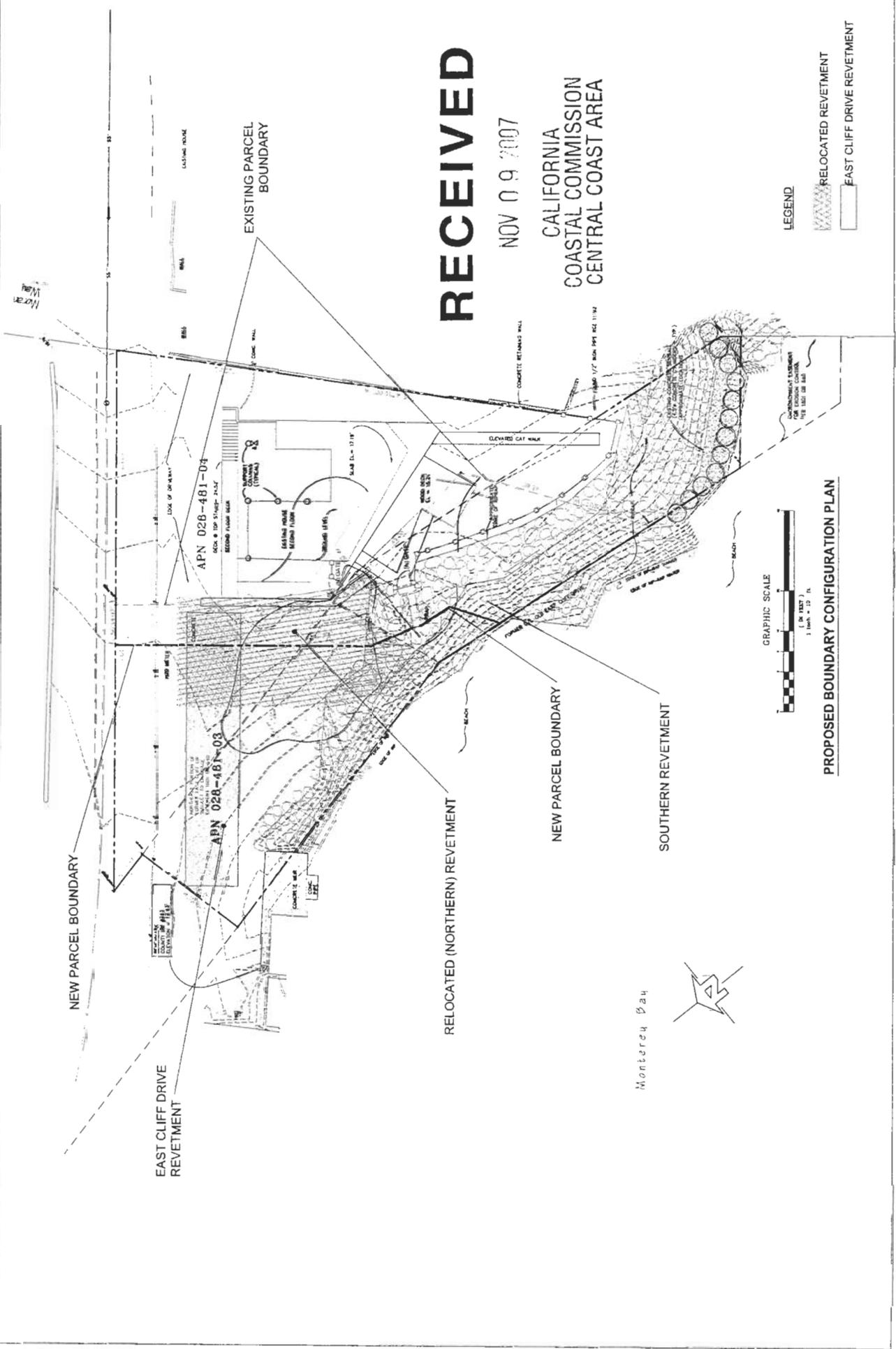
GRAPHIC SCALE
1" = 10'
PROPOSED SITE WORK PLAN
PROPOSED PLANTER BOX DETAIL

NO.	DATE	BY	REVISIONS

BOUNDARY CONFIGURATION PLAN
 CC. KESSINGER RESIDENCE, 2-2798 EAST CLIFF DRIVE
 SANTA CRUZ, CA A.P.N. 028-481-03 & 04

HARO, KASUNICH AND ASSOCIATES, INC.
 CONSULTING CIVIL, GEOTECHNICAL & CONSTRUCTION ENGINEERS
 116 EAST LAKE AVE., WATSONVILLE, CA 95076 (831) 724-1175

DATE: NOVEMBER 2007
 SCALE: 1" = 10' FT
 SHEET: 141
 JOB: S02026
 SHEET: 4
 OF 4 SHEETS

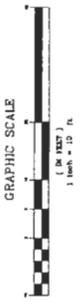


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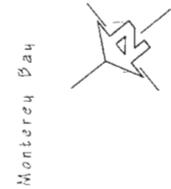
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CALIFORNIA
 COASTAL COMMISSION
 CENTRAL COAST AREA

LEGEND
 [Hatched Box] RELOCATED REVETMENT
 [Solid Box] EAST CLIFF DRIVE REVETMENT



PROPOSED BOUNDARY CONFIGURATION PLAN



CCC Exhibit C
 (page 13 of 13 pages)