

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
 7575 METROPOLITAN DRIVE, SUITE 103
 SAN DIEGO, CA 92108-4421
 (619) 767-2370



T 8c

Filed: March 2, 2007
 49th Day: April 20, 2007
 180th Day: August 29, 2007
 Staff: D. Lilly-SD
 Staff Report: March 22, 2007
 Hearing Date: April 10-13, 2007

AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-89-106-A3

Applicant: Boca Rio Condominiums HOA Agent: Walt Crampton

Original Description: Repositioning and augmentation of an existing 8,000 to 10,000 ton rock revetment approximately 550 feet long and consisting of 4 ton rocks, located on the beach below a 44 unit condominium complex. Installation of an additional 600-700 tons of rock and formalization of 4,000-6,000 tons of rock already deposited without benefit of a coastal development permit.

First Amendment: Modification of Special Conditions #1b and 2 to allow encroachment beyond the existing revetment toe in three locations; modification of an existing revetment and installation of new riprap on the adjacent property to the south.

Second Amendment: Maintenance consisting of repositioning approximately twenty-five rocks and adding eighty stones (approximately 400 tons total) to rebuild revetment to its previous slope and configuration.

Proposed Amendment: Maintenance consisting of repositioning approximately thirty-six rocks that have migrated westerly beyond the permitted revetment footprint and adding sixty stones to the revetment to rebuild it to its previous slope and configuration.

Site: 1590-1690 Seacoast Drive, Imperial Beach, San Diego County.
 APN 635-010-24

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff recommends the Commission approve the project with several special conditions. The project would repair an existing rock revetment by relocating riprap that has strayed onto the beach and adding new rock to fill voids in the revetment that have formed through settling. The entire revetment has been permitted by the Commission, and the proposed maintenance will return the revetment to its permitted configuration. No encroachment onto the beach beyond the permitted footprint is proposed, and no impacts not previously anticipated by the

Commission in the original permit will occur. The standard of review for the project is the Chapter 3 policies of the Coastal Act.

Substantive File Documents: Certified City of Imperial Beach Local Coastal Program; Application for Amendment to Coastal Development Permit Boca Rio Condominiums by TerraCosta Consulting Group (TCG) dated 1/26/07.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 6-89-106 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE A PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment on the grounds that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. Special Conditions.

The permit is subject to the following conditions:

1. Construction Access/Project Timing. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit for the review and written approval of the Executive Director, final plans showing the locations, both on- and off-site, which will be used as staging and storage areas for materials and equipment during the construction phase of this project. Use of sandy beach and public parking areas, including on-street parking for the interim storage of

materials and equipment shall not be permitted. The plans shall indicate that no work may occur on sandy beach during the summer months (Memorial Day to Labor Day) of any year and that equipment used on the beach shall be removed from the beach at the end of each work day.

The permittee shall undertake 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 an additional Coastal Commission approved amendment to the coastal development permit unless the Executive Director determines that no additional amendment is required.

2. U.S. Fish and Wildlife Approval. **PRIOR TO ISSUANCE OF THE COASAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall provide to the Executive Director a copy of a U.S. Fish and Wildlife permit, or letter of permission, to enter and/or perform work on U.S. Fish and Wildlife property.

3. As-Built Plans. Within 60 days following completion of the project, the permittee shall submit for review and written approval of the Executive Director, as-built plans of the approved revetment that are in substantial conformance with the plans submitted with this application by Group Delta Consultants, in the submittal dated February 23, 1999. Said plans shall include certification by a registered engineer, with measurements taken on the site, verifying that the revetment height, width, and footprint has been constructed in conformance with the approved plans for the project.

4. Prior Conditions of Approval. All special conditions adopted by the Coastal Commission as part of the original permit action and subsequent amendments, remain in full force and effect.

III. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History/Previous Amendments. On October 12, 1989, the Commission approved the repositioning of an existing 550 to 600-foot long, 8,000 to 10,000 ton rock revetment located on the public beach adjacent to a 44-unit condominium complex (CDP #6-89-106). The approval formalized 4,000-6,000 tons of rock already deposited without benefit of a coastal development permit, and allowed the installation of an additional 600-700 tons of rock. The condominium complex is located on the west side of Seacoast Drive at the southern end of Imperial Beach. The site is bounded on the west by the Pacific Ocean and on the south and east by the Tijuana Slough National Wildlife Refuge. Additional condominiums are located to the north of the site. The project site is located within the City of Imperial Beach, which has a certified Local Coastal Program and is issuing its own coastal development permits. However, the revetment is located within the Commission's original jurisdiction, thus, Chapter 3 of the Coastal Act is the standard of review. The State Lands Commission previously determined that no permit from that agency was required for construction of the revetment.

Documentation submitted for the previous permit established that the revetment was initially placed in front of the condominiums around 1966-67, and consisted of approximately 4,000 tons of rock. Additional stone was placed every several years in order to build up the height of the revetment, and to replace stone that had settled into the beach sands. In the 1980's, approximately 3,000 additional tons of rock was placed without benefit of coastal development permits, resulting in an 8,000 to 10,000 ton revetment.

In its 1989 approval, the Commission required that the project be redesigned such that the proposed augmentation would be located as far landward as feasible, such that the revetment would not extend any further seaward than the existing revetment did at that time. The Commission also required that the applicants record an offer to dedicate a lateral public access and passive recreational use easement for the length and width of the property, extending seaward from the toe of the revetment to the mean high tide line. The easement has not yet been accepted by any agency. Other conditions prohibited construction during the summer season, and required that the revetment be maintained and the Commission be contacted in the future to determine if maintenance required a coastal development permit.

Prior to issuance of the permit, in September 1990, the Commission approved an amendment to the permit, which allowed a seaward encroachment of the existing revetment toe in three locations, and allowed the placement of up to 5,000 tons of additional rock to the revetment. The approval was based on a geology report required by the original permit, which determined that filling in three "indentations" in the existing revetment with rock would create a more uniform, ultimately more stable design.

A third component of the amendment request, to delete the requirement to record the offer to dedicate a lateral access easement between the toe of the revetment and the mean high tide line, was not approved. The amended permit conditions were satisfied and the permit released.

In April 1999, the Commission approved a second amendment to permit allowing maintenance of the revetment by replacing approximately twenty-five 2-8-ton size rocks that had migrated seaward, back into the originally permitted revetment footprint, and augmenting the revetment with eighty 4-6 ton stones (approximately 400 tons total) where the existing rock has settled into the sand. No encroachment beyond the permitted revetment footprint was proposed or approved.

2. Proposed Amendment. The proposed amendment is very similar to the second amendment. The project is for maintenance of the existing revetment consisting of repositioning approximately thirty-six size rocks that have migrated westerly beyond the permitted revetment footprint and adding sixty new stones to the revetment to rebuild it to its previous slope and configuration

No encroachment beyond the permitted revetment footprint is proposed. Access to the site would be from the cul-de-sac at the end of Seacoast Drive, over beach area owned by the U.S. Fish and Wildlife Service adjacent to the Tijuana Slough National Wildlife Refuge.

3. Geologic Conditions and Hazards/Public Access/Recreation/Sensitive Habitat.
Section 30253 of the Act states, in part:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

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

Section 30212 of the Act states, in part:

- (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:
 - (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
 - (2) adequate access exists nearby [...]

Section 30240 requires that development in areas adjacent to environmentally sensitive habitat and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and be compatible with the continuance of those habitat and recreation areas.

In reviewing requests for shoreline protection, the Commission must assess both the need to protect private residential development and the potential adverse impacts to public resources associated with construction of shore/bluff protection. A number of adverse impacts to public resources are associated with the construction of shoreline structures. These include loss to the public of the sandy beach area that is displaced by the structure, "permanently" fixing the back of the beach, which leads to the narrowing and eventual disappearance of the beach in front of the structure, sand loss from the beach due to wave reflection and scour, accelerated erosion on adjacent unprotected properties and the adverse visual impacts associated with construction of a shoreline protective device on the contrasting natural shoreline. As such, the construction of shoreline development raises consistency concerns with a number of Coastal Act policies, including Sections 30210, 30211, 30212, 30235, 30240, 30251, and 30253.

In its review of the original project and the first two amendments, the Commission found that the existing condominiums at this location were in danger from wave action, and that shoreline protection was required to protect the existing structures. In April 2006, a field investigation was conducted by the applicant's engineer at the subject site. The investigation determined that the existing revetment is performing "fairly well, but is need of maintenance." The study compared the dimensions of the existing revetment footprint with the permitted footprint and determined that voids have developed in the revetment, and approximately 36 rocks have rolled beyond the existing footprint. Several residential units in the area inland of the voids have experienced damage from wave overtopping in the recent storms. A total of 60 new rocks are recommended to fill the voids in the revetments.

The report provides evidence that shoreline protection continues to be necessary in this case to protect the existing beachfront structures which are currently threatened by wave overtopping and flooding. The Commission's civil engineer has reviewed the project and agrees that the maintenance is necessary and represents the minimum appropriate maintenance to address the threat.

The Commission must also determine whether the proposed maintenance will adversely affect shoreline processes or other coastal resources. In addition, if adverse impacts are identified, it must be determined if there are other alternatives available that would achieve the result of protecting the residential structures while at the same time having minimal or no adverse impact on the adjacent beach area. In other words, the Commission must be able to find that the proposed solution is the least environmentally-damaging alternative. In its original review of the project in 1989, the Commission reviewed alternatives to a revetment at this location.

Historically, the Commission has favored the use of vertical seawalls over revetments due to the amount of sandy beach area usurped by revetments. In its review of the original project, the Commission examined the feasibility of construction of a vertical seawall for the project site. However, riprap is the established method of protection in Imperial Beach associated with existing and pre-Coastal Act development. In some

cases, construction of vertical seawalls can be prohibitively expensive, as the bedrock level in this area can 40-50 feet deep, or further. Thus, the Commission found that the revetment, as redesigned to encroach the minimum amount feasible on the beach, was consistent with the geologic stability and public access policies of the Coastal Act. Thus, the proposed revetment repair is an appropriate response.

In its approval of the original revetment, the Commission recognized that maintenance would be necessary for the revetment to retain its approved form and to minimize impacts on public access and stones rolled onto the beach, and as such required that the applicant be responsible for maintenance of the shoreline protective device in the future. In the case of the proposed maintenance and augmentation, the previously approved riprap has sunk into the beach sand, and is no longer providing adequate protection for the residences. The proposed project would pull back the riprap that has migrated beyond the approved revetment footprint, and would reconstruct the revetment in its approved footprint, configuration and height. Thus, although the project does involve the placement of additional rock on the beach, the new rock will not result in any additional encroachment on the beach, or adversely impact public access. Replacing the migrated riprap will remove an existing access obstruction on the beach, as required by the previous permit.

Recently, the Commission has approved several permits for work on revetments with the requirement that a mitigation fee be paid to off-set the impacts associated with the development (ref. A-6-OCN-06-012 & -13/Ratkowski; A-6-OCN-06-044/Margulis; A-6-IMB-06-106/Carver). However, in those cases, the existing revetments were unpermitted, and addition of new rock effectively authorized the creation of a new revetment that had not previously been approved or mitigated. In the case of the proposed project, the entire revetment has been reviewed and determined to be consistent with the Coastal Act. Maintenance, as proposed, was encouraged and required by the previous permits and will not result in any new or additional impacts beyond those which have been previously authorized. Special Condition #3 requires that the applicant submit as-built plans demonstrating that the revetment has been built within the boundaries of the previously approved height, width and configuration, as proposed. Therefore, the proposed revetment reconstruction can be found the least environmentally-damaging feasible alternative.

The proposed project is consistent with the terms and requirements of the previously approved permit. Because the project will not result in any additional encroachment on the beach beyond the previously approved footprint, the additional riprap will not adversely impact public access. However, because the project is located on sandy beach, construction activities associated with the project could potentially impact public access. The applicant has submitted a preliminary staging and access plan that shows how it will get equipment to the site. There is no direct street access to the area where the revetment is located. The applicant proposes to enter the site by driving to the end of Seacoast Drive, south of the project site, and then driving west across property owned by the U.S. Department of Fish and Wildlife. There is public parking on the east side of Seacoast Drive, north of the terminus of the street.

The beach accessway off of Seacoast Drive is located on the sand between the existing revetment to the north, and the Tijuana Slough National Wildlife Refuge to the south. The applicant is proposing to use this sand area for access, rock unloading, and vehicle staging. The accessway is currently used by pedestrians and official vehicles, and is separated from the Refuge proper by a fence. This is the same location used for site access for the originally approved project, and the previous amendments, and no impacts to the refuge are anticipated to result from use of this area for construction access and staging. Special Condition #2 requires that authorization from the Department of Fish and Wildlife to use the property as an accessway be provided. Thus, no impacts to sensitive habitat or species are expected. Special Condition #1 requires that the applicant submit a final construction access plan. It prohibits the use of any public parking areas, including on-street parking, for staging or storage of equipment. The condition also prohibits construction on the sandy beach during the summer months of Memorial Day to Labor Day of any year. Therefore, impacts to the public during construction of the project will be minimized to the greatest extent feasible.

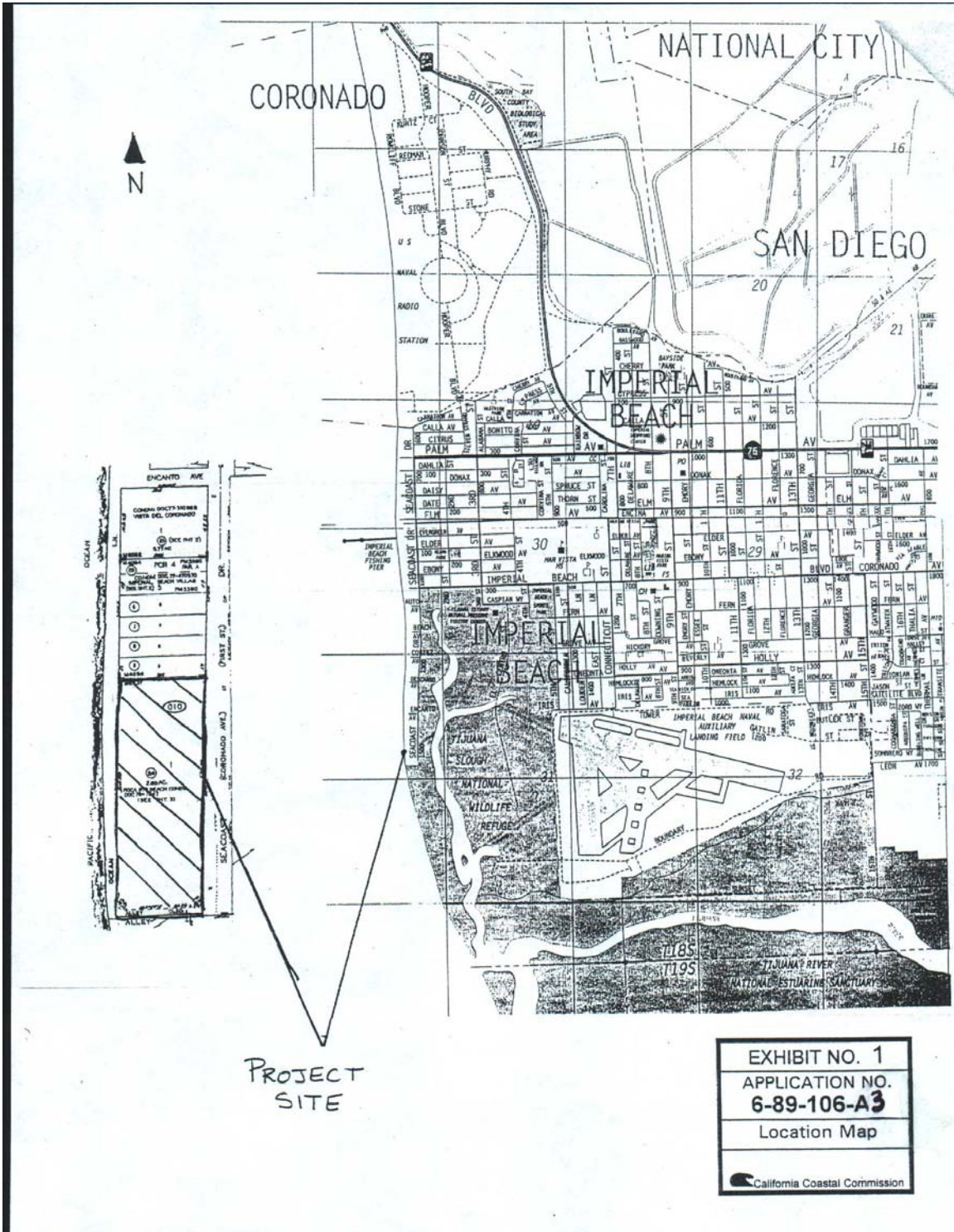
In summary, the applicant is proposing to maintain the permitted shoreline protection consistent with the requirements of the original permit. The shoreline protection is required to protect existing structures and is the least environmentally damaging feasible alternative. The project will restore the revetment to its previously approved configuration and will not encroach any further seaward or be any higher than the previously approved revetment, which the Commission found consistent with the Chapter 3 policies of the Coastal Act. Special Condition #4 indicates that all previously approved conditions of the original permit and first amendment remain in effect. Thus, no impacts to geologic stability or public access and recreation will result, consistent with the above-cited Chapter 3 policies of the Coastal Act.

4. Local Coastal Planning. The project site is located within the City of Imperial Beach, which has a certified Local Coastal Program. However, the subject site is within an area of Commission original jurisdiction and as such, the Chapter 3 policies of the Coastal Act are the standard of review, with the certified LCP used as guidance. The subject site is planned and zoned "Public Facility" in the certified LCP, which is the designation used for parks, beaches, and other public recreation areas in the City. As discussed above, the proposed project will not result in any additional encroachment on the beach. Therefore, as conditioned, the proposed project can be found consistent with all of the zoning and planning designations of the City of Imperial Beach, and with the applicable Chapter 3 policies of the Coastal Act. Thus, approval of the project will not prejudice the ability of the City of Imperial Beach to continue to implement its 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 hazards, public access, and recreation policies of the Coastal Act. Mitigation measures, including final staging plans, a letter of permission from the U.S. Department of Fish and Wildlife and continuance of all past permit conditions, will minimize all adverse environmental impacts. Alternatives, including construction of a vertical seawall, have been reviewed, and 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.



PROJECT SITE

EXHIBIT NO. 1
APPLICATION NO.
6-89-106-A3
Location Map

California Coastal Commission

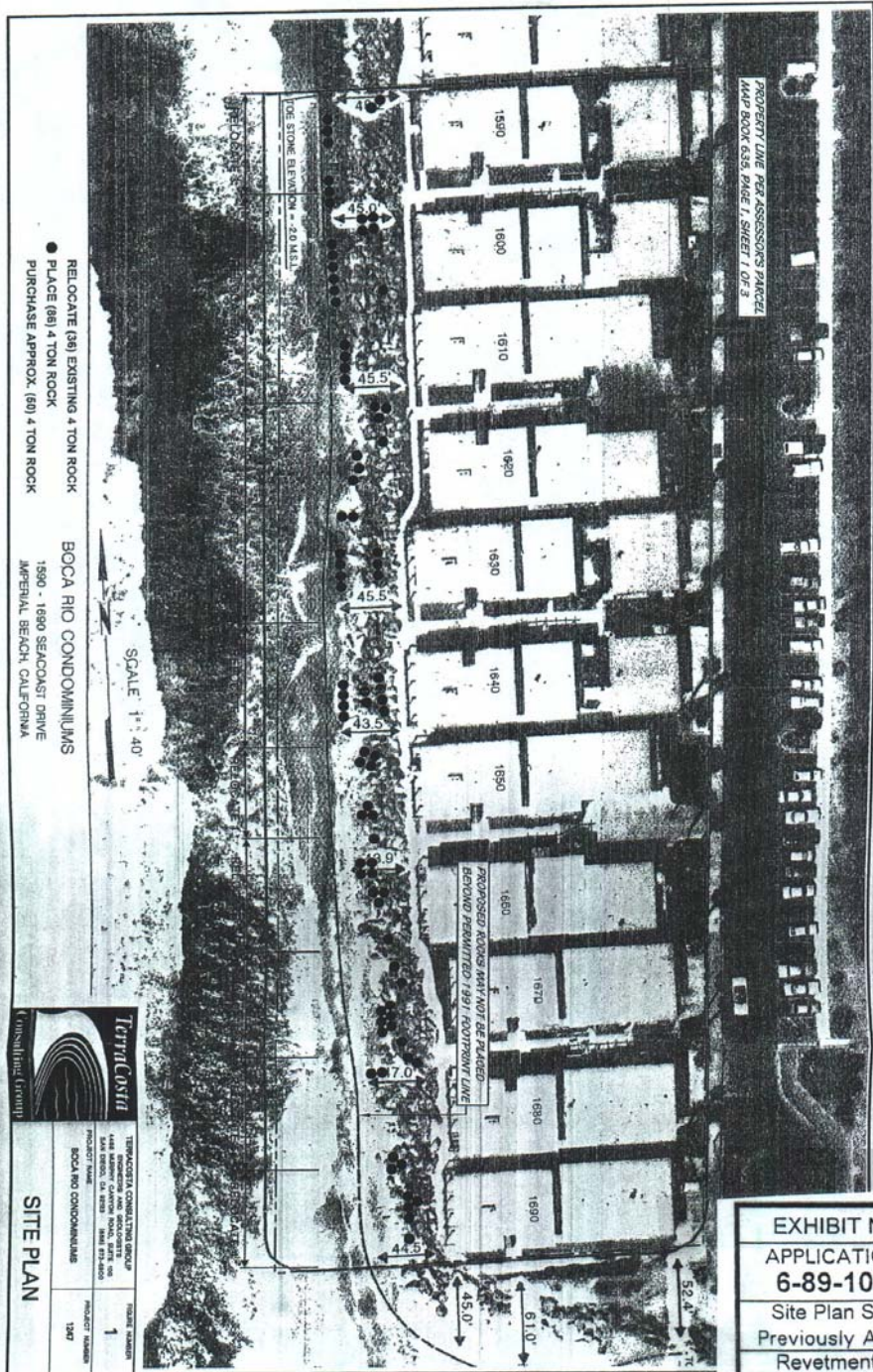
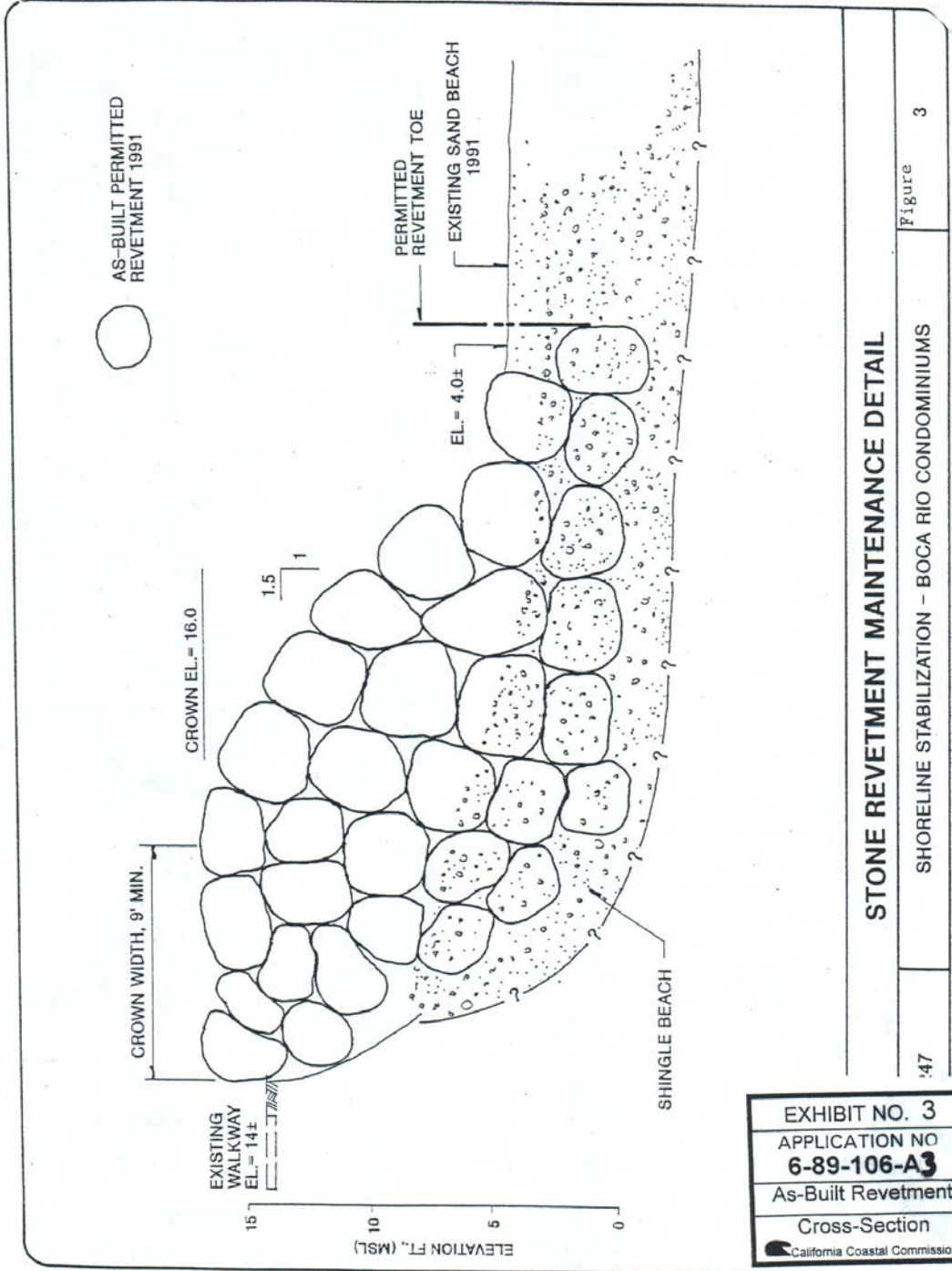


EXHIBIT NO. 2
APPLICATION NO.
6-89-106-A3
Site Plan Showing
Previously Approved
Revetment Limits
California Coastal Commission



| |
|--------------------------------------|
| EXHIBIT NO. 3 |
| APPLICATION NO 6-89-106-A3 |
| As-Built Revetment |
| Cross-Section |
| California Coastal Commission |

STONE REVETMENT MAINTENANCE DETAIL

| | | |
|----|-------------------------------------------------|----------|
| 47 | SHORELINE STABILIZATION - BOCA RIO CONDOMINIUMS | Figure 3 |
|----|-------------------------------------------------|----------|

CONSULTANTS, INC.