

CALIFORNIA COASTAL COMMISSION

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Staff: Gary Cannon-SD
Staff Report: April 19, 2007
Hearing Date: May 9-11, 2007

F10a

AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-00-009-A3

Applicant: Del Mar Beach Club

Agent: Walt Crampton

Original

Description: Installation of five, 36 inch diameter buried and drilled piers ranging from approximately 28 to 70 ft. deep perpendicular to the beach below an existing 66 unit, 3 story condominium complex. Also proposed is the payment of an in-lieu fee for sand replenishment.

Proposed

Amendment: Installation of colored and sculpted tiedback concrete infill between and around exposed portions of below-grade drilled piers located under the condominium complex at the top of the bluff.

Site: 825 South Sierra Avenue, Solana Beach, San Diego County. APN's 298-240-33, 34, 35, 36, 39 and 40.

Substantive File Documents: City of Solana Beach General Plan and Zoning Ordinance San Diego County LCP; Special Use Permit #17-99-35; "Geotechnical Investigation and Basis of Design Coastal Bluff Stabilization at Southwest Property Corner Del Mar Beach Club" by Group Delta Consultants, Inc. dated May 19, 2000; DMBC Shoreline Stabilization Plans dated 8/22/01 by TerraCosta Consulting, Inc.; Letter from Terra Costa Consultants, Inc. to Coastal Commission dated 8/29/01; CDP Nos. F4051/Del Mar Beach Club, 6-83-509/Del Mar Beach Club, 6-89-281/Del Mar Beach Club, 6-00-9/Del Mar Beach Club, 6-00-9-A1/Del Mar Beach Club and 6-00-9 A2/Del Mar Beach Club.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff is recommending approval of the proposed infill and color and texture treatment of the exposed sections of the piers with conditions that require the applicant to submit final plans, assume all risks associated with the project, monitor and maintain the project in its approved state over its lifetime and to incorporate the use of Best Management Practices to protect ocean waters. In addition, the project has been conditioned to prohibit work during weekdays during the

summer so as to mitigate its impact on public access and recreation opportunities. The project, and any subsequent visual treatment, will serve to mitigate the adverse visual impacts associated with the exposure of drilled piers that lie within the bluff and underpin the condominium complex at the top of the bluff. In addition, the proposed project represents the type of minimal repairs that the Commission contemplated to have been required over the life of the pier structures.

Standard of Review: Chapter 3 policies of the Coastal Act.

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. 6-00-009 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 ground 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:

(Special Conditions #1 - #9 relate exclusively to the proposed amendment request and do not modify the original permit or subsequent amendments)

1. Final Plans. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for review and written approval

of the Executive Director, final plans for the concrete covering of the exposed piers and infill between them in substantial conformance with the submitted plans dated 1/8/07 by TerraCosta Consulting Group and approved by the City of Solana Beach.

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

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

- a. No overnight storage of equipment or materials shall occur on sandy beach or within Fletcher Cove public parking spaces. During the construction stages of the project, the permittee shall not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion. In addition, no machinery shall be placed, stored or otherwise located in the intertidal zone at any time, except for the minimum necessary to construct the seawall. Construction equipment shall not be washed on the beach or in the Fletcher Cove parking lot.
- b. Access corridors shall be located in a manner that has the least impact on public access to and along the shoreline.
- c. No work shall occur on the beach on weekends or holidays between Memorial Day weekend and Labor Day of any year.
- d. The applicant shall submit evidence that the approved plans/notes have been incorporated into construction bid documents. The staging site shall be removed and/or restored immediately following completion of the development.

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

3. As-Built Plans/Photographs. Within 60 days following completion of the project, the permittee shall submit as-built plans of the approved structures and shall submit color photographs documenting the appearance of the structures as seen from the beach below and, if feasible, from the top of the bluff. In addition, within 60 days following completion of the project, the permittee shall submit certification by a

registered civil engineer, acceptable to the Executive Director, verifying that the structures have been constructed in conformance with the approved plans.

4. Assumption of Risk, Waiver of Liability and Indemnity Agreement. By acceptance of this permit amendment, the applicant acknowledges and agrees (i) that the site may be subject to hazards from bluff collapse and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

5. Future Maintenance/Debris Removal. Within 15 days of completion of construction of the infill and concrete application the permittees shall remove all debris deposited on the bluff, beach or in the water as a result of construction of the concrete infill. The permittees shall also be responsible for the removal of debris resulting from failure or damage of the infill and concrete application in the future. In addition, the permittee shall maintain the permitted structures in their approved state. Any change in the design of the project or future coloring and texturing of exposed portions of the pier structures, beyond exempt maintenance as defined in Section 13252 of the California Code of Regulations, to restore the structure to its original condition as approved herein, will require a coastal development permit. **However, in all cases, if after inspection, it is apparent that repair and maintenance is necessary, the permittee shall contact the Commission office to determine whether permits are necessary, and, if necessary, shall subsequently apply for a coastal development permit for the required maintenance.**

6. Prior Conditions of Approval. All conditions adopted by the Coastal Commission as part of the original permit action, except as specifically modified or replaced herein, shall remain in full force and effect.

7. Construction Activities. If during construction, site conditions warrant changes to the approved plans (e.g., as a result changed geologic conditions), the applicant shall contact the San Diego District office of the Coastal Commission immediately, prior to any changes to the project in the field. No changes to the project shall occur without a Coastal Commission approved amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

8. Best Management Practices. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit for review and written approval of the Executive Director a Best Management Plan that effectively assures no shotcrete or other construction byproduct or debris will be allowed onto the bluff face, sandy beach and/or allowed to enter into coastal waters. During shotcrete

application, the Plan shall at a minimum provide for all shotcrete and other debris to be contained through the use of tarps or similar barriers that completely enclose the construction area and that prevent shotcrete and other debris from contact with bluff material, beach sands and/or coastal waters. All shotcrete and other construction byproducts shall be properly collected and disposed of off-site.

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

9. Deed Restriction. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit to the Executive Director for review and approval, documentation demonstrating that the landowner has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit amendment, 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 (hereinafter referred to as the “Standard and Special Conditions”); and (2) imposing all Standard and Special Conditions of this permit amendment as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the applicant’s entire parcel or parcels. 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 it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

(The following condition replaces Special Condition #3 of the original permit so as to include the maintenance and monitoring of all below grade piers that exist at the subject site)

10. Monitoring Program. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit to the Executive Director for review and written approval, a monitoring program prepared by a licensed geologist or geotechnical engineer for the site and piers structures (both the 5 within the bluff face and the 29 that are located in the top of the bluff) which provides for the following:

- a. An annual evaluation of the condition and performance of the pier structures, infill and concrete visual treatment addressing whether any significant weathering or damage has occurred that would adversely impact the future performance of the structures.

- b. Annual measurements of any differential retreat between the natural bluff face and the pier structures. The program shall describe the method by which such measurements shall be taken.
- c. Provisions for submittal of a report to the Executive Director of the Coastal Commission on May 1 of each year (beginning the first year after construction of the project is completed) for a period of three years and then, each third year following the last the annual report, for the life of the approved pier structures. Each report shall be prepared by a licensed geologist or geotechnical engineer. The report shall contain the measurements and evaluation required in sections a, and b above. The report shall also summarize all measurements and provide some analysis of trends and the stability of the overall bluff face below and adjacent to the development site and the impact of the pier structures on the bluffs to either side of the wall. In addition, each report shall contain recommendations, if any, for necessary maintenance, repair, changes or modifications to the project including the coloring and texturing of exposed sections of the pier structures.
- d. An agreement that the permittees shall apply for a coastal development permit within three months of submission of the report required in subsection c. above (i.e., by August 1st) for any necessary maintenance, repair, changes or modifications, including the coloring and texturing of exposed sections of the piers, recommended by the report that require a coastal development permit.

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

III. Findings and Declarations.

The Commission finds and declares as follows:

1. Amendment Description/Permit History. The proposed amendment request involves the construction of concrete infill material to be placed between and around the exposed portions of three piers that underpin the southwest corner of an existing condominium complex. The purpose of the project is to mitigate the visual exposure of the piers and to fill in area between exposed piers to prevent the loss of soil around them. The infill will connect on its western side to previously approved infill of exposed portions of 5 below-grade piers that lie within the bluff face. The concrete infill will be colored and sculpted to closely match the natural surrounding bluff. In addition, the concrete infill will have tiebacks installed into the bluff for support. The affected piers

are approximately 52 ft. deep, 18 inches in diameter, 30 inches apart and are located at the top of the approximately 70 ft. high bluff.

The project is located along the southern boundary of the City of Solana Beach below an existing 66-unit condominium complex. The condominium complex was constructed in the early 1970's prior to the enactment of the Coastal Act. The bluffs fronting the condominiums contain several shoreline protective devices, many of which were constructed following enactment of the Coastal Act and have received Coastal Commission approval. In 1980, the Commission approved the construction of an approximately 540 foot-long, 15 foot-high concrete seawall at the base of the bluff below the condominiums (CDP #F4051/Del Mar Beach Club [DMBC]). In 1984, the Commission approved the installation of deeper foundation footings and backfill for the seawall which had become undermined by the loss of sand (CDP #6-83-509/DMBC). In 1989, the Commission approved the construction of an approximately 40 foot-long, 15 foot-high mid-bluff retaining wall and installation of twenty-nine, approximately 52 ft. in depth, 18 inch drilled piers to underpin the southwest corner of the condominium structure (CDP #6-89-281/DMBC). It is three of these piers that that have become partially exposed and are proposed to be colored and textured. In March 2001, the Commission approved the installation of five, 36-inch diameter buried and drilled piers ranging from approximately 28 to 70 ft. deep perpendicular to the beach below the southwest corner of the condominium complex (CDP #6-00-009/DMBC). In January 2002, the Commission approved the construction of colored and textured concrete infill material to be placed between and around the exposed portions of up to four piers that were installed pursuant to CDP #6-00-009 (Ref. 6-00-009-A1/DMBC). In October 2002, the Commission approved the installation of temporary concrete shoring and soils nails to provide construction worker protection during the installation of the visual treatment of the exposed piers (Ref. CDP #6-00-009-A2/DMBC).

The project is located in the City of Solana Beach. The City of Solana Beach was previously within the jurisdiction covered by the certified County of San Diego Local Coastal Program (LCP). Because the LCP was never effectively certified, the standard of review is the Chapter 3 Policies of the Coastal Act with the County LCP used as guidance.

2. Geologic Conditions and Hazards. Section 30235 of the Coastal Act states, in part:

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

In addition, Section 30253 of the Coastal 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...

Coastal Act Section 30235 acknowledges that seawalls, revetments, cliff retaining walls, groins and other such structural or “hard” solutions alter natural shoreline processes. Thus, such devices are required to be approved only when necessary to protect existing structures. The Coastal Act does not require the Commission to approve shoreline altering devices to protect vacant land or in connection with construction of new development. A shoreline protective device proposed in those situations is likely to be inconsistent with various other Coastal Act policies. For example, Section 30253 addresses new development and requires that it be sited and designed to avoid the need for protective devices that would substantially alter natural landforms along bluffs and cliffs.

In addition, the Commission has generally interpreted Section 30235 to require the Commission to approve shoreline protection only for existing principal structures. The Commission must always consider the specifics of each individual project, but has found in many instances that accessory structures such as patios, decks and stairways are not required to be protected under Section 30235 or can be protected from erosion by relocation or other means that do not involve shoreline protection. The Commission has historically permitted at grade structures within the geologic setback area recognizing they are expendable and capable of being removed, rather than requiring a protective device that alters natural landforms along bluffs and cliffs.

In approving the various shoreline protective devices cited above in Section 1 of this report, the Commission determined that the existing condominium complex or its shoreline protective structures were threatened and that the proposed structures were necessary to protect the existing condominiums. Special conditions for the earlier Commission actions included provisions for a lateral access easement over portions of the property which lie seaward of the seawall, coloring the seawall and retaining walls consistent with the natural appearance of the bluff, landscaping of the bluff with drought tolerant and native coastal plants, maintenance of structures and removal of all permanent irrigation devices from 150 feet landward of the bluff’s edge, and, with the most recent below-grade pier project, the payment of an in-lieu fee for sand replenishment. In addition, one of the special conditions of approval for the buried piers in 2001 was that if the piers should become exposed in future, the applicant would be required to submit a coastal permit amendment for the construction of measures to mitigate the visual appearance of the exposed piers. Although this condition does not specifically apply to the twenty-nine piers that underpin the southwest corner of the condominium complex (Ref. 6-89-281/DMBC), the applicant is requesting authorization to amend the 2001

permit for visual treatment of the exposed bluff face piers in order to visually treat the adjacent underpinnings in a similar fashion.

The proposed project is a request to visually treat the exposed piers so that they do not create a visual blight along the shoreline as well as to infill the area around the exposed piers to prevent the loss of soil. The loss of this soil material around the exposed portions of the piers has not been identified by the applicant as representing an immediate threat to the pier foundation supports, but is instead a minimal repair and maintenance proposal. The Commission's coastal engineer has also reviewed the applicant's information and concurs with that assessment. Such minimal repair is consistent with the type of work contemplated by the Commission in approving the pier originally. Special Condition #3 of the original permit required the applicant to be "responsible for the maintenance" of the underpinnings and required a permit for any repair or maintenance. While not requiring visual treatment of exposed piers, the proposed project is consistent with the repair and maintenance requirements of the original underpinning permit. In support of the original project for the construction of the five below-grade piers within the bluff face, the applicant submitted a detailed geotechnical report which identified that the existing seawall and the southwest corner of the blufftop condominium were threatened by erosion which flanks the existing south side of the seawall which ultimately could threaten the foundation support of the condominium complex ("Geotechnical Investigation and Basis of Design Coastal Bluff Stabilization at Southwest Property Corner Del Mar Beach Club" by Group Delta Consultants, Inc. dated May 19, 2000).

The geotechnical report identified that the south end of the existing lower seawall and the mid-bluff retaining wall located on the south side of the property were threatened due to the growth of a seacave that had formed (on the adjacent property to the south) along a northeast trending fault which extends onto the subject property. The report asserted that once the erosion generated by the growth of the seacave reached the area behind the south end of the seawall, the wall will be undermined, resulting in the loss of backfill and the subsequent failure of the mid-bluff wall that is supported by the seawall, its backfill and ultimately the 29 pier underpinnings at the top of the bluff. The Commission subsequently determined that the seawall, mid-bluff wall and piers beneath the condominium complex were threatened by erosion and that, thereby, the condominium at the top of the bluff was also threatened. Therefore, the Commission was required to approve a shoreline altering device to protect the existing structures, pursuant to Section 30235 of the Coastal Act. The applicant's engineer has recently identified that an additional bluff sloughage has occurred over the last year resulting in the exposure of a portion of the condominium's underpinnings at the top of the bluff along the south side of the property (Letter from TerraCosta Consulting, Inc., dated February 1, 2007.)

The ongoing erosion that is occurring at the subject site is coming from the south and extends up to the southwest corner of the condominium complex. As previously identified, the western side of the condominium complex is protected by an approximately 540 ft.-long seawall at the base of the bluff. Although the applicant would have preferred to have lengthened this seawall further south to prevent bluff collapses to the south from threatening the south side of the condominium complex, the bluffs to the

south lie within the City of Del Mar, which has an ordinance prohibiting the construction of seawalls on the public beach. Therefore, in 2001 the Commission approved 5 concrete piers to be placed perpendicular to the south end of the seawall and that extends up to the southwest corner of the condominium complex. While the potential for flanking of the lower seawall has been arrested by the construction of the perpendicular wall of piers within the bluff face, the pier underpinnings at the top of the bluff will continue to be exposed over time because of ongoing erosion coming from the south. Therefore, it is anticipated that future applications of colored and textured infill of the piers at the top of the bluff will be made.

Section 30235 of the Coastal Act requires that any necessary shoreline protective measures must also not adversely affect the shoreline's sand supply. In the case of the previously approved installation of the five below-grade piers, the applicant volunteered to participate in a regional sand replenishment program through the payment of an in-lieu fee for the future purchase and placement of sand along the shoreline (Ref. 6-00-009/DMBC). The amount of the fee was based on an estimation of several factors including: the extended life the below-grade piers provided to the lower seawall (30 years); the amount of bluff sand material which would have been contributed to the beach over 30 years and; the cost of purchasing and placing the sand on the beach. The Commission agreed with the applicant's request and conditioned the pier installations upon the applicant's payment of an in-lieu fee of \$47,567.00. The proposed covering and infill around the exposed piers will involve the same section of bluff for which the applicant has already agreed to mitigate through the payment of an in-lieu fee. Therefore, the proposed project will not result in any additional adverse effect on the area's supply of sand and no additional mitigation is necessary. Therefore, because the proposed project is necessary to protect the structures at the top of the bluff and will not adversely affect local sand supply, the project is consistent with the requirements of Section 30235 of the Coastal Act.

Special Condition #1 requires the applicants to submit final plans for the project that reflect current conditions. The final plans requirement is designed to ensure that should site conditions require minor revisions to the proposed project, the Commission's staff is afforded an opportunity to review the final plans to assure they are in substantial conformance with those approved by the Commission.

To assure the proposed shotcrete application has been constructed in compliance with the approved plans, Special Condition #3 has been proposed. This condition requires that, within 60 days of completion of the project, as built-plans and photographs of the finished structure be submitted verifying that the proposed visual treatment was constructed in accordance with the approved plans. In addition, the condition requires a certification from a registered civil engineer that the structures were constructed as proposed.

Because the bluff is experiencing ongoing erosion such that site conditions may change before implementation of the subject project, Special Condition #7 has been attached which requires the applicant to contact the Commission before commencing any revision

to the proposed project that may become necessary because site conditions change. Any revisions to the project will require an amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

Also, due to the inherent risk of shoreline development, Special Condition #4 requires the applicant to acknowledge the risks and indemnify the Commission against claims for damages that may occur as a result of its approval of this permit. Although the Commission has sought to minimize these risks, the risks cannot be eliminated entirely. Given that the applicants have chosen to construct the proposed shoreline devices despite these risks, the applicants must assume the risks. In addition, Special Condition #9 requires the applicant to record a deed restriction imposing the conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property.

Special Condition #5 notifies the applicants that they are responsible for maintenance of the herein-approved structures. This includes removal of debris deposited on the beach during and after construction of the structures. The condition also indicates that, should it be determined that maintenance of the proposed structures is required in the future, the applicant shall contact the Commission office to determine if permits are required.

Finally, Special Condition #10 has been attached to require the applicant to monitor and maintain the proposed development in its approved state over its lifetime. To assure this occurs, Special Condition #10 revises the monitoring and maintenance requirements of the original permit for the 5 bluff face piers to include the subject piers beneath the condominium complex and any subsequent visual treatments.

In summary, the applicant's engineer has provided documentation including photographs that indicate that the bluff has continued to erode such that the three piers beneath the southwest corner of the condominium complex are exposed. Continued exposure of the 29 pier underpinnings of the condominiums could ultimately threaten the condominium development if these existing underpinnings are not repaired and maintained as needed. The applicant proposes to color and texture the exposed sections of the piers to match the natural contours and color of the bluff. The Commission's coastal engineer has reviewed the subject development and concurs that the project is the type of repair the Commission would have anticipated to occur over time to protect the southwest corner of the condominiums. Therefore, as conditioned, the Commission finds that the proposed development is consistent with Sections 30235, and 30253 of the Coastal Act.

3. Visual Resources/Alteration of Natural Landforms. Section 30251 of the Coastal Act states, in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

In addition, Section 30240(b) of the Act states that:

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

As previously described, the proposed development involves the construction of a colored and sculptured concrete covering of three exposed piers located at the top of the bluff. The bluff north of the subject site consists of an approximately 540 foot-long, 15 foot-high vertical seawall, an approximately 40 foot-long, 10 foot-high mid-bluff retaining wall, a series of cribwalls, gunnite sprayed over portions of the upper bluff and landscaping. The bluffs immediately south of the pier installation site remain in their natural, unarmored condition and continue to experience the natural processes of marine erosion. The three piers which are proposed to be treated are approximately 18 inches in diameter and 30 inches apart. When these piers (along with 26 additional piers) were approved for installation by the Commission in 1989 as underpinnings for the condominium complex, the coastal development permit did not include provisions requiring the applicant to visually treat any future exposed portions of the piers (Ref. 6-89-281/DMBC). However, following the recent exposure of the piers, the applicant has voluntarily requested to treat the piers so as to mitigate their appearance vis-à-vis the natural adjacent bluffs. Alternatively, the applicant could simply allow the concrete piers to become exposed since the applicant's engineer has indicated the exposure of the top portions of these 3 (of 29) approximately 52 ft. in depth piers would not immediately threaten the condominium structure.

The proposed application of colored and texture concrete is identical to the textured concrete that was constructed over and around the exposed sections of several drilled piers that lie within the bluff face immediately west of the proposed development site. (Ref. CDP #6-00-009-A1/DMBC). In addition, the proposed concrete application has been designed to connect to the visually treated section of these bluff face piers so that they will blend together. Based on a review of an aerial photograph taken in October 2006 and displayed on the "California Records project website" (Ref. image #200604363 at www.californiacoastline.org), the existing visual treatment of the bluff face piers appears to have been successful in that the color and texture closely matches the surrounding natural bluffs. Therefore, it is likely that the proposed visual treatment will have similar beneficial impacts. To assure that any future exposure of the subject 3 piers is also visually treated, Special Conditions #6 and #10 have been attached. Special Condition #6 requires the applicant to keep the treated pier in its approved state and to apply for a permit or amendment if future work is necessary. In addition, Special Condition #10 requires that regular monitoring reports be prepared and submitted for Executive Director review to verify the condition of the proposed development over its lifetime.

[I assume you included the ESHA language here because this construction is taking place on and/or adjacent to the beach. Is that right? You should include some discussion, even if it's quite short, of how this development, as conditioned, prevents impacts to ESHA and is therefore in compliance with 30240(b) – I just didn't really see that here.]

As conditioned, the Commission finds that potential visual impacts associated with the proposed development have been reduced to the maximum extent feasible. Thus, the project is consistent with Sections 30240(b) and 30251 of the Coastal Act.

4. Public Access/Recreation. Pursuant to Section 30604 (c), the Coastal Act emphasizes the need to protect public recreational opportunities and to provide public access to and along the coast. Section 30210 of the Coastal Act is applicable to the proposed development and 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.

In addition, Section 30212 of the Act is applicable and 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, [or]
 - (2) adequate access exists nearby....

Additionally, Section 30220 of the Coastal Act provides:

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

The project site is located on a bluff adjacent to a public beach utilized by local residents and visitors for a variety of recreational activities. The site is located at the south end of Solana Beach near the jurisdictional divide of Solana Beach and the City of Del Mar. Public access to the beach is currently available approximately ¼ mile north of the subject site at a public access stairway extending down the bluffs to the beach. In addition, during low tides, the public is able to access the subject site from the City of Del Mar's "Dog Beach" which is located approximate ½ mile south of the subject site at the mouth of San Dieguito River. The beach along this area of the coast is narrow and at high tides and winter beach profiles, the public may be forced to walk virtually at the toe of the bluff or the area could be impassable. As such, an encroachment of any amount onto the sandy beach reduces the beach area available for public use and is therefore a

significant adverse impact. This is particularly true given the existing beach profiles and relatively narrow beach. In addition, shoreline structures on the face of the bluff also reduce the amount of sand that is contributed to the beach from the otherwise eroding bluff. Therefore, public access is also adversely affected as shoreline structures reduce the supply of sand, however minimal that may be.

In approving the seawall located at the base of the bluff fronting the subject condominium site and the installation of the five below-grade piers into the bluff face, the Commission found that the projects would have direct and indirect impacts on public access and recreational opportunities. In the case of the seawall which occupied a portion of the public beach, the Commission required the applicant to record a lateral access easement over portions of the property which lie seaward of the seawall in order to mitigate its impact (CDP #F4051/DMBC). In the case of the five piers which essentially served as return wall for the lower seawall and, according to the applicant's engineer, extended the life of the seawall by approximately 30 years, the applicant proposed (and the Commission agreed) to condition its approval on the applicant's participation in a sand replenishment program through the payment of an in-lieu fee to purchase sand. In this case, however, the proposed project involves the color and textural treatment of above-grade portions of a previously approved shoreline protective structure located at the top of the bluff, below the condominium complex. None of the proposed concrete application will occur on the public beach such that no direct public access will be affected. In addition, the applicant has already mitigated the loss of sand from the bluff that will occur because of the 30 year extended life of the seawall through the payment of an in-lieu sand replenishment fee. Therefore, the loss of sand material behind the lower bluff seawall and five piers has already been mitigated such that mitigation for the proposed project involving the same bluff material is unnecessary.

Although the proposed project will not have any direct impact on public access because of its location, the use of the beach or public parking areas for staging of construction materials and equipment can also impact the public's ability to gain access to the beach. While the applicant has not submitted a construction staging and material storage plan for the subject development, the closest beach to the site within the City of Solana Beach would occur via Fletcher Cove which is located approximately 1 mile north of the subject site.

In other developments for shoreline protection along the Solana Beach shoreline, the Commission has authorized the temporary placement of steel-tracked construction equipment (which cannot traverse asphalt streets) upland of the Fletcher Cove access ramp, in an area which is not currently used for parking. In addition, the Commission has previously authorized the use of parking spaces in an existing City-owned parking lot across the street from Fletcher Cove known as the "Distillery Lot" (for its previous use) for staging and storage of equipment during construction. This free, City-owned parking area is within easy walking distance of Fletcher Cove and is currently available to any beach users or patrons of the several small commercial facilities surrounding the lot. However, it is also the only off-street, open area in the vicinity of Fletcher Cove which can accommodate the type of equipment and vehicles

required to construct the proposed project, other than Fletcher Cove itself. In addition, the City of Solana Beach has in the past indicated that the lot is used only minimally, and thus has an excess capacity which can be allocated to staging and storage for the project, with only a minimal impact to beach uses.

Special Condition #3 prohibits the applicants from storing vehicles on the beach overnight, using any public parking spaces within Fletcher Cove for staging and storage of equipment, and prohibits washing or cleaning construction equipment on the beach or in the parking lot. The condition also prohibits construction on the sandy beach during weekends and holidays between Memorial Day to Labor Day of any year.

In addition, debris dislodged from the structural infill either during construction or after completion also has the potential to affect public access. Therefore, Special Condition #6 has also been proposed which notifies the applicant that they are responsible for maintenance and repair of the pier structures and that should any work be necessary, they should contact the Commission office to determine permit requirements. In addition, the condition requires the applicants to be responsible for removal of debris deposited on the beach during and after construction of the project. Therefore, impacts to the public will be minimized to the greatest extent feasible. Thus, as conditioned, the Commission finds the project consistent with the public access and recreation policies of the Coastal Act.

5. Protection of Ocean Waters/BMP's. Section 30230, 30231 and 30232 of the Coastal Act requires that new development be designed so that ocean waters and the marine environment be protected from polluted runoff and accidental spill of hazardous substances:

Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30232

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

The proposed development involves the application of shotcrete that is sprayed over the face of exposed portions of below-grade concrete piers. During construction some of the shotcrete will likely rebound off the structure and construction debris is likely to fall onto the face of the bluff or to the beach below. According to the Commission's water quality division and staff of the State Regional Water Quality Control Board, San Diego Region, the mixing of this rebound shotcrete and other debris with ocean waters is a violation of the State Water Quality Act because it would involve the unauthorized discharge of a pollutant into ocean waters. To assure that this polluted material does not fall from the top of the approximately 70 ft. high bluff to the beach below and mix with ocean waters, Special Condition #8 has been attached. Special Condition #8 requires the applicant to submit a polluted runoff control plan that incorporates Best Management Practices (BMPs) for Executive Director review and approval that is designed to assure all rebound concrete and other polluted debris will be collected and removed from the site before it can fall to the beach below. With appropriate BMPs, the potential for this polluted material from the site making its way into the ocean will be eliminated. Therefore, as conditioned, the Commission finds the proposed development consistent with the marine and water quality protection policies of the Coastal Act.

6. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The subject site was previously in the County of San Diego Local Coastal Program (LCP) jurisdiction, but is now within the boundaries of the City of Solana Beach. Because the County LCP was never effectively certified, it is not the standard of review. The City has recently submitted a draft of their proposed Land Use Plan so it is anticipated that a formal LCP submittal will soon be submitted and reviewed by the Commission. Until adoption of the LCP, the standard of review will continue to be Chapter 3 provisions of the Coastal Act.

The project site is designated for Open Space Recreation in the City of Solana Beach Zoning Ordinance and General Plan, and was also designated for open space uses under the County LCP. As conditioned, the subject development is consistent with these requirements. Based on the above findings, the proposed visual treatment of the exposed portions of the shoreline device has been found to be consistent with the Chapter 3 policies of the Coastal Act in that the proposed project mitigates the visual appearance of

the exposed piers and conforms with the geologic stability requirements of the Coastal Act.

Therefore, the Commission finds the proposed development, as conditioned will not prejudice the ability of the City of Solana Beach to complete a certifiable local coastal program.

7. 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 geologic hazards, visual quality, public access and water quality protection policies of the Coastal Act. Mitigation measures which require the applicant to monitor and maintain the structural and visual appearance of the concrete infill over its lifetime, assume all risks, utilize BMP's and not impact public access will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

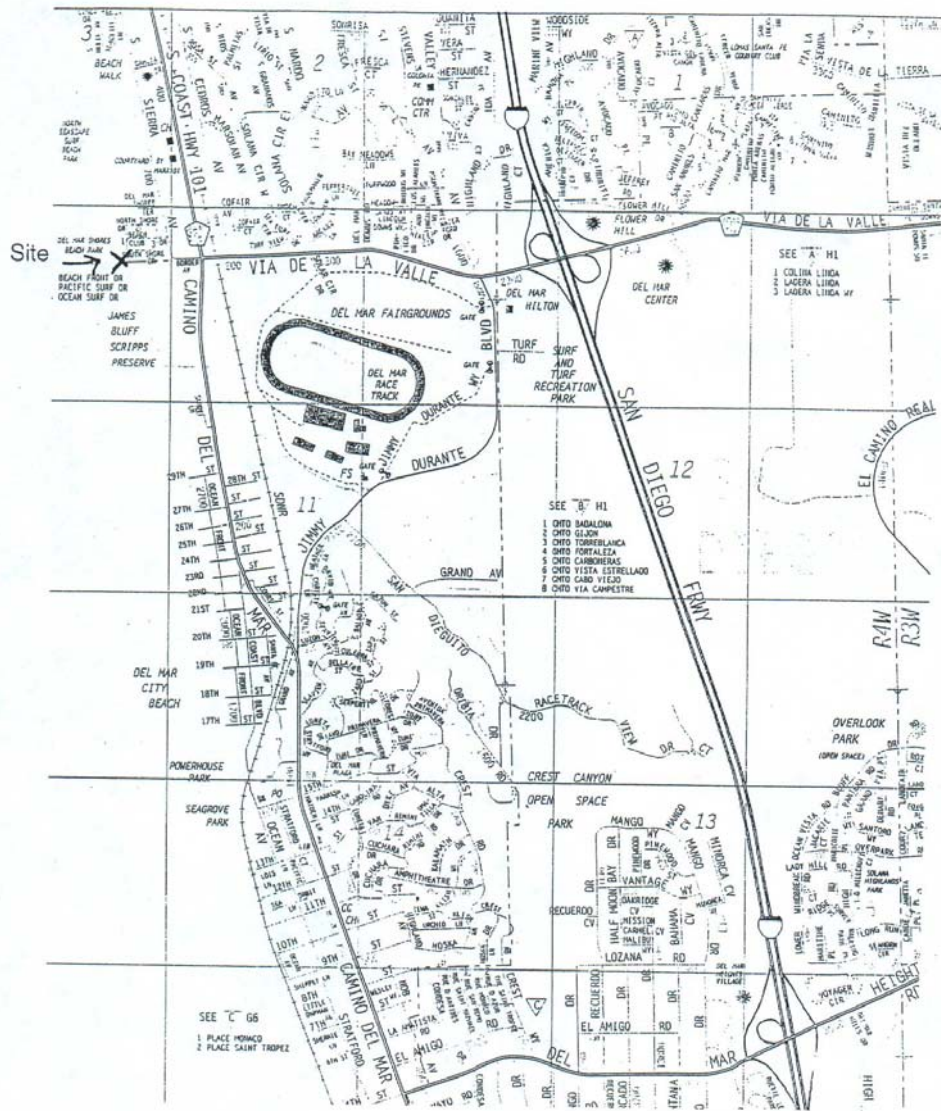


EXHIBIT NO. 1
APPLICATION NO.
6-00-009-A3
Location Map

 California Coastal Commission

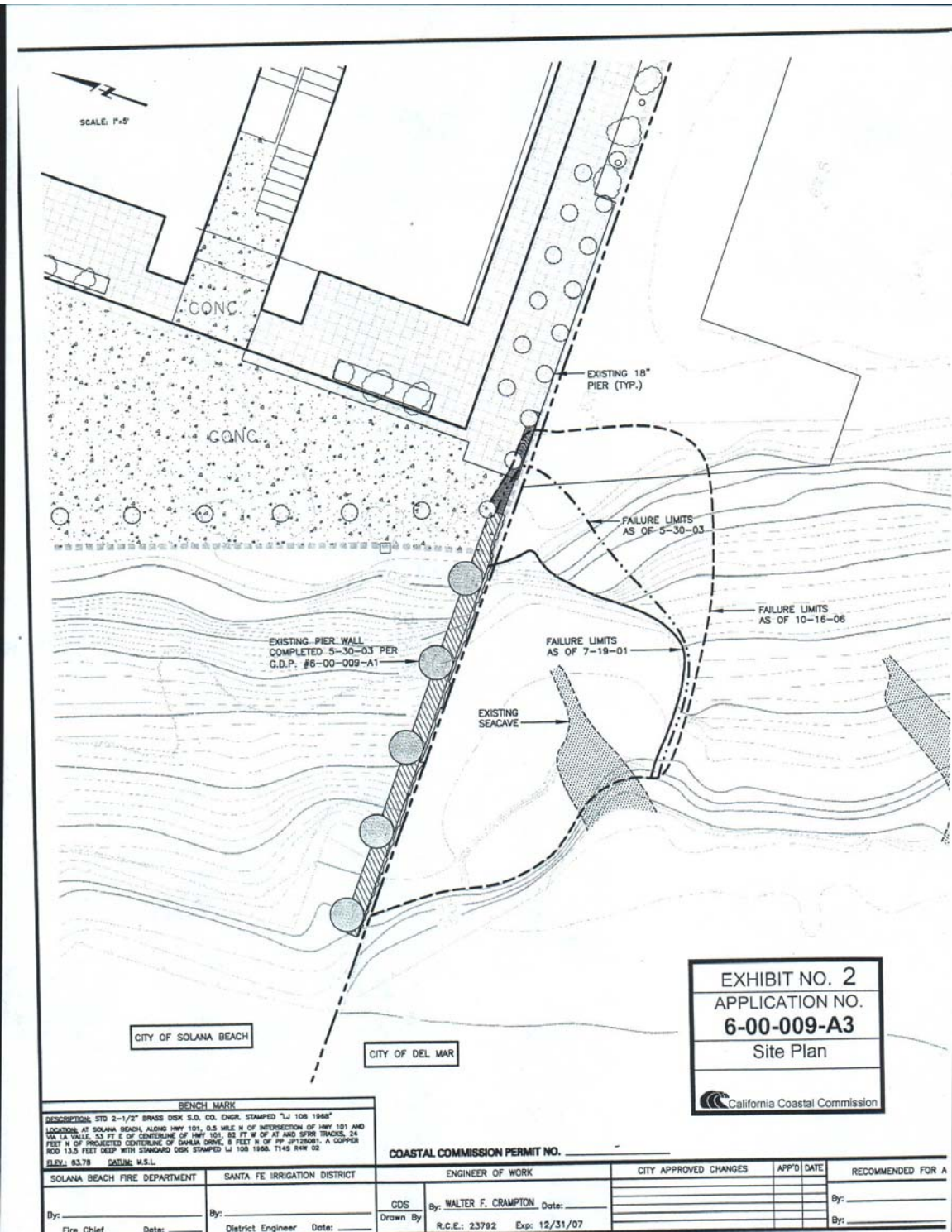


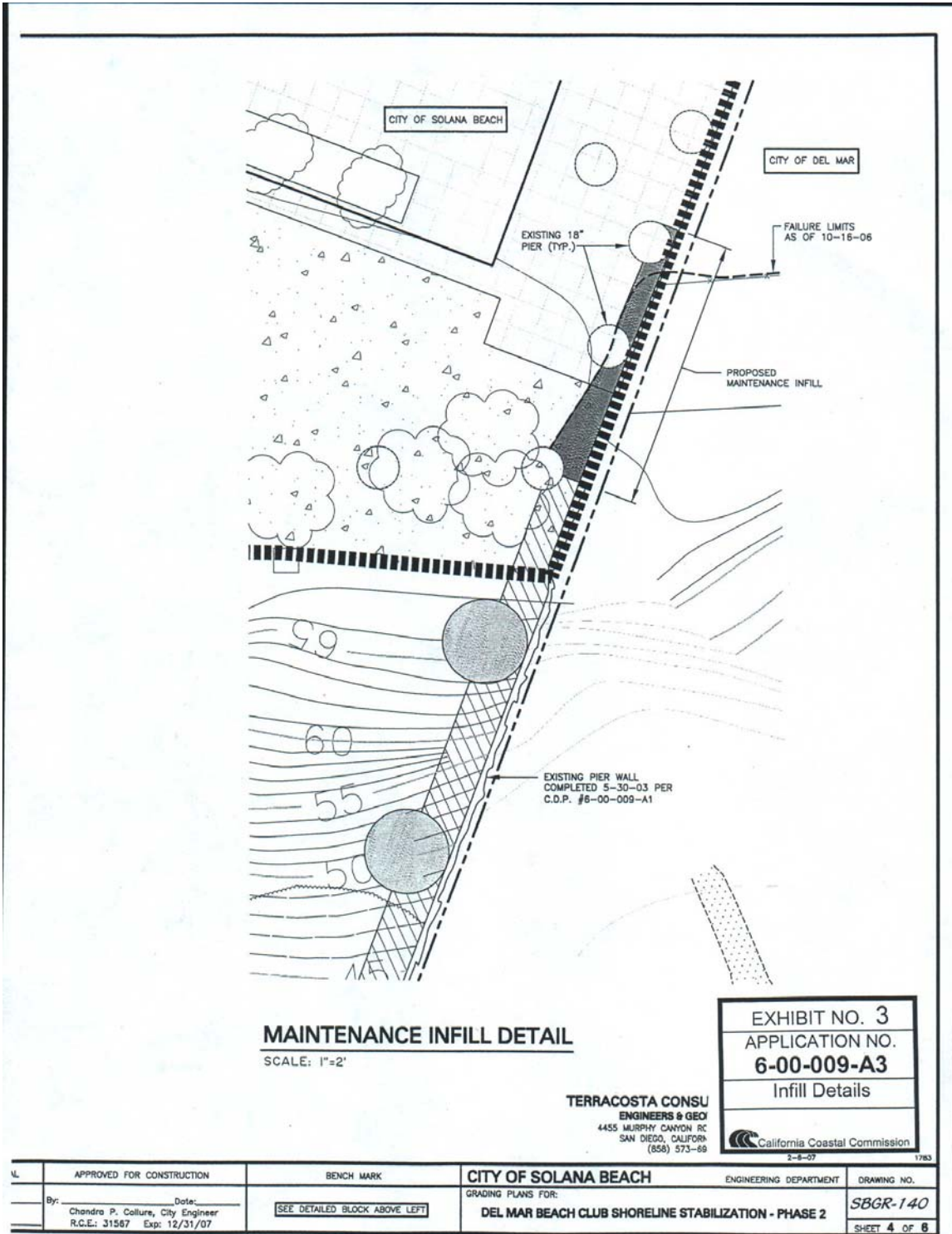
EXHIBIT NO. 2
APPLICATION NO.
6-00-009-A3
Site Plan

California Coastal Commission

BENCH MARK
DESCRIPTION: STD 2-1/2" BRASS DISK S.S. CO. ENGR. STAMPED "LJ 108 1968"
LOCATION: AT SOLANA BEACH, ALONG HWY 101, 0.5 MILE N. OF INTERSECTION OF HWY 101 AND
VAN LA WALLE, 53 FT E OF CENTERLINE OF HWY 101, 83 FT W OF AT AND SPRING TRACKS, 24
FEET N. OF PROJECTED CENTERLINE OF SANABA DRIVE, 8 FEET N. OF 79-07130001, A CONCRETE
ROAD 13.5 FEET DEEP WITH STANDARD DISK STAMPED LJ 108 1968, T145 R4W 02
ELEV.: 83.78 DATE: M.S.L.

COASTAL COMMISSION PERMIT NO. _____

SOLANA BEACH FIRE DEPARTMENT		SANTA FE IRRIGATION DISTRICT		ENGINEER OF WORK		CITY APPROVED CHANGES		APPRO'D DATE	RECOMMENDED FOR A
By: _____	Date: _____	By: _____	Date: _____	GDS Drawn By: _____	By: WALTER F. CRAMPTON Date: _____				By: _____
Fire Chief		District Engineer		R.C.E.: 23792	Exp: 12/31/07				By: _____



MAINTENANCE INFILL DETAIL

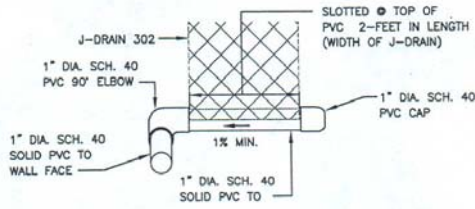
SCALE: 1"=2'

EXHIBIT NO. 3
APPLICATION NO.
6-00-009-A3
Infill Details

TERRACOSTA CONSU
ENGINEERS & GEO
4455 MURPHY CANYON RC
SAN DIEGO, CALIFORNIA
(858) 573-88

California Coastal Commission
2-8-07 1783

APPROVED FOR CONSTRUCTION	BENCH MARK	CITY OF SOLANA BEACH	ENGINEERING DEPARTMENT	DRAWING NO.
By: Chondra P. Collura, City Engineer R.C.E.: 31567 Exp: 12/31/07	SEE DETAILED BLOCK ABOVE LEFT	GRADING PLANS FOR: DEL MAR BEACH CLUB SHORELINE STABILIZATION - PHASE 2		SBGR-140
				SHEET 4 OF 8

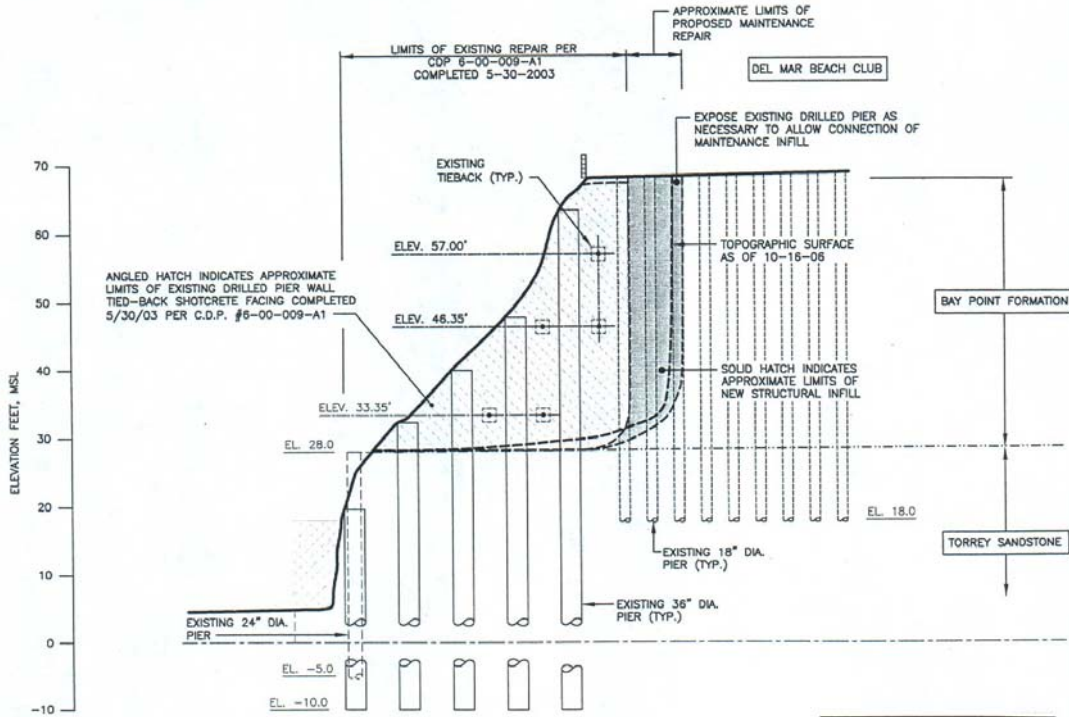


WALL DRAINAGE NOTES

PROVISIONS FOR WALL DRAINAGE WILL CONSIST OF 2-FOOT WIDE GEOCOMPOSITE DRAINBOARDS, CENTERED BETWEEN ADJACENT ANCHORS. J-DRAIN 302 SHALL BE USED FOR ALL VERTICAL CHIMNEY DRAINS. CHIMNEY DRAINS WILL THEN BE MANIFOLDED AND EXTENDED THROUGH THE BASE OF EACH SECTION OF STRUCTURAL SHOTCRETE INFILL. AS NEW INFILLS ARE PLACED, CHIMNEY DRAIN EXTENSIONS SHALL BE ATTACHED TO THE OVERLYING IN-PLACE CHIMNEY DRAIN, WITH A NEW MANIFOLDED OUTLET INSTALLED AT THE BOTTOM OF THE NEW INFILL SECTION.

TYPICAL WALL DRAIN DETAIL

NO SCALE



PIER PROFILE & LAYOUT

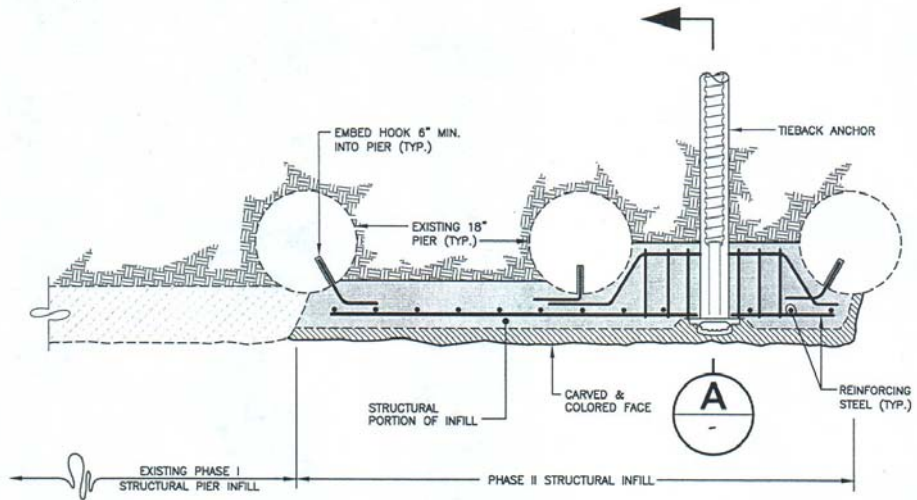
SCALE: 1"=10' (HORIZ.:VERT.)

EXHIBIT NO. 4
 APPLICATION NO.
6-00-009-A3
 Pier Profile

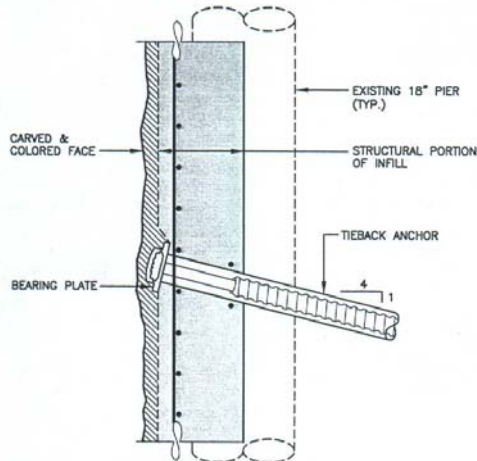
BENCHMARK
 DESCRIPTION: STD 2-1/2" BRASS DISK S.O. CO. ENGR. STAMPED "LJ 108 1968"
 LOCATION: AT SOLANA BEACH, ALONG HWY 101, 0.5 MILE N. OF INTERSECTION OF HWY 101 AND VIA LA VALLA, 53 FT E. OF CENTERLINE OF HWY 101, 32 FT W. OF AT AND SPUR TRACKS, 24 FEET N. OF PROJECTED CENTERLINE OF DANLA DRIVE, 8 FEET N. OF PP #P128081, A COPPER ROD 13.5 FEET DEEP WITH STANDARD DISK STAMPED LJ 108 1968, 1145 NEW 02
 ELEV.: 63.78 DATUM: M.S.L.

COASTAL COMMISSION PERMIT NO. _____

SOLANA BEACH FIRE DEPARTMENT	SANTA FE IRRIGATION DISTRICT	ENGINEER OF WORK	CITY APPROVED CHANGES	APP'D DATE	RECOMMENDED FOR A/
By: _____ Fire Chief	By: _____ District Engineer	CDS Drawn By: _____ Date: _____	By: WALTER F. CRAMPTON R.C.E.: 23792 Exp: 12/31/07		By: _____ Date: _____



PLAN VIEW
SCALE: 1"=1'



SECTION A
SCALE: 1"=1'

BENCHMARK	
DESCRIPTION: STD 2-1/2" BRASS DISK S.D. CO. ENGR. STAMPED "LI 108 1988"	
LOCATION: AT SOLANA BEACH, ALONG HWY 101, 0.5 MILE N OF INTERSECTION OF HWY 101 AND VIA LA VALLE, 53 FT E OF CENTERLINE OF HWY 101, 85 FT W OF AT AND SPR TRACKS, 24 FEET N OF PROPOSED CENTERLINE OF DANAJA DRIVE, 8 FEET N OF PP #P220801, A COPPER ROD 13.5 FEET DEEP WITH STANDARD DISK STAMPED LI 108 1988, T148 R4W 02	
ELEV: 63.78	DATE: N.S.L.
SOLANA BEACH FIRE DEPARTMENT	SANTA FE IRRIGATION DISTRICT
By: _____ Fire Chief	By: _____ District Engineer
Date: _____	Date: _____

COASTAL COMMISSION PERMIT NO. _____	
ENGINEER OF WORK	CITY APPROVED CHAN
GDS Drawn By	By: WALTER F. CRAMPTON Date: _____
R.C.E.: 23792	Exp: 12/31/07

EXHIBIT NO. 5
APPLICATION NO.
6-00-009-A3
Plan View and Section
California Coastal Commission

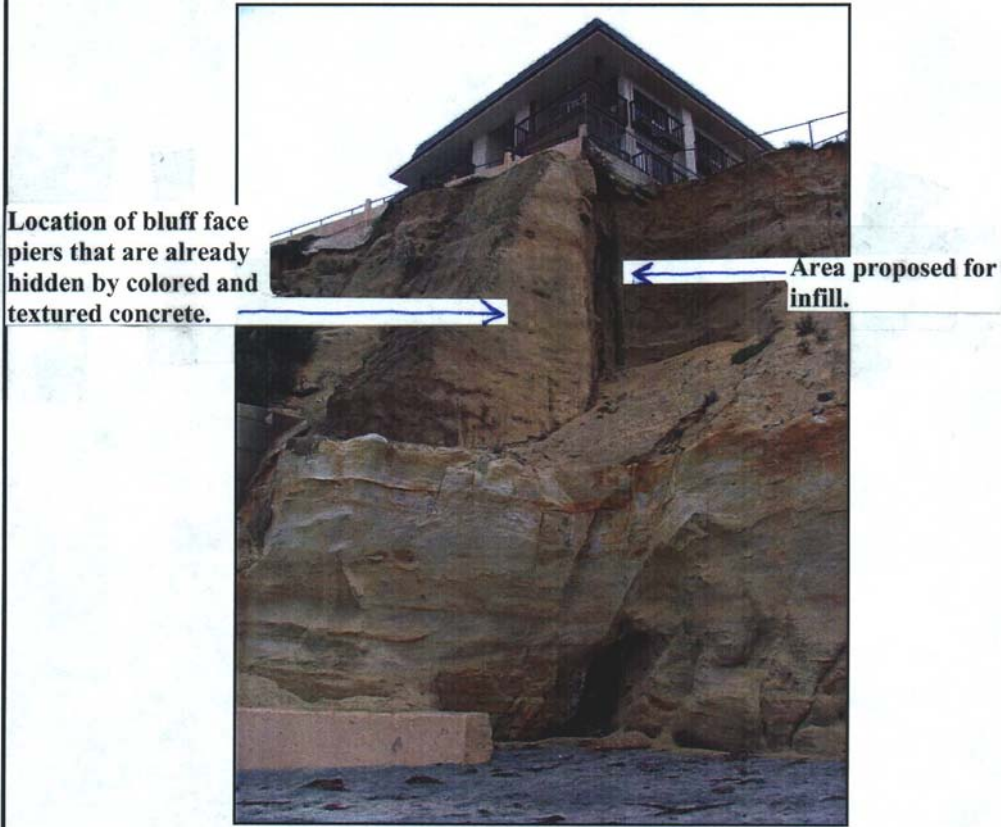


Photo 1: Southwest corner of the Del Mar Beach Club with drilled piers becoming exposed (10/16/06).

EXHIBIT NO. 6
APPLICATION NO.
6-00-009-A3
Site Photo



TerraCosta Consulting Group, Inc.
4455 Murphy Canyon Road, Suite 100
San Diego, California 92123 (858) 573-6900

Project No.: 178



Del Mar Beach Club