

CALIFORNIA COASTAL COMMISSION

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



Th 8b

Filed: April 30, 2007
49th Day: June 18, 2007
Staff: D. Lilly-SD
Staff Report: May 23, 2007
Hearing Date: June 13-15, 2007

STAFF REPORT AND RECOMMENDATION ON APPEAL

LOCAL GOVERNMENT: City of Imperial Beach

DECISION: Approved with Conditions

APPEAL NO.: A-6-IMB-07-53

APPLICANT: NewTrack Pacific & Edwin H. Johnson

PROJECT DESCRIPTION: Construction of two 30-ft high attached homes (2,748 sq. ft. and 2,939 sq. ft.) with a vertical seawall and garage parking on a vacant 5,724 sq.ft. oceanfront lot.

PROJECT LOCATION: 684-686 Ocean Lane, Imperial Beach, San Diego County.
APN 625-011-16.

APPELLANTS: Nancy Schmidt

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed. Consistent with the certified LCP, the project incorporates a vertical seawall located entirely on private property, within the stringline established by the property to the south. Technical studies submitted confirm that no significant individual or cumulative impacts to shoreline sand supply or adjacent properties are expected.

SUBSTANTIVE FILE DOCUMENTS: Certified Imperial Beach Community Plan and Local Coastal Land Use Plan; Appeal Forms; and, City of Imperial Beach Resolution No. 2007-6463 and CP 04-58; CCC Appeals #A-6-IMB-03-96, #A-6-IMB-00-186; #A-6-03-123; Mitigated Negative Declaration dated 4/4/07; "Coastal Hazard Study and Shore Protection Design, Johnson Property" dated 11/19/03 by GeoSoils, Inc, and follow-up letters and addenda dated 10/07/04, 03/10/07; "Response to Comments on Mitigated Negative Declaration for 684-686 Ocean Lane" by GeoSoils, Inc. dated 12/15/06.

I. Appellants Contend That:

The proposed development is inconsistent with the policies of the certified LCP which pertain to the requirement that technical studies be completed for new development (Policy S-1), and that impacts from shoreline protection must be minimized (S-11). The appellant contends that the shoreline protection is intrusive and without necessary analysis including full study of cumulative impacts. The appellant also asserts that the proposed seawall may cause flooding. The appellant claims that further environmental review and EIR preparation pursuant to CEQA should be pursued (ref. Exhibit #4).

II. Local Government Action:

The coastal development permit was approved by the City Council on April 4, 2007. The conditions of approval include conditions addressing: building height, biological resources, construction access and staging, drainage and water quality, noise, and maintenance of the seawall.

III. Appeal Procedures/Substantial Issue Analysis.

After certification of a Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits.

Section 30603(b)(1) of the Coastal Act states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to a de novo hearing on the merits of the project. If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, certain proponents and opponents (as indicated below) will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing

on the merits of the project. If the Commission conducts a de novo hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3.

The only persons qualified to testify before the Commission at the "substantial issue" stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. During the de novo portion of the hearing, any person may testify.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs. title. 14 section 13155(b)). In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to the Code of Civil Procedure, section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development approved by the City of Imperial Beach does not raise a substantial issue with regard to the appellants' contentions regarding coastal resources.

IV. Staff Recommendation On Substantial Issue.

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission determine that Appeal No. A-6-IMB-07-53 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION OF NO SUBSTANTIAL ISSUE:

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:

The Commission finds that Appeal No. A-6-IMB-07-53 does not present a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

V. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description/History. The proposed project is construction of two 30-ft high attached homes (2,748 sq. ft. and 2,939 sq. ft.) with four garage parking spaces, and construction of a vertical seawall along the western length of the property. The 5,724 sq.ft. vacant oceanfront lot is located approximately 70 feet north of the western terminus of Palm Avenue in the City of Imperial Beach. The subject site is undeveloped, but stray riprap is strewn about the site, and there may be buried riprap not currently visible on the site. The proposed seawall will be located from 13-16 feet inland of the western property line, with the residence itself set back a minimum of another 2 feet. The proposed sheet pile seawall will be driven to a depth of approximately 16 feet below Mean Sea Level (MSL), with the top of the wall at about 15.5 feet MSL. The beach area seaward of the proposed seawall will be dedicated as a public access easement.

There is one residential lot between the subject site and the approved, but not yet constructed, Palm Avenue street improvements and public access ramp. Both this lot adjacent to the subject site to the south (690 Ocean Lane), and the Palm Avenue street end improvements south of that lot, have been the subject of appeals to the Commission by the subject appellant. The Palm Avenue street ends improvement project has been reviewed twice by the Commission on appeal. That project consists of construction of a

beach overlook and public access improvements to the beach including a 60-foot long concrete access ramp on the north side of the street end, and a 42-foot long sand access ramp on the south. Also included are 16 on-street parking spaces, improved storm drain facilities including a low-flow urban runoff diverter to the sanitary sewer, undergrounding of an existing above-ground sewer pump station at the street end, decorative lighting, landscape improvements, public art and 8,000 cubic yards of beach sand nourishment.

The Palm Avenue project was appealed to the Commission in early 2000 by Nancy Schmidt and the Surfrider Foundation (#A-6-IMB-00-186). The appellants contended that the project was inconsistent with LCP policies pertaining to encroachment on sandy beach, the construction of shoreline protective devices, the protection of public access and view corridors at street ends, and sensitive habitat protection. In March 2001, the Coastal Commission determined that no substantial issue existed with respect to the grounds on which the appeal was filed. Subsequently, a legal challenge was filed by the appellant against the City of Imperial Beach and the San Diego Unified Port District. The Superior Court's order required the City and Port to "suspend all further project approvals" until the City complied with the CEQA.

After additional environmental study, the court withdrew the prohibition and the City approved a coastal development permit for the street improvements in August 2003. The project was again appealed to the Commission by Nancy Schmidt on similar grounds as the first appeal (#A-6-IMB-03-96). The Commission again determined that no substantial issue existed.

Directly south of the subject site at 690 Ocean Lane, is a four-unit, 7,212 sq.ft., 30-ft. high condominium building with an approximately 75-ft. long concrete vertical seawall. In January 2004, the Commission reviewed an appeal of this project from Nancy Schmidt, which cited inconsistency with LCP policies pertain to minimizing construction on beaches and requiring setbacks from beaches, minimizing impacts from shoreline protection, and the retention of existing street ends for public use and the protection of view corridors (#A-6-IMB-03-123). The Commission determined that the appeal raised no substantial issue.

Development of the subject site is related to the Palm Avenue street end improvements project because that project established a stringline for shoreline development north of Palm Avenue. The street end improvements were proposed because access to the beach from the unimproved Palm Avenue street end is difficult as the sand level drops significantly in the winter and people must traverse an existing groin and assorted riprap around the street end to get to beach level. As a result, the then vacant residential lot at 690 Ocean Lane was frequently crossed by pedestrians and safety vehicles to access the beach. Providing improved year-round public access to the beach not dependent on private property was the reason behind the approved access ramps at Palm Avenue.

The western edge of the private property at 690 Ocean Lane (i.e., the lot immediately south of the subject site) is located approximately 20 feet further seaward than the private property line south of the street end. In order to minimize construction on the beach and

so that the public access ramps on the north and south of Palm Avenue would line up, the City obtained an easement from the property owner at 690 Ocean Lane that allowed the majority of the northern ramp to be constructed on private property. When 690 Ocean Lane was developed, the seawall on the site was located upland of the access easement, contiguous with the inland extent of the approved public access ramp. Thus, these two projects established a stringline for future development north of Palm Avenue both for buildings and shoreline protection.

The seawall for the proposed project has been set back from the western property line to be consistent with this established stringline (see Exhibit #2). In order to accommodate the proposed building within the stringline, the City approved a variance reducing the front yard building setback from 20 feet to 6 feet.

The subject site is located within the City of Imperial Beach's permit jurisdiction and the Coastal Commission's area of appeal jurisdiction. The policies of the certified LCP and the public access policies of the Coastal Act are the standard of review for approval of the permit.

2. Consistency with the Certified LCP. The appellant contends that the proposed project is inconsistent with the following policies of the certified City of Imperial Beach LCP:

GOAL 16 SHORELINE PROTECTION

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

S-1 Technical Studies

No development should proceed until geo-technical investigations and recommendations are completed concerning potential soils, geologic, seismic and/or flood hazards and to determine which land uses (if any) are appropriate for the site, and to determine what measures could be undertaken to reduce risks to life and property.

S-11 Storm Waves, Flooding and Seacliff Erosion

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

New development fronting on Ocean Lane north of Imperial Beach Lane shall incorporate an engineered vertical seawall in its design if it is determined that shoreline protection is necessary. Such a seawall shall, except for required toe protection, be located within the private property of the development and shall be sufficient to protect the development from flooding during combined design storm and high tide events. Public improvements shall be designed to avoid shoreline protection, if possible. Any necessary protection shall be the minimum necessary and shall not extend onto the beach further seaward than the authorized vertical shoreline protection on either side of the access improvements; or, in the absence of contiguous shoreline protection, the alignment cannot extend further seaward than the inland extent of Ocean Lane right-of-way. An exception may be made for necessary protection associated with public improvements at the Palm Avenue street end, which may extend seaward a sufficient distance to accommodate a transition to the existing groin. All improvements shall be designed to minimize impacts to shoreline sand supply.

Shoreline Protection

The appellant contends that the proposed project is inconsistent with the policies of the certified LCP which pertain to requiring technical studies (S-1) and minimizing impacts from shoreline protection (S-11). The appellant further contends that the shoreline protection is intrusive and without necessary analysis including full study of cumulative impacts.

The need for shoreline protection has been well established along the shoreline in Imperial Beach, and this is reflected in the policies of the certified LCP. In the southern portion of Imperial Beach, rock revetment has been the established form of protection for existing structures. North of Imperial Beach Boulevard, new development fronting on Ocean Lane has slowly been converting from rock revetments to vertical seawalls. The above-cited Policy P-11 requires that development north of Imperial Beach Lane incorporate an engineered vertical seawall in its design if it is determined that shoreline protection is necessary. Additionally, new development cannot generally be found consistent with the certified LCP or the public access and recreation policies of the Coastal Act if it would require the construction of shoreline protective devices of any form that would impact public beach access and recreation. That is, new development should not require the construction of shoreline protective devices on public beach. Additionally, all shoreline protection must be designed to have the least environmental impact and with any necessary mitigation provided.

As required by Policy S-1, the applicant has submitted site-specific geotechnical analyses demonstrating that the site is subject to wave hazard and that shoreline protection is required. It is important to note that the LCP does allow vertical shoreline protection (in lieu of rip rap) that results in less encroachment onto the public beach. Shoreline protection in front of the developed sites north of the Palm Avenue street end generally consist of riprap, much of which appears unengineered and may be unpermitted. As noted, when redevelopment of oceanfront lots occurs, the City has typically required that vertical seawalls be constructed in place of rock and that to the extent feasible, they be located on private property. Therefore, consistent with Policy S -11, the project approved

by the City includes construction of a vertical seawall located within the private property of the development. As approved, the top of the sheet pile seawall will be at approximately elevation 15.5 MSL and driven to a depth of approximately 16 feet below MSL. The seawall design is typical of other vertical seawalls that have been recently constructed in Imperial Beach, and has been designed to withstand storms similar to those seen in 1982-83.

Contrary to the claims of the appellant, site specific studies and plans associated with the project assessed the impacts of the subject project in particular and seawalls in general, analyzing both individual and cumulative impacts, and potential impacts to adjacent properties. The City completed an initial study and mitigated negative declaration for the project. These analyses determined that the proposed seawall is the minimum protection necessary to adequately protect the development from flooding during combined storm and high tide events. As approved by the City, the seawall will be set back from 13 to 16 feet inland of the applicant's western property line, such that no direct encroachment on the public beach will occur. The City also required that the beach in front of the seawall be dedicated as a public access easement. The geotechnical studies submitted to the City establish that a vertical seawall in this location will have minimal impacts on shoreline sand supply.

As cited above, the Commission has in three previous actions addressed the appropriate future line of development in the area north of Palm Avenue. The approved Palm Avenue access ramps established a western limit for development in this location that ensures impacts to shoreline sand supply, public access and recreation, and views will be minimized. In the case of the subject development, the City approved a variance reducing the front yard setback of the homes allowing the development to be located sufficiently inland to ensure the project conforms to the stringline.

The residence adjacent to the subject site to the north is an older, small home that is set back further inland than the proposed residences. The geotechnical information submitted with the proposed project and Palm Avenue street end improvements and 690 Ocean Lane projects note that the toe of the unengineered riprap north of the subject site most likely extends to the western property line, well seaward of the proposed seawall. Thus, the Commission determined that the stringline established by the Palm Avenue street end project was appropriate for future development in this location. Consistent with Policy S-11, the project has been designed in a manner which minimizes encroachment on the beach. The proposed project will continue to reinforce the appropriate stringline for future development north of Palm Avenue. This is a positive cumulative impact.

The appellant claims that the project may result in "increased flooding." According to the applicant's study, the property has been subject to wave runup and overtopping in the past. However, the proposed seawall is not expected to cause or promote additional wave overtopping or flooding on the site. The report specifically looked at the potential that the subject seawall could cause flooding on adjacent sites, and determined that there is no basis in fact to expect wave energy to "funnel" to the adjacent properties. Incoming waves will strike the proposed seawall and the adjacent lots simultaneously, and the wave energy

will reflect back seaward, not sideways. In fact, the report suggests that the adjacent property may benefit, as the amount of wave runup water that reaches the oceanfront properties around the subject site will be reduced, as waves striking the proposed seawall will be reflected back offshore and not allowed to flow onto Ocean Lane.

The Commission has thrice previously found that development of shoreline structures in the proposed stringline would not have significant adverse impact on shoreline sand supply or public access or recreation. In its proposed location, the proposed seawall will not have any individual or cumulative impact on shoreline processes, consistent with Policies S-10 and S-11. The proposed shoreline protection is the minimum necessary, does not extend further seaward than the inland extent of the Ocean Lane right-of-way, reduces the risks of flooding, is sufficient to protect the development from flooding during combined design storm and high tide events, and has been designed to eliminate or mitigate adverse impacts on local shoreline sand supply, consistent with the above-cited LCP policies.

Conclusions

In summary, the proposed development includes a vertical seawall on private property, as required by Policy S-11. Technical studies submitted by the applicant demonstrate that the site is subject to wave action, that the proposed shoreline protection avoids any encroachment on public beach, and that the protection will minimize risks to life and property on the subject site, consistent with Policies S-1 and S-11. The project is consistent with the stringline setback for beachfront development north of Palm Avenue established by the adjacent development to the south and the Palm Avenue street ends. This stringline setback minimizes encroachment on the beach and maximizes public access and recreational opportunities. Therefore, the Commission finds that the allegations made by the appellant do not raise a substantial issue with regard to the project's consistency with the certified LCP.

3. Substantial Issue Factors

As discussed above, there is strong factual and legal support for the City's determination that the proposed development is consistent with the certified LCP. The other factors that the Commission normally considers when evaluating whether a local government's action raises a substantial issue also support a finding of no substantial issue. The proposed residential units are typical in size and scale of other beachfront projects in the vicinity and are not of unusual extent or scope. The development will not impact the construction of the significant public access improvements previously reviewed and approved at Palm Avenue. The project minimizes the use of shoreline protective devices in an area of the coast that is already substantially armored, and no adverse impacts on coastal resources are anticipated. The decision of the City may have a positive precedential value for future interpretations of the LCP because the project is consistent with the certified LCP and reinforces a stringline for shoreline development that minimizes impacts to coastal resources. The objections to the project do not raise any substantial issues of regional or statewide significance.

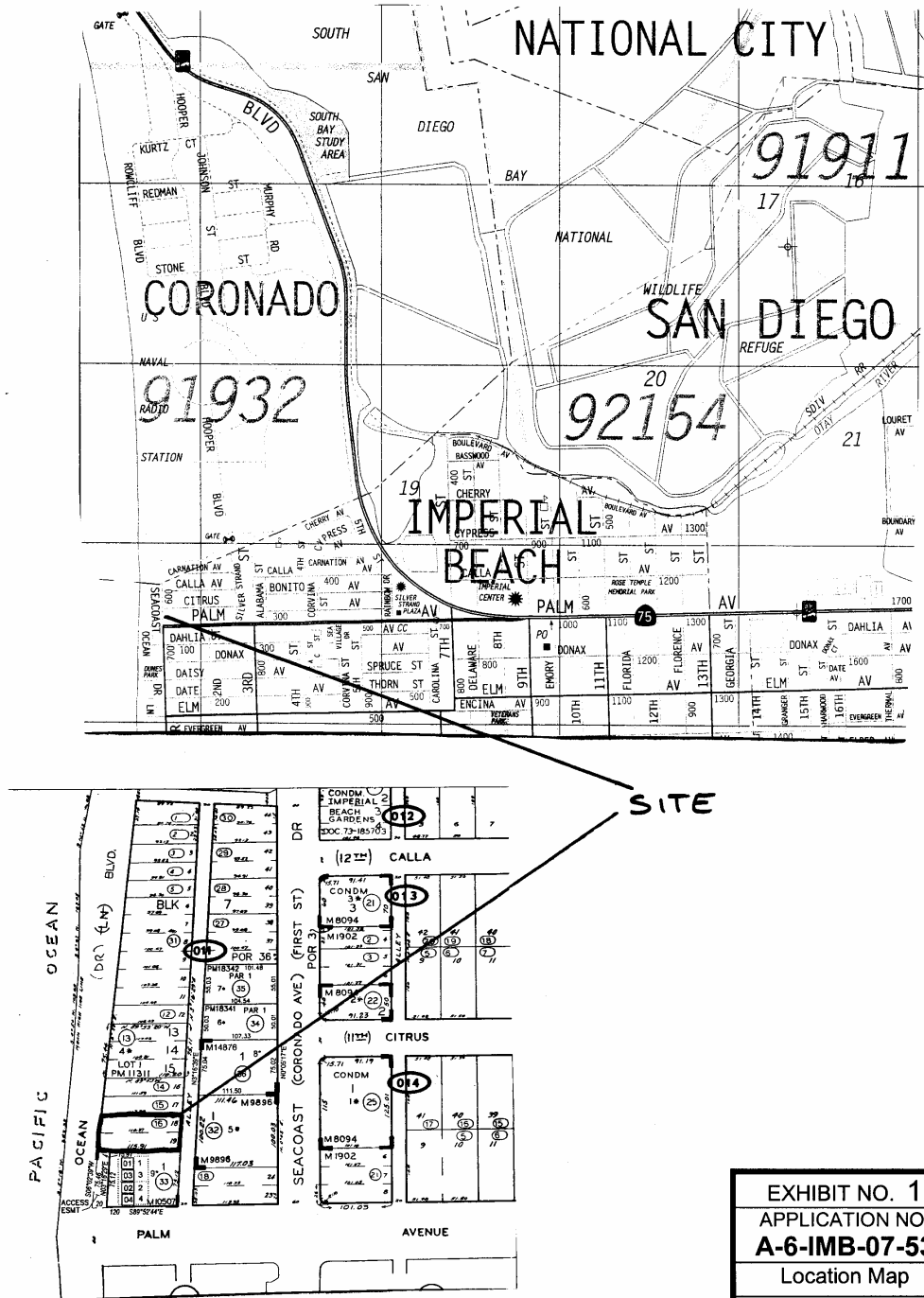
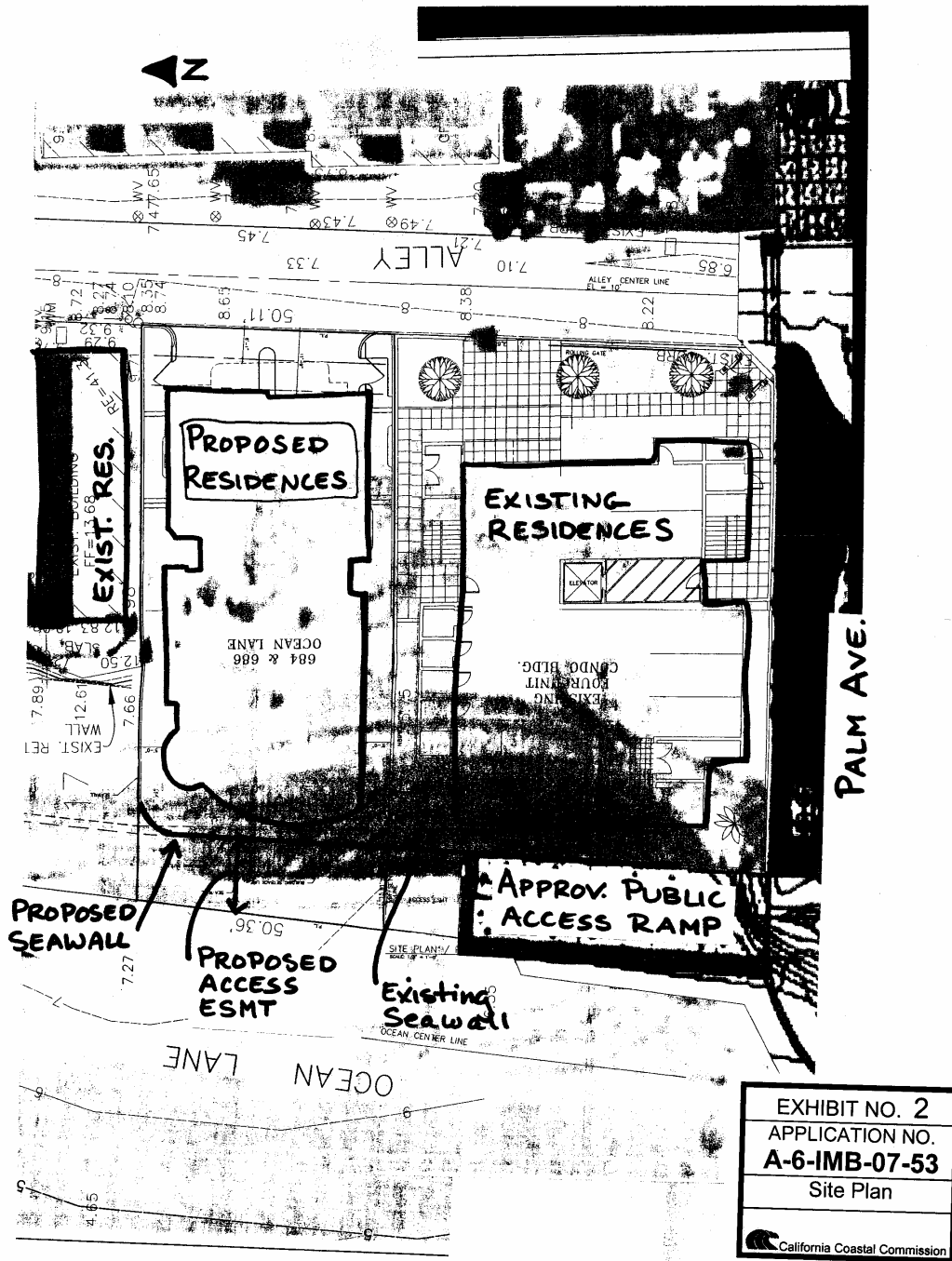


EXHIBIT NO. 1
APPLICATION NO.
A-6-IMB-07-53
Location Map

California Coastal Commission



RESOLUTION NO. 2007-6463

California Coastal Commission
San Diego Coast District

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, APPROVING DOS DELMAR, AN APPLICATION FOR REGULAR COASTAL DEVELOPMENT PERMIT (CP 04-58), DESIGN REVIEW (DRC 04-59), SITE PLAN REVIEW (SPR 04-60), ENVIRONMENTAL INITIAL ASSESSMENT/MITIGATED NEGATIVE DECLARATION (EIA 04-61), AND VARIANCE (VAR 050313) FOR TWO ATTACHED RESIDENTIAL UNITS LOCATED AT 684-686 OCEAN LANE, IN THE R-1500 (HIGH DENSITY RESIDENTIAL) ZONE. MF 701

APPLICANT: ED JOHNSON AND TIM MONAHAN OF NEWTRAC PACIFIC

The City Council of the City of Imperial Beach does hereby resolve as follows:

WHEREAS, on April 4, 2007, the City Council of the City of Imperial Beach held a duly advertised public hearing to consider the merits of approving or denying an application for a Regular Coastal Permit (CP 04-58), Design Review (DRC 04-59), Site Plan Review (SPR 04-60), Environmental Initial Assessment (EIA 04-61), and Variance (VAR 05-313) to construct two attached residential units, 30 feet high, with a vertical seawall and requesting a front yard setback reduction from 20 feet to 6 feet on a vacant 5,724 square foot lot at 684-686 Ocean Lane in the R-1500 (High Density Residential) Zone and legally described as follows:


Lots 18 and 19, Block 7, Silver Strand Beach Gardens Addition to Imperial Beach, in the City of Imperial Beach, County of San Diego, State of California, according to map thereof No. 1902, filed in the Office of the County Recorder of San Diego County, March 25, 1926; Excepting therefrom any portion therefore heretofore or now lying below the ordinary high tide of the Pacific Ocean; and,

WHEREAS, on January 18, 2007, the Design Review Board of the City of Imperial Beach held a duly noticed public meeting and recommended approval of this application for Design Review (DRC 04-059) for two attached residential units 30 feet high with a vertical seawall and garage parking, in the R-1500 (High Density Residential) Zone, on a site at 684-686 Ocean Lane; and

WHEREAS, the City Council finds that the project is consistent with the General Plan and the project design of the two attached 30 foot high residences is compatible in use with other residential developments in the vicinity which consist of multiple-story multiple-family residential developments to the north and south, and a two-story residential building to the east, and, therefore, would be consistent with Policy D-8 of the Design Element of the General Plan which promotes project design harmonious with adjoining residential uses; and

WHEREAS, this project complies with the requirements of the California Environmental Quality (CEQA) as a Mitigated Negative Declaration had been prepared for this project and was routed for public review from October 19, 2006 to November and submitted to the State Clearinghouse (SCH #2006101119) for agency review; and

WHEREAS, the City Council finds that this Mitigated Negative Declaration reflects the decision-making body's independent judgment and analysis; that the decision-making body has, pursuant to CEQA Guidelines Section 15074(b), reviewed and considered the information contained in this Mitigated Negative Declaration and the comments received during the public review period; that revisions in the project plans or proposals made by or agreed to by the project applicant, pursuant to CEQA Guidelines Section 15070(b)(1), would avoid the effects or

EXHIBIT NO. 3
APPLICATION NO.
A-6-IMB-07-53
City CDP
 California Coastal Commission

Resolution No. 2007-6463
Page 2 of 16

mitigate the effects to a point where clearly no significant effects would occur; and that, on the basis of the whole record before the decision-making body (including this Mitigated Negative Declaration) there is no substantial evidence that the project as proposed, as conditioned, or as revised, will have a significant effect on the environment; and

WHEREAS, the City Council further offers the following findings in support of its decision to conditionally approve the project:

SITE PLAN REVIEW FINDINGS:

1. **The proposed use does not have a detrimental effect upon the general health, welfare, safety and convenience of persons residing or working in the neighborhood, and is not detrimental or injurious to the value of property and improvements in the neighborhood.**

The applicant proposes the construction of a two-unit residential building, each with garage parking for two cars and a vertical seawall on a 5,724 square foot oceanfront building site. The project includes the placement of a seawall system that will be installed east of the applicant's west property line along the stringline of the existing seawall system to the south. The height of the building will be required to be no higher than 30 feet above existing grade. The applicant proposes to set back the top floor an additional five feet as required in the R-1500 Zone. Coastal engineering reports prepared by David Skelly of GeoSoils, dated November 19, 2003 with addendums dated October 7, 2004 and March 10, 2006 provide information regarding wave runup conditions, seawall design, beach sand erosion and the avoidance of adverse impacts on neighboring properties. Based on this engineering information, no adverse impacts to adjacent properties would occur.

The proposed residential use is similar to the other residential uses established nearby. With the granting of the front setback reduction, the proposed building will be set back a similar distance from Ocean Lane as the residential structures to the north. As such, the project is not expected to have a detrimental effect upon the health, welfare, safety and convenience of persons residing or working in the neighborhood. The on-site parking meets the number required for off-street parking.

The project footprint has been set back from its west property line on the beach along the stringline of the four-plex to the south and, thereby, provides enhanced public lateral access along the coast.

2. **The proposed use will not adversely affect the General Plan/Local Coastal Plan.**

The subject site is within the High Density Residential (R-1500) Zone and designation. This zoning classification and land use designation provides for the development of attached multiple-family dwellings with a maximum density of one unit per every 1,500 square feet of land. This designation will permit as many as 29 units per net acre of land. This project proposes a density of one unit per 2,862 square feet of property (which is less dense than the project to the south which is one unit per 2,212 square feet) and is, therefore, consistent with the plan designation.

Property to the east of the subject site is also zoned R-1500. It is noted that the subject

Resolution No. 2007-6463

Page 3 of 16

site is in the "Seacoast Neighborhood" which encompasses beachfront development from Carnation Avenue to Imperial Beach Boulevard. Within this area, residential development dominates, and structural types and residential densities vary in character, bulk and scale. The proposed project is compatible with the established two-story and, in many cases, three-story residential beachfront developments found north of Donax Avenue.

Policy S-11 of the Safety Element of the General Plan/Local Coastal Plan states that new development fronting on Ocean Boulevard north of Imperial Beach Boulevard shall incorporate an engineered vertical seawall in its design if it is determined that shoreline protection is necessary. Such a seawall shall be located within the private property of the development and shall be sufficient to protect the development from flooding during combined design storm and high tide events. The need for a seawall has been documented in coastal engineering reports prepared by David Skelly of GeoSoils, dated November 19, 2003 with addendums dated October 7, 2004 and March 10, 2006.

3. The proposed use is compatible with other existing and proposed uses in the neighborhood.

It is noted that the subject site is in the "Seacoast Neighborhood" which encompasses beachfront development from Carnation Avenue to Imperial Beach Boulevard. Within this area, residential development dominates, and structural types and residential densities vary in character, bulk and scale. The proposed project is compatible with the established two-story and, in many cases, three-story residential beachfront developments found north of Donax Avenue.

The project design relates in bulk, setback and scale to similar multiple-family residential projects developed along Ocean Lane, north of Imperial Beach Boulevard. The proposed building design provides a visual link with similar existing high density residential beachfront developments to the north and south which incorporate seawalls, beachfront decks, upper level balconies, stucco or wood exterior finish, glass and concrete tile roof materials in their designs. As such, the project is compatible with residential development along the City's developed beachfront (Imperial Beach Boulevard to Carnation Avenue).

4. The location, site layout and design of the proposed use properly orients the proposed structures to streets, driveways, sunlight, wind and other adjacent structures and uses in a harmonious manner.

The garages for the units will take direct access from Ocean Lane and the window features are oriented toward the ocean for views. This project thereby demonstrates proper orientation.

5. The combination and relationship of one proposed use to another on the site is properly integrated.

The project represents infill development on a beachfront site that is predominantly residential in character. It is not a mixed-use project and this finding is, therefore, not applicable.

Resolution No. 2007-6463

Page 4 of 16

6. Access to and parking for the proposed use will not create any undue traffic problems.

There is adequate back-out area for the cars to maneuver into Ocean Lane. Ocean Lane is a low volume local access road. The project proposes to provide two parking spaces per unit in a garage structure. This meets the parking requirements of the city.

7. The project complies with all applicable provisions of Title 19.

The project is subject to compliance with the zoning standards per Chapter 19.17 of the City of Imperial Beach Municipal Code, titled "High Density Residential (R-1500) Zone". Reduced front yard setbacks are granted for this project in consideration for the increased beachfront setback by the property owner for coastal public access and conformance with the Coastal Commission's stringline development policy.

Standards	Provided/Proposed
One dwelling per 1500 square feet	One dwelling per 2862 square feet
Front Yard: Ocean Lane: 15 feet, 20 feet for garage	Ocean Lane: 11.75 feet for garage and
Side Yard: 5 feet for the first 2 floors, 10 feet for the third floor; 10 feet for street side yard	6 feet for 2 nd and 3 rd floor overhang
Rear: Ocean Blvd (beach): 10 feet (Section 19.17.030)	Side Yard: 5 feet
	Third floor: 10 feet
	Ocean Blvd (beach): 14.75 to 20.5 feet
Minimum lot size of 3,000 square feet (Section 19.17.040)	5,724 square foot parcel.
Minimum street frontage of 50 feet (Section 19.17.060).	Ocean Lane frontage of 50 feet.
Maximum building height of three stories or 30 feet (Section 19.17.060), with exception for chimney (Section 19.40.020.C).	30 feet.
FAR: 100 % (Section 19.17.125)	5687.43 sf = 99.36 %
Lot coverage: 50%	2862 sf = 50%
Minimum 300 square feet of usable open space per unit (Section 19.50.010).	1092.58 square feet = 546 sf per unit
2 parking spaces per dwelling unit, 50% enclosed (Section 19.48.030.C).	Four garage spaces = 2 spaces per unit, 100% enclosed.

COASTAL PERMIT FINDINGS:

1. The proposed development conforms to the Certified Local Coastal Plan including Coastal Land Use Policies.

Shore Processes and Shore Protection

The subject site is situated within the Silver Strand Littoral Cell (SSLC), representing a coastal compartment which contains a complete cycle of littoral (beach) sedimentation, including sand sources, transport pathways and sediment sinks. Recent Army Corps of Engineers studies indicate that erosion problems are most noticeable in Imperial Beach and at Playas de Tijuana. A detailed description of coastal conditions and processes is provided in the coastal engineering reports prepared by David Skelly of GeoSoils, dated November 19, 2003 with addendums dated October 7, 2004 and March 10, 2006.

Resolution No. 2007-6463

Page 5 of 16

The City of Imperial Beach has approximately 17,600 feet of shoreline, approximately 12,000 feet or 68% of which is either publicly owned or has direct vertical or lateral access. This includes 6,000 linear feet of sandy beach owned by the State of California within the Border Field State Park in the extreme southwest corner of the City. The project represents infill development where shore protection is provided by seawalls and rock revetment, both authorized and unauthorized. However, in 1994, the City of Imperial Beach incorporated new language in its Local Coastal Program that established the construction of vertical seawalls north of Imperial Beach Boulevard. Such shore protection must be shown to be necessary to protect the infill development and must not extend seaward of the western property limits.

The proposed project represents the material impact of this new language on infill development north of Imperial Beach Boulevard. A seawall is proposed to be constructed entirely on the subject site, in accordance with design standards described in the coastal engineering reports prepared by David Skelly of GeoSoils, dated November 19, 2003 with addendums dated October 7, 2004 and March 10, 2006. The project is not expected to alter lateral beach access or any portion of beach area for public recreation uses consistent with the certified Local Coastal Plan.

Policy S-11 of the Safety Element of the General Plan/Local Coastal Plan states that new development fronting on Ocean Boulevard north of Imperial Beach Boulevard shall incorporate an engineered vertical seawall in its design if it is determined that shoreline protection is necessary. Such a seawall shall be located within the private property of the development and shall be sufficient to protect the development from flooding during combined design storm and high tide events. The coastal engineering study presents the justification for the seawall, designed to withstand the 1982-83 winter storms.

Public Access

The subject site is located between the ocean and the first public road, which, in most cases, is Seacoast Drive. Ocean Lane is a twenty-foot wide public street that runs in a north-south direction and parallel to Seacoast Drive and the beach. People reach the beach in the vicinity of the site at the unimproved Palm Avenue street end. The certified Local Coastal Program contains policies that address street-end improvement standards designed to facilitate beach access. Given this, and the fact that improved beach street ends are programmed adjacent to the site, it can be found that there is adequate vertical access to the shoreline. Additionally, adequate on-site parking will be provided to serve the needs of the development.

The project is in conformity with the public access and public recreation policies in the certified Local Coastal Program and Chapter 3 of the Coastal Act, commencing with Section 30200, because:

- a) improved public access to the beach and shoreline is readily available adjacent and to the south of the site;
- b) improved lateral coastal access is being provided by having this project set back away from the beach in conformance with the Coastal Commission's stringline development policy;

Resolution No. 2007-6463
Page 6 of 16

- c) the new development will be located entirely on private property upland of the sandy beach;
- d) the project protects public access parking opportunities through the provision of 8 on-site parking spaces, as required by the certified Local Coastal Program.

Coastal View Access

The beach is not entirely visible from Seacoast Drive given some of the existing development to the south of the site and on the east side of Ocean Lane. Public viewing areas are provided at the street ends to the south of the site. From a position on the beach seaward of the subject site, the proposed seawall, patio, and balconies appear similar to other buildings on this frontage. Additionally, enhanced lateral coastal access is being provided by having this project set back away from the beach in conformance with the Coastal Commission's stringline development policy.

Refer to Site Plan Review Finding No. 2 for land use consistency, incorporated here by reference.

Scenic Views: The seawall and the proposed dwellings will not be significantly out of scale with the height of nearby structures. Refer to photo simulation study in the Mitigated Negative Declaration.

2. **For all development seaward of the nearest public highway to the shoreline, the proposed development meets standards for public access and recreation of Chapter Three of the 1976 Coastal Act and regulations promulgated thereunder.**

The subject site is located between the ocean and the first public road, which, in this case, is Seacoast Drive. Ocean Lane is a twenty-foot wide public street that runs parallel to Seacoast Drive and the beach. The subject site is vacant but people reach the beach at the adjacent Palm Avenue street or they have trespassed through the site to the beach. The property owner will provide lateral coastal access is being provided by having this project set back away from the beach in conformance with the Coastal Commission's stringline development policy. The certified Local Coastal Program contains policies that address street-end improvement standards designed to facilitate beach access. Given this, and the fact that improved beach street ends are programmed near the site, it can be found that there is adequate vertical and lateral access to the shoreline. Additionally, adequate on-site parking will be provided to serve the needs of the development.

Section 30252 of the Coastal Act addresses public access, and states in part "The location and amount of new development should maintain and enhance public access to the coast by (4) providing adequate parking facilities..." Four on-site garage parking spaces meet the minimum required by Chapter 19.48 of the City of Imperial Beach Municipal Code.

3. **The proposed development meets the minimum relevant criteria set forth in Title 19, Zoning.**

Refer to Site Plan Review finding No.7.

Resolution No. 2007-6463

Page 7 of 16

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

The project includes the construction of a vertical seawall. Therefore the project is conditioned to provide the fee in compliance with Section 19.87.050 of the City of Imperial Beach Municipal Code. However, due to an interpretation by the Coastal Commission, this project may not need to pay a fee since the seawall will be placed on private property.

DESIGN REVIEW FINDINGS:

1. **The project is consistent with the City's Design Review Guidelines.**

The design of the project and the landscaping improvements are consistent with the City's Design Review Guidelines as per Design Review Compliance checklist and the findings adopted by the Design Review Board per their Resolution No. 2007-03.

VARIANCE FINDINGS:

1. **There are exceptional or extraordinary circumstances of conditions or hardships peculiar to the property, including size, shape, topography, location or surroundings, that do not apply generally to the property in the same vicinity or zone. Hardships may include practical difficulties in development the property for the needs of the owner or tenant consistent with the regulations of the zone; but in this context, personal, family or financial difficulties, loss of prospective profits, and/or neighboring violations are not hardships justifying a variance;**

The parcels north of the subject site were built pursuant to an older zoning requirement that provided for lesser setbacks from what was an alley but is now recognized as a public street (Ocean Lane). The parcel to the immediate north was developed with a seawall and a 2-unit dwelling landward of its west property line that became one of the significant determinants of the Coastal Commission's stringline policy as applied to this case. The current setback requirement for a garage is 20 feet from Ocean Lane (that was previously an alley). The parcels to the north are about 5 feet from Ocean Lane rather than the current 15 to 20 foot requirement. The parcel to the south developed with 4 units installed a seawall landward from its west property line because it voluntarily dedicated a 20-foot wide easement for public beach access. The Coastal Commission is requiring this project to retreat the location of the seawall and 2-unit building landward from its west property line in order to observe the Coastal Commission's stringline policy. However, in order to comply with this policy, the building footprint would now encroach into the front setback thereby necessitating the applicant to request a front yard setback reduction from 20 feet to 6 feet. A variance is justified in order to comply with the Coastal Commission's stringline policy. The reduced setback would not differ from the older development to the north that are characterized by lesser setbacks from Ocean Lane. Having to comply with both city setbacks and the Coastal Commission's policy

Resolution No. 2007-6463
Page 8 of 16

would afford the property owner an unreasonably small building footprint compared to other property in the vicinity.

2. **The variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and the same general vicinity, and that a variance, if granted, would not constitute a special privilege of the recipient not enjoyed by his neighbors;**

A variance in this case is justified in order to comply with the Coastal Commission's stringline policy. The reduced setback would not differ from the older development to the north that are characterized by lesser setbacks from Ocean Lane. Having to comply with both city setbacks and the Coastal Commission's policy would afford the property owner an unreasonably small building footprint compared to other property in the vicinity.

3. **The granting of such variance will not be substantially detrimental to adjacent property and will not materially impair the purpose of this title or the public interest;**

A variance is justified in order to comply with the Coastal Commission's stringline policy. The reduced setback would not differ from the older development to the north that are characterized by lesser setbacks from Ocean Lane. Having to comply with both city setbacks and the Coastal Commission's policy would afford the property owner an unreasonably small building footprint compared to other property in the vicinity.

4. **The granting of such variance will not adversely affect the general plan or the local coastal program.**

Since there are unique and unusual circumstances in this case, this setback reduction would not apply to every development and thereby adversely affect the general plan or local coastal plan.

NOW, THEREFORE, BE IT RESOLVED, that Regular Coastal Permit (CP 04-58), Design Review (DRC 04-59), Site Plan Review (SPR 04-60), Environmental Initial Assessment (EIA 04-61)/Mitigated Negative Declaration, and Variance (VAR 05-313) to construct two attached residential units, 30 feet high, with a vertical seawall and requesting a front yard setback reduction from 20 feet to 6 feet on a vacant 5,724 square foot lot at 684-686 Ocean Lane in the R-1500 (High Density Residential) Zone, are hereby **approved** by the City Council of the City of Imperial Beach subject to the following:

CONDITIONS OF APPROVAL:

A. PLANNING:

1. Final building permit plans shall indicate and the site shall be developed substantially in accordance with the approved conceptual plans dated May 31, 2006 on file in the Community Development Department and with the conditions adopted herein.
2. The applicant shall submit a licensed surveyor's certificate upon completion of the foundation work that demonstrates proper placement of the structure relative to building setbacks from property lines and a certificate upon completion of framing that demonstrates and ensures that the building does not exceed the maximum permitted building height of 30 feet above existing grade.

Resolution No. 2007-6463

Page 9 of 16

3. Approval of this request shall not waive compliance with any portion of the Uniform Building Code and Municipal Code in effect at the time a building permit is issued.
4. Mechanical equipment, including solar collectors and panels or other utility hardware on the roof, ground, or buildings shall be screened from public view with materials harmonious with the building, and shall be located so as not to be visible from any public way. (19.83).
5. No improvements, structural or non-structural, may be placed on the roof deck. Only personal property, which does not obstruct views, is permitted on the roof deck while authorized person(s) are actually present on the roof deck.
6. All landscaped areas, including any in the public right-of-way, shall be maintained in a healthy condition, free from weeds, trash, and debris.
7. It shall be the applicant's responsibility to assure that shoreline protection structures on adjacent properties are not damaged during construction on the subject site, and to repair any damage to the adjacent property's shoreline protection structures that may be caused by the construction on the subject site. The construction of temporary slopes shall be shored in compliance with CAL-OSHA requirements.
8. Disturbances to sand and inter-tidal areas shall be minimized, and prohibited during the predicted grunion season. The applicant shall obtain the forecasted grunion runs from the California Department of Fish & Game. The grunion spawning season extends from March through August. If spawning grunion are observed seaward of the subject site construction activity must cease for a period of 17 days to allow for incubation of the eggs.
9. The applicant shall provide the City with a construction schedule prior to commencement of work. All construction activity on the beach shall be scheduled during low tides.
10. All sand excavated from the project site shall be analyzed for suitability as beach nourishment material. If determined to be suitable, any sand in excess of that required to provide berming along the first level wall shall be used for beach nourishment seaward of the project site. Local sand, cobbles or armor stones shall not be used for backfill or construction materials. Additionally, the applicant shall remove from the beach and seawall area any and all debris that result from the construction period.
11. Prior to the issuance of a building permit, the applicant shall submit final plans for the shoreline protection device consistent with the recommendations contained in the Coastal Hazard Study and Shore Protection Design engineering report prepared by David Skelly of GeoSoils, dated November 19, 2003 with addendums dated October 7, 2004 and March 10, 2006.
12. Within 60 days following project completion, the applicant shall submit certification by a registered civil engineer verifying that the seawall has been constructed in conformance with the final approved plans for the project.
13. Construction materials or equipment shall not be stored on the beach seaward of the western property line. Equipment shall be removed from the beach at the end of any given work day.
14. Prior to commencement of construction, the applicant shall submit plans showing the locations, both on and off site that will be used as staging or storage areas for materials and equipment during the construction phase of the project. The staging/storage plan shall be subject to review and written approval of the Community Development Director.

Resolution No. 2007-6463

Page 10 of 16

The plan shall also note that no work requiring encroachment on the public beach shall be allowed on weekend days between Memorial Day and Labor Day, and during predicted grunion runs, of any year.

15. Ocean Lane shall remain open for vehicular traffic, including emergency vehicles during construction of the project. If traffic must be impeded, the applicant must submit a traffic control plan to the Public Works Director for approval at least 10 days prior to closure.
16. Prior to the issuance of the building permit, the landowner, if required, shall execute and record a deed restriction in a form and content that is acceptable to the Community Development Director which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from waves during storms and from erosion or flooding, and the applicant assumes the liability from such hazards; and (b) that the applicant unconditionally waives any claim of liability on the part of the City of Imperial Beach and agrees to indemnify and hold harmless the City of Imperial Beach relative to its approval of the project for any damage due to natural hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens.
17. Prior to the issuance of a building permit, the applicant shall pay a sand mitigation fee if required which shall be used for beach sand replenishment purposes, in lieu of providing sand to replace the sand and beach area that would be lost due to the impacts of the proposed shoreline protection structure. The mitigation fee shall be deposited in an interest-bearing account designated by the Executive Director of the California Coastal Commission and the City Manager of the City of Imperial Beach. The mitigation fee shall be determined in accordance with Section 19.87.050 of the City of Imperial Beach Municipal Code, in consultation with the California Coastal Commission technical staff.
18. An engineer is required to supervise the construction of the seawall.
19. The property owner shall be responsible for maintenance of the permitted seawall. Any debris or other materials which become dislodged after completion through weathering and coastal processes, which impair public access, shall be removed from the beach. Any future additions or reinforcements may require a coastal development permit. If after inspection it is apparent that repair and maintenance is necessary, the applicant shall contact the City to determine whether such a permit is necessary.
20. **Expiration Date.** Approval of Regular Coastal Permit (CP 04-58), Design Review (DRC 04-59), Site Plan Review (SPR 04-60), Environmental Initial Assessment (EIA 04-61), and Variance (VAR 05-313) to construct two attached residential units, 30 feet high, with a vertical seawall and requesting a front yard setback reduction from 20 feet to 6 feet on a vacant 5,724 square foot lot at 684-686 Ocean Lane in the R-1500 (High Density Residential) Zone is valid for one year from the date of final action, to **expire on April 4, 2008**, unless an appeal is filed to or by the California Coastal Commission. Any such appeal will stay the expiration date until the case is resolved and the permit will expire 2 years from the date the Commission acts on the appeal. In the event that no appeal is filed, conditions of approval must be satisfied, building permits issued, and substantial construction must have commenced prior to the expiration date or a time extension is granted by the City pursuant to such a request for extension by the applicant.
21. The applicant or applicant's representative shall, pursuant to Section 711.4 of the California Fish and Game Code, pay by certified check payable to the San Diego County Clerk \$1,800 plus a \$50 documentary handling fee at the time the Notice of

Resolution No. 2007-6463
Page 11 of 16

Determination is filed by the City, which is required to be filed with the County Clerk within five working days after project approval becomes final (Public Resources Code Section 21152).

22. The applicant or applicant's representative shall read, understand, and accept the conditions listed herein and shall, within 30 days, return a signed affidavit accepting said conditions.
23. Applicant shall pay off any unpaid negative balances in the Project Account Numbers 04-058, 04-059, 04-060, and 04-061 prior to issuance of building permit and prior to final inspection/certificate of occupancy.
24. The applicant shall dedicate an easement over, under, along and across that portion of the property west (seaward) of the proposed seawall to the City of Imperial Beach for access by City maintenance and emergency vehicles and for public access to the beach.

B. ENVIRONMENTAL MITIGATION MEASURES:

Air Quality:

Temporary impacts to air quality associated with construction activities are anticipated. Implementation of the following measures during construction operations shall reduce impacts to below a level of significance:

25. Water all active construction areas at least twice daily.
26. Cover all trucks hauling soil, sand, and other loose materials, or require trucks to maintain at least 2 feet of free board.
27. Pave/apply water three times daily, or apply nontoxic soil stabilizers, on all unpaved access roads, parking areas, and staging areas at the construction sites.
28. Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at construction site.
29. Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.
30. Hydroseed or apply nontoxic soil stabilizers to inactive construction areas. Inactive construction areas are areas that have been previously graded and are inactive for 10 days or more.
31. Install sandbags, silt fences or other erosion control measures to prevent silt runoff to public roadways.
32. Replant vegetation in disturbed areas as quickly as possible.
33. Suspend excavation and grading activity when wind gusts exceed 25 MPH.

Biological Resources:

The following measures shall be implemented to reduce potential impacts to the Pismo clam and grunion associated with construction activities:

34. Impacts to Pismo clam shall be mitigated by avoiding vehicle use in the lower intertidal zone, and minimizing vehicle use in the middle intertidal zone (or conduct a survey at the time of construction to verify their absence); and

Resolution No. 2007-6463
Page 12 of 16

35. Impacts to grunion shall be mitigated by scheduling construction outside the spawning period (e.g., September 1 to March 1). Alternatively, significant impacts shall be avoided during construction by implementing a monitoring and avoidance protocol within the construction zone by a qualified biologist, who shall establish an appropriate buffer around any observed spawning locations to restrict vehicles and equipment for a period of 14 days to allow grunion eggs to hatch.

Geology:

The following geotechnical mitigation measures shall be required in the planning and implementation of the project:

36. A comprehensive geotechnical evaluation, including development-specific subsurface exploration and laboratory test, shall be conducted prior to design and construction if previous studies need to be updated. The purpose of the subsurface evaluation would be to further evaluate the subsurface conditions in the area of the proposed structures and to provide information pertaining to the engineering characteristics of earth materials at the project site. From the data, recommendations for grading/earthwork, surface and subsurface drainage, foundations, pavement structure sections, and other pertinent geotechnical design considerations shall be formulated.
37. Vibration induced settlement due to driving of sheet piles may occur during the construction of the seawalls. Nearby structures and pavement may experience distress due to the induced settlements. A vibration monitoring plan shall be implemented during construction of the sheet pile seawalls. The purpose of the plan would be to document construction induced vibrations.
38. A baseline geotechnical reconnaissance shall be performed at each of the nearby structures to document pre-construction distress features, if any. Such an evaluation may include manometer surveys, crack measurements, and photographic/video documentation.
39. During construction, nearby structures shall be monitored for distress and/or settlement that may occur as a result of construction. Upon completion, a final evaluation of the nearby structures shall be performed, and the results compared with the initial baseline findings.
40. Liquefiable soils may be present on the site. The confirmation of their presence (or absence) shall be done through subsurface exploration (e.g. drilling) and laboratory testing.
41. Loose surficial soils that are not suitable for structural support in their current state are present on the sites. The loose surficial soils shall be mitigated by their removal during site grading. Much of the soils should be suitable for reuse as compacted fill.
42. The project has a potential for strong ground motions due to earthquakes. Accordingly, the potential for relatively strong seismic accelerations shall be considered in the design of proposed improvements.

Hydrology and Water Quality:

The potential for impacts to water quality would primarily occur as a result of construction activities. The following measures shall be implemented prior to initiation of construction activities:

Resolution No. 2007-6463
Page 13 of 16

43. Prior to City approval of construction permits, the final grading and drainage plans will be reviewed for compliance with SUSMP.
44. The proposed project includes an enclosed parking garage; therefore, excavation below the street level elevation may intercept the groundwater table. A geotechnical report shall be required prior to construction to ensure the appropriate measures are implemented. Temporary construction dewatering may be required during excavation. The applicant shall be responsible for obtaining an appropriate permit for construction dewatering.
45. Project shall adhere to the Water Pollution Control Plan (WPCP) prepared by Tri-Dimensional Engineering as conditioned and approved by the City of Imperial Beach including Construction and Permanent Best Management Practices (BMP) and other requirements pursuant to the City's Standard Urban Storm Water Mitigation Plan (SUSMP).
46. In order to provide the appropriate protection to the project site in case of a flood event, the applicant shall be required to Implement Flood Hazard Reduction Standards established for construction in order to assure protection from flooding (Imperial Beach Municipal Code 15.50.160).
47. In addition to building permits, a flood hazard area development permit may need to be obtained from the City Engineer prior to commencement of any construction (Imperial Beach Municipal Code 19.32.020).

Noise:

It is anticipated that the project will create temporary noise impacts associated with construction activities. During construction, equipment and material transport will generate temporary noise, which could be a significant increase in levels for the adjacent residents. Therefore the following mitigation measures shall be implemented to reduce impacts to below a level of significance:

48. To further deter construction noise from adjacent properties, the applicant shall be responsible for notifying residents and businesses within a 300-foot radius prior to shoring activities.
49. Additionally, construction activities associated with implementation of sheet pile design shall be limited to the hours of 8 a.m. to 5 p.m., Monday through Friday.
50. The applicant shall notify all residents within 500 feet of the project site prior to pile driving activities. The applicant shall also incorporate the best available technology acoustical dampening features during pile driving or drilling.

C. BUILDING:

51. This project is subject to all Model Codes, State Codes and City Ordinances adopted by the City of Imperial Beach.

THE FOLLOWING ARE REQUIRED ON THE PLANS TO OBTAIN A BUILDING PERMIT:

52. Form 7-B shall be submitted with the Building Permit Application.

Resolution No. 2007-6463

Page 14 of 16

53. Identify all BMPs on the site plan or a separate landscape or drainage plan in compliance with Form 7-B of the Storm Water Management Plan.
54. Provide this note on the plans: "All construction wastes shall be collected, stored and disposed of in an approved manor per Caltrans Storm Water Quality Handbook." Show the location of your waste container or dumpster on site. If you intend to set a dumpster in the public right of way an Encroachment Permit is required.
55. Show proposed drainage pattern with high point elevation and flow-lines elevation every 25'.
56. Provide a soils report from a licensed soils engineer.
57. An underground agreement is required prior to permit issuance.
58. Locate on the site plan the sewer line for the new dwellings.
59. A grading / Improvement plan is required for this project and shall be approved by the City Of Imperial Beach Engineer prior to permit issuance.
60. Provide this note on the plans: "BMPs shall be maintained through final inspection. If the building Inspector finds that BMPs are not in place during a regularly scheduled inspection, the inspection will not be complete and a re-inspection fee may be assessed at the discretion of the Building Official."

D. PUBLIC WORKS:

61. Ensure that the hot water tank P.T. discharge pipe is piped to discharge to the sanitary sewer system or the landscape area. A design that has the water discharge directly into the storm drain conveyance system (onto an impervious surface that flows to the street) is in violation of the Municipal Storm Water Permit – Order 2001-01.
62. No building roof or landscape water drains may be piped to the street or onto impervious surfaces that lead to the street. A design that has these water discharges directly into the storm drain conveyance system (onto an impervious surface that flows to the street) is in violation of the Municipal Storm Water Permit – Order 2001-01.
63. Require the building foundation elevation be at least 1 foot above gutter line to minimize flooding during storm conditions.
64. Ensure construction design includes adequate storage (out of front yard setback) for 3 trash barrels for each unit (regular trash, recycled waste, green waste).
65. Install survey monuments on northeast property line and southeast property line in or adjacent to the property line. Record same with county office of records.
66. Require applicant to provide verification of post construction Best Management Practice (BMP) maintenance provisions through a legal agreement, covenant, CEQA mitigation requirement, and/or Conditional Use Permit.
67. For alley, sidewalk or curb & gutter replacement, ensure compliance with San Diego Regional Standard Drawing G-11 in that the "Area to be removed [must be] 5' or from joint to joint in panel, whichever is less." The distance between joints or score marks must be a minimum of 5-feet. Where the distance from "Area to be removed" to existing joint, edge or score mark is less than the minimum shown, "Area to be removed" shall be extended to that joint, edge or score mark.

Resolution No. 2007-6463

Page 15 of 16

68. For any work to be performed in the street submit a traffic control plan for approval by Public Works Director a minimum of 5 working days in advance of street work. Traffic control plan is to be per Regional Standard Drawings or Caltrans Traffic Control Manual.
69. All street work construction requires a Class A contractor to perform the work. Street repairs must achieve 95% sub soil compaction. Asphalt repair must be a minimum of four (4) inches thick asphalt placed in the street trench. Asphalt shall be AR4000 ½ mix (hot).
70. In accordance with I.B.M.C. 12.32.120, applicant must place and maintain warning lights and barriers at each end of the work, and at no more than 50 feet apart along the side thereof from sunset of each day until sunrise of the following day, until the work is entirely completed. Barriers shall be placed and maintained not less than three feet high.
71. Applicant agrees to underground all utilities in accordance with I.B.M.C. 13.08.060.
72. Advise the property owner that he/she must institute "Best Management Practices" to prevent contamination of storm drains, ground water and receiving waters during both construction and post construction. The property owner or applicant must provide the following documents to the City of Imperial Beach following before project may begin work:
 - A certification of intent to comply with storm water requirements – Form 7-A.
 - A checklist of selected BMPs and location of the BMPs on project plans for review by the City – Form 7-B and Table 7-3
 - Certification of intent to maintain selected BMPs – Form 7-B.
 - A Storm Water Management Plan – Form 7-B.
73. Additionally these BMP practices shall include but are not limited to:
 - Contain all construction water used in conjunction with the construction. Contained construction water is to be properly disposed in accordance with Federal, State, and City statutes, regulations and ordinances.
 - All recyclable construction waste must be properly recycled and not disposed in the landfill.
 - Water used on site must be prevented from entering the storm drain conveyance system (i.e., streets, gutters, alley, storm drain ditches, storm drain pipes).
 - All wastewater resulting from cleaning construction tools and equipment must be contained on site and properly disposed in accordance with Federal, State, and City statutes, regulations, and ordinances.
 - Erosion control - All sediment on the construction site must be contained on the construction site and not permitted to enter the storm drain conveyance system. Applicant is to cover disturbed and exposed soil areas of the project with plastic-like material (or equivalent product) to prevent sediment removal into the storm drain system.
74. Advise the property owner that as of January 1, 2000, any disposal/transportation of solid waste/construction waste in roll-off containers must be contracted through EDCO Disposal Corporation unless the hauling capability exists integral to the prime contractor performing the work.

Resolution No. 2007-6463
Page 16 of 16

E. PUBLIC SAFETY:

75. **Provide a note on the plans stating:** "Approved numbers or addresses shall be provided for all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property and from any alley that fronts the property. Lettering shall be a minimum of four (4) inches high, with a minimum 3/4 inch stroke, on a contrasting background." CFC Section 901.4.4
76. **Provide a note on the plans stating:** "All electric, gas, and water meters shall be clearly marked to indicate the unit or portion of the building they serve."
77. No parking is allowed in Ocean Lane.

Appeal Process under the California Code of Civil Procedure (CCP): The time within which judicial review of a City Council decision must be sought is governed by Section 1094.6 of the CCP. A right to appeal a City Council decision is governed by CCP Section 1094.5 and Chapter 1.18 of the Imperial Beach Municipal Code.

PROTEST PROVISION: The 90-day period in which any party may file a protest, pursuant to Government Code Section 66020, of the fees, dedications or exactions imposed on this development project begins on the date of the final decision.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Imperial Beach at its regular meeting held on the 4th day of April 2007, by the following roll call vote:

AYES:	COUNCILMEMBERS:	MCLEAN, BRAGG, JANNEY
NOES:	COUNCILMEMBERS:	NONE
ABSENT:	COUNCILMEMBERS:	NONE
DISQUALIFIED:	COUNCILMEMBERS:	WINTER, MCCOY (DUE TO POTENTIAL CONFLICTS OF INTEREST)

James C. Janney
JAMES C. JANNEY, MAYOR

ATTEST:

Jacqueline M. Hald
JACQUELINE M. HALD, CMC
CITY CLERK

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be an exact copy of Resolution No. 2007-6463 – A Resolution of the City Council of the City of Imperial Beach, California, APPROVING DOS DELMAR, AN APPLICATION FOR REGULAR COASTAL DEVELOPMENT PERMIT (CP 04-58), DESIGN REVIEW (DRC 04-59), SITE PLAN REVIEW (SPR 04-60), ENVIRONMENTAL INITIAL ASSESSMENT/MITIGATED NEGATIVE DECLARATION (EIA 04-61), AND VARIANCE (VAR 050313) FOR TWO ATTACHED RESIDENTIAL UNITS LOCATED AT 684-686 OCEAN LANE, IN THE R-1500 (HIGH DENSITY RESIDENTIAL) ZONE. MF 701.

Jacqueline M. Hald
CITY CLERK

4/24/07
DATE

STATE OF CALIFORNIA -- THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, G

CALIFORNIA COASTAL COMMISSION

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



APPEAL FROM COASTAL PERMIT
 DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing
 This Form.

SECTION I. Appellant

Name, mailing address and telephone number of appellant:

NANCY SCHMIDT
P.O. BOX 52
LA MESA CA 91944 (619) 442-1024
 Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port
 government: CITY OF IMPERIAL BEACH

2. Brief description of development being
 appealed: CONDO DUPLEX

3. Development's location (street address, assessor's parcel
 no., cross street, etc.): 684-686 OCEAN LANE
IMPERIAL BEACH, CA 91932

4. Description of decision being appealed:

- a. Approval; no special conditions: _____
 b. Approval with special conditions: X _____
 c. Denial: _____

Note: For jurisdictions with a total LCP, denial
 decisions by a local government cannot be appealed unless
 the development is a major energy or public works project.
 Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: _____

Receive

APR 18 21

California Coastal Commission
 San Diego Coast

EXHIBIT NO. 4
APPLICATION NO.
A-6-IMB-07-53
Appeal Form
California Coastal Commission

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- a. ☐ Planning Director/Zoning Administrator c. ☐ Planning Commission
 b. ☒ City Council/Board of Supervisors d. ☐ Other _____

6. Date of local government's decision: 4-4-07

7. Local government's file number (if any): MF 701

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

EDWIN JOHNSON and ROSE GRAVINOR
4631 E. GLENN STREET
TUCSON, AZ 85712

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) WILLIAM FISCHBECK - FISCHBECK and OBERNDORFER
5464 GROSSMONT CENTER DRIVE - 3d floor
LA MESA, CA 91942

(2) JOHNN O'NEAL
1157 FIFTH STREET
IMPERIAL BEACH, CA 91932

(3) _____

(4) _____

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

I believe this proposal is in violation of LCP including Policy S-11 and S-1. Required stringline alignment of the seawall should be reviewed. Intrusive shoreline protection is proposed without necessary analysis including full study of cumulative impacts and proper setbacks. A fair argument exists for further environmental review and EIR preparation pursuant to CEQA.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my knowledge.

Signed Nancy Jane Schmitt
Appellant or Agent

Date April 14, 2007

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed _____
Appellant

Date _____

0016F

NANCY SCHMIDT

Attorney at Law

P. O. BOX 52
LA MESA, CA 91944-0052
TELEPHONE (619) 442-1024
OR 442-4245

April 12, 2007

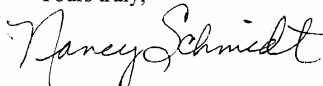
California Coastal Commission
San Diego Area
7575 Metropolitan Drive, Suite 103
San Diego, California 92108-4421

Re: Appeal of Project MF 701
Proposed Project: 684/686 Ocean Lane, Imperial Beach, CA
Ed Johnson Duplex-Mitigated Negative Declaration

Dear Coastal Commission:

In your review of the above entitled matter, I urge you to give very careful attention to the location and alignment of the proposed seawall. It appears that the developer has proposed armoring which is not in a proper "stringline", and that he should have considered alternative designs which do not require a setback variance. These issues are of great importance, because every effort should be made to provide protection from cumulative impacts to the beach and sand supply. California case law mandates project-specific consideration of those broader impacts, and the developer's reliance on studies from other projects is clearly misplaced. It is also important to note that the City Staff Report warns of increased flooding if this project is built as proposed. It seems obvious that the developer should be required to thoroughly address that problem before intrusive armoring is approved in the tidal zone. Your Commission has recently stated that applicants must "determine whether there is any danger from erosion and whether the shoreline protective device is needed" (see Coastal Commission report included with the material submitted to the City, emphasis added). It should be required here.

Yours truly,



Nancy Schmidt

cc: W. Fischbeck
J. O'Neal
Surfrider Foundation

Received

APR 18 2007

California Coastal Commission
San Diego Coast District