## CALIFORNIA COASTAL COMMISSION

South Coast Area Office 200 Oceangate, Suite 1000 Long Beach, CA 90802-4302 (562) 590-5071 W4c

June 8, 2010

# **ADDENDUM**

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: ADDENDUM TO ITEM W4c, COASTAL COMMISSION PERMIT APPLICATION

#5-10-065 (San Clemente Shorecliffs Beach Club Assoc.) FOR THE

COMMISSION MEETING OF June 9, 2010.

## <u>Correspondence</u>

Commission staff received correspondence on June 1, 2010, from Sharline Elmer on behalf of the Shorecliffs Beach Club Association, with comments on the staff report. Ms. Elmer provided photographic evidence that the existing concrete block wall, which was identified in the findings as unpermitted, was constructed prior to passage of the Coastal Act. Therefore, these facts need to be reflected with corrections to Special Condition No. 2 and the findings. Ms. Elmer also pointed out several inconsistencies between the 'construction related requirements' identified in Special Condition No. 1, and the explanation of those requirements in the findings. For instance, Special Condition 1.C. mandates that no machinery be allowed on the beach, whereas, construction access to the site will require vehicular passage on the upper beach, and some of the physical development is acknowledged in the findings as occurring on the beach and being allowed. In addition, Special Condition 1.E. requires that construction sediment/debris be removed on a daily basis. Whereas, the findings require that sediment/debris is desirable since removal requires access via the beach. Therefore, corrections are made to Special Conditions 1.C., 1.E., and 2, and the findings on page 6.

# Revision to Staff Report

Commission staff recommends corrections to the staff report. Deleted language is in **bold strike through** and new language is in **bold, underlined italic**, as shown below:

The following corrections are made in response to the applicant's comments.

On page 3, correct Special Condition No. 1, as follows:

1. <u>Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris</u>

The permittee shall comply with the following construction-related requirements:

- A. ... [no changes]
- B. ... [no changes]
- C. No machinery shall be allowed at any time en the beach or in the intertidal zone;
- D. ... [no changes]
- E. Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. <u>All</u> construction-related sediment and debris shall be removed within 24 hours

**of completion of the project.** Debris shall be disposed of outside the coastal zone:

F. ... [no changes]

On page 3, correct Special Condition No. 2, as follows:

#### 2. Submittal of Revised Final Plans

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval, two (2) sets of final revised plans that substantially conform with the project plans dated 8/27/09 and received in the South Coast District Office 3/23/10, but shall be revised to clearly show property lines and the existing block wall and chain-link fencing along the property lines shall be shaded and clearly marked "this element not permitted by any coastal development permit" on each set of plans;
- B. ...[no changes]

On page 6, correct the third paragraph of the findings as follows:

...However, the existing chain link fence is constructed of a newer green plastic coated chain-link fence material; it is apparent that the chain-link fence has been replaced since the passage of the Coastal Act. Additionally, a cement block wall is depicted as existing on the site plan that does not appear on historical aerial photographs of the site from 1972 and 1979 but appears on the 1989 historical aerial photograph of site. Construction of new fencing or replacement of the pre-Coastal Act chain-link fence or any other structure on the sandy beach would require a coastal development permit and staff has not identified any records for a coastal development permit at the site for any development. Although this development is identified on plans submitted to the Commission (noted as 'existing'), the after-the-fact construction of the cement block wall and replacement chain-link fencing is not included in the scope of this coastal development permit application...

## **CALIFORNIA COASTAL COMMISSION**

South Coast Area Office 200 Oceangate, Suite 1000 Long Beach, CA 90802-4302 (562) 590-5071

# Item W4c

49th Day: May 11, 2010
180th Day: August 19, 2010
Staff: Liliana Roman-LB
Staff Report: September 19, 2010
Hearing Date: June 9-11, 2010

March 23, 2010

Commission Action:

Filed:

# STAFF REPORT: CONSENT CALENDAR

APPLICATION NUMBER: 5-10-065

APPLICANT: San Clemente Beach Club Board of Directors

AGENT: Sharline Elmer

**PROJECT LOCATION:** 2771 Coast Hwy., San Clemente, Orange County

**PROJECT DESCRIPTION:** Interior remodel and façade improvements to existing

1,544 sq. ft. beach club structure including replacement of doors and windows, expansion of outdoor bbq area, addition of a new wood deck, new patio cover, and new signage on a privately owned sandy beach parcel.

LOCAL APPROVALS RECEIVED City of San Clemente Planning Division Approval-in-

Concept dated 3/12/10.

SUBSTANTIVE FILE DOCUMENTS: City of San Clemente Certified Land Use Plan (LUP)

#### **SUMMARY OF STAFF RECOMMENDATION:**

The proposed development is located on a privately owned sandy beach parcel adjacent to Poche Beach in San Clemente. The proposed development does not result in any seaward encroachment. Staff is recommending <a href="#APPROVAL">APPROVAL</a> of the proposed project with six (6) special conditions, which require 1) BMPs related to Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris; 2) Revised Final Plans which clarify that this action does not authorize a block wall and fence that was installed without a permit; 3) Plans identifying a Construction Staging Area that doesn't impact resources; 4) Provisions related to Timing of Construction; 5) Landscaping - Native/Drought Tolerant, Non Invasive Plants; 6) A permit for Future Development. The primary issues associated with this development are protection of coastal resources and water quality.

#### **LIST OF EXHIBITS:**

- 1. Location Map
- 2. Assessors Parcel Map
- 3. Coastal Access Points Exhibit
- 4. Project Plans
- 5. Site Photos

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MOTION: I move that the Commission approve the coastal development permit

applications included on the consent calendar in accordance with the staff

recommendations.

#### STAFF RECOMMENDATION TO ADOPT CONSENT CALENDAR:

Staff recommends a <u>YES</u> vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

#### **RESOLUTION:**

#### I. APPROVAL WITH CONDITIONS

The Commission hereby <u>APPROVES</u> a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of 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 complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

#### II. STANDARD CONDITIONS:

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

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#### II. SPECIAL CONDITIONS:

1. <u>Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris</u>

The permittee shall comply with the following construction-related requirements:

- A. No construction materials, debris, or waste shall be placed or stored where it may enter the storm drain system leading to the Pacific Ocean;
- B. Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material;
- C. No machinery shall be allowed at any time on the beach or in the intertidal zone;
- D. Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the storm drain system and a preconstruction meeting to review procedural and BMP guidelines;
- E. Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Debris shall be disposed of outside the coastal zone;
- F. Concrete trucks and tools used for construction of the approved development shall be rinsed off-site.

#### 2. Submittal of Revised Final Plans

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval, two (2) sets of final revised plans that substantially conform with the project plans dated 8/27/09 and received in the South Coast District Office 3/23/10, but shall be revised to clearly show property lines and the existing block wall and chain-link fencing along the property lines shall be shaded and clearly marked "this element not permitted by any coastal development permit" on each set of plans;
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final 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. Construction Staging Area

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit a plan for the review and approval of the Executive Director which indicates that the construction staging area(s) will avoid impacts to public access to the public beach, to public beach areas or to sensitive habitat areas.

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- 1. The plan shall demonstrate that:
  - (a) Construction equipment or activity shall not occur outside the staging or construction area
  - (b) Public parking areas shall not be used for staging or storage of equipment
  - (c) Public beach areas and accessways shall not be used for staging or storage of equipment
  - (d) The staging area for construction of the project shall not obstruct public vertical or lateral access to the beach or have impacts to sensitive habitat areas.
- 2. The plan shall include, at a minimum, the following components:
  - (a) A site plan that depicts:
    - (1) Limits of the staging area(s)
    - (2) Construction site
    - (3) Proposed construction access to construction site
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

#### 4. Timing of Construction

To avoid adverse impacts on to public beach access, construction activities authorized pursuant to Coastal Development Permit 5-10-065 shall not occur during the peak beach use season, defined as the period starting the day before the Memorial Day weekend and ending the day after the Labor Day weekend of any year.

#### 5. <u>Landscaping - Native/Drought Tolerant, Non Invasive Plants</u>

Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society (http://www.CNPS.org/), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (http://www.calipc.org/), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a "noxious weed" by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources (See: http://www.owue.water.ca.gov/docs/wucols00.pdf).

#### 6. <u>Future Development</u>

This permit is only for the development described in Coastal Development Permit No. 5-10-065. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (b) shall not apply to the entire parcel. Accordingly, any future improvements to the development authorized by this permit, including but not limited to repair and maintenance activities identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit No. 5-10-065 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

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### IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

#### A. PROJECT LOCATION AND DESCRIPTION

#### Project Description and Location

The proposed project is located between the first public road and the sea on a sandy oceanfront lot located adjacent to and south of the Poche Beach lot (a public beach) in the City of San Clemente, Orange County (Exhibits 1 & 2). The proposed project site is a 42,000 square foot private beach parcel owned by the Shorecliffs Beach Club Board of Directors located at 2771 N. El Camino Real (aka Pacific Coast Hwy). The site is developed with a 1,544 sq. ft., single-story, 25-foot tall building used for private recreation, an outdoor basketball court, two tennis courts, a children's playground area, barbeque areas, concrete patio with picnic tables and perimeter cement block wall and chain-link fencing. The block wall and fencing delineate the landwardmost property line (next to the railroad tracks) parallel to the beach and the landward most segments of the property lines that are perpendicular to the shoreline; the parcel is not entirely enclosed and so lateral access along the seaward-most part of the parcel is available. The private beach club is open to use by Shorecliffs residents and their guests only. The beach club was constructed in 1962 prior to passage of the Coastal Act. The private parcel does not appear to extend into State tidelands as the seaward property line is defined inland of the typical high tide line. The site is designated as OS2 (Private Open Space) in the certified Land Use Plan.

The nearest public beach is north of and adjacent to the subject parcel. Vertical public access to the public beach is available approximately 100 feet north of the subject site at the Poche Beach access point at the Camino Capistrano and N. El Camino Real intersection which provides a pedestrian walkway in a culvert under the railroad tracks for safe railroad crossing access to the sandy beach. Exhibit #3 is a public beach access points map for the City of San Clemente. Poche Beach is a public beach at the City's northern border with the City of Dana Point. Although approximately a one mile length section of the beach at the northern City border is comprised of privately owned beach parcels (owners include Shorecliffs Homeowners Association, Palm Beach Park Association, Capistrano Shores Mobile Home Park and several private owners) the parcels do not currently appear to extend to the mean high tide, therefore large portions of dry sandy beach area are public beach areas seaward of these parcels. Immediately adjacent to the south of the subject site are two private beach parcels owned by the Palm Beach Park Homeowner Association developed with fencing, picnic tables, fire rings, benches, horseshoe pits and beach volleyball net posts. Further to the south is a larger beach parcel owned by the Capistrano Shores Mobile Home Park. Exhibit #5 shows an aerial photograph of the vicinity depicting the adjacent beachfront parcels.

The existing development is located on a private beach parcel adjacent to the Orange County Transit Authority (OCTA) railroad tracks immediately seaward of N. El Camino Real. The site is visible to motorists traveling both northbound and southbound on N. El Camino Real. El Camino Real is designated as a scenic corridor in the City's certified LUP. The site is also highly visible looking inland to the coastal bluffs from the beach. Travelling southbound on N. El Camino Real at the City's northern border, the ocean view opens up at Poche Beach from rows of two and three story single family residences on beach front lots in the City of Dana Point. Southbound motorists, cyclists and pedestrian ocean views from N. El Camino Real at Poche Beach currently are diminished by the existing chain link fence and high pitched roof beach club structure at the Shorecliffs Beach Club site. The ocean view is then completely unobstructed by fencing or structures for approximately 300 yards until it is mostly obscured further south (from the road) by

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mobile homes on the beach at the Capistrano Shores Mobile Home Park. The site would also be visible from elevated public vantages that will be available upon completion of the public parks and accessways at the Marblehead development located to the south and inland of the subject site.

The applicant proposes an interior remodel and façade improvements to the existing 1,544 sq. ft., approximately 25-foot tall beach club structure including replacement of doors and windows, a new sliding glass door, expansion of outdoor bbq area, addition of a new wood deck with railing and a wheelchair access ramp over an existing concrete patio on the inland side of the structure, a new trellis patio cover over an existing ocean-facing concrete patio, new signage and minimal landscape changes. Project plans are included as Exhibit 5. Minimal landscaping is proposed consisting of removal of two 50-70 foot tall invasive Mexican fan palms and replacing them with 17-foot tall Mediterranean fan palm trees. None of the proposed development would result in any seaward encroachment of new development.

No work is proposed to an existing concrete block/chain-link fencing running along the site's property lines, as described above. The chain link fence delineates the private beach parcel owned by Shorecliffs Beach Club from the OCTA railroad tracks right-of-way and from a second parcel to the south owned by the Palm Beach Park Association. It appears from a review of historic aerial photographs of the site that a chain link fence in this location and in this configuration was erected prior to the passage of the Coastal Act. However, the existing chain link fence is constructed of a newer green plastic coated chain-link fence material; it is apparent that the chain-link fence has been replaced since the passage of the Coastal Act. Additionally, a cement block wall is depicted as existing on the site plan that does not appear on historical aerial photographs of the site from 1972 and 1979 but appears on the 1989 historical aerial photograph of site. Construction of new fencing or replacement of the pre-Coastal Act chain-link fence or any other structure on the sandy beach would require a coastal development permit and staff has not identified any records for a coastal development permit at the site for any development. Although this development is identified on plans submitted to the Commission (noted as 'existing'), the after-the-fact construction of the cement block wall and replacement chain-link fencing is not included in the scope of this coastal development permit application, therefore, the Commission imposes Special Condition #2 requiring the applicant submit final revised plans clearly delineating the site's property lines and existing fencing be shaded and clearly marked "this element not permitted by any coastal development permit" on each set of plans. The private parcel does not appear to extend into State tidelands as the property line is defined inland from the mean high tide line. As such, there is a large portion of dry sandy public beach area between this private parcel and the breaking surf. The chain link fence does not extend beyond the private property onto the public beach area.

The protection of water quality is an important aspect of the Coastal Act. Construction will occur on the sandy beach adjacent to the ocean. Due to the proposed project's location near the water, construction activities may have adverse impacts upon water quality and the marine environment. Storage or placement of construction materials, debris, or waste in a location subject to wave erosion and dispersion would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. In addition, the use of machinery in coastal waters not designed for such use may result in the release of lubricants or oils that are toxic to marine life. In order to minimize adverse construction-related impacts upon marine resources, the Commission imposes **Special Condition #1** providing for the safe storage of construction materials, the safe disposal of construction debris and best management practices (BMP). The applicant will be required to implement BMPs designed to minimize erosion and prevent debris from entering coastal waters. This condition requires the applicant to remove any and all debris resulting from construction activities within 24 hours of completion of the project.

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Construction impacts such as the obstruction of the Poche Beach pedestrian railroad underpass beach accessway can affect the public's ability to access the adjacent beach area. Construction related impacts can be partially alleviated by limiting construction work to the off-season (fall and winter) when beach use by the public is typically low. The applicant has indicated that lateral public beach access will not be affected during construction, as all work will occur solely within the private property parcel on the beach. Although construction access to the private property parcel will be via the Poche Beach public beach accessway, it will not be closed off to the public during construction.

Therefore, to guarantee that public access is maintained during peak beach use season, the Commission imposes **Special Condition #4** requiring construction to occur prior to the Memorial Day weekend and/or following the Labor Day weekend. Furthermore, **Special Condition #3** requires the submittal of a project construction staging plan to ensure that the staging site does not adversely impact public access to the beach or coastal resources.

#### B. HABITAT, RECREATION AND PARK IMPACTS

As conditioned, the development will not result in significant degradation of adjacent habitat, recreation areas, or parks and is compatible with the continuance of those habitat, recreation, or park areas. Therefore, the Commission finds that the project, as conditioned, conforms to Section 30240(b) of the Coastal Act.

## C. DEVELOPMENT

The development is located within an existing developed area and is compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future development of the project site potentially may result in a development that is not consistent with the Chapter 3 policies of the Coastal Act. To assure that future development is consistent with the Chapter 3 policies of the Coastal Act, the Commission finds that a future improvements special condition must be imposed. As conditioned the development is in conformance with the Chapter 3 policies of the Coastal Act.

### D. WATER QUALITY

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. The development, as proposed and as conditioned, incorporates design features to minimize the effect of construction and post construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials and the use of post construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms to Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

#### E. PUBLIC ACCESS

As conditioned, the proposed development will not affect the public's ability to gain access to, and/or to use the coast and nearby recreational facilities. Therefore, as conditioned, the development conforms to Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

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#### F. LOCAL COASTAL PROGRAM

The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. On April 10, 1998, the Commission certified with suggested modifications the Implementation Plan portion of the Local Coastal Program. The suggested modifications expired on October 10, 1998. The City re-submitted on June 3, 1999, but withdrew the submittal on October 5, 2000. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

#### G. UNPERMITTED DEVELOPMENT

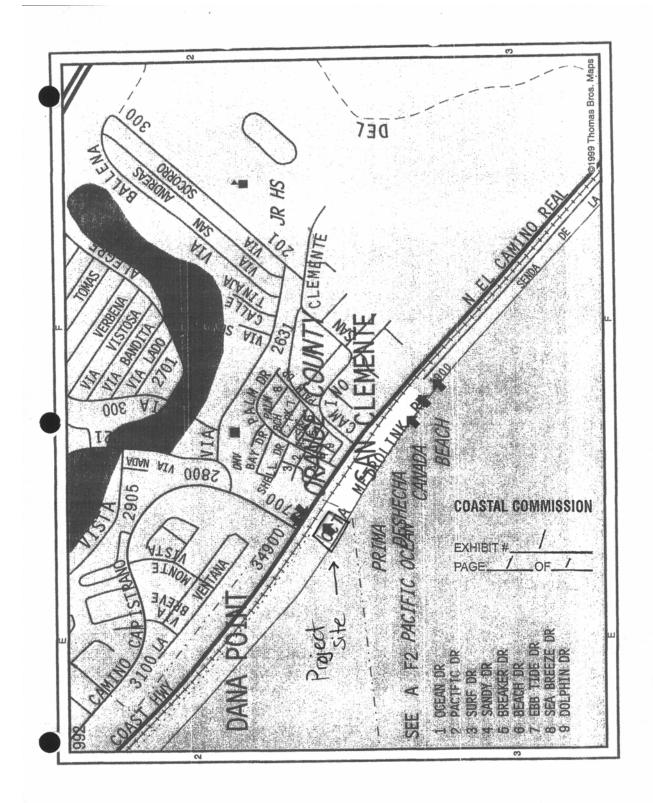
Development has occurred on the subject site without benefit of the required coastal development permit, including replacement of a chain-link fence and construction of a concrete block wall on the sandy beach. The work that was undertaken is considered "unpermitted development" as it constitutes development that requires a coastal development permit by virtue of its location on the beach.

**Special Condition #2** requires the applicant submit revised project plans showing the existing concrete block and chain-link fence shaded and clearly marked "these element not permitted by any coastal development permit" as the construction of the block wall and demolition/replacement of the chain-link fence have not received Commission approval.

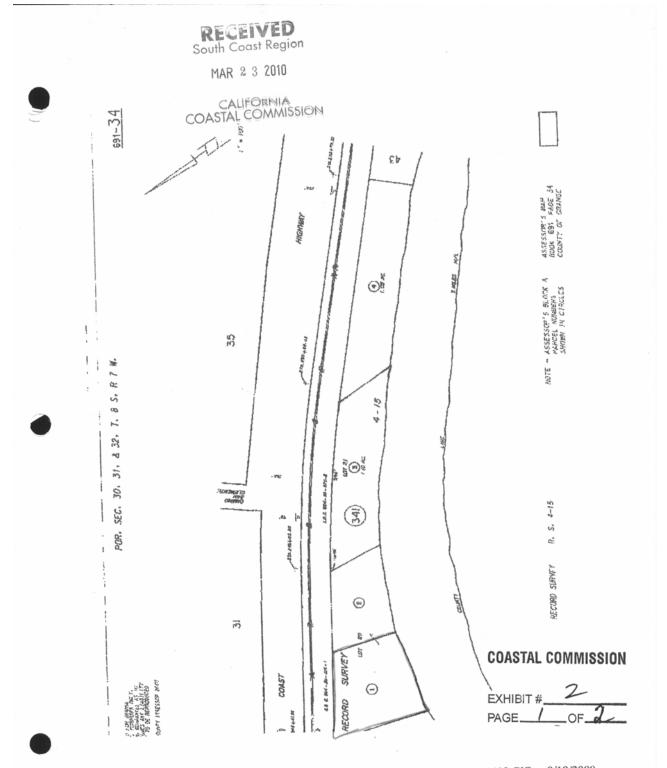
This permit does not address the unpermitted development. Consideration of the permit application by the Commission has been based solely on the consistency of the proposed development with the policies of Chapter 3 of the Coastal Act. The certified San Clemente Land Use Plan was used as guidance by the Commission in reaching its decision. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged unpermitted development, nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit. The Commission's enforcement division will evaluate further actions to address unpermitted development not resolved under this permit.

### H. CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City of San Clemente is the lead agency for purposes of CEQA compliance. As determined by the City, the proposed development is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15301 (class 1) as a minor alteration to an existing structure. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and consistent with the requirements of the Coastal Act and CEQA.



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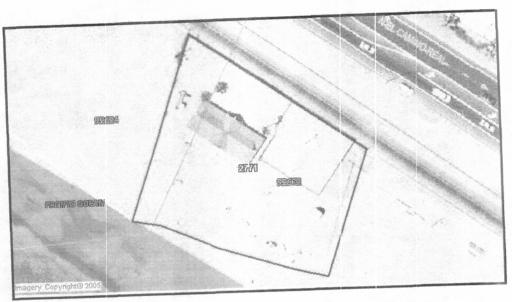
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Community View Print Preview

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Property APN 691-341-01

691-341-01 APN:

2771 COAST HWY , SAN CLEMENTE CA,

Address: 1536 Living SF: 0.96 Acres: 0 Lot frontage: 0

Lot depth: R S 004-15 PAR 20 POR OF PAR legal description:

42000 Land SF: 200 Land use: 1963 Year built: Assessed value: 888-36 TBM Page:

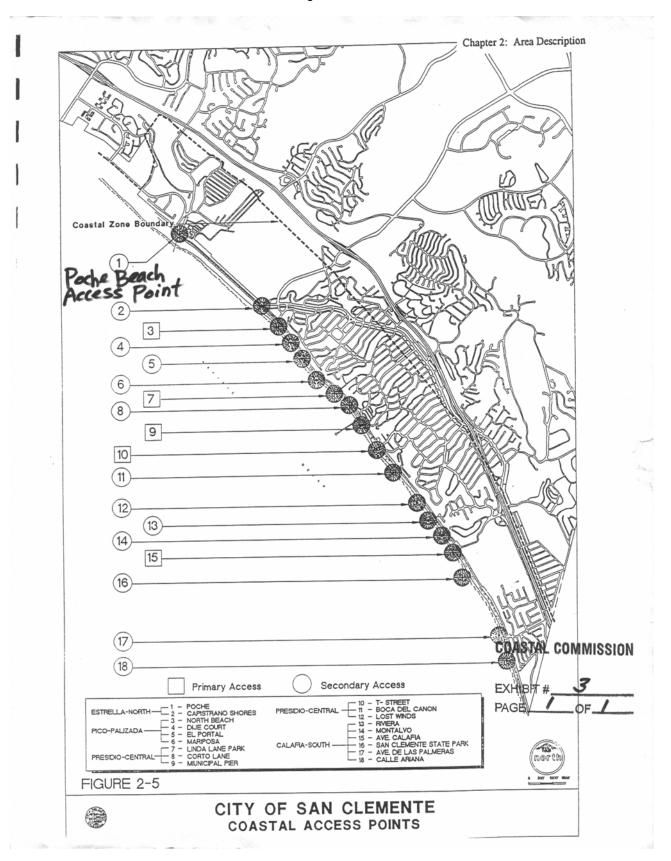
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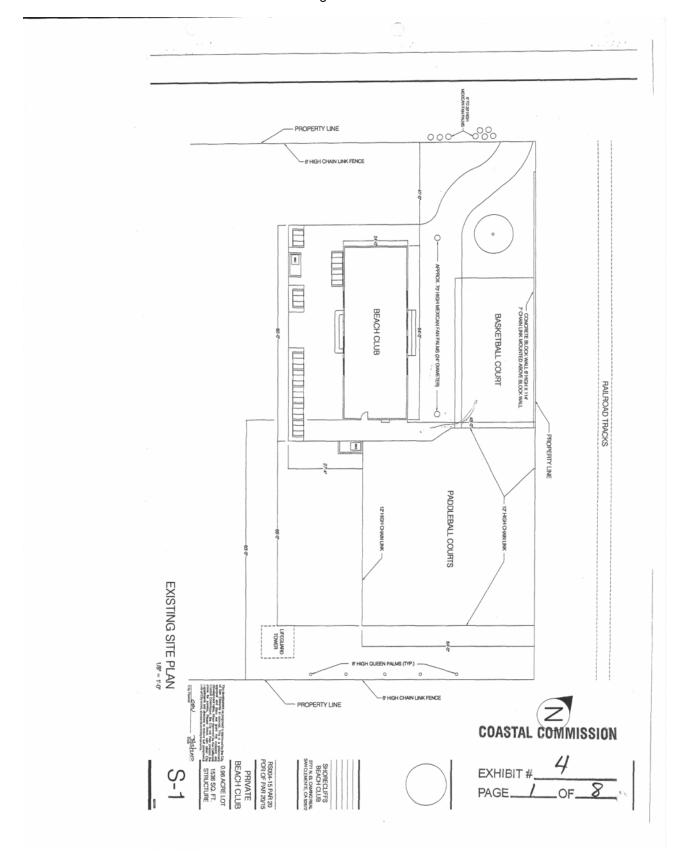
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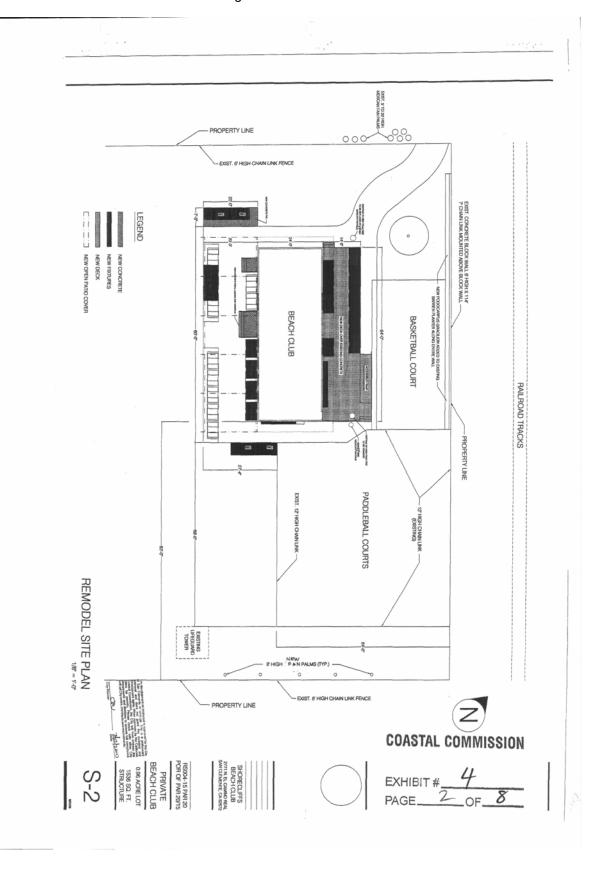
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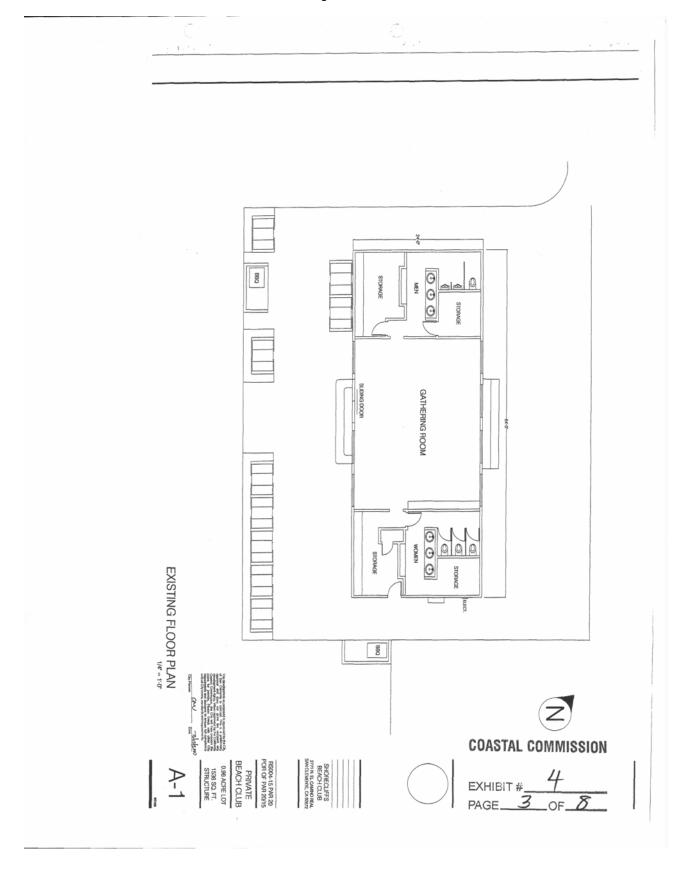
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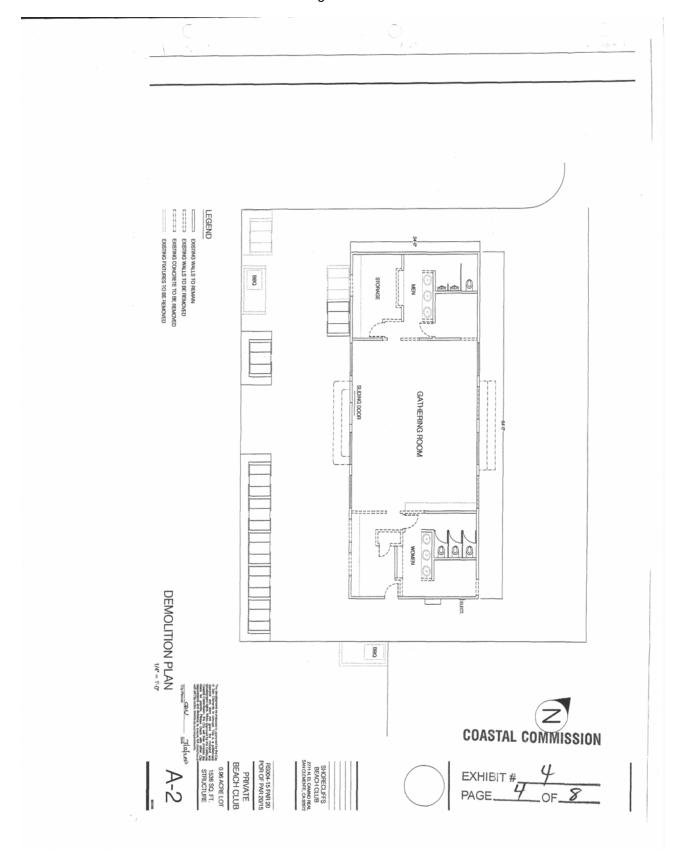


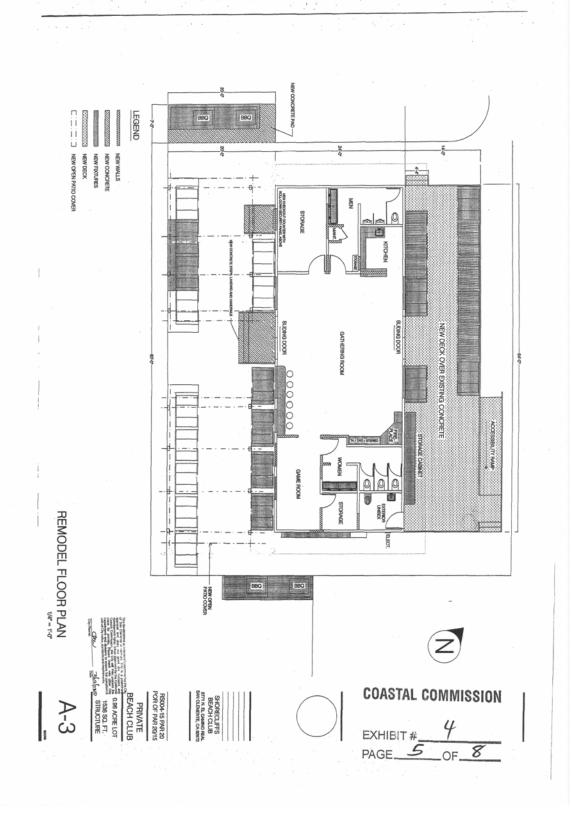


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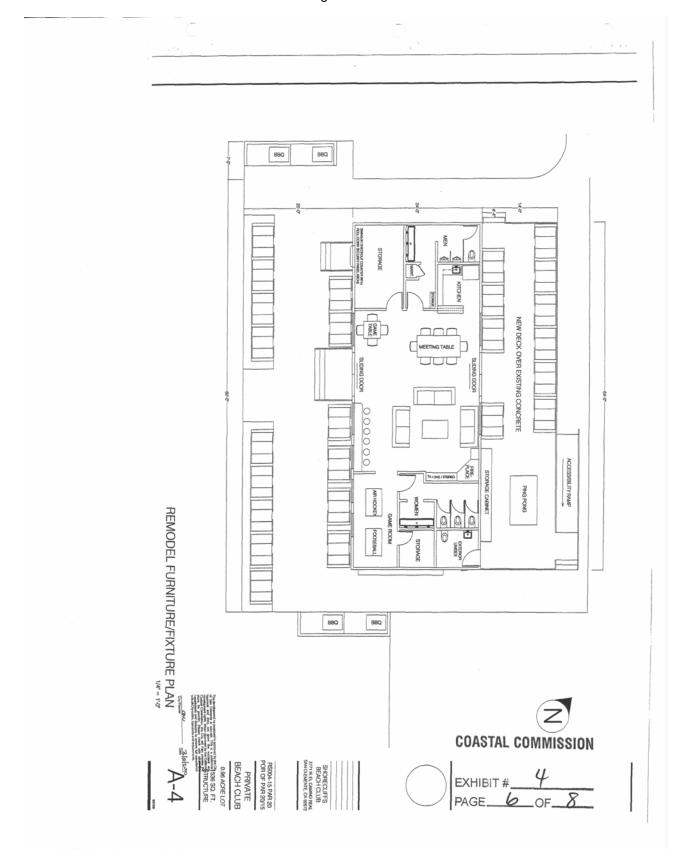


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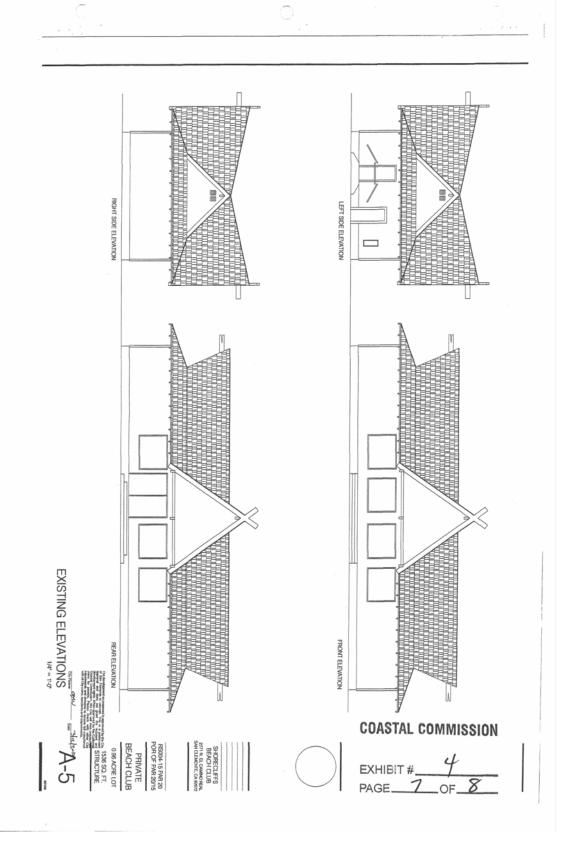


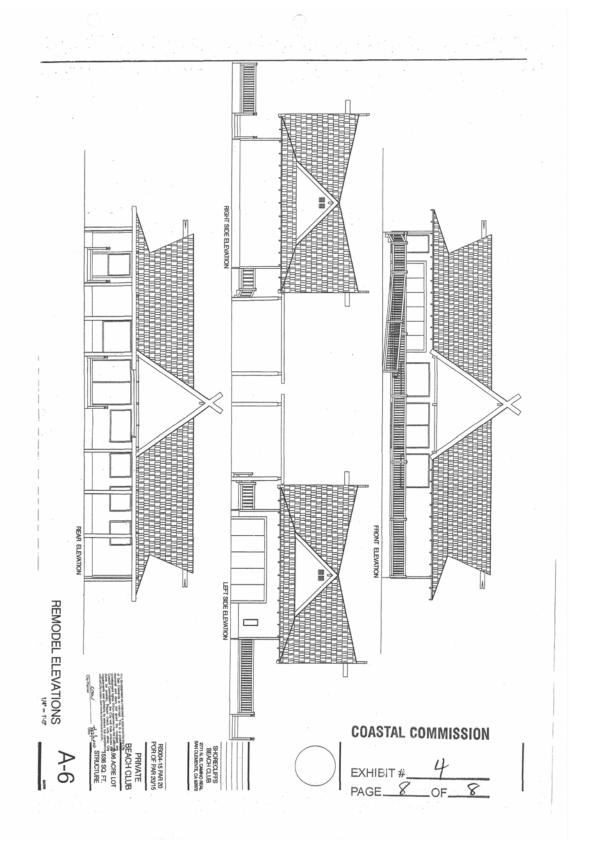


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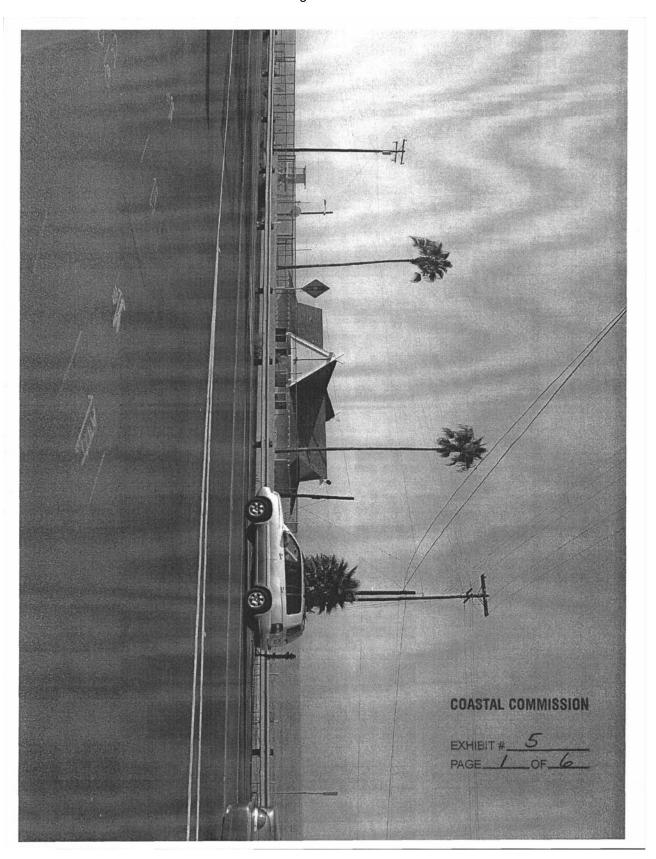


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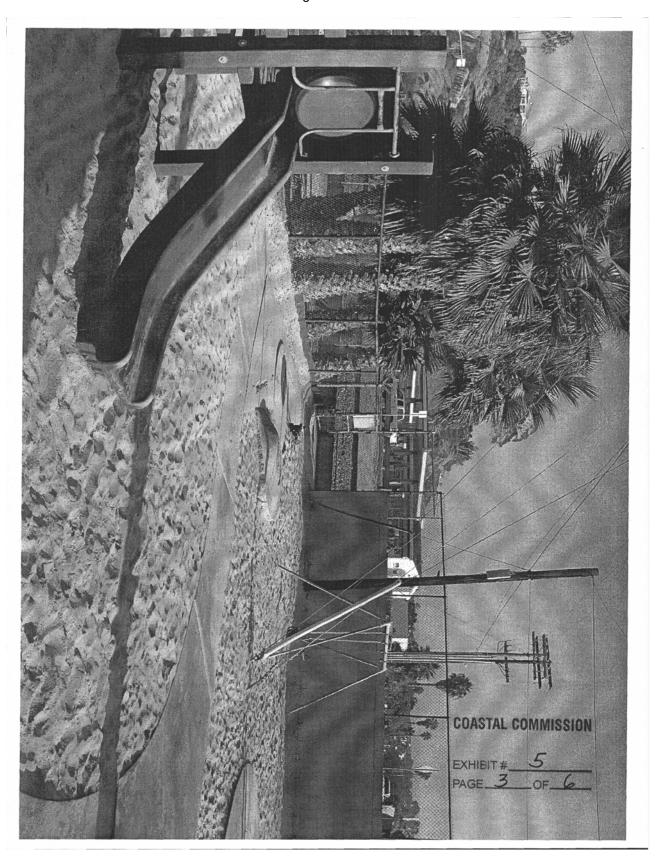
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