

CALIFORNIA COASTAL COMMISSION

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Filed: June 14, 2011
49th Day: August 2, 2011
180th Day: December 11, 2011
Staff: Liliana Roman-LB
Staff Report: June 29, 2011
Hearing Date: July 13-14, 2011
Commission Action:

Item Th 9c

STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER: 5-11-147

APPLICANT: City of San Clemente, Attn: Amber Gregg, Planning Dept.

PROJECT LOCATION: North Beach near terminus of Calle Estacion within OCTA/Metrolink/BNSF railroad right-of-way, San Clemente, Orange County

PROJECT DESCRIPTION: Installation of new cable-rail fence for pedestrian safety adjacent to railroad right-of-way and railroad station platform consisting of a 6' tall cable rail fence on the beach side of the railroad right-of-way from the culvert channel to past the railroad station platform and joining to a new 5' tall and approximately 500' long cable rail fence terminating at pedestrian railroad crossing beach accessway plus new 'no trespassing' signs and signs directing pedestrians to beach access on proposed new fence

LOCAL APPROVALS RECEIVED City of San Clemente Planning Division Approval-in-Concept dated June 9, 2011

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

SUMMARY OF STAFF RECOMMENDATION:

Staff is recommending **APPROVAL** of the proposed project with **eight (8) special conditions**, which require 1) final revised plans; 2) construction-related best management practices (BMPs); 3) compliance with construction staging plan; 4) construction management plan; 5) sign plan; 6) future improvements return to the Commission; 7) assumption of risk, waiver of liability and 8) no future shoreline protective device. The primary issues associated with this development are public access and visual impacts.

The City in conjunction with OCTA/Metrolink/BNSF, proposes new fencing adjacent to and on the beach side of the railroad tracks as a means of improving pedestrian safety at the railroad track/railroad station beach interface adjacent to a primary and highly utilized controlled pedestrian beach access railroad crossing in the City of San Clemente at North Beach. The proposed fence will be on the seaward side of the railroad tracks but inland of existing rip rap protecting the tracks entirely within the railroad right-of-way. The proposed fencing is a "cable rail" type of fencing which minimizes visual impacts.

LIST OF EXHIBITS:

1. Location Map
2. Assessors Parcel Map
3. Coastal Access Points Map
4. Project Plans
5. Construction Staging Area
6. Site Photographs

STAFF RECOMMENDATION:

MOTION: *I move that the Commission approve Coastal Development Permit No. 5-11-147 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves 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. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date 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. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS:

1. Revised Final Plans

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit final project plans to the Executive Director for review and approval. The plan shall substantially conform to the preliminary plans, except that those plans shall clearly detail the area of the existing fenced box culvert channel in front of the train platform and demonstrate that there will be no “double-fencing” effect with the proposed new fence impeding public views. The applicant shall work in conjunction with the Orange County Public Works Department to ensure the fencing of the box culvert channel and proposed new fencing along the railroad right-of-way have the least adverse impacts on coastal visual resources.
- B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Storage of Construction Materials, Mechanized Equipment, Erosion Sediment Control and Removal of Construction Debris

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 be subject to wave erosion and dispersion;
- B. Any and all debris resulting from construction activities shall be removed from the beach within 24 hours of completion of construction;
- C. No machinery shall be allowed at any time on the beach or in the intertidal zone;
- D. All excavated beach sand shall be redeposited on the beach;
- E. Sand from the beach, cobbles, or shoreline rocks shall not be used for construction material;
- F. 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 pre-construction meeting to review procedural and BMP guidelines. Selected BMPs shall be maintained in a functional condition throughout the duration of the project;
- G. Appropriate Best Management Practices (BMPs) designed to control erosion from the disturbed area and prevent silt and sediment from contaminating any downstream drainages during construction activities, shall be installed prior to or concurrent with construction operations, and maintained throughout the development;
- H. Construction debris and sediment shall be removed from construction areas on a regular basis during construction to prevent the accumulation of sediment debris

which may be discharged into coastal waters. Debris shall be disposed of at a debris disposal site outside the coastal zone.

- I. Concrete trucks and tools used for construction of the approved development shall be rinsed off-site;
- J. Staging and storage of construction machinery, material stockpiling and storage of debris shall not take place on the beach or within sensitive habitat areas.

3. Construction Management Plan

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, a plan demonstrating measures for ensuring continual vertical public beach access at North Beach during the project's construction phase. The plan shall be prepared by a qualified professional.
 - 1. The plan shall include, at a minimum, the following components: proposed signage advising of the presence and location of the nearest public access, location of proposed signs, use of a construction flagman to aid pedestrians at crossing.
- B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. Compliance with Proposed Construction Staging Area

- A. The permittee shall comply with the proposed construction staging area depicted on Exhibit 5 of the staff report dated June 23, 2011 which indicates that the construction staging area will be located on a City owned vacant lot at Calle Deshecha and Calle Estacion; a site chosen to avoid impacts to public access, to beach areas or to sensitive habitat areas and ensuring that no public parking spaces will be used for staging or storage of material and equipment.

5. Coastal Access Sign Plan

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and approval of the Executive Director, a Sign Plan to direct the public to the pedestrian beach access. The plan shall be prepared by a qualified professional.
 - (a) The plan shall demonstrate the number of signs and the location of their placement on the proposed new fence;
 - (b) The signs shall be standard "Coastal Access" signs;
 - (c) Signs shall be a minimum size of 12" x 18" and shall be constructed of heavy-duty lightweight aluminum or any other rust resistant and weather durable material;
 - (d) Signs shall remain posted and maintained for the life of the structure.
- B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive

Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

6. Future Improvements

This permit is only for the development described in Coastal Development Permit No. 5-11-147. Additional development, including but not limited grading and vegetation removal shall require an amendment to Permit No. 5-11-147 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government. In addition, pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemption otherwise provided in Public Resources Code Section 30610 (b) shall not apply to the development governed by Permit No. 5-11-147. 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. 5-11-147 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

7. Assumption of Risk, Waiver of Liability and Indemnity

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

8. No Future Shoreline Protective Device

- A. By acceptance of this permit, the applicant agrees, on behalf of himself and all other successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-11-147 including, but not limited to, the proposed fencing, and any future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of himself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- B. By acceptance of this permit, the applicant further agrees, on behalf of himself and all successors and assigns, that the landowners shall remove the development authorized by this permit, including the residence, garage, foundations, and patio, if any government agency has ordered that the structure is not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowners shall remove all recoverable debris associated with the development from the beach and ocean and

lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. PROJECT LOCATION AND DESCRIPTION

Project Location and Description

The City in conjunction with OCTA/Metrolink/BNSF, proposes new fencing adjacent to (and on the beach side of) the railroad tracks in the vicinity of the North Beach rail station platform and North Beach controlled pedestrian beach access railroad crossing (controlled beach access) as a means of improving pedestrian safety at the railroad track/railroad station beach interface adjacent to a primary and highly utilized beach access point in the City of San Clemente. North Beach is located off the Boca de la Playa/Avenida Estacion and El Camino Real/Avenida Estacion intersections. The proposed fence will be on the seaward side of the railroad tracks but inland of existing rip rap protecting the tracks, entirely within the railroad right-of-way, constructed as follows:

- New approximately 200' long and 6' tall cable rail fence on the beach side of the railroad tracks (between tracks and existing rip-rap track protection) from the culvert channel (known as 'Segunda Deshecha ') downcoast past the rail station platform and then transitioning to a new approximately 260' long 5' tall cable rail fence that ends at the controlled pedestrian beach access railroad crossing; after the pedestrian crossing, the 5' tall cable rail fence continues for approximately another 40' to connect with an existing mesh fence behind the bathrooms/concession building and children playground on the beach. The total length of the cable rail fence is approximately a total length of 500 feet.
- New standard "No Trespassing" and "Coastal Beach Access" signs posted on new cable rail fence.

Project plans are included in Exhibit 4. Construction is proposed over a two week period (weekdays only) during the last week of July and first week of August 2011.

B. PUBLIC ACCESS

Section 30210 of the Coastal Act states:

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

Section 30212 of the Coastal Act states, in relevant part:

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

Section 30213 of the Coastal Act states, in pertinent part:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

City Certified Land Use Plan Policies:

Policy IX.1: Improvements to beach facilities and beach access points which are administered by the City of San Clemente shall specifically be intended to provide for the maintenance and enhancement of maximum public use of the beach and ocean.

Policy IX.2: Monitor and attempt to improve the safety of pedestrians crossing El Camino Real and the railway along the coast.

As shown in Exhibit 4, the proposed cable-rail fence will be located between the first public road and the sea on the seaward side of the OCTA railroad tracks in the vicinity of the North Beach railroad station platform but inland of existing rip rap protecting the tracks, and entirely within the railroad right-of-way. The railroad tracks run parallel to the ocean across the entire City of San Clemente, therefore, beach access requires crossing the railroad tracks. There are eighteen (18) beach access points providing pedestrians with safe underpass, overpass, storm drain tunnel or at-grade pedestrian railroad crossings for beach access.

North Beach is identified as one of the City's primary beach access points in the certified Land Use Plan (LUP) along with Linda Lane Park, the Municipal Pier, T-Street, and Avenida Calafia. The beach is adjacent to the publicly owned Ole Hanson Beach Club located on the bluff at the southeastern portion of North Beach. There is a 250 space City-owned metered surface parking lot, plus another 100 metered on-street spaces at North Beach. The start/trailhead of the popular San Clemente Multi-Use Coastal Trail is from the southern end of the North Beach parking lot. The beach itself is accessible at an at-grade asphalt pedestrian railroad crossing at the southern end of the North Beach parking lot. The at-grade controlled crossing has signalized warning devices (e.g., lights, bells, arm) when a train approaches.

North Beach has a very high volume of visitors due to a concentration of public coastal recreational amenities (e.g., public beach, bluff park, public pool, coastal trail, children playground, restrooms/concession building) available at this site and the various multi-modal forms of transportation it accommodates (e.g., regional train, car, bike, walking). North Beach also provides more off-street public parking spaces than any other primary beach access points in the City. Given the intense concentration of people and uses at North Beach, the City and its partners are attempting to address pedestrian safety issues specific to this location's railroad and beach interface.

The applicant has indicated that the main purpose of the proposed fence is for safety considerations for pedestrians arriving at North Beach by car, train, bicycle, or foot who might be tempted to take an unsafe and illegal shortcut across the railroad tracks, even though there is a permitted, safe and controlled pedestrian crossing for beach access just feet away. Although the proposed fence would create a new impediment to access, the access being impeded is generally unsafe here and upon completion of the work, safety will be improved. As proposed, the approximately 500 foot long cable rail fence parallel to the ocean seaward of the railroad tracks would have signs to direct pedestrians to the safe controlled at-grade pedestrian beach access railroad crossing and away from hazardous crossings at other points along the OCTA railroad tracks. The applicant proposes and **Special Condition 4** requires appropriate "Coastal Access" directional signs to be affixed throughout the length of the fence pointing to the controlled pedestrian beach access railroad crossing at North Beach.

Construction related impacts such as the obstruction of the North Beach pedestrian railroad crossing beach access can affect the public's ability to reach 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. As the proposed work is part of a larger project organized and funded by OCTA to improve pedestrian safety at numerous pedestrian railroad crossings in and outside of the coastal zone throughout Orange County in partnership with local cities, timing is such that construction at this San Clemente location will be during the summer peak beach season. Construction is anticipated to take place over a two week period, with work occurring weekdays only at the end of July 2011. The City (applicant) has indicated that vertical public beach access at the controlled pedestrian beach access railroad crossing at North Beach will remain open during construction.

However, to guarantee that public access is maintained during peak beach use season, the Commission imposes **Special Condition 2**, requiring adequate signage during the construction phase informing the public that the beach access is open during construction. Furthermore, **Special Condition 3** requires the applicant to comply with their proposed project construction staging zone to ensure that construction staging does not occur in the public beach parking lot or in any other way adversely impacts public access to the beach or other coastal resources. As conditioned, the Commission finds the development consistent with the public access and recreation policies of Chapter 3 of the Coastal Act.

C. SCENIC AND VISUAL QUALITIES

Section 30251 of the Coastal Act states, in pertinent part:

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

San Clemente's certified Land Use Plan (LUP) visual resource policies:

Plan policy provides for maintaining the visual character and aesthetic resources of the City through the preservation of: open space areas, coastal bluffs and canyons and public view corridors.

Policy VII.3 of the certified LUP states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed:

- a. *To protect public views to and along the ocean and scenic coastal area.*
- b. *To minimize the alteration of coastal bluffs and canyons.*
- c. *Where feasible, to restore and enhance visual quality in visually degraded areas.*
- d. *Require that projects be designed and developed to achieve a high level of quality, distinctive character, and compatibility with existing uses and development in accordance with this Element and the Urban Design Element (GP Policy 1.3.6)*

Policy VII.3 of the certified LUP states:

Require the following coastal roadways be maintained and preserved as scenic corridors in accordance with the scenic highways element of the General Plan:

- *Avenida Pico*
- *El Camino Real*

The proposed development is along the Orange County Transit Authority (OCTA)/Metrolink/BNSF railroad track right of way at North Beach. The site is visible to motorists traveling westbound on Avenida Pico and to motorists travelling northbound on El Camino Real. Both El Camino Real and Avenida Pico are designated as scenic corridors in the City's certified LUP, as noted above. Ocean views from the 250 space North Beach surface parking lot are currently through a 4-foot tall wood and chainlink fence along the entire perimeter of the parking lot immediately adjacent to the railroad tracks (Exhibit 5 page 3). Ocean views from the railroad station platform are currently obstructed by the Capistrano Shores Mobile Home Park along its north end and partially obstructed at about the middle section of the train platform by an existing chain link fence erected by the Orange County Public Works over the Segunda Deshecha concrete box culvert channel (Exhibit 5 page 2). Wide ocean views are available from the Ole Hanson Beach Club and public park areas at the top of the bluff overlooking the North Beach public parking lot and beach.

Any necessary fencing for pedestrian safety along the sandy beach constitutes new development and must be sited and designed in conformance with Coastal Act policies regarding the protection of visual resources. Section 30251 of the Coastal Act requires that the scenic and visual qualities of coastal areas be protected and where feasible be restored and enhanced. It is necessary to ensure that new development be sited and designed to protect views from the public park, along El Camino Real as there are significant public coastal views across the site and it is considered a scenic corridor in the City's certified LUP.

To minimize the visual impacts of a 5-6' tall fence that is deemed to be required for safety at the railroad/beach interface, the City is proposing to utilize the "post and cable" type fencing that the City of San Clemente constructed along the San Clemente Coastal Trail (Exhibit 5, page 6). This fencing was selected after extensive research and public review and comment as superior in terms of minimizing the obstruction of views through the fence. In 2004, the Commission approved CDP #5-03-322(City of San Clemente and OCTA) for the San Clemente Coastal Trail, which included a post and cable fence design along the approximately 2.4 mile long trail as adequately providing visual resource protection inland of the OCTA railroad tracks along similar stretch of ocean front in the City of San Clemente. The cable rail provides a less obtrusive structure which impedes public views of the ocean across the railroad tracks less than other types of fence material, such as chainlink. The cable rail type fence was also found to provide safe separation between the railroad tracks and the trail, which would have a high level of pedestrian use. **Special Condition 1** requires final revised plans ensuring that the proposed fence will not result in a "double fencing" effect with existing Orange County Public Works fencing surrounding the Segunda Deshecha concrete box culvert in front of the railroad station platform. This condition also requires that the City work with the County to remove and/or modify fencing that is either unnecessary and/or could be replaced with the less obtrusive cable-rail fencing the City utilizes in coastal areas with sensitive visual resources. As proposed and conditioned, the Commission finds the proposed development consistent with Section 30251 of the Coastal Act.

D. COASTAL HAZARDS AND SHORELINE PROCESSES

Section 30253 of the Coastal Act states in part that new development shall:

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

Section 30253 of the Coastal Act mandates that new development shall minimize risks to life and property in areas of high geologic, flood, and fire hazard. The proposed development is located on the beach. Beach areas are subject to potential risks due to coastal hazards such as wave uprush, erosion and sea level rise. The proposed location of the new fence is seaward of the railroad tracks but inland of existing rock rip rap currently on the beach protecting the railroad tracks from coastal hazards. As proposed, the project includes no additional shoreline protection than the rock rip rap already in place protecting the railroad tracks. Wave uprush does not reach the site, however, the fence may be affected by extreme storm wave surges at some future point. The applicant has indicated that shoreline fortifications to protect the proposed structure are not considered feasible and that should the fence be threatened in the future, it could be removed, rather than protected. The applicant proposes and **Special Condition 8** further requires that no shoreline protective device(s) shall ever be constructed to protect the proposed development. Furthermore, as the proposed development is located in an area of the coastal zone which is subject to potential risks due erosion, flooding and wave uprush hazards, the Commission therefore imposes **Special Condition #7** requiring the applicant to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The applicant would acknowledge and agree that the site may be subject to hazards from waves, storm waves, flooding and sea level rise; assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development and to unconditionally waive any claim of damage or liability against the Commission for injury or damage from such hazards. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Section 30253.

E. WATER QUALITY AND MARINE ENVIRONMENT

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

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

maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

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, staff 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. **Special Condition 3** requires the applicant comply with the proposed staging area to further ensure safe storage of construction materials outside of sensitive habitat areas and/or recreational areas. As proposed and conditioned, this development will minimize possible adverse impacts on coastal waters to such an extent that it will not have a significant impact on marine resources, biological productivity or coastal water quality. 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 protect marine resources, promote the biological productivity of coastal waters and to protect human health.

F. LOCAL COASTAL PROGRAM

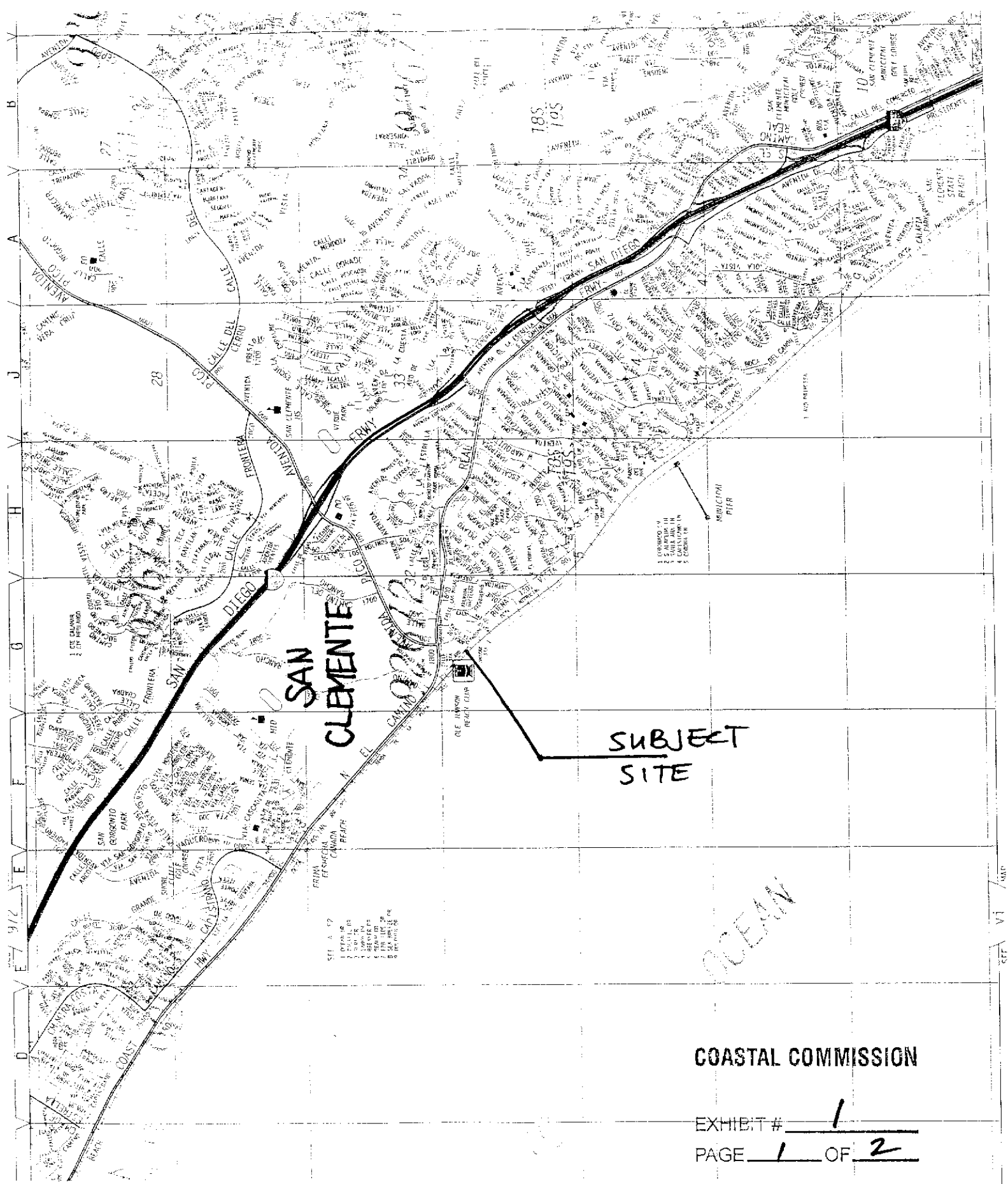
Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program that conforms to Chapter 3 policies of the Coastal Act. The Commission 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.

The proposed development, as conditioned, is consistent with the policies contained in the certified Land Use Plan. Moreover, as discussed herein, the development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Therefore, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program for San Clemente that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

G. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA).

The City of San Clemente is the lead agency for purposes of CEQA compliance. As determined by the City, the project is categorically exempt from CEQA as a Class 1, Existing Facilities, Section 15301 exemption. Pursuant to Coastal Act requirements, the Commission adopts additional mitigation measures including: 1) final revised plans; 2) construction-related best management practices (BMPs); 3) compliance with construction staging plan; 4) construction management plan; 5) sign plan; 6) future improvements return to the Commission; 7) assumption of risk, waiver of liability and 8) no future shoreline protective device. As conditioned, the proposed project is consistent with the public access, water quality and biological resource protection policies of the Coastal Act and there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect, which 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 is consistent with the requirements of the Coastal Act and CEQA.



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EXHIBIT # 1
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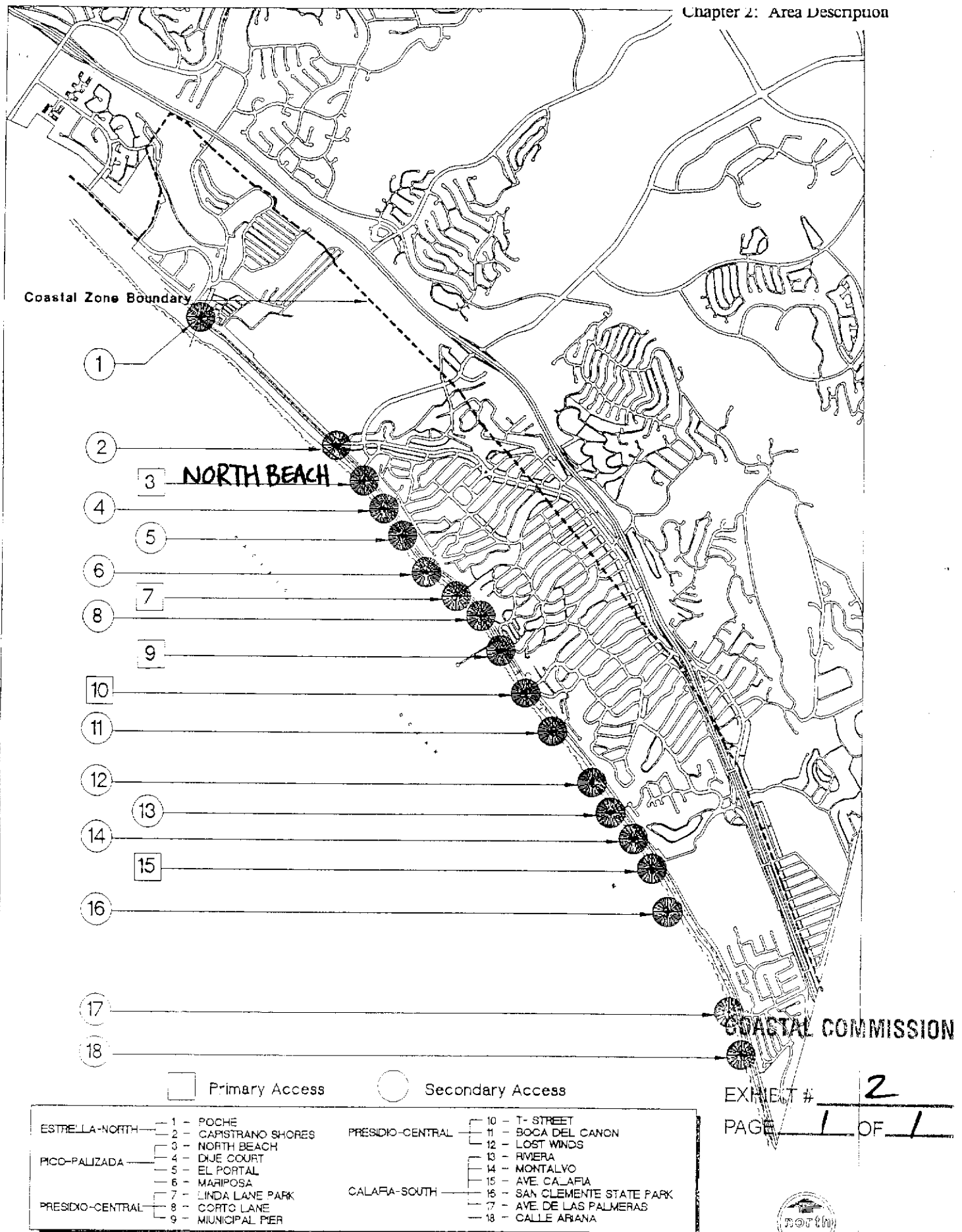
LOCATION MAP

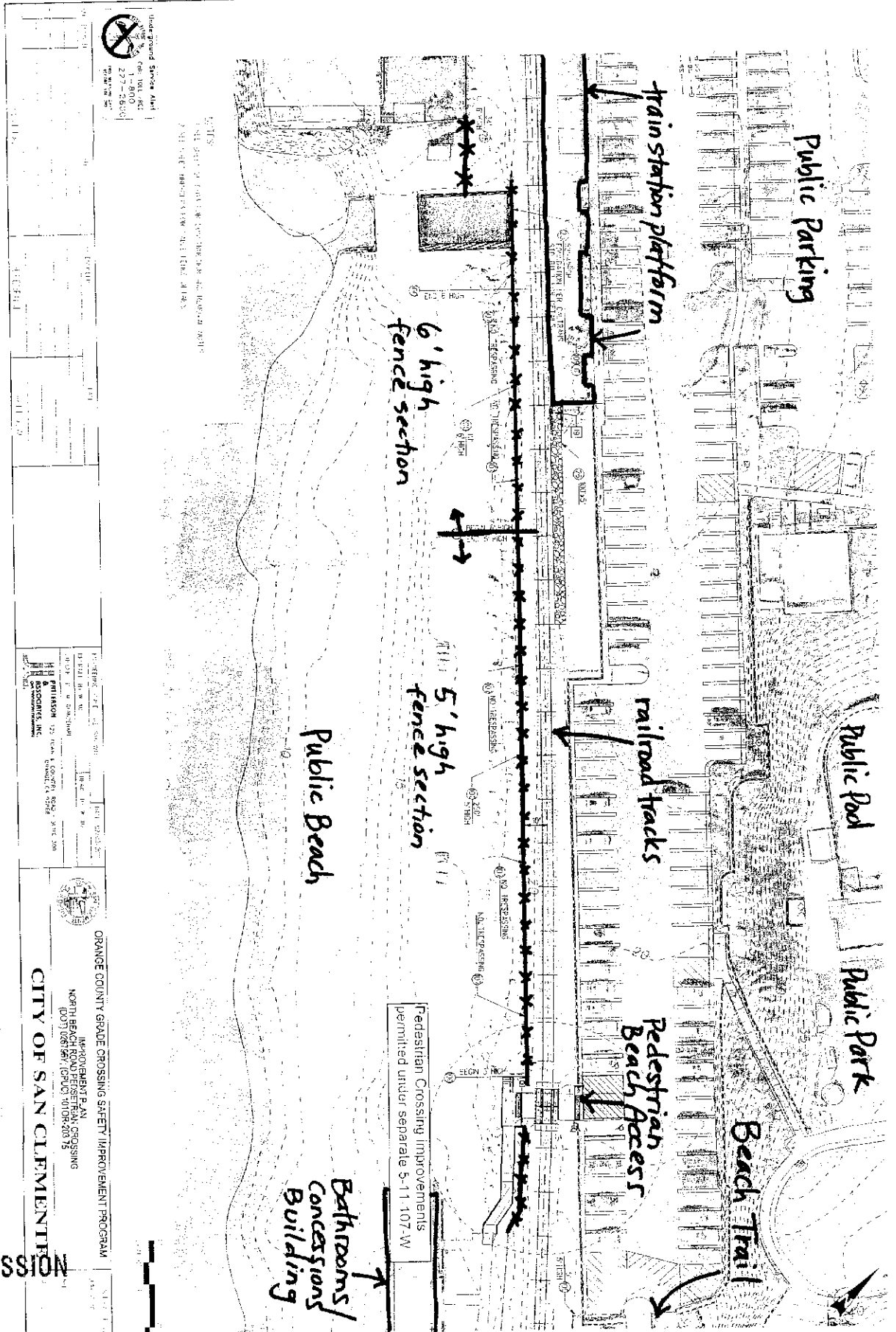
Pedestrian Rail Crossing and Train Station located at North Beach, San Clemente CA



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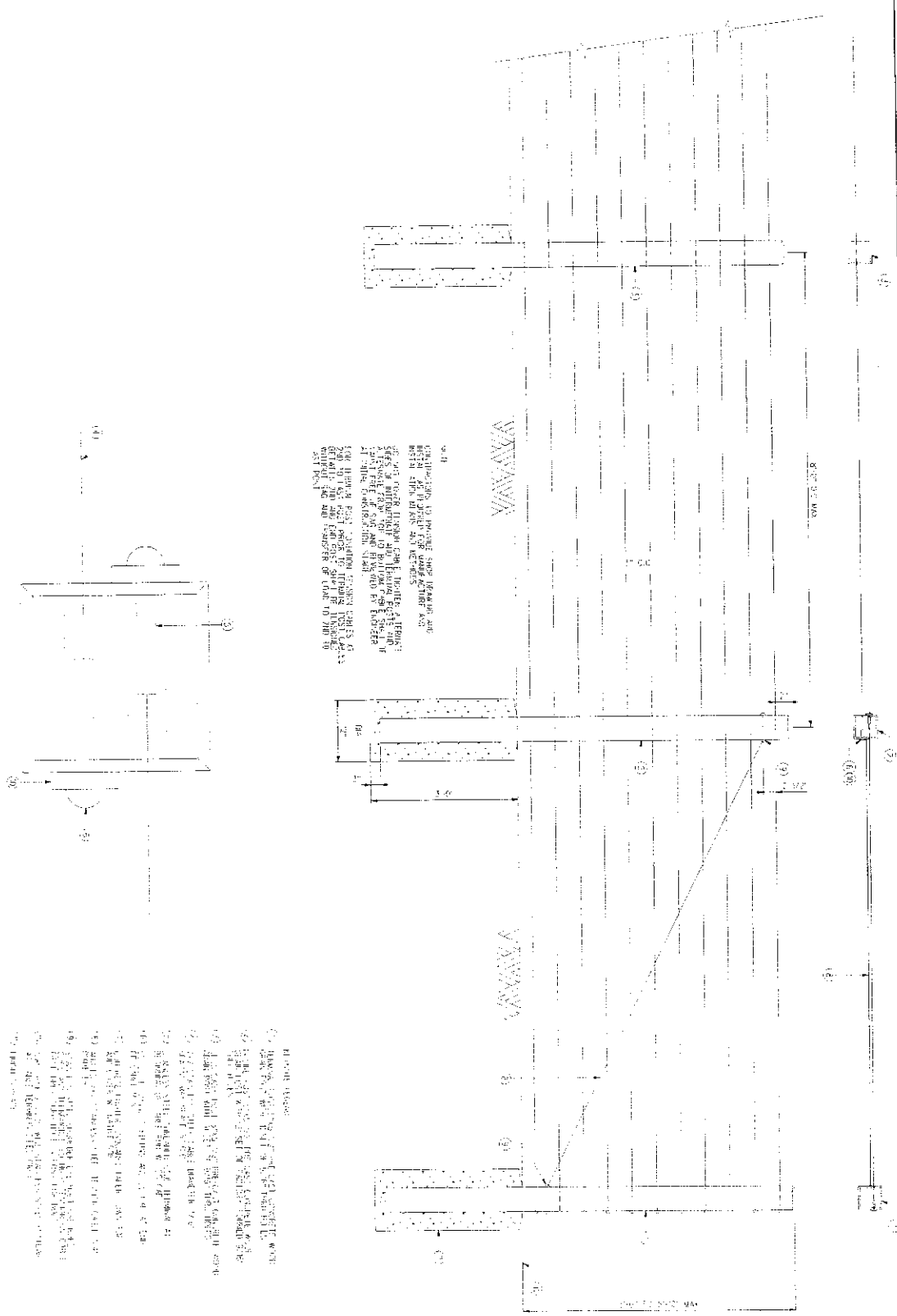
EXHIBIT # 1
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Underground Service Alert
 CALL 1-800-
 227-7600
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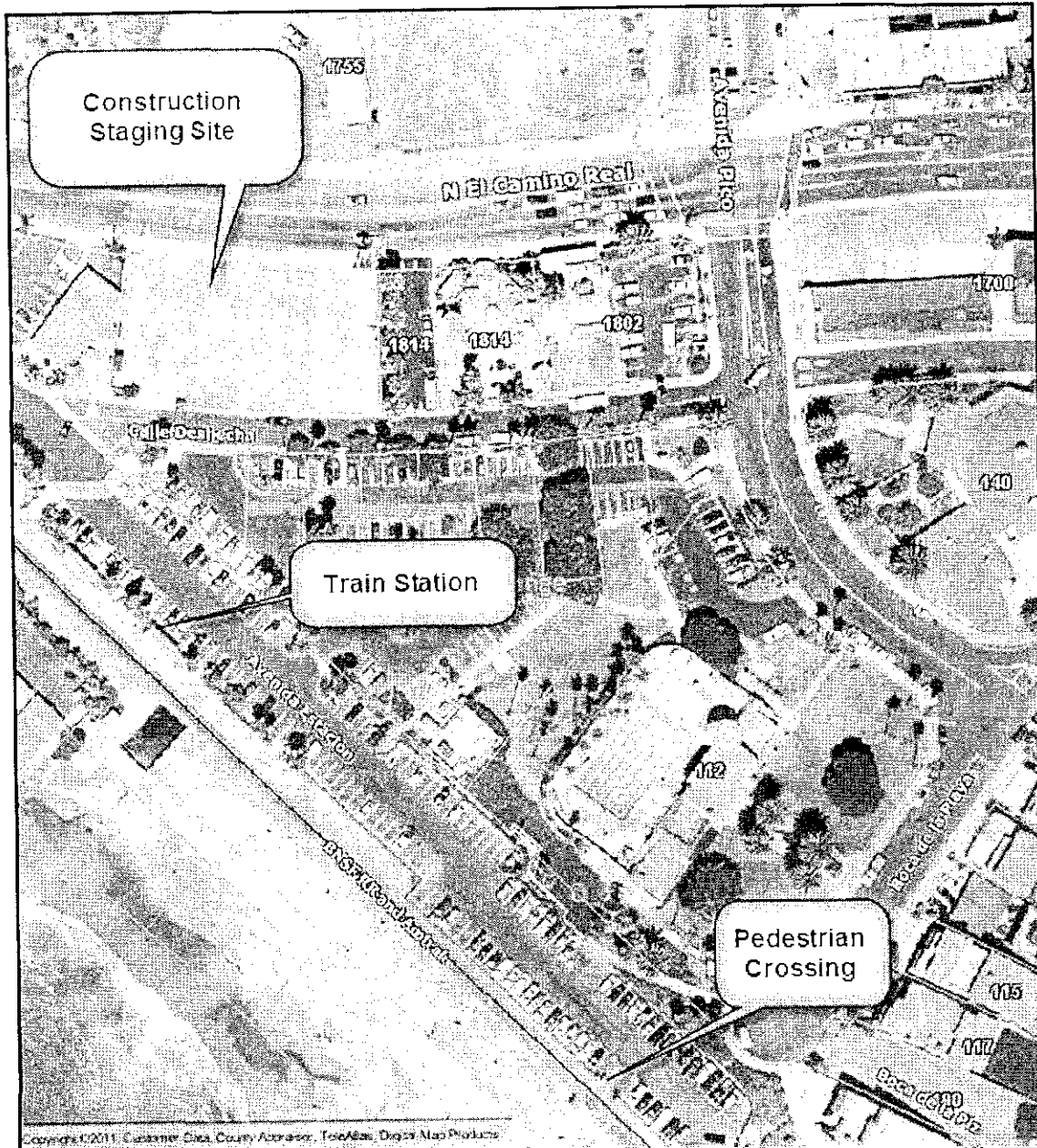
On the way to the house, she learned that the FBI had been looking for her. She had been in the FBI's files for a long time, but she had never been arrested. She was now being held in a federal prison in New York City. She was charged with conspiracy to defraud the United States. She was also charged with conspiracy to obstruct justice. She was charged with conspiracy to defraud the United States. She was also charged with conspiracy to obstruct justice.

- (1) 本報告は、本邦の主要な産物と輸入品とを比較し、その貿易の利益を算出するものである。
- (2) 本報告は、本邦の主要な産物と輸入品とを比較し、その貿易の利益を算出するものである。
- (3) 本報告は、本邦の主要な産物と輸入品とを比較し、その貿易の利益を算出するものである。
- (4) 本報告は、本邦の主要な産物と輸入品とを比較し、その貿易の利益を算出するものである。
- (5) 本報告は、本邦の主要な産物と輸入品とを比較し、その貿易の利益を算出するものである。
- (6) 本報告は、本邦の主要な産物と輸入品とを比較し、その貿易の利益を算出するものである。
- (7) 本報告は、本邦の主要な産物と輸入品とを比較し、その貿易の利益を算出するものである。
- (8) 本報告は、本邦の主要な産物と輸入品とを比較し、その貿易の利益を算出するものである。
- (9) 本報告は、本邦の主要な産物と輸入品とを比較し、その貿易の利益を算出するものである。
- (10) 本報告は、本邦の主要な産物と輸入品とを比較し、その貿易の利益を算出するものである。

[illegible]

CITY OF SAN CLEMENTE

COASTAL COMMISSION



COASTAL COMMISSION

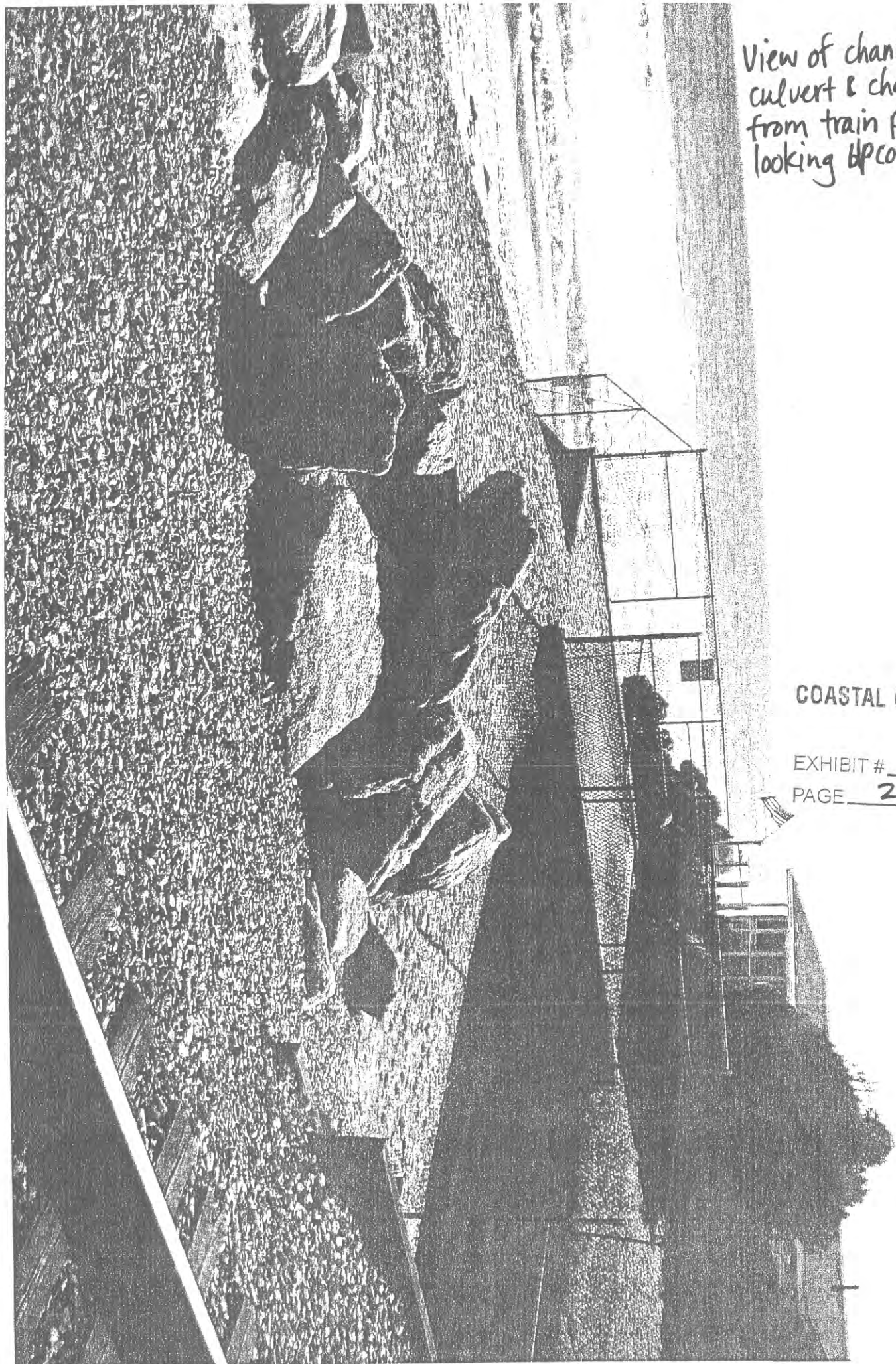
EXHIBIT # 4
PAGE 1 OF 1

Beach View Downcoast
from train platform

COASTAL COMMISSION

EXHIBIT # 5
PAGE 1 OF 6

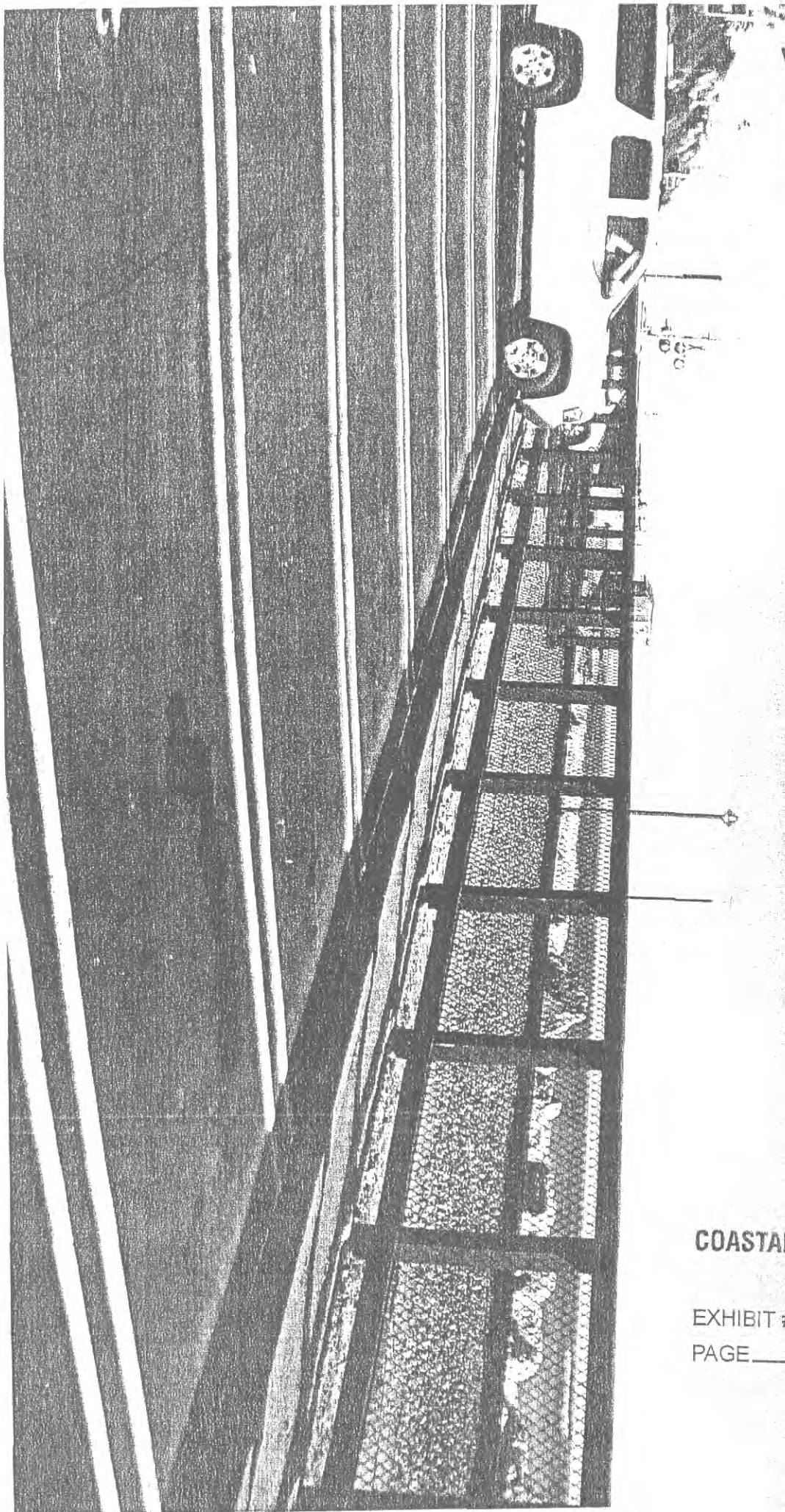
View of channel
culvert & chain line
from train platform
looking Upcoast



COASTAL COMM

EXHIBIT # 5

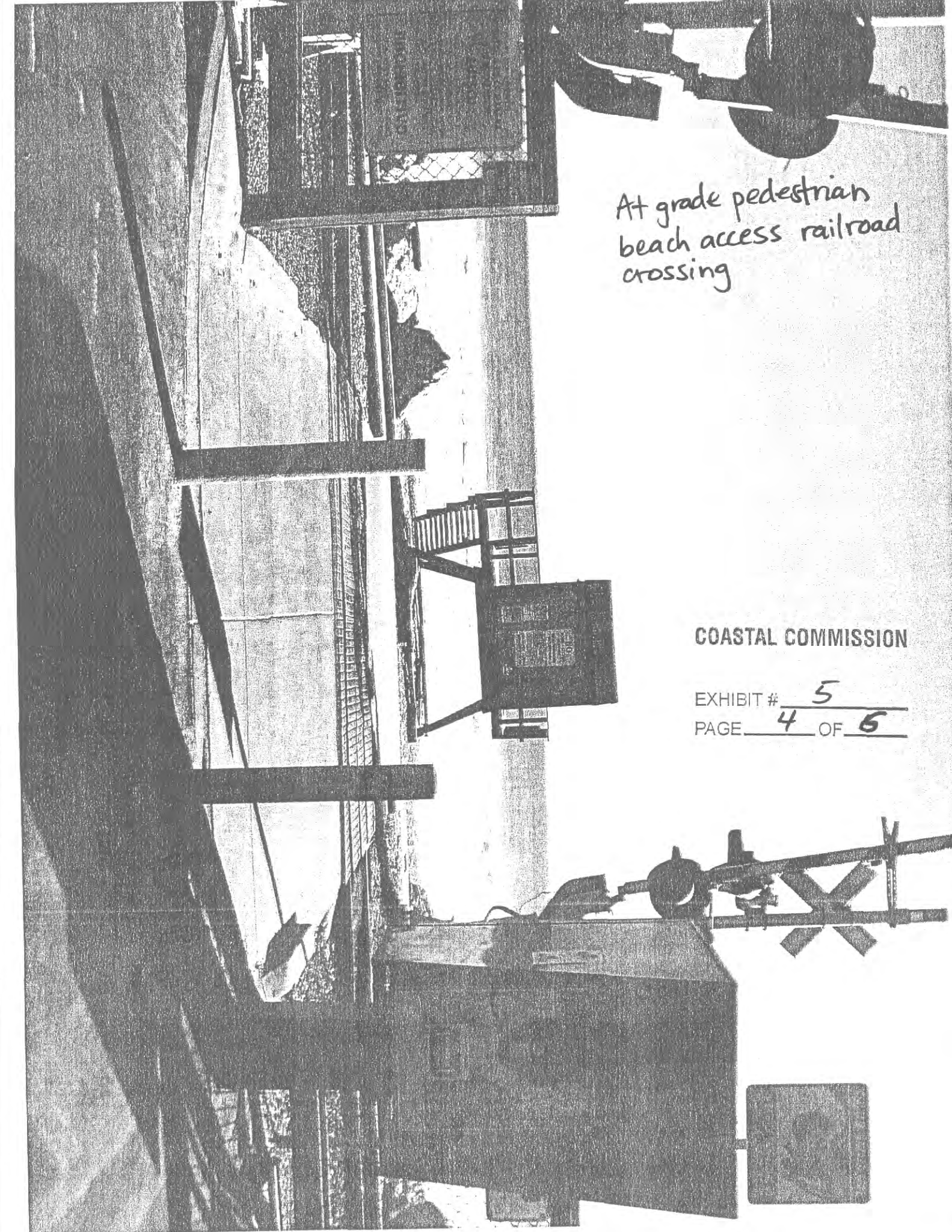
PAGE 2 OF 2



View from public
parking lot
past train tracks
to the ocean

COASTAL COMMISSION

EXHIBIT # 5
PAGE 3 OF 6

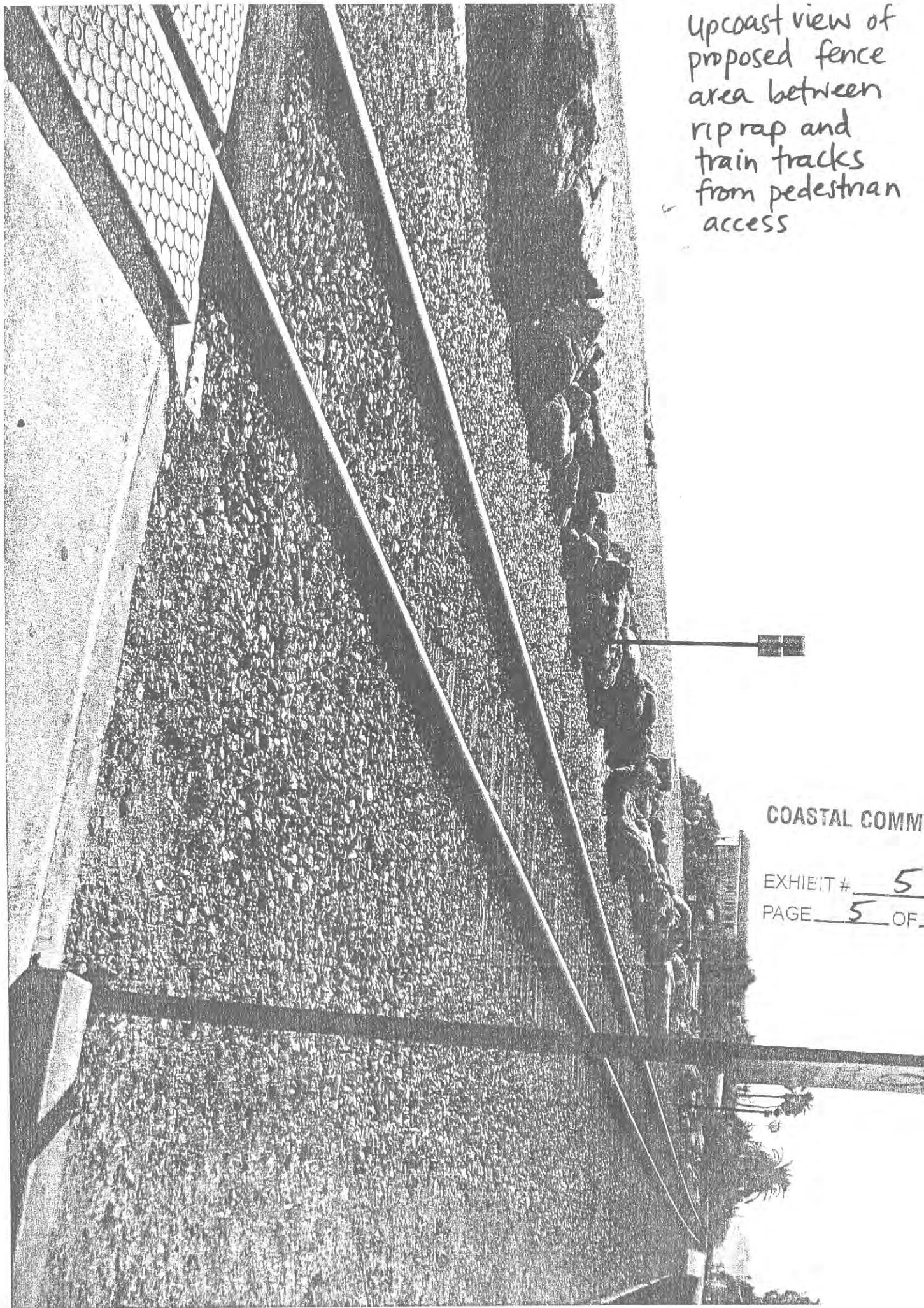


At grade pedestrian
beach access railroad
crossing

COASTAL COMMISSION

EXHIBIT # 5
PAGE 4 OF 6

Upcoast view of
proposed fence
area between
riprap and
train tracks
from pedestrian
access



COASTAL COMM

EXHIBIT # 5

PAGE 5 OF

Sample cable and
post fence as
used along San
Clemente Coastal
Trail

COASTAL COMMISSION

EXHIBIT # 5

PAGE 6 OF 6

