CALIFORNIA COASTAL COMMISSION

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



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 Filed:
 6/30/14

 180th Day:
 12/26/14

 Staff:
 L. Roman-LB

 Staff Report:
 7/24/14

 Hearing Date:
 8/12/14

STAFF REPORT: CONSENT CALENDAR

Application No.: 5-14-1078

Applicant: City of San Clemente - Beaches, Parks and

Recreation

Location: El Portal Accessway, San Clemente, Orange County

(APN 692-111-7)

Project Description: Removal of existing concrete paved path and public beach

access bluff stairway and construction of a new 6-foot wide stairway with handrails and a 20-foot wide decomposed granite access way path from the Buena Vista frontage road to the public access stairway, new 6-ft. tall vinyl coated chain link fence along the southerly boundary from Buena

Vista to the top of stairs, drainage and landscaping

improvements.

Staff Recommendation: Approval with conditions.

APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

Exhibit 1 – Location Map/Project Site/Aerial and Site Photographs

Exhibit 2 – Project Plans

Exhibit 3 – Nearby Public Coastal Access

I. MOTION AND RESOLUTION

Motion:

I move that the Commission **approve** the Coastal Development Permit Applications included in the consent calendar in accordance with the staff recommendations.

Staff recommends a **YES** 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:

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

This permit is granted subject to the following 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 on which the Commission voted on the application. 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

This permit is granted subject to the following special conditions:

- 1. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris. The permittee shall comply with the following construction-related requirements:
 - (1) No construction materials, debris, or waste shall be placed or stored where it may be subject to wind or rain erosion and dispersion;
 - (2) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
 - (3) 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;
 - (4) Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control dust and sedimentation impacts to coastal waters during construction. BMP's shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into coastal waters; and
 - (5) All construction materials, excluding lumber, shall be covered and enclosed on all sides, and as far away from a storm drain inlet and receiving waters as possible.

Best Management Practices (BMP's) designed to prevent spillage and/or runoff of construction-related materials, sediment, or contaminants associated with construction activity shall be implemented prior to the onset of such activity. Selected BMP's shall be maintained in a functional condition throughout the duration of the project. Such measures shall be used during construction:

(1) The applicant shall ensure the proper handling, storage, and application of petroleum products and other construction materials. These shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. It shall be located as far away from the receiving waters and storm drain inlets as possible;

- (2) The applicant shall develop and implement spill prevention and control measures;
- (3) The applicant shall maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. Washout from concrete trucks shall be disposed of at a location not subject to runoff and more than 50 feet away from a stormdrain, open ditch or surface water; and
- (4) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during construction.
- 2. Landscaping Drought Tolerant, Non-Invasive Plans. Vegetated landscaped areas adjacent to the bluff shall only consist of drought tolerant plants native to coastal Orange County and appropriate to the habitat type. Native plants shall be from local stock wherever possible. No permanent in-ground irrigation systems shall be installed on the bluff-facing portion of the site. Temporary above ground irrigation is allowed to establish plantings. Vegetated landscaped areas on the street-side of the residence are encouraged to use native plant species, however, non-native drought tolerant non-invasive plant species may also be used in that area. 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.cal-ipc.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 (http://www.water.ca.gov/wateruseefficiency/docs/wucols00.pdf).
- 3. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from geologic instability, sea level rise, wave uprush, and erosion; (ii) to assume the risks to the applicants 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.
- 4. **No New Bluff or Shoreline Protective Device.** By acceptance of this permit, the applicants agree, on behalf of themselves and all other successors and assigns, that no new or additional shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-14-1078 including, but not limited to, the stairs, foundation, and bluff top improvements, and any future improvements, in the event

that the development is threatened with damage or destruction from waves, erosion, storm conditions, sea level rise, or other natural hazards in the future. By acceptance of this permit, the applicants hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

By acceptance of this permit, the applicants further agree, on behalf of themselves and all successors and assigns, that the landowner(s) shall remove the development authorized by this permit, including the residence, garage, foundations, and bluff top concrete 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 landowner(s) 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.

5. **Future Improvements.** This permit is only for the development described in Coastal Development Permit No. 5-14-1078. 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 this development governed by the Coastal Development Permit No. 5-14-1078. Accordingly, any future improvements to the structures authorized by this permit, including but not limited to, repair and maintenance 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. 5-14-1078 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

IV. FINDINGS AND DECLARATIONS:

A. PROJECT LOCATION AND DESCRIPTION

The proposed development is located on a City owned parcel developed with a bluff stairway proving public beach access between 1013 Buena Vista and 1105 Buena Vista in the City of San Clemente, Orange County (**Exhibit #1**), between the sea and the first public road. The site is comprised of a narrow 20' x 90' bluff top pathway leading to the stairway on an approximately 75-foot high west facing coastal bluff; the site is surrounded to the north and south by single-family residences and to the east by Buena Vista, the frontage road. The bluff slope descends to the City's Coastal Trail, the Orange County Transportation Authority (OCTA) railroad tracks and right-of-way and the municipal public sandy beach. The subject site/parcel is owned and maintained by the City of San Clemente and is designated RM (Residential Medium Density) in the San Clemente certified Land Use Plan (LUP).

The City of San Clemente (applicant) proposes to demolish and replace an existing bluff stairway constructed circa 1976 providing public beach access from Buena Vista down the coastal bluff to the Coastal Trail and public beach seaward of the railroad tracks. The coastal bluff is approximately 75-feet in height with an approximate slope ration of 2:1 (horizontal to vertical). The proposed development involves demolition of the deteriorated and non-code

compliant 35+ year old concrete and metal stairs, demolition of the deteriorated paved concrete access way leading from Buena Vista (frontage road) to the bluff stairway and construction of a new 6-foot wide stairway and 20-foot wide access way from Buena Vista to the bluff stairway. The new stair structure will consist of reinforced concrete on-grade top and bottom stair flights, and seven intermediate landings spaced approximately 23-feet apart and elevated above ground by 24-inch diameter reinforced concrete cast-in-drilled-hole piles. The new stair system will be above ground with seven landings from the bluff top to bluff toe; landings 1 and 2 will be supported on a pile foundation where the top of the pile will be located at existing ground surface, landings 3-6 will be supported on a pile foundation where the top of the pile will extend up to a maximum of 6' above the existing ground surface in order to support the above landing, and landing 7 at the bottom of the bluff will be supported on a spread footing (no caisson). The intermediate stair flights will be conventional timber framed structures composed of gluelaminated timber stringers, dimensional lumber treads, and stainless steel hardware. The proposed 4' high guardrail is of anodized aluminum and stainless steel cable rail. The upgraded public access way between Buena Vista and the top of the bluff stairway will consist of decomposed granite and will include drainage improvements directing water runoff away from the bluff and into the municipal storm drain. Project plans are included as **Exhibit #2.**

Landscaping consisting of native plants is proposed along the top of bluff access way along with a proposed vinyl coated chain link privacy fence along the southerly boundary of the public access way separating the public area and the adjacent residential property. Additionally, all bluff face areas disturbed during construction are proposed to be replanted/restored with a hydroseed mixture of coastal scrub native plant seed and mulch to stabilize slope and encourage germination of indigenous vegetation. Temporary irrigation is proposed.

The El Portal pedestrian beach access way will be closed for approximately 8 months between November 2014 and June 2015 during construction. Adequate public access to the beach exists nearby at the Dije access way located approximately 600 feet upcoast of the subject site on Buena Vista. The applicant proposes appropriate signage during the construction phase to redirect pedestrians to alternate access ways. All other seventeen public beach access ways will remain open during re-construction of the El Portal access way.

The coastal bluffs in San Clemente are not subject to direct wave attack because they are separated from the beach by Orange County Transit Authority (OCTA) railroad tracks and railroad right-of-way. The railroad tracks have a rip-rap revetment which protects the tracks from erosion and wave overtopping. Though not subject to direct wave attack, the bluffs are subject to erosion caused by natural factors such as wind and rain, adverse bedding orientations, soils conducive to erosion and rodent burrowing. Bluffs are also subject to erosion from human activities, such as irrigation, improper site drainage and grading.

The applicant proposes to remove an approximately 90-foot long concrete walk on the bluff top portion of the access way leading from the public sidewalk at Buena Vista to the bluff stairway and replace it with decomposed granite for greater infiltration of water runoff at the bluff top and graded to direct surface water runoff away from the bluff face toward the frontage road to existing City storm drains, per City requirements. In order to minimize adverse construction-related impacts upon marine resources, **Special Condition 1** requires the applicant to comply

with construction-related best management practices (BMPs) to ensure that construction materials, debris and waste does not enter receiving waters or be subject to dispersion and to prevent spillage and/or runoff of demolition or construction related materials and to contain sediment or contaminants associated with demolition or construction activities.

Minimal removal of non-native ornamental vegetation along the existing bluff stairway alignment along the bluff face is proposed, areas impacted by construction are proposed to be revegetated with native plants appropriate to the coastal bluff scrub habitat. The applicant proposes, and **Special Condition 2** requires, plantings on the bluff face to consist of native, drought tolerant and either native or non-native drought tolerant, non-invasive plants on the bluff top portion of the public access way.

B. DEVELOPMENT

Development adjacent to the edges of hillsides and bluffs is inherently hazardous. Development which may require a protective device in the future cannot be allowed due to the adverse impacts such devices have upon, among other things, public access and visual resources. To minimize risks to life and property and to minimize the adverse effects of development on hillsides and bluffs, the development has been conditioned to require one or more of the following: adherence to the geotechnical recommendations, an appropriate set-back from the edge of a bluff or hillside, to prohibit construction of protective devices (such as a retaining wall) in the future, for a drainage and runoff plan to minimize the percolation of water into the hillside or bluff, and to require that the landowner or any successor-in-interest assume the risk of undertaking the development. As conditioned, the Commission finds that the development conforms to the requirements of Sections 30235 and 30253 of the Coastal Act regarding the siting of development in hazardous locations.

C. HABITAT

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.

D. PUBLIC ACCESS

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 proposed and as conditioned, the project conforms to Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

E. 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 construction best management practices to minimize the effect of construction activities on the marine

environment. These conditions include, but are not limited to, one or more of the following: the appropriate management of equipment and construction materials and 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.

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 of the Coastal Act.

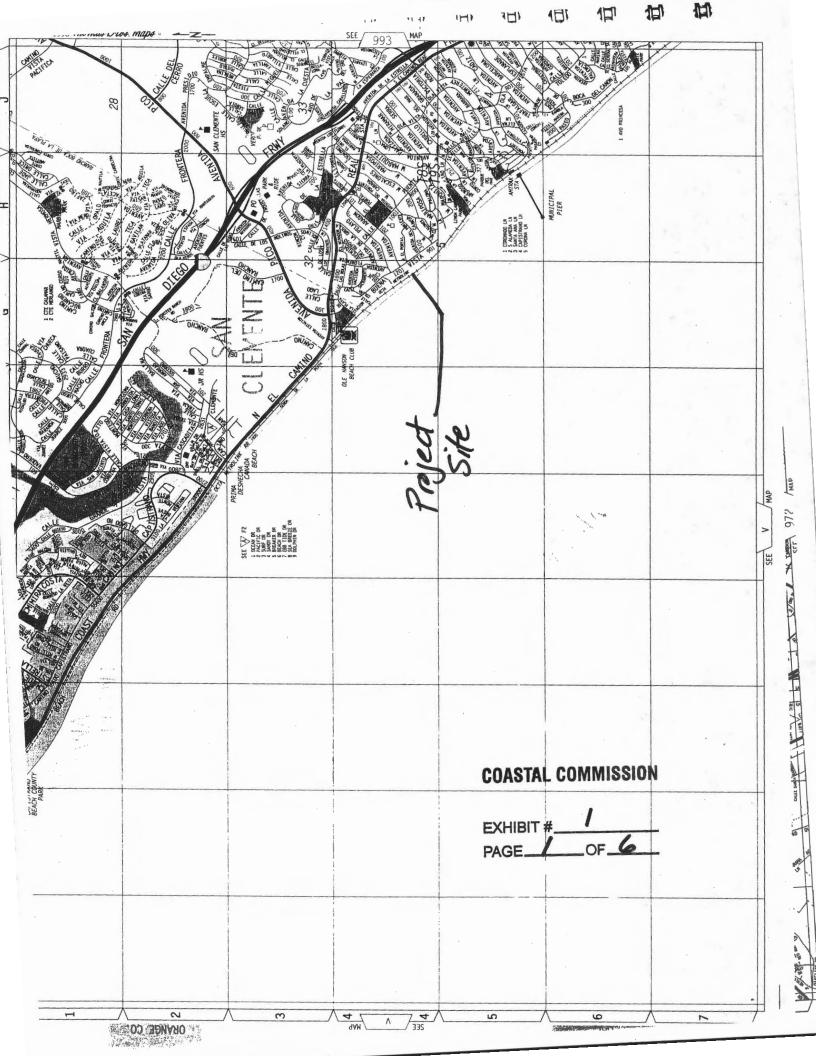
G. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of the Commission's regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The City of San Clemente is the lead agency responsible for CEQA review. The City deemed the project Categorically Exempt, citing Class 1, Section 15301. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available which will substantially lessen any significant adverse impact the activity would have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is consistent with CEQA and the policies of the Coastal Act.

APPENDIX A - SUBSTANTIVE FILE DOCUMENTS

- 1) City of San Clemente LUP
- 2) City of San Clemente Approval in Concept dated June 30, 2014
- 3) Results of the Biological Resource Assessment for the El Portal Stairs in the City of San Clemente, Orange County, CA, by Chambers Group, Inc. dated January 17, 2014
- 4) Cultural Resources Survey and Paleontological Assessment Study for the El Portal Beach Access Rehabilitation Project Orange County, CA, by Chambers Group, Inc., dated February 2014
- 5) Preliminary Geotechnical Evaluation for the Proposed El Portal Beach Access Rehabilitation, San Clemente, CA, by LGC Geotechnical, Inc., dated January 14, 2014







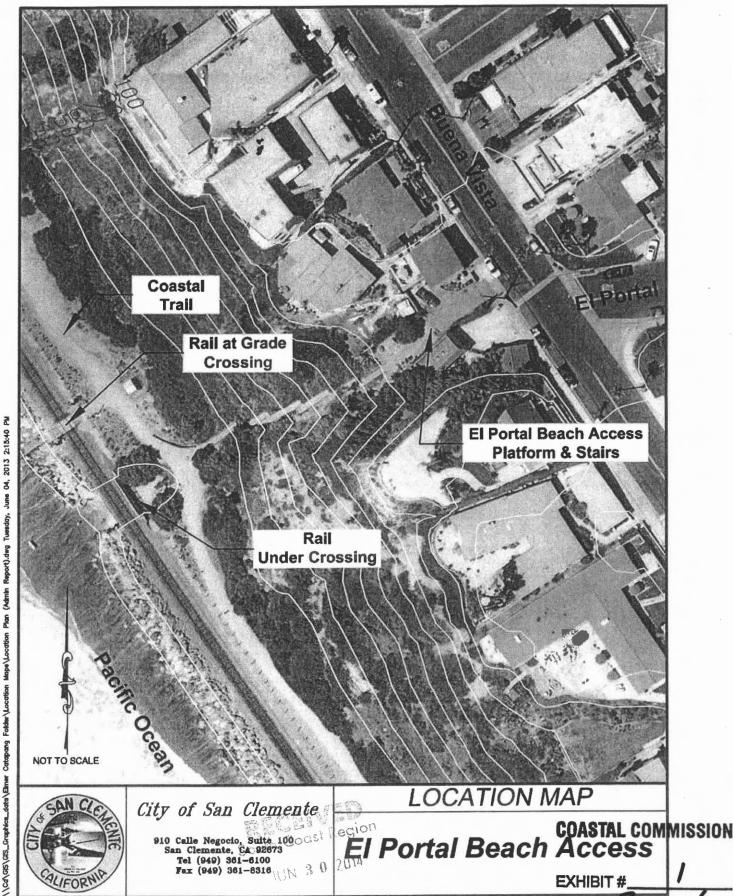
City of San Clemente

910 Calle Negocio, Suita 100
San Clemente, CA 92873 UT CO
Tel (949) 361-6100
Fax (949) 361-8316 JUN

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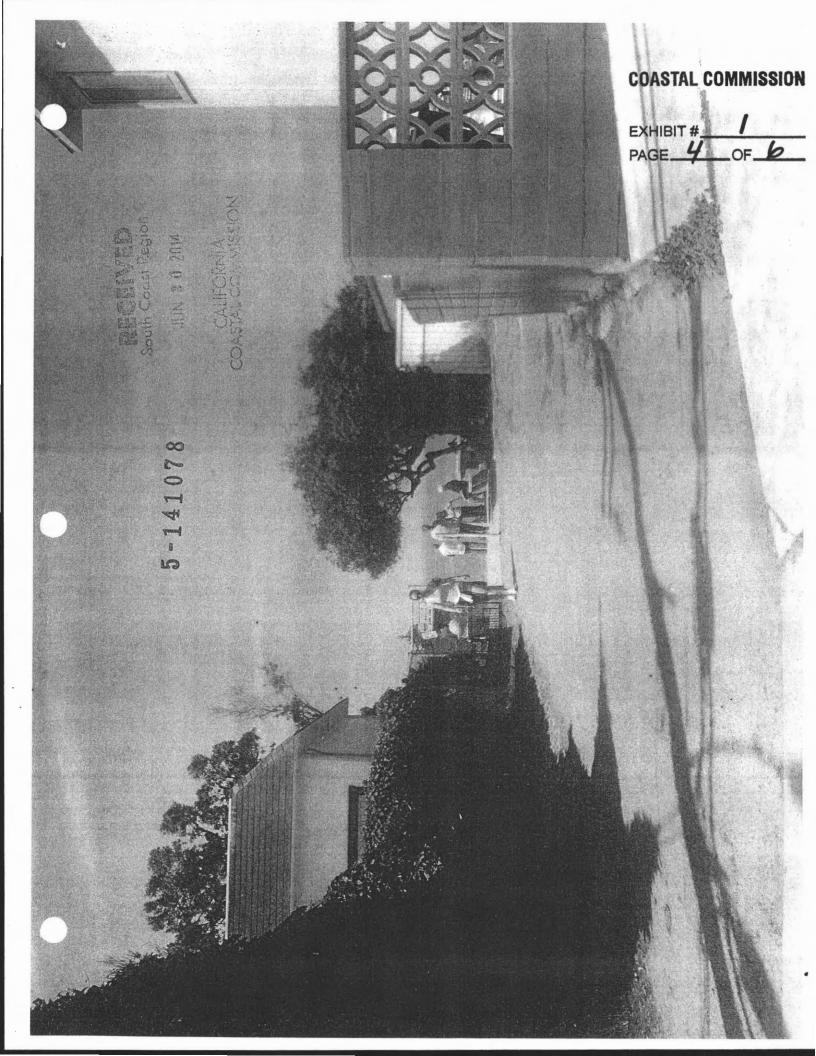
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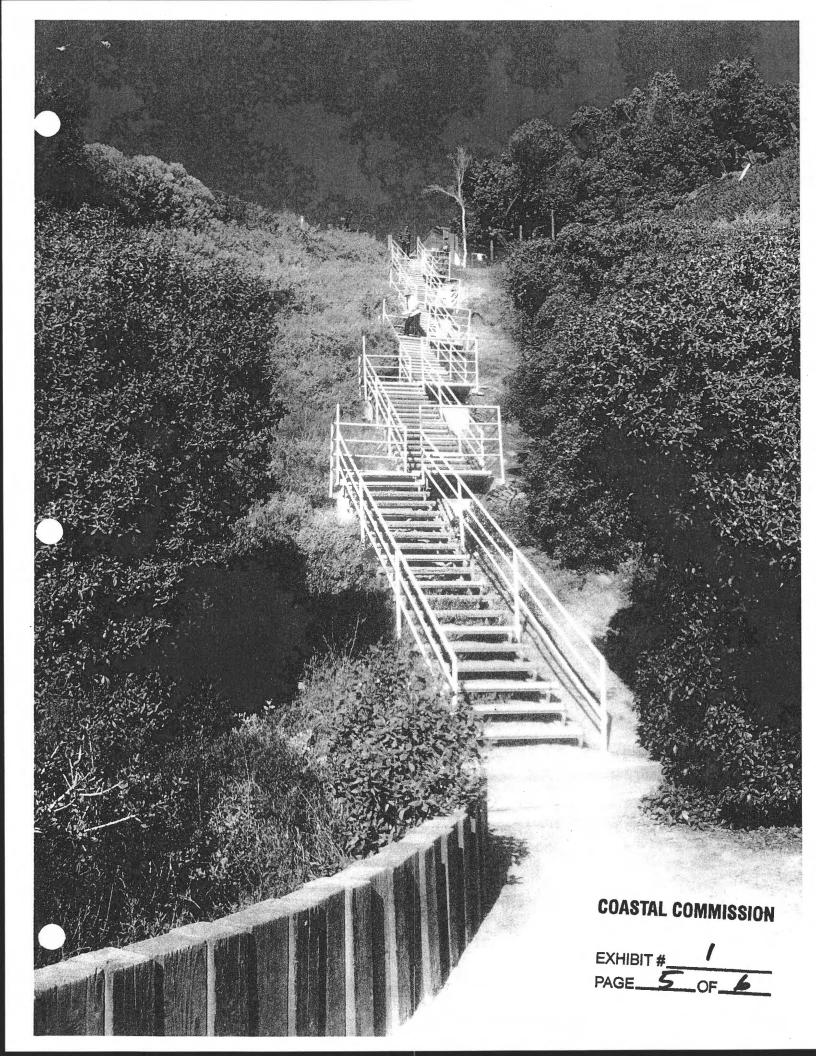
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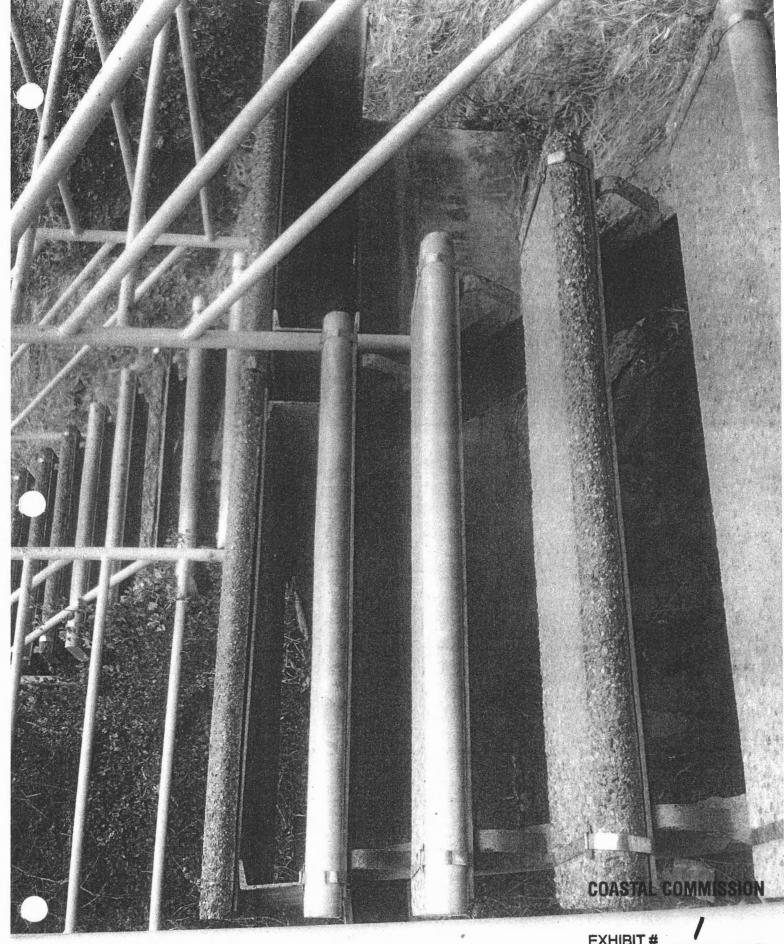


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