

**MINUTE ITEM**  
This Calendar Item No. C08  
was approved as Minute Item  
by the State Lands  
Commission by a vote of 3  
at its 9/27/89  
meeting.

(CONTINUED FROM PREVIOUS PAGE)

**CALENDAR ITEM**

A 28  
S 17

**C08**

09/27/89  
W 24386 PRC 7344  
J. Ludlow

**APPROVAL OF A GENERAL PERMIT -  
PROTECTIVE STRUCTURE USE**

**APPLICANT:** Jane O'Brian Dart  
P. O. Box 1033  
Pebble Beach, California 93953

**AREA, TYPE LAND AND LOCATION:**  
A 0.015-acre parcel of tide and submerged land  
located in the Pacific Ocean at Pebble Beach,  
Monterey County.

**LAND USE:** Placement, use, and maintenance of rock  
revetment bank protection.

**TERMS OF PROPOSED PERMIT:**  
Initial period: Ten-years beginning  
October 1, 1989.

Public liability insurance: Combined single  
limit coverage of \$300,000.

**CONSIDERATION:** The public use and benefit; with the State  
reserving the right at any time to set a  
monetary rental if the Commission finds such  
action to be in the State's best interest.

**BASIS FOR CONSIDERATION:**  
Pursuant to 2 Cal. Code Regs. 2003.

**APPLICANT STATUS:**  
Applicant is owner of upland.

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CALENDAR ITEM NO. 08 (CONT'D)

3. The Applicant proposes to replace and enlarge an existing concrete retaining wall, place fill, and place 1,700 tons of riprap along the shore. Only a small portion of the riprap will occupy lands within the State's leasing jurisdiction.
4. The annual rental value of the site is estimated to be \$76.96.
5. Staff has physically inspected the project site.
6. This activity involves lands identified as possessing significant environmental values pursuant to P.R.C. 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

Monterey County and California Coastal Commission.

FURTHER APPROVALS REQUIRED:

United States Army Corps of Engineers (pending).

EXHIBITS:

- A. Land Description.
- A-1. Site Map.
- B. Location Map.
- C. Monterey County Letter of Conditional Approval.
- D. Coastal Commission Adopted Consent Calendar Staff Report.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT AN ENVIRONMENTAL ANALYSIS DOCUMENT WAS PREPARED, CIRCULATED, AND ADOPTED FOR THIS PROJECT BY THE CALIFORNIA COASTAL COMMISSION UNDER ITS CERTIFIED STATE REGULATORY PROGRAM [CEQA GUIDELINES SECTION 15251(c)], AND THAT THE CONDITIONS SPECIFIED IN GUIDELINES SECTION 15253 HAVE BEEN MET; AND THAT PURSUANT TO GUIDELINES SECTION 15253(a), THE COMMISSION, AS A RESPONSIBLE AGENCY, SHALL USE THAT ENVIRONMENTAL ANALYSIS DOCUMENT AS A SUBSTITUTE FOR A NEGATIVE DECLARATION.

CALENDAR ITEM NO. C-08 (CONT'D)

2. FIND THAT THE COMMISSION HAS CONSIDERED THE INFORMATION CONTAINED IN THE ENVIRONMENTAL ANALYSIS DOCUMENT AND HAS DETERMINED THAT THE PROJECT, AS APPROVED, WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.
3. AUTHORIZE ISSUANCE TO JANE O'BRIAN DART OF A TEN-YEAR GENERAL PERMIT - PROTECTIVE STRUCTURE USE, BEGINNING OCTOBER 1, 1989; IN CONSIDERATION OF THE PUBLIC USE AND BENEFIT, WITH THE STATE RESERVING THE RIGHT AT ANY TIME TO SET A MONETARY RENTAL IF THE COMMISSION FINDS SUCH ACTION TO BE IN THE STATE'S BEST INTEREST; PROVISION OF PUBLIC LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF \$300,000; FOR THE PLACEMENT, USE, AND MAINTENANCE OF ROCK REVETMENT BANK PROTECTION ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

## EXHIBIT "A"

W 24386

"I-A" Exhibit

## LAND DESCRIPTION

Two parcels of tide and submerged land in the Pacific Ocean in Pebble Beach, Monterey County, California, adjacent to the El Pescadero Rancho, said parcels are described as follows:

Parcel 1

COMMENCING at a point distant 89.15 feet north and 120.50 feet west from that certain monument numbered 3132, as said monument is shown and so designated on that certain map entitled "Licensed Surveyor's Map of El Pescadero and Point Pinos Ranchos," etc., filed January 12, 1922 in Volume 3 of Surveys, at page 3, Records of said County, said point of commencement also being the most easterly corner of that certain 2.981 acre parcel described in the deed recorded May 7, 1970 in reel 649, at page 735, Official Records of said county; thence along the southeasterly boundary of said parcel S 53° 00' 00" W, 452.11 feet; thence leaving said boundary S 85° 09' 43" W, 26.47 feet to the mean high tide line of the Pacific Ocean and being the TRUE POINT OF BEGINNING; thence following said mean high tide line:

N 2° 58' 50" E, 9.40 feet; thence  
 N 35° 42' 14" W, 6.71 feet; thence  
 N 31° 54' 23" W, 4.73 feet; thence  
 N 54° 27' 22" W, 6.50 feet; thence  
 N 62° 25' 29" W, 11.52 feet; thence  
 S 66° 43' 12" W, 6.44 feet; thence  
 S 79° 13' 26" W, 11.81 feet; thence leaving said mean high tide line  
 S 59° 12' 54" E, 45.34 feet to the true point of beginning.

Parcel 2

COMMENCING at a point distant 89.15 feet north and 120.50 feet west from that certain monument numbered 3132, as said monument is shown and so designated on that certain map entitled "Licensed Surveyor's Map of El Pescadero and Point Pinos Ranchos," etc., filed January 12, 1922 in Volume 3 of Surveys, at page 3, Records of said County, said point of commencement also being the most easterly corner of that certain 2.981 acre parcel described in the deed recorded May 7, 1970 in reel 649, at page 735, Official Records of said county; thence along the southeasterly boundary of said parcel S 53° 00' 00" W, 452.11 feet; Thence N 42° 12' 00" W, 18.14 feet; thence N 50° 21' 00" W, 129.29 feet; thence leaving said boundary S 87° 29' 43" W, 32.44 feet to the mean high tide line of the Pacific Ocean and being the TRUE POINT OF BEGINNING; thence following said mean high tide line:

N 16° 04' 20" W, 5.80 feet; thence  
 N 7° 17' 28" W, 7.11 feet; thence  
 N 20° 12' 06" W, 7.94 feet; thence  
 N 12° 10' 26" W, 5.01 feet; thence  
 N 29° 43' 45" W, 7.14 feet; thence  
 S 52° 59' 26" W, 8.94 feet; thence leaving said mean high tide line  
 S 26° 35' 00" E, 11.52 feet; thence  
 S 35° 16' 39" E, 9.75 feet; thence  
 S 39° 29' 13" E, 9.75 feet to the true point of beginning.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of the Pacific Ocean.

END OF DESCRIPTION

PREPARED JULY 30, 1989 BY BIU 1.

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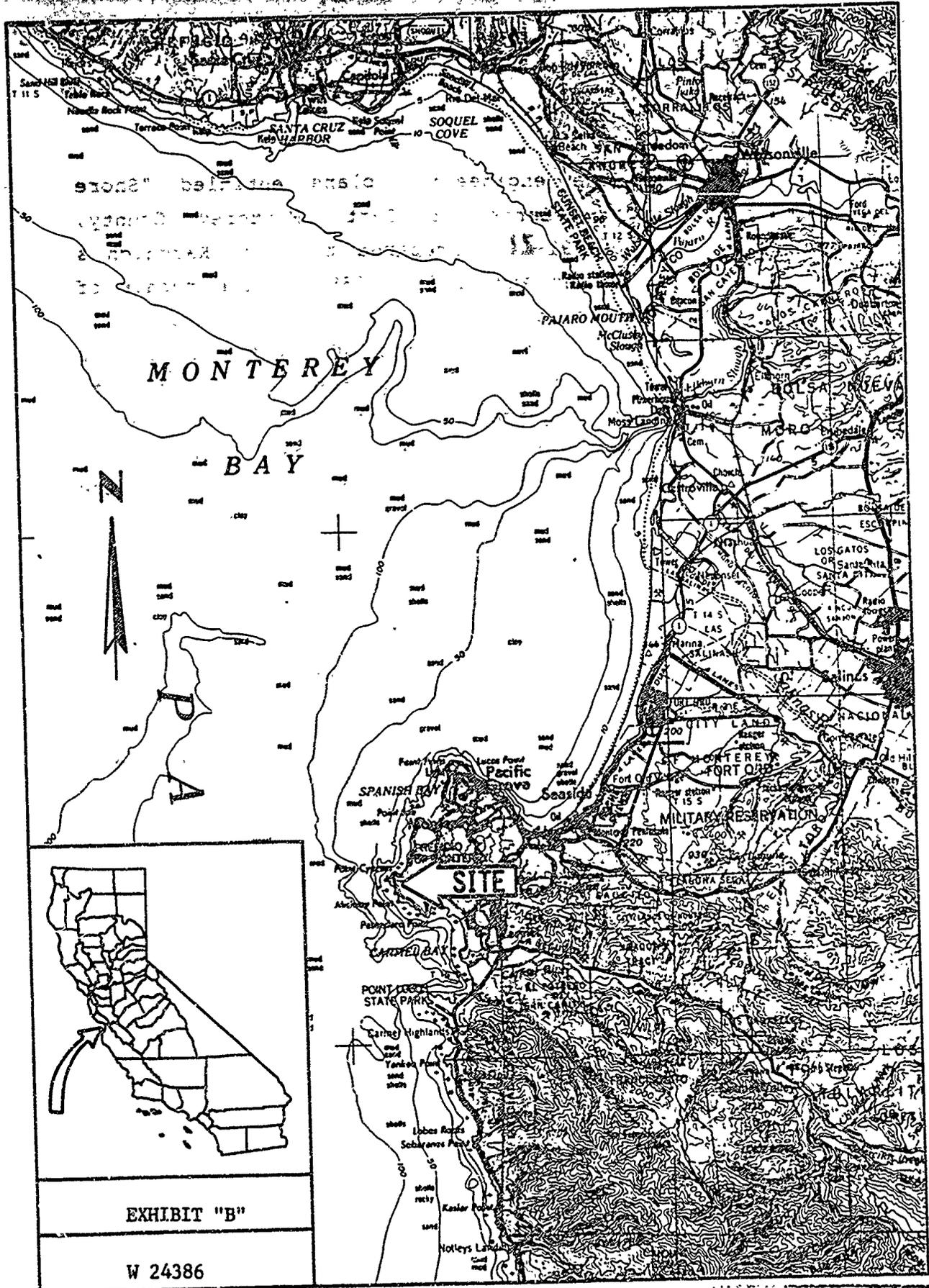


EXHIBIT "B"

W 24386

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I have reviewed the engineering plans entitled "Shore Protection Plans - Lands of Dart, Monterey County, California, APN 008-491-21", prepared by Haro, Kasunich & Associates, Inc., dated August 12, 1988 for the repair of existing revetment and construction of additional seawall in accordance with the recommendations of Rogers, Johnson & Associates, Coastal Geology Investigation - Lands of Dart, August, 1987, and required by the California Coastal Commission. Following final approval of said plans by the Coastal Commission and the State Lands Commission, the Monterey County Planning and Building Inspection Department is prepared to issue a building permit for construction of the improvements in accordance with said plans.

Dated: 5/10/89

MONTEREY COUNTY PLANNING  
AND BUILDING INSPECTION  
DEPARTMENT

By: Steve Borossay  
STEVE BOROSSAY

County of Monterey  
Building Department  
1200 Aguajito Road  
Monterey, Calif. 93940

EXHIBIT "D"  
W 24386

*292 11/9/87*

CALIFORNIA COASTAL COMMISSION  
CENTRAL COAST AREA  
701 OCEAN STREET, ROOM 310  
SANTA CRUZ, CA 95060  
(408) 426-7390 8-525-4863  
479-3511

FILED: 10/16/87  
49TH DAY: 12/4/87  
180TH DAY: 4/15/88  
STAFF REPORT: 10/28/87  
HEARING DATE: 11/20/87  
STAFF: KT/cm  
DOCUMENT NO.: 0734P

**ADOPTED**

CONSENT CALENDAR

STAFF REPORT

PROJECT INFORMATION

APPLICANT: JANE DART

APPLICATION NUMBER: 3-87-254

PROJECT LOCATION: 17 mile drive near Madre Lane approximately 800' south of Cypress Point, Del Monte Forest, Monterey County

PROJECT DESCRIPTION: Addition to retaining wall, placement of approximately 1,000 cubic yards of fill material and installation of revetments using approx. 1,700 tons of rip-rap.

ASSESSOR'S PARCEL NUMBER(S): 8-491-21

LOT AREA: approx. 3 acres

ZONING: Residential

BUILDING COVERAGE: 5,000 sq ft existing

LCP JURISDICTION: Del Monte Forest

PAVEMENT COVERAGE: 4,500 sq ft existing

PLAN DESIGNATION: Certified LUP: Residential

LANDSCAPE COVERAGE:-----

PROJECT DENSITY: N/A

HEIGHT ABV. FIN. GRADE: N/A

LOCAL APPROVALS RECEIVED: Monterey County Zoning Approval, 9/30/86

SUBSTANTIVE FILE DOCUMENTS: Del Monte Forest LUP  
Coastal Permit P-81-146

PTI: 1,2,3,4

EXHIBIT "B"

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3-87-254

UNRECORDED  
JANE DART  
CALIFORNIA COASTAL COMMISSION  
Page 2  
OFFICE OF THE EXECUTIVE DIRECTOR  
1500 CALIFORNIA STREET  
MONTEREY, CALIFORNIA 93940  
TELEPHONE (408) 318-1000

STAFF RECOMMENDATION:

The Staff recommends that the Commission adopt the following Resolution:

Approval with Conditions

ADOPTED

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the local government's Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

RECOMMENDED CONDITIONS

Standard Conditions

See Exhibit A.

Special Conditions

1. Final Plans

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, permittee shall submit to the Executive Director, for review and approval, the following:

- (a) Final revised, engineered, shoreline protection plans which incorporate consulting geologist's recommendations as contained in "Coastal Geology Investigation - Lands of Dart" by Rogers Johnson and Associates, Aug. 1987. The plans shall have been approved by Monterey County Planning and Building Departments and State Lands Commission (for project areas within State Lands Commission jurisdiction).
- (b) A visual mitigation plan to minimize visual impact of both the existing and additional seawall modifications as approved in 1(a). Plan shall be reviewed and approved by Monterey County and be in accordance with Visual Policies contained in the certified Del Monte Forest Land Use Plan. Plan shall contain landscaping plan, color renderings depicting views from Cypress Point, representative samples, and specifications and methods of cosmetic treatment of all visible shoreline structures as viewed from Cypress Point vista point.

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- (c) Forest Management Plan addendum including specific measures to protect Monterey Cypress trees and habitat values during modifications of the shoreline structure and future maintenance activities as approved in Condition 1(a).
- (d) Method and timing of installation of additional protection work and visual mitigation plan.
- (e) Outline of contents and schedule of submittal of a biannual maintenance report (commencing one year from the date of this approval). The contents shall include a description of any maintenance activity including use of access ramps and any necessary restoration measures. Reports shall be submitted for review and approval of the Executive Director, and prepared by a qualified engineer in accordance with the approved outline and schedule.

## 2. Permittee's Assumption of Risk

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the permittee understands that the site may be subject to extraordinary hazard from waves during storms and from erosion and flooding; and (b) the permittee hereby waives any future claims of liability against the Commission or its successors in interest for future damage from such hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens.

## 3. State Lands Commission Review

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit to the Executive Director a written determination from the State Lands Commission that:

- a. No State lands are involved in the development; or
- b. State lands are involved in the development, and all permits required by the State Lands Commission have been obtained; or
- c. State lands may be involved in the development, but pending a final determination of State Lands involvement, an agreement has been made with the State Lands Commission for the project to proceed without prejudice to that determination.

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3-87-254

JANE DART

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4. Archaeology

PRIOR TO ISSUANCE OF THE COASTAL PERMIT, the permittee shall submit to the Executive Director for review and approval an archaeological survey report for all areas of the site to be disturbed for improvements to the shoreline protection structures. Recommendations of the report, subject to the review and approval of the Executive Director, shall be implemented. Such evaluation shall be prepared by a qualified professional archaeologist or by other person(s) qualified in accordance with the standards of the State Historic Preservation Office, and shall be submitted for approval by the Executive Director.

If the archaeological resources are found to be significant, permittee shall then submit a plan of mitigation, prepared by a qualified professional archaeologist and using accepted scientific techniques, prior to any disturbance of the surface area of the property. Such plan shall be submitted for review by the State Historic Preservation Office and the approval of the Executive Director. The plan shall provide for reasonable mitigation of archaeological impacts resulting from the development of the site and shall be fully implemented. A report verifying compliance with this condition shall be submitted upon completion of excavation, for review and approval of the Executive Director.

The archaeological survey shall also evaluate impact of unauthorized development on archeologic resources.

5. U.S. Corps. of Engineers Permit

PRIOR TO COMMENCEMENT OF CONSTRUCTION, permittee shall provide to the Executive Director a copy of U.S. Army Corps of Engineers permit, or letter of permission, or evidence that no Corps permit is necessary.

6. Construction Responsibilities and Debris Removal

Permittee shall remove from the beach and seawall area any and all debris that result from the construction period.

7. Final Engineering Report

Upon completion of project as approved by Condition 1, the permittees shall submit an engineering report by a qualified professional engineer verifying that the seawall has been constructed in conformance with the final approved plan.

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### 8. Maintenance and Repairs

Maintenance and repair of the work approved by this permit may be done without a new Coastal Development Permit through an amendment or waiver from the Executive Director. It is the permittee's responsibility to maintain the wall in a structurally sound manner. Displaced material shall be promptly removed from the beach area.

### RECOMMENDED FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

#### PROJECT DESCRIPTION/BACKGROUND

1. The proposed project involves the installation of shoreline protection to protect existing residential development. This involved the installation of an additional 80 ft. long retaining wall, placement of approximately 1,000 cubic yards of fill and installation of 1,700 tons of rip-rap (See Section on Shoreline Protection Device for further description). The project was started in March under emergency conditions, and was completed in May of 1983. The installation of these shoreline protection measures was done without benefit of local or Coastal Commission approvals either during the emergency or after. The project is located on the seaward side of 17 Mile Drive, in the Del Monte Forest area of Monterey County (See Exhibit 1). The parcel generally slopes gently toward the ocean and is vegetated primarily with native pine and cypress forest with areas of landscaping. The ocean side of the parcel contains a rocky shore area about fifty feet wide that drops abruptly approximately 20 feet from the driveway to the shoreline. The site is developed with a single family dwelling, garage and a caretakers unit. Surrounding land use is primarily residential. The parcel is about 800 feet to the north of the Cypress Point Vista Point, a major public coastal viewing turnout along the 17 Mile Drive tour route within Del Monte Forest.

#### BACKGROUND

In June of 1982, the Commission approved the conversion of a cottage to a caretakers quarters (Dart P-81-46). In March of 1983 and May of 1983 the shoreline protection measures were installed without Coastal Commission or Monterey County permits. According to the applicant's representative, the installation was initially started under emergency conditions and was necessary to protect existing development and Cypress trees from damage from the waves. In May of 1983, Coastal Commission staff issued a stop work order. Subsequently, the staff determined that a permit application, including local approval and engineered plans would be required. According to the applicant's representative, because the project had been installed under emergency circumstances, no engineered plans

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had been prepared for the project and therefore, plans would have to represent the "as-built" condition. The project, as-built, received a Monterey County grading permit in 1986 and is the subject of this application.

The work performed in 1983 consisted of the installation of additional shoreline protection. This included extension of a concrete stepped seawall, the placement of fill and the installation of a concrete/rip-rap revetment to help protect the fill material. (See following Shoreline Protection finding for detailed project description)

Major issues of this application involve geologic stability, visual impacts, sensitive habitat areas and evaluation of potential archaeological sites.

Approval of this permit does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred, nor an admission as to the legality of any development undertaken on the subject site without a Coastal permit.

#### SHORELINE PROTECTIVE DEVICES/PROTECTION OF LANDFORMS

2. Section 30235 of the Coastal Act allows for the construction of shoreline protection devices to protect existing structures. Section 30235 states in part the following:

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

Section 30253(2), cited in finding 3, states that development should assure structural stability, not contribute to erosion, and not destroy the site or surrounding area.

In 1987 a geology report was prepared evaluating the shoreline protection measures installed in 1983. The report contains recommendations to increase structural stability and effectiveness.

According to the geology report a wide variety of coastal protection structures now exist on the property. Prior to the March 1983 storm a low 10 foot high concrete wall (installed prior to 1971) was the

only shoreline structure on the site. According to the geology report from March to May the following additions for shoreline protection were constructed (See Exhibit 3):

- a. An addition, 6-15 ft. in height, to a pre-existing 80 foot long wall, resulting in a stepped concrete wall which varies in height from 2-22 feet. Approximately 3 feet of fill was placed behind this wall. (See Exhibit 3, item a)
- b. An additional concrete stepped wall, extending the total length of wall an additional 80 feet downcoast. This wall varies in height from 2 to 14 feet. Approximately 30 feet of fill was placed behind this portion of the wall. (See Exhibit 3, item b) Note: The additional work in items a and b have resulted in a continuous concrete wall. (See Exhibit 3, item b)
- c. A grouted rip-rap-revetment. This partially grouted wedge of 1 1/2 to 5 ton granitic rip-rap fronts about 20-30 lineal feet of the stepped concrete wall. The report states that without placement of this fill and revetment, it is probable that future coastal erosion would damage the driveway on the property. (See Exhibit 3, item c)
- d. Rip-rap revetment. This is a 20-24 ft high 100 foot long revetment consisting of 2 ton concrete cubes, broken concrete and 1/4 to 2 ton granitic rip-rap. The reports states that "there is little engineering justification for construction of this structure, with the exception of protection that this revetment provides to the landscaping and cypress trees in this area." (See Exhibit 3, item d)

The geology report concludes, in part, the following:

- According to Granite Construction Company records, 1400 tons (about 1000 cubic yards) of earth, 450 cubic yards of concrete and 1700 tons of 1-3 ton rock were placed on the Dart property during 1983.
- Both revetments appear to extend into State Lands jurisdiction.
- The stability of the rip-rap revetments is questionable, however failure of the rip-rap revetments will not immediately affect the Dart residence driveway because the majority of the driveway is offset 40-50 feet shoreward from the revetments of seawalls on the property.
- Stability of the concrete walls appears adequate however overtopping from wave runup and outflanking by ocean waves may cause the wall to fail.

According to the geology report average rates of coastal erosion in this area are about .4 to .6 feet per year on the Dart property. The severe coastal storms of January, February and March 1983 generated, on average, about 10 feet of coastal bluff erosion on the Dart property. The shoreline structures were installed in response to emergency conditions, and were not installed according to an engineered plan. There have been no major storms subsequent to the installation of the above shoreline structures and therefore their effectiveness has not been tested. According to the geology report, the shoreline structures, especially the rip rap revetments, are not structurally stable without additional measures.

Past approvals of other shoreline protection by the Coastal Commission have included emergency permits for placement of rip rap to protect existing development. Conditions of these emergency permits have included a requirement for subsequent coastal permit and further geologic evaluation and engineered plans.

In this case the project did not receive any type of local or Coastal Commission approval. The project involved placement of 1,000 cubic yards of fill, 450 cubic yards of concrete and 1,700 tons of rock.

There is no engineering or geologic basis for the amount of material used, method of installation or design of the shoreline protection measures. However, based on the geology report, the installation of the additional concrete wall was justified in order to protect the driveway. The driveway is located between the residence and the seawall and is approximately 30 feet from the residence. Coastal Act Section 30106 classifies roads as "structures" as well as buildings. The driveway does serve the existing dwelling and is an integral part of the existing residential development. Relocation of the driveway due to storm damage could disrupt native cypress forest habitat, an environmentally sensitive habitat area (See finding #5).

The geology report indicates that the revetment on the down-coast portion of the property provides protection to the landscaping and cypress trees rather than the driveway. (See Exhibit 3, item d) For purposes of the Coastal Act residential landscaping, though a part of a residential development should not, in this case be considered an existing "structure".

As installed, the project cannot be found consistent with Coastal Act policies requiring that a shoreline structure protect existing structures, assure structural stability and not destroy the site and the surrounding area

Non-grouted, temporary rip-rap revetments installed under emergency conditions can be restacked according to engineered plans in order to increase geologic stability. A certain portion of the revetment

(described in item d) could be removed. However, the other section of rip rap (described in item c) has been partially grouted. Removal of revetment would require massive physical alteration and disturbance of the shoreline by heavy equipment.

The geology report contains recommendations which would increase geologic stability of the shoreline structures. These include structural modifications including extension of the concrete stepped wall at the northern corner of the property a minimum of 25 feet, provision for drainage of fill areas behind walls, and regrouting of rip-rap nearest the Dart driveway (item c). Recommendations also include an accurate survey of mean high tide line and monitoring of the concrete seawalls and riprap revetments.

Condition 1 of this approval requires submittal of final plans that incorporate the recommendations of the geology report, including a maintenance/monitoring report. Condition 4 requires State Lands Commission approval of the project. The project as conditioned to incorporate the recommendations of the geology report, is consistent with Section 30235 of the Coastal Act, as the majority of the seawall will protect existing structures.

#### WAVE HAZARD

3. Coastal Act Sections 30253(1) and (2) state 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.

Many oceanfronting parcels such as the subject property, are susceptible to wave damage from storm waves and storm surge conditions. Past occurrences have resulted in public costs (through low-interest loans) in the millions of dollars. Section 30001.5 of the Coastal Act states, in part, that the economic needs of the People of the State are a basic consideration:

- The Legislature further finds and declares that the basic goals of the state for the coastal zone are to:

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(a) Protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources.

(b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.

To allow continued development in areas subject to geologic hazards, while avoiding placing the economic burden on the People of the State for costs arising from damage to private development, the Commission has regularly required that the applicants agree to waive any claims of liability on the part of the Commission or any other public agency for allowing the development to proceed. This waiver of liability is intended to apply to both the construction approved by this permit as conditioned and the existing development on the property. While the Commission can find the project as conditioned to be consistent with the Coastal Act, it makes no claim as to the engineering reliability of the design.

Pursuant to Section 13166(a)(1) of the Commission's Administrative Regulations, an application may be filed to remove Special Condition No. 2 from this permit if new information is discovered which refutes one or more findings of the Commission regarding the existence of any hazardous condition affecting the property and which was the basis for the condition.

In 1987 a geologic investigation was prepared for the project site. According to the consultant geologist, the seawall as installed requires additional modifications to increase structural integrity and effectiveness. Condition #1 requires the submittal of final plans which have incorporated the recommendations of the geology report. Condition #6 requires the submittal of a final engineering report verifying that the seawall has been constructed in accordance with the final approved seawall plan.

As conditioned, the Commission finds that the proposed development will be consistent with Section 30001.5 and 30253 of the Coastal Act.

#### VISUAL RESOURCES

4. Section 30251 of the Coastal Act requires the protection of scenic and visual qualities of coastal areas as a resource of public importance. According to the the Visual Resources Map contained in the LUP, the site is shown within "view area from 17 Mile Drive and vista points".

FILE NUMBER	102
DATE	3/23

The LUP for the Del Monte Forest area contains the following policies regarding visual resources of the area:

Policy Guidance Statement

The Del Monte Forest Area and 17-Mile Drive are important visitor destinations. It is the objective of this Plan to protect the area's magnificent scenic and visual resources, to avoid incomparable development, and to encourage improvements and facilities which complement the natural scenic assets and enhance the public's enjoyment of them. In order to protect the scenic and visual resources of the Del Monte Forest Area, only compatible development along 17-Mile Drive should be allowed.

Specific Policy 56

Design and siting of structures in scenic areas should not detract from scenic values of the forest, stream courses, ridgelines, or shoreline. Structures, including fences, shall be subordinate to and blended into the environment, using appropriate materials which will achieve that effect. Where necessary, modifications shall be required for siting, structural design, shape, lighting, color, texture, building materials, access, and screening.

The project is located on the seaward side of 17 Mile Drive, approximately 800 feet south of the the Cypress Point Vista Point (See Exhibit 1). Seventeen Mile Drive is a major tourist attraction, as well as a major coastal access route, and provides sweeping vistas of the Pacific Ocean. Cypress Point vista is an important turnout point for visitors to park their cars to enjoy the coastal views. The project site is highly visible from Cypress Point vista turnout. The subject site is currently the only property that has shoreline protection. A variety of shoreline structures are visible, including a stepped concrete block wall, and rip-rap revetment structures incorporating a mixture of granite rip-rap, poured concrete, concrete cubes and broken concrete rubble. This variety of manmade shoreline structures is uniform in color and has flat, uniform surfaces. These structures contrast strongly with the natural multi-colored granite outcroppings that are irregular and craggy along the adjacent shoreline.

As proposed and installed, this project is not visually compatible with the natural surrounding coastline and represents an adverse visual impact on this area's valuable scenic resource. Though a certain amount of man-made appearance is necessary to provide adequate protection for existing development, additional modifications for structural stability need to include visual treatment for both the existing and recommended modifications to the shoreline protection structures. A combination of measures such as

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recontouring, removal of portions of the revetment, use of appropriate colored materials, and installation of landscaping would act to restore this section of shoreline to a more natural appearance.

Measures could also include complete removal of portions of the shoreline structure. As stated in earlier findings, methods of removal would involve substantial physical alteration using heavy equipment and would represent an additional adverse impact on sensitive habitat resources as well as visual resources. Therefore, partial removal may be sufficient, in conjunction with the other measures listed above. Accordingly, in order to implement these mitigation measures, condition 1b requires a visual resource plan in conformance with the above Coastal Act and LUP visual resource protection policies.

#### SENSITIVE HABITAT AREAS

5. The Del Monte Forest Land Use Plan (LUP) was certified by the Commission on September 24, 1984. The site is located within the Del Monte Forest area. The forest resource is identified in the approved LUP as a significant habitat and a scenic resource. The project site contains mature Monterey Cypress trees. The LUP defines sensitive habitat as "significant stands of Monterey Pine and Monterey Cypress". Within its original native range of about 100 acres, the Monterey Cypress is one of the world's rarest major forest trees. The LUP, as well as previous Commission findings, have treated naturally occurring Cypress groves as environmentally sensitive habitat areas. Section 30240 of the Coastal Act and LUP policies state that development is required to be compatible with the long-term maintenance of the resource and designed to prevent impacts which would significantly degrade the protected habitat.

Conditions of previous permits involving construction of residential units have been required to submit forest management plans in order to protect the forest resource. A forest management plan was submitted with the application and contains an inventory of the existing Monterey Cypress habitat and general recommendations for their protection. No Cypress trees were removed for the installation of the shoreline protection in 1983, however according to the applicant, one cypress tree was lost as a result of the March storms. Condition 1b requires final plans to include specific recommendations in relation to the additional shoreline work as approved under Condition 1a. As conditioned to provide for a forest management plan addendum, the development is consistent with Section 30240 of the Coastal Act and approved Land Use policies.

## ARCHAEOLOGIC RESOURCES

### 6. The LUP states:

"The Del Monte Forest Area's archaeological resources shall be protected for their scientific and cultural heritage value. New land uses shall be considered compatible with this objective only when they incorporate site planning and design features necessary to avoid impacts to archaeological resources." In particular, policy 61 states:

Whenever development is proposed, it shall be determined whether the affected property has received an archaeological survey. If not, such a survey shall be conducted to determine if archaeological resources exist. The survey should describe the sensitivity of the site and make appropriate recommendations concerning needed protection of the resource. If the development activity is subject to environmental review, this policy should be satisfied in conjunction with environmental review.

The Del Monte Forest area is known to contain significant archaeological resources. The subject site is close to the shoreline and is in close proximity to confirmed archaeological sites. Archaeologic Resource maps submitted with the LUP show this site to be in an area of high archaeological sensitivity. An archaeological reconnaissance and subsequent mitigation plan is required by Condition 4. Therefore, it is appropriate to require review for archaeological significance and a mitigation plan if necessary. The survey in this case would address impacts to any archaeological site both from previous shoreline construction and for future modifications to the seawalls.

## PUBLIC ACCESS

7. Section 30212 of the Coastal Act states, in part, that public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where it is (1) inconsistent with public safety, military security needs, or the protection of fragile coastal resources, or (2) adequate access exists nearby.

The project site is located within the Del Monte Forest area in which all roads are privately owned. The site is located between the first public road, Highway 68, and the sea. Public access is provided along 17 Mile Drive which is landward of the project site. Adequate vertical public access exists nearby at Cypress Point located approximately 800 feet to the north of the project site. Provision for lateral public access is not

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appropriate for this site because of the steep rocky topography and lack of sandy beach. No portion of the site is included in site specific public access maps contained in the certified LUP for Del Monte Forest. The project, as proposed, is consistent with the public access policies in Section 30211 of the Coastal Act and the adopted Del Monte Forest Land Use Plan.

-- CEQA/LCP

8. Monterey County classified this project as categorically exempt from CEQA requirements. The installation of this project prior to the appropriate approvals may have precluded complete CEQA analysis of project alternatives (including no project). Alternative designs could have reduced the significant adverse impacts, especially on scenic resources. Conditions of this approval will act to improve structural stability and visual appearance of this site's shoreline structure. As conditioned, the project minimizes further significant adverse impacts within the meaning of the California Environmental Quality Act.

The Del Monte Forest LUP contains policies which require that alteration of the shoreline, including placement of shoreline protection devices shall not be permitted unless necessary to protect existing development. For the purposes of this policy, existing development means substantial structures such as a primary residence, road, or other facility usable by the public. The shoreline structures that would prevent damage to the existing driveway would be consistent with this policy because a driveway is a type of road. The above policy does not specifically include landscaping in its definition of "substantial structures". Approval of the project, including retention of portions to protect existing landscaping should not be interpreted as including landscaping as "substantial structures" for the purposes of the implementation of the future certified Local Coastal Program. As conditioned to include measures to improve structural integrity and mitigate existing visual impacts this project is generally consistent with the intent of the Del Monte Forest LUP.

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# EXHIBIT A

## RECOMMENDED CONDITIONS

### STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. 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. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. 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.

EXHIBIT NO. A

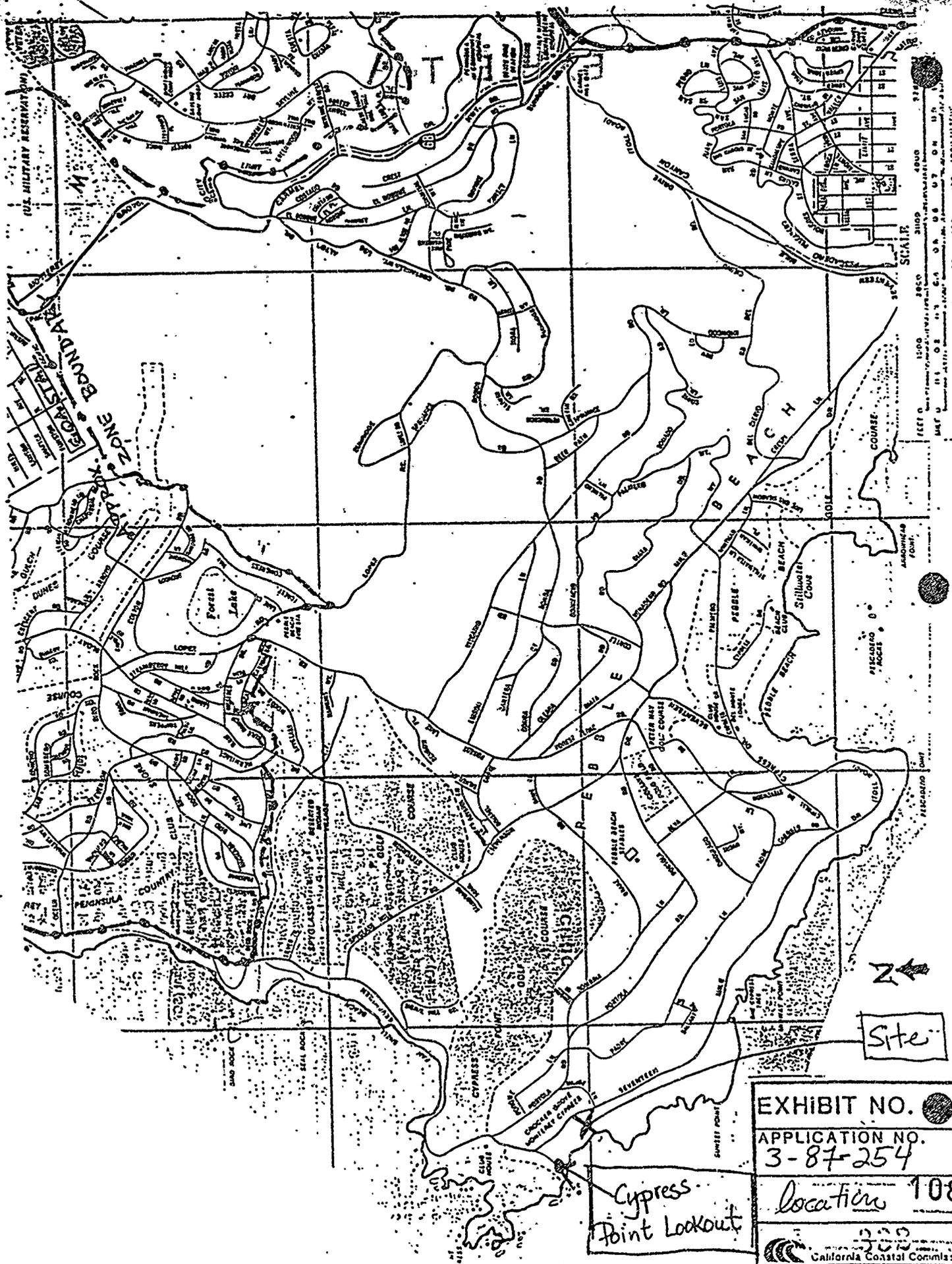
APPLICATION NO.

3-87-254

Standard Conditions



California Coastal Commission



Site

EXHIBIT NO. ●  
 APPLICATION NO.  
 3-87-254  
 Location 108  
 302  
 California Coastal Commission

Cypress Point Lookout



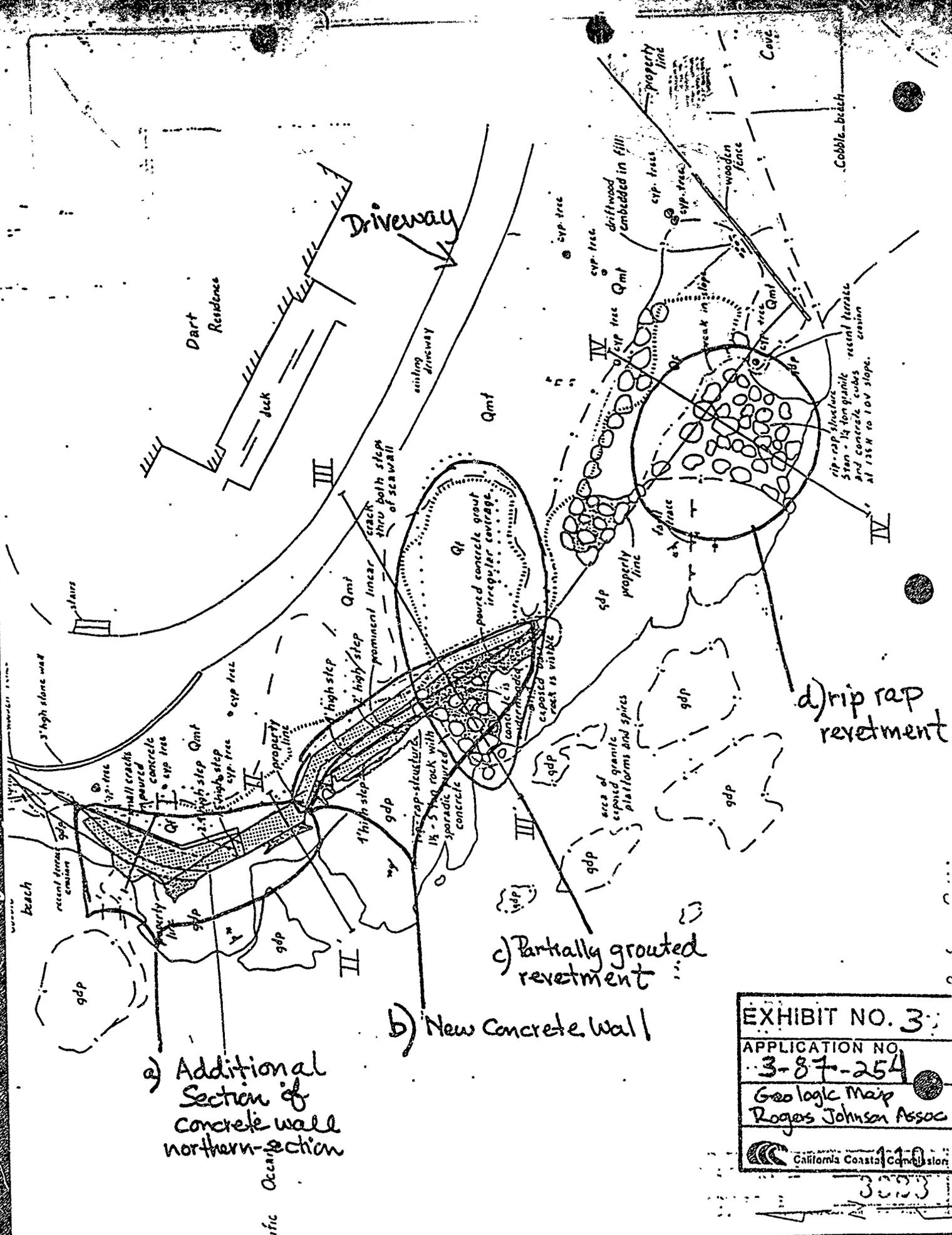


EXHIBIT NO. 3  
 APPLICATION NO.  
 3-87-254  
 Geologic Map  
 Rogers Johnson Assoc  
 California Coastal Commission

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