MINUTE ITEM
This Calendar Item No. C54 was approved as Minute Item No. 54 by the California State Lands Commission by a vote of 3 to 0 at its 08/21/96 meeting.

CALENDAR ITEM
C54

A 74

S 38

08/21/96
W 25323 PRC 7899
J. Smith

GENERAL LEASE - PROTECTIVE STRUCTURE USE

APPLICANT:

Frank R. and Joanne C. Warren
P.O. Box 915
Rancho Santa Fe, California 92067

AREA, TYPE LAND AND LOCATION:

A 0.126-acre parcel, more or less, of tide and submerged lands in the San Dieguito River, Del Mar, San Diego County.

LAND USE:

Repairs to and continued use and maintenance of an existing rock rip rap revetment.

PROPOSED LEASE TERMS:

Lease period:

Ten years beginning September 1, 1996.

Public liability insurance:

Combined single limit coverage of $500,000.

CONSIDERATION:

The public health and safety; 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.

PREREQUISITE CONDITIONS, FEES AND EXPENSES:

Filing and processing fees have been received.

STATUTORY AND OTHER REFERENCES:

A. Public Resources Code: Div. 6, Parts 1 and 2; Div. 13.

B. Cal. Code Regs.: Title 2, Div. 3; Title 14, Div. 6.

AB 884:

1/11/97

OTHER PERTINENT INFORMATION:

1. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code Sections 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.

2. The proposed lease authorizes repairs to and continued use and maintenance of an existing rock rip rap revetment adjacent to the San Dieguito River, on the north side of the applicant's property. The rock rip rap revetment on the west (ocean) side is subject to compliance with the City of Del Mar's Beach Preservation Initiative (BPI) regarding encroachments and construction on the sandy beach. This initiative was challenged by several property owners. A settlement was reached whereby the challenging property owners agreed to abide by the BPI. As part of the settlement, the State Lands Commission agreed not to pursue the boundary issue in exchange for the property owners' compliance with the BPI. The City established a Shoreline Protection area (SPA) line as a string line of development to provide for removal of existing private encroachments onto the sandy beach. Therefore, pending compliance will the BPI, SLC staff will not, at this time, pursue asserting jurisdiction over the revetment on the ocean side .

3. On February 8, 1996, the California Coastal Commission granted permit #6-95-163 for this project under its certified regulatory program (14 Cal. Code Regs. 15251(c)).

4. Staff has reviewed the document and determined that the conditions, as specified in 14 Cal. Code Regs. 15253(b), have been met for the Commission to use the environmental analysis document certified by the California Coastal Commission as a Negative Declaration substitute in order to comply with the requirements of the CEQA.

APPROVALS OBTAINED:

California Coastal Commission; City of Del Mar.

FURTHER APPROVALS REQUIRED:

State Lands Commission.

EXHIBITS:

A. Land Description
B. Location Map
C. Permit 6-95-163

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT AN ENVIRONMENTAL ANALYSIS DOCUMENT (COASTAL COMMISSION ADMINISTRATIVE PERMIT #6-95-163), WAS CERTIFIED FOR THIS PROJECT BY THE CALIFORNIA COASTAL COMMISSION UNDER ITS CERTIFIED PROGRAM [14 CAL. CODE REGS. 15251(c)], THAT THE STATE LANDS COMMISSION HAS REVIEWED SUCH DOCUMENT AND THAT THE CONDITIONS AS SPECIFIED IN [14 CAL. CODE REGS. 15253(b) HAVE BEEN MET.

2. FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

3. AUTHORIZE ISSUANCE TO FRANK R. AND JOANNE C. WARREN OF A TEN-YEAR GENERAL LEASE - PROTECTIVE STRUCTURE USE BEGINNING SEPTEMBER 1, 1996; IN CONSIDERATION OF THE PUBLIC HEALTH AND SAFETY, 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 $500,000; FOR REPAIR TO AND CONTINUED USE AND MAINTENANCE OF AN EXISTING ROCK RIP RAP REVETMENT ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

EXHIBIT "A"

-- W 25323

LEGAL DESCRIPTION
OF
REVETMENT EASEMENT ON NORTH SIDE OF WARREN PROPERTY
3010 SANDY LANE, DEL MAR, CALIFORNIA

THAT PORTION OF SECTION 11, TOWNSHIP 14 SOUTH, RANGE 4 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY BOUNDARY OF THAT PARCEL OF LAND DESCRIBED IN DEED TO STEPHEN G. FLETCHER AND WIFE, RECORDED JANUARY 6, 1949 AS DOCUMENT NO. 1147, IN BOOK 3071, PAGE 90 OF OFFICIAL RECORDS, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE ALONG THE NORTHEASTERLY AND NORTHERLY BOUNDARY OF SAID FLETCHERS LAND NORTH 55° 52' WEST, 57.15 FEET; THENCE SOUTH 82° 41' 30" WEST, 100.40 FEET; THENCE NORTH 8° 32' 35" WEST, 27.01 FEET; THENCE NORTH 82° 41' 30" EAST, 96.30 FEET; THENCE SOUTH 77° 18' 50" EAST, 85.70 FEET; THENCE SOUTH 16° 20' 48" WEST, 50.91 FEET; AND THENCE NORTH 55° 52' 15" WEST, 16.00 FEET TO THE TRUE POINT OF BEGINNING.

LICENSED LAND SURVEYOR
ROBERT G. SCHOETTMER
No. L004324
Exp. 6-30-00
STATE OF CALIFORNIA

Robert G. Schoettmer

Robert G. Schoettmer L.S. 4324

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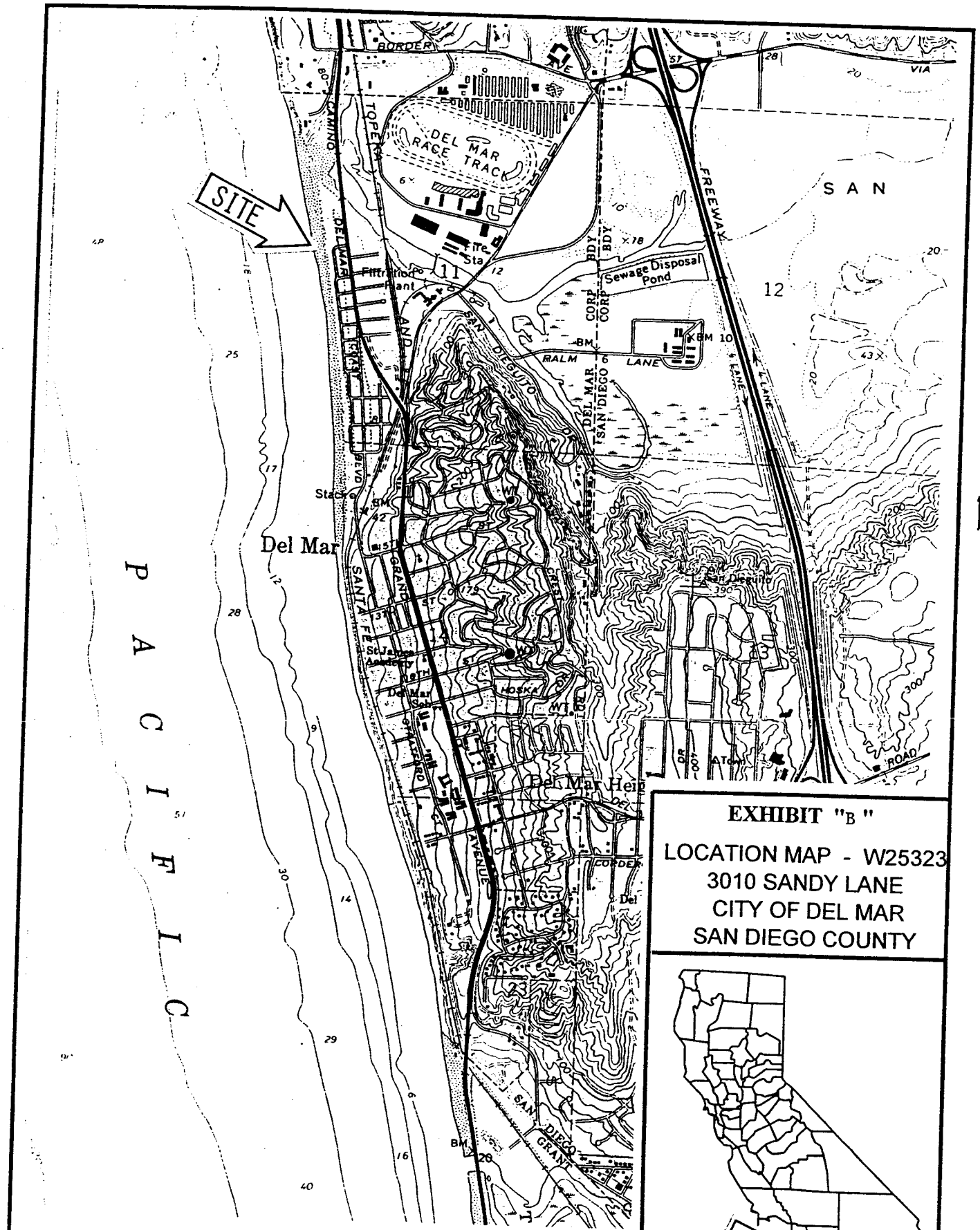

EXHIBIT "B"

LOCATION MAP - W25323
3010 SANDY LANE
CITY OF DEL MAR
SAN DIEGO COUNTY

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EXHIBIT "C"

W25323 11C

STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION
SAN DIEGO COAST AREA
11 CAMINO DEL RIO NORTH, SUITE 200
SAN DIEGO, CA 92108-1725
(619) 521-8036

Permit Application No. 6-95-163/1o
Date January 9, 1996

ADMINISTRATIVE PERMIT

APPLICANT: Joanne Warren

PROJECT DESCRIPTION: Repair of an existing rip rap revetment including installation of additional two-ton rocks to fill the voids and flatten the angle of the existing rip rap adjacent to the north side of an oceanfront home abutting the San Dieguito River.

PROJECT LOCATION: North of 3010 Sandy Lane, Del Mar, San Diego County.

EXECUTIVE DIRECTOR'S DETERMINATION: The findings for this determination, and for any special conditions, are discussed on subsequent pages.

NOTE: The Commission's Regulations provide that this permit shall be reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, a permit will not be issued for this permit application. Instead, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission at the following time and place:

DATE and TIME: February 8, 1996
9:00 a.m., Thursday

LOCATION: U. S. Grant Hotel
326 Broadway
San Diego, CA

IMPORTANT - Before you may proceed with development, the following must occur:

For this permit to become effective you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgment and evidence of compliance with all special conditions, we will send you an authorization to proceed with development. BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE PERMIT AUTHORIZATION FROM THIS OFFICE.

PETER DOUGLAS
Executive Director

By: Laurinda Owens/SS

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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 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.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

Pursuant to Public Resources Code Section 30624, the Executive Director hereby determines that the proposed development, subject to Standard and Special Conditions as attached, is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976, 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, and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. Any development located between the nearest public road and the sea is in conformity with the public access and public recreation policies of Chapter 3.

Proposed is the repair of an existing rip rap revetment along the north side of a residentially developed oceanfront property at 3010 Sandy Lane in Del Mar. A sandy beach area exists north of the rip rap up to the San Dieguito River. The site is the first structure along the beach south of the San Dieguito River mouth. The 17,970 sq.ft. property extends from Sandy Lane west to the mean high tide line of the Pacific Ocean, and includes an area of

sandy beach at its western frontage. A vertical concrete seawall and rock toe stone separate the residence and associated patio from the beach itself and provide protection to the existing residence along this frontage.

Past coastal development permits (CDPs) on the site include CDP #F9361 for reconstruction of an existing seawall, CDP #6-81-88 for a second story addition, and CDP #6-87-403 for an addition to the second story of the existing residence. An existing rip rap revetment is located to the north of the property; it was installed many years ago, possibly prior to the passage of the Coastal Act. The proposed repair to the rip rap is for that portion of the revetment located on the north side of the property only. The proposed development, which constitutes repair and maintenance, requires a coastal development permit because it will involve the placement of mechanized construction equipment or construction materials on a sand area and within 20 feet of coastal waters or streams. At high tides, and when the river is swollen, the water reaches the rip rap. In this case, there is no means to access the site of the proposed repairs other than from the beach.

With regard to shoreline hazards, Section 30235 allows for shoreline protective devices only when required to protect existing structures in danger from erosion and when designed to mitigate impacts on shoreline sand supply. The primary issue which has been identified and addressed in the review of proposals for shoreline protective works in this area of Del Mar has been their location and alignment more than the question of their necessity. It has been recognized for some time that all of the low-lying lots between Seagrove Park and the mouth of the San Dieguito River are and most likely will continue to be subject to impacts from storm waves. The vast majority of the residences in the area are protected by some form of device, and with very few vacant lots in the vicinity, new seawalls represent infill development. Thus, if properly designed, they can be found consistent with Section 30235 of the Act. It is understood that all designs of shoreline protection, when placed in an intertidal area, do affect the configuration of the shoreline and the beach profile and do have an adverse impact on the shoreline.

The project site is located on the beachfront in an area that has been subject to storm waves. In the subject case, repairs to an existing 180-foot rip rap revetment are proposed north of the property on City-owned land. The rip rap has failed due to exposure to wave action throughout the years and the applicant is proposing its repair in advance preparation for the oncoming winter storms which may cause additional storm damage or flooding to the site and residence. The City of Del Mar has exempted the proposed development from discretionary review and is approving the repairs as an emergency permit. The City is also requiring the applicant to obtain an encroachment permit since the existing rip rap is located on City property.

A geology report has been prepared which analyzed the geologic integrity and stability of the existing seawall and rip rap seaward of the subject site and three other adjacent properties as well as along the north side of the subject property. The findings of that report conclude that it is necessary to upgrade some sections of the seawall (rip rap) by importing and placing rock in order to flatten the slope of the rip-rap structure to not steeper than 2

horizontal to 1 vertical. It was also recommended that the average size of the rock be maintained such that it does not become less than 2.5 tons in size. The proposed rehabilitation of the rip rap will result in placement of additional quarry stone rocks in those areas where gaps exist or the slope needs to be flattened to afford protection to the site. All proposed work will remain within the existing revetment footprint and will not encroach further onto sandy beach or towards the river.

In the case of the subject proposal, the proposed repair of the existing rip rap is necessary to protect an existing single family residence in danger of erosion from storm and wave damage, as supported by a site-specific geology report. Inasmuch as the proposed repair activities will not extend the footprint of the existing rip rap nor encroach further north onto the sandy beach, the project can be found consistent with Coastal Act mandates in past permits as it will not encroach on the beach and is designed to minimize adverse impacts on shoreline sand supply. The project thus meets the stated goals of the City to minimize both beach erosion and impacts to public beach access.

Several conditions have been attached regarding various aspects of the seawall construction. Some of the documents submitted with the permit application addressed repairs extending to adjacent properties. However, the application clearly states that only one property owner is currently requesting authorization to conduct repair activities on the rip rap protecting the northern frontage of her property. Therefore, to clarify the exact extent of proposed improvements, Special Condition #2 requires the submittal of final plans for the rip rap repair and a copy of the City of Del Mar's emergency permit. The final plans must clearly document that the repairs are all within the existing revetment footprint and must provide cross-sections of the proposed slope. They must also demonstrate that the proposed development is fully consistent with the City-issued emergency permit.

Special Condition #3 is an advisory condition. The condition requires that during construction, disturbance to sand and intertidal areas be minimized and that any beach sand excavated be redeposited on the beach. The condition also specifies that local sand or cobbles may not be used as backfill or construction material for the project. Special Condition #4 is attached to assure that the seawall will be properly maintained and the public beach kept free of materials both during and after project completion. The condition also advises the applicant of the need to secure a coastal development permit prior to future additions or modifications to the seawall. It should be noted that, with the alignment of the protective device approved herein, any future seaward expansion would involve encroachment onto public beach area.

In addition, there remains an inherent risk to construction of any structure along the shoreline. Special Condition #5 requires the applicant to record a deed restriction recognizing this risk and waiving any liability on the Commission's part for allowing this development. Pursuant to Section 13166(a)(1) of the Commission's Administrative Regulations, an application may be filed to remove Special Condition #5 from this permit if the applicants present newly discovered material information regarding the existence of any

hazardous condition which was the basis for the condition, if they could not with reasonable diligence have discovered and produced such information before the permit was granted.

In summary, in review of shoreline protective devices, the Commission seeks to maximize the amount of beach area available to the public and minimize the adverse effects on shoreline sand supply. Through individual review of shoreline development on a property by property basis, the Commission and City can balance the private property owners need to protect their property and preserve views against the measure of risk and the need to protect beach area for public use. In this particular case, the proposed rip rap repair will not extend the footprint of the existing rip rap nor encroach further onto the sandy beach to the north or west of the site. With the attached conditions, the Commission finds the project consistent with Section 30235 and 30253 of the Coastal Act.

Section 30604(c) of the Coastal Act requires that a specific access finding be provided for every project located between the first coastal road and the sea. Sections 30210 and 30212 of the Act further call for the maximization of public access opportunities and require that access be provided in conjunction with developments located between the first coastal road and the sea unless, among other things, adequate access exists nearby. The project site is located on the beachfront in Del Mar. The surrounding beach area is heavily used year-round by sunbathers, swimmers and others involved in beach activities, such as volleyball. Adequate vertical access to the adjacent beach already exists to the south at 29th Street and along the river mouth immediately to the north.

Special Condition #1 requires the submittal of a plan for the construction phase of the project addressing storage locations for material and equipment and timing for project implementation. The plan shall be designed so that construction activities which would adversely affect public access to and enjoyment of the beach are avoided between Memorial Day and Labor Day. Also, the duration of project construction shall be minimized to the greatest extent possible, with public safety measures provided.

Special Condition #6 serves to recognize that the public may have certain rights to the area north of the site, none of which are affected by the granting of this permit. As conditioned, the project is consistent with Sections 30210, 30212 and all other Chapter 3 policies of the Coastal Act. Special Condition #7 requires the submittal of documentation from the State Lands Commission that either no state lands are involved with the project or that the development on the state lands that are involved has either been authorized or may proceed without prejudice to a final agreement to use such lands.

In summary, the Coastal Commission certified the City of Del Mar's LCP Land Use Plan (LUP) with suggested modifications in July, 1991; that document incorporates the provisions of the BPI, which address shoreline development and protective structures and mitigation for impacts of such structures to public sandy beach area. The project has been designed to minimize beach

encroachment and is fully consistent with the Commission's action on the LUP. As conditioned, the project should not prejudice the ability of the City of Del Mar to prepare and implement a fully certifiable Local Coastal Program.

SPECIAL CONDITIONS:

1. Construction Access and Staging Areas/Project Timing. Prior to authorization to proceed with development, the applicant shall submit to the Executive Director for review and written approval, a construction schedule and construction access and staging plans. The schedule and plans shall document: a) that construction activities shall not occur between Memorial Day and Labor Day of any year, b) that the duration of project construction is minimized to the greatest extent practicable, and c) that public safety measures are provided.

2. Final Plans/City Emergency Permit. Prior to authorization to proceed with development, the applicant shall submit to the Executive Director for review and written approval, final plans (including cross sections) for the revetment and a copy of the City of Del Mar emergency permit authorizing the subject repairs. The plans shall clearly document the location of the existing line of rip rap, and shall demonstrate that the repair activities are within the existing revetment footprint and fully consistent with the City's permit.

3. Construction Materials. Disturbance to sand and intertidal areas shall be minimized. Beach sand excavated shall be redeposited on the beach. Local sand or cobbles shall not be used for backfill or construction material.

4. Maintenance Activities/Future Alterations. The applicant shall be responsible for the maintenance of the permitted protective device. Any change in the design of the project or future additions/reinforcement of the seawall will require a coastal development permit. If after inspection, it is apparent that repair or maintenance is necessary, the applicant shall contact the Commission office to determine whether permits are necessary. The applicants shall also be responsible for the removal of debris that is deposited on the beach or in the water during or after construction of the shoreline protective device or as a result of the failure of the shoreline protective device.

5. Assumption of Risk: Prior to authorization to proceed with development, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from storms, wave action, flooding and erosion, and (b) the applicant hereby waives any future claims of liability against the Commission or its successors in interest for damage from such hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens.

6. Public Rights. By acceptance of this permit, the applicant acknowledges, on behalf of herself and her successors in interest, that

issuance of the permit shall not prejudice any subsequent assertion of, or constitute a waiver of, public rights, e.g., prescriptive rights, public trust etc. which may exist on or in front of the property. The applicant shall also acknowledge that issuance of the permit and construction of the permitted development shall not be used or construed to interfere with any public prescriptive or public trust rights that may exist on or in front of the property.

7. State Lands Commission Review. Prior to authorization to proceed with development, the applicant shall obtain 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, an agreement has been made with the State Lands Commission for the project to proceed without prejudice to that determination.

ACKNOWLEDGEMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:
I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Applicant's Signature

Date of Signing

(5163R)