

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
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Filed: 11/7/96
 49th Day: 12/26/96
 180th Day: 5/6/97
 Staff: CP-LB
 Staff Report: 2/20/97
 Hearing Date: 3/14/97
 Commission Action:



RECORD PACKET COPY

STAFF REPORT: REVISED FINDINGS

APPLICATION NO.: 5-96-200

APPLICANT: Belmont Brewing Company

AGENTS: David Hansen
 Chuck Greenberg

PROJECT LOCATION: 25 39th Place, Belmont Pier Plaza, City of Long Beach,
 Los Angeles County.

PROJECT DESCRIPTION: A 600 square foot expansion of an existing restaurant's
 enclosed outdoor dining area into the Belmont Pier
 public plaza area.

COMMISSION ACTION: Approved without Special Conditions

DATE OF ACTION: January 8, 1997

COMMISSIONERS ON
 PREVAILING SIDE: Calcagno, Flemming, Giacomini, Pavly, Rick, Staffel,
 and Areias.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following revised findings
 in support of the Commission's action on January 8, 1997 approving the permit
 for the Belmont Brewing Company's 600 square foot expansion.

LOCAL APPROVAL:

1. City of Long Beach Site Plan Review Case No. 9609-05.

SUBSTANTIVE FILE DOCUMENTS:

1. City of Long Beach Certified Local Coastal Program, 7/22/80.
2. Coastal Development Permit 5-91-821 (BBC).
3. Coastal Development Permit Appeal File A-5-LOB-95-126 (BBC).
4. City of Long Beach Patio Lease No. 20968.

STAFF NOTE:

The proposed restaurant expansion is located on public lands located seaward of the former mean high tide line (MHTL) which is represented by the Chapter 138 Line (Exhibit #2). In Long Beach the Chapter 138 Line differentiates the Commission's area of original jurisdiction (consisting of tidelands, former tidelands, submerged lands, and public trust lands), from the landward area for which the City has accepted Coastal Development Permit jurisdiction pursuant to its certified Local Coastal Program. Because the proposed development is located within the Commission's area of original jurisdiction, the Coastal Commission must act on the Coastal Development Permit application. The standard of review for development proposed in the Commission's area of retained jurisdiction (seaward of the MHTL) is the Chapter 3 policies of the Coastal Act. The certified LCP may provide guidance.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval

The Commission hereby grants a Coastal Development Permit for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, is located between the sea and first public road nearest the shoreline, is in conformance with the public access and public recreation policies of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

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. 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 project during its development, 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.

III. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description

The applicant, Belmont Brewing Company (BBC), proposes to erect a six foot high glass and stucco wall to enclose a 600 square foot portion of Belmont Pier Plaza in order to enlarge its existing 1,667 square foot outdoor dining area (Exhibit #3). The BBC is a restaurant and microbrewery located adjacent to and within Belmont Pier Plaza at the terminus of 39th Place at the base of Belmont Pier (Exhibit #2). Belmont Pier Plaza is part of the publicly owned recreational pier complex. No additional parking is proposed.

The BBC is currently located upon both private and public property. The indoor portion of the BBC is situated within a mixed-use structure located on privately owned beachfront property. However, the BBC's existing outdoor dining area is located within Belmont Pier Plaza which is public property (Exhibit #3). The currently proposed expansion of the outdoor dining area is also located entirely upon public property within Belmont Pier Plaza. The City leases this portion of the Belmont Pier Plaza to the BBC for exclusive use as an outdoor dining area.

The BBC is surrounded by several different land uses. Belmont Pier Plaza fronts the BBC on both the south and east sides of the brewery (Exhibit #3). Belmont Pier, the beach bicycle path, and the public beach are located south of the BBC. The pier, plaza, and beach are popular day-use recreation areas. The pier is a popular place for fishing, strolling and embarking on

whale-watching tours. Landward, to the east and west of the BBC, are residential uses comprised primarily of condominium units. Other commercial uses are located in the structure north of the BBC. The public beach/pier parking lot is located on the east side of the pier about one hundred feet east of BBC (Exhibit #2). The 174 space public beach/pier parking lot is utilized by the BBC patrons.

The BBC's existing 1,667 square foot outdoor dining area has a 7.25 foot high perimeter wall enclosing it to protect it from blowing wind and sand. Wind and sand are common problems because of the wide sandy beach located directly adjacent to Belmont Plaza and Pier. A retractable fabric roof can be extended over the existing patio area. The perimeter wall is six inches thick and is constructed with stucco, wood, aluminum and glass. The upper three feet of the wall is comprised of glass. The currently proposed dining area expansion is designed in the same manner as the existing enclosed outdoor dining area, except that the proposed perimeter wall is only six feet tall. The only access to the existing outdoor dining area is through the attached BBC restaurant and microbrewery.

As stated above, because there is no on-site parking for the BBC, patrons who drive to the establishment must find parking on the streets or in nearby public beach parking lots. There are very few available on-street parking spaces in the vicinity of the BBC. There is, however, a 174 space public beach parking lot adjacent to Belmont Pier and Plaza which is commonly used by BBC patrons (Exhibit #3). There is also another very large public beach parking lot located approximately 500 feet east of the Belmont Pier in which area visitors usually park after the 174 space pier parking lot fills up. These City lots are metered and are generally available for use during the evenings and nights because they are not usually full at those times.

However, during the day, and especially on summer weekend days when the peak beach use hours and restaurant peak use hours coincide, BBC patrons must compete for available parking spaces in the public lots with patrons of other nearby establishments, fishermen, rollerskaters, and beach users. During summer weekend days there is a parking shortage in the area because of heavy recreational use and because most of the commercial businesses in the area do not have on-site parking. Competition for parking in this area is fierce during these times. Vons supermarket, located one-half block north of the BBC, has its own parking lot which is intensely patrolled by Vons security in order to prevent non-Vons customers from using it (Exhibit #2).

B. Previous Commission Actions

The BBC has come before the Commission on two previous occasions. On February 18, 1992, the Commission approved Coastal Development Permit 5-91-821 (BBC) permitting a portion of the BBC's existing outdoor dining area (Exhibit #5). The Commission's action occurred after the BBC had already constructed its outdoor dining area. The after-the-fact permit approved a 402 square foot portion of the outdoor dining area which is located seaward of the Chapter 138 Line (Exhibit #3). City of Long Beach Local Coastal Development Permit No. 77-87 approved the portion of the BBC which is located inland of the Chapter 138 Line.

In 1992, the Commission's approved the after-the-fact permit, but its adopted findings specifically limited the area which could be used for outdoor dining and protected the public's ability to access the public viewpoint located on the southwest corner of Belmont Pier Plaza (Exhibits #3 & 5 p.7). The Commission found that further private encroachments into the public areas of Belmont Pier Plaza could cumulatively impact public access by slowly taking parts of the public space for private uses (Exhibit #5 p.8).

In regards to parking, the 1992 Commission approval did not require the BBC to provide any parking for the outdoor dining area approved by Coastal Development Permit 5-91-821 (BBC). In fact, there is no on-site parking for BBC patrons. All patrons must use street parking or public beach and the public pier parking lots. In approving the permit, the Commission found that the proposed outdoor dining area, in association with the rest of the BBC, was a slightly less intensive use than the previous uses which occupied the BBC building (a large tavern and a retail store). The BBC was allowed to use the non-conforming parking rights of the previous use instead of providing additional parking to meet the demands of the restaurant. In order to ensure that additional intensification of the BBC would be subject to Commission approval, a special condition of approval requires that any future improvements to the BBC would require a new Coastal Development Permit. The conditions of Coastal Development Permit 5-91-821 (BBC) remain in effect and are unchanged by this action.

The Commission's second action affecting the BBC occurred on August 10, 1995, when the Commission heard an appeal of City of Long Beach Local Coastal Development Permit No. 9502-13 (Appeal File A-5-LOB-95-126). City of Long Beach Local Coastal Development Permit No. 9502-13 approved an additional 635 square foot expansion of the BBC's outdoor dining area onto public lands located inland of the Chapter 138 Line in the Belmont Pier Plaza (Exhibit #2). The Commission received 29 appeals of the City's approval of the proposed expansion submitted by concerned residents. The appellants contended that the proposed BBC expansion was not an appropriate use of public property; would interfere with public access to Belmont Pier, the beach, and the ocean; would interfere with public recreational use of Belmont Pier Plaza; would block public and private views to the beach, ocean, and Belmont Pier; and did not provide parking to meet the demands of the proposed project.

After a public hearing on the matter, the Commission sustained the appeal by finding that a substantial issued existed in regards to the locally approved Coastal Development Permit. The Commission then held a de novo public hearing and voted on the Coastal Development Permit application. The BBC proposal was denied by the Commission on the grounds that the proposed conversion of a public recreation area to a private commercial use was not consistent with the public access and recreation policies of the Coastal Act and was not consistent with the certified LCP (Exhibit #6). The Commission found that public views protected in the certified LCP would be blocked by the proposed expansion and that the BBC failed to provide parking as required by the certified LCP. At the hearing, several Commissioners implied that they would consider an alternative proposal which protected the public views down 39th Place.

The applicant is now proposing an alternative plan to expand the BBC's outdoor dining area into Belmont Pier Plaza. This time the BBC dining area is extending south of the existing permitted dining area (Exhibit #3). The proposal which was denied in 1995 would have extended east of the existing permitted dining area (Exhibit #2). No additional parking is proposed to be provided for the currently proposed expansion. The currently proposed project is located entirely seaward of the Chapter 138 Line within the Commission's area of original permit jurisdiction.

C. Public Access and Recreation

The proposed expansion is located within the Commission's area of original jurisdiction. Therefore, the standard of review is the Chapter 3 policies of the Coastal Act. The certified Local Coastal Program may, however, provide guidance.

Section 30213 of the Coastal Act, a public access policy, requires that the plaza's lower cost visitor and recreational facilities shall be protected and encouraged. Section 30213 of the Coastal Act states:

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

In addition, Section 30221 of the Coastal Act, a recreation policy, also requires the protection of public areas for recreational uses. Section 30221 of the Coastal Act states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

The proposed expansion will not directly prevent the public from gaining physical access to the sea, but will occupy a 600 square foot portion of the Belmont Pier Plaza (Exhibit #3). Belmont Pier Plaza is a public recreational facility which the public uses without having to pay a fee for admission. The plaza is open for free use by the public 24 hours a day. Free public recreational facilities are protected as by Section 30221 as lower cost facilities. People often come to Belmont Pier Plaza to stroll, rollerblade, skate, view sunsets, people watch, and take photographs. Many people also pass through or near the plaza while biking, walking, running or skating on the beach bicycle path, or while on their way to fish off of Belmont Pier.

The proposed project is consistent with Sections 30213 and 30221 of the Coastal Act because the BBC is a visitor serving commercial recreational activity which provides beach visitors an opportunity to enjoy the coastal atmosphere of the Belmont Shore area in Long Beach. The outdoor dining area provides BBC customers with scenic coastal views and cool seabreezes while

they enjoy their meals and brews. The price of a meal at the BBC is relatively low-cost, about ten dollars per person.

Although the BBC's outdoor dining area is only available for use by its customers, the general public will continue to have unrestricted access to the remainder of Belmont Pier and Plaza public areas. The total area of Belmont Plaza is approximately 15,000 square feet. All of that area is open to the public except for the 2,267 square feet which will be used by the BBC for its outdoor dining area. Belmont Plaza will continue to provide public access and recreational opportunities similar to those which currently exist in the plaza. Additional encroachments into Belmont Plaza, however, could negatively impact public access and should be limited.

The Commission hereby finds that proposed project will have only a minimal impact on public access to Belmont Plaza and is consistent with Sections 30213 and 30221 of the Coastal Act.

D. Scenic Resources

Section 30251 of the Coastal Act states in part that:

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...be visually compatible with the character of surrounding areas...

As required by the Coastal Act, the visual qualities of coastal areas shall be protected by maintaining public views to and along the ocean. The Belmont Pier Plaza provides the public with an excellent viewing areas where there is an unobstructed view of Downtown Long Beach, the Queen Mary, the port, Belmont Pier, Santa Catalina Island, and the rest of the beach and seascape.

The site of the proposed dining area expansion is in the southwest portion of the plaza (Exhibit #3). The southwest corner of the plaza currently provides the public with an excellent viewing area where there is an unobstructed view of Downtown Long Beach, the Queen Mary, the port, Belmont Pier, Santa Catalina Island, and the rest of the beach and seascape. The proposed expansion is located within twenty feet of the southwest corner viewing area. This viewing area will not be enclosed by the proposed project and will continue to be open for public access (Exhibit #3). The Commission finds that the proposed project protects the viewpoint on the southwest corner of the plaza as required by Section 30251 of the Coastal Act.

E. Parking

A basic goal of the Coastal Act is to protect and maximize public access to the coast. One of the methods commonly used to maximize public access to the coast is to ensure that there is enough parking available for visitors of the

coast. The Commission has consistently found that a direct relationship exists between the provision of adequate parking and availability of public access to the coast. Section 30252 requires that new development should maintain and enhance public access to the coast by providing adequate parking facilities.

Section 30252 of the Coastal Act states, in part:

The location and amount of new development should maintain and enhance public access to the coast by... (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation....

In addition, the certified LCP requires the provision of parking for the expansion of existing uses in the project area. The certified LCP states:

Parking. Expansions or changes in use of private developments shall be required to provide additional parking for the expansion or change of use as required by the zoning regulations.

The existing BBC restaurant does not currently provide any parking and no additional parking is proposed to meet the demands of the expanded outdoor dining area. All parking for BBC patrons is public parking provided by public streets and the public beach/pier parking lot. Most of the BBC's patrons park in the 174 space public beach/pier parking lot located next to Belmont Pier (Exhibit #2). The lot is metered and is generally not full after dark. However, during the day, and especially on summer weekend days when the peak beach use hours and restaurant peak use hours coincide, BBC patrons must compete for available parking spaces in the public lot with patrons of other nearby establishments, fishermen, rollerskaters, and beach users. During summer weekend days there is a parking shortage in the area because of heavy recreational use and because most of the commercial businesses in the area do not have on-site parking.

The applicant contends that a grandfathered parking deficiency should allow the proposed expansion outside of the property line and out of the building envelope to be approved with no additional parking (Exhibit #8). The Long Beach City Council concurred with the applicant's parking calculation and has approved the proposed expansion. The proposed 600 square foot expansion, along with the existing permitted uses, will exhaust the BBC's non-conforming parking rights.

In its approval, the City found that no parking was required for the proposed expansion because the BBC in 1989 was determined to have 55 non-conforming parking rights based on the historic use of the property. Pursuant to the previous City approvals for the existing BBC with its 1,667 square foot outdoor dining area, the BBC has used 48 of the 55 non-conforming parking rights. The remaining 7 non-conforming parking rights were found to be adequate to meet the City parking requirements for the proposed 600 square foot expansion.

The Commission finds that the applicant's non-conforming parking rights can

allow the proposed expansion to occur without providing any additional parking. However, because the 600 square foot expansion will exhaust the BBC's non-conforming parking rights, any future intensifications of the BBC should be accompanied with provisions for additional parking.

Therefore, because the current and proposed commercial use of the site is as equally intense as the previous use, the Commission finds that the proposed project will not negatively impact coastal access and is consistent with the requirements of Section 30252 of the Coastal Act.

F. Local Coastal Program (LCP)

Although the standard of review for the proposed project is the Chapter 3 policies of the Coastal Act, the certified LCP may provide guidance. The proposed project is located within the LCP Sub-Area of Belmont Heights/Belmont Park (Area C) in the vicinity of 39th Place (Sub-Area 1), Belmont Pier (Sub-Area 3), and the Belmont Plaza swimming pool complex (Sub-Area 1). The certified LCP acknowledges a parking shortage in this highly utilized coastal area, and identifies 39th Place as a principal coastal access route (LCP ps. III-C-9 thru III-C-27). The certified LCP contains the following policies for LCP Area C:

Belmont Pier/Pool Complex (LCP p. III-C-11)

This LCP recommends changes to the pier and environs which will improve safety and encourage greater use by the general public. The theme of the Belmont Pier Improvement Plan is fishing and beach use. Small restaurants and shops located along 39th Place would have such a thematic motif.

New Commercial Development (LCP p. III-C-14)

In the area between 39th Place and 43rd Place south of Ocean Boulevard, there is an opportunity to create a shopping experience unique along the Long Beach shoreline. Future construction, recycling and remodeling in this area should create structures having a low profile and pedestrian scale. They should be one or two stories in height, and should be restricted to retail on the first floor. Site plans should be characterized by openness to increase views toward and access to the beach. In the block bounded by Ocean, Termino, and Olympic Plaza, public uses of open spaces around commercial buildings should be encouraged, such as outdoor restaurants, strolling paths, benches, etc. The planned development shall have a coastal-related theme to be reviewed and approved by the Planning Commission.

General Development and Use Standards (LCP ps. III-C-22&23)

All buildings shall be located and designed to provide a maximum feasible amount of unobstructed views through their sites towards the beach and recreational facilities.

Open areas shall be landscaped and shall contain pedestrian pathways access to the public. Such access shall be guaranteed through deed restrictions. Open areas may also be utilized for outdoor dining.

Parking. Expansions or changes in use of private developments shall be required to provide additional parking for the expansion or change of use as required by the zoning regulations.

Sub-Area 1 Specific Development and Use Standards: 39th Place (LCP ps. III-C-24&25)

Vehicular access to be abandoned: 39th Place.

Pedestrian access: 39th Place.

Commercial parking shall be provided at the rate of four spaces per 1,000 square feet of floor area beyond the existing area.

Sub-Area 3 Specific Development and Use Standards: Belmont Pier & Plaza (LCP ps. III-C-25 thru 27)

Uses: Fishing pier...accessory uses...Restaurants serving various types and prices of food, and other commercial facilities in keeping with the coastal theme of the area.

Pedestrian access around the Plaza on the south and west perimeter of the Plaza and including a viewing platform at the foot of 39th Place extending from the south end of the Plaza a sufficient distance to provide panoramic views. [See Exhibit #3].

Restaurants located at southern ends of pier, mid-pier, and at southern end of pier or on Plaza.

Open Space: All portions of the sub-area shall be open except parts of the Plaza...and the restaurants and restrooms on the pier. An open public area shall be provided on the Plaza at least as large as the existing Plaza.

While the proposed project may not entirely conform with the above stated policies of the certified LCP, the proposed project is consistent with the Chapter 3 policies of the Coastal Act.

G. California Environmental Quality Act (CEQA)

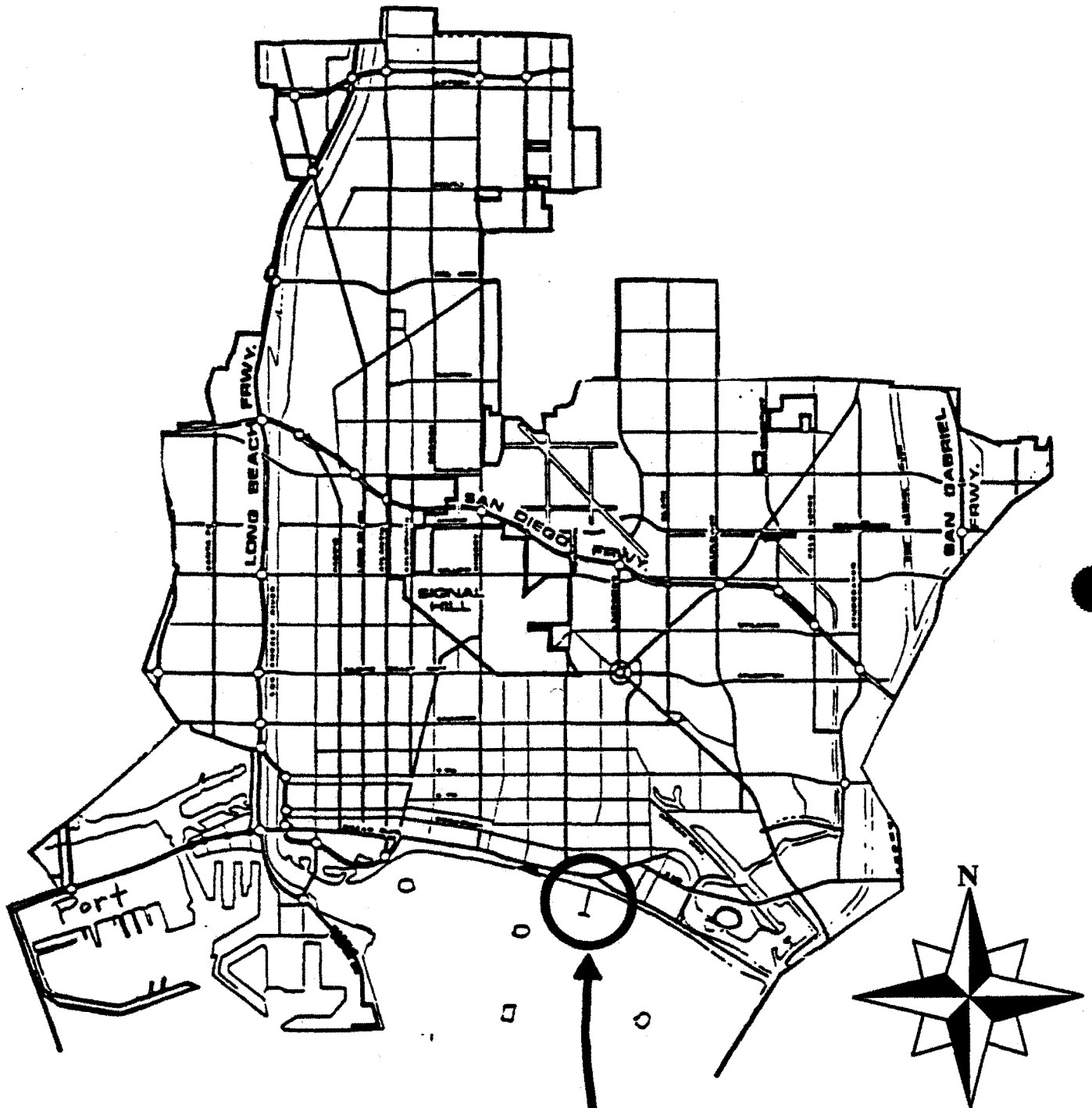
Section 13096 Title 14 of the California Code of Regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) 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 impact which the activity may have on the environment.

The proposed project is consistent with the requirements of the California Environmental Quality Act because the proposed project would not result in significant adverse impacts to coastal access and recreation which are not mitigated.

8498F:CP

City of Long Beach



Site

COASTAL COMMISSION

5-96-200

EXHIBIT # 1

PAGE 1 OF 1



LIVINGSTON DRIVE

OCEAN BOULEVARD

PLACE

Vons
Parking
Lot

Vons
Market

BELMONT BREWERY COMPANY

11-3870
F-15
F-11

F-25

F-31

38TH

MIDWAY STREET

11-3930

Condominiums

H-11

TERMINO AVENUE

ALLIN

STREET

OLYMP
PLAZ

CITY
PROPERTY

1995

BIKE PATH

1996

lot
CHAPTER 138 LINE

Public
parking

BELMONT PIER

Beach

COASTAL COMMISSION
5-96-200

EXHIBIT # 2

PAGE 1 OF 1

Proposed
Expansion
Areas

CDP application
5-96-200

BBC
Restaurant &
Tavern

39th PLACE

Condominiums

Beach

(E) PATIO

5-91-821

5-96-200
(PROPOSED)
PATIO

Public
View Point

EXISTING

CHAPTER 138th LINE

4'-0"

PLANTER (TYP)
TREE

TO BEACH
DOWN

Bicycle & Pedestrian Path

Belmont
Pier

Beach

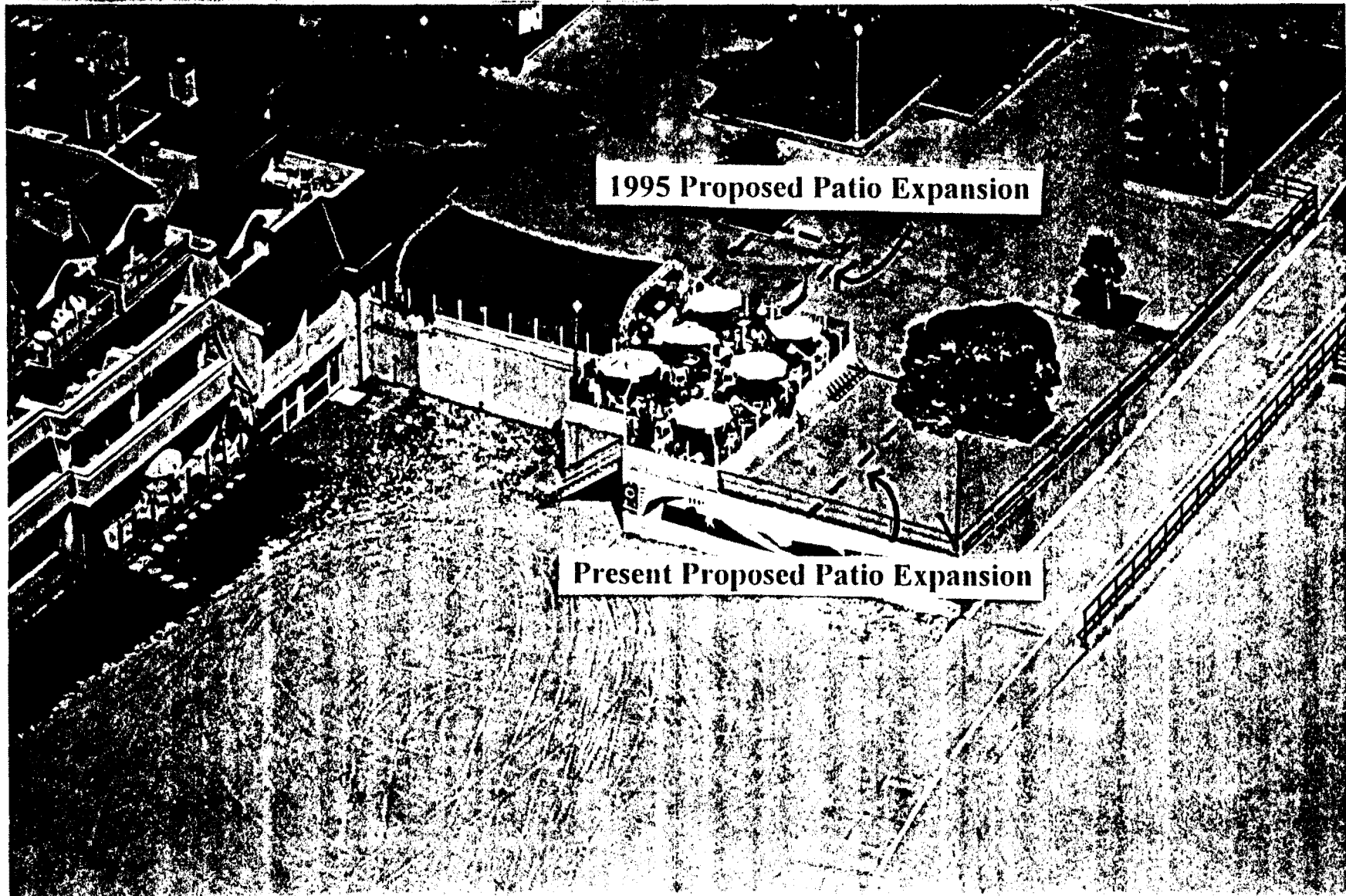
COASTAL COMMISSION

5-96-200

EXHIBIT # 3

North

PAGE 1 OF 1



1995 Proposed Patio Expansion

Present Proposed Patio Expansion

COASTAL COMMISSION

5-96-200

EXHIBIT # 4

PAGE 1 OF 1

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
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(213) 590-5071

Filed: 12/4/91
49th Day: 1/22/92
180th Day: 6/2/92
Staff: CP-LB *CP*
Staff Report: 12/13/91
Hearing Date: February 18-21, 1992
Commission Action: *App 2/18/92*

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 5-91-821

APPLICANT: Belmont Brewing Company AGENT: David Hansen

PROJECT LOCATION: 25 39th Place, Belmont Pier Plaza, City of Long Beach,
Los Angeles County.PROJECT DESCRIPTION: A 402 square foot expansion of the outdoor dining area
of an existing restaurant and microbrewery.

Lot Area	15.63 acres total
Building Coverage	0 sq. ft.
Pavement Coverage	25,000 sq. ft. approx. (Belmont Pier & Plaza)
Landscape Coverage	1,000 sq. ft. approx.
Parking Spaces	45
Zoning	PD-1
Plan Designation	Planned Development
Ht abv fin grade	7 feet

LOCAL APPROVALS RECEIVED:

1. City of Long Beach Planning Department Approval in Concept, 11/21/91.
2. City of Long Beach Patio Lease No. 20968, Sublease, and Amendment.

SUBSTANTIVE FILE DOCUMENTS:

1. City of Long Beach certified Local Coastal Plan.
2. City of Long Beach Local Coastal Permit No. 77-87 and modification.
3. Coastal Act Violation File No. V-5-LOB-91-098.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval with conditions regarding public access, future improvements, and timing of condition compliance.

COASTAL COMMISSION

5-96-200

EXHIBIT # 5PAGE 1 OF 9

STAFF RECOMMENDATION

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

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 ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and 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.

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. 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 project during its development, 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.

COASTAL COMMISSION

EXHIBIT # 5

PAGE 2 OF 9

III. Special Conditions

1. Public Park Benches

Prior to the issuance of the permit, the applicants shall submit plans in a form and content acceptable to the Executive Director, which show the design and location of two new public park benches in Belmont Plaza. The plans must be approved by the City of Long Beach and may not contain any form of advertisements. After review and approval of the submitted plans by the Executive Director, the applicants shall provide and maintain the two public park benches in Belmont Plaza. The benches shall remain in Belmont Plaza and be maintained by the restaurant at least as long as the outdoor dining area remains on the Plaza.

2. Future Improvements

Prior to issuance of the permit, the applicant shall agree in writing, in a form and content acceptable to the Executive Director, that Coastal Commission permit 5-91-821 is for the proposed development only, and that any future additions or improvements to the property will require a permit from the City of Long Beach, the Coastal Commission or its successor agency.

3. Condition Compliance

All requirements specified in the foregoing conditions that the applicant is required to satisfy as prerequisites to the issuance of this permit must be met by April 15, 1992. Failure to comply, with such additional time as may be granted by the Executive Director for good cause, will terminate this permit.

IV. Findings and Declarations

The Commission hereby finds and declares:

The project currently under consideration is a 402 square foot portion of an existing 1,667 square foot outdoor dining area which serves a restaurant with a microbrewery. The 402 square foot portion of the outdoor dining area requires a Coastal Permit issued by the Coastal Commission because it is located seaward of the Chapter 138 line which is the historic mean high tide line and the border between the City of Long Beach LCP jurisdiction and the Commission's permit jurisdiction pursuant to Section 30519 of the Coastal Act. All projects located seaward of the historic mean high tide line, on public tidelands, or on submerged lands require a Coastal Permit issued by the Coastal Commission. The Commission's standard of review for such projects is the Coastal Act. The LCP is advisory in nature and may provide guidance.

COASTAL COMMISSION

EXHIBIT # 5

PAGE 3 OF 9

On January 15, 1992, the Commission opened the public hearing on the Coastal Permit for this project. After an opponent of the project brought up a question regarding the project's impacts on public access, the hearing was continued and left open so that staff could do additional analysis of the public access issue. This report contains the required additional analysis of the public access issue in the following section.

This is an after-the-fact application because the development under consideration has already been constructed under permits issued in error by the local government. The City of Long Beach approved the entire 1,667 square foot outdoor dining area in a modification to Local Coastal Permit 77-87. The City did not realize that the most seaward portion of the outdoor dining area was located seaward of the Chapter 138 line, within the Commission's permit jurisdiction.

The outdoor dining area serves the Belmont Brewing Company (BBC), a restaurant with a microbrewery located at the base of the Belmont Pier in Belmont Plaza in Long Beach (Exhibit #2). All of the indoor portion of the BBC is situated on private property. However, the entire outdoor dining area is built on Belmont Plaza which is public property. The BBC currently holds a lease which allows them exclusive use of a 1,667 square foot portion of this public area in Belmont Plaza at the base of Belmont Pier. The City of Long Beach administers the state-owned public property upon which Belmont Pier, Belmont Plaza, the public beach, a public parking lot, and the BBC's outdoor dining area are all situated. The City administers this property for the state under the Long Beach Tidelands Trust Agreement.

The BBC's 1,667 square foot outdoor dining area currently has a 7.25 foot high perimeter wall which encloses it and protects the eating area from blowing wind and sand. Blowing wind and sand is a common problem in the area because there is a wide sandy beach directly adjacent to Belmont Plaza and Pier. The wall is six inches thick and is constructed out of stucco, wood, aluminum and glass. The upper three feet of the wall is made of glass. The only access to the outdoor seating area is through the attached BBC restaurant and microbrewery, or through a gated stairway which connects the outdoor dining area to the sandy beach. Only customers are currently allowed to use the enclosed area.

The BBC is located at the base of Belmont Pier, a popular day visitor destination in Long Beach. The BBC is currently surrounded with different land uses. To the south is Belmont Pier, Belmont Plaza and the public beach; all popular day-use recreation areas. To the east and west of the BBC are residential uses comprised of condominium units. On the north side of the BBC is a commercial area of which the BBC is a component. Currently, all the different land uses in the area are coexisting with a small number of minor conflicts.

B. Public Access/Parking

One of the basic goals of the Coastal Act is to maximize public access to the coast. One of the methods commonly used to maximize public access to the coast is to ensure that there is enough parking available for visitors of the coast.

COASTAL COMMISSION

EXHIBIT # 5
PAGE 4 OF 9

Section 30252 of the Coastal Act states, in part:

The location and amount of new development should maintain and enhance public access to the coast by... (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation....

The subject of this application is a 402 square foot portion of an existing 1,667 square foot outdoor dining area which serves the BBC restaurant and microbrewery. This application is an after-the-fact application because the outdoor dining area has already been constructed and is currently in use as service area for the BBC. The 402 square foot portion of the outdoor dining area requires a Coastal Permit issued by the Coastal Commission because it lies within the Commission's area of primary jurisdiction.

The BBC with the 1,667 square foot outdoor dining area was approved by the City of Long Beach as part of local Coastal Permit No. 77-87. Local Coastal Permit No. 77-87, which was approved by the City of Long Beach in March of 1988, allowed the construction of a 10 condominium units and three apartments, as well as a remodel of an existing tavern and retail building in order to create a 2,030 square foot restaurant, 930 square foot fast food restaurant, and 1,000 square foot retail store.

In the approval of Coastal Permit No. 77-87, the City required 26 on-site parking places for the thirteen new residential units, but no parking was required for the two restaurants and the retail store. That is because the City allowed the project to retain non-conforming rights to parking because the approved project was not considered a change in use (see letter, Exhibit #4).

In its approval, the City found that no parking was required for the commercial uses because the project was a remodel of a building which previously contained a more intensive use that did not supply any parking. The City stated that the previous commercial uses on the site would have required 55 parking spaces under current City standards (Tavern: 2,728 sq. ft. @ 20 spaces/1,000 sq. ft.), and the approved remodel would require less parking; only 45 spaces. Therefore, the City found that no parking should be required for the approved commercial uses because the approved project required ten fewer parking spaces than the previous use would have required.

In January of 1989, the City Zoning Administrator modified Local Coastal Permit No. 77-87. The modification involved a slight change in the approved commercial uses to allow the entire commercial area to be converted to one restaurant/tavern with an on-site beer brewing kitchen and outdoor seating area (BBC). The rationale for the change was that the BBC would require less parking than the previously approved commercial uses. The modified project, with the BBC as the only commercial use, still generated less than the 55 parking places which the City had previously allowed credit for. Therefore, with the modification to the project, the City found that no parking should be required for the BBC.

Under the Commission's Interpretive Guidelines for Los Angeles County, the parking requirements for the 402 square foot portion of the outdoor dining

COASTAL COMMISSION

EXHIBIT # 5

PAGE 5 OF 9

Future
Parking

area currently under consideration would be eight parking places. The guidelines state that there should be one parking place provided for each fifty square feet of restaurant service area. However, in this case, because the City has found that the entire BBC restaurant/microbrewery with an outdoor dining area is a slightly less intensive use than the previous uses which included a large tavern and a retail store, the impact on coastal access parking will actually be slightly reduced. Therefore, the new BBC should not be required to provide any additional parking. However, the BBC should also not expand or intensify without providing additional parking. To ensure that unmitigated intensification does not take place, the project is conditioned to require a written agreement from the applicants which states that any future improvements to the BBC will require a Coastal Permit.

Because there is no on-site parking for the BBC, patrons who drive to the establishment must find parking on the streets or in nearby public parking lots. There are very few available on-street parking spaces in the vicinity of the BBC. However, there is a 174 space public beach parking lot adjacent to Belmont Pier and Plaza which is commonly used by BBC patrons. The lot is metered and is generally available for use during the BBC's busiest hours in the evenings and nights because the lot is not usually full at those times. However, during the day, and especially on summer weekend days when the peak beach use hours and restaurant peak use hours coincide, BBC patrons must compete for available parking spaces in the public lot with patrons of other nearby establishments, fishermen, rollerskaters, and beach users. During summer weekend days there is a parking shortage in the area because of heavy recreational use and because most of the commercial businesses in the area do not have on-site parking.

When the Belmont Pier public parking lot becomes full, people often park in a 392 space public parking lot on the east side of Olympic Plaza which is only about a five minute walk from Belmont Pier and Plaza. The 392 space lot rarely fills up, even during summer weekend days.

Therefore, because the current commercial use of the site is less intense than the previous use, the Commission finds that the proposed project will not negatively impact coastal access and is consistent with the Coastal Access policies of Section 30252 of the Coastal Act.

The Coastal Act also requires that development itself does not interfere with the public's right to access the coast.

Section 30210 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

In addition, Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

COASTAL COMMISSION

EXHIBIT # 5
PAGE 6 OF 9

The subject 402 square foot portion of the outdoor dining area is located in Belmont Plaza at the entrance to Belmont Pier. Both the Plaza and Pier are public areas built over the state-owned public beach. The BBC currently holds a lease which allows them to use a 1,667 square foot portion of these public areas for their own outdoor dining area (Exhibit #3). The lease was issued by the City of Long Beach under the Long Beach Tidelands Agreement with the State of California.

The BBC is a visitor serving commercial use which provides beach visitors an opportunity to enjoy the coastal atmosphere of the Belmont Shore area in Long Beach. The outdoor dining area provides BBC customers with scenic coastal views and cool seabreezes while they enjoy their meals and brews.

The BBC's outdoor dining area is only available for use by customers of the BBC. The general non-paying public is not allowed to use the 1,667 square feet of the public area in Belmont Plaza where the outdoor dining area is located. However, the public still has unrestricted access to the remainder of Belmont Pier and Plaza public areas. The total area of Belmont Plaza is approximately 15,000 square feet. All of that area is open to the public except for the 1,667 square feet used by the BBC.

People often come to Belmont Plaza to view sunsets, people watch, and photograph. In addition, many people pass by the Plaza while biking, walking, running or skating on the beach bicycle path, or while on their way to fish off of Belmont Pier. The southwest corner of the Plaza provides an excellent viewing area where there is an unobstructed view of Downtown Long Beach, the Queen Mary, the port, Belmont Pier, Santa Catalina Island, and the rest of the seascape. The southwest corner of the Plaza should remain open to the public because of its scenic resources.

Viewing
Area

The remaining public area in Belmont Plaza is sufficient to provide the same access and recreational opportunities that existed prior to the construction of the BBC's outdoor seating area. The loss of part of the public area in the Plaza can be mitigated by providing and maintaining two public park benches in Belmont Plaza. The park benches will provide more public access opportunities in the Plaza by providing the public a place to sit while they enjoy the area. Currently, there is not a place to sit or rest in Belmont Plaza, except for in the BBC. Therefore, the project is conditioned to require that the applicants provide and maintain two public park benches in Belmont Plaza. The benches shall remain in Belmont Plaza and be maintained at least as long as the outdoor dining area remains on the Plaza.

At the Commission's January 15, 1992 public hearing which was continued, a speaker stated that the outdoor dining area blocks a stairway access to the City Beach. The stairway which is blocked by the enclosed dining area is shown on Exhibit #3, and is located landward of the Chapter 13B Line in the City's LCP jurisdiction. This stairway currently serves as an emergency exit for the dining area and is not currently used as a beach accessway. The stairway formerly provided pedestrian access from Belmont Pier and Plaza to the sandy beach below. However, the blocking of the stairway does not really inhibit access to the beach in the area because there is a beach access ramp located approximately 120 feet to the east which provides excellent beach access for both bicycles and pedestrians. Therefore, the Commission finds

COASTAL COMMISSION

EXHIBIT # 5

PAGE 7 OF 9

that beach access currently exists in this area, and the blocking of the stairway does not inhibit access to the beach.

If the applicant is required to reopen the stairway to the public, there will be two beach accessways in the same vicinity. By providing public access to the stairs, the applicant would lose approximately eighty square feet of the outdoor service area (four seats).

As conditioned, the proposed project will have a minimal impact on public access in Belmont Plaza, minimal impact on beach access, and will have no impact on public access to Belmont Pier. However, further encroachments into the public areas of Belmont Plaza will cause cumulative impacts on public access by slowly taking parts of the public area for private uses. No more public area in Belmont Plaza should be taken from public use. All of the remaining public area in the Plaza should be preserved for public use. Therefore, the project is conditioned to require that the applicants agree in writing that any future improvements to the BBC will require a Coastal Permit.

Public Use of Plaza

Only as conditioned is the proposed project consistent with Sections 30210 and 30211 of the Coastal Act.

C. Violation

Although some of the development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review 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. The Commission will act on this application without prejudice and will act on it as if none of the existing development had previously occurred.

There is currently a Coastal Act Violation File open for the subject project. The file number is V-5-1.08-91-098. The violation involves development without a valid Coastal Permit. Approval and issuance of this Coastal Permit Application as conditioned will effectively rectify the Coastal Act Violation. Once the violation is rectified, the violation file can be closed. Therefore, the project is conditioned to require that the applicant comply with all special conditions by April 15, 1992 to ensure that the violation is resolved in a reasonable amount of time.

D. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act:

- (a) Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section

COASTAL COMMISSION

30200) of this division and that the permitted development 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 (commencing with Section 30200). A denial of a Coastal Development Permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

The City of Long Beach Local Coastal Program was certified by the Commission on July 22, 1980. Because the project is located seaward of the former mean high tide line, the LCP is advisory in nature and may provide guidance. The standard of review for this project is the Coastal Act.

The LCP includes policies which address development in and around Belmont Plaza and Belmont Pier (LCP: Section III-C). The LCP states that there is a parking shortage in the area, and that a new 300 space public parking lot on the north side of Belmont Pier should be constructed in the future to relieve the parking shortage. The LCP also states that the south and west area of Belmont Plaza should be open to pedestrian access to provide panoramic views.

Finally, the LCP explicitly states that a new restaurant should be established on the Belmont Pier Plaza (LCP Policies: pg.52). The BBC is the restaurant to which the LCP refers.

Therefore, the project, only as conditioned, complies with the policies of the LCP and the Coastal Act. Approval of the project cannot prejudice the local government's ability to prepare a certifiable LCP because the City of Long Beach LCP was certified in 1980.

E. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application 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)(i) 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 impact which the activity may have on the environment.

There are no negative impacts caused by the proposed development which have not been adequately mitigated. Only with the imposed special conditions of approval can the project be found to be consistent with CEQA and the policies of the Coastal Act.

3143E:CP

COASTAL COMMISSION

EXHIBIT # 5
PAGE 2 OF 2

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA

245 W. BROADWAY, STE. 380

P.O. BOX 1450

LONG BEACH, CA 90802-4416

(310) 590-5071

Date: 15 August 1995Commission Appeal # A5-LOB-95-126

COMMISSION NOTIFICATION OF FINAL APPEAL ACTION

TO: David Hansen

FROM: California Coastal Commission

RE: Appeal of Local Permit # A5-LOB-95-126 to the California Coastal CommissionName of Applicant Belmont Brewing companyProject Description, Location construction and use of a 635 sq. ft. expansion of an existing restaurant's outdoor dining area onto the Belmont Pier public plaza area at 25 39th Place, Belmont Pier Plaza, Long Beach, Los Angeles Co.Local Decision Approval with Conditions: CP 9502-13Pursuant to 14 Cal. Code of Regulations Section 13120, please be advised that the California Coastal Commission, on 10 August 1995, took the following final action on this appeal:

- A. no substantial issue
- B. substantial issue
1. approval
 2. approval with conditions
 3. denial

Any terms and conditions of the local decision remain unchanged where the Commission vote is "no substantial issue." Where the Commission vote is "substantial issue", and then "approval" or "approval with conditions" or "denial" on the de novo application, the Commission decision replaces the local coastal permit decision. Approval by the Commission may include modified or Commission-imposed conditions; if so, they are attached.

Please contact us if you have any questions.

CP:b11

5050F

COASTAL COMMISSION

5-96-200EXHIBIT # 6PAGE 1 OF 1



CITY OF LONG BEACH

Department of Parks, Recreation and Marine
2760 Studebaker Road, Long Beach, CA 90815-1697

PROOF OF APPLICANTS
INTEREST IN PROPERTY

August 20, 1996

David Hansen
Belmont Brewing Company
25 Thirty-Ninth Place
Long Beach, CA 90803

RECEIVED

SEP 19 1996

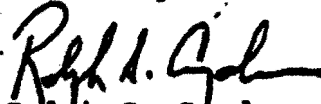
CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

Dear Mr. Hansen:

This letter serves as notice of my approval of your proposal to construct a 591 square foot patio to the south of the existing Belmont Brewing Company outdoor dining area. The proposal to construct the patio at grade, to surround the space with a stucco wall and wind screen and to provide access through the existing patio make sense in light of your interest in expanding dining area and the current use and configuration of the Plaza area.

Please note that I am providing you with notice of my approval as a representative of the City in its function as your landlord. This notice does not take the place of any regulatory approvals necessary to obtain planning or building permits.

Sincerely,


Ralph S. Cryder
Director

RSC:glw

5-96-200

COASTAL COMMISSION

5-96-200

EXHIBIT # 7

PAGE 1 OF 1

(310) 570-3100
FAX (310) 570-3109



25 THIRTY-NINTH PLACE
LONG BEACH,
CA 90803
(310) 433-3891
(310) 434-0604 (FAX)

August 7, 1995

RECEIVED

SEP 19 1996

CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT

Chuck Damm
California Coastal Commission
245 Broadway
Long Beach, Ca. 90802

5-96-200

Dear Mr. Damm:

You requested additional details as to the compliance of the proposed Belmont Brewing Company patio expansion with the City parking requirements. The City of Long Beach found that the proposed expansion does meet the applicable parking standards as the following explains.

The Belmont Brewing Company project was subject to certain pre-existing nonconforming rights to parking. Belmont Brewing Company applied with the City of Long Beach for a modification of the conditions of approval dated March 10, 1988, revised March 24, 1988 (Permit No. 77-87), as authorized by item 4 of the general requirements.

Special Condition #30 stipulates restaurant, tavern, fast food, and retail uses in the remodeled commercial building on 39th Place. The request for modification was to allow the entire area and leased patio space to be a restaurant and tavern with on site beer brewing kitchen. This modification was approved because the modification required fewer parking spaces when measured by applicable parking standards.

The prior uses generated 55 non-conforming parking rights. See p. 5 of Staff Report for Local Coastal Permit No. 5-91-821, attached to the Staff Report on this Project as Exhibit 5.

The parking requirements for the project, were as follows:

Tavern	930	20/1000	18.6
Restaurant	1339	10/1000	13.4
Patio Dining	1600	10/1000	16.0
Total Required spaces modified use			<u>48</u>

That is, the modification of use resulted in an excess of nonconforming parking rights. It should be noted that the patio space indicated above includes the 402 square feet subject to Permit No. 5-91-821.

COASTAL COMMISSION

5-96-200

EXHIBIT # 8

PAGE 1 OF 2

Chuck Damm
California Coastal Commission
August 7, 1995
Page Two

5 - 96 - 200

The City Council approved utilization of these nonconforming parking rights for "six hundred square feet of additional space contiguous to the Premises", granted in an option in section 38 of the Lease between the City and Belmont Brewing Company. The Lease, specifically approved by the City Council, provides in section 38 that:

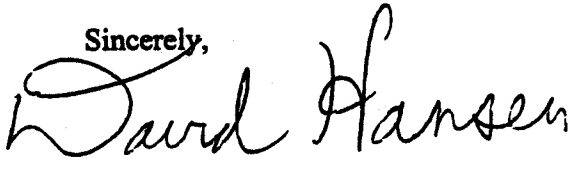
Parking for the additional space has been approved in accordance with modifications to the conditions of approval, which modifications are attached hereto as Exhibit 'C', incorporated herein by reference.

The option has been exercised, and the City has determined that the option applies to the proposed space. A Copy of Exhibit C is attached.

While there has been some minor variations in the computations shown on exhibit C and those indicated in the Staff Report, both computations result in sufficient remaining non-conforming rights applicable to this project. Further, the parking standards for sub-area 1 of the LCP provide for commercial parking spaces "at the rate of four spaces per 1,000 sq. ft. of floor area beyond the existing floor area." LCP p. III C-25 section 4A.

That is, the proposed project has met the applicable parking requirements of the City of Long Beach and the LCP, however they are calculated. The project has satisfied the General development and use standard for the Belmont Pier Planned Development Area, cited in the Staff Report, which provides that expansions ... of private developments shall be required to provide additional parking for the expansion ... as required in the zoning regulations."

As the section of the lease quoted above indicates, utilization of the nonconforming parking rights with this proposed expansion was contemplated and planned, approved, in conjunction with the City of Long Beach from its inception.

Sincerely,

David Hansen

enc.

COASTAL COMMISSION
5-96-200
EXHIBIT # 8
PAGE 2 OF 2