

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

3111 CAMINO DEL RIO NORTH, SUITE 200

SAN DIEGO, CA 92108-1725

(619) 521-8036

Wed 17a



Filed: 2/25/97
49th Day: Waived
180th Day: 8/23/97
Staff: LRO-SD
Staff Report: 8/20/97
Hearing Date: 9/9-12/97

REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-97-18

Applicant: California Department of Parks & Recreation Agent: Paul Webb

Description: Installation of a mechanical fee collection device in State Beach parking lot.

Site: Entrance to Tamarack parking lot at Carlsbad State Beach, at Tamarack Avenue, west of Carlsbad Boulevard, Carlsbad, San Diego County. (No APN)

Substantive File Documents: CDP#s 6-93-216; XS-91-8 through XS-91-15

STAFF NOTES:

This item was removed from the administrative calendar at the July 10, 1997 meeting due to public opposition and questions raised by the Commission.

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the proposed project subject to special conditions which address the in-lieu fee for fee collection device, three-year authorization for the subject permit and a monitoring program.

PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that the development 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, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. In-Lieu Fee. The fee collection device will only be installed and used if the City of Carlsbad fails to execute an agreement to pay the Department to retain a no-fee parking lot.

2. Three Year Authorization. The Department shall notify the Executive Director in writing within five days after installation of the mechanical fee collection device. This device shall be authorized to remain for three years from the date that the mechanical fee collection device is installed. At the end of the three year time period, the device shall be removed unless the permittee has obtained an amendment.

3. Monitoring Program. Following installation of the mechanical fee collection device, the Department shall monitor impacts of the installation of the device to determine whether the device adversely impacts coastal resources. Monitored impacts shall include traffic conflicts and/or the establishment of unauthorized trails in order to avoid paying the parking fee. Monitoring shall also include collection and tabulation of any phone calls and letters of complaint from the public and public officials relative to adverse off-site impacts and/or traffic conflicts. At the end of each year that the device is installed, the Department shall submit a report to the Executive Director describing the results of the monitoring. Mitigation measures shall be identified, such as installing fences and signage to prevent new trails from impacting resource areas and incorporated into any future amendment request for retention of the mechanical fee collection device.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description/Permit History. The Department of Parks and Recreation is proposing to install a mechanical fee collection device at Tamarack parking lot at Carlsbad State Beach. The 60-space lot is located west of Carlsbad Boulevard opposite Tamarack Avenue and is bounded by Carlsbad Boulevard, the ocean, and the Agua Hedionda Lagoon inlet jetty to the south. The fee collection device is proposed to be located at the entrance to the parking lot for automobile/motorcycle parking only; persons who walk or ride bicycles into the lot are not subject to the parking fee. Located in the City of Carlsbad, the State Beach comprises approximately one and a half miles of coastline. Facilities include a restroom with an outdoor shower, two acres of landscaping with picnic tables, six stairways, and a pedestrian walkway adjacent to the beach. The subject lot is the only developed parking lot adjacent to the beach in the City. Pedestrian routes to the beach from Carlsbad Boulevard are well defined and there is no problem with use of unauthorized trails causing erosion. Nearby parking areas consist of free curbside parking along Carlsbad Boulevard, as well as adjacent neighborhood and commercial streets.

The Coastal Commission approved an identical project to the subject project at the same location on 3/17/94, however, the previously approved mechanical fee collection device at this location was never installed because the City of Carlsbad has been paying the State Department of Parks and Recreation in order to retain free public access at its beaches. This in-lieu fee payment was to cease June 30, 1994 (unless it was re-negotiated), so the Department re-applied to install the device in February, 1994 via CDP #6-93-216 which was approved on March 17, 1994. The latter permit was subject to four special conditions as follows: 1) fee collection for parking only; 2) three year limit; 3) submittal of three annual reports to monitor adverse impacts from the installation of the device; and 4) that by accepting the permit, the applicant agreed that the fee collection device would only be used if the City failed to execute an agreement reimbursing the Department for lost revenues. The permit expired on 3/17/97 and at that time, the device had not been installed because the City was continuing to reimburse the Department for lost revenues. The Department is thus re-applying to install the device at this time.

By way of history regarding Commission action on mechanical fee collection devices, the Commission also approved 16 fee collection devices (XS-91-1 through 16) in the coastal zone at various state parks on 1/13/92. To date, most of these devices have been installed and are in operation. The proposed project was one of the 16 projects proposed by the Department of Parks and Recreation for installation of mechanical fee collection devices (i.e., iron rangers) described above. Due to operating budget reductions, the Department proposed to install these fee collection devices in order to offset these cutbacks. The Department raised fees and also increased the number of recreation areas where fees were collected. In San Diego County, six mechanical fee collection devices were installed at: South Carlsbad State Beach (Ponto Beach), Cardiff State Beach (north parking lot), Cardiff State Beach (south parking lot), Torrey Pines State Beach (north parking lot), Torrey Pines State Beach (south parking lot) and San Onofre State Beach (Trestles parking lot). The fee collection program began in April

1992 at South Carlsbad, in October 1991 at Cardiff and in November 1991 at Torrey Pines.

2. Public Access. One of the most important goals of the Coastal Act is to protect, provide and enhance public access opportunities for all persons to and along the coast. (Sections 30210-30214, 30221, 30252 of the Coastal Act) Section 30001.5(c) of the Coastal Act requires that public access and public recreational opportunities be maximized, consistent with sound resource conservation principles. Other provisions of State law require the Department to impose new fees at all State Parks where it is feasible to do so. Currently, the Department manages 260 miles of California's coastline and through their mandated responsibilities is implementing and furthering Coastal Act policies by providing public facilities that enhance and make more accessible coastal recreational experiences. As discussed above, the primary purpose underlying the installation of the fee collection device is to obtain sufficient revenue to enable the Department to continue the maintenance and operation of the State Park along the coast for the enjoyment of people from throughout the State and Nation. Beyond the coast, the adequacy of revenues to defray Department operating costs is important for park units throughout the State as well.

This subject permit application was removed from the Commission's July, 1997 agenda due in part, to concerns raised by a public opponent and then questions generated by the Commission itself. In particular, the Commission questioned the arrangement between the City of Carlsbad and State Parks and why it was necessary for State Parks to have a permit in hand before the City would agree to give funds to the Department. In answer to this question, the applicant has stated that the State Parks has a contractual agreement with the City of Carlsbad. The City pays the Department \$36,000 per year for the Tamarack parking lot which is roughly equivalent to the estimated revenues that might be collected if the fee devices were in place. In exchange for receipt of these monies, the Department does not collect fees for parking at that beach; it is a City-initiated program to retain a no-fee parking lot for its citizens and visitors. Because there are neither an entrance kiosk or Iron Ranger in place at this lot (the physical facilities necessary for fee collection), the City acknowledges that State Parks cannot collect a fee without a permit from the Commission to install such facilities. The applicant has further stated that apparently the City does not wish to make expenditures to sponsor the parking lot unless they know that State Parks has the ability to charge a user fee. Without a coastal development permit, the Department does not have that ability. In this particular case, however, the applicant has recently disclosed that the City has already signed the one-year contract at this time even though State Parks does not yet have the subject permit. However, the City has a long-standing history of insisting that State Parks have the legal ability (i.e., a coastal development permit) *before* finalization of an agreement to pay the Department.

To address potential impacts to public access and the surrounding environment, as part of their application for the 16 devices referenced in the above finding, the Department stated

that they would complete three annual monitoring reports. Prior to installing any of the mechanical fee collection devices, Department of Parks and Recreation district staff was informed of their responsibility to monitor and report any adverse effects resulting from the devices as well as any complaints concerning traffic impacts. The first annual report submitted in December of 1992 concluded that there were no new parking patterns, no new publicly initiated trails or park entrances associated with any of the monitored locations. While the Surfrider Foundation contended that unauthorized trails have been made in San Diego County as a result of the new devices, Commission and Department staff did not concur based on the fact that there was no documentation as to when these trails had been made and that they in fact appeared to be several years old.

The Department also proposed an outreach program, which was to be a part of the monitoring report. The Department reported that sales of the Golden Bear pass (available for \$5 annually for low income and disabled persons) steadily increased over a five year period. In addition, a free handbook entitled "California Escapes" was developed to inform the public of opportunities and programs such as the Golden Bear pass. As part of the Department's internal re-organization, a new set of goals have been adopted. The preamble to this effort recognizes the "dramatic changes in economic, demographic, and societal conditions" of the State of California. The goal encourages employees "to meet the demographic needs of the State revitalizing the Department's ability to meet it's mission". Two new full time positions have been created to serve in the outreach program. The results of this report were reported to the Commission at the February 1993 meeting.

The second annual report concluded that the Department did not observe any significant changes to the categories listed above and only received one complaint about fee devices in general at a location not within the Commission's jurisdiction. The Department also continued its outreach program which was very successful and received a lot of interest from members of the public.

As was found at the end of the three-year period, the Department had not observed any adverse effect from the installation of the fee collection devices authorized under XS-91-1 through 16. In addition, the Department has showed a strong commitment to developing and implementing a public outreach program, which resulted in a much greater public awareness of the special low income passes.

It should be mentioned, however, that as noted in the adopted findings dated 8/13/91 for XS-91-8 through 11 and XS-91-15, it was identified that there is a conflict in parking between out of area beach-goers and coastal residents at the Trestles parking lot at San Onofre State Beach, north of the subject site. This beach is used primarily by surfers. As was noted in the findings:

“...whether people choose to use the fee lots which provide easy access to the beach and include public amenities and require a longer walk to

the beach, is a matter that the Commission cannot control...."

The Commission's mandate is to protect public access to the coast and in this vein, it is doing so by allowing increased public facilities, and by denying preferential parking programs in the residential areas near the beach. As such, it was found that the fee collection device at this location was consistent with the public access policies of the Coastal Act.

Regarding the subject device, over the past three years, since the Department was continuing to be reimbursed from the City of Carlsbad, the mechanical fee collection device has not been installed. As such, the annual monitoring reports concluded that there were no adverse impacts to report. Commission staff reviewed the monitoring reports that were submitted by the Department for other coastal areas where the mechanical fee collection devices have been installed as a means for comparison with the subject site. No adverse impacts were reported. The Department has indicated that after repetitious monitoring requirements, there has never been any identified impacts to public access and the devices have never been installed. For this reason the Department is seeking permission for a longer duration of the permit so that they do not need to continue to re-apply to the Commission for the proposed development every three years as well as relief from having to conduct a monitoring program once the permit has been obtained. The Department has indicated that for the time being, the City will continue to reimburse the Department, but only after a coastal development permit has first been obtained.

Therefore, in order to address the Department's concern at this time, the Executive Director is requiring a revision to the previously approved monitoring condition such that monitoring will only be required upon actual installation of the mechanical fee collection device. Also, the fee collection device shall be authorized to remain for three years commencing with the actual date of installation. In this fashion, the permit will be subject to the two year expiration date provided for in the Commission's standard conditions, but the monitoring requirement and period of authorization will only be triggered if and when the device is actually installed.

If the device is installed in the future, the Department will be required to comply with the monitoring condition that was previously required in order to ensure that there are no adverse impacts to public access as a result of implementation of the device. As noted in previous staff reports for the devices, such potential impacts may include the creation of new unauthorized trails by persons trying to avoid paying the parking fee, traffic conflicts or significant complaints about the fee device. Three annual monitoring reports will be required. It should also be noted for the permit record that even though the Department has never identified any adverse impacts associated with installation of the fee devices statewide at other locations, this does not necessarily mean that there will not be any impacts at the subject location. Each location must be reviewed on a case-by-case basis because the nature of use varies greatly from locale to locale. Also, even if no impacts

have yet to be identified at the subject location there is always the potential that this situation will change in the future as a result of demographic changes.

Under all the facts and circumstances present in this case, the Commission finds that this project is consistent with Coastal Act goals and policies of providing public access to and along the shoreline. By incorporating the findings for XS-91-1 through XS-91-15, the Commission finds that installation of this fee collection device will not impact public access and is therefore consistent with the Coastal Act. Approval of the proposed project, as conditioned, should not prejudice the ability of the City of Carlsbad to implement its certified LCP.

3. Local Coastal Planning. The site is located within the Commission's area of original jurisdiction. The standard of review is the Coastal Act, and as discussed above, the project is consistent with Chapter 3 of the Coastal Act.

4. California Environmental Quality Act (CEQA). The Department, as lead agency, determined that this activity is exempt from the requirements of the California Environmental Quality Act. The Commission finds that the installation of the fee collection device is categorically exempt under CEQA regulation Section 15303, Class 3 (construction of small structures). The component of the Department's activity involving the establishment and approval of the fees themselves is statutorily exempt under Public Resources Code Section 21080(b)(10) and CEQA Regulation 15273(a)(91), because the fees are necessary in order to offset reductions in the Department's operation budget. furthermore, the project will not create any significant adverse environmental impacts as defined by CEQA.

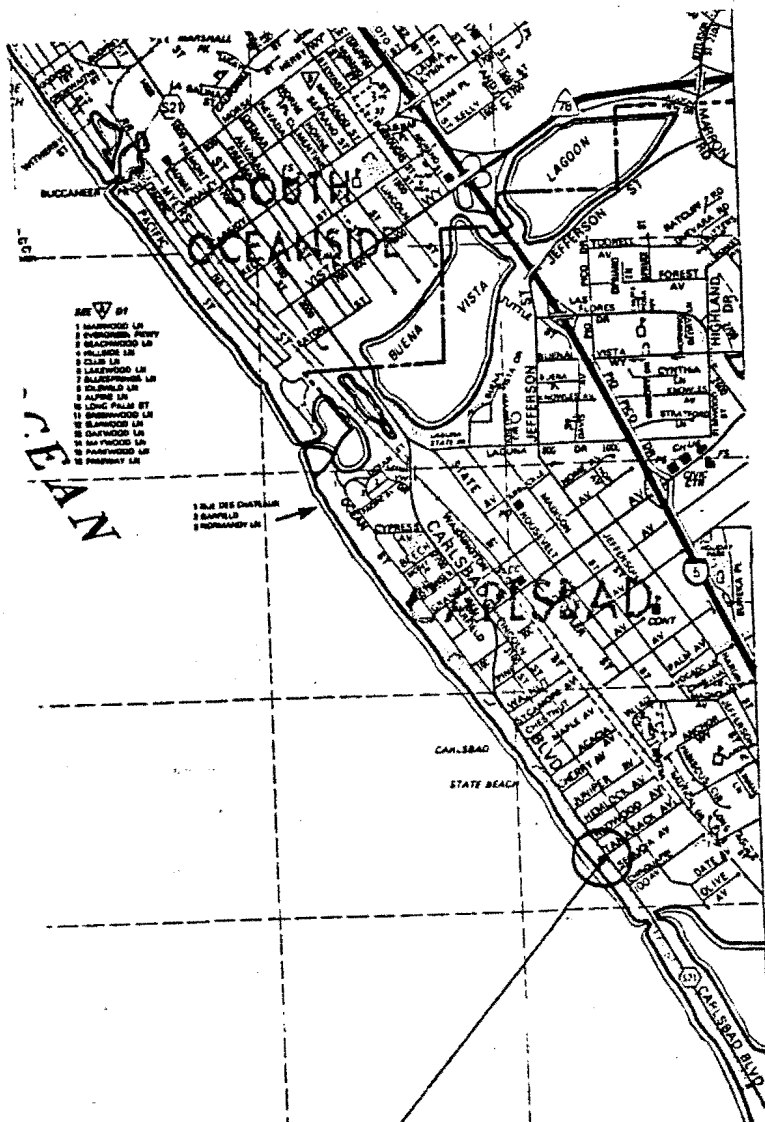
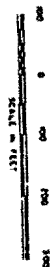
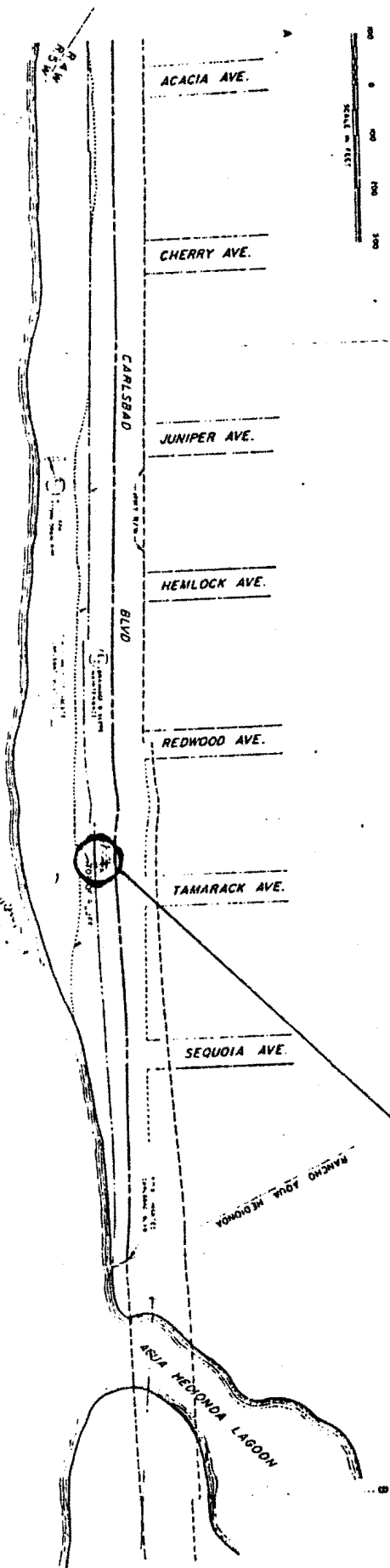
STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. 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.

(7018R)

PACIFIC OCEAN



Site

EXHIBIT NO. 1

APPLICATION NO. 6-97-18

Site Location

California Coastal Commission